

**NEW SOUTH WALES**

Introduced by

**DRAFT NON-GOVERNMENT BILL**

**To be introduced by:**

New South Wales

**National Gas (South Australia) Amendment  
(East Coast Gas System) Bill 2022**

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**1 Name of Act**

This Act is the *National Gas (South Australia) Amendment (East Coast Gas System) Act 2022*.

**2 Commencement**

This Act comes into operation on a day to be fixed by proclamation.

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## Schedule 1 Amendment of National Gas Law

### [1] Section 2—Definitions

Insert in alphabetical order:

*actual or potential threat*, in relation to the supply of natural gas within the east coast gas system, means an actual or potential risk, issue or threat identified by AEMO in the exercise or performance of its east coast gas system reliability and supply adequacy functions.

*east coast gas system* means the following, located wholly or partly within an east coast jurisdiction, and includes part of the east coast gas system—

- (a) a natural gas industry facility;
- (b) a regulated gas market;
- (c) a gas trading exchange for which AEMO has established a gas trading exchange agreement;
- (d) a system, market or other thing specified by the Rules.

*east coast gas system reliability and supply adequacy functions* of AEMO are set out in section 91AD.

*east coast jurisdiction* means a participating jurisdiction other than Western Australia.

*gas powered generator* means the owner, controller or operator of a generating system, within the meaning of the NER, that is powered by natural gas.

### [2] Section 74—Subject matter for National Gas Rules

Insert after section 74(1)(a)(vii):

- (viiia) the reliability and adequacy of the supply of natural gas within the east coast gas system; and

### [3] Section 74(1)(ac)

Insert after section 74(1)(ab):

- (ac) AEMO's east coast gas system reliability and supply adequacy functions; and

### [4] Section 91A—AEMO's statutory functions

Insert after section 91A(1)(e)—

- (ea) the east coast gas system reliability and supply adequacy functions;

### [5] Part 6, Division 1A

Insert after Part 6, Division 1—

#### **Division 1A AEMO's east coast gas system reliability and supply adequacy functions**

##### **91AD AEMO's east coast gas system reliability and supply adequacy functions**

AEMO's east coast gas system reliability and supply adequacy functions are as follows:

- (a) to monitor trends in the supply of, and demand for, natural gas in the east coast gas system and factors affecting, or that may potentially

- affect, the reliability and adequacy of the supply of gas within that system;
- (b) to identify and communicate actual or potential threats to the reliability or adequacy of the supply of natural gas within the east coast gas system;
  - (c) to report to and advise the MCE, including a member of the MCE, on matters relating to the reliability or adequacy of the supply of natural gas within the east coast gas system;
  - (d) to publish information relating to the reliability or adequacy of the supply of natural gas within the east coast gas system;
  - (e) to give directions to relevant entities to maintain or improve the reliability or adequacy of the supply of natural gas within the east coast gas system;
  - (f) to trade in natural gas or to purchase pipeline services or services provided by a storage provider to the extent necessary or desirable to maintain or improve the reliability and adequacy of the supply of natural gas within the east coast gas system;
  - (g) other functions conferred on AEMO by the Rules for the purposes of this section.

**91AE AEMO to account to relevant Minister for performance of east coast gas system reliability and supply adequacy functions**

- (1) AEMO must, at the written request of a Minister of a participating jurisdiction that is an east coast jurisdiction, provide information about the performance of its east coast gas system reliability and supply adequacy functions in relation to that jurisdiction.
- (2) AEMO must, at the written request of the MCE, provide information about the performance of its east coast gas system reliability and supply adequacy functions in accordance with the request.
- (3) Protected information provided in response to a request under this section must be identified as such by AEMO at the time of providing the information.
- (4) No fee is to be charged for the provision of information under this section.

**91AF AEMO's power of direction—east coast gas system reliability and supply adequacy**

- (1) AEMO may give written directions to a relevant entity for one or more of the following purposes:
  - (a) to maintain or improve the reliability of the supply of natural gas within the east coast gas system;
  - (b) to maintain or improve the adequacy of the supply of natural gas within the east coast gas system.
- (2) Without limiting subsection (1), a direction under this section may—
  - (a) relate to—
    - (i) the operation, maintenance or use of any equipment or installation; or
    - (ii) the control of the flow of natural gas; or
    - (iii) any other matter that may affect the reliability or adequacy of the supply of natural gas within the east coast gas system; and

- (b) be given to prevent, reduce or mitigate an actual or potential threat to the reliability or adequacy of the supply of natural gas within the east coast gas system.
- (3) The Rules may specify—
  - (a) the matters that AEMO may or must consider in determining there is or is not an actual or potential threat to the reliability or adequacy of the supply of natural gas within the east coast gas system;
  - (b) the kinds of directions that AEMO may or may not give under this section;
  - (c) the matters that AEMO may or must consider in determining whether to give a direction under this section.
- (4) AEMO must prepare guidelines about the giving of directions under this section.
- (5) AEMO must publish guidelines prepared under subsection (4) on its website.
- (6) A direction under this section may apply, adopt or incorporate (with or without modification) a relevant code of practice or standard (made in or outside Australia) as in force or existing when the direction is made or as in force or existing from time to time.
- (7) A prohibition imposed by a direction under this section may be either unconditional or subject to conditions stated in the direction.
- (8) A person to whom a direction under this section applies must comply with the direction.
- (9) A person incurs no civil monetary liability for damage, loss or injury resulting from an act or omission done or made in good faith and in compliance or purported compliance with a direction under this section.
- (10) In this section:
  - relevant entity** means the following, excluding a small customer:
    - (a) a Registered participant;
    - (b) an exempted participant;
    - (c) a producer who injects natural gas into the east coast gas system;
    - (d) a person who buys or sells natural gas in the east coast gas system;
    - (e) a gas powered generator;
    - (f) a storage provider whose storage facility is connected to the east coast gas system;
    - (g) a person who provides pipeline, transport, compression or other related services in, into or out of the east coast gas system;
    - (h) a person specified as a relevant entity by the Rules.
  - small customer** means:
    - (a) a small customer within the meaning of section 5(2) of the NERL; and
    - (b) a relevant customer within the meaning of the Order made under section 43 of the *Gas Industry Act 2001* of Victoria and published in the Victoria Government Gazette, 25 November 2008.

**[6] Section 91BA—AEMO’s declared system functions**

Insert “or purchase pipeline services or services provided by a storage provider” after “natural gas” in section 91BA(2).

**[7] Section 91F—Information gathering powers**

Insert after section 91F(2)(b):

- (ba) an east coast gas system reliability and supply adequacy function; or

**[8] Section 91F(4A) and (4B)**

Insert after section 91F(4):

- (4A) Subsections (3) and (4) do not apply to an order or notice relating to an east coast gas system reliability and supply adequacy function.
- (4B) The Rules may specify a person, or class of persons, to whom an order or notice relating to an east coast gas system reliability and supply adequacy function may be issued.

**[9] Section 91FA—Making and publication of general market information order**

Insert after section 91FA(2):

- (3) This section does not apply to an order relating to an east coast gas system reliability and supply adequacy function.

**[10] Section 91FB—Service of market information notice**

Insert after section 91FB(3):

- (4) This section does not apply to a notice relating to an east coast gas system reliability and supply adequacy function.

**[11] Section 91H—Obligations under Rules or Procedures to make payments**

Insert after paragraph (d) of the definition of *Registered participant* in section 91H(4):

- (e) a relevant entity, within the meaning of section 91AF.

**[12] Section 294H**

Insert after section 294G:

**294H South Australian Minister may make Rules relating to AEMO's east coast gas system reliability and supply adequacy functions**

- (1) The South Australian Minister may make Rules on any 1 or more of the following subjects:
- (a) AEMO's east coast gas system reliability and supply adequacy functions;
- (b) the subject matter of a new head of power added to Schedule 1 by the east coast gas system amendments;
- (c) any other subject contemplated by, or consequential on, the east coast gas system amendments.
- (2) Rules may only be made under subsection (1) on the recommendation of the MCE.
- (3) Section 74(3) applies to Rules made under subsection (1) in the same way as it applies to Rules made by the AEMC.
- (4) As soon as practicable after making Rules under subsection (1), the South Australian Minister must:
- (a) publish notice of the making of the Rules in the South Australian Government Gazette stating the date of commencement or, if they commence at different times, various dates of commencement; and

- (b) make the Rules publicly available.
- (5) The South Australian Minister may, by a later notice published in the South Australian Government Gazette, vary a commencement date fixed under subsection (4)(a).
- (6) Rules in the nature of a derogation may be made under this section even though no request has been made for the derogation.
- (7) This section is repealed on the day occurring 6 calendar months after it commences.
- (8) In this section:  
*east coast gas system amendments* means a provision of this Law or the Regulations, as amended or inserted by the *National Gas (South Australia) Amendment (East Coast Gas System) Act 2022*.

**[13] Schedule 1**

Insert at the end of Schedule 1, with appropriate item numbering:

**East coast gas system reliability and supply adequacy functions**

- (1) The development of reliability standards, including standards applying to specified geographical zones, location, markets, infrastructure or entities.
- (2) The obligations and functions of AEMO, the AEMC or the AER in relation to the reliability standards, including determining the standards, or the manner or process for determining the standards.
- (3) The way in which AEMO must use or consider the reliability standards in the exercise of its east coast gas system reliability and supply adequacy functions.
- (4) The way in which AEMO must exercise or perform its east coast gas system reliability and supply adequacy functions.
- (5) Arrangements to enable AEMO to contract with other parties to reduce or curtail natural gas demand.
- (6) Obligations on relevant entities to contract with each other for certain purposes and on certain terms and conditions.
- (7) Arrangements to procure, by or on behalf of AEMO, the supply or storage of natural gas, transport capacity and other services for the purposes of AEMO's east coast gas system reliability and supply adequacy functions, including the terms and conditions of the procurement.
- (8) Measures or mechanisms that must or may be implemented in response to actual or perceived threats to the reliability or adequacy of the supply of natural gas within the east coast gas system.
- (9) Obligations on retailers and gas powered generators to develop plans to manage peak or other demand scenarios, including the form, content and implementation of those plans.
- (10) Arrangements to enable AEMO to, publicly or otherwise, signal or communicate actual or potential threats to the reliability or adequacy of the supply of natural gas within the east coast gas system, including the convening of conferences and requiring particular participants to attend those conferences.

- (11) The payment of fees and charges under section 91E to enable AEMO to recover costs relating to its east coast gas system reliability and supply adequacy functions.
- (12) The provision of information to AEMO in relation to its east coast gas system reliability and supply adequacy functions, who must give AEMO the information, the circumstances in which the information may or must be given and the way in which the information may or must be given, including a way set out in the Procedures.
- (13) Arrangements to pay compensation to relevant entities adversely affected by AEMO's exercise or performance of its east coast gas system reliability and supply adequacy functions, and to recover the compensation paid from relevant entities.

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## Schedule 2 Amendment of National Gas Regulations

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**Drafting note 3.1** *The proposed amendments to the National Gas Regulations and the National Gas Rules have been included in this document for consultation purposes only. The proposed amendments to the Rules will be pursued under rules initiated by the SA Minister in accordance with proposed section 294H of the NGL. The proposed amendments to the Regulations will be pursued in the usual way.*

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**[1] Clause 19**

Insert after clause 18:

**19 Disclosure of protected information**

For the purposes of section 91GC(2)(h) of the *NGL*, the following bodies are prescribed:

- (a) each department responsible for the administration of the application Act of a participating jurisdiction;
- (b) the Ministers of the participating jurisdictions.

**[2] Schedule 3—Civil penalty provisions**

Insert in appropriate order in Part 1 under the heading **Provisions of the NGL**:

Section 91AF(9)

**[3] Schedule 3, Part 1**

Insert in appropriate order under the heading **Provisions of the Rules**:

Rule 691

Rule 693(1)

**[4] Schedule 3, Part 2**

Insert in appropriate order under the heading **Provisions of the Rules**:

Rule 683(2)

Rule 692(3)

## Schedule 3 Amendment of National Gas Rules

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**Drafting note 3.2** *The proposed amendments to the National Gas Regulations and the National Gas Rules have been included in this document for consultation purposes only. The proposed amendments to the Rules will be pursued under rules initiated by the SA Minister in accordance with proposed section 294H of the NGL. The proposed amendments to the Regulations will be pursued in the usual way.*

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**[1] Rule 135C Definitions**

Insert in alphabetical order:

***east coast gas system reliability costs*** means the costs of AEMO exercising or performing its east coast gas system reliability and supply adequacy functions.

***Registered participant*** has the same meaning as in section 91H(4) of the *NGL*.

**[2] Rule 135CA Development of participant fee structure**

Insert after Rule 135CA(4)(b)(ii):

- (ia) a Registered participant who is not registered under Division 1 should only be liable to pay participant fees for the purpose of recovering east coast gas system reliability costs;

**[3] Rule 135CA(4A)**

Insert “or east coast gas system reliability costs” after “auction costs”.

**[4] Rule 135CB Major gas project**

Insert after Rule 135CB(1)(c):

- (d) the exercise or performance of an east coast gas system reliability and supply adequacy function.

**[5] Rule 135CB(2)**

Insert “, other than a determination under subrule (1)(d),” after “this rule”.

**[6] Rule 135CB(2A)**

Insert after rule 135CB(2):

- (2A) AEMO may consult on a determination under subrule (1)(d) in accordance with the *expedited consultative procedure*.

**[7] Rule 135CC Components of participant fees**

Insert after Rule 135CC(1)(bc):

- (bd) fees to recover east coast gas system reliability costs;

**[8] Rule 135CF Budgeted revenue requirements**

Insert after Rule 135CF(2)(ca):

- (cb) the recovery of east coast gas system reliability costs; and  
(cc) the funding requirements of the trading fund under Part 27; and

**[9] Rule 135EA Matters about which Procedures may be made**

Insert after rule 135EA(5):

- (6) The East Coast Gas System Reliability and Supply Adequacy Procedures may deal with the following matters:

- (a) a subject relevant to the matters in Part 27 on which the *NGL* or these rules contemplate the making of Procedures;
- (b) any matter consequential or related to any of the above.

**[10] Part 27**

Insert after Part 26:

**Part 27 East coast gas system reliability and supply adequacy**

**Division 1 Preliminary**

**679 Application of Part**

This Part prevails to the extent of an inconsistency with another rule.

**680 Definitions**

In this Part:

*BB production facility*, *BB reporting entity*, *BB storage facility* and *BB transmission pipeline* have the same meanings as in Part 18.

**681 Time and Dates**

- (1) References in this Part to a time of day are to Australian eastern standard time (and are not adjusted for daylight saving time in any jurisdiction).
- (2) In this Part, unless otherwise specified:
  - (a) a period of time expressed to commence before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and
  - (b) a period of time expressed to commence on a given day, or on the day of an act or event, is to be calculated inclusive of that day.

**Division 2 Disclosure obligations**

**682 Application of Division**

This Division sets out the information required to be provided to AEMO in relation to its east coast gas system reliability and supply adequacy functions by the following:

- (a) gas powered generators;
- (b) a retailer who sells gas to retail customers;
- (c) owners, operators or controllers of BB large user facilities;
- (d) BB reporting entities;
- (e) owners, operators or controllers of natural gas industry facilities;
- (f) owners, operators or controllers of LNG facilities.

**683 General requirements**

- (1) AEMO may disclose information obtained under this Division on the National Gas Services Bulletin Board or in the gas statement of opportunities.
- (2) A relevant entity required to give information to AEMO under this Division must, in accordance with this Division and the Procedures:

- (a) prepare and submit the information; and
- (b) if applicable, maintain any equipment from which the information is derived.

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**Drafting note 3.3** *Listed in Reg as Tier 2 civil penalty*

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- (3) If this Division or the Procedures require a relevant entity to update information provided to AEMO, the relevant entity must:
  - (a) update the information each time facts or circumstances arise that require the information to be updated; and
  - (b) notify the updated information to AEMO as soon as practicable after the relevant entity becomes aware of the facts and circumstances that require the information to be updated.
- (4) AEMO is not required to verify the accuracy of information provided to AEMO under this Part.
- (5) AEMO may make Procedures specifying the following:
  - (a) the way in which information required under this Division must be provided to AEMO;
  - (b) the form in which the information must be provided;
  - (c) the frequency with which the information must be provided;
  - (d) the standard for the provision of information under this Division;
  - (e) who is required to provide the information;
  - (f) the circumstances in which further information or updated information is required.

**684 Gas powered generators**

Each gas powered generator must provide the following to AEMO:

- (a) the name and location of each generator;
- (b) a forecast of the following in TJ for each generator provided no later than the start of each gas day:
  - (i) the expected daily gas demand;
  - (ii) the expected daily gas demand for the next 6 consecutive days;
- (c) a forecast of the following in TJ for each generator provided on the first day of each calendar month:
  - (i) the expected total average gas demand for the calendar month;
  - (ii) the expected total average gas demand for the next 5 consecutive calendar months.

**685 Retailers who sell gas**

Each retailer that sells gas to retail customers must provide a forecast of the following in TJ to AEMO:

- (a) the expected daily gas demand of the retailer (provided no later than the start of the gas day); and
- (b) the expected daily gas demand of the retailer for the next 6 consecutive days;
- (c) the expected total average gas demand of the retailer for the calendar month (provided on the first day of the calendar month concerned);

- (d) the expected total average gas demand of the retailer for the next 5 consecutive calendar months.

**686 BB large user facilities**

- (1) The owner, operator or controller of a BB large user facility must provide a forecast of the following in TJ to AEMO:
  - (a) the expected daily gas demand of the facility (provided no later than the start of the gas day); and
  - (b) the expected daily gas demand of the facility for the next 6 consecutive days;
  - (c) the expected total average gas demand for the calendar month (provided on the first day of the calendar month concerned);
  - (d) the expected total average gas demand for the next 5 consecutive calendar months;
  - (e) details of maintenance work (provided on the first day of each calendar month) expected to be carried out in relation to the facility over a period of 24 months, including:
    - (i) the dates on which the maintenance is expected to start and finish; and
    - (ii) the anticipated impact of the maintenance on the expected daily gas demand of the facility.
- (2) Any demand for which gas is supplied by a retailer must not be included in the information provided to AEMO.

**687 BB reporting entities**

- (1) Each BB reporting entity must provide a forecast of the following to AEMO:
  - (a) the total monthly capacity of the facility for the calendar month (to be provided on the first day of the calendar month concerned);
  - (b) the total monthly capacity of the facility for the next 5 consecutive calendar months;
  - (c) in relation to the total capacity for a BB large user, the aggregate demand showing the proportion of demand expected to be purchased from a STTM or gas exchange;
  - (d) in relation to the total capacity for a BB production facility, the aggregate production, including the proportion that is uncontracted;
  - (e) in relation to the total capacity for a BB storage facility, the aggregate storage, including the proportion that is uncontracted;
  - (f) in relation to the total capacity of a BB transmission pipeline, the aggregate capacity, including the proportion that is uncontracted.
- (2) The BB reporting entity for a BB storage facility must provide the following to AEMO:
  - (a) the LNG tank heel, being the minimum level of an LNG tank required to ensure its safe operation;
  - (b) other information specified in the Procedures.
- (3) The BB reporting entity for a BB pipeline must provide a forecast of the following to AEMO no later than the start of each gas day:
  - (a) the total daily pressurised volume of gas stored in a linepack zone of the BB pipeline in PJ, and for the next 6 consecutive days;

- (b) the total daily pressurised volume of gas stored in a linepack zone of the BB pipeline in excess of the volume of gas required to deliver the pipeline schedule for the same day in PJ, and for the next 6 consecutive days;
- (c) a forecast of the expected injections into and withdrawals from the linepack zone and the maximum flow that the zone could achieve for the day ahead.

## **688 Natural gas industry facilities**

Each owner, operator or controller of a natural gas industry facility must provide to AEMO details of maintenance work expected to be carried out in relation to the facility over a period of 24 months, including the following:

- (a) the name and location of the facility;
- (b) the dates on which the maintenance is expected to start and finish;
- (c) the anticipated impact of the maintenance on the daily capacity of the facility;
- (d) whether, and over what period of time, the facility is capable of being recalled to service if AEMO were to direct that the facility be recalled to service, and the expected capacity of the facility during that period.

## **689 LNG facilities**

Each owner, operator or controller of a LNG facility must provide a forecast of the following in PJ to AEMO:

- (a) the aggregated monthly volume of natural gas that the facility will supply to domestic gas consumers for:
  - (i) the calendar month (to be provided on the first day of the calendar month); and
  - (ii) for the next 5 consecutive calendar months; and
- (b) the aggregated monthly volume of natural gas that the facility will, for the purpose of liquefaction or operating the facility, purchase from the domestic market for:
  - (i) the calendar month (to be provided on the first day of the calendar month); and
  - (ii) for the next 5 consecutive calendar months.

## **Division 3 Gas reliability and supply adequacy conferences**

### **690 AEMO may convene conferences in certain circumstances**

- (1) AEMO may convene a conference of relevant entities for one or more of the following purposes:
  - (a) to assess the likelihood of the manifestation of an actual or potential threat to the reliability or adequacy of the supply of natural gas within the east coast gas system;
  - (b) to signal the need for a market response to an actual or potential threat to the reliability or adequacy of the supply of natural gas within the east coast gas system.
- (2) If AEMO decides to convene a conference under subrule (1), AEMO must publish a notice to that effect (a *conference notice*) in accordance with the Procedures.

- (3) The notice must contain:
  - (a) the date and time of the conference;
  - (b) details of the purpose of the conference;
  - (c) the relevant entities or class of relevant entities required to attend the conference;
  - (d) other information required to be included by the Procedures.
- (4) AEMO may make Procedures in relation to the following:
  - (a) the information to be included in conference notices;
  - (b) the times at which conferences may be held;
  - (c) requirements for giving notice of conferences;
  - (d) requirements particular to conferences convened for specified purposes, for example, to address specific types of threats.
- (5) AEMO may prepare guidelines, not inconsistent with this Division, about conferences convened under this Division.

**691 Attendance and participation**

A relevant entity specified, or belonging to a class of relevant entities specified, in a conference notice published by AEMO must attend the conference in accordance with the notice.

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**Drafting note 3.4** *Listed in Reg as a Tier 1 penalty offence*

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**692 Register of participants**

- (1) AEMO may keep and maintain a register of relevant entities for the purposes of this Part.
- (2) The Register must include the contact details of relevant entities.
- (3) A relevant entity must, within 14 days of becoming aware of a change in the contact details recorded for the relevant entity in the Register, give written notice to AEMO of the change.

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**Drafting note 3.5** *Listed in Reg as Tier 1 penalty offence*

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- (4) AEMO may make Procedures specifying:
  - (a) classes of relevant entities who must, within the period specified in the Procedures, provide contact details to be included in the Register; and
  - (b) the information that must be recorded in the Register; and
  - (c) the manner and form in which the Register must be maintained.

**693 Disclosure and use of information obtained at conferences**

- (1) A person must not, without the explicit agreement of AEMO, disclose information obtained at a conference convened under this Division if the information is not otherwise publicly available.

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**Drafting note 3.6** *Listed in Reg as Tier 1 penalty offence*

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- (2) AEMO is authorised to:
- (a) make a record of the conference, including information obtained at the conference; and
  - (b) publicly disclose the information to the extent necessary to perform its east coast gas system reliability and supply adequacy functions.

## **Division 4 East coast gas system reliability and supply adequacy directions**

### **694 Matters AEMO may consider in determining whether to give a direction**

For the purposes of section 91AF of the *NGL* and without limiting the matters AEMO may consider, AEMO may consider the following matters in determining whether to give a direction:

- (a) the time within which AEMO considers an actual or potential threat is likely to manifest;
- (b) the magnitude of the actual or potential threat relative to the impact of giving or not giving a direction;
- (c) the time within which action is, or will be, required to prevent, reduce or mitigate an actual or potential threat;
- (d) the impact of the giving of a direction on consumers, market participants and other entities;
- (e) the impact of the giving of a direction on the operation of the east coast gas system, including its effect on the relevant markets;
- (f) alternative actions that may be taken by AEMO, including seeking a market response, that could result in the same or substantially similar outcomes to those achieved by giving the direction;
- (g) the reasonable ability of a relevant entity to whom a direction is given to comply with the direction within the time frame specified in the direction;
- (h) safety or technical requirements under jurisdictional legislation;
- (i) the operation or use of emergency powers within each affected jurisdiction;
- (j) whether the direction will, or is likely to, contribute to the achievement of the national gas objective.

## **Division 5 Directions Compensation Claims**

### **695 Definitions**

In this Division:

*Adviser* means a dispute resolution adviser appointed under rule 135G.

### **696 Entitlement to compensation**

- (1) A relevant entity may make a claim for compensation under this rule for financial detriment exceeding \$20,000 suffered by the relevant entity as a direct result of AEMO issuing a direction under section 91AF of the *NGL*.
- (2) A relevant entity may give AEMO written notice of a claim for compensation.
- (3) The notice must:
  - (a) be given to AEMO within 10 business days after the day on which the relevant entity suffers the detriment; and



- (b) specify a date, no later than 30 business days after the day on which the relevant entity suffers the detriment, from which AEMO has 5 business days to request the Adviser to establish a Dispute resolution panel under this rule.
- (4) A relevant entity may withdraw a claim at any time before the relevant date.

**697 Procedures for determining compensation claims**

- (1) Part 15C applies to a relevant entity who gives AEMO written notice of a claim for compensation in accordance with this rule.
- (2) The dispute resolution processes apply only to the extent specified in this Division.
- (3) On receiving a notice under rule 696, AEMO must:
  - (a) within 5 business days of the relevant date, request the Adviser to establish a Dispute resolution panel; and
  - (b) refer the claim to the Adviser for determination by the Dispute resolution panel.
- (4) The Adviser must, within 5 business days of receiving a request from AEMO, establish a Dispute resolution panel in accordance with rule 135HD.
- (5) On the referral of a claim to it, the Dispute resolution panel must:
  - (a) make a determination in accordance with rule 698 and the applicable requirements of the dispute resolution process; and
  - (b) notify AEMO of the determination as soon as practicable and no later than 20 business days after the establishment of the Dispute resolution panel.
- (6) The Adviser may, on the request of the Dispute resolution panel, extend the period specified in subrule (5)(b).
- (7) Despite rule 135JA, the costs of the Adviser and the Dispute resolution panel on a compensation claim must be borne by AEMO unless the Dispute resolution panel re-allocates the costs, or part of the costs, to a party on the ground that the party has unreasonably prolonged the proceedings or there is some other good reason to alter the allocation of the costs.
- (8) AEMO must make Procedures to describe the principles and methodology for determining the amounts required to be paid by relevant entities to fund or recover compensation amounts paid under rule 698.

**698 Determination and payment of compensation claims**

- (1) The Dispute resolution panel must, in accordance with the Procedures, make a determination on:
  - (a) whether it is appropriate in all the circumstances for compensation to be paid to a relevant entity for a claim made by the relevant entity; and
  - (b) the amounts of compensation to be paid by AEMO to a relevant entity for a claim made by the relevant entity; and
  - (c) the amounts to be paid to AEMO by a relevant entity to fund amounts of compensation determined under paragraph (b).
- (2) The sum of the amounts determined by the Dispute resolution panel under subrule (1)(c) must equal the sum of the amounts determined by the Dispute resolution panel under subrule (1)(b).

- (3) If the Dispute resolution panel makes a determination that an amount of compensation must be paid to a relevant entity, AEMO must:
  - (a) pay the amount; and
  - (b) advise, as soon as practicable, the relevant entity of:
    - (i) the determination; and
    - (ii) the date AEMO intends to make the payment.
- (4) AEMO is entitled to recover the amounts of compensation paid under this rule from relevant entities.

## **Division 6      Trading Fund**

### **699      Establishment of trading fund**

AEMO must establish and maintain a Rule fund, to be called a trading fund, for the purpose of trading in natural gas or purchasing pipeline services or services provided by a storage provider to the extent necessary or desirable to maintain or improve the reliability and adequacy of the supply of natural gas within the east coast gas system under section 91AD(f) of the *NGL*.

### **700      Funding the trading fund**

- (1) The funding requirement for the trading fund each financial year is \$35,000,000, as adjusted under rule 705, minus the amount AEMO reasonably considers will be the balance of the trading fund at the end of that financial year.
- (2) No later than the commencement of each financial year, AEMO must publish the funding requirement and the contribution rate for the trading fund for that financial year.
- (3) A contribution rate for a financial year must be specified by AEMO in the Procedures.
- (4) Each relevant entity identified by AEMO in the Procedures must pay to AEMO, as part of the settlement amount payable by that entity in relation to each billing period, the amount specified in the Procedures.
- (5) AEMO may pay the following into the trading fund:
  - (a) fees to recover AEMO's east coast gas system reliability and supply adequacy costs;
  - (b) funds paid to AEMO from other sources.
- (6) A relevant entity is not entitled to a refund of any contributions made to the trading fund.
- (7) The following accrues to and forms part of the trading fund:
  - (a) any interest on money held in the fund;
  - (b) any money earned from trading in natural gas for the purposes of section 91AD(f) of the *NGL*.
- (8) AEMO must pay from the trading fund:
  - (a) all income tax on interest earned by the trading fund; and
  - (b) any fees, taxes or charges payable in relation to the trading fund; and
  - (c) any costs associated with the exercise of performance of its east coast gas system reliability and supply adequacy function under section 91AD(f) of the *NGL*.

- (9) AEMO may make Procedures to specify the manner and timing of payments by relevant entities under subrule (4).

**705 Adjustment of amounts for CPI**

An amount to which this Rule applies must be adjusted by multiplying the amount by the number determined using the following formula:

$CPI_n / CPI_o$

where

$CPI_o$  is the Consumer Price Index number (All Groups, weighted average of eight capital cities) published by the Australian Bureau of Statistics for the quarter ended 30 June 2022; and

$CPI_n$  is the Consumer Price Index number (All Groups, weighted average of eight capital cities) last published by the Australian Bureau of Statistics in the quarter immediately preceding the quarter in which the amount is calculated.

**Division 7 Miscellaneous**

**706 AEMO must report to MCE on certain functions**

- (1) AEMO must, each calendar year, report to the MCE on the exercise and performance of its functions under section 91AD(e) and (f) of the *NGL*.
- (2) A report under this rule must be made:
- (a) in the manner and form determined or approved by the MCE; and
  - (b) at least annually.

**[11] Schedule 1**

Insert in Schedule 1, with appropriate Part and rule numbering:

**Transitional provisions consequent on east coast gas system reliability and supply adequacy amendments**

**Definitions**

In this Part:

*amending Act* means the *National Gas (South Australia) Amendment (East Coast Gas System) Act 2022*.

**Disclosure obligations**

A relevant entity is not required to provide information to AEMO under a provision amended or inserted by the amending Act, including a Rule made under the amending Act, until 1 calendar month after the commencement of the amending Act.

**Funding and recovery of costs of commencement of amending Act**

- (1) The commencement of the amending Act is taken to be a major gas project determined under subrule 135CB(1).
- (2) AEMO is entitled to fund and recover, through participant fees, the costs incurred, or expected to be incurred, by AEMO in the exercise or performance

of its east coast gas system reliability and supply adequacy functions in connection with the project.

- (3) The period for funding and recovery of the costs of the project must be determined by AEMO using the *expedited consultative procedure*.
- (4) The costs of the project may only be funded and recovered before the next general determination of all participant fees through additional participant fees determined by AEMO using the *expedited consultative procedure*.
- (5) In this clause:  
*participant fee* has the same meaning as in rule 135C.

### **Consultation on making of Procedures before commencement of rules**

- (1) For the purposes of Part 15B, publication and consultation, carried out before the commencement day in relation to the making of Procedures under a provision amended or inserted by the amending Act, are taken to satisfy the requirements for publication and consultation under rules 135EE and 135EF, but only to the extent to which the requirements would have been satisfied if the publication and consultation were carried out after the commencement day.
- (2) In this clause:  
*commencement day* means the day on which rules are first made under section 294H of the *NGL*.

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