

National Gas Rules Version 1

Historical Information

This version of the National Gas Rules was current from 1 July 2008 to 30 June 2009.

NATIONAL GAS RULES 2008

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Part 1 Preliminary

1 Citation

These rules may be cited as the *National Gas Rules 2008*.

2 Commencement

These rules come into operation on ****

3 Interpretation

In these rules:

access arrangement information – See rule 42.

access arrangement period for an applicable access arrangement means any of the following periods that may be applicable to the access arrangement:

- (a) the period between the commencement of the access arrangement and the commencement of the first revision of the access arrangement;
- (b) if the first revision of the access arrangement has not yet taken effect – the period between the commencement of the access arrangement and the revision commencement date for the access arrangement;
- (c) if revision of the access arrangement prior to its expiry is not contemplated – the period between the commencement of the access arrangement and the expiry date for the access arrangement;
- (d) the period between the actual commencement of successive revisions of the access arrangement;
- (e) the period between the commencement of the last revision of the access arrangement and the revision commencement date for the access arrangement;
- (f) if the access arrangement has been revised but further revision prior to its expiry is not contemplated – the period between the commencement of the last revision of the access arrangement and the expiry date for the access arrangement;

Note:

One should bear in mind that the actual date on which a revision takes effect may differ from a revision commencement date stated in the access arrangement (which is a date fixed some time in advance as the intended date for the revision to take effect). The revision commencement date is relevant to the definition of the access arrangement period only until the revision actually takes effect and the date thus crystallises.

access arrangement proposal means:

- (a) a full or limited access arrangement submitted for the AER's approval; or
- (b) an access arrangement revision proposal; or
- (c) an access arrangement variation proposal.

access arrangement revision proposal means a proposal for the revision of an access arrangement submitted for the AER's approval under rule 52.

access arrangement variation proposal means a proposal for the variation of an access arrangement submitted for the AER's approval under rule 65.

approved CTP process means a tender process approved by the AER under Part 5 as a competitive tender process.

contact details of a person means:

- (a) the street address of the person's place of residence or business; and
- (b) the person's postal address; and
- (c) the person's telephone number; and
- (d) the person's fax number; and
- (e) if the person has a website – the website address; and
- (f) the person's email address.

CTP access arrangement means the access arrangement (based on the result of an approved CTP process) for a CTP pipeline.

CTP pipeline means a pipeline to which an irrevocable tender approval decision relates.

decision includes a recommendation, determination or order.

downstream location means a location to which natural gas is delivered by means of a pipeline and includes a location to which natural gas from the pipeline is delivered by means of a branch pipeline (a **lateral**).

element of an access arrangement proposal includes a part or provision of the access arrangement proposal.

expedited consultative procedure means the procedure for consultative decision making laid down in rule 9.

expiry date means a date fixed in an access arrangement for the expiry of the access arrangement.

full access arrangement proposal means an access arrangement proposal consisting of, or relating to, a full access arrangement.

full regulation pipeline means a covered pipeline other than a light regulation pipeline.

incremental services means pipeline services provided by means of an extension to, or expansion of the capacity of, the pipeline.

Law means the NGL and these rules.

light regulation pipeline means a pipeline by means of which light regulation services are provided.

limited access arrangement proposal means an access arrangement proposal consisting of, or relating to, a limited access arrangement.

NGL means the National Gas Law.

non-delegable duty means a duty that a service provider cannot carry out through the instrumentality of another service provider under section 10 of the NGL.

receipt or delivery point means a point on a pipeline at which a service provider takes delivery of natural gas, or delivers natural gas.

reclassification application means an application under section 128 of the NGL for reclassification of a pipeline.

reference tariff variation mechanism – See rules 92 and 97.

review submission date means a date on or before which an access arrangement revision proposal is required to be submitted – See rules 49 to 52.

revision commencement date for an applicable access arrangement means the date fixed in the access arrangement as the date on which revisions resulting from a review of an access arrangement are intended to take effect.

scheme pipeline service provider means a service provider for a scheme pipeline.

serve – a pipeline serves a particular location or point if there is a receipt or delivery point at that location or point into which natural gas is injected, or from which natural gas is delivered.

standard consultative procedure means the procedure for consultative decision making laid down in rule 8.

tender approval decision means a decision by the AER under Part 5 approving a tender process as a competitive tender process;

upstream location means a location at which natural gas is injected into a pipeline.

Part 2 AER to provide information, and promote informed discussion, on regulatory issues

4 Interpretation

In this Part:

regulatory issues means matters concerning any aspect of the AER's powers or functions under the Law.

5 Discussion papers on regulatory issues

- (1) The AER may prepare, for public information or discussion, papers on regulatory issues.
- (2) The papers are to be published:
 - (a) on the AER's website; and
 - (b) in any other way the AER considers appropriate.

6 Submissions, comments and public discussions

- (1) The AER may invite written comments or submissions from the public on particular regulatory issues.
- (2) The AER may:
 - (a) appoint a time and place for public discussion of particular regulatory issues between representatives of the AER and the public; and
 - (b) invite public participation in the discussion.
- (3) Comments or submissions may be invited, or a public discussion held, whether or not the relevant issues have been the subject of a paper published under this Part.
- (4) An invitation under this rule is to be published:
 - (a) on the AER's website; and
 - (b) in any other way the AER considers appropriate.

Part 3 Decision-making under the Law

Division 1 Preliminary

7 Definitions

In this Part:

decision maker means:

- (a) the NCC; or
- (b) the AER.

overall time limit means the time within which a decision maker is required by the Law to make a final decision on a proposal.

proponent means a person who makes or submits a proposal.

proposal means:

- (a) an application; or

- (b) an access arrangement proposal; or
- (c) a proposal that a decision maker itself initiates for making a decision of a particular kind under the Law.

Division 2 Decision making models

8 Standard consultative procedure

- (1) If the Law requires a decision maker to deal with a proposal in accordance with the standard consultative procedure, the decision maker must proceed in accordance with this rule.
- (2) The decision maker must proceed as follows:
 - (a) the decision maker must publish a notice on its website and in a newspaper circulating generally throughout Australia:
 - (i) describing the proposal and giving the address of a website at which the proposal can be inspected; and
 - (ii) inviting written submissions on the proposal within 15 business days of the date of the notice; and
 - (b) the decision maker must, after considering relevant submissions made within the time allowed in the notice and other matters the decision maker considers relevant, make a draft decision; and
 - (c) if the draft decision identifies changes to the proposal that should, in the decision maker's opinion, be made, the decision maker must:
 - (i) if it is the proponent – modify its proposal accordingly; or
 - (ii) if someone else is the proponent – notify the proponent of the decision and the reasons for it and give the proponent a reasonable opportunity to modify its proposal in the light of the decision;
 - (d) the decision maker must then publish, on its website and in any other way the decision maker considers appropriate:
 - (i) the draft decision; and
 - (ii) any modification of the proposal made in the light of the draft decision; and

- (iii) a notice inviting written submissions and comments on the draft decision, and (if applicable) the modified proposal, within a period (at least 15 business days) stated in the notice;
 - (e) the decision maker must, within 20 business days after the end of the period allowed for making submissions and comments on the draft decision, consider all submissions and comments made within the time allowed and make its final decision.
- (3) A draft or final decision must:
 - (a) be in writing; and
 - (b) state the terms of the decision and the reasons for it.
- (4) After making a final decision, the decision maker must, without delay:
 - (a) if the decision is in the nature of a recommendation – deliver the final decision to the authority or person to whom the recommendation is addressed; and
 - (b) give copies of the final decision to the parties to the administrative process in which the decision is made; and
 - (c) publish the final decision on the decision maker's website; and
 - (d) make the final decision available for inspection during business hours at the decision maker's public offices.
- (5) Subject to the Law, a decision made in accordance with this rule takes effect on the date provided for its commencement under the terms of the decision or, if no date is so provided, 10 business days after the date of the decision.

9 Expedited consultative procedure

- (1) If the Law requires a decision maker to deal with a proposal in accordance with the expedited consultative procedure, the decision maker must proceed in accordance with this rule.
- (2) The decision maker must proceed as follows:
 - (a) the decision maker must, after such consultation (if any) as the decision maker considers appropriate (and any revision of the proposal that results from that consultation), make a draft decision; and

- (b) the decision maker must give copies of the draft decision to the parties to the administrative process in which the decision is to be made; and
 - (c) the decision maker must publish, on its website and in any other way the decision maker considers appropriate, the draft decision together with a notice:
 - (i) stating why the decision is required; and
 - (ii) giving reasonable details of the context in which the draft decision has been made, the issues involved and the possible effects of the decision; and
 - (iii) inviting written submissions and comments on the draft decision within 15 business days from the date of the notice;
 - (d) the decision maker must, within 20 business days after the end of the period allowed for making submissions and comments on the draft decision, consider all submissions and comments made within the time allowed and make its final decision.
- (3) A draft or final decision must:
- (a) be in writing; and
 - (b) state the terms of the decision and the reasons for it.
- (4) After making a final decision, the decision maker must, without delay:
- (a) if the decision is in the nature of a recommendation – deliver the final decision to the authority or person to whom the recommendation is addressed; and
 - (b) give copies of the final decision to the parties to the administrative process in which the decision is made; and
 - (c) publish the final decision on the decision maker's website; and
 - (d) make the final decision available for inspection during business hours at the decision maker's public offices.
- (5) Subject to the Law, a decision made in accordance with this rule takes effect on the date provided for its commencement under the terms of the decision or, if no date is so provided, 10 business days after the date of the decision.

Division 3 Summary rejection of certain proposals

10 General power to reject non-compliant or frivolous proposals

- (1) A decision maker may, despite any other provision of these rules, reject a proposal on the ground that:
 - (a) the proposal has not been made in accordance with the Law; or
 - (b) relevant information or materials have not been provided as required by the Law; or
 - (c) the proposal is frivolous or vexatious.
- (2) A decision to reject a proposal under this rule must be made within 10 business days after receipt of the proposal by the decision maker.
- (3) A decision to reject a proposal under this rule must:
 - (a) be made in writing; and
 - (b) set out the reasons for the decision; and
 - (c) be given to the proponent without delay.

Division 4 Time limits

11 Calculation of time

- (1) If the Law fixes a time limit within which a decision maker must make a decision on a proposal, then for the purpose of calculating elapsed time, any of the following periods is, if the decision-maker so decides, to be disregarded:
 - (a) any period allowed the proponent for correction or revision of the proposal;
 - (b) any period taken by the proponent or any other person to provide information, relevant to the decision maker's decision on the proposal, in response to a notice or requirement issued or made by the decision maker under the Law;
 - (c) any period allowed for public submissions on the proposal or on a draft decision on the proposal;
 - (d) any period allowed for submissions on a proposal by the AER to

disclose confidential information, any period then taken by the AER to consider the submissions and decide whether to disclose the information, and any period occupied by a review of the decision;

- (e) the period between commencement and conclusion of court proceedings to determine questions arising from the proposal or the decision maker's handling of the proposal.

(2) The decision-maker must:

- (a) give notice of a decision under this rule to the proponent; and
- (b) publish notice of the decision on its website.

12 Power to extend time limits

(1) Subject to limitations fixed by the Law, a decision maker may extend the time within which:

- (a) a proponent is required by the Law to take a particular step in a decision making process; or
- (b) the decision maker is required by the Law to make a decision on a proposal.

(2) The decision maker cannot, however, extend an overall time limit unless:

- (a) the proposal involves questions of unusual complexity or difficulty; or
- (b) the extension of time has become necessary because of circumstances beyond the decision maker's control.

(3) If a decision maker extends an overall time limit, the decision maker must:

- (a) give notice of the extension to the proponent (unless the decision maker is itself the proponent); and
- (b) publish notice of the extension on its website and in a newspaper circulating generally throughout Australia.

(4) The notice must:

- (a) specify the extent of the extension; and

- (b) give reasons for the extension.

13 Absolute time limit for full access arrangement proposal

- (1) Despite the other provisions of this Division, there is an absolute overall time limit of 13 months between the date on which a proponent submits a full access arrangement proposal for the AER's approval and the date the AER makes a final decision on the proposal.
- (2) The absolute overall time limit:
 - (a) is unaffected by a decision that a particular period, or particular periods, of elapsed time are to be disregarded; and
 - (b) cannot be extended.

14 Decisions made out of time

- (1) If a decision maker fails to make a decision within an overall time limit (whether absolute or not), the decision maker must report on its failure to the MCE.

Note:

Non-compliance with a time limit does not invalidate the decision maker's decision: See section 332 of the NGL.

- (2) The report must:
 - (a) state the extent the decision was (or will be) out of time; and
 - (b) describe the decision maker's handling of the proposal; and
 - (c) give reasons for the decision maker's failure to make the decision within the relevant time limit.
- (3) A report under this rule must be published on the decision maker's website as soon as practicable after it is given to the MCE.

Part 4 Coverage

Division 1 Coverage determination

15 Application for coverage determination (Section 92(2) of the NGL)

- (1) An application for a coverage determination must:

- (a) state the applicant's name and contact details; and
 - (b) identify the pipeline for which coverage is sought; and
 - (c) give details of the pipeline's classification or, if there is no classification, the classification the applicant considers appropriate; and
 - (d) state the applicant's reasons for seeking coverage of the pipeline (including a demonstration of how coverage of the pipeline would give effect to the pipeline coverage criteria); and
 - (e) include any information or documents on which the applicant relies in support of the application.
- (2) An application for a coverage determination for a pipeline to which a voluntary access arrangement applies may only be made if the coverage sought in the application is to commence from, or after, the expiry of that arrangement.

Note:

A pipeline is regarded as a covered pipeline for the duration of a voluntary access arrangement. (See section 127 of the NGL.)

16 Making of coverage recommendation (Sections 93 and 95 of the NGL)

- (1) The NCC must deal with an application for a coverage determination in accordance with the standard consultative procedure.
- (2) The NCC must make its final recommendation on the application within 4 months after receiving the application.
- (3) The time limit fixed by subrule (2) cannot be extended by more than a further 2 months.
- (4) A coverage recommendation must:—
 - (a) be in writing; and
 - (b) identify the pipeline to which the recommendation relates; and
 - (c) include a reference to a website at which a description of the pipeline can be inspected; and
 - (d) state the terms of the recommendation and the reasons for it.

Note:

A light regulation determination or a decision not to make a light regulation determination must be attached to the coverage recommendation (unless the pipeline is a designated pipeline) – See section 110(3)(b) of the NGL.

17 Relevant Minister's determination of the application (Section 99 of the NGL)

- (1) A coverage determination, or a decision not to make a coverage determination, must –
 - (a) be in writing; and
 - (b) identify the pipeline to which the determination or decision relates; and
 - (c) include a reference to a website at which a description of the pipeline can be inspected; and
 - (d) state the terms of the determination or decision and the reasons for it.
- (2) A copy of the determination or decision:
 - (a) must be given without delay to:
 - (i) the service provider; and
 - (ii) the applicant (if not the service provider); and
 - (iii) the NCC; and
 - (iv) the AEMC; and
 - (b) must be published on the NCC's website.

Division 2 Coverage revocation determination

18 Application for coverage revocation determination (Section 102 of the NGL)

- (1) An application for a coverage revocation determination must:
 - (a) state the applicant's name and contact details; and
 - (b) state whether the application is for revocation of coverage for the whole, or part only, of the covered pipeline; and

- (c) state the applicant's reasons for the application (including a demonstration of how the coverage revocation determination would give effect to the pipeline coverage criteria); and
 - (d) include information, and be accompanied by the documents, on which the applicant relies in support of the application.
- (2) The application must also include the following information:
- (a) the capacity of the pipeline and the extent to which that capacity is currently utilised; and
 - (b) for a transmission pipeline, a description of:
 - (i) all locations served by the pipeline (i.e. all locations at which receipt or delivery points for natural gas carried by the pipeline exist); and
 - (ii) all pipelines that currently serve the same locations; and
 - (iii) all pipelines that currently pass within 100 km of any location served by the pipeline; and
 - (c) for a distribution pipeline, a description of:
 - (i) the geographical area served by the pipeline; and
 - (ii) the points at which natural gas is, or is to be, injected into the pipeline; and
 - (d) a description of the pipeline services provided, or to be provided, by the pipeline; and
 - (e) an indication of any other sources of energy available to consumers of gas from the pipeline; and
 - (f) the identity of the parties with an interest in the pipeline and the nature and extent of each interest; and
 - (g) a description of the following relationships:
 - (i) any relationship between the owner, operator and controller of the pipeline (or any 2 of them);
 - (ii) any relationship between the owner, operator or controller of the pipeline and a user of pipeline services or a supplier or consumer of gas in a location or geographical area

served by the pipeline;

- (iii) any relationship between the owner, operator or controller of the pipeline and the owner, operator or controller of any other pipeline serving any one or more of the same locations or the same geographical area; and
- (h) an estimate of the annual cost to the service provider of regulation; and
- (i) any other information the applicant considers relevant to the application of the National Gas Objective or the pipeline coverage criteria in the circumstances of the present case.

19 Making of coverage revocation recommendation (Sections 103 and 104 of the NGL)

- (1) The NCC must deal with an application for a coverage revocation determination in accordance with the standard consultative procedure.
- (2) The NCC must make its final recommendation on the application within 4 months after receiving the application.
- (3) The time limit fixed by subrule (2) cannot be extended by more than a further 2 months.
- (4) A coverage revocation recommendation must:
 - (a) be in writing; and
 - (b) identify the covered pipeline to which the recommendation relates; and
 - (c) include a reference to a website at which a description of the pipeline can be inspected; and
 - (d) state the terms of the recommendation and the reasons for it.

20 Relevant Minister's determination of the application (Section 106(5) of the NGL)

- (1) A coverage revocation determination, or a decision not to make a coverage revocation determination, must:
 - (a) be in writing; and
 - (b) identify the pipeline to which the determination or decision

- relates; and
 - (c) include a reference to a website at which a description of the pipeline can be inspected; and
 - (d) if there is a coverage determination for the pipeline, refer to the determination; and
 - (e) state the terms of the determination or decision and the reasons for it.
- (2) A copy of the determination or decision:
- (a) must be given without delay to:
 - (i) the service provider; and
 - (ii) the applicant (if not the service provider); and
 - (ii) the NCC; and
 - (iii) the AEMC; and
 - (b) must be published on the NCC's website.

Part 5 Competitive tendering

21 Application for approval of tender process as a competitive tender process

- (1) A person (the ***proponent***) may apply to the AER for approval of a proposed tender process as a competitive tender process if:
- (a) the tender is for the provision of pipeline services to or from a particular locality; and
 - (b) the tender envisages the construction and operation of a new pipeline by the person who submits the successful tender.
- (2) An application for the AER's approval under this rule must:
- (a) set out the proponent's name and contact details; and
 - (b) contain a description of the pipeline services sought through the tender process; and

- (c) describe the proposed tender process including:
 - (i) the rules and procedures to be followed; and
 - (ii) the minimum requirements with which a tender will be required to comply; and
 - (iii) the proposed date for calling tenders and the proposed closing date for submission of tenders; and
 - (d) set out the criteria to be applied in selecting the successful tender.
- (3) A proponent may, by notice to the AER, withdraw its application at any time before the AER decides the application.

22 Approval of process as competitive tender process

- (1) The AER must, within 2 months after it receives an application under this Part, approve or refuse to approve the tender process as a competitive tender process.
- (2) The time limit fixed in subrule (1) cannot be extended by more than a further month.
- (3) The AER must approve a proposed tender process as a competitive tender process if the AER is satisfied that the tender process complies with the following requirements:
 - (a) the tender process must be for the provision of pipeline services of the kind described in the application for the tender approval decision; and
 - (b) the tender process must be an appropriate mechanism for determining terms and conditions of access having regard to:
 - (i) the national gas objective; and
 - (ii) the requirements of procedural fairness, probity and fair dealing; and
 - (c) the specifications contained in the request for tender:
 - (i) must not limit the kind of pipeline services to which access may be sought; and
 - (ii) must not impose conditions or requirements that the AER

considers would, or would be likely to, prevent or discourage the submission of any tender that is consistent with the selection criteria; and

- (d) the selection criteria must require the exclusion of a tender from consideration if it does not contain any of the essential elements for inclusion in a tender specified in subrule (4).

- (4) The essential elements for inclusion in a tender are:

- (a) a description of the proposed pipeline; and
- (b) a description of the services to be offered; and
- (c) the proposed reference services and, for each reference service, the terms and conditions of access, including the proposed reference tariff; and
- (d) if the proposed pipeline is a transmission pipeline – the proposed queuing requirements; and
- (e) the proposed extension and expansion requirements; and
- (f) the proposed expiry date of the CTP access arrangement (which must fall no more than 15 years from the commissioning of the pipeline).

23 Time limit for completion of tender process

- (1) If the AER approves the proposed tender process as a competitive tender process, it may, in the tender approval decision, fix a time limit for completion of the tender process.
- (2) The AER may, however, extend the time limit from time to time.

24 Report on the conduct of the tender process

- (1) When the successful tender is selected, the proponent must give the AER a written report (the **compliance report**) on the conduct of the tender process.
- (2) The compliance report must include the following information:
 - (a) the reasons for the selection of the successful tender; and
 - (b) information showing that the tender was conducted in accordance with the approved process and, in particular, that the

successful tender was selected in accordance with the approved selection criteria; and

- (c) the terms and conditions proposed in the successful tender including:
 - (i) a description of the proposed pipeline; and
 - (ii) a description of the pipeline services to be offered; and
 - (iii) the proposed reference services and, for each reference service, the terms and conditions of access, including the proposed reference tariff; and
 - (iv) the proposed queuing requirements; and
 - (v) the proposed extension and expansion requirements; and
 - (vi) the proposed expiry date of the CTP access arrangement (which must fall no more than 15 years from the commissioning of the pipeline); and
- (d) information showing that the terms and conditions are consistent with the national gas objective.

25 Lapse or revocation of tender approval decision

- (1) A tender approval decision lapses if:
 - (a) the time limit for completion of the tender process expires before the proponent submits a compliance report in accordance with this Part; or
 - (b) the proponent fails to submit a compliance report in accordance with this Part within 2 months after the selection of the successful tender.
- (2) The AER may revoke its tender approval decision if, after consideration of the compliance report, it is not satisfied that all aspects of the tender process were in accordance with the approved process.
- (3) If the AER proposes to revoke its tender approval decision under subrule (2), the AER must, within 20 business days after receiving the compliance report, give the proponent a written notice:
 - (a) stating that the AER is proposing to revoke the tender approval

- decision and the reasons for the proposed revocation; and
 - (b) inviting the proponent to make submissions to the AER on the proposed revocation; and
 - (c) stating that submissions must be made within 20 business days after the date of the notice.
- (4) The AER may, after considering any submissions made in accordance with a notice under subrule (3), revoke its tender approval decision.
- (5) Unless a tender approval decision lapses or is revoked within 3 months after the proponent gives the AER its compliance report, the decision becomes irrevocable at the end of that period.

26 Classification of tender approval pipeline

- (1) When the tender approval decision becomes irrevocable:
- (a) the proposed pipeline described in the successful tender selected in accordance with the approved process becomes a CTP pipeline; and
 - (b) the AER must ask the NCC to classify the pipeline in accordance with the pipeline classification criterion.
- (2) The AER must provide the NCC with information the NCC reasonably requires to classify the pipeline.
- (3) The NCC must make an initial classification decision:
- (a) classifying the pipeline as a transmission pipeline or a distribution pipeline; and
 - (b) if the pipeline is classified as a transmission pipeline – determining whether the pipeline is also a cross-boundary transmission pipeline; and
 - (c) if the pipeline is classified as a distribution pipeline – determining whether the pipeline is also a cross-boundary distribution pipeline; and
 - (d) if the pipeline is a cross-boundary distribution pipeline – determining, with regard to the jurisdictional determination criteria, the participating jurisdiction with which the pipeline is most closely connected.

- (4) The NCC must notify the AEMC and the AER of an initial classification decision under this rule.

27 CTP access arrangement

- (1) The service provider must, at least 6 months before a CTP pipeline is commissioned, submit to the AER for approval an access arrangement proposal proposing an access arrangement for the pipeline (a **CTP access arrangement proposal**).
- (2) The terms and conditions for an access arrangement as proposed in the successful tender (the **proposed terms and conditions**) may be amended, with the AER's approval, by agreement between the proponent and the service provider before the submission of the CTP access arrangement proposal.
- (3) If the AER is satisfied that the proposed CTP access arrangement reasonably reflects the proposed terms and conditions (including any amendment approved under this rule), the AER must approve the CTP access arrangement.
- (4) The approved CTP access arrangement must be published on the service provider's website.

Note

This subrule is a civil penalty provision for the purposes of the NGL. (See the Regulations, Clause 6 and Schedule 3.)

- (5) An approved CTP access arrangement may be amended, with the AER's approval, by the service provider.

28 Notification of AEMC

- (1) The AER must notify the AEMC of:
 - (a) every tender approval decision under this Part; and
 - (b) every decision to revoke a tender approval decision under this Part.
- (2) When a tender approval decision becomes irrevocable under this Part, the AER must notify the AEMC of that fact.

29 Non-application of Parts 8, 9 and 10

Parts 8, 9 and 10 do not apply to a CTP access arrangement or a CTP access arrangement proposal.

Part 6 Ring fencing**30 Imposition of additional ring fencing requirement (Section 143 of the NGL)**

A proposal by the AER to impose an additional ring fencing requirement under section 143 of the NGL is to be dealt with in accordance with the expedited consultative procedure.

31 Exemptions from minimum ring-fencing requirements (Section 146 of the NGL)

- (1) An application to the AER for an exemption under section 146 of the NGL from one or more of the minimum ring fencing requirements may be made by a service provider.

Note:

The minimum ring fencing requirements are the requirements imposed by sections 139, 140 and 141 of the NGL.

- (2) The AER must deal with such an application in accordance with the expedited consultation procedure.
- (3) An exemption is to be granted from section 139 of the NGL (prohibition on carrying on related business) if the AER is satisfied, on the application of a service provider, that:
- (a) either:
 - (i) the relevant pipeline is not a significant part of the pipeline system for any participating jurisdiction; or
 - (ii) the service provider does not have a significant interest in the relevant pipeline and does not actively participate in the management or operation of the pipeline; and
 - (b) the cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance; and
 - (c) the service provider has, by arrangement with the AER, established internal controls within the service provider's business that substantially replicate, in the AER's opinion, the effect that would be achieved if the related business were divested to a separate entity and dealings between the service provider and the entity were subject to the controls applicable to

associate contracts.

- (4) An exemption is to be granted from section 140 of the NGL (segregation of marketing staff etc.) or section 141 (accounts) if the AER is satisfied, on the application of a service provider, that the cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance.
- (5) If compliance with a relevant requirement would, in the AER's opinion, lead to increased competition in a market, the AER must, in carrying out an assessment under subrule (3)(b) or subrule (4), disregard costs associated with losses arising from increased competition in upstream or downstream markets.

32 Approval of associate contracts etc (Sections 147 and 148 of the NGL)

- (1) A service provider may apply to the AER for approval of:
 - (a) an associate contract or a proposed associate contract; or
 - (b) a proposed variation of an approved associate contract.
- (2) The AER must, on application under subrule (1), approve a contract or the variation of a contract if the AER is satisfied that the contract or variation:
 - (a) does not have the purpose, and is unlikely to have the effect, of substantially lessening competition in a market for natural gas services; and
 - (b) is not inconsistent with the competitive parity rule.

Note:

The comparative parity rule is stated in section 148(2) of the NGL.

- (3) If the AER is not satisfied that a contract, or the variation of a contract, should be approved under subrule (2), the AER may nevertheless approve the contract or variation if satisfied that the resulting public benefit would outweigh any resulting public detriment.
- (4) An approval under this rule may be subject to conditions the AER considers appropriate including (for example) conditions:
 - (a) limiting the duration of the approval or providing that the approval

will lapse on a material change of circumstances; and

- (b) imposing reporting requirements on the service provider.
- (5) If the AER fails to make a decision on an application under this rule within 20 business days after receiving it, the AER is taken to have approved the relevant contract or variation unconditionally.

33 Notification of associate contracts

- (1) A service provider must, within 5 business days after entering into, or varying, an associate contract (whether approved or not), give the AER written notice of the contract or variation together with a copy of the contract (or the contract as varied).

Note

This subrule is both a civil penalty provision and a conduct provision for the purposes of the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

- (2) A service provider incurs, by complying with this rule, no liability for breach of contract, breach of confidence, or any other civil wrong.

Part 7 Light regulation determinations

Division 1 Making and effect of light regulation determinations

34 Application for light regulation determination (Section 112(2) of the NGL)

- (1) An application for a light regulation determination must:
 - (a) be in writing; and
 - (b) identify the pipeline that provides, or is to provide, the services for which the determination is sought and include a reference to a website at which a description of the pipeline can be inspected; and
 - (c) include a description of all pipeline services provided or to be provided by means of the pipeline; and
 - (d) include the applicant's reasons for asserting that the pipeline services should be light regulation services; and
 - (e) include other information and materials on which the applicant relies in support of the application.

- (2) The application must also include the following information:
- (a) the capacity of the pipeline and the extent to which that capacity is currently utilised; and
 - (b) for a transmission pipeline, a description of:
 - (i) all locations served by the pipeline (i.e. all locations at which receipt or delivery points for natural gas carried by the pipeline exist); and
 - (ii) all pipelines that currently serve the same locations; and
 - (iii) all pipelines that currently pass within 100 km of any location served by the pipeline; and
 - (c) for a distribution pipeline, a description of:
 - (i) the geographical area served by the pipeline; and
 - (ii) the points at which natural gas is, or is to be, injected into the pipeline; and
 - (d) a description of the pipeline services provided, or to be provided, by the pipeline; and
 - (e) an indication of any other sources of energy available to consumers of gas from the pipeline; and
 - (f) the identity of the parties with an interest in the pipeline and the nature and extent of each interest; and
 - (g) a description of the following relationships:
 - (i) any relationship between the owner, operator and controller of the pipeline (or any 2 of them);
 - (ii) any relationship between the owner, operator or controller of the pipeline and a user of pipeline services or a supplier or consumer of gas in a location or geographical area served by the pipeline;
 - (iii) any relationship between the owner, operator or controller of the pipeline and the owner, operator or controller of any other pipeline serving any one or more of the same locations or the same geographical area; and

- (h) an estimate of the annual cost to the service provider of regulation on the basis of light regulation and on the basis of full regulation; and
- (i) any other information the applicant considers relevant to the application of the National Gas Objective or the form of regulation factors in the circumstances of the present case.

35 NCC's decision on the application (Sections 113 and 114 of the NGL)

- (1) In deciding an application for a light regulation determination, the NCC must:
 - (a) proceed in accordance with the standard consultative procedure; and
 - (b) consult with the AER.
- (2) A light regulation determination or a decision not to make a light regulation determination must:
 - (a) identify the pipeline, and the pipeline services, to which the determination or decision relates; and
 - (b) include a reference to a website at which a description of the pipeline, and the pipeline services, can be inspected; and
 - (c) state the terms of the determination or decision and the reasons for it.

36 Service provider must publish terms and conditions of access to light regulation services

- (1) A service provider providing pipeline services by means of a light regulation pipeline must publish on its website:
 - (a) the prices on offer for light regulation services; and
 - (b) the other terms and conditions of access to those services.
- (2) If, however, a limited access arrangement is in force and is accessible on the service provider's website, the terms and conditions of access (other than price) need not be separately published on the website.

Note

This rule is both a civil penalty provision and a conduct provision for the purposes of

the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

37 Service provider must provide information about access negotiations for light regulation services

- (1) A service provider providing pipeline services by means of a light regulation pipeline must report to the AER on access negotiations relating to light regulation services.
- (2) A report under this rule:
 - (a) must be made in a manner and form determined or approved by the AER; and
 - (b) must state the result of the negotiations and include other information required by the AER; and
 - (c) must be made (at least annually) at times specified by the AER.
- (3) The AER may, from time to time, publish an assessment of information reported to it by service providers under this rule.

Note

This rule is a civil penalty provision for the purposes of the NGL. (See the Regulations, Clause 6 and Schedule 3.)

Division 2 Revocation of light regulation determinations

38 Application for revocation of light regulation determination (Section 118(2) of the NGL)

An application for the revocation of a light regulation determination must:

- (a) state the applicant's name and contact details; and
- (b) identify the light regulation determination to which the application relates; and
- (c) identify the service provider; and
- (d) identify the covered pipeline; and
- (e) state the applicant's reasons for asserting that light regulation determination should be revoked; and
- (f) include any information and materials on which the applicant relies.

39 NCC's decision on application (Sections 119 and 120 of the NGL)

- (1) In deciding an application for revocation of a light regulation determination, the NCC must:
 - (a) proceed in accordance with the standard consultative procedure; and
 - (b) consult with the AER.
- (2) A decision on an application for revocation of a light regulation determination must:
 - (a) be in writing; and
 - (b) identify the light regulation determination; and
 - (c) identify the service provider and the covered pipeline; and
 - (d) describe the pipeline services affected by the decision; and
 - (e) state the terms of the decision and the reasons for it.

Part 8 Access arrangements

Division 1 AER's decisions regarding approval of access arrangement proposals

40 AER's discretion in decision making process regarding access arrangement proposal

No discretion

- (1) If the Law states that the AER has no discretion under a particular provision of the Law, then the discretion is entirely excluded in regard to an element of an access arrangement proposal governed by the relevant provision.

Example:

If the service provider proposes an access arrangement period of 5 years, the AER must accept that part of the proposal. (See rule 50(3).)

Limited discretion

- (2) If the Law states that the AER's discretion under a particular provision

of the Law is limited, then the AER may not withhold its approval to an element of an access arrangement proposal that is governed by the relevant provision if the AER is satisfied that it:

- (a) complies with applicable requirements of the Law; and
- (b) is consistent with applicable criteria (if any) prescribed by the Law.

Example:

The AER has limited discretion under rule 89. (See rule 89(3).) This rule governs the design of a depreciation schedule. In dealing with a full access arrangement submitted for its approval, the AER cannot, in its draft decision, insist on change to an aspect of a depreciation schedule governed by rule 89 unless the AER considers change necessary to correct non-compliance with a provision of the Law or an inconsistency between the schedule and the applicable criteria. Even though the AER might consider change desirable to achieve more complete conformity between the schedule and the principles and objectives of the Law, it would not be entitled to give effect to that view in the decision making process.

Full discretion

- (3) In all other cases, the AER has a discretion to withhold its approval to an element of an access arrangement proposal if, in the AER's opinion, a preferable alternative exists that:
 - (a) complies with applicable requirements of the Law; and
 - (b) is consistent with applicable criteria (if any) prescribed by the Law.

Example:

In dealing with a full access arrangement submitted for its approval, the AER could, in its draft decision, insist on changes to queuing requirements if of the opinion that the changes could improve competition in upstream or downstream markets for natural gas.

41 Access arrangement proposal to be approved in its entirety or not at all

- (1) The AER's approval of an access arrangement proposal implies approval of every element of the proposal.
- (2) It follows that, if the AER withholds its approval to any element of an access arrangement proposal, the proposal cannot be approved.

Division 2 Access arrangement information

42 General requirements for access arrangement information

- (1) Access arrangement information for an access arrangement or an access arrangement proposal is information that is reasonably necessary for users and prospective users:
 - (a) to understand the background to the access arrangement or the access arrangement proposal; and
 - (b) to understand the basis and derivation of the various elements of the access arrangement or the access arrangement proposal.
- (2) Access arrangement information must include the information specifically required by the Law.

43 Requirement to provide access arrangement information

- (1) A service provider, when submitting an access arrangement proposal for the AER's approval, must submit, together with the proposal, access arrangement information for the access arrangement proposal.

Note

This subrule is a civil penalty provision for the purposes of the NGL. (See the Regulations, Clause 6 and Schedule 3.)

- (2) If particular information (**sensitive information**) is confidential, and its public disclosure could cause undue harm to the legitimate business interests of the service provider, a user or prospective user, the AER may permit the service provider to submit access arrangement information in a form, approved by the AER, in which the sensitive information:
 - (a) is aggregated or generalised so as to avoid disclosure of the elements that make it sensitive; or
 - (b) if that is not possible – is entirely suppressed.
- (3) If information submitted as access arrangement information is, in the AER's opinion, deficient in its comprehensiveness or in any other respect, the AER may require the proponent:
 - (a) to make the revisions necessary to correct the deficiency and to re-submit the access arrangement information; or
 - (b) to submit further access arrangement information as an

addendum to the information already submitted.

44 Publication etc of access arrangement information

A requirement of the Law for publication or the provision of copies of an access arrangement or an access arrangement proposal extends, subject to these rules, to access arrangement information relating to the access arrangement or access arrangement proposal.

Division 3 Limited access arrangements

45 Requirements for limited access arrangement (and limited access arrangement proposal) (Section 116(2) of the NGL)

- (1) A limited access arrangement for a light regulation pipeline must:
- (a) identify the pipeline and include a reference to a website at which a description of the pipeline can be inspected; and
 - (b) describe the pipeline services the service provider proposes to offer to provide by means of the pipeline; and
 - (c) state the terms and conditions (other than price) for access to the pipeline services likely to be sought by a significant part of the market; and
 - (d) if the access arrangement is to contain queuing requirements – set out the queuing requirements; and

Note:

Queuing requirements are necessary if the access arrangement is for a transmission pipeline but, if the pipeline is a distribution pipeline, queuing requirements are not necessary unless the AER has given prior notification of the need to include queuing requirements (See rule 103).

- (e) set out the capacity trading requirements; and
- (f) set out the extension and expansion requirements; and
- (g) state the terms and conditions for changing receipt and delivery points; and
- (h) if there is to be a review submission date – state the review submission date and the revision commencement date; and
- (i) if there is to be an expiry date – state the expiry date.

- (2) The access arrangement information for the limited access arrangement must include the following:
 - (a) the capacity of the pipeline and the extent to which that capacity is currently utilised;
 - (b) the key performance indicators for the pipeline.
- (3) This rule extends to an access arrangement proposal consisting of a proposed limited access arrangement for a light regulation pipeline.

Division 4 Full access arrangements

46 Submission of full access arrangement proposal (Section 132 of the NGL)

- (1) Within 3 months after a pipeline becomes a covered pipeline, the service provider must submit for the AER's approval an access arrangement proposal proposing a full access arrangement for the covered pipeline.

Exceptions:

- 1 Such a proposal is not required for a light regulation pipeline unless:
 - (a) the service provider wishes the pipeline services to cease to be light regulation services, advises the NCC to that effect, and an obligation to submit a full access arrangement consequently arises under section 117 of the NGL; or
 - (b) the NCC decides to revoke a light regulation determination and an obligation to submit a full access arrangement consequently arises under section 121(1) of the NGL.
 - 2 The obligation to submit an access arrangement proposal for a CTP access arrangement is governed by Part 5 and not by this rule.
- (2) If an obligation to submit a full access arrangement arises in the circumstances described in Exception 1, the access arrangement proposal must be submitted within 3 months after the obligation arises.
 - (3) The AER may extend the period for submitting an access arrangement proposal under this rule, but the period (or aggregate period) of

extension cannot exceed 2 months.

Note

This rule is a civil penalty provision for the purposes of the NGL. (See the Regulations, Clause 6 and Schedule 3.)

47 Voluntary submission of access arrangement proposal for full access arrangement (Section 127 of the NGL)

- (1) A service provider for a pipeline that is not a covered pipeline may voluntarily submit for the AER's approval an access arrangement proposal proposing a full access arrangement for the pipeline.

Note:

The pipeline becomes a covered pipeline when the access arrangement takes effect as an applicable access arrangement and ceases to be a covered pipeline when the access arrangement expires. (See Section 127(2) and (3) of the NGL.)

- (2) However:
- (a) at any time before the AER makes a final decision to approve the access arrangement, the service provider may withdraw the access arrangement proposal; and
 - (b) the withdrawal terminates the administrative process for approval of the proposed access arrangement.
- (3) When an access arrangement proposal for a pipeline that is not currently classified is submitted to the AER for approval under this rule, the AER must, within 20 business days after receiving the access arrangement proposal:
- (a) pass on to the NCC a copy of the access arrangement proposal, and accompanying access arrangement information; and
 - (b) ask the NCC to classify the pipeline in accordance with the pipeline classification criterion.
- (4) The NCC must make an initial classification decision:
- (a) classifying the pipeline as a transmission pipeline or a distribution pipeline; and
 - (b) if the pipeline is classified as a transmission pipeline – determining whether the pipeline is also a cross-boundary transmission pipeline; and

- (c) if the pipeline is classified as a distribution pipeline – determining whether the pipeline is also a cross-boundary distribution pipeline; and
 - (d) if the pipeline is a cross-boundary distribution pipeline – determining, with regard to the jurisdictional determination criteria, the participating jurisdiction with which the pipeline is most closely connected.
- (5) The NCC must notify the AEMC and the AER of an initial classification decision under this rule.
- (6) If the service provider withdraws the access arrangement proposal before the AER makes a final decision to approve the access arrangement:
- (a) the AER must immediately notify the NCC of the withdrawal; and
 - (b) an initial classification decision, if already made, lapses.

48 Requirements for full access arrangement (and full access arrangement proposal)

- (1) A full access arrangement must:
- (a) identify the pipeline to which the access arrangement relates and include a reference to a website at which a description of the pipeline can be inspected; and
 - (b) describe the pipeline services the service provider proposes to offer to provide by means of the pipeline; and
 - (c) specify the reference services; and
 - (d) specify for each reference service:
 - (i) the reference tariff; and
 - (ii) the other terms and conditions on which the reference service will be provided; and
 - (e) if the access arrangement is to contain queuing requirements – set out the queuing requirements; and

Note:

Queuing requirements are necessary if the access arrangement is for a transmission pipeline but, if the pipeline is a distribution pipeline, queuing

requirements are not necessary unless the AER has given prior notification of the need to include queuing requirements (See rule 103).

- (f) set out the capacity trading requirements; and
- (g) set out the extension and expansion requirements; and
- (h) state the terms and conditions for changing receipt and delivery points; and
- (i) if there is to be a review submission date – state the review submission date and the revision commencement date; and

Note:

A full access arrangement must contain a review submission date and a revision commencement date unless it is a voluntary access arrangement – See rule 49.

- (j) if there is to be an expiry date – state the expiry date.

Note:

A full access arrangement may contain an expiry date if it is a voluntary access arrangement (but not otherwise) – See rule 49.

- (2) This rule extends to an access arrangement proposal consisting of a proposed full access arrangement.

Division 5 Review and expiry of certain access arrangements

49 Review submission, revision commencement and expiry dates

- (1) A full access arrangement (other than a voluntary access arrangement):
 - (a) must contain a review submission date and a revision commencement date; and
 - (b) must not contain an expiry date.
- (2) An access arrangement to which this subrule applies:
 - (a) may contain a review submission date or both a review submission date and an expiry date; and
 - (b) must, if it contains a review submission date, contain a revision commencement date; and
 - (c) must, if it contains no review submission date, contain an expiry

date.

- (3) Subrule (2) applies to:
- (a) a full access arrangement that is a voluntary access arrangement; and
 - (b) a limited access arrangement for a light regulation pipeline.

50 Review of access arrangements

- (1) As a general rule:
- (a) a review submission date will fall 4 years after the access arrangement took effect or the last revision commencement date; and
 - (b) a revision commencement date will fall 5 years after the access arrangement took effect or the last revision commencement date.
- (2) If a service provider, as part of an access arrangement proposal, proposes to fix a review submission date and a revision commencement date in accordance with the general rule, the AER must accept that part of the proposal.
- (3) The AER has no discretion under subrule (2).
- (4) The AER may, however, approve dates that do not conform with the general rule if satisfied that they are consistent with the national gas objective and the revenue and pricing principles.

51 Acceleration of review submission date

- (1) The review submission date fixed in an access arrangement advances to an earlier date if:
- (a) the access arrangement provides for acceleration of the review submission date on the occurrence of a trigger event; and
 - (b) the trigger event occurs; and
 - (c) the review submission date determined, in accordance with the access arrangement, by reference to the trigger event, is earlier than the fixed date.

- (2) A trigger event may consist of any significant circumstance or conjunction of circumstances.

Examples:

- 1 A re-direction of the flow of natural gas through the pipeline.
 - 2 A competing source of natural gas becomes available to customers served by the pipeline.
 - 3 A significant extension, expansion or interconnection occurs.
- (3) The AER may insist on the inclusion in an access arrangement of trigger events and may specify the nature of the trigger events to be included.

52 Access arrangement revision proposal

- (1) A service provider must, on or before the review submission date of an applicable access arrangement, submit an access arrangement revision proposal to the AER.

Note

This subrule is a civil penalty provision for the purposes of the NGL. (See the Regulations, Clause 6 and Schedule 3.)

- (2) The access arrangement revision proposal must:
- (a) set out the amendments to the access arrangement that the service provider proposes for the ensuing access arrangement period; and
 - (b) incorporate the text of the access arrangement in the revised form.
- (3) The AER may extend the period for submitting an access arrangement revision proposal under this rule, but the period (or aggregate period) of extension cannot exceed 2 months.

Division 6 Division or consolidation of access arrangements

53 Access arrangement proposal for division or consolidation of access arrangements

- (1) The AER may, by notice to a service provider for a covered pipeline, direct the service provider to submit separate access arrangement proposals for different parts of the covered pipeline.
- (2) If pipeline services provided, or to be provided, by a service provider are (or are to be) provided by means of 2 or more covered pipelines, the AER may, by notice to the service provider, direct the service provider to submit a consolidated access arrangement proposal for all the relevant covered pipelines.

Example:

The AER might direct the submission of a consolidated access arrangement proposal for 2 or more covered transmission pipelines, 2 or more covered distribution pipelines or a combination of covered transmission and covered distribution pipelines.

- (3) The AER may give a direction under this rule either on its own initiative or on application by the service provider.
- (4) In deciding whether to give a direction under this rule, the AER must have regard to:
 - (a) the nature of the pipeline or pipelines; and
 - (b) the nature of the pipeline services provided or to be provided by means of the pipeline or pipelines; and
 - (c) any other matter the AER considers relevant.
- (5) Before the AER gives the direction, it must consult on the proposed terms of the direction with the service provider and any other persons with whom it considers consultation appropriate.
- (6) A service provider must comply with a direction under this rule.

Note

This subrule is a civil penalty provision for the purposes of the NGL. (See the Regulations, Clause 6 and Schedule 3.)

- (7) A direction under this rule may be subject to such conditions as the AER thinks fit and includes in the direction.

Division 7 Procedure for dealing with limited access arrangement proposal

54 Application of this Division

This Division applies to a limited access arrangement proposal.

Exception:

This Division does not apply to an access arrangement variation proposal relating to a limited access arrangement if the proposal is approved by the AER under Division 10 as a proposal for a non-material variation.

55 Decision on limited access arrangement proposal

- (1) The AER must deal with a limited access arrangement proposal for a light regulation pipeline in accordance with the expedited consultative procedure.
- (2) However:
 - (a) at any time before the AER makes a final decision to approve a limited access arrangement, the service provider may withdraw the access arrangement proposal; and
 - (b) the withdrawal terminates the administrative process for approval of the proposed limited access arrangement.
- (3) If the AER, in its final decision on a limited access arrangement proposal for a light regulation pipeline, approves the proposal, the access arrangement, or the revision or variation, to which the proposal relates, takes effect on a date fixed in the final decision or, if no date is so fixed, 10 business days after the date of the final decision.

Note:

In the case of an access arrangement revision proposal, this date may, but will not necessarily, be the revision commencement date fixed in the access arrangement.

- (4) A final decision on a limited access arrangement proposal for a light regulation pipeline must be made within 4 months after submission of the proposal for the AER's approval.

- (5) The time limit fixed by subrule (4) cannot be extended by more than a further 2 months.

Division 8 Procedure for dealing with full access arrangement proposal

56 Application of this Division

This Division applies to a full access arrangement proposal.

Exception:

This Division does not apply to an access arrangement variation proposal relating to a full access arrangement if the proposal is approved by the AER under Division 10 as a proposal for a non-material variation.

57 Pre-submission conference

- (1) A service provider may, in the course of preparing a full access arrangement proposal for the AER's approval, by notice to the AER, request a pre-submission conference with representatives of the AER to discuss questions affecting the proper formulation of the proposal.
- (2) The AER must comply with such a request unless the request appears to be unreasonable.

58 Notification of submission of full access arrangement proposal for approval

- (1) As soon as practicable after receiving a full access arrangement proposal, or referring it (in the case of an access arrangement variation proposal) to be dealt with under this Division, the AER must publish a notice (an **initiating notice**) on its website and in a newspaper circulating generally throughout Australia:
- (a) notifying receipt of the proposal; and
 - (b) describing the proposal and giving the address of a website at which the proposal can be inspected; and
 - (c) inviting written submissions on the proposal by a date specified in the notice (which must fall at least 20 business days after the first publication of the notice).

- (2) The AER may, however, defer publication of an initiating notice for up to 30 business days after the submission of the access arrangement proposal if, on a preliminary examination of the proposal, the AER considers the proposal or the related access arrangement information deficient in some respect, and allows the service provider an opportunity to correct the deficiency.
- (3) A service provider may, with the AER's consent, revise a full access arrangement proposal even though an initiating notice has been published.

59 Access arrangement draft decision

- (1) After considering the submissions made within the time allowed in the initiating notice, and any other matters the AER considers relevant, the AER must make an access arrangement draft decision.
- (2) An access arrangement draft decision indicates whether the AER is prepared to approve the access arrangement proposal as submitted and, if not, the nature of the amendments that are required in order to make the proposal acceptable to the AER.

Examples:

1. *If the AER is not satisfied that the access arrangement proposal adequately describes the pipeline services offered, or to be offered, by the service provider, the decision might indicate the amendment or the nature of the amendment required to correct the deficiency.*
 2. *If the AER is not satisfied that the access arrangement proposal designates as reference services all pipeline services that are sought, or likely to be sought, by a significant part of the market, the decision might indicate that further or other pipeline services should be designated as reference services.*
 3. *The decision might indicate that specified changes, or changes of a specified nature, should be made to a reference tariff.*
 4. *The decision might indicate changes to queuing requirements, capacity trading requirements, or extension and expansion requirements needed to make the access arrangement acceptable to the AER.*
- (3) If an access arrangement draft decision indicates that revision of the access arrangement proposal is necessary to make the proposal acceptable to the AER, the decision must fix a period (at least 15 business days) for revision of the proposal (the **revision period**).
 - (4) An access arrangement draft decision must include a statement of the reasons for the decision.
 - (5) When the AER makes an access arrangement draft decision, it must:

- (a) give a copy of the decision to the service provider; and
- (b) publish the decision on the AER's website and make it available for inspection, during business hours, at the AER's public offices; and
- (c) publish on its website and in a newspaper circulating generally throughout Australia a notice:
 - (i) stating that an access arrangement draft decision has been made and giving a reference to a website at which the relevant access arrangement proposal and the relevant draft decision may be inspected; and
 - (ii) if a period has been allowed for revision of the proposal – specifying the revision period; and
 - (iii) inviting written submissions within the time allowed in the notice (which must be at least 20 business days from the end of the revision period).

60 Revision of access arrangement proposal in response to draft decision

- (1) The service provider may, within the revision period, submit additions or other amendments to the access arrangement proposal to address matters raised in the access arrangement draft decision.
- (2) The amendments must be limited to those necessary to address matters raised in the access arrangement draft decision unless the AER approves further amendments.

Example

The AER might approve amendments to the access arrangement proposal to deal with a change in circumstances of the service provider's business since submission of the access arrangement proposal.

- (3) If the service provider submits amendments to the access arrangement proposal, the service provider must also provide the AER (together with the amendments) with a revised proposal incorporating the amendments.
- (4) As soon as practicable after receiving the revised access arrangement proposal, the AER must publish it on its website.

61 Hearing relating to access arrangement draft decision

- (1) The AER may, on its own initiative or on request by any person, hold a hearing about an access arrangement draft decision.
- (2) A request for a hearing must:
 - (a) be made in writing within 10 business days after publication of the draft decision; and
 - (b) state the applicant's name and contact details; and
 - (c) state the applicant's reasons for requesting a hearing.
- (3) If the AER refuses a request for a hearing, it must give the applicant written reasons for the refusal.

Example:

The AER might refuse the request on the ground that the applicant failed to make written submissions in response to the initiating notice or that the applicant's request does not disclose a sufficient reason for a hearing.

- (4) If the AER decides to hold a hearing (on request or on its own initiative), it must appoint a time and place for the hearing and give notice of the appointed time and place on its website.

62 Access arrangement final decision

- (1) After considering the submissions made in response to the access arrangement draft decision within the time allowed in the notice, and any other matters the AER considers relevant, the AER must make an access arrangement final decision.
- (2) An access arrangement final decision is a decision to approve, or to refuse to approve, an access arrangement proposal.
- (3) If the access arrangement proposal has been revised since its original submission, the access arrangement final decision relates to the proposal as revised.
- (4) An access arrangement final decision must include a statement of the reasons for the decision.
- (5) When the AER makes an access arrangement final decision, it must:
 - (a) give a copy of the decision to the service provider; and

- (b) publish the decision on the AER's website and make it available for inspection, during business hours, at the AER's public offices.
- (6) If an access arrangement final decision approves an access arrangement proposal, the access arrangement, or the revision or variation, to which the decision relates, takes effect on a date fixed in the final decision or, if no date is so fixed, 10 business days after the date of the final decision.

Note:

In the case of an access arrangement revision proposal, this date may, but will not necessarily, be the revision commencement date fixed in the access arrangement.

- (7) An access arrangement final decision must be made within 6 months of the date of receipt of the access arrangement proposal.
- (8) The time limit fixed by subrule (7) cannot be extended by more than a further 2 months.

Division 9 Power of the AER to make and approve its own proposal for an arrangement or revisions to an access arrangement

63 AER's power to make or revise access arrangement on failure by service provider to submit an access arrangement proposal

- (1) If a service provider fails to submit an access arrangement proposal in one of the following cases, the AER must itself propose an access arrangement or revisions to the access arrangement (as the case requires) for the relevant pipeline.

Cases to which this subrule applies:

- (a) the service provider is required to submit an access arrangement proposal for a full access arrangement under section 132 of the NGL and rule 46, and fails to do so;
- (b) the service provider is required to submit an access arrangement revision proposal under section 132 of the NGL and rule 52, and fails to do so.
- (2) The AER must make a decision giving effect to its proposal (or some modified version of its proposal resulting from the decision making process) within 6 months after the end of the period allowed for submission of an access arrangement proposal by the service

provider.

- (3) In making a decision under subrule (2), the AER must:
- (a) if the proposal is, or relates to, a limited access arrangement – proceed in accordance with the expedited consultative procedure; or
 - (b) if the proposal is, or relates to, a full access arrangement – proceed in accordance with the standard consultative procedure.

64 AER's power to make or revise access arrangement on refusing to approve an access arrangement proposal

- (1) If, in an access arrangement final decision, the AER refuses to approve an access arrangement proposal (other than a variation proposal), the AER must itself propose an access arrangement or revisions to the access arrangement (as the case requires) for the relevant pipeline.

Exception:

If the access arrangement proposal is for a limited access arrangement for an international pipeline to which a price regulation exemption applies, the AER may (but need not) exercise its powers under this rule. (See section 167(2) of the NGL)

- (2) The AER's proposal for an access arrangement or revisions is to be formulated with regard to:
- (a) the matters that the Law requires an access arrangement to include; and
 - (b) the service provider's access arrangement proposal; and
 - (c) the AER's reasons for refusing to approve that proposal.
- (3) The AER may (but is not obliged to) consult on its proposal.
- (4) The AER must, within 2 months after the access arrangement final decision, make a decision giving effect to its proposal.
- (5) When the AER makes a decision under this rule, it must:
- (a) give a copy of the decision to the service provider; and

- (b) publish the decision on the AER's website and make it available for inspection, during business hours, at the AER's public offices.
- (6) The access arrangement or the revisions to which the decision relates takes effect on a date fixed in the determination or, if no date is so fixed, 10 business days after the date of the decision.

Division 10 Supplementary power to vary applicable access arrangement

65 Application for variation of applicable access arrangement

- (1) A service provider may submit for the AER's approval a proposal for variation of the applicable access arrangement (an **access arrangement variation proposal**).
- (2) An access arrangement variation proposal cannot, however, be submitted between a review submission date for the applicable access arrangement and the commencement of the new access arrangement period.
- (3) An access arrangement variation proposal must:
 - (a) be in writing; and
 - (b) state the variation sought and the reasons for it; and
 - (c) if the service provider considers the variation non-material – state that opinion and the reasons for it.

66 Preliminary assessment of access arrangement variation proposal

- (1) Within 20 business days after receiving an access arrangement variation proposal from a service provider, the AER must decide whether or not it considers the variation non-material.
- (2) If the AER considers the variation non-material, the AER may, without consultation, approve the proposal.
- (3) If the AER does not consider the proposed variation non-material, the AER must refer the access arrangement variation proposal to be dealt with as a limited access arrangement proposal under Division 7 or a full access arrangement proposal under Division 8 (as the case requires).
- (4) If the service provider considers the proposed variation non-material

and the AER disagrees with the service provider on that point, the AER must give the service provider written reasons for its contrary opinion.

67 Decision on access arrangement variation proposal

A decision by the AER on an access arrangement variation proposal under this Division must:

- (a) be in writing; and
- (b) state the terms of the decision and the reasons for it; and
- (c) if the decision is to approve the variation as a non-material variation:
 - (i) set out the terms of the approved variation; and
 - (ii) state the commencement date of the variation; and
- (d) be given to the applicant service provider without delay; and
- (e) be published on the AER's website.

Division 11 AER's power to vary or revoke access arrangement

68 AER may vary or revoke access arrangement

- (1) The AER may vary or revoke an access arrangement during an access arrangement period if it appears to the AER that the determination is affected by a material error or deficiency of one or more of the following kinds:
 - (a) a clerical mistake or an accidental slip or omission;
 - (b) a miscalculation or misdescription;
 - (c) a defect in form;
 - (d) a deficiency resulting from the provision of false or materially misleading information to the AER.
- (2) If the AER revokes an access arrangement under subrule (1), the AER must make a new access arrangement to apply for the remainder of the access arrangement period for which the revoked access arrangement was to apply.
- (3) A substituted access arrangement must not differ from the revoked

access arrangement more than necessary to correct the relevant error or deficiency.

- (4) The AER may only vary an access arrangement, or revoke and substitute an access arrangement, under this rule if it has first consulted with the relevant service provider and any other persons with whom it considers consultation appropriate.

Part 9 Price and revenue regulation

Division 1 Preliminary

69 Interpretation

In this Part:

capital base, in relation to a pipeline, means the capital value to be attributed, in accordance with this Part, to pipeline assets.

capital expenditure means costs and expenditure of a capital nature incurred to provide, or in providing, pipeline services.

conforming capital expenditure means capital expenditure that complies with the new capital expenditure criteria.

depreciation means depreciation of the capital base.

new capital expenditure criteria mean the criteria stated in rule 79.

non-conforming capital expenditure means capital expenditure that does not comply with the new capital expenditure criteria.

operating expenditure means operating, maintenance and other costs and expenditure of a non-capital nature incurred in providing pipeline services and includes expenditure incurred in increasing long-term demand for pipeline services and otherwise developing the market for pipeline services.

pipeline assets, in relation to a pipeline, means capital assets that constitute the pipeline or are otherwise used by the service provider to provide services.

tariff class means customers for one or more reference services who constitute a tariff class under a full access arrangement.

70 Application of this Part

This Part applies only in respect of a full access arrangement (or a full access arrangement proposal).

71 Assessment of compliance

- (1) In determining whether capital or operating expenditure is efficient and complies with other criteria prescribed by these rules, the AER may, without embarking on a detailed investigation, infer compliance from the operation of an incentive mechanism or on any other basis the AER considers appropriate.
- (2) The AER must, however, consider, and give appropriate weight to, submissions and comments received when the question whether a relevant access arrangement proposal should be approved is submitted for public consultation.

Division 2 Access arrangement information relevant to price and revenue regulation

72 Specific requirements for access arrangement information relevant to price and revenue regulation

- (1) The access arrangement information for a full access arrangement proposal (other than an access arrangement variation proposal) must include the following:
 - (a) if the access arrangement period commences at the end of an earlier access arrangement period:
 - (i) capital expenditure (by asset class) over the earlier access arrangement period; and
 - (ii) operating expenditure (by category) over the earlier access arrangement period; and
 - (iii) usage of the pipeline over the earlier access arrangement period showing:
 - (A) for a distribution pipeline, minimum, maximum and average demand and, for a transmission pipeline, minimum, maximum and average demand for each receipt or delivery point; and
 - (B) for a distribution pipeline, customer numbers in total

and by tariff class and, for a transmission pipeline, user numbers for each receipt or delivery point;

- (b) how the capital base is arrived at and, if the access arrangement period commences at the end of an earlier access arrangement period, a demonstration of how the capital base increased or diminished over the previous access arrangement period;
- (c) the projected capital base over the access arrangement period, including:
 - (i) a forecast of conforming capital expenditure for the period and the basis for the forecast; and
 - (ii) a forecast of depreciation for the period including a demonstration of how the forecast is derived on the basis of the proposed depreciation method;
- (d) to the extent it is practicable to forecast pipeline capacity and utilisation of pipeline capacity over the access arrangement period, a forecast of pipeline capacity and utilisation of pipeline capacity over that period and the basis on which the forecast has been derived;
- (e) a forecast of operating expenditure over the access arrangement period and the basis on which the forecast has been derived;
- (f) the key performance indicators to be used by the service provider to support expenditure to be incurred over the access arrangement period;
- (g) the proposed rate of return, the assumptions on which the rate of return is calculated and a demonstration of how it is calculated;
- (h) the proposed method for dealing with taxation, and a demonstration of how the allowance for taxation is calculated;
- (i) if an incentive mechanism operated for the previous access arrangement period—the proposed carry-over of increments for efficiency gains or decrements for efficiency losses in the previous access arrangement period and a demonstration of how allowance is to be made for any such increments or decrements;
- (j) the proposed approach to the setting of tariffs including:
 - (i) the suggested basis of reference tariffs, including the

method used to allocate costs and a demonstration of the relationship between costs and tariffs; and

- (ii) a description of any pricing principles employed but not otherwise disclosed under this rule;
 - (k) the service provider's rationale for any proposed reference tariff variation mechanism;
 - (l) the service provider's rationale for any proposed incentive mechanism;
 - (m) the total revenue to be derived from pipeline services for each regulatory year of the access arrangement period.
- (2) The access arrangement information for an access arrangement variation proposal related to a full access arrangement must include so much of the above information as is relevant to the proposal.

73 Basis on which financial information is to be provided

- (1) Financial information must be provided on:
- (a) a nominal basis; or
 - (b) a real basis; or
 - (c) some other recognised basis for dealing with the effects of inflation.
- (2) The basis on which financial information is provided must be stated in the access arrangement information.
- (3) All financial information must be provided, and all calculations made, consistently on the same basis.

74 Forecasts and estimates

- (1) Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.
- (2) A forecast or estimate:
- (a) must be arrived at on a reasonable basis; and
 - (b) must represent the best forecast or estimate possible in the circumstances.

75 Inferred or derivative information

Information in the nature of an extrapolation or inference must be supported by the primary information on which the extrapolation or inference is based.

Division 3 Building block approach

76 Total revenue

Total revenue is to be determined for each regulatory year of the access arrangement period using the building block approach in which the building blocks are:

- (a) a return on the projected capital base for the year (See Divisions 4 and 5); and
- (b) depreciation on the projected capital base for the year (See Division 6); and
- (c) if applicable – the estimated cost of corporate income tax for the year; and
- (d) increments or decrements for the year resulting from the operation of an incentive mechanism to encourage gains in efficiency (See Division 9); and
- (e) a forecast of operating expenditure for the year (See Division 7).

Division 4 The Capital base

77 Opening capital base

- (1) When a pipeline first becomes a covered pipeline, or the opening capital base for a pipeline is first calculated, the opening capital base is to be as follows:
 - (a) if the pipeline was commissioned before the commencement of these rules, the opening capital base is to be determined by reference to the relevant provisions of the Gas Code;
 - (b) if the pipeline was commissioned after the commencement of these rules, the opening capital base is to be:
 - (i) the cost of construction of the pipeline and pipeline assets incurred before commissioning of the pipeline (including the

cost of acquiring easements and other interests in land necessary for the establishment and operation of the pipeline);

plus:

- (ii) the amount of capital expenditure since the commissioning of the pipeline;

less:

- (iii) depreciation; and
- (iv) the value of pipeline assets disposed of since the commissioning of the pipeline.

- (2) If an access arrangement period follows immediately on the conclusion of a preceding access arrangement period, the opening capital base for the later access arrangement period is to be:

- (a) the opening capital base as at the commencement of the earlier access arrangement period (adjusted for any difference between estimated and actual capital expenditure included in that opening capital base);

plus:

- (b) conforming capital expenditure made, or to be made, during the earlier access arrangement period;

plus:

- (c) any amounts to be added to the capital base under rule 82, 84 or 86;

less:

- (d) depreciation over the earlier access arrangement period (to be calculated in accordance with any relevant provisions of the access arrangement governing the calculation of depreciation for the purpose of establishing the opening capital base); and

Note:

See rule 90.

- (e) redundant assets identified during the course of the earlier access arrangement period; and

- (f) the value of pipeline assets disposed of during the earlier access arrangement period.
- (3) If a period intervenes between access arrangement periods during which the pipeline is not subject to a full access arrangement, the opening capital base for the later access arrangement period is to be:
- (a) the opening capital base determined in accordance with these rules for a notional access arrangement taking effect at the end of the access arrangement period for the last full access arrangement (the *relevant date*);
- plus:
- (b) the amount of capital expenditure since the relevant date;
- less:
- (c) depreciation since the relevant date; and
 - (d) the value of pipeline assets disposed of since the relevant date.

78 Projected capital base

The projected capital base for a particular period is:

- (a) the opening capital base;
- plus:
- (b) forecast conforming capital expenditure for the period;
- less:
- (c) forecast depreciation for the period; and
 - (d) the forecast value of pipeline assets to be disposed of in the course of the period.

79 New capital expenditure criteria

- (1) Conforming capital expenditure is capital expenditure that conforms with the following criteria:
 - (a) the capital expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest

- sustainable cost of providing services;
- (b) the capital expenditure must be justifiable on a ground stated in subrule (2).
- (2) Capital expenditure is justifiable if:
- (a) the overall economic value of the expenditure is positive; or
- (b) the present value of the expected incremental revenue to be generated as a result of the expenditure exceeds the present value of the capital expenditure; or
- (c) the capital expenditure is necessary:
- (i) to maintain and improve the safety of services; or
- (ii) to maintain the integrity of services; or
- (iii) to comply with a regulatory obligation or requirement; or
- (iv) to maintain the service provider's capacity to meet levels of demand for services existing at the time the capital expenditure is incurred (as distinct from projected demand that is dependent on an expansion of pipeline capacity); or
- (d) the capital expenditure is an aggregate amount divisible into 2 parts, one referable to incremental services and the other referable to a purpose referred to in paragraph (c), and the former is justifiable under paragraph (b) and the latter under paragraph (c).
- (3) In deciding whether the overall economic value of capital expenditure is positive, consideration is to be given only to economic value directly accruing to the service provider, gas producers, users and end users.
- (4) In determining the present value of expected incremental revenue:
- (a) a tariff will be assumed for incremental services based on (or extrapolated from) prevailing reference tariffs or an estimate of the reference tariffs that would have been set for comparable services if those services had been reference services; and
- (b) incremental revenue will be taken to be the gross revenue to be derived from the incremental services less incremental operating expenditure for the incremental services; and

- (c) a discount rate is to be used equal to the rate of return implicit in the reference tariff.
- (5) If capital expenditure made during an access arrangement period conforms, in part, with the criteria laid down in this rule, the capital expenditure is, to that extent, to be regarded as conforming capital expenditure.
- (6) The AER's discretion under this rule is limited.

Note:

See rule 40(2).

80 AER's power to make advance determination with regard to future capital expenditure

- (1) The AER may, on application by a service provider, make a determination to the effect that, if capital expenditure is made in accordance with proposals made by the service provider and specified in the determination, the expenditure will meet the new capital expenditure criteria.
- (2) The AER may (but is not required to) engage in public consultation before making a determination under subrule (1).
- (3) A determination under subrule (1) is binding on the AER but a decision not to make such a determination creates no presumption that future expenditure will not meet the relevant criteria.

81 Non-conforming capital expenditure

A service provider may make, during an access arrangement period, capital expenditure that is, in whole or in part, non-conforming capital expenditure.

82 Capital contributions by users to new capital expenditure

- (1) A user may make a capital contribution towards a service provider's capital expenditure.
- (2) Capital expenditure to which a user has contributed may, with the AER's approval, be rolled into the capital base for a pipeline but, subject to subrule (3), not to the extent of any such capital contribution.
- (3) The AER may approve the rolling of capital expenditure (including a capital contribution made by a user, or part of such a capital

contribution) into the capital base for a pipeline on condition that the access arrangement contain a mechanism to prevent the service provider from benefiting, through increased revenue, from the user's contribution to the capital base.

83 Surcharges

- (1) When the service provider makes non-conforming capital expenditure, it may notify the AER that it proposes to recover the amount, or part of the amount, of the expenditure by means of a surcharge.

Note:

A surcharge may be proposed even where the non-conforming capital expenditure has been funded in whole or part by a user.

- (2) A surcharge is a charge, approved by the AER, in addition to a reference tariff (or other tariff):
 - (a) to be levied on users of incremental services; and
 - (b) designed to recover non-conforming capital expenditure or a specified portion of non-conforming capital expenditure.
- (3) To the extent that non-conforming capital expenditure is, or is to be, recovered by means of the surcharge, it can never be rolled into the capital base.
- (4) The AER must not approve a surcharge unless satisfied that the amount to be recovered from the surcharge does not exceed (in present value terms) the amount of the non-conforming capital expenditure that would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of providing services.
- (5) The AER may (but is not required to) engage in public consultation before approving a surcharge.
- (6) The AER's approval of a surcharge is binding on an arbitrator in an access dispute.

84 Speculative capital expenditure account

- (1) A full access arrangement may provide that the amount of non-conforming capital expenditure, to the extent that it is not to be recovered through a surcharge on users or a capital contribution, is to be added to a notional fund (the *speculative capital expenditure*

account).

- (2) The balance of the speculative capital expenditure account increases annually at a rate, determined at the AER's discretion, which may, but need not, be the rate of return implicit in a reference tariff.
- (3) If at any time the type or volume of services changes so that capital expenditure that did not, when made, comply with the new capital expenditure criteria becomes compliant, the relevant portion of the speculative capital expenditure account (including the return referable to that portion of the account) is to be withdrawn from the account and rolled into the capital base as at the commencement of the next access arrangement period.

85 Capital redundancy

- (1) A full access arrangement may include (and the AER may require it to include) a mechanism to ensure that assets that cease to contribute in any way to the delivery of pipeline services (*redundant assets*) are removed from the capital base.
- (2) A reduction of the capital base in accordance with such a mechanism may only take effect from the commencement of the first access arrangement period to follow the inclusion of the mechanism in the access arrangement or the commencement of a later access arrangement period.
- (3) An applicable access arrangement may include a mechanism for sharing costs associated with a decline in demand for pipeline services between the service provider and users.
- (4) Before requiring or approving a mechanism under this rule, the AER must take into account the uncertainty such a mechanism would cause and the effect the uncertainty would have on the service provider, users and prospective users.

86 Re-use of redundant assets

- (1) Subject to the new capital expenditure criteria, if, after the reduction of the capital base by the value of assets identified as redundant, the assets later contribute to the delivery of pipeline services, the assets may be treated as new capital expenditure of an amount calculated by taking their value as at the time of their removal from the capital base and increasing it annually at the rate of return implicit in the reference tariff.

- (2) To the extent the new capital expenditure criteria allow, the amount arrived at under subrule (1) will be returned to the capital base in accordance with those criteria.

Division 5 Rate of return

87 Rate of return

- (1) The rate of return on capital is to be commensurate with prevailing conditions in the market for funds and the risks involved in providing reference services.
- (2) In determining a rate of return on capital:
 - (a) it will be assumed that the service provider:
 - (i) meets benchmark levels of efficiency; and
 - (ii) uses a financing structure that meets benchmark standards as to gearing and other financial parameters for a going concern and reflects in other respects best practice; and
 - (b) a well accepted approach that incorporates the cost of equity and debt, such as the Weighted Average Cost of Capital, is to be used; and a well accepted financial model, such as the Capital Asset Pricing Model, is to be used.

Division 6 Depreciation

88 Depreciation schedule

- (1) The depreciation schedule sets out the basis on which the pipeline assets constituting the capital base are to be depreciated for the purpose of determining a reference tariff.
- (2) The depreciation schedule may consist of a number of separate schedules, each relating to a particular asset or class of assets.

89 Depreciation criteria

- (1) The depreciation schedule should be designed:
 - (a) so that reference tariffs will vary, over time, in a way that promotes efficient growth in the market for reference services; and

- (b) so that each asset or group of assets is depreciated over the economic life of that asset or group of assets; and
 - (c) so as to allow, as far as reasonably practicable, for adjustment reflecting changes in the expected economic life of a particular asset, or a particular group of assets; and
 - (d) so that (subject to the rules about capital redundancy), an asset is depreciated only once (ie that the amount by which the asset is depreciated over its economic life does not exceed the value of the asset at the time of its inclusion in the capital base (adjusted, if the accounting method approved by the AER permits, for inflation)); and
 - (e) so as to allow for the service provider's reasonable needs for cash flow to meet financing, non-capital and other costs.
- (2) Compliance with subrule (1)(a) may involve deferral of a substantial proportion of the depreciation, particularly where:
- (a) the present market for pipeline services is relatively immature; and
 - (b) the reference tariffs have been calculated on the assumption of significant market growth; and
 - (c) the pipeline has been designed and constructed so as to accommodate future growth in demand.
- (3) The AER's discretion under this rule is limited.

Note:

See rule 40(2).

90 Calculation of depreciation for rolling forward capital base from one access arrangement period to the next

- (1) A full access arrangement must contain provisions governing the calculation of depreciation for establishing the opening capital base for the next access arrangement period after the one to which the access arrangement currently relates.
- (2) The provisions must resolve whether depreciation of the capital base is to be based on forecast or actual capital expenditure.

Division 7 Operating expenditure

91 Criteria governing operating expenditure

- (1) Operating expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of delivering pipeline services.
- (2) The AER's discretion under this rule is limited.

Note:

See rule 40(2).

Division 8 Tariffs

92 Revenue equalisation

- (1) A full access arrangement must include a mechanism (a **reference tariff variation mechanism**) for variation of a reference tariff over the course of an access arrangement period.
- (2) The reference tariff variation mechanism must be designed to equalise (in terms of present values):
 - (a) forecast revenue from reference services over the access arrangement period; and
 - (b) the portion of total revenue allocated to reference services for the access arrangement period.
- (3) However, if there is an interval (the **interval of delay**) between a revision commencement date stated in a full access arrangement and the date on which revisions to the access arrangement actually commence:
 - (a) reference tariffs, as in force at the end of the previous access arrangement period, continue without variation for the interval of delay; but
 - (b) the operation of this subrule may be taken into account in fixing reference tariffs for the new access arrangement period.

93 Allocation of total revenue and costs

- (1) Total revenue is to be allocated between reference and other services

in the ratio in which costs are allocated between reference and other services.

- (2) Costs are to be allocated between reference and other services as follows:
 - (a) costs directly attributable to reference services are to be allocated to those services; and
 - (b) costs directly attributable to pipeline services that are not reference services are to be allocated to those services; and
 - (c) other costs are to be allocated between reference and other services on a basis (which must be consistent with the revenue and pricing principles) determined or approved by the AER.
- (3) The AER may, however, permit the allocation of the costs of rebateable services, in whole or part, to reference services if:
 - (a) the AER is satisfied that the service provider will apply an appropriate portion of the revenue generated from the sale of rebateable services to provide price rebates (or refunds) to the users of reference services; and
 - (b) any other conditions determined by the AER are satisfied.
- (4) A pipeline service is a **rebateable service** if:
 - (a) the service is not a reference service; and
 - (b) substantial uncertainty exists concerning the extent of the demand for the service or of the revenue to be generated from the service; and
 - (c) the market for the service is substantially different from the market for any reference service.

94 Tariffs – distribution pipelines

- (1) For the purpose of determining reference tariffs, customers for reference services provided by means of a distribution pipeline must be divided into tariff classes.
- (2) A tariff class must be constituted with regard to:
 - (a) the need to group customers for reference services together on an economically efficient basis; and

- (b) the need to avoid unnecessary transaction costs.
- (3) For each tariff class, the revenue expected to be recovered should lie on or between:
 - (a) an upper bound representing the stand alone cost of providing the reference service to customers who belong to that class; and
 - (b) a lower bound representing the avoidable cost of not providing the reference service to those customers.
- (4) A tariff, and if it consists of 2 or more charging parameters, each charging parameter for a tariff class:
 - (a) must take into account the long run marginal cost for the reference service or, in the case of a charging parameter, for the element of the service to which the charging parameter relates;
 - (b) must be determined having regard to:
 - (i) transaction costs associated with the tariff or each charging parameter; and
 - (ii) whether customers belonging to the relevant tariff class are able or likely to respond to price signals.
- (5) If, however, as a result of the operation of subrule (4), the service provider may not recover the expected revenue, the tariffs must be adjusted to ensure recovery of expected revenue with minimum distortion to efficient patterns of consumption.
- (6) The AER's discretion under this rule is limited.

95 Tariffs – transmission pipelines

- (1) A tariff for a reference service provided by means of a transmission pipeline must be designed:
 - (a) to generate from the provision of each reference service the portion of total revenue referable to that reference service; and
 - (b) as far as is practicable consistently with paragraph (a), to generate from the user, or the class of users, to which the reference service is provided, the portion of total revenue referable to providing the reference service to the particular user or class of users.

- (2) The portion of total revenue referable to a particular reference service is determined as follows:
 - (a) costs directly attributable to each reference service are to be allocated to that service; and
 - (b) other costs attributable to reference services are to be allocated between them on a basis (which must be consistent with the revenue and pricing principles) determined or approved by the AER.
- (3) The portion of total revenue referable to providing a reference service to a particular user or class of users is determined as follows:
 - (a) costs directly attributable to supplying the user or class of users are to be allocated to the relevant user or class; and
 - (b) other costs are to be allocated between the user or class of users and other users or classes of users on a basis (which must be consistent with the revenue and pricing principles) determined or approved by the AER.
- (4) The AER's discretion under this rule is limited.

Note:

See rule 40(2).

96 Prudent discounts

- (1) Despite the other provisions of this Division, the AER may, on application by a service provider, approve a discount for a particular user or prospective user or a particular class of users or prospective users.
- (2) The AER may only approve a discount under this rule if satisfied that:
 - (a) the discount is necessary to:
 - (i) respond to competition from other providers of pipeline services or other sources of energy; or
 - (ii) maintain efficient use of the pipeline; and
 - (b) the provision of the discount is likely to lead to reference or equivalent tariffs lower than they would otherwise have been.

Note

Even though a user's incremental load is retained at a discounted price, overall tariffs may be lower because of the user's contribution to fixed costs.

- (3) If the AER approves a discount under this rule, the AER may also approve allocation of the cost, or part of the cost, of providing the discount to the costs of providing a reference or other service in one or more future access arrangement periods.

- (4) In this rule:

equivalent tariff means the tariff that is likely to have been set for a service that is not a reference service if the service had been a reference service.

97 Mechanics of reference tariff variation

- (1) A reference tariff variation mechanism may provide for variation of a reference tariff:

- (a) in accordance with a schedule of fixed tariffs; or
- (b) in accordance with a formula set out in the access arrangement; or
- (c) as a result of a cost pass through for a defined event (such as a cost pass through for a particular tax); or
- (d) by the combined operation of 2 or more or the above.

- (2) A formula for variation of a reference tariff may (for example) provide for:

- (a) variable caps on the revenue to be derived from a particular combination of reference services; or
- (b) tariff basket price control; or
- (c) revenue yield control; or
- (d) a combination of all or any of the above.

- (3) In deciding whether a particular reference tariff variation mechanism is appropriate to a particular access arrangement, the AER must have regard to:

- (a) the need for efficient tariff structures; and
- (b) the possible effects of the reference tariff variation mechanism on

administrative costs of the AER, the service provider, and users or potential users; and

- (c) the regulatory arrangements (if any) applicable to the relevant reference services before the commencement of the proposed reference tariff variation mechanism; and
 - (d) the desirability of consistency between regulatory arrangements for similar services (both within and beyond the relevant jurisdiction); and
 - (e) any other relevant factor.
- (4) A reference tariff variation mechanism must give the AER adequate oversight or powers of approval over variation of the reference tariff.
- (5) Except as provided by a reference tariff variation mechanism, a reference tariff is not to vary during the course of an access arrangement period.

Division 9 Incentive mechanisms

98 Incentive mechanism

- (1) A full access arrangement may include (and the AER may require it to include) one or more incentive mechanisms to encourage efficiency in the provision of services by the service provider.
- (2) An incentive mechanism may provide for carrying over increments for efficiency gains and decrements for losses of efficiency from one access arrangement period to the next.
- (3) An incentive mechanism must be consistent with the revenue and pricing principles.

Division 10 Fixed principles

99 Fixed principles

- (1) A full access arrangement may include a principle declared in the access arrangement to be fixed for a stated period.
- (2) A principle may be fixed for a period extending over 2 or more access arrangement periods.
- (3) A fixed principle approved before the commencement of these rules, or

approved by the AER under these rules, is binding on the AER and the service provider for the period for which the principle is fixed.

- (4) However:
- (a) the AER may vary or revoke a fixed principle at any time with the service provider's consent; and
 - (b) if a rule is inconsistent with a fixed principle, the rule operates to the exclusion of the fixed principle.

Part 10 Other provisions of and concerning access arrangement

Division 1 General

100 General requirement of consistency with national gas objective

All provisions of an access arrangement must be consistent with the national gas objective.

101 Full access arrangement to contain statement of reference services

- (1) A full access arrangement must specify all reference services.
- (2) A **reference service** is a pipeline service that is likely to be sought by a significant part of the market.

102 Variable operation of access arrangement

- (1) The operation of an applicable access arrangement may vary according to factors, or in accordance with a formula, stated in the arrangement.
- (2) A variation in the operation of an applicable access arrangement that is made, or occurs, in accordance with the provisions of the access arrangement, is not to be regarded as a variation of the access arrangement itself.

Division 2 Specific provisions

103 Queuing requirements

- (1) An access arrangement must contain queuing requirements if:
 - (a) the access arrangement is for a transmission pipeline; or
 - (b) the access arrangement is for a distribution pipeline and the AER notifies the service provider that the access arrangement must contain queuing requirements.
- (2) If the AER gives a notification under subrule (1), the access arrangement must contain queuing requirements as from the commencement of the first access arrangement period to commence after the date of the notification (but this requirement lapses if the AER, by notice to the service provider, withdraws the notification).
- (3) Queuing requirements must establish a process or mechanism (or both) for establishing an order of priority between prospective users of spare or developable capacity (or both) in which all prospective users (whether associates of, or unrelated to, the service provider) are treated on a fair and equal basis.
- (4) Queuing requirements might (for example) provide that the order of priority is to be determined:
 - (a) on a first-come-first-served basis; or
 - (b) on the basis of a publicly notified auction in which all prospective users of the relevant spare capacity or developable capacity are able to participate.
- (5) Queuing requirements must be sufficiently detailed to enable prospective users:
 - (a) to understand the basis on which an order of priority between them has been, or will be, determined; and
 - (b) if an order of priority has been determined – to determine the prospective user's position in the queue.

104 Extension and expansion requirements

- (1) Extension and expansion requirements may state whether the applicable access arrangement will apply to incremental services to be

provided as a result of a particular extension to, or expansion of the capacity of, the pipeline or may allow for later resolution of that question on a basis stated in the requirements.

- (2) Extension and expansion requirements included in a full access arrangement must, if they provide that an applicable access arrangement is to apply to incremental services, deal with the effect of the extension or expansion on tariffs.
- (3) The extension and expansion requirements cannot require the service provider to provide funds for work involved in making an extension or expansion unless the service provider agrees.

105 Capacity trading requirements

- (1) Capacity trading requirements must provide for transfer of capacity:
 - (a) in accordance with the rules of a gas market that are applicable to the service provider; or
 - (b) if there are no such applicable rules governing transfer of capacity – in accordance with this rule.
- (2) A user may, without the service provider's consent, transfer, by way of subcontract, all or any of the user's contracted capacity to another (the **third party**) with the following consequences:
 - (a) the transferor's rights against, and obligations to, the service provider are (subject to paragraph (b)) unaffected by the transfer; but
 - (b) the transferor must immediately give notice to the service provider of:
 - (i) the subcontract and its likely duration; and
 - (ii) the identity of the third party; and
 - (iii) the amount of the contracted capacity transferred.
- (3) A user may, with the service provider's consent, transfer all or any of the user's contracted capacity to another (the **third party**) with the following consequences:
 - (a) the transferor's rights against, and obligations to, the service provider are terminated or modified in accordance with the capacity trading requirements; and

- (b) a contract arises between the service provider and the third party on terms and conditions determined by or in accordance with the capacity trading requirements.
- (4) The service provider must not withhold its consent under subrule (3) unless it has reasonable grounds, based on technical or commercial considerations, for doing so.
- (5) An adjustment of rights and liabilities under subrule (3) does not affect rights or liabilities that had accrued under, or in relation to, the contract before the transfer took effect.
- (6) The capacity trading requirements may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.

106 Change of receipt or delivery point by user

- (1) An access arrangement must provide for the change of a receipt or delivery point in accordance with the following principles:
 - (a) a user may, with the service provider's consent, change the user's receipt or delivery point;
 - (b) the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so.
- (2) The access arrangement may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.

Part 11 Facilitation of, and request for, access

107 Availability of applicable access arrangement and other information

- (1) A scheme pipeline service provider must ensure that the applicable access arrangement is accessible on the service provider's website.
- (2) The AER may, by notice to a scheme pipeline service provider, require the service provider to provide, at the request of a prospective user, specified information the prospective user reasonably requires to decide whether to seek access to a pipeline service provided by the service provider and, if so, how to go about applying for access.

- (3) A notice under subrule (2) may require the provision of specified information to prospective users generally, prospective users of a particular class, or a particular prospective user.
- (4) The service provider must provide the required information (free of charge) to a prospective user:
 - (a) within a time limit fixed by the AER in its notice; or
 - (b) if the notice does not fix a time limit – within 5 business days after the prospective user requests the information.
- (5) A copy of an applicable access arrangement, or information, may be provided:
 - (a) by giving or sending it to the recipient in documentary form; or
 - (b) by faxing it to the recipient's fax address; or
 - (c) by transmitting it, in electronic form, to the recipient's email address.
- (6) A service provider incurs, by providing information required under this rule, no liability for breach of contract or breach of confidence or any other civil liability.

Note

This rule is both a civil penalty provision and a conduct provision for the purposes of the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

108 Information about tariffs

- (1) A prospective user that reasonably requires the provision of a pipeline service that a scheme pipeline service provider is in a position to provide, but for which the service provider has published no tariff, may (by written request) ask the service provider:
 - (a) to fix a tariff for the service; and
 - (b) to notify the prospective user of the tariff for the service.
- (2) A scheme pipeline service provider who is in a position to provide the service to which the request relates must, as soon as practicable after receiving a request from a prospective user for the tariff, inform the prospective user, in writing, of the relevant tariff.
- (3) A service provider is in a position to provide a particular service if it is

commercially and technically feasible for the service provider to provide the service.

Note

This rule is both a civil penalty provision and a conduct provision for the purposes of the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

109 Prohibition of bundling of services

- (1) A scheme pipeline service provider must not make it a condition of the provision of a particular pipeline service to a prospective user that the prospective user accept another non-gratuitous service from the service provider unless the bundling of the services is reasonably necessary.
- (2) The description of pipeline services in an access arrangement must conform with this principle.

Note

This rule is both a civil penalty provision and a conduct provision for the purposes of the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

110 Information to be provided by users about unutilised contracted capacity

- (1) A user must, within 10 business days after receiving a request from any person for information about the user's unutilised contracted capacity (if any), provide the person with the following information:
 - (a) whether unutilised contracted capacity is, or is likely to become, available; and
 - (b) if so:
 - (i) the quantity of the unutilised contracted capacity that is, or is likely to become, available; and
 - (ii) the nature of the unutilised contracted capacity (ie whether it is firm or interruptible and whether it is forward or backhaul); and
 - (iii) when the unutilised contracted capacity will be, or is likely to become, available nominating, if possible, a specific date; and
 - (iv) the terms and conditions (which may include price) on which the user would be prepared to transfer the unutilised

capacity; and

- (c) whether technical or safety considerations might limit the utilisation of the user's unutilised contracted capacity and, if so, the nature of those considerations.
- (2) On providing information under subrule (1), a user must immediately notify the service provider of the provision of the information:
 - (a) stating the name and contact details of the person to whom the information was provided; and
 - (b) giving full details of the information provided.
 - (3) A user incurs, by providing information under this rule, no liability for breach of contract or breach of confidence or any other civil liability.

Note

This rule is both a civil penalty provision and a conduct provision for the purposes of the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

111 Public registers of spare capacity

- (1) This rule applies to:
 - (a) a scheme pipeline service provider that provides pipeline services by means of a transmission pipeline; and
 - (b) a scheme pipeline service provider that:
 - (i) provides pipeline services by means of a distribution pipeline; and
 - (ii) is, by determination of the AER, a service provider to which this rule applies.
- (2) In deciding whether this rule should apply to a distribution service provider, the AER must have regard to whether it is technically feasible and commercially reasonable for the service provider to maintain a register of spare capacity.
- (3) A service provider to which this rule applies must establish and maintain a register of spare capacity.
- (4) The register of spare capacity must include the following information:
 - (a) information about the spare capacity that the service provider

reasonably believes exists for the haulage of natural gas between defined receipt and delivery points; and

- (b) information about spare capacity that the service provider reasonably believes will exist for the haulage of natural gas between defined receipt and delivery points including information about planned developable capacity and expected additions to spare capacity; and
 - (c) information (which must be as specific as the circumstances reasonably allow) about when the spare capacity is, or will become, available; and
 - (d) information notified to the service provider by a user about unutilised contracted capacity including:
 - (i) the quantity and type of the unutilised contracted capacity and when it will be available; and
 - (ii) proposed terms and conditions (which may include the price) for the sale of the unutilised contracted capacity.
- (5) If the relevant covered pipeline consists of one or more trunk or mains pipelines and a subordinate pipeline or pipelines, the information contained in the register may be confined to the trunk or mains pipeline or pipelines.
- (6) The receipt and delivery points defined in the register must be likely to be commercially significant for a significant number of prospective users and as numerous as is commercially and technically reasonable.
- (7) Information about planned developable capacity or other expected additions of spare capacity need not be included in the register if disclosure of the information would be unduly harmful to the legitimate business interests of the service provider or of a user or prospective user.
- (8) The service provider must ensure that the register of spare capacity is accessible on the service provider's website.

Note

This rule is both a civil penalty provision and a conduct provision for the purposes of the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

112 Requests for access

- (1) A prospective user may request a scheme pipeline service provider to

provide a pipeline service for the prospective user.

- (2) The request must be made in writing and must:
 - (a) state the time or times when the pipeline service will be required and the capacity that is to be utilised; and
 - (b) identify the entry point where the user proposes to introduce natural gas to the pipeline or the exit point where the user proposes to take natural gas from the pipeline or, if the requested service is a haulage service, both entry and exit point; and
 - (c) state the relevant technical details (including the proposed gas specification) for the connection to the pipeline, and for ensuring safety and reliability of the supply of natural gas to, or from, the pipeline.
- (3) The service provider must, within 20 business days after the date of the request, respond to the request:
 - (a) by informing the prospective user:
 - (i) whether the service provider can provide the requested pipeline service; and
 - (ii) if so, the terms and conditions on which the service provider is prepared to provide the requested pipeline service;
 - (b) by informing the prospective user that the service provider needs to carry out further investigation to determine whether it can provide the requested pipeline service and setting out a proposal for carrying out the further investigation including:
 - (i) a statement of the nature of the investigation; and
 - (ii) a plan (including a time schedule) for carrying out and completing the investigation; and
 - (iii) a statement of the reasonable costs of the investigation the prospective user would be required to meet.
- (4) If the service provider informs the prospective user that it cannot provide the requested pipeline service, the service provider must:
 - (a) provide the prospective user with written reasons explaining why the requested pipeline service cannot be provided; and

- (b) if there is some prospect that it will become possible to provide the requested service at some time in the future – give details (which must be as specific as the circumstances reasonably allow) of when capacity to provide the requested service is likely to become available and, if possible, nominate a specific date.
- (5) If the service provider responds to the request by proposing further investigation, the following provisions apply:
- (a) if the parties have not agreed on the service provider's proposal or some negotiated modification of it within 20 business days after the date of the response – the service provider is taken to have rejected the prospective user's request; and
 - (b) if the parties agree on the service provider's proposal or on some negotiated modification of it within 20 business days after the date of the response – the service provider must carry out the investigation in accordance with the agreement and, on the conclusion of the investigation, inform the prospective user whether it can, or cannot, provide the requested pipeline service and comply with other relevant requirements of this rule.

Note

This rule is both a civil penalty provision and a conduct provision for the purposes of the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

Part 12 Access disputes

Division 1 Preliminary

113 Interpretation

In this Part:

expert safety report means a report by an independent expert on whether the provision of a requested pipeline service would be unsafe;

safety of operation notification means a notification by a service provider to a prospective user that the service provider believes the provision of a pipeline service requested by the prospective user would be unsafe;

submissions lodgement date means a date fixed by the relevant dispute resolution body and notified to the parties to an access dispute, as the date by which initial submissions in the access dispute

must be lodged.

unsafe – the provision of a pipeline service is unsafe if it is not reasonably possible for the service provider to provide it consistently with:

- (a) the safe operation of the relevant pipeline; or
- (b) prudent pipeline practices in the gas industry.

Division 2 Safety of operation notification

114 Safety of operation notification

- (1) If a service provider refuses to provide a requested pipeline service and an access dispute arises in consequence of the refusal, the service provider may, on or before the submissions lodgement date, give a safety of operation notification.
- (2) A safety of operation notification is given (and may be withdrawn) by notice to the relevant dispute resolution body and the other parties to the dispute.
- (3) A safety of operation notification must set out the grounds on which the notification is based, including a statement of any facts and assumptions relevant to those grounds.

115 Expert safety report

- (1) When a service provider gives a safety of operation notification, it must submit the name of an independent expert who might be engaged to provide an expert safety report.
- (2) The relevant dispute resolution body may approve the person nominated by the service provider or some other person as the independent expert to provide an expert safety report.
- (3) The service provider must, on receiving notice of the approval, immediately engage the independent expert approved by the relevant dispute resolution body to provide an expert safety report on the requested pipeline service to which the access dispute relates.

Note

This subrule is a conduct provision for the purposes of the NGL. (See the Regulations, Clause 7 and Schedule 4.)

- (4) In carrying out the investigations necessary for the expert safety

report, the approved independent expert must have regard to all relevant statutory or regulatory requirements or restrictions (including those imposed under the conditions of a licence).

- (5) When the independent expert provides the service provider with the expert safety report, the service provider must immediately give copies of the report to the relevant dispute resolution body and the other parties to the dispute.

116 Access determination

In proceedings for the resolution of the access dispute, the relevant dispute resolution body is bound by the findings of an approved independent expert in an expert safety report.

Division 3 Access determinations

117 Past capital contributions (Section 190 of the NGL)

In proceedings for the resolution of an access dispute, the relevant dispute resolution body must (where relevant) take into account:

- (a) the value of any past capital contribution made by a party to the dispute; and
- (b) the extent the party has re-couped any such past capital contribution.

118 Access determination requiring expansion of capacity (Section 191 of the NGL)

- (1) An access determination:
 - (a) may require the service provider to carry out an expansion of the capacity of the access dispute pipeline; but
 - (b) may not require the service provider to extend the geographical range of the access dispute pipeline.
- (2) However:
 - (a) the service provider cannot be required to carry out an expansion of the capacity of a light regulation pipeline unless the prospective user funds the capacity expansion in its entirety; and
 - (b) the service provider cannot be required to fund, in whole or part,

an expansion of the capacity of a full regulation pipeline unless the extension and expansion requirements of the applicable access arrangement provide for the relevant funding; and

- (c) an expansion of capacity required under an access determination must be:
 - (i) technically and economically feasible; and
 - (ii) consistent with the safe and reliable operation of the pipeline.
- (3) A user or prospective user acquires no interest in a pipeline by funding an expansion of capacity of the pipeline in accordance with an access determination unless the service provider agrees.

119 Variation of applicable access arrangement to accommodate capacity expansion (Section 191 of the NGL)

- (1) This rule applies if an access determination:
 - (a) requires a service provider to expand the capacity of the access dispute pipeline; and
 - (b) requires a prospective user of incremental capacity to contribute some or all the cost.
- (2) The access determination may make consequential amendments to the applicable access arrangement.
- (3) The consequential amendments must provide for one or more of the following:
 - (a) a mechanism to roll some or all the capital costs of the expansion into the capital base;
 - (b) consequential adjustments to reference tariffs;
 - (c) a surcharge to be levied on users of incremental services;
 - (d) the establishment of a speculative capital expenditure account and regulation of its operation.
- (4) The access determination (and the consequential amendments to the access arrangement) must set out the terms and conditions of access for a prospective user of incremental capacity who is to contribute some or all the cost of the capacity expansion.

- (5) The terms and conditions of access for any such prospective user must reflect the value to the service provider of the capital contribution made by the prospective user.

Part 13 Greenfields Incentives

Division 1 Preliminary

120 Excluded infrastructure (Section 149 of the NGL)

For the purposes of Chapter 5 of the NGL, all tanks, reservoirs, machinery and equipment that form part of a pipeline are classified as excluded infrastructure.

121 Pipeline description (Section 151(3) and section 160(2) of the NGL)

- (1) A pipeline description for a proposed transmission pipeline (including an international pipeline) for which a greenfields pipeline incentive is sought must contain the following information:
- (a) the route of the pipeline; and
 - (b) the end points of the trunk of the pipeline (i.e. the points defining the extremities, where the trunk begins and ends); and
 - (c) if a lateral forms part of the pipeline – the point where the lateral interconnects with the trunk and the end point of the lateral; and
 - (d) the range of diameters for the principal pipes (including laterals).
- (2) A pipeline description for a proposed distribution pipeline for which a greenfields pipeline incentive is sought must contain the following information:
- (a) the geographical area to be served by the pipeline; and
 - (b) the points at which natural gas is to be injected into the pipeline.

Division 2 15-year no-coverage determinations

122 Application for 15-year no-coverage determination (Section 151(3) of the NGL)

- (1) An application for a 15-year no-coverage determination must include, or be accompanied by, the following:

- (a) the name and contact details of the applicant;
- (b) a short description sufficient to identify the pipeline and its route together with a website address at which a map of the route, and a description, of the pipeline can be inspected;
- (c) a statement of the basis on which the project for the construction of the pipeline is to be regarded as a greenfields pipeline project;
- (d) a statement of expenditure already made on the construction of the pipeline and an estimate of the expenditure yet to be made together with a statement of the basis on which the estimate has been made;
- (e) an estimate of the pipeline's capacity and an estimate of the extent to which the pipeline's capacity is likely to be utilised by the applicant or associates of the applicant;
- (f) a statement of the services to be provided by means of the proposed pipeline;
- (g) a statement of the locations to be served by the proposed pipeline and, in relation to each downstream location, a statement of other sources of natural gas available at the relevant location;
- (h) a statement of any existing pipelines, and any proposed pipelines of which the applicant is aware, that serve (or will serve) any of the same locations or that pass (or will pass) within 100 km of any of the same locations;
- (i) an estimate of the reserves of natural gas available at any upstream location to be served by the pipeline and an estimate of the rate of production from that location;
- (j) an estimate of expected demand at each downstream location to be served by the pipeline including for each location a description of the expected customer base and an indication of the revenue expected from each location;
- (k) the identity of all parties with an interest in the proposed pipeline and the nature and extent of each interest;
- (l) a description of the following relationships:
 - (i) any relationship between the owner, operator and controller

- of the pipeline (or any 2 of them);
 - (ii) any relationship between the owner, operator or controller of the pipeline and a user of pipeline services or a supplier or consumer of gas in any of the locations served by the pipeline;
 - (iii) any relationship between the owner, operator or controller of the pipeline and the owner, operator or controller of any other pipeline serving any one or more of the same locations; and
 - (m) a statement of whether it would be feasible to expand the capacity of the pipeline and, if so, an explanation of how the capacity might be expanded and an estimate of the cost; and
 - (n) an estimate of the annual cost to the service provider of regulation; and
 - (o) any other information the applicant considers relevant, in the circumstances of the present case, to the application of the National Gas Objective or the pipeline coverage criteria; and
 - (p) any other information or materials on which the applicant relies in support of its application.
- (2) Information in the nature of an estimate must be supplemented by a statement of the facts and assumptions on which the estimate is based.

123 Recommendation on application for 15 year no-coverage determination (Sections 152 and 153 of the NGL)

- (1) In deciding what recommendation it should make on an application for a 15-year no-coverage determination, the NCC must proceed in accordance with the standard consultative procedure.
- (2) The NCC must make a no-coverage recommendation within 4 months after receiving the application for a no-coverage determination.
- (3) The time limit fixed by subrule (2) cannot be extended by more than a further 2 months.
- (4) A no-coverage recommendation must:
 - (a) be in writing; and

- (b) identify the pipeline to which the recommendation relates; and
- (c) include a reference to a website at which a description of the pipeline can be inspected; and
- (d) state the terms of the recommendation and the reasons for it; and
- (e) if the pipeline is not an international pipeline – include the NCC's initial pipeline classification decision and the reasons for it.

124 Relevant Minister's determination of the application (Section 156(5) of the NGL)

- (1) A 15-year no-coverage determination, or a decision not to make such a determination, must –
 - (a) be in writing; and
 - (b) identify the pipeline to which the determination or decision relates; and
 - (c) include a reference to a website at which a description of the pipeline can be inspected; and
 - (d) state the terms of the determination or decision and the reasons for it.
- (2) The determination or decision must:
 - (a) be given to the applicant, the NCC and the AEMC without delay; and
 - (b) be published on the NCC's website.

Division 3 Price regulation exemptions

125 Application for price regulation exemption (Section 160(2) of the NGL)

- (1) An application for a price regulation exemption must include, or be accompanied by, the following:
 - (a) the name and contact details of the applicant;
 - (b) a short description sufficient to identify the international pipeline and its route together with a website address at which a map of the route, and a description, of the pipeline can be inspected;

- (c) a statement of the basis on which the project for the construction of the pipeline is to be regarded as a greenfields pipeline project;
- (d) a statement of the amount already expended on the construction of the pipeline and an estimate of the expenditure yet to be made together with a statement of the basis of the estimate;
- (e) an estimate of the pipeline's capacity and an estimate of the extent to which the pipeline's capacity is likely to be utilised by the applicant or associates of the applicant;
- (f) a statement of the services to be provided by means of the proposed pipeline;
- (g) a statement of the locations to be served by the proposed pipeline and, in relation to each downstream location, a statement of other sources of natural gas available at the relevant location;
- (h) a statement of any existing pipelines, and any proposed pipelines of which the applicant is aware, that serve (or will serve) any of the same locations or that pass (or will pass) within 100 km of any of the same locations;
- (i) an estimate of the reserves of natural gas available at any upstream location to be served by the pipeline and an estimate of the rate of production from that location;
- (j) an estimate of expected demand at each downstream location to be served by the pipeline including for each location a description of the expected customer base and an indication of the revenue expected from each location;
- (k) the identity of all parties with an interest in the proposed pipeline and the nature and extent of each interest;
- (l) a description of the following relationships:
 - (i) the relationship between the owner and the operator (or proposed operator) of the pipeline;
 - (ii) any relationship between the owner or operator (or proposed operator) of the pipeline and a user of pipeline services or a supplier or consumer of gas in any of the locations served by the pipeline;

- (iii) any relationship between the owner or operator (or proposed operator) of the pipeline and the owner or operator of any other pipeline serving any one or more the same locations;
 - (m) an estimate of the annual cost to the service provider of regulation (assuming regulation on the basis of a full access arrangement);
 - (n) any other information the applicant considers relevant, in the circumstances of the present case, to the application of the National Gas Objective or the criteria governing the making of a price regulation exemption;
 - (o) any other information or materials on which the applicant relies in support of its application.
- (2) Information in the nature of an estimate must be supplemented by a statement of the facts and assumptions on which the estimate is based.

**126 How NCC deals with application for a price regulation exemption
 (Section 161 of the NGL)**

- (1) On receiving an application for a price regulation exemption, the NCC must:
- (a) notify the Commonwealth Minister of the application; and
 - (b) publish notice of the application on its website and in a newspaper circulating generally throughout Australia.
- (2) The notice under subrule (1)(b) must:
- (a) state the nature of the application; and
 - (b) identify the international pipeline to which the application relates; and
 - (c) include a reference to a website at which a description of the pipeline can be inspected; and
 - (d) invite submissions and comments within a specified period from the date of the notice.

127 NCC's recommendation (Section 162 of the NGL)

- (1) The NCC must, within 30 business days after receiving an application for a price regulation exemption, make a recommendation on the application to the Commonwealth Minister.
- (2) The time limit fixed by subrule (1) cannot be extended.
- (3) The recommendation must:
 - (a) be in writing; and
 - (b) identify the pipeline to which the recommendation relates; and
 - (c) include a reference to a website at which a description of the pipeline can be inspected; and
 - (d) state the terms of the recommendation and the reasons for it.
- (4) As soon as practicable after delivering the recommendation to the Commonwealth Minister, the NCC must:
 - (a) give copies of the recommendation to:
 - (i) the applicant; and
 - (ii) the AEMC; and
 - (iii) the AER; and
 - (b) publish the recommendation on the NCC's website; and
 - (c) make copies of the recommendation available for inspection at the offices of the NCC during business hours.

128 Making of price regulation exemption (Section 164 of the NGL)

- (1) A price regulation exemption, or a decision not to make a price regulation exemption, must:
 - (a) be in writing; and
 - (b) identify the pipeline to which the exemption or decision relates; and
 - (c) include a reference to a website at which a description of the pipeline can be inspected; and

- (d) set out the Commonwealth Minister's reasons for the decision to grant, or not to grant, the exemption.
- (2) The exemption or decision must:
- (a) be given to the applicant, the NCC and the AEMC without delay; and
 - (b) be published on the NCC's website.

Division 4 Limited access arrangement for international pipeline

129 Limited access arrangement (or limited access arrangement proposal) for international pipeline to which price regulation exemption applies (Section 168 of the NGL)

- (1) A limited access arrangement for an international pipeline to which a price regulation exemption applies must:
- (a) identify the pipeline and include a reference to a website at which a description of the pipeline can be inspected; and
 - (b) describe the pipeline services the service provider proposes to offer to provide by means of the pipeline; and
 - (c) state the terms and conditions (other than price) for access to pipeline services likely to be sought by a significant part of the market; and
 - (d) set out the queuing requirements; and
 - (e) set out the capacity trading requirements; and
 - (f) set out the extension and expansion requirements; and
 - (g) state the terms and conditions for changing receipt and delivery points; and
 - (h) state the expiry date for the access arrangement.
- (2) The access arrangement information for the limited access arrangement must include the following:
- (a) the pipeline's capacity and the nature and extent of expected utilisation; and
 - (b) the key performance indicators for the pipeline.

- (3) This rule extends to an access arrangement proposal consisting of a proposed limited access arrangement for an international pipeline to which a price regulation exemption applies.

130 Decision on access arrangement proposal for limited access arrangement (or for variation of a limited access arrangement) for international pipeline to which a price regulation exemption applies

- (1) A decision to approve, or not to approve, an access arrangement proposal for a limited access arrangement for an international pipeline to which a price regulation exemption applies, or for variation of such an access arrangement, must be made:
- (a) in accordance with the expedited consultation procedure; and
 - (b) within 4 months after submission of the access arrangement proposal for the AER's approval.
- (2) If the AER, in its final decision, decides to approve the limited access arrangement proposal, the access arrangement or the variation to which the proposal relates takes effect on a date fixed in the final decision or, if no date is so fixed, 10 business days after the date of the final decision.
- (3) The time limit fixed by subrule (1)(b) cannot be extended by more than a further 2 months.

Part 14 Reclassification of pipelines

131 Reclassification application (Section 128 of the NGL)

A reclassification application must:

- (a) identify the pipeline to which the application relates; and
- (b) specify the nature of the reclassification sought by the applicant; and
- (c) demonstrate that the reclassification would be consistent with the pipeline classification criterion; and
- (d) include, or be accompanied by, any further information or materials on which the applicant relies in support of the

application.

132 Reclassification decision (Section 129 of the NGL)

- (1) The NCC must deal with a reclassification application in accordance with the expedited consultative procedure.
- (2) A Minister who could, as a result of the decision taken on the reclassification application, become or cease to be the relevant Minister for the pipeline is to be regarded as a party to the application.
- (3) A reclassification decision must:
 - (a) be in writing; and
 - (b) identify the pipeline to which the decision relates; and
 - (c) include a reference to a website at which a description of the pipeline can be inspected; and
 - (d) state the terms of the decision and the reasons for it.

Part 15 Scheme register

133 Establishment and maintenance of register

- (1) The AEMC must establish and maintain a register (the ***scheme register***).
- (2) The scheme register is a register of all pipelines that are, or have been, subject to any form of regulation or exemption from regulation under the Law or the old scheme.
- (3) The scheme register is to include for each pipeline:
 - (a) a description of the pipeline (including, in the case of a covered pipeline, historical information about extensions and capacity expansions occurring while the pipeline was covered); and
 - (b) the pipeline's classification and regulatory history under the Law and the old scheme.
- (4) The scheme register is to include the text of current and former:
 - (a) greenfields pipeline incentives; and

- (b) tender approval decisions; and
- (c) coverage determinations; and
- (d) coverage revocation determinations; and
- (e) light regulation determinations; and
- (f) applicable access arrangements.

134 Notification of extension or capacity expansion

When the description of a scheme pipeline is affected by an extension or capacity expansion, the service provider must give the AEMC a revised description of the pipeline, incorporating the extension or expansion, for inclusion in the register.

135 Public availability of the register

The scheme register:

- (a) must be accessible on the AEMC's website; and
- (b) must be available for inspection by the public at the AEMC's public offices during business hours.

Part 16 Confidential information

136 Interpretation

In this Part:

gas supply information means information obtained by a service provider (but not from a public source) about a person's:

- (a) use or prospective use of pipeline services; or
- (b) acquisition or consumption, or prospective acquisition or consumption, of natural gas.

improper – disclosure or use of relevant confidential information is improper if the information is disclosed or used contrary to this Part.

recognised stock exchange means:

- (a) a stock exchange that is a member of the World Federation of

Exchanges; or

- (b) an approved stock exchange within the meaning of section 470 of the *Income Tax Assessment Act 1936* (Cth).

relevant confidential information means:

- (a) information given to a service provider in confidence by a user or prospective user or information about a user or prospective user that the user or prospective user has asked the service provider to keep confidential; or
- (b) gas supply information.

137 Maintenance of confidentiality

- (1) A scheme pipeline service provider must not:
 - (a) disclose relevant confidential information; or
 - (b) use relevant confidential information for a purpose other than the purpose for which the information was given to the service provider.
- (2) A scheme pipeline service provider must take all practicable steps to protect relevant confidential information in the service provider's possession against improper disclosure or use.
- (3) This rule does not, however, prevent:
 - (a) disclosure or use of relevant confidential information with the consent of the person to whom the information relates; or
 - (b) disclosure or use of information that is in the public domain; or
 - (c) disclosure or use of relevant confidential information in order to comply with:
 - (i) the law of a participating jurisdiction; or
 - (ii) an order of a court or tribunal of a participating jurisdiction; or
 - (iii) a requirement imposed by or under the Law; or
 - (iv) the listing rules of a recognised stock exchange.

- (4) A duty imposed by this rule is a non-delegable duty.

Note

This rule is both a civil penalty provision and a conduct provision for the purposes of the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

138 Obligation to disclose gas supply information in certain circumstances

- (1) A service provider must, at the request of a person to whom gas supply information relates (the **relevant person**), or a person who makes the request with the consent of the relevant person, disclose gas supply information relating to the relevant person.
- (2) A service provider may charge a reasonable fee for providing the requested information.

Note

This rule is both a civil penalty provision and a conduct provision for the purposes of the NGL. (See the Regulations, Clauses 6 & 7 and Schedules 3 & 4.)

Part 17 Miscellaneous

139 General regulatory information order (Section 50 of the NGL)

In making a general regulatory information order, the AER must proceed in accordance with the standard consultative procedure.

140 Preparation of service provider performance report (Section 64 of the NGL)

- (1) Before the AER embarks on the preparation of service provider performance reports, the AER must consult with:
- (a) service providers; and
 - (b) bodies representative of the pipeline industry and users of pipeline services; and
 - (c) the public generally;

in order to determine appropriate priorities and objectives to be addressed through the preparation of service provider performance reports.

- (2) In the course of preparing a service provider performance report, the AER:

- (a) must consult with the service provider or service providers to which the report is to relate; and
 - (b) must consult with the relevant jurisdictional safety and technical regulator about relevant safety and technical obligations; and
 - (c) may consult with any other persons who have, in the AER's opinion, a proper interest in the subject matter of the report; and
 - (d) may consult with the public.
- (3) A service provider to whom the report is to relate:
- (a) must be allowed an opportunity, at least 30 business days before publication of the report, to submit information and to make submissions relevant to the subject matter of the proposed report; and
 - (b) must be allowed an opportunity to comment on material of a factual nature to be included in the report.

Part 18 Natural Gas Services Bulletin Board

Division 1 Interpretation and application

141 Interpretation

- (1) In this Part:

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

- (a) the BB operator'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 the BB operator pursuant to tax invoices provided to the BB operator under Division 10 to the extent those tax invoices are for the provision of aggregation and information services provided during that invoice period; and
- (b) the BB operator's actual costs incurred during the invoice period in providing information under rule 186,

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

aggregated delivery nominations for a BB pipeline for a gas day means the sum of nominations for that gas day received by the pipeline operator from BB shippers on that pipeline.

aggregated forecast deliveries for a BB pipeline for a gas day means the sum of forecast deliveries in respect of that gas day received by the pipeline operator from BB shippers on that pipeline.

aggregation and information services means the services provided by a pipeline operator in aggregating and providing information to the BB operator in compliance with rules 173 and 196.

applicable interest rate means the interest rate quoted from time to time by Australia and New Zealand Banking Group Limited as its reference rate or, should there cease to be such a reference rate, the rate which that bank designates as being an appropriate substitute for the reference rate.

authorised representative means a person duly authorised by a Minister of a participating jurisdiction to provide information to the BB operator for publication on the emergency information page or to request the BB operator to activate or deactivate the emergency information page under rule 181.

BB facility means a BB pipeline, a BB storage facility or a BB production facility.

BB operator means the Bulletin Board operator.

BB participant means a person that is registered by the BB operator under rule 148.

BB pipeline means a BB transmission pipeline:

- (a) that is specified as an initial BB pipeline in Schedule 2 to the Rules; or
- (b) that is commissioned after the commencement of these Rules; or

Note: Section 12 of the NGL defines “commission”.

- (c) that is declared to be a BB pipeline under rule 153,

and that is not the subject of an exemption declaration under rule 149.

BB procedures means the initial BB procedures as amended from time to time under Division 4.

BB production facility means a production facility:

- (a) that is specified as an initial BB production facility in Schedule 2 to the Rules; or
- (b) that commences operation after the commencement of these Rules; or
- (c) that is declared to be a BB production facility under rule 153,

and that is not the subject of an exemption declaration under rule 151.

BB shipper means a user or non-scheme pipeline user who:

- (a) is a party to a contract with a service provider of a BB pipeline under which that service provider provides or intends to provide a pipeline service to that person by means of a BB pipeline; or
- (b) has a right under an access determination to be provided with a pipeline service by means of a BB pipeline.

BB storage facility means a gas storage facility:

- (a) that is specified as an initial BB storage facility in Schedule 2 to the Rules; or
- (b) that commences operation after the commencement of these Rules; or
- (c) that is declared to be a BB storage facility under rule 153,

and that is not the subject of an exemption declaration under rule 150.

BB storage provider means a storage provider who operates a BB storage facility.

BB terms of use means the terms and conditions on which BB users are granted access to the Bulletin Board and which are set out in the BB procedures.

BB transmission pipeline means:

- (a) a pipeline that is a transmission pipeline; or
- (b) a pipeline that would be likely to be classified in accordance with the pipeline classification criterion as a transmission pipeline.

BB user means:

- (a) a BB participant; and
- (b) any other person

who accesses information on the Bulletin Board.

Bulletin Board means the Natural Gas Services Bulletin Board.

daily production capacity for a BB production facility or a BB storage facility means the quantity of natural gas that can be injected into one or more BB pipelines from the facility on a gas day for that facility.

daily production capacity outlook for a gas day means the BB storage provider's or production facility operator's (as the case may be) good faith estimate of the daily production capacity of the relevant facility on that gas day.

daily production data means:

- (a) for a production facility, the quantity of natural gas that is metered as having been, or estimated in good faith by the production facility operator to have been, injected into one or more BB pipelines from the facility on a gas day for that facility; and
- (b) for a gas storage facility, the quantity of natural gas that is metered as having been, or estimated in good faith by the BB storage provider to have been, injected into one or more BB pipelines from the facility less the total quantity of natural gas injected from one or more BB pipelines into the facility.

demand zone means a region defined in accordance with the BB procedures.

eligible BB participant means:

- (a) a user or non-scheme pipeline user in respect of a BB transmission pipeline;
- (b) a producer;
- (c) a large end user;
- (d) a gas-fired electricity generator;
- (e) a service provider of a pipeline connected to a BB facility;

- (f) a storage provider;
- (g) a user or non-scheme pipeline user which retails gas to end users by means of a distribution pipeline;
- (h) a member of NGERAC;
- (i) a Minister of a participating jurisdiction;
- (j) an authorised representative;
- (k) the AER;
- (l) the ERA;
- (m) the AEMC; and
- (n) the Electricity Supply Industry Planning Council established by section 6C of the *Electricity Act 1996* of South Australia

emergency information page means the emergency information section of the Bulletin Board maintained by the BB operator under Division 7.

emergency status report means a statement on a gas supply emergency authorised by an authorised representative.

exemption cancellation date means the date specified in a notice under rule 152 as the date with effect from which the relevant exemption declaration is revoked.

exemption declaration means a declaration made by the BB operator under rule 149, 150 or 151 as the case may be.

gas day means:

- (a) in respect of a BB pipeline, the 24 hour period for which daily nominations are provided, commencing at the time advised by the pipeline operator under rule 175; and
- (b) in respect of a BB production facility or a BB storage facility, the 24 hour period commencing at the time advised by the relevant operator under rule 175.

gas-fired electricity generator means a scheduled generator (as defined in the NER) that operates a generating system for which the primary energy input is natural gas.

gas storage facility means a facility that stores natural gas for injection into a BB pipeline.

IAMA Expert Determination Rules means the rules for expert determinations published by the Institute of Arbitrators & Mediators, Australia as amended from time to time.

initial BB procedures means the procedures published by the BB operator under rule 158.

invoice period means:

- (a) the period from the commencement date of these Rules to 30 June 2009 (both dates inclusive); and
- (b) each subsequent period commencing on 1 July in a year and ending on 30 June in the next year (both dates inclusive).

large end user means an end user that can reasonably demonstrate to the BB operator that it consumes more than 500TJ of natural gas per annum.

LCA flag for a BB pipeline for a gas day means a green, amber or red flag indicating the actual or expected capability of the BB pipeline to meet the aggregated delivery nominations for the BB pipeline for that gas day based on the pipeline's linepack and capacity.

Note: The meaning of a green, amber or red flag is specified in the BB procedures.

nameplate rating has the meaning given to it in rule 141(2).

NER means the National Electricity Rules within the meaning of the National Electricity Law as set out in the schedule to the *National Electricity (South Australia) Act 1996* of South Australia .

NGERAC means the National Gas Emergency Response Advisory Committee established under the Memorandum of Understanding dated 26 October 2005 in relation to the National Gas Emergency Response Protocol.

nominations means natural gas quantities nominated by BB shippers to the pipeline operator to be delivered by the BB pipeline.

pipeline operator means a service provider or a gas market operator of a BB pipeline.

production facility means a facility at which natural gas is produced

so that it is in a form suitable for injection into one or more BB pipelines.

production facility operator means a producer, user or non-scheme pipeline user who operates a BB production facility.

production zone means a region defined in accordance with the BB procedures.

scheduled injection has the same meaning as in the Victorian Market and System Operations Rules.

scheduled withdrawal has the same meaning as in the Victorian Market and System Operations Rules.

tax invoice has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

TJ means terrajoule.

total estimated BB costs in relation to an invoice period means the amount calculated by the BB operator in accordance with rule 189.

Victorian Market and System Operations Rules means the MSO Rules as defined in the *Gas Industry Act 2001* of Victoria.

Victorian transmission system means

- (a) transmission pipelines with respect to which immediately before the commencement date of these Rules a service provider (within the meaning of the Gas Code) was GasNet Australia (Operations) Pty Ltd (ABN 65 083 009 278); and
 - (b) extensions to or expansions of the capacity of a pipeline to which paragraph (a) applies where, by operation of an applicable access arrangement or under the Law, those extensions or expansions are to be treated as part of the pipeline.
- (2) In this Part the term **nameplate rating**:
- (a) when used in the context of a BB pipeline, means the maximum quantity of natural gas that can be transported through that BB pipeline on a gas day under normal operating conditions;
 - (b) when used in the context of a production facility, means the maximum daily production capacity of the production facility under normal operating conditions; and

- (c) when used in the context of a gas storage facility means either:
- (i) the maximum daily production capacity of the gas storage facility under normal operating conditions (the ***production nameplate rating***);
 - (ii) the maximum quantity of natural gas that the storage facility can receive and process into storage on a gas day under normal operating conditions (the ***refill nameplate rating***); or
 - (iii) the maximum quantity of natural gas that the storage facility can hold in storage (the ***storage nameplate rating***).
- (3) In this Part a reference to a quantity of natural gas is to an energy quantity (expressed in whole TJ), rather than a volumetric or other quantity.

142 Purpose of the Bulletin Board

The purpose of the Bulletin Board is to:

- (a) facilitate trade in natural gas and markets for natural gas services through the provision of system and market information which is readily available to all interested parties, including the general public; and
- (b) assist in emergency management through the provision of system and market information.

143 This Part does not apply in Western Australia

This Part does not apply in Western Australia until the day fixed in an order under section 20A of the National Gas Access (Western Australia) Law within the meaning of the *National Gas Access (Western Australia) Act 2008* of Western Australia.

Division 2 Bulletin Board

144 Operation of Bulletin Board

The BB operator must maintain the Bulletin Board in accordance with the NGL, the Rules and BB procedures.

145 Publication of information by BB operator

Except where provided to the contrary in the Rules, information or notices provided to the BB operator under Divisions 5 or 7, and information that the BB operator is required to publish on the Bulletin Board under Division 6, must be published by the BB operator on the Bulletin Board in the time and manner specified in the BB procedures.

146 Information on compliance

The BB operator must, in accordance with any memorandum of understanding established between the BB operator and the AER, notify the AER of any breaches, or possible breaches, of this Part that the BB operator becomes aware of.

Division 3 Registration

147 Requirement to register

- (1) Within 10 business days after the commencement of this Part, each pipeline operator, BB storage provider, production facility operator and BB shipper must apply to the BB operator for registration under this Part.
- (2) If a person becomes a pipeline operator, BB storage provider, production facility operator or BB shipper after the commencement of this Part, then that person must apply to the BB operator for registration under this Part as soon as practicable.
- (3) An eligible BB participant who is not registered under this Part may apply to the BB operator at any time to be so registered.
- (4) A BB participant may apply to the BB operator at any time for its registration under this Part to be revoked and the BB operator must accept that application if it believes on reasonable grounds that the BB participant would not be required, at the time of such application, to apply for registration under this Part.
- (5) If the BB operator has reasonable grounds to believe that a person who is registered under this Part is not a pipeline operator, a BB storage provider, a production facility operator, a BB shipper or an eligible BB participant then the BB operator may, by notice in writing to that person, revoke the registration of that person under this Part, such revocation taking effect as from the registration revocation date which date is to be no earlier than 20 business days after the date of the notice.

- (6) If the BB operator revokes the registration of a person under subrule (5), the BB operator must:
 - (a) give its written reasons for that decision to the person at the same time as it notifies the person of that revocation under subrule (5); and
 - (b) publish those written reasons on its website.
- (7) The BB Operator may cancel the notice referred to in subrule (5) at any time prior to the registration revocation date:
 - (a) of its own motion; or
 - (b) on application made before that date by the person whose registration is to be cancelled,

if the BB operator is satisfied that its notice was based on a mistake as to the facts or otherwise should not have been issued in all the circumstances.
- (6) A BB participant must give written notice to the BB operator as soon as practicable after that person becomes aware that it may no longer be a pipeline operator, a BB storage provider, a production facility operator, a BB shipper or an eligible BB participant
- (7) In this rule “**registration revocation date**” means the date specified in a notice under subrule (5) as the date with effect from which the registration of a person under this Part is revoked

148 Applications for registration

- (1) An application for registration under this Part must be in the form specified by the BB operator on the Bulletin Board.
- (2) If requested by the BB operator an applicant for registration must provide further information in support of its application as soon as practicable after receiving the request. The BB operator must make any request under this subrule within 10 business days after receiving the registration application.
- (3) If the BB operator reasonably considers that any further information it receives in response to a request under subrule (2) is not sufficient to enable it to accept the application for registration then it may request further information from the applicant and the applicant must provide this information as soon as practicable after receiving the request.

- (4) The BB operator must notify an applicant for registration in writing whether or not its registration application has been accepted, and register the applicant accordingly, within 10 business days after the later of:
 - (a) receiving the registration application; and
 - (b) receiving the information requested by the BB operator under subrule (2) or (3) (as the case may be).
- (5) Subrules (2) to (4) do not apply in respect of an applicant for registration who is a person referred to in any of paragraphs (h) to (n) of the definition of 'eligible BB participant' in rule 141(1). Providing that person's application complies with subrule (1), the BB operator must, within 10 business days after receiving the application, notify that person in writing that its application has been accepted and register the person accordingly.
- (6) Subject to subrule (5), the BB operator may only reject an application for registration if:
 - (a) the BB operator has requested the applicant to provide further information in support of its application under subrule (2) or (3) (as the case may be) and the applicant has not provided the information requested within 10 business days after the request; or
 - (b) in the case of an applicant who purports to be an eligible BB participant, the BB operator reasonably considers that the applicant has not provided it with reasonable evidence that the person is an eligible BB participant.
- (7) If the BB operator rejects an application for registration under this rule, the BB operator must give its written reasons for that decision to the applicant at the same time as it notifies the applicant of that rejection under this rule.
- (8) The BB operator must maintain an up-to-date register of BB participants in the form specified in the BB procedures and publish the register on the Bulletin Board.

149 Applications for exemption of pipeline

- (1) A pipeline operator may apply to the BB operator to have a BB pipeline in respect of which it is the service provider or gas market operator declared exempt.

- (2) A person who intends to be service provider or gas market operator of a BB pipeline may apply to the BB operator to have that pipeline declared exempt in which case, if that application is granted, the exemption declaration will take effect from the later of the day that person commissions the BB pipeline and the day the exemption declaration is made.
 - (3) An application for an exemption declaration under subrule (1) or (2) must be in the form specified in the BB procedures.
 - (4) The BB operator must:
 - (a) make an exemption declaration in respect of a BB pipeline under this rule if the application for that exemption declaration is in the form required by subrule (3) and the BB operator believes on reasonable grounds that the BB pipeline meets the criteria in subrule (5); and
 - (b) refuse to make an exemption declaration in respect of a BB pipeline under this rule if either of the requirements in subrule (4)(a) are not satisfied.
 - (5) The criteria for an exemption declaration under subrule (4) are:
 - (a) the nameplate rating of the BB pipeline is, or (in the case of a proposed BB pipeline) will be, less than 20TJ of natural gas per gas day; or
 - (b) the BB pipeline does not, or (in the case of a proposed BB pipeline) will not, transport natural gas between a production zone and a demand zone, between demand zones or between production zones; or
 - (c) the BB pipeline only delivers, or (in the case of a proposed BB pipeline) will only deliver, natural gas to an injection point on the BB pipeline.
- Note: A gathering line is part of a gathering system and as such is excluded from the definition of BB pipeline by reason of paragraph (f) of the definition of "pipeline" in section 2 of the NGL. A gathering line that collects coal seam methane will be similarly excluded.*
- (6) The BB operator must:
 - (a) give to the applicant for an exemption declaration under this rule its written reasons for either making or refusing to make that exemption declaration; and

- (b) publish those written reasons on its website.

150 Application for exemption of storage facility

- (1) A BB storage provider may apply to the BB operator to have a BB storage facility it operates declared exempt.
- (2) A person who intends to operate a BB storage facility may apply to the BB operator to have that gas storage facility declared exempt in which case, if that application is granted, the exemption declaration will take effect from the later of the day that person commences to operate the BB storage facility and the day the exemption declaration is made.
- (3) An application for an exemption declaration under subrule (1) or (2) must be in the form specified in the BB procedures.
- (4) The BB operator must:
 - (a) make an exemption declaration in respect of a BB storage facility under this rule if the application for that exemption declaration is in the form required by subrule (3) and the BB operator believes on reasonable grounds that the BB storage facility meets the criteria in subrule (5); and
 - (b) refuse to make an exemption declaration in respect of a BB storage facility under this rule if either of the requirements in subrule (4)(a) are not satisfied.
- (5) The criteria for an exemption declaration under subrule (4) are:
 - (a) the production nameplate rating of the BB storage facility is, or (in the case of a proposed BB storage facility) will be, less than 20TJ of natural gas per gas day; or
 - (b) the BB storage facility is, or (in the case of a proposed BB storage facility) will be, used solely as part of a production facility; or
 - (c) the BB storage facility is not, or (in the case of a proposed BB storage facility) will not be, connected to a BB pipeline.
- (6) The BB operator must:
 - (a) give to the applicant for an exemption declaration under this rule its written reasons for either making or refusing to make that exemption declaration; and

- (b) publish those written reasons on its website.

151 Application for exemption of production facility

- (1) A production facility operator may apply to the BB operator to have a BB production facility it operates declared exempt.
- (2) A person who intends to operate a BB production facility may apply to the BB operator to have that production facility declared exempt in which case, if that application is granted, the exemption declaration will take effect from the later of the day that person commences to operate the BB production facility and the day the exemption declaration is made.
- (3) An application for an exemption declaration under subrule (1) or (2) must be in the form specified in the BB procedures.
- (4) Subject to subrules (5) and (6), the BB operator must:
 - (a) make an exemption declaration in respect of a BB production facility under this rule if the application for that exemption declaration is in the form required by subrule (3) and the BB operator believes on reasonable grounds that the BB production facility meets the criteria in subrule (7); and
 - (b) refuse to make an exemption declaration in respect of a BB production facility under this rule if either of the requirements in subrule (4)(a) are not satisfied.
- (5) Notwithstanding that a BB production facility or proposed BB production facility meets the criteria in subrule (7), the BB operator may refuse to make an exemption declaration in respect of that BB production facility if:
 - (a) the BB production facility is, or (in the case of a proposed BB production facility) will be, one of two or more production facilities in a production zone operated by a common production facility operator; and
 - (b) the aggregate of the nameplate ratings of all the production facilities operated by the common production facility operator in the relevant production zone (including the nameplate rating of the proposed BB production facility, if any) is (or will be) 20TJ of natural gas per gas day or more.
- (6) Notwithstanding that a BB production facility or proposed BB

production facility meets the criteria in subrule (7), if requested by the BB operator, the production facility operator of that BB production facility or the person who intends to operate that BB production facility (as the case may be) must comply with the obligations under rule 164 as if the BB production facility or proposed BB production facility were not exempt.

- (7) The criteria for an exemption declaration under subrule (4) are:
- (a) the natural gas from the BB production facility does not, or (in the case of a proposed BB production facility) will not, flow (directly or indirectly) into a BB pipeline; or
 - (b) the nameplate rating of the BB production facility is, or (in the case of a proposed BB production facility) will be, less than 20TJ of natural gas per gas day.
- (8) The BB operator must :
- (a) give to the applicant for an exemption declaration under this rule 151 its written reasons for either making or refusing to make that exemption declaration; and
 - (b) publish those written reasons on its website.

152 BB operator may cancel exemption of pipeline or facility

- (1) If the BB operator has reasonable grounds to believe that:
- (a) a BB pipeline, BB storage facility or BB production facility, that has been declared under rule 149, 150 or 151 exempt, no longer meets the criteria for exemption specified in rule 149(5), 150(5) or 151(7) (as the case may be); or
 - (b) a production facility operator has failed to comply with rule 151(6),

then the BB operator may revoke the exemption declaration by notice in writing to the relevant operator, such revocation taking effect as from the exemption cancellation date which date is to be no earlier than 20 business days after the date of the notice.

Note:

A consequence of this is that the relevant service provider or operator will need to apply for registration under rule 147(2). Where a pipeline or facility ceases to be exempt by virtue of this rule other persons (e.g. production facility operators who inject gas into that pipeline or BB shippers on that pipeline) may also need to apply

for registration under rule 147(2).

- (2) If the BB operator revokes an exemption declaration under subrule (1), the BB operator must:
 - (a) give its written reasons for that decision to the relevant service provider or operator at the same time as it notifies that person of that revocation ; and
 - (b) publish those written reasons on its website.
- (3) The BB Operator may cancel the notice referred to in subrule (1) at any time prior to the exemption cancellation date:
 - (a) of its own motion; or
 - (b) on application made before that date by the person whose exemption is to be cancelled

if the BB operator is satisfied that its notice was based on a mistake as to the facts or otherwise should not have been issued in all the circumstances.

- (4) A person who is the service provider or operator of a pipeline or facility that is the subject of an exemption declaration must give written notice to the BB operator as soon as practicable after that person becomes aware that the pipeline or facility may no longer meet the criteria for exemption specified in rule 149(5), 150(5) or 151(7) (as the case may be).

153 BB operator may declare pipeline or facility to be BB facility

- (1) If the BB operator has reasonable grounds to believe that a transmission pipeline, gas storage facility or production facility that:
 - (a) is not a BB pipeline, BB storage facility or BB production facility; and
 - (b) is not the subject of an exemption declaration,does not meet the criteria in rule 149(5), 150(5) or 151(7) (as relevant), such criteria applying as if:
 - (c) references in rule 149(5) and related provisions to a BB pipeline were references to the transmission pipeline;
 - (d) references in rule 150(5) and related provisions to a BB storage

facility were references to the gas storage facility; and

- (e) references in rule 151(7) and related provisions to a BB production facility were references to the production facility

then the BB operator may, by notice in writing to the relevant service provider or operator (as the case may be), declare that transmission pipeline, gas storage facility or production facility to be a BB pipeline, BB storage facility or BB production facility (as the case may be), such declaration taking effect as from the facility declaration date which date is to be no earlier than 20 business days after the date of the notice.

Note:

A consequence of this is that the relevant service provider or operator will need to apply for registration under rule 147(2). Where a pipeline becomes a BB pipeline by virtue of this rule, other persons (e.g. production facility operators who input gas into that pipeline) may also need to apply for registration under rule 147(2).

- (2) If the BB operator makes a declaration under subrule (1), the BB operator must:
 - (a) give its written reasons for that decision to the relevant service provider or operator at the same time as it notifies the operator of that declaration under subrule (1); and
 - (b) publish those written reasons on its website.
- (3) The BB Operator may cancel the notice referred to in subrule (1) at any time prior to the facility declaration date:
 - (a) of its own motion; or
 - (b) on application made before that date by the relevant service provider or operator,

if the BB operator is satisfied that its notice was based on a mistake as to the facts or otherwise should not have been issued in all the circumstances.

- (4) A person who operates a transmission pipeline, gas storage facility or production facility that satisfies subrules (1)(a) and (b) must give written notice to the BB operator as soon as practicable after that person becomes aware that the pipeline or facility may not meet the criteria specified in rule 149(5), 150(5) or 151(7) (as the case may be).
- (5) In this rule “**facility declaration date**” means the date specified in a notice under subrule (1) as the date with effect from which the relevant

pipeline or facility is declared to be a BB pipeline, BB storage facility or BB production facility.

154 BB operator to maintain register of BB facilities and notify changes of status

- (1) The BB operator must maintain up-to-date registers of BB facilities, and BB facilities that have been declared under rule 149, 150 or 151 exempt, in the form specified in the BB procedures and publish the registers on the Bulletin Board.
- (2) Where for any reason:
 - (a) a BB facility ceases to be a BB facility;
 - (b) a BB facility becomes exempt; or
 - (b) a transmission pipeline, a gas storage facility or a production facility becomes a BB facility at any time after the commencement of Divisions 2 and 3 (including because of the revocation of an exemption declaration in respect of that BB facility under rule 152 or the making of a declaration under rule 153),

the BB operator must publish a notice of that change on its website as soon as practicable after it becomes aware of that change.

155 Expert review

- (1) If a person (an "**aggrieved party**") wishes to object to a decision of the BB operator to:
 - (a) revoke the registration of a person under rule 147(5); or
 - (b) make an exemption declaration; or
 - (c) refuse to make an exemption declaration; or
 - (d) revoke an exemption declaration under rule 152; or
 - (e) make a declaration under rule 153,

then the aggrieved party must, within 10 business days after the publication on the BB operator's website of its written reasons for that decision, give the BB operator a notice in writing specifying its objection to the decision (an "**objection notice**").

- (2) Where an aggrieved party gives the BB operator an objection notice in accordance with subrule (1), the BB operator and the aggrieved party must each nominate a representative and those representatives must seek to resolve the objection within 20 business days after the giving of that notice. In order to resolve the objection the BB operator may, but is not required to, make another decision in substitution for the decision the subject of the objection, in which case that decision must be made in accordance with the relevant provisions of this Part and this Part applies *mutatis mutandis* to that substitute decision as if the original decision had not been made.
- (3) If the objection is not resolved within 20 business days after the giving of an objection notice in respect of it in accordance with subrule (1) and the aggrieved party still wishes to dispute the decision of the BB operator, then the aggrieved party must refer the dispute to expert determination by serving a notice of dispute on the BB operator in accordance with the IAMA Expert Determination Rules.
- (4) The IAMA Expert Determination Rules apply in respect of any dispute referred to in subrule (3) as if this Part constituted an agreement between the BB operator and the aggrieved party, and except to the extent that any provision of this Part is inconsistent with those rules in which case the former shall prevail.
- (5) Subject to subrule (6), the BB operator and the aggrieved party must agree both the person who is to act as the expert for the purposes of determining a dispute referred to in subrule (3) and the expert's fee.
- (6) If the BB operator and the aggrieved party have not agreed upon the expert and the expert's fee within 10 business days after the date on which the notice of dispute is served on the BB operator under subrule (3):
 - (a) the expert is the person nominated by the AER (with that person's agreement) as the expert; and
 - (b) the fee of the expert is the amount or rate determined by the AER (with the expert's agreement).

The AER is to be taken to be the Institute for the purposes of rule 2(1)(b) of the IAMA Expert Determination Rules.

- (7) Subject to subrule (8), and unless otherwise agreed by them, each party to a dispute referred to in subrule (3) must:
 - (a) bear its own costs of or incidental to the determination of the

dispute; and

- (b) pay the other costs of or incidental to the determination of the dispute (including the expert's fee) in equal shares.
- (8) Where an expert appointed to determine a dispute referred to in subrule (3) considers it appropriate to do so, the expert may, as part of its determination, require one or more parties to the dispute to pay any of the following:
- (a) some or all of the costs of another party to the dispute; and
 - (b) a share of the costs referred to in subrule (7)(b) that is different to the share referred to in that rule.
- (9) An aggrieved party that served a notice of dispute on the BB operator under subrule (3) may, at any time prior to final determination of the dispute by the expert, withdraw that notice by notice in writing to the BB operator in which case the BB operator and the aggrieved party must cancel the expert determination. If an expert determination is so cancelled the fees due to the expert up until the time of the cancellation must be borne by the aggrieved party or, if there was more than one aggrieved party that served a notice to withdraw, by those parties in equal shares.

Division 4 BB procedures

156 Compliance with BB procedures

- (1) The BB operator and each BB participant, pipeline operator, production facility operator and BB storage provider must comply with the BB procedures.
- (2) Where the BB operator has reason to believe that a BB participant, pipeline operator, production facility operator or BB storage provider is not complying with the BB procedures it may, by notice in writing, direct that person to comply with the relevant provisions of the BB procedures and that person must promptly comply with that direction.

157 Subject matter of BB procedures

The BB operator may make, in accordance with this Part, procedures to be known as the BB procedures, for or with respect to:

- (a) the manner in which the BB operator maintains the Bulletin Board and publishes information on the Bulletin Board in accordance

with the Rules, including the format of any registers or reports required or permitted by the Rules;

- (b) the manner and form of applications to the BB operator which may be or may be required to be submitted under the Rules;
- (c) the time within and manner and form in which information required or permitted to be provided to the BB operator is provided and the collection and collation of that information by the BB operator;
- (d) the terms and conditions of use of the Bulletin Board;
- (e) restrictions on the use of the free text facility;
- (f) methodologies for determining any matter which the BB operator is required or allowed to determine under the Rules including the forecasts of peak demand required by rule 180;
- (g) the definition of:
 - (i) demand zones;
 - (ii) production zones;
- (h) the meaning of green, amber and red LCA flags;
- (i) the definition of terms or designation of status which the Rules allow to be defined or designated by the procedures;
- (j) matters concerning the estimation, calculation and recovery of BB operating costs specified in rule 192; and
- (k) any other matter or thing the Rules contemplate being dealt with by the BB procedures.

158 Publication of initial BB procedures

No later than 10 business days after these Rules commence, the BB operator must publish the initial BB procedures on its website.

159 Considerations for amendment of BB procedures

The BB operator may only amend the BB procedures in accordance with this Division if the BB operator is satisfied that the amendment:

- (a) is consistent with the NGL and the Rules; and

- (b) is appropriate having regard to:
 - (i) the national gas objective;
 - (ii) the purposes of the Bulletin Board specified in rule 142; and
 - (iii) any compliance costs which may be imposed by the amendments on BB Participants or the BB operator.

160 Amendments to the BB procedures

- (1) The BB operator may amend the BB procedures at any time in accordance with rules 161 and 162.
- (2) The BB operator or any BB participant may propose amendments to the BB procedures at any time.
- (3) Where the BB operator or a BB participant wishes to propose amendments to the BB procedures it must prepare:
 - (a) a draft of the proposed amendments; and
 - (b) a description of, and an explanation of the reasons for, the proposed amendments.
- (4) If the BB operator reasonably considers that a proposed amendment to the BB procedures:
 - (a) is not for or with respect to a matter or thing that the BB procedures are permitted to deal with under the NGL or the Rules; or
 - (b) is similar to an amendment that was proposed to the BB procedures in the previous 12 months but was not made; or
 - (c) is misconceived or lacking in substance,then the BB operator, in the case referred to in paragraphs (a) or (c), must and, in the case referred to in paragraph (b), may refuse to make that amendment without complying with rules 161 or 162, in which case the BB operator must give written reasons to the proponent of the amendment for its refusal to make that amendment.
- (5) The BB operator may refuse to make a proposed amendment to the BB procedures if, at any time before that amendment takes effect, the proponent of the amendment under this rule gives written notice to the BB operator that it wishes to withdraw its proposed amendment.

161 Process for material amendments to the BB procedures

- (1) Subject to rule 162, the BB operator must:
 - (a) publish any amendments proposed under rule 160(2) on its website, together with a description of, and an explanation of the reasons for, the proposed amendments; and
 - (b) notify each BB participant (in the manner specified in the BB procedures) of:
 - (i) the proposed amendments; and
 - (ii) the date by which any comments on the proposed amendments must be received by the BB operator, being a day that is not less than 15 business days after the BB participant is notified of the proposed amendments under subrule (1)(b)(i).
- (2) Where a BB participant proposes amendments to the BB procedures, the BB operator must publish the proposed amendments under subrule (1)(a), and notify the BB participants under subrule (1)(b), no later than 10 business days after the BB participant provides the BB operator with the documents referred to in rule 160(3).
- (3) Subject to rule 162, the BB operator must publish a report on its website within 10 business days after the last day for comments under subrule (1)(b)(ii) that:
 - (a) summarises any comments received from BB participants on the proposed amendments and how (if at all) these comments are addressed in the amendments referred to in subrule (3)(b);
 - (b) sets out the proposed amendments (if any) to the BB procedures (which may or may not be the same as the amendments proposed under rule 160(2)); and
 - (c) specifies the day on which the proposed amendments referred to in subrule (3)(b) (if any) are to take effect, being a day that is not less than 15 business days after the publication of the report.
- (4) Subject to rule 162, at least 15 business days prior to the day on which the proposed amendments referred to in subrule (3)(b) (if any) are to take effect, the BB operator must:
 - (a) provide notice to each BB participant (in such format and manner

as the BB operator reasonably may determine) of the amended BB procedures; and

- (b) publish the amended BB procedures on its website.
- (5) In determining whether or not to amend the BB procedures under this rule, the BB operator:
- (a) must take into account all comments that it receives from BB participants by the date referred to in subrule (1)(b)(ii); and
 - (b) may, but is not required to, take into account any comments that it receives from BB participants after that date.

162 Process for non-material amendments to the BB procedures

- (1) If the BB operator considers that any amendments proposed to the BB procedures under rule 160(2) are non-material then the BB operator must provide notice to each BB participant (in such format and manner as the BB operator reasonably may determine):
- (a) setting out the proposed amendments and the proposed effective date which date shall be not less than 15 business days after the date of the notice; and
 - (b) stating that:
 - (i) the BB operator considers the proposed amendments to be non-material; and
 - (ii) unless a BB participant makes a submission to the BB operator before the day preceding the proposed effective date objecting to the proposed amendments being treated as non-material, the amendments as proposed will take effect on the proposed effective date,and must publish on its website a notice that contains the information referred to in subrules (1)(a) and (b).
- (2) Subject to subrule (3), at least 15 business days prior to the day on which the proposed amendments referred to in subrule (1)(a) are proposed to take effect, the BB operator must publish the amended BB procedures on its website.
- (3) If a BB participant makes a submission under subrule (1)(b)(ii) before the day preceding the proposed effective date, the BB operator must:

- (a) provide notice to each BB participant (in such format and manner as the BB operator reasonably may determine) that a BB participant has objected to the amendments to the BB procedures being treated as non-material and that the amendments will not take effect on the proposed effective date; and
 - (b) follow the process in rule 161 in relation to the proposed amendments to the BB procedures.
- (4) In this rule:

“**non-material**” means amendments to the BB procedures that are unlikely to have any significant financial or operational impact on BB participants;

“**proposed effective date**” means the date or dates specified in the notice under subrule (1) as the day or days on which the amendments are intended to take effect.

Division 5 Obligations of the BB facility operators to provide information (Section 223 of the NGL)

163 Provision of information by BB facility operators

- (1) Subject to subrule (4), where this Part requires a production facility operator, a BB storage provider or a pipeline operator to provide information to the BB operator, the information must be provided by that person by the time and in the manner specified in the BB procedures.
- (2) A person need not provide information to the BB operator in accordance with this Division until 10 business days after the commencement of this Part.
- (3) In this Division “**day + 1**” and “**day + 2**” mean one gas day and two gas days respectively after the first gas day for which information is provided.
- (4) A production facility operator, a BB storage provider or a pipeline operator need not comply with rules 165, 168, 171, 172 and 173 where the BB procedures provide for both an exemption to the relevant obligation and a default value to be posted on the Bulletin Board.
- (5) To avoid doubt, the BB procedures may require information about a

gas day referred to in rules 165, 168, 171, 172 and 173 to be provided in advance of that gas day.

164 Obligation on production facility operators to provide nameplate rating information

- (1) A production facility operator must provide the BB operator with the nameplate rating of each BB production facility that it operates.
- (2) The production facility operator must provide the information specified in subrule (1) to the BB operator annually, by the date specified in the BB procedures.
- (3) If a production facility operator becomes aware that the nameplate rating information it has provided under subrule (1) is no longer accurate due to changes in the production capacity of the BB production facility that are likely to impact the BB production facility for more than one year, the production facility operator must notify the BB operator of the updated information as soon as practicable after it becomes aware that the information is no longer accurate.

165 Obligation on production facility operators to provide 3 day production capacity outlook

In accordance with the BB procedures and subject to rule 163(4), a production facility operator must provide to the BB operator, in respect of each gas day for a BB production facility that it operates, the daily production capacity outlook for that BB production facility for that gas day, day + 1 and day + 2.

166 Obligation on production facility operators to provide actual production data

In accordance with the BB procedures, a production facility operator must provide the BB operator with the daily production data for each BB production facility that it operates.

Note:

The daily production data provided to the BB operator is not intended to be of settlements quality

167 Obligation on BB storage providers to provide nameplate rating information

- (1) A BB storage provider must provide the BB operator with the production nameplate rating, refill nameplate rating and storage

nameplate rating of each BB storage facility that it operates.

- (2) The BB storage provider must provide the information specified in subrule (1) to the BB operator annually, by the date specified in the BB procedures.
- (3) If a BB storage provider becomes aware that the nameplate rating information it has provided under subrule (1) is no longer accurate due to changes in the storage capacity of the BB storage facility that are likely to impact the BB storage facility for more than one year, the BB storage provider must notify the BB operator of the updated information as soon as practicable after it becomes aware that the information is no longer accurate.

168 Obligation on BB storage providers to provide 3 day production capacity outlook

In accordance with the BB procedures and subject to rule 163(4), a BB storage provider must provide to the BB operator, in respect of each gas day for a BB storage facility that it operates, the daily production capacity outlook for that BB storage facility for that gas day, day + 1 and day + 2.

169 Obligation on BB storage providers to provide actual storage production data

In accordance with the BB procedures, a BB storage provider must provide the BB operator with the daily production data for each BB storage facility that it operates.

Note:

The daily production data provided to the BB operator is not intended to be of settlements quality

170 Obligation on pipeline operators to provide nameplate rating information

- (1) A pipeline operator must provide the BB operator with the nameplate rating of each of its BB pipelines.
- (2) The pipeline operator must provide the information specified in subrule (1) to the BB operator annually, by the date specified in the BB procedures.
- (3) If a pipeline operator becomes aware that the nameplate rating information it has provided under subrule (1) is no longer accurate due

to changes in the capacity of the BB pipeline that are likely to impact the BB pipeline for more than one year, the pipeline operator must notify the BB operator of the updated information as soon as practicable after it becomes aware that the information is no longer accurate.

171 Obligation on pipeline operators to provide 3 day capacity outlook

- (1) In accordance with the BB procedures and subject to rule 163(4), a pipeline operator must provide to the BB operator, in respect of each gas day for each of its BB pipelines, the pipeline operator's good faith estimate of the quantity of natural gas that, under normal operating conditions, can be transported through that BB pipeline on that gas day, day + 1 and day + 2.

172 Obligation on pipeline operators to provide linepack/capacity adequacy indicator

- (1) In accordance with the BB procedures and subject to rule 163(4), a pipeline operator must provide to the BB operator, in respect to each gas day, the LCA flag for each of its BB pipelines for that gas day, day + 1 and day + 2.
- (2) If a pipeline operator determines during a gas day that the most recent LCA flag for a BB pipeline provided for that gas day or for day + 1 or day + 2 no longer reflects the pipeline operator's view of the actual or expected capability of the BB pipeline to meet the aggregated delivery nominations for the BB pipeline for any of those gas days, then the pipeline operator must provide the BB operator with an updated LCA flag for the BB pipeline for the relevant gas days as soon as practicable.

173 Obligation on pipeline operators to provide nominated and forecast delivery information

- (1) A pipeline operator (other than the pipeline operator of the Victorian transmission system) must, in accordance with the BB procedures and in respect of each of its BB pipelines, provide the BB operator with:
 - (a) in respect of each gas day and for each demand zone or production zone (if applicable), the aggregated delivery nominations for the BB pipeline for that gas day; and
 - (b) in respect of each demand zone or production zone (if applicable), the aggregated forecast deliveries for the BB pipeline

for subsequent gas days if it has been provided with forecast deliveries by BB shippers on the BB pipeline under contract or applicable market rules.

- (2) The pipeline operator of the Victorian transmission system must, in accordance with the BB procedures, provide the BB operator with the aggregated scheduled injections less the aggregated scheduled withdrawals in each production zone and for the New South Wales Victoria interconnect at Culcairn.
- (3) For the avoidance of doubt the aggregated information provided under this rule is only an aggregation of information provided by BB shippers to the relevant pipeline operator and does not represent the pipeline operator's forecast of demand on the relevant pipeline.
- (4) For the purposes of this rule, the BB procedures may specify the default directions which are to be assigned to natural gas flows for each BB pipeline and the manner in which reverse flows of natural gas are to be treated.

174 Obligation on pipeline operators to provide actual pipeline gas delivery information

- (1) Each gas day a pipeline operator (other than the pipeline operator of the Victorian transmission system) must, in accordance with the BB procedures and in respect of each of its BB pipelines, provide the BB operator with the actual deliveries of natural gas from that BB pipeline to each demand zone and production zone (if applicable) on the previous gas day, such deliveries being as determined by the pipeline operator on the basis of operational metering data.
- (2) Each gas day the pipeline operator of the Victorian transmission system must, in accordance with the BB procedures, provide the BB operator with the aggregated actual injections of natural gas less the aggregated actual withdrawals of natural gas in each production zone and for the New South Wales Victoria interconnect at Culcairn, such injections and withdrawals being as determined by the pipeline operator on the basis of operational metering and (in the case of the interconnect) as metered at Culcairn.

Note:

The pipeline gas flows determined by the pipeline operator and provided to the BB operator under this rule are not intended to be of settlements quality.

- (3) A pipeline operator may at any time (but is not required to) provide the

BB operator with updates to the information provided under subrule (1) or (2) (as the case may be).

Note:

It is anticipated that pipeline operators will update pipeline gas delivery information provided under this rule if there were substantive changes to that data.

175 Obligation to notify BB operator of time that gas day starts

- (1) A pipeline operator must provide the BB operator with the time at which the gas day starts for each of its BB pipelines (e.g. 6am EST).
- (2) A production facility operator and BB storage provider must provide the BB operator with the time at which the gas day starts for each BB production facility and each BB storage facility that it operates (e.g. 6am EST).
- (3) If the start time for the gas day for a BB pipeline, BB production facility or BB storage facility changes, the relevant pipeline operator, production facility operator or BB storage provider must notify the BB operator of the updated information as soon as practicable.
- (4) The BB operator must publish the start time for the gas day for each BB pipeline, BB production facility and BB storage facility on the Bulletin Board.

176 BB Participants may indicate spare capacity available for purchase or capacity requirements

- (1) At any time, a BB participant may notify other BB users that it has spare capacity for purchase by providing details of the spare capacity to the BB operator in the form required by the BB procedures.
- (2) At any time, a BB participant may notify other BB users that it wishes to purchase spare capacity by providing details of the capacity it wishes to purchase to the BB operator in the form required by the BB procedures.
- (3) For the avoidance of doubt, a notice given under subrule (1) or (2) and posted on the Bulletin Board by the BB operator is an invitation to treat and not an offer capable of acceptance by another person.

177 BB participants may indicate gas available for purchase or gas requirements

- (1) At any time, a BB participant may notify other BB users that it has

natural gas available for purchase by providing details of the natural gas available for purchase to the BB operator in the form required by the BB procedures.

- (2) At any time, a BB participant may notify other BB users that it wishes to purchase natural gas by providing details of the natural gas it wishes to purchase to the BB operator in the form required by the BB procedures.
- (3) For the avoidance of doubt, a notice given under subrule (1) or (2) and posted on the Bulletin Board by the BB operator is an invitation to treat and not an offer capable of acceptance by another person.

178 Provision of contact details

- (1) Each pipeline operator, BB storage provider, production facility operator, BB shipper and registered producer must provide the BB operator with contact details for posting on the Bulletin Board.
- (2) Any other person may provide the BB operator with contact details for posting on the Bulletin Board.
- (3) Contact details provided pursuant to subrule (1) or (2) must be up to date at the time of their provision and kept up to date at all times thereafter. Any person who has provided their contact details shall advise the BB operator as soon as reasonably practicable of any changes to those details.
- (4) The BB procedures may specify the form and content of the contact details (“the **BB contact details**”) required or provided pursuant to this rule.
- (5) In this rule “**registered producer**” means a producer that is a BB participant.

179 Ability of BB participants to use free text facility

A BB participant may, when it provides information to the BB operator under this Division, provide comments in the free text facility on the Bulletin Board, subject to any restrictions specified in the BB procedures.

Division 6 Publication of annual projections of gas demand

180 BB operator to publish peak demand day information

- (1) Subject to subrules (2) and (3), the BB operator must, following consultation with the authorised representatives in each participating jurisdiction, use its reasonable endeavours to estimate and publish on the Bulletin Board the following information for each participating jurisdiction:
 - (a) the total forecast demand for natural gas (in TJ) on the peak demand day in the period from May to September for each demand zone (or that part of a demand zone) that is in that participating jurisdiction; and
 - (b) the total forecast demand for natural gas (in TJ) on the peak demand day in the period from November to March for each demand zone (or that part of a demand zone) that is in that participating jurisdiction.
- (2) The information specified in subrules (1)(a) and (b) must be published annually by no later than the date specified in the BB procedures.
- (3) This rule does not require the BB operator to publish information in relation to the following participating jurisdictions:
 - (a) the Commonwealth; or
 - (b) the Northern Territory while there are no BB facilities in that participating jurisdiction.

Division 7 Emergency information

181 Emergency information page

- (1) The BB operator must maintain a section of the Bulletin Board for the publication of emergency information, being information of a kind that is:
 - (a) specified in the BB procedures; and
 - (b) provided to the BB operator by an authorised representative, or by a BB participant, for the purpose of publishing it on that section.
- (2) A Minister of a participating jurisdiction may provide the BB operator

with a list of the person or persons who are authorised representatives.

182 NGERAC or a Jurisdiction may request activation or deactivation of emergency information page

- (1) The Chair of NGERAC or an authorised representative may at any time request the BB operator to:
 - (a) activate the emergency information page on the Bulletin Board for the purpose of assisting NGERAC or the relevant participating jurisdiction in the management of a gas supply emergency; or
 - (b) deactivate the emergency information page where it has previously been activated at that person's request.
- (2) As soon as practicable after receiving a request under subrule (1), the BB operator must activate or deactivate (as the case may be) the emergency information page.

183 BB emergency use indicator

At the same time as the BB operator activates or deactivates the emergency information page under rule 182(2), it must indicate on the Bulletin Board, in the manner specified in the BB procedures, that the emergency information page has been activated or deactivated (as the case may be).

184 Jurisdiction may make public statements on an emergency

- (1) An authorised representative may at any time request the BB operator to:
 - (a) publish on the public section of the Bulletin Board an emergency status report; or
 - (b) amend or remove an emergency status report previously published on the public section of the Bulletin Board at that representative's request.
- (2) As soon as practicable after receiving a request under subrule (1), the BB operator must publish, amend or remove the emergency status report in accordance with the request.

Division 8 Access to the Bulletin Board

185 BB users bound by terms of use

Each and every time a person accesses the Bulletin Board, that person is deemed to agree to the BB terms of use.

186 BB user requests access to archive information (Section 222 of the NGL)

- (1) A BB user may request the BB operator to provide it with any information that was previously but is not, at the time of the request, published on the Bulletin Board.
- (2) If practicable, the BB operator must provide the service requested under subrule (1) and, unless it determines otherwise, charge the BB user an information retrieval fee for providing the service.
- (3) For the purposes of subrule (2), the BB operator must publish on the Bulletin Board a schedule of information retrieval fees which must be calculated on the basis of recovering only the costs incurred in processing requests.
- (4) The BB operator may use the expedited consultation procedure or any other consultation procedure it determines is appropriate in all the circumstances (including but not limited to the standard consultative procedure) to consult with BB participants with respect to the formulation of the schedule of information retrieval fees.

Note: See rules 8 and 9

187 Access to emergency information page

- (1) Only BB participants may access the emergency information page and the BB operator must ensure that the emergency information page is password protected.
- (2) Any person who obtains, directly or indirectly, access to information from the emergency information page must not disclose that information other than for the purposes of managing or responding to a gas supply emergency or as otherwise required by a law.

Division 9 Cost recovery by the BB operator in respect of access to the Bulletin Board (Section 222 of the NGL)

188 Calculation of BB operating costs

- (1) No later than 60 business days after the start of an invoice period, the BB operator must determine:
 - (a) the total estimated BB costs for that invoice period; and
 - (b) the actual BB costs for the previous invoice period.
- (2) The BB operator may use the expedited consultation procedure or any other consultation procedure it determines is appropriate in all the circumstances (including but not limited to the standard consultative procedure) to consult with BB participants with respect to the determinations required by subrule (1) or otherwise required by this Division.

Note: See rules 8 and 9

- (3) Where the relevant invoice period is the first invoice period:
 - (a) any reference in this Division or Division 10 to an invoice period before the first invoice period is to be taken as a reference to the year ending 30 June 2008;
 - (b) the total estimated BB costs, actual BB costs or invoiced amounts for an invoice period before the first invoice period are to be taken as zero; and
 - (c) any reference in this Division or Division 10 to BB pipelines before the first invoice period is to be taken to be a reference to the initial list of BB pipelines in Schedule 2.

189 Total estimated BB costs

- (1) The total estimated BB costs for an invoice period must be calculated by the BB operator as the sum of:
 - (a) the BB operator's good faith estimate of its costs of operating and maintaining the Bulletin Board in accordance with this Part during the invoice period, including those amounts specified in subrule (2); and
 - (b) the reconciliation amount for the invoice period,

calculated in accordance with the following formulas:

$$T = E_p + R, \text{ where}$$

$$R = A_{p-1} - E_{p-1} + U - UR$$

and where:

T means the total estimated BB costs for the invoice period

R means the reconciliation amount applicable to the invoice period;

E_p means the estimated costs of operating and maintaining the Bulletin Board for the invoice period;

E_{p-1} means the estimated costs of operating and maintaining the Bulletin Board for the previous invoice period;

A_{p-1} means the actual costs of operating and maintaining the Bulletin Board for the previous invoice period;

U means any amounts invoiced under this Division in respect of the previous invoice period but unpaid at the time that costs are estimated for the current invoice period under rule 188 and which the BB operator reasonably believes it will not be able to recover from the party invoiced; and

UR means any amounts included in the calculation of U for a preceding invoice period which have been recovered since the estimated BB costs for an invoice period were last determined under rule 188.

- (2) For the purposes of subrule (1)(a) the following costs may be included in the BB operator's estimate of costs:
- (a) the reasonable budgeted internal costs of the BB operator operating and maintaining the Bulletin Board during the invoice period, including costs of management time and information technology system costs;
 - (b) the reasonable budgeted costs of reimbursing third parties for services to be provided in relation to the operation and maintenance of the Bulletin Board during the invoice period, including fees payable to suppliers, external advisers and consultants; and

- (c) the estimated costs, as provided to the BB operator under Division 10, of pipeline operators providing aggregation and information services during the invoice period, but only to the extent the BB operator considers such estimates to be reasonable.

190 BB operator to maintain records of costs

The BB operator must:

- (a) maintain in auditable form records of all expenses incurred by it and amounts recovered by it (including amounts invoiced to fee paying users and information retrieval fees) in operating and maintaining the Bulletin Board, separate from its other financial records; and
- (b) prepare a budget of costs for each invoice period and provide the budget to fee paying users on request.

191 Basis for recovery of BB operating costs

In respect of each invoice period, the BB operator is entitled to recover from each BB shipper an amount calculated in accordance with the following formulas:

$$F = (E_p + U - UR) \times UG_{p-1}/TG_{p-1} + TR_{p-1} \quad \text{where}$$

$$TR_{p-1} = A_{p-1} \times UG_{p-1}/TG_{p-1} - E_{p-1} \times UG_{p-2}/TG_{p-2}$$

and where:

F means the BB shipper's fee for the invoice period;

TR_{p-1} means the BB shipper's true-up amount for the previous invoice period

UG_{p-1} means the total gas delivery allocated to the BB shipper from all BB pipelines which provided it with a pipeline service in the previous invoice period; and

UG_{p-2} means the total gas delivery allocated to the BB shipper from all BB pipelines which provided it with a pipeline service in the invoice period preceding the previous invoice period;

TG_{p-1} means the total gas delivered from all BB pipelines in the preceding invoice period.

TG_{p-2} means the total gas delivered from all BB pipelines in the invoice period preceding the previous invoice period.

E_p , E_{p-1} , U , UR , and A_{p-1} have the same meanings as in rule 189(1)

192 BB procedures may specify certain matters with respect to the formulae in rules 49 and 51

The BB procedures may specify:

- (a) what are the estimated or actual costs of operating and maintaining the Bulletin Board;
- (b) how such costs are to be calculated, estimated or otherwise determined;
- (c) the components of such costs;
- (d) how the components of those costs are to be calculated, estimated or otherwise determined;
- (e) how any allocation required by the formulae in rules 49 and 51 is to be effected;
- (f) how any input to or for any of the defined terms in those formulae is to be calculated, estimated or otherwise determined;
- (g) how any other amount, matter or thing required for the purposes of calculating, estimating or determining those terms is to be calculated, estimated or otherwise determined;
- (h) how roundings are to dealt with;
- (i) what levels of accuracy are required for the calculations, estimations or determinations required by the formulae;
- (j) how total gas deliveries are allocated where a BB shipper has been subsumed by another person or has ceased to be a BB shipper; and
- (k) any other amount, matter or thing required for the purposes of the calculations, estimations or determinations required by the formulae.

193 Recovery of BB operating costs

No later than 65 business days after the start of an invoice period, the BB operator must:

- (a) notify each BB shipper of:
 - (i) the estimated BB costs for that invoice period;
 - (ii) estimated costs of operating and maintaining the Bulletin Board for the previous invoice period;
 - (iii) the actual costs of operating and maintaining the Bulletin Board for the previous invoice period;
 - (iv) the BB shipper's 'true-up' amount for the previous invoice period; and
 - (v) that BB shipper's percentage share of the estimated BB costs under rule 191 for that invoice period; and
- (b) issue the BB shipper with a tax invoice showing:
 - (i) the amount of estimated BB costs that the BB shipper is being charged for the applicable invoice period as calculated under rule 191; and
 - (ii) any other information specified in the BB procedures.

194 Payment of invoices

- (1) Subject to subrule (2), a BB shipper must pay a tax invoice received from the BB operator under rule 193(b) within 10 business days after receipt of the invoice, regardless of whether the invoice is disputed under rule 195.
- (2) Where there is a manifest error in a tax invoice received from the BB operator under rule 193(b), the BB operator must issue a replacement tax invoice under rule 193(b) as soon as practicable after it becomes aware of that manifest error, and the BB shipper must pay that replacement tax invoice within 10 business days after receipt of the invoice, regardless of whether the invoice is disputed under rule 195.
- (3) If the BB operator becomes aware that a tax invoice which it has issued under rule 193(b):

- (a) is for an amount that is greater than the amount which should have been included on that invoice, and the BB shipper has paid that invoice, then the BB operator must re-pay that excess amount (at the option of the BB shipper) either by way of a credit on the tax invoice issued under rule 193(b) for the next invoice period or by a payment made to the BB shipper within 20 business days after the day the BB operator becomes aware of that overcharge, together with interest on that excess amount calculated at the applicable interest rate, accruing on a daily basis, until the relevant tax invoice is issued or the relevant payment is made (as the case may be);
- (b) is for an amount that is less than the amount which should have been included on that invoice then, if the BB operator wishes to recover that underpayment, the BB operator must promptly give written notice to the BB shipper of the underpayment and give the BB shipper the option of:
 - (i) having that underpayment included on the tax invoice issued under rule 193(b) for the next invoice period, together with interest calculated on that amount at the applicable interest rate, accruing on a daily basis, until that tax invoice is issued; or
 - (ii) paying the amount of that underpayment within 20 business days after the day that notice is given to the BB shipper.

If the BB shipper does not make the payment referred to in subrule (3)(b)(ii) within the 20 business day period referred to in that rule then, in the absence of any agreement to the contrary with the BB operator, the BB shipper will be deemed to have chosen the option referred to in subrule (3)(b)(i).

- (4) Where a tax invoice is not disputed and the whole or any part of the amount included in that tax invoice has not been paid by the due date, the BB shipper must pay interest on that unpaid amount at the rate of interest which is 2% per annum above the applicable interest rate, accruing on a daily basis, until that amount has been paid.

195 Disputed invoices

- (1) If a BB shipper wishes to dispute a tax invoice received from the BB operator under rule 193(b), it must notify the BB operator of the disputed invoice within 60 business days after receiving the invoice and the BB shipper and the BB operator must seek to resolve that

dispute in accordance with the dispute resolution process set out in this rule.

- (2) To resolve the dispute:
 - (a) the BB shipper must, when notifying the dispute to the BB operator, inform the BB operator of the reasons for it disputing the relevant tax invoice;
 - (b) the BB operator must provide sufficient information to the BB shipper regarding the calculation of the disputed amount within 10 business days of the dispute being notified;
 - (c) a nominated representative of each of the BB shipper and the BB operator must seek to resolve the dispute within 10 business days of the BB operator providing the necessary information to the BB shipper;
 - (d) if the dispute is not resolved by the nominated representatives as referred to in subrule (2)(c):
 - (i) where the BB operator and BB shipper can agree on a means of resolving the dispute by mediation, expert determination or some other similar alternative dispute resolution mechanism, the BB operator and the BB shipper must use that mechanism; or
 - (ii) in the event that the BB operator and BB shipper are unable to agree on a dispute resolution mechanism, they must ask the AER to nominate a dispute resolution mechanism which will apply.
- (3) If, as a result of the resolution of a disputed tax invoice under subrule (1), the BB operator is obliged to re-pay part or the whole of an amount received under rule 194 to a BB shipper, then the BB operator must re-pay the amount (at the option of the BB shipper) either by way of a credit on the tax invoice issued under rule 193(b) for the next invoice period or by a payment to the BB shipper within 20 business days after the day resolution is reached, together with interest on that amount calculated at the applicable interest rate, accruing on a daily basis, until the relevant tax invoice is issued or the relevant payment is made (as the case may be).

196 Information requirements for cost recovery

- (1) Each pipeline operator must, by no later than 20 business days after the commencement of an invoice period, provide the following information to the BB operator to enable it to calculate a BB shipper's share of estimated BB costs under rule 191 for that invoice period:
 - (a) the name of each BB shipper on each BB pipeline operated by the pipeline operator during the previous invoice period;
 - (b) for each such BB shipper, the total gas delivery allocated to that shipper from all BB pipelines that it operated during the previous invoice period; and
 - (c) the total gas delivered from all BB pipelines that it operated during the previous invoice period.
- (2) The BB procedures may specify the manner in which the amounts referred to in subrules (1)(b) and (c) are to be determined.
- (3) To avoid doubt, the information about each BB shipper's gas usage provided under this rule is not to be published on the Bulletin Board.

Division 10 Cost recovery by pipeline operators

197 Pipeline operator to provide costs of aggregation and information services

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

- (3) A pipeline operator must not issue a tax invoice to the BB operator under subrule (1)(b) which includes an amount that it has recovered, or is entitled to recover, from a BB shipper or any other person either at law (other than under this Part or the Law) or under any contract, arrangement or understanding, or pursuant to an access arrangement.

198 BB operator to pay pipeline operator for provision of aggregation and information services

- (1) The BB operator must publish on its website a tax invoice received under rule 197 as soon as practical and seek comment for 10 business days on whether there is any objection to the payment of that invoice.
- (2) If any person objects to the payment the BB operator may refer the question of payment to the AER for advice within 10 business days after receiving the objection.
- (3) The AER must, within 15 business days after the question of payment is referred to it, provide the advice referred to in subrule (2) to the BB operator.
- (4) Subject to being satisfied that the invoice should be paid, having regard to the evidence presented under rule 197(2) and any advice provided by the AER under subrule (3), the BB operator must pay the tax invoice within 20 business days after receipt of the invoice or within 10 business days of receiving advice from the AER under subrule (3) (whichever is the later).

Schedule 1 Transitional provisions

1 Definitions

(1) In this Schedule:

date of transition means:

- (a) for all jurisdictions except Western Australia - the day on which section 20 of the *National Gas (South Australia) Act 2008* (SA) comes into operation;
- (b) for Western Australia – the day on which section 31 of the *National Gas Access (Western Australia) Act 2008* (WA) comes into operation.

former access regime means the legislative scheme consisting of:

- (a) the *Gas Pipelines Access Law*, and
- (b) the *Gas Pipelines Access Regulations*; and
- (c) the *National Third Party Access Code for Natural Gas Pipeline Systems*.

new access regime means the legislative scheme consisting of:

- (a) the *National Gas Law*, and
- (b) the regulations made for the purposes of the *National Gas Law*, and
- (c) these rules.

transitional access arrangement means an access arrangement:

- (a) that was in force under the former access regime immediately before the date of transition and continues in force:
 - (i) as a full access arrangement under clause 26 of Schedule 3 to the NGL; or
 - (ii) as a limited access arrangement under clause 27 of Schedule 3 to the NGL; or
 - (iii) subject to revisions made in accordance with the Gas Code

under clause 29 of Schedule 3 to the NGL; or

- (b) that takes effect as a full access arrangement under clause 28 of Schedule 3 to the NGL or as a limited access arrangement under clause 32 of Schedule 3 to the NGL.

transitional access arrangement period means the access arrangement period for which a transitional access arrangement remains transitional – See subclause (2).

- (2) A transitional access arrangement remains transitional:
 - (a) for an access arrangement period that commences before and ends after the date of transition; and
 - (b) if the access arrangement is made or revised after the date of transition in accordance with the provisions of the Gas Code under Schedule 3 to the NGL – for the whole of the ensuing access arrangement period.

2 Effect to be given to transitional access arrangement under the rules

Subject to this Schedule, the rules are to be read subject to such adaptations and modifications as are necessary to give full effect to a transitional access arrangement under the rules.

3 Facilitation of transition from the former access regime to the new access regime

- (1) The following provisions are intended to facilitate the transition from the former access regime to the new access regime.
- (2) An agreement by the Relevant Regulator under section 8.21 of the Gas Code that actual or forecast new facilities investment meets or will meet the requirements of section 8.16(a) of the Gas Code will be taken to be:
 - (a) in the case of actual capital expenditure – a decision by the AER under rule 79 to the effect that the capital expenditure conforms with the new capital expenditure criteria; and
 - (b) in the case of forecast capital expenditure – a determination by the AER under rule 80 that, if the capital expenditure is made in accordance with the conditions of the agreement, it will meet the new capital expenditure criteria.

- (3) An application that remained undecided on the date of transition for the Relevant Regulator's agreement under section 8.21 of the Gas Code that forecast new facilities investment will meet the requirements of section 8.16(a) of the Gas Code becomes, on the date of transition, an application for a determination by the AER under rule 80 that the forecast capital expenditure will meet the new capital expenditure criteria.
- (4) A discount permitted by the Relevant Regulator under section 8.43 of the Gas Code will be taken to be a discount approved by the AER under rule 96.
- (5) An application that remained undecided on the date of transition for the Relevant Regulator's permission for a discount under section 8.43 of the Gas Code becomes, on the date of transition, an application for the AER's approval of a discount under rule 96.
- (6) A surcharge approved by the Relevant Regulator under section 8.25 of the Gas Code will be taken to be a surcharge approved by the AER under rule 83.
- (7) An application that remained undecided on the date of transition for the Relevant Regulator's approval of a surcharge becomes, on the date of transition, an application for the AER's approval of a surcharge under rule 83.
- (8) If:
 - (a) a proposal for variations to a reference tariff had been put, before the date of transition, to the Relevant Regulator under section 8.3B of the Gas Code; but
 - (b) the Relevant Regulator had not allowed, disallowed or specified a variation to the reference tariff under section 8.3D or 8.3E of the Gas Code,the Relevant Regulator must decide the matter under the Gas Code.
- (9) A date designated in a transitional access arrangement as a revisions submission date (including such a date extended under section 7.19 of the Gas Code) will be taken to be a review submission date for the purposes of the rules and a date designated in a transitional access arrangement as a revisions commencement date will be taken to be a revision commencement date for the purposes of the rules.
- (10) An event specified in a transitional access arrangement under section

3.17(ii) of the Gas Code as an event that triggers an obligation to submit revisions to the access arrangement prior to the revisions submission date will be taken to be a trigger event for the purposes of rule 51.

- (11) Access arrangement information submitted under the Gas Code (including access arrangement information amended under the Gas Code) will be taken to be access arrangement information for the purposes of the rules.
- (12) A speculative investment fund established under section 8.19 of the Gas Code will be taken to be a speculative capital expenditure account under rule 84.
- (13) A mechanism included in a transitional access arrangement under section 8.27 of the Gas Code for removing redundant capital from the capital base for a covered pipeline will be taken to be a corresponding mechanism under rule 85 for ensuring that assets that cease to contribute in any way to the delivery of services (*redundant assets*) are not reflected in the capital base.
- (14) If total revenue is calculated for the purposes of a transitional access arrangement under sections 8.4 and 8.9 of the Gas Code in accordance with the IRR or NPV methodology as described in those sections, the opening capital base for the first access arrangement period to follow the transitional access arrangement period will be based on the value of the capital base at the end of the transitional access arrangement period arrived at in accordance with that calculation.
- (15) A transitional access arrangement approved or made in accordance with section 3.34 of the Gas Code will, from the date of transition, be taken to be CTP access arrangement for the purposes of the rules and a date designated in such an access arrangement as a revisions commencement date will be taken to be an expiry date for the purposes of the rules.
- (16) A service provider who was, immediately before the date of transition, required to maintain a public register by or under section 5.9 of the Gas Code is taken to have been required by the AER, on the date of transition, to maintain a public register of spare capacity under rule 111.
- (17) For the avoidance of doubt:
 - (a) subclauses (9), (10) and (11) are not intended to apply to a

transitional access arrangement that is being revised under clause 29 of Schedule 3 to the NGL; and

- (b) the clause is not intended to affect in any other way the operation of clause 28(2) or 29(2) of Schedule 3 to the NGL.

4 Displacement of certain provisions of the Gas Code during transitional period

Despite the continued operation of certain provisions of the Gas Code under clause 30 of Schedule 3 to the NGL, the following rules operate to exclude the application to a transitional access arrangement of corresponding provisions of the Gas Code:

- (a) rule 80;
- (b) rule 83;
- (c) rule 96.

5 Access arrangement revision proposal for transitional access arrangement

- (1) In deciding whether to approve an access arrangement revision proposal for a transitional access arrangement, or in making its own proposal for revision of a transitional access arrangement under rule 63 or 64, the AER must:
 - (a) take into account the operation of an incentive mechanism approved for the transitional access arrangement under section 8.44 of the Gas Code and ensure, in particular, that revenue calculations made for the next access arrangement period properly reflect increments or decrements resulting from the operation of the incentive mechanism; and
 - (b) take into account (subject to rule 99(4)(b)) any provisions of the transitional access arrangement that were fixed principles under section 8.47 of the Gas Code and the period for which they were fixed; and
 - (c) if a period has been specified in the transitional access arrangement for the purpose – take into account the difference between projected and actual capital expenditure for the relevant period to the extent necessary to ensure an accurate roll forward of the capital base from the period of the transitional access arrangement to the commencement of the new access

arrangement period; and

- (d) take into account the set of depreciation schedules that constitute the Depreciation Schedule for the transitional access arrangement under section 8.32 of the Gas Code.
- (2) For the avoidance of doubt, this clause is not intended to affect in any way the operation of clause 29(2) of Schedule 3 to the NGL.

6 Fixed principle in access arrangement for Dampier to Bunbury Natural Gas Pipeline

Rule 99(4)(b) does not apply to the fixed principle referred to in clause 7.13(a)(ii) of the Revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline dated 21 November 2006.

7 Additional criteria related to capital expenditure for WA transmission pipelines

- (1) In this clause:

relevant access arrangement means a transitional access arrangement for a WA transmission pipeline or an access arrangement for a WA transmission pipeline that was formerly a transitional access arrangement.

relevant decision means a decision relevant to whether the AER should approve, or give effect to, a relevant proposal.

relevant proposal means:

- (a) an access arrangement revision proposal for revision of a relevant access arrangement for the first or second access arrangement period to commence after the date of transition; or
- (b) a proposal by the AER under rule 63 or 64 for revision of a relevant access arrangement for the first or second access arrangement period to commence after the date of transition; or
- (c) a relevant transitional application for a determination under rule 80 to the effect that proposed capital expenditure will meet the new capital expenditure criteria.

relevant transitional application means an application by the service provider for a WA transmission pipeline made during the access arrangement period for which the access arrangement remains

transitional or the ensuing access arrangement period.

WA transmission pipeline means a transmission pipeline within Western Australia.

- (2) In making a relevant decision under rule 79(3) on whether the overall economic value of capital expenditure is positive, the AER must consider not only economic value directly accruing to the service provider, gas producers, users and end users (as required by rule 79(3)) but also material economic value that is likely to accrue directly to electricity market participants and end users of electricity from additional gas fired generation capacity.

8 Access arrangement variation proposal raising previously settled issues

If:

- (a) a service provider submits an access arrangement variation proposal in relation to a transitional access arrangement; and
- (b) it appears to the AER that the proposal raises again an issue previously decided under the Gas Code,

the AER must reject the proposal unless satisfied that changes of circumstance occurring since the issue was decided under the Gas Code justify reconsideration of provisions of the access arrangement affected by the previous decision.

Schedule 2 Initial BB facilities

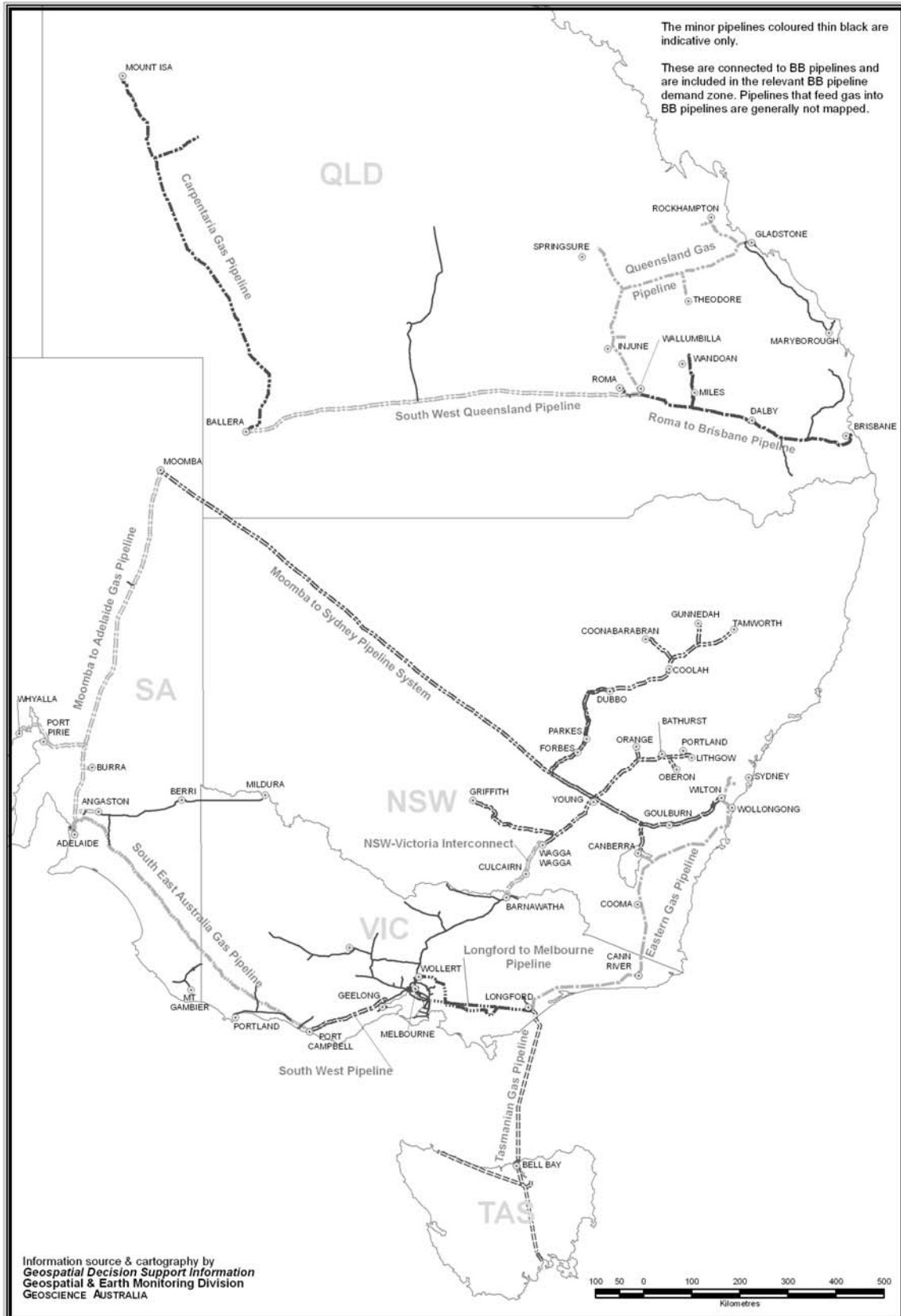
1 Initial BB pipelines

For the purposes of paragraph (a) of the definition of BB pipeline, the following pipelines as described below and illustrated in Fig. 1 are specified:

- a. The **Eastern Gas Pipeline** (operated at the date of commencement of these Rules by Alinta) from Longford to Sydney/Australian Capital Territory/Wollongong including all laterals.
- b. The **Moomba to Sydney Pipeline System** (operated at the date of commencement of these Rules by the APA Group) from Moomba to Sydney/ACT including all laterals.
- c. The **Queensland Gas Pipeline** (operated at the date of commencement of these Rules by Alinta) from Wallumbilla to Gladstone and Rockhampton including all laterals.
- d. The **South West Queensland Pipeline** (operated at the date of commencement of these Rules by Epic Energy) from Wallumbilla to Ballera.
- e. The **Roma - Brisbane Pipeline** (operated at the date of commencement of these Rules by the APA Group) from Wallumbilla to Brisbane including all laterals,
- f. The **Carpentaria Pipeline** (operated at the date of commencement of these Rules by the APA Group) from Ballera to Mt Isa including laterals.
- g. The **NSW-Victoria Interconnect** (operated at the date of commencement of these Rules by VENCORP and the APA Group) from Wagga Wagga to Barnawatha (metered at Culcairn).
- h. The **Moomba to Adelaide Pipeline System** (operated at the date of commencement of these Rules by the Epic Energy) from Moomba to Adelaide including all laterals.
- i. The **SEA Gas Pipeline** (operated at the date of commencement of these Rules by the SEA Gas P/L) from Port Campbell to Adelaide including all laterals.

- j. The **Tasmania Gas Pipeline** (operated at the date of commencement of these Rules by PowerCo) from Longford to Bell Bay and Tasmania.
- k. The **Longford to Melbourne Pipeline** (operated at the date of commencement of these Rules by VENCORP) from Longford to Dandenong & Wollert including the Lurgi pipeline and other laterals.
- l. The **South West Pipeline** (operated at the date of commencement of these Rules by VENCORP) from Port Campbell to Geelong/Melbourne (includes Western TS to Portland as a lateral for the purposes of the Bulletin Board).

Fig 1: Initial BB Pipelines



2 Initial BB production facilities

For the purposes of paragraph (a) of the definition of BB production facility, the following facilities as described below and illustrated in Fig. 2 are specified:

In respect of the Eromanga/Cooper Basin—

- a. **Ballera** near Ballera Queensland operated at the date of commencement of these Rules by Santos.
- b. **Moomba** near Moomba South Australia operated at the date of commencement of these Rules by Santos.

In respect of the Gippsland Basin and Bass Basin—

- c. **Longford** near Sale in Victoria operated at the date of commencement of these Rules by Esso.
- d. **Lang Lang Gas Plant** (BassGas) near Lang Lang in Victoria operated at the date of commencement of these Rules by Origin Energy Resources.
- e. **Orbost Gas Plant** near Orbost in Victoria operated at the date of commencement of these Rules by Santos.

In respect of the Otway basin—

- f. **Minerva Gas Plant** near Port Campbell in Victoria operated at the date of commencement of these Rules by BHPBilliton.
- g. **Otway Gas Plant** near Port Campbell in Victoria operated at the date of commencement of these Rules by Woodside.

In respect of the Bowen/Surat Basin—

- h. **Kogan North** near Kogan in Queensland operated at the date of commencement of these Rules by the APA Group.
- i. **Silver Springs** near silver springs in Queensland operated at the date of commencement of these Rules by Mosaic.
- j. **Kincora** near Kincora in Queensland operated at the date of commencement of these Rules by Origin Energy.
- k. **Dawson Valley** south of Moura in Queensland operated at the date of commencement of these Rules by Anglo Coal.
- l. **Peat** near Wandoan in Queensland operated at the date of

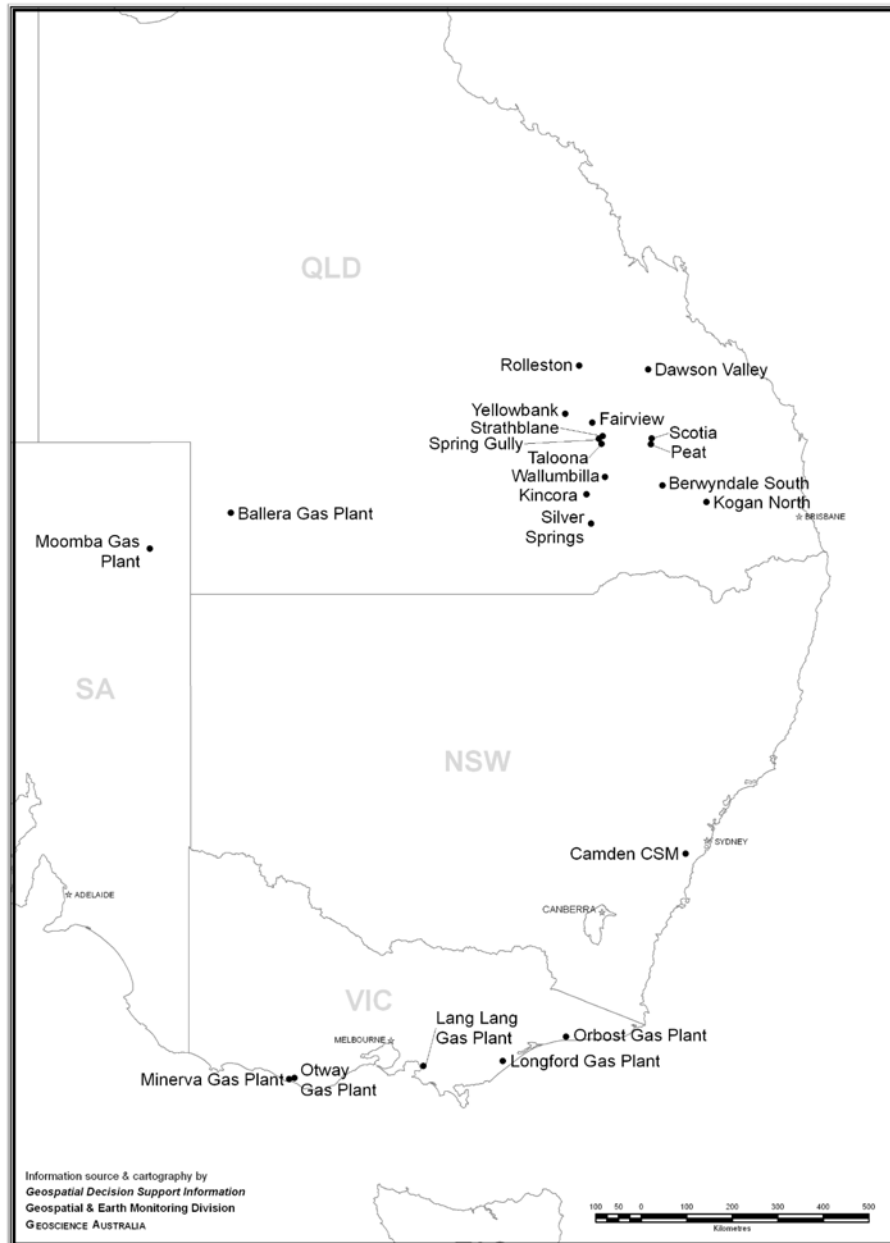
commencement of these Rules by Origin Energy.

- m. **Spring Gully** near Durham Queensland operated at the date of commencement of these Rules by Origin Energy.
- n. **Strathblane** north of Roma in Queensland operated at the date of commencement of these Rules by Origin Energy.
- o. **Talooka** south of Spring Gully operated at the date of commencement of these Rules by Origin Energy.
- p. **Berwyndale South** east of Condamine in Queensland operated at the date of commencement of these Rules by QGC.
- q. **Fairview** near Fairview Queensland operated at the date of commencement of these Rules by Santos.
- r. **Wallumbilla** near Roma Queensland operated at the date of commencement of these Rules by Santos.
- s. **Scotia** near Wandoan in Queensland operated at the date of commencement of these Rules by Santos.
- t. **Rolleston** south east of Springsure in Queensland operated at the date of commencement of these Rules by Origin.
- u. **Yellowbank** north of Injune in Queensland operated at the date of commencement of these Rules by Origin.

In respect of the Sydney Basin—

- v. **Camden CSM** near Camden in New South Wales operated at the date of commencement of these Rules by AGL/SGC.

Fig 2: Initial BB Production Facilities



3 Initial BB storage facilities

For the purposes of paragraph (a) of the definition of BB storage facility, the following gas storage facilities as described below and illustrated in Fig. 3 are specified:

- a. **Iona Underground Gas Storage** at Iona Port Campbell in

Victoria operated at the date of commencement of these Rules by TRUEnergy.

- b. **Dandenong LNG Storage Facility** at Dandenong in Victoria operated at the date of commencement of these Rules by GasNet.

Fig 3: Initial BB Storage Facilities

