AEMC

REVIEW

Australian Energy Market Commission

FINAL REPORT

REVIEW INTO EXTENDING THE REGULATORY FRAMEWORKS TO HYDROGEN AND RENEWABLE GASES

8 SEPTEMBER 2022

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the Energy Ministers' Meeting (formerly the Council of Australian Governments Energy Council). We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the Energy Ministers' Meeting.

SUMMARY

1 The Australian Energy Market Commission (AEMC) has recommended to Energy Ministers that changes be made to the national gas and retail regulatory frameworks to enable the natural gas sector to evolve to using hydrogen and renewable gas to support Australia's emissions reduction plans.

2 This final report for the *Review into extending the regulatory frameworks to hydrogen and renewable gases* sets out the AEMC's final recommendations and recommended draft rules to address the issues that could emerge in the National Gas Rules (NGR) and National Energy Retail Rules (NERR) if the National Gas Law (NGL) and National Energy Retail Law (NERL) are extended to covered gases and natural gas equivalents are supplied to consumers.

3 Draft initial rule changes for the NGR and NERR for consultation accompany this final report. Stakeholder views on the recommended rule drafting are sought by 13 October 2022.

Summary of final recommendations

4 The Commission's key final recommendations:

- Enable access to pipelines and support investment by extending the economic regulatory framework.
- Support competition through improvements to the ring fencing framework.
- Extend the market transparency mechanisms to enable informed and efficient decision making.
- Streamline operational arrangements for the STTM.
- Adapt the Victorian DWGM (to work in conjunction with the DWGM distribution connected facilities rule change).
- Allow new services and commodities in the retail gas markets.
- Enable consumers to be informed about a change in the type of gas supplied.
- Retain the draft regulatory sandbox rules in their current form as these draft rules, once extended to covered gases, will be fit for purpose for enabling trial projects involving those gases.

Benefits of the final recommendations

5 This review focused on the necessary changes to the NGR and NERR that will support and implement the changes to the relevant laws recommended by jurisdictional officials. In doing so, the AEMC sought to identify changes to the existing regulatory frameworks that are consistent with achieving the national gas and energy retail objectives.

6 The final recommendations have been made to enable:

- efficient delivery of new services through the operation of markets that enable new entrants to emerge and efficient investment
- continued innovation in developing new services for customers

- changes to the frameworks that are fit for purpose and proportionate to the issues they seek to address and achievable for market participants
- clarity on the roles and responsibilities for the quality, safety, reliability, and security of supply of gas, to maintain operational safety of infrastructure and customer equipment and appliances
- existing consumer protections to be maintained during the transition to the increasing use of hydrogen and renewable gases.

7 Importantly, the AEMC has also considered how its recommendations support emissions reduction and enable the decarbonisation of the energy market. It has sought to provide a framework for market participants to continue to innovate in a market that is open to competitive tension and fosters efficiencies that will result in new gas services that customers seek. Where competition may be limited, the existing arrangements of economic regulation and market transparency are recommended to extend to the provision of new gases to provide a clear and consistent framework for all gas sector participants.

8 While the hydrogen and renewable gases industry is presently small, the AEMC has sought to recommend amendments to the gas regulatory framework that prepare it for the future development of the gas sector as it moves towards including lower emissions fuels. It considers that providing clarity and certainty now on the broad form and direction of the regulatory framework needed by market participants, gas users and investors is important to enabling informed decisions that will shape the future market for the long term benefit of consumers.

Background

9 On 20 August 2021, Energy Ministers agreed that the national gas regulatory framework should be amended to bring biomethane, hydrogen blends and other renewable methane gas blends within its scope.

10 The AEMC was tasked with a review of the NGR and NERR to develop initial rules that will extend the regulatory frameworks to these gases and blends. It was also asked to provide jurisdictional officials with advice on any changes to the NGL and NERL required to enable these rules.

11 The AEMC's review is part of a suite of reviews conducted concurrently with the purpose of informing Energy Ministers of the changes to be made to the NGL, NGR, NERL and NERR to be extended to these gases and blends (referred to as 'covered gases'). The other reviews have been carried out by:

- Jurisdictional officials, who are responsible for identifying and developing the changes required to the NGL, NERL and regulations made under the NGL and NERL.
- AEMO, who is responsible for reviewing its procedures and other subordinate instruments for the facilitated and regulated retail gas markets and will also inform the AEMC of any changes it considers necessary to the NGR to enable these changes.

Interaction with DWGM distribution connected facilities rule change

12 Concurrently with these reviews, the AEMC has carried out a rule change process to assess a request to incorporate distribution connected facilities into the Victorian declared wholesale gas market (DWGM). The final determination responding to this request was published on 8 September 2022.

Next steps

13 This final report is accompanied by recommended draft initial rule changes for the NGR and NERR. Under the review's terms of reference, the AEMC is responsible for public consultation on this rule drafting.

14 Written submissions on the rule drafting should be lodged with the AEMC by COB Thursday 13 October 2022.

15 Final initial draft rules will be provided to Energy Ministers by 24 November 2022.

CONTENTS

APPENDICES

TABLES

FIGURES

1 INTRODUCTION

In August 2021, Energy Ministers tasked the Australian Energy Market Commission (AEMC or Commission) with a review of the National Gas Rules (NGR) and National Energy Retail Rules (NERR) to develop initial rules that will extend the regulatory frameworks to hydrogen-natural gas blends and renewable gases. In addition, the AEMC is to also provide Energy Ministers with advice on any changes to the National Gas Law (NGL) and National Energy Retail Law (NERL) required to enable these rules.

This chapter introduces the review and outlines:

- the context of the review
- the purpose and focus of the review
- the review processes
- the structure of this final report.

For ease of reference this final report uses the following terms:

- "covered gas" to refer collectively to a primary gas or a blend of primary gases that is subject to the NGL
- "primary gas" to refer to a gas identified as a primary gas under the NGL, initially only natural gas, biomethane, synthetic methane and hydrogen
- "other covered gas" to refer to a covered gas (primary gas or gas blend) other than natural gas
- "natural gas equivalent" (NGE)" to refer to a covered gas (other than natural gas) that is suitable for consumption in existing natural gas appliances
- "constituent gas" to refer to a primary gas that is used to create a gas blend
- "pipeline" to refer to both transmission and distribution pipelines, unless otherwise stated. This is consistent with the way in which pipeline is defined in the NGL and how the NGR currently operate.

1.1 Context for this review

The AEMC's review is part of a suite of reviews conducted concurrently with the purpose of advising Energy Ministers of the changes that need to be made to the NGL, NGR, NERL and NERR to extend their application to the supply of hydrogen and renewable gases and blends. The other reviews have been carried out by:[1]

- jurisdictional officials (officials), who have been responsible for identifying and developing the changes required to the NGL, NERL and regulations made under the NGL and NERL
- AEMO, who has reviewed its procedures and other subordinate instruments for the facilitated and regulated retail gas markets and informed the AEMC of any changes it considers necessary to the NGR to enable these changes.

1 Energy Ministers, *Extending the national gas regulatory framework to hydrogen blends and renewable gases*, information sheet, 23 September 2021 at https://energyministers.gov.au/publications/extending-national-gas-regulatory-framework-hydrogen-blends-and-renewable-gases

Concurrently with these reviews, the AEMC has carried out a rule change process to assess a request to incorporate distribution connected facilities into the Victorian declared wholesale gas market (DWGM).[2]

The rule change request was submitted to the AEMC on 8 September 2021 by the Victorian Minister for Energy, Environment and Climate Change. It sought to amend Part 19 of the NGR to enable the participation of distribution connected production and storage facilities in the DWGM. As the intention of the request was not to limit distribution connected facilities to natural gas facilities, the request had implications for enabling natural gas equivalents and other covered gases to be injected into gas distribution systems in Victoria. Accordingly, the rule change process complements the work of the broader national reviews.

1.2 Purpose and focus of this review

The purpose of the AEMC's review has been to:

1. Identify potential issues in the NGR and NERR that could emerge if the scope of the national gas regulatory framework is extended to hydrogen and other renewable gases.
2. Develop draft initial rules to address these issues through a consultative process.
3. Inform jurisdictional officials of any NGL or NERL changes that it considers should be made to achieve the objective of the Energy Ministers.

In undertaking this review the Commission has applied the assessment framework set out in appendix B.

In the terms of reference for this review, the AEMC was tasked with considering the NGR and NERR changes that would be required if the national framework was extended to NGEs and their constituent gases, with the intention that any other gas products could be considered in the future.

However, consistent with the officials' recommendation that the NGL be extended to covered gases and the NERL be extended to NGEs and prescribed covered gases from the commencement of the reforms, the Commission has considered what, if any parts of the NGR and NERR should also be extended in this manner.

The terms of reference also asked the AEMC to prioritise any identified gaps in the NGR and NERR. The draft report identified parts of the NGR and NERR that were considered, for various reasons, to be out of scope of this review. Further information on the parts of the rules in and out of scope is in appendix B of the draft report.

1.3 Stakeholder engagement to date

On 21 October 2021, the AEMC published a consultation paper to commence this review and received 23 submissions from stakeholders. These submissions are available from the AEMC website.

2 See AEMC website: https://www.aemc.gov.au/rule-changes/dwgm-distribution-connected-facilities

The AEMC also met more than 20 stakeholders including gas pipeline service providers, users and relevant jurisdictional policy bodies. It has also held regular meetings with the Australian Energy Regulator (AER), Economic Regulation Authority of Western Australia (ERA) and the Australian Energy Market Operator (AEMO).

Following this initial consultation phase, the AEMC held three public workshops on 13, 14 and 15 December 2021 to discuss possible solutions to key issues raised in the consultation paper. Further consultation with a number of stakeholders was also held in the period since these workshops.

As required by the terms of reference, the AEMC provided draft law recommendations to Senior Officials on 24 February 2022 for their consideration. A summary of these is in appendix D of the draft report. The officials' review consulted on changes to the NGL and NERL.

The draft report for this review was published on 31 March 2022 and received 24 submissions from stakeholders. These submissions are available from the AEMC website. A stakeholder information session was held on 1 April 2022 to outline the draft report to stakeholders.

On 15 June 2022 following consideration of stakeholder submissions to the draft report, the AEMC advised Senior Officials that it had no further amendments to the NGL or NERL. See appendix C of this final report for more information.

The AEMC held a stakeholder workshop on 28 June 2022 to consult on its proposed recommendations on changes to the ring fencing framework. This workshop followed initial consultation on the AER's advice on changes to the ring fencing framework through the AEMC's draft report. Further consultation on this topic was also held with some effected stakeholders following this workshop.

The AEMC has worked closely with AEMO, AER and ERA throughout the review as well as holding numerous meetings with industry stakeholders to discuss policy issues, industry developments and details of rule drafting. The AEMC extends its appreciation to all stakeholders who have engaged in this review process to support achieving the objective of enabling hydrogen and renewable gases to become part of the regulatory frameworks.

1.4 This report

This final report sets out the Commission's assessment of the issues that could emerge in the NGR and NERR if the NGL and NERL are extended to covered gases and natural gas equivalents are supplied to consumers. It includes the Commission's final policy recommendations and recommended draft rule changes on these issues for further stakeholder comment.

Chapter 2 of this final report provides an overview of the Commission's assessment and its final recommendations. This is followed by a chapter on each area of interest included in this review:

- Chapter 3 — economic regulation of pipelines

- Chapter 4 — ring fencing
- Chapter 5 — market transparency mechanisms
- Chapter 6 — short term trading market (STTM)
- Chapter 7 — declared wholesale gas market (DWGM)
- Chapter 8 — regulated retail markets (RRM)
- Chapter 9 — consumer protections
- Chapter 10 — regulatory sandbox framework
- Chapter 11 — transitional arrangements.

Each of these chapters includes final recommendations, recommended draft rules and, where relevant, draft transitional arrangements. Chapter 11 sets out transitional arrangements that apply more broadly to the final recommendations.

These are followed by an appendix on the other issues raised by stakeholders not included in the chapters (appendix A). Appendix B outlines the assessment framework the Commission has applied in determining whether the final recommendations contribute to the NGO and the NERO.

Appendix C provides a summary of the final advice the AEMC provided Senior Officials on required changes to the NGL and NERL that have been identified through its review into the NGR and NERR. Consequential rule changes the AEMC has identified are discussed in appendix D, civil and conduct provisions are discussed in appendix E and appendix F provides a complete list of the recommended draft rule changes made in this final report.

This final report is accompanied by recommended draft initial rule changes for the NGR and NERR.

1.4.1 Recommended amendments to future reform packages

The AEMC notes that there are currently two reform packages from Energy Ministers that include pending rules to be made by the South Australian Minister. These reform packages relate to the economic regulation of pipelines and the regulatory sandbox framework. Given these reforms have been agreed to by ministers, the recommended draft rules have been prepared using:

- the Statutes Amendment (National Energy Laws)(Regulatory Sandboxing) Bill 2021 (which was introduced into the South Australian Parliament in August 2021)
- the draft National Energy laws Amendment (Gas Pipelines) Bill 2021 (which was released for consultation in September 2021 but is yet to be introduced into the South Australian Parliament).

These reform packages have yet to pass the South Australian Parliament and the rules will only be made after that occurs.

References to the NGR in this final report assume the planned rule changes from these reform packages will be made. Where these expected rule changes are referred to in this final report, the AEMC is referring to the most recent version that is publicly available.

1.4.2 Application to certain jurisdictions

The recommended draft rules for the NGR do not apply uniformly across all jurisdictions. Specifically, for Western Australia, only changes to economic regulation and ring fencing frameworks are relevant. While Western Australia also has a bulletin board and a gas statement of opportunities, these are established under the *Gas Services Information Act 2012 (WA)*. Amendments to that Act to reflect any changes made to the NGL and NGR will be at the discretion of the Western Australian Government.[3]

The NERR applies to the Australian Capital Territory, New South Wales, South Australia and Queensland and Parts 12A and 21 of the NGR also apply in those jurisdictions. Local legislation applies in Victoria, Western Australia and Tasmania and amendments to these instruments are for those governments.

1.5 Review process

1.5.1 AEMC review process

The remaining key deliverables and dates for the AEMC's review are outlined in the table below.

Table 1.1: **AEMC's review – remaining key milestones**

MILESTONE	DATE
Publication of final report (with finalised policy positions) and recommended draft initial rules for consultation	8 September 2022
Submissions to the recommended draft initial rules close	13 October 2022
Provide final initial draft rules to Energy Ministers for approval	24 November 2022

1.5.2 Next steps

Consultation on draft rules

This final report is also accompanied by draft initial rule changes for the NGR and NERR. Under the review's terms of reference, the AEMC is responsible for public consultation on this rule drafting. Written submissions regarding the rule drafting are requested by COB Thursday 13 October.

Following consideration of stakeholder feedback, the AEMC will prepare a final version of the initial rules to Energy Ministers for their approval by 24 November 2022. It is anticipated that the rules will be made by the South Australian Minister for Energy and Mining, once the necessary changes have been made to the NGL and NERL.

3 Under the *National Gas Access (WA) Act 2009*, a modified version of the NGL, known as the National Gas Access (Western Australia) Law (WA Gas Law) was adopted. Under the WA Gas Law, the NGR applying in Western Australia are version 1 of the uniform NGR as amended by the SA Minister under an adoption of amendments order made by the Western Australia Minister for Energy and by the AEMC in accordance with its rule making power under s. 74 of the WA Gas Law.

Lodging a submission

Written submissions on the draft initial rules must be lodged with the Commission by COB Thursday 13 October 2022 online via the Commission's website, www.aemc.gov.au, using the "lodge a submission" function and selecting the project reference code EMO0042.

The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

Where practicable, submissions should be prepared in accordance with the Commission's guideline for making written submissions which is available from the AEMC website. The Commission publishes all submissions on its website, subject to a claim of confidentiality.

All enquiries on this project should be addressed to James Tyrrell on (02) 8296 7842 or james.tyrrell@aemc.gov.au.

2 OVERVIEW OF RECOMMENDATIONS

This chapter sets out an overview of the recommendations that are detailed in the following chapters of this final report. The Commission's recommendations are included in the relevant chapters and the draft rules recommendations are also listed in appendix F.

2.1 Introduction

On 20 August 2021, Energy Ministers agreed that the national gas regulatory framework should be amended to bring biomethane, hydrogen blends and renewable gases into its scope. This represents a significant change to the Australian gas sector to decarbonise and meet customer expectations for a more sustainable energy source in the future. It also has the potential to increase the linkages between gas and electricity further than they already are today.

This review is one action required to achieve the vision of the Energy Ministers. It focuses on the necessary changes to the NGR and NERR that will support and implement the changes being made to the relevant laws by jurisdictional officials. In doing so, the Commission has sought to identify changes to the existing regulatory frameworks that are consistent with achieving the NGO and NERO as described by the assessment framework set out in appendix B.

That is, the recommendations have been made with consideration to enable:

- efficient delivery of new services through the operation of markets that enable new entrants to emerge and efficient investment
- continued innovation in developing new services for customers
- the implementation of recommendations that aim to be fit for purpose and proportionate to the issues they seek to address and achievable for market participants
- clarity on the roles and responsibilities for the quality, safety, reliability and security of supply of gas to maintain operational safety of infrastructure and customer equipment and appliances
- existing consumer protections to be maintained during the transition to the increasing use of hydrogen and renewable gases.

Importantly, the Commission has also considered how its recommendations support emissions reduction and enable the decarbonisation of the energy market. It has also sought to provide a framework for market participants to continue to innovate in a market that is open to competitive tension and fosters efficiencies that will result in new gas services that customers seek. Where competition may be limited, the existing arrangements of economic regulation and market transparency are recommended to extend to the provision of new gases to provide a clear and consistent framework for all gas sector participants.

The Commission acknowledges that the hydrogen and renewable gas industry is presently small and consequently some stakeholders consider this should result in minimal obligations and responsibilities for the relevant parties. As a result, it has considered the current state of the industry in how the recommendations could be implemented through the recommended

draft rules; for example, by using thresholds, setting minimal requirements, or enabling aggregation of small facilities.

However, it is equally important that the gas regulatory framework is prepared for the extension of the industry to include lower emissions fuels. To enable this change to occur, the Commission considers that, given its role in the market, it is responsible for providing the clarity and certainty on the broad form and direction of the regulatory framework needed by policy makers, market participants, gas users and investors. The Commission considers this forward-looking approach will aid informed and efficient operational and investment decisions in the sector which will ultimately be in the long term interests of consumers.

Over the last 10 months the Commission has worked closely with stakeholders, jurisdictional officials, AEMO, AER and ERA to form a set of recommendations and recommended draft rules that it considers is consistent with the planned future decarbonisation of the gas sector. These recommendations and recommended draft rules are described below and detailed in the following chapters of this final report.

In addition, the recommended draft rules that the Commission considers are consistent with the recommended policies are provided in the accompanying *Draft rules recommended in AEMC final report for review into extending the regulatory frameworks to hydrogen and renewable gases*.

2.2 Recommended reforms

This section describes the recommended changes to the NGR and NERR that the Commission considers should be made in order to extend the regulatory frameworks to low-level hydrogen-natural gas blends and renewable gases.

The draft rule recommendations made by the Commission are reproduced in appendix F. Discussion on each is included in the chapters of this final report.

The Commission's key final recommendations:

- Enable access to pipelines and support investment by extending the economic regulatory framework.

  Make amendments to the framework for the economic regulation of pipelines to facilitate more efficient connection and investment decisions by other covered gas suppliers. Amendments to increase market transparency, and provide, where necessary, more clarity on the regulatory treatment of pipelines transitioning to transporting another covered gas is also recommended. Importantly for a transitioning market, the final recommendations also seek to provide regulatory certainty and clarity on the treatment of government grants and concessional finance used to support new investments. Together, these changes are expected to promote the NGO by supporting more efficient investment in, and efficient operation and use of, covered gas services provided by pipelines. The recommendations are also intended to support the safe and reliable supply of gas. Both of these objectives are in the long term interests of consumers.

- Support competition through improvements to the ring fencing framework.

Include amendments to the ring fencing framework to clarify its intent and enable greater transparency of decisions. Amendments to the ring fencing exemption framework are also recommended to improve its consistency with other exemption frameworks in the NGR. Associate contract arrangements should also be strengthened by introducing an advance notice requirement for certain contracts, reversing the onus under the associate contract approval process and other changes that are intended to support increased transparency and enable the regulator to make more informed decisions. For trial projects that commenced under the existing ring fencing arrangements, the final recommendations include a transitional rule that allows three service providers to continue to undertake their trials (subject to conditions that are intended to minimise their effect on competition). These recommendations are expected to promote the NGO by supporting the development of competition in potentially contestable parts of the covered gas industry, which is in the long term interests of consumers. It is important that these recommendations are implemented in a timely manner to provide the stability, certainty and transparency of regulatory arrangements required to enable consumers, market participants and investors to make efficient decisions.

- Extend the market transparency mechanisms to enable informed and efficient decision making.

  Recommended amendments include extending the five transparency mechanisms to other covered gases and blend processing facilities, requiring pipeline blending and curtailment information to be published on the Bulletin Board and allowing AEMO to use information collected for the Gas Statement of Opportunities for the Victorian Gas Planning Report and vice versa. These amendments are intended to mitigate the risk that as the market for other covered gases develops, information gaps could emerge that have adverse effects on the broader east coast gas market, economic efficiency and consumers more generally. The extension of the non-pipeline infrastructure access reporting requirements to blend processing facilities is also intended to facilitate third party access to these facilities and enable efficient use of those facilities. Overall, these market transparency recommendations are expected to promote the NGO by supporting the efficient operation of markets for covered gases and associated services. In addition, well-informed planning and decision making will be enabled, promoting efficient investment in, and the efficient operation and use of covered gas services for the long term interests of consumers.

- Streamline operational arrangements for the STTM.

  Build on and extend the existing STTM arrangements in order to accommodate the injection of other covered gases by: creating a single new facility category for injections from distribution connected injection facilities; allowing for net bidding and settlement for injection facilities (such as hydrogen blending facilities) that withdraw and inject gas at the same time; reducing reporting obligations for small injection facilities; allowing for facility aggregation; streamlining the process for establishing new custody transfer points; and allowing for alternative gas quality specifications. Not only should these changes reduce the regulatory burden for new participants, but they should also simplify some existing arrangements. As a result, these recommended changes are expected to enable

easier access to the STTM for new participants and participants using other covered gases, supporting the efficient use of existing infrastructure which is consistent with the NGO as it is in the long term interest of consumers.

- Adapt the Victorian DWGM.

  The creation of a new registration category for transmission connected blending facilities and other supporting changes to facilitate their participation in the DWGM, including allowing for settlement for these facilities to be undertaken on a net basis where appropriate, is recommended to enable other covered gases to be used in the DWGM. These changes support the efficient use of pipelines and the decarbonisation of the Victorian gas market. The review has also considered arrangements for distribution systems not directly connected to the declared transmission system and the management of unaccounted for gas in the DWGM. On these, the final recommendation is to maintain the existing arrangements and enable the regulatory framework that applies in other locations to continue to apply, providing clarity and consistency of requirements for market participants operating in multiple locations. These recommendations to adapt the DWGM work in conjunction with the rules made through the DWGM distribution connected facilities rule change.[4]

- Allow new services and commodities in the retail gas markets.

  An expansion of the categories of retail market participants is recommended to clearly include as users those facilities, such as blending facilities, that will withdraw covered gases but which may not be covered by existing end user categories. This change is likely to encourage the efficient delivery of new services or commodities to end users, consistent with achieving the NGO. As a result, consumers should be able to use other covered gases in the future and support emissions' reduction action occurring across the economy. The Commission also recommends that the rules governing the matters about which retail market procedures may be made be expanded to provide for arrangements to support net withdrawals at facilities that will be settled on a net basis. Enabling net withdrawals to occur will support the introduction of blending facilities across the gas retail markets.

- Enable consumers to be informed about a change in the type of gas supplied.

  To inform gas consumers of the gas they receive, the recommendations include requiring retailers to notify customers of a change of gas type prior to the transition and also in historical billing information. In addition, retail contracts should specify the type of gas that may be supplied to customers. These recommended changes to the NERR are intended to facilitate more efficient energy services by enhancing transparency and strengthening the confidence of consumers in the gas market by providing customers with relevant information about their consumption of energy and enabling them to understand the timing and impact of a transition to a different gas type. This will allow consumers to make informed decisions about their use of gas.

4 AEMC, *DWGM distribution connected facilities*, final determination, 8 September 2022.

- Retain the draft regulatory sandbox rules in their current form as these draft rules, once extended to covered gases, will be fit for purpose for enabling trial projects involving those gases. This approach provides a consistent framework to test innovative ideas across all covered gases and the east coast gas market.

3 ECONOMIC REGULATION OF PIPELINES

BOX 1: SUMMARY OF CHAPTER

This chapter focuses on the changes to be made to the pipeline economic regulatory framework to accommodate the extension of the NGL and NGR to other covered gases.

Stakeholder feedback and the Commission's analysis indicates that while most elements of the regulatory framework can apply to pipelines transporting other covered gases without amendment, improvements could be made to the NGR to:

- facilitate more efficient connection and investment decisions by covered gas suppliers, while also helping to ensure consumers receive a safe and reliable supply of gas through changes to the interconnection rules and new transparency measures
- promote more efficient access to and use of covered gas pipelines through new transparency measures
- remove the ambiguity on:
  - how regulatory obligations and requirements (including a government requirement to transition a pipeline to another gas) are to be treated on non-scheme pipelines
  - how government grants and concessional finance are to be taken into account on scheme pipelines.

These improvements are reflected in the Commission's final recommendations, which are to:

- amend the pipeline interconnection rules to specify that connection to a pipeline is subject to the safe and reliable supply of gas to end users, and clarify cost recovery arrangements where a service provider develops an interconnection
- require service providers to publish:
  - information on covered gas supplier connections to support informed decisions by prospective connecting parties
  - the pipeline's supplier related curtailment methodology and, for scheme pipelines, have this approved by the regulator
  - information on the gas transported, any blending limits that apply and any plans to trial or change to another covered gas
- clarify that regulatory obligations and requirements can be taken into account in the non-scheme pipeline arbitration pricing principles
- allow the regulator to treat government grants and concessional finance as a capital contribution for scheme pipelines.

These final recommendations are expected to promote the NGO by supporting more efficient investment in, and efficient operation and use of, covered gas services and providing for the safe and reliable supply of gas, both of which are in the long term interests of consumers.

The NGL and NGR currently set out the economic regulatory framework that applies to transmission and distribution pipelines involved in the transportation of natural gas across Australia. The objectives of this framework are to facilitate third party access to pipelines and constrain the exercise of market power by service providers.

In 2021, Energy Ministers agreed to implement a range of reforms to the economic regulatory framework and on 31 March 2022 they decided to implement the final package of amendments to the NGL and NGR required to give effect to these reforms.[5] In keeping with the ministers' decision, this final report proceeds on the basis that the amendments will be made.[6] It is also consistent with the recommendation made by officials that the pipeline economic regulatory framework will extend to pipelines transporting any covered gas.

Based on the Commission's review and stakeholder feedback, most elements of the regulatory framework could be applied to pipelines transporting other covered gases without amendment. The draft report did, however, identify some key issues that may need to be addressed through amendments to the NGR.

This chapter sets out stakeholder feedback and final recommendations on these key issues, which relate to:

- access to pipelines by suppliers of covered gases
- information on the type of gas a pipeline is, or is proposing to, transport
- the regulatory treatment of mandated and voluntary transitions to another covered gas for scheme and non-scheme pipelines
- the regulatory treatment of government grants and concessional finance for scheme pipelines.

In addition to the recommended draft rule changes identified in this chapter, consequential changes to the NGR are set out in appendix D.

For further detail on the recommended changes to the rules, see the accompanying draft rule.

3.1 Applying the assessment framework

The Commission's final recommendations are intended to:

- facilitate more informed and efficient connection and investment decisions by covered gas suppliers by:
  - amending the pipeline interconnection rules to require connections to be consistent with the safe and reliable supply of gas to consumers and allow service providers to

5 Energy Ministers, *Options to improve gas pipeline regulation, regulation impact statement for decision*, 3 May 2021 at https://energyministers.gov.au/publications/energy-ministers-release-gas-pipeline-decision-regulation-impact-statement and https://www.energy.gov.au/government-priorities/energy-ministers/energy-ministers-publications/energy-ministers-agree-final-package-gas-pipeline-regulatory-amendments.

6 Further detail on the amendments can be found in the Information Paper published by Energy Ministers. https://www.energy.gov.au/sites/default/files/2022-04/Information%20Paper%20Improving%20gas%20pipeline%20regulation.pdf.

recover the costs of metering and monitoring of the quality of gas injected from connecting parties
    - requiring service providers to publish information on the production, storage and blend processing facilities connected to the pipeline on their websites to help inform covered gas suppliers' decisions on whether to connect to a pipeline
    - requiring service providers to publish their supplier related curtailment methodology and, in the case of scheme pipelines, have this approved by the regulator as part of the pipeline's access arrangement.
- facilitate efficient access to and use of covered gas pipelines by existing and prospective users by requiring service providers to publish information on:
    - the covered gas they are transporting
    - any blending limits that apply to the pipeline
    - any plans to trial or transition to another covered gas.

  This information is to be published on service providers' websites and, in the case of scheme pipelines, will form part of the pipeline's access arrangement. The information would also be available in a central location on the AEMC's pipeline register.
- remove the ambiguity that currently surrounds how government mandated transitions to another covered gas would be treated on non-scheme pipelines, by amending the arbitration pricing principles in Part 12 of the NGR to require arbitrators in non-scheme pipeline access disputes to consider any regulatory obligations or requirements a pipeline is subject to
- allow the regulator, when determining reference tariffs for scheme pipelines, to treat:
    - government grants as a capital contribution
    - concessional finance as a capital contribution where the regulator is satisfied that this was the intention of the government funding body.

Consistent with the efficiency limb of the assessment framework, the implementation of these final recommendations is expected to promote allocative, productive and dynamic efficiency by supporting efficient investment in, and efficient operation and use of covered gas pipelines and the facilities connected to these pipelines.

The implementation of these final recommendations will also mean that consumers can continue to receive a product that is safe and reliable, consistent with the quality, safety, reliability and security of supply limb of the assessment framework.

More generally, the final recommendations are targeted, fit for purpose and proportionate to the issues they are intended to address and are expected to provide the stability and transparency of arrangements required to enable market participants to make informed and efficient decisions.

Taken together, these final recommendations are expected to contribute to the achievement of the NGO by promoting efficient investment in and the efficient operation and use of covered gas services for the long term interests of consumers.

3.2 Access to pipelines by suppliers of covered gases

3.2.1 Current framework and draft recommendations

Under the pipeline regulation reforms that have been agreed to by Energy Ministers, pipeline interconnection rules will be included in the NGR. These new rules will apply to the service providers of both scheme and non-scheme pipelines and connecting facilities.

Among other things, these new rules enable a person to connect a facility to a pipeline where it is technically feasible and consistent with the safe and reliable operation of the pipeline, and where the person is prepared to fund the cost associated with the connection.

The pipeline interconnection rules also set out:

- the processes to be followed by the interconnecting parties
- how any interconnection fee levied by a service provider is to be calculated, which is to be based on the directly attributable cost of constructing, operating and maintaining the interconnection, including a rate of return calculated in accordance with the NGR
- an obligation that service providers develop and maintain an interconnection policy and the information that must be included in the policy.

While these new rules could accommodate the connection of suppliers of other covered gases, the draft report recommended taking additional steps to facilitate the efficient connection of covered gas suppliers by:

- amending the pipeline interconnection rules to:
  - require connections to be consistent with the safe and reliable supply of gas to end-users
  - allow service providers that construct the interconnection to recover the costs of metering and monitoring the quality of gas injected from connecting parties
- requiring service providers to publish information on covered gas supplier connections on their website
- requiring service providers to publish their supplier related curtailment methodology and, in the case of scheme pipelines, have this approved by the relevant regulator.

These three issues are considered in turn below.

3.2.2 Interconnection rules

Stakeholder responses

Stakeholders were generally supportive of the draft recommendations on the interconnection rules.

However, PIAC suggested the interconnection rules should include a requirement that the 'quality' of supply to end-users not be impacted by an interconnection.[7]

7 PIAC, submission to draft report, p. 1.

Jemena questioned whether it was necessary to amend the cost recovery rules because in its view the existing rules already allow service providers to recover metering and monitoring related costs.[8]

Commission analysis

The Commission has considered the issues raised by PIAC and Jemena in relation to the draft recommendations on the interconnection rules.

As noted in the draft report, including a requirement that connections be consistent with the safe and reliable supply of gas to end users was intended to address the concerns that had been raised about the inability of some end-users to be supplied with anything other than natural gas.

While it is possible that an interconnection could also affect the quality of supply, this should not be a basis for rejecting a connection. This is because, in contrast to the situation described above, the pipeline service provider is likely to be able to take similar steps to those they already take to accommodate natural gas connections to, address any reduction in service quality that may arise due to the connection. Another hurdle to achieve a connection to a pipeline does not appear necessary or desirable. Rather, the Commission considers it sufficient to require interconnections to be consistent with the safe and reliable operation of the pipeline (as already provided for) and the safe and reliable supply of gas to end users.

To give effect to this recommendation, the interconnection rules will need to be amended. The following consequential changes will also need to be made to the access negotiation and access dispute provisions in Parts 11 and 12 of the NGR:

- the definition of 'further investigations' in Part 11 of the NGR would need to be amended to allow further investigations relating to interconnections to consider the impact on the safe and reliable supply of gas to end-users
- the requirement for a service provider to make an offer in Part 11 of the NGR would need to be amended to recognise the ability of the service provider not to make an offer in response to a request to interconnect where it has concluded the connection would be inconsistent with the safe and reliable supply of gas to end-users
- the dispute resolution provisions in Part 12 of the NGR would need to be amended to allow the dispute resolution body not to make an access determination that would require an interconnection that is inconsistent with the safe and reliable supply of gas to end-users.

In relation to the cost recovery rules, while it is clear these rules provide for the recovery of the costs of constructing, operating and maintaining the interconnection, it is unclear whether this also extends to metering and monitoring related costs. As discussed in the draft report, the Commission recommends this source of ambiguity be addressed by amending the cost recovery rules to make it clear that service providers can recover the directly attributable costs associated with metering and monitoring the quality of gas injected if they are responsible for developing the interconnection.

8 Jemena, submission to draft report, p. 4.

Final policy recommendation

The Commission's final recommendations are to:

- amend the pipeline interconnection rules so that a person's right to connect to a pipeline is subject to the connection being consistent with the safe and reliable supply of gas to end users and make consequential changes to Parts 11 and 12 of the NGR
- amend the pipeline interconnection cost recovery rules to clarify that if a service provider develops the interconnection it can recover the costs of metering and monitoring the quality of gas injected from connecting parties.

These amendments are expected to contribute to the achievement of the NGO by:

- enabling end-users to continue to receive a safe and reliable supply of gas when connections to pipelines occur
- promoting efficient connections by covered gas suppliers and efficient investment in both the pipeline and covered gas supply facilities by requiring the interconnecting party to pay all the costs that are directly attributable to the connection.

The Commission has considered whether any transitional arrangements may be required in relation to this final recommendation but has concluded no such arrangements are required in this instance.

Recommended draft rules

To give effect to the final policy recommendations outlined above, the NGR should be changed as outlined in the box below.

RECOMMENDATION 1: DRAFT RULE — CLARIFY THE RIGHT TO CONNECT TO A PIPELINE AND CONNECTION COST RECOVERY FOR SERVICE PROVIDERS

Amend the interconnection rules in the new Part 6 of the NGR that will be implemented through the pipeline reforms to:

- state that a person will only have a right to connect a facility to a pipeline where the connection is consistent with the safe and reliable supply of gas to end users (recommended draft rule 37(a))
- enable a service provider (where it has developed an interconnection or part of an interconnection), to recover as part of its interconnection fee the directly attributable cost of metering and monitoring the quality of the gas injected by the connecting facility (recommended draft rule 38(3)(b)).

Amend the access negotiation framework rules in Part 11 of the NGR to:

- clarify that further investigations relating to interconnections can relate to the safe and reliable supply of gas to end users (recommended draft rule 105A(1))

- recognise that a service provider does not have to make an access offer in relation to an interconnection that would be inconsistent with the safe and reliable supply of gas to end users (recommended draft rule 105D(4)(b)).

Amend the access dispute provisions in Part 12 of the NGR to recognise the ability of the dispute resolution body not to make an access determination that would require an interconnection that is inconsistent with the safe and reliable supply of gas to end users (recommended draft rule 113V(5)).

3.2.3 Information to facilitate connections

Stakeholder responses

Stakeholders were generally supportive of the draft recommendation to require service providers to publish information on covered gas supplier connections.[9]

Jemena, for example, noted that this was a "proportionate and targeted approach that meets user needs and increases transparency of facility connections injecting covered gases into pipelines". Jemena did, however, suggest this may need to be revisited in the future if household installed solar panels are used to produce hydrogen.[10]

The ENA submitted that it is "broadly supportive of the draft recommendations" but is of the view that the requirement should be limited to covered gases other than natural gas.[11]

Commission analysis

As some stakeholders noted, the publication of information on covered gas suppliers is expected to be a relatively low cost transparency measure that prospective suppliers could have recourse to when they are considering whether to connect to a particular pipeline. The information is intended to allow prospective suppliers to determine whether there are any other covered gas supplier facilities connected to the pipeline and, if so, where they are located and if there are any locational constraints on connections that may impact their plans.

While the ENA has suggested that this requirement only apply to other covered gases, there is no clear basis to limit the reporting obligation in this way. Therefore, the Commission does not propose to amend this aspect of its draft recommendations. The Commission does, however, recommend making one amendment to the draft recommendations. That is, to also require service providers to report on the gas specification applying at the receipt point to which the facility is connected. This is intended to provide pipeline users with more transparency of any decisions by service providers to allow a different gas specification at receipt points, which is being enabled in the STTM and DWGM rules.

9 Submissions to the draft report: Alinta, p. 3; NELA (WA), p. 3; Origin, p. 3; Jemena, p. 4; AGIG, p. 2; APA, p. 5.
10 Jemena, submission to the draft report, p. 4.
11 ENA, submission to the draft report, p. 3.

Final policy recommendation

The Commission's final recommendation is to require pipeline service providers to publish on their website the following information on each covered gas supply facility connected to their pipeline:

- the type of facility
- the type of gas or gas blend that the facility is injecting into the pipeline
- the location of the facility
- the gas specification that applies at the receipt point at which the facility is connected.

The publication of this relatively low cost information is expected to promote the NGO by facilitating more informed and efficient connection and investment decisions. It should achieve this by providing prospective suppliers with information that they can use to readily determine whether to approach a service provider about a potential connection and negotiate access.

The Commission has considered whether any transitional rules may be required in relation to this final recommendation. Consistent with the approach that has recently been taken in the pipeline reforms, the Commission recommends allowing service providers two months from the time the rule is made to include this information on their website.

Recommended draft rule changes

To give effect to the final policy recommendation and transitional arrangements outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 2: DRAFT RULE — REQUIRE PUBLICATION OF INFORMATION ON COVERED GAS SUPPLIER CONNECTIONS

Amend the pipeline information provisions in Part 10 of the NGR (recommended draft rules 101B(2)(b)(ii) and 101B(2)(c)(iii)) to require all pipeline service providers to publish on their website the following details of each covered gas supply facility that is connected to the pipeline:

- the location of the facility
- the type of the facility
- the type of gas or gas blend injected into the pipeline by the facility
- the gas specification that applies at the receipt point at which the facility is connected.

RECOMMENDATION 3: DRAFT TRANSITIONAL RULE — PUBLICATION OF INFORMATION ON COVERED GAS SUPPLIER CONNECTIONS

Specify in the schedule of amending rules that the obligation to report on covered gas

supplier connections does not commence until two months after the rules are made.

3.2.4 Curtailment

Stakeholder responses

Most stakeholders supported the draft recommendation to require service providers to publish their supplier curtailment methodologies and, in the case of scheme pipelines, have it approved by the regulator.[12] Although Jemena and AGIG submitted that this should only apply to pipelines carrying covered gases other than natural gas.[13]

One exception to this was APA, who did not consider it necessary for service providers to publish the curtailment methodology or, in the case of scheme pipelines, to have the methodology approved by the regulator.[14]

Alinta also suggested that the obligation only apply to pipelines with more than two users.[15]

Commission analysis

The Commission's draft recommendation to require supplier curtailment methodologies to be published and, in the case of scheme pipelines, be approved by the regulator, was intended to address concerns about the potential for discriminatory curtailment, by providing greater transparency of service providers' curtailment methods.

While APA has questioned this draft recommendation, the Commission remains of the view that the supplier curtailment methodology should be published so that users and prospective users of the pipeline have more clarity around the curtailment methodology that will be employed by the service provider. Noting that service providers have indicated that they do already have such policies, the cost of publishing the information under the recommended draft rule should be very low.

The Commission also considers it appropriate for the supplier curtailment methodology to be subject to the same degree of regulatory oversight as other key non-tariff policies on scheme pipelines such as the queuing and trading policies. This should have the benefit of providing service providers and prospective users with the regulators' views on the nature of appropriate methodologies.

Alinta suggested that pipelines with less than two users be excluded from the recommended obligation. However, it is difficult to see the basis for this type of exclusion given that the information is intended to inform both existing and prospective users of the service provider's curtailment methodology.

12 Submissions to the draft report: AusNet, p. 1; Origin, p. 3; NELA (WA), p. 3.
13 Submissions to the draft report: Jemena, p. 4; AGIG, p. 2.
14 APA, submission to the draft report, pp. 6-7.
15 Alinta, submission to the draft report, p. 3.

Similarly, the basis for the suggestion to exclude natural gas from the obligations is not established given that curtailment can be required for all types of gases. To exclude natural gas from the requirements would create an inconsistency in the approach between other covered gases and natural gas without a clear basis or rationale. In addition, it may increase administrative complexity in complying with the NGR.

Therefore, on both of these suggested changes to the draft recommendation, the Commission has decided not to recommend any exclusions from the obligation to publish the supplier curtailment methodology.

The draft report recommended that the supplier curtailment methodology could be published as part of a service provider's user access guide. On reflection, the Commission considers it would be more appropriate for the curtailment methodology to be published on the service provider's website. This means that this policy would be located with the other key policies that all service providers will be required to publish under the new prescribed transparency rules in the new Part 10 of the NGR that will be introduced through the pipeline reforms. This is because the curtailment methodology, like the other non-tariff policies, could be required by both existing and prospective users of the pipeline.

Final policy recommendation

The Commission's final recommendations are to:

- require scheme and non-scheme pipeline service providers to publish their supplier curtailment methodology on their website
- require scheme pipeline service providers to include their supplier curtailment methodology in their access arrangements and have it approved by the relevant regulator.

These final recommendations are expected to contribute to the NGO by providing for more efficient connection and investment decisions by prospective suppliers. Their implementation is also intended to reduce the risk of service providers favouring an associate through curtailment.

The Commission has considered whether any transitional rules may be required in relation to these final recommendations and recommends that:

- consistent with the approach that has recently been taken in the pipeline reforms, service providers be allowed two months from the time the rule is made to publish their supplier curtailment methodology on their website
- if at the time the rules are implemented the regulator has made a draft decision, the requirement to include a supplier curtailment methodology in the access arrangement and to have it approved by the regulator would not apply.

Recommended draft rules

To give effect to the final policy recommendations and transitional arrangements outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 4: DRAFT RULE — REQUIRE SERVICE PROVIDERS TO PUBLISH SUPPLIER CURTAILMENT METHODOLOGY

Amend the NGR to:

- include a definition of supplier curtailment methodology in Part 1 of the NGR (see recommended draft rule 3(1))
- require service providers to publish the supplier curtailment methodology on their website, with this methodology to form part of 'pipeline information' for the purposes of Part 10 of the NGR (see recommended draft rule 101B(2)(f)).

RECOMMENDATION 5: DRAFT RULE — INCLUDE SUPPLIER CURTAILMENT METHODOLOGY IN AN ACCESS ARRANGEMENT

Amend the access arrangement provisions in Part 8 of the NGR to require scheme pipeline service providers to include their supplier curtailment methodology in the access arrangement, so that it is subject to review by the regulator (see recommended draft rule 48(1)).

RECOMMENDATION 6: DRAFT TRANSITIONAL RULE — SUPPLIER CURTAILMENT METHODOLOGIES

Specify in the schedule of amending rules that the obligation to publish the supplier curtailment methodology under Part 10 of the NGR does not commence until two months after the rules are made.

Insert transitional rules (recommended draft transitional rule Schedule 6, Part 2A) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

3.3 Information on the type of gas in a pipeline

3.3.1 Current framework and draft recommendations

The regulatory framework currently only applies to pipelines transporting natural gas. This will no longer be the case once the proposed reforms to extend the regulatory framework to pipelines transporting any covered gas are made. Because of this change, retailers, pipeline users and end users will no longer be able to assume a pipeline is transporting natural gas.

To enable participants in the gas sector to be informed of the gas a pipeline is transporting, the draft report recommended requiring:

- all pipeline service providers to publish information on:

a. the type of gas the pipeline is transporting
b. any limits on blending that apply to the pipeline
c. any plans the service provider has to conduct a trial or to transition the pipeline to another covered gas.

- scheme pipeline service providers to include the information in (a)-(b) in their access arrangement and the information in (c) in their access arrangement information
- the information in (a)-(c) be included on the AEMC's gas pipeline register.

3.3.2 Stakeholder responses

Most stakeholders supported the draft recommendations to require service providers to publish information on the type of gas their pipeline is transporting and any proposals to change the type of gas.[16]

However, AGIG, Jemena and the ENA did not consider it necessary for this information to be included in an access arrangement if it is included in the user access guide and/or the gas pipeline register.[17]

However, ATCO opined there would be minimal utility in service providers publishing the information as recommended because the reforms target gases that are safe to supply to end-users and use in existing appliances. It considered the value of this information to be negligible.[18]

3.3.3 Commission analysis

Once the proposed pipeline regulation reforms are implemented, pipeline users, end users, market bodies and market participants, will no longer be able to assume all pipelines are transporting natural gas. As a result, there is a risk that:

- pipeline users and end-users could be adversely affected if they are not aware of the gas a pipeline is transporting or any proposals to change the gas that is being transported
- the operation of the facilitated and retail markets may be adversely affected if AEMO and market participants are unaware of any plans the service provider has to change the gas transported on the pipeline.

Given these risks, service providers should be required to publish information on the type of gas their pipeline is transporting and, where a gas blend is transported, any limits on blending that apply to the pipeline. Service providers should also provide information on any proposal to trial, or transition the pipeline to, another covered gas.

Although ATCO has claimed there is minimal utility in publishing this information, the Commission understands that there may be some customers that are either unable to tolerate the supply of other gases or are only able to tolerate very low levels of hydrogen blends. Therefore, it is important that this information be published so these customers and

16 Submissions to the draft report: Origin, p. 3; Alinta p. 3; APA p. 7; PIAC p. 2; AusNet p. 1.
17 Submissions to the draft report: AGIG, p. 2; Jemena p. 5; ENA, pp. 3-4.
18 ATCO, submission to the draft report, p. 2.

other pipeline users and market participants can make informed decisions about their use of the pipeline and any markets connected to the pipelines.

The costs associated with this disclosure requirement are expected to be relatively low given the limited scope of the information to be reported and the relative infrequency with which it will need to be updated.

In the draft report, it was recommended that this information be included in each pipeline's user access guide. Having considered this further, the Commission has concluded that it would be more appropriate for this information to be published on the service provider's website alongside other key information about the pipeline that all service providers will be required to publish under the new prescribed transparency rules in Part 10 of the NGR. This is because the information will be required by existing and prospective users of the pipeline and it will be important that the information is generally available on the service provider's website.

As to the concerns raised on scheme pipelines reporting the information in the access arrangement and access arrangement information, the Commission notes that:

- information on the type of gas that can be transported on the pipeline and any limits on blending should be included in the access arrangement because it forms part of the key terms and conditions on which access to the pipeline is provided
- information on any intention the service provider has to conduct a trial or to transition the pipeline (or part of the pipeline) to another gas in the forthcoming access arrangement period should be included in the access arrangement information so that the regulator and stakeholders have a good understanding of these matters and any implications it may have for the access arrangement.

For these reasons, the Commission remains of the view that the information listed above should be included in a scheme pipeline's access arrangement (for information on the gas it transports and any blending limits) and access arrangement information (for information on trials or proposals to transition).

The Commission also considers it appropriate to include this information on the AEMC's pipeline register so that there is one central location where market participants operating across multiple pipelines and regulators can have recourse. As the information published on the register will be the same information as that appearing on the service providers' website, this requirement is not expected to result in any additional reporting costs for service providers.

3.3.4 Final policy recommendation

The Commission's final recommendations are to:

- require all pipeline service providers to publish the following information on their website:
  a. the type of gas the pipeline is transporting
  b. any limits on blending that may apply to the pipeline if it is transporting a gas blend

c. any plans the service provider has to change the type of gas for either a fixed time period (i.e. to conduct a trial) or an ongoing basis (i.e. to permanently change the gas that can be transported).

- require scheme pipeline service providers to include the information in (a)-(b) in their proposed access arrangement and the information in (c) in their access arrangement information
- include the information in (a)-(c) on the AEMC's gas pipeline register.

These final recommendations are expected to contribute to the achievement of the NGO by providing for the publication of relatively low-cost information that is required by current and prospective market participants (including users and end users) to support informed and efficient decisions about their use of pipelines and investment decisions.

The Commission has considered whether any transitional rules may be required to implement this final recommendation. Consistent with the approach that has recently been taken in the pipeline reforms, the Commission recommends that service providers be allowed two months from when the rule is made to publish the information described in the recommendation on its website.

3.3.5 Recommended draft rules

To give effect to the final policy recommendations and transitional arrangements outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 7: DRAFT RULE — REQUIRE SERVICE PROVIDERS TO REPORT ON GAS TYPES AND CHANGES

Amend the pipeline information provisions in Part 10 of the NGR to require service providers to include the following on their website (recommended draft rule 101B(2)):

(a) the type of gas the pipeline is transporting

(b) if a gas blend is being transported, the gases that have been blended together to create the blend and any blending limit that applies to the pipeline

(c) the following if the service provider is aware that the type of gas transported through the pipeline is going to change in the future:

- the new type of covered gas that will be transported through the pipeline
- the date on which the change of gas type is expected to occur, and if the change will be for a fixed time period, the end date of that period
- information about whether the new type of gas will be transported between all receipt points and delivery points on the pipeline or only a subset of delivery points and receipt points

- information about whether the service provider has received approval from any jurisdictional safety and technical regulator to change the type of gas transported through the pipeline
- if the type of gas transported through the pipeline is going to change on an on-going basis, information about whether the change is being made to comply with a regulatory obligation or requirement.

Amend the access arrangement and access arrangement information provisions in Part 8 of the NGR to require scheme pipeline service providers to include:

- the information referred to in (a) and (b) above in their access arrangement (recommended draft rule 48(1)(a1))
- the information referred to in (c) above in their access arrangement information (recommended draft rule 72(1)(n)).

Amend the gas pipeline register provisions in Part 15 of the NGR to require the information in (a)-(c) to be included in the gas pipeline register (recommended draft rule 133(3)).

RECOMMENDATION 8: DRAFT TRANSITIONAL RULE — OBLIGATION TO REPORT ON GAS TYPE AND CHANGES

Specify in the schedule of amending rules that a service provider's obligation to report on its website the information on gas type and changes set out in recommended draft rule 101B(2) does not commence until two months after the rules are made.

3.4 Government mandated transitions to another covered gas

3.4.1 Current framework and draft recommendations

If a government mandates a pipeline to transition from transporting natural gas to another covered gas then, in the case of a scheme pipeline, the mandate will be treated as a regulatory obligation or requirement for the purposes of the NGL and the NGR.[19] This means that under the regulatory framework, the regulator or dispute resolution body must provide the service provider a reasonable opportunity to recover at least its efficient cost of

19 The term 'regulatory obligation or requirements' is defined in s. 6 in the NGL as: a) in relation to the provision of a pipeline service by a service provider (i) a pipeline safety duty; or (ii) a pipeline reliability standard; or (iii) a pipeline service standard; or b) an obligation or requirement under: this Law or the Rules; the National Energy Retail Law or the National Energy Retail Rules; or an Act of a participating jurisdiction, or any instrument issued under or for the purposes of that Act that: levies or imposes a tax or other levy that is payable by the service provider; regulates the use of land in a participating jurisdiction by a service provider; or relates to the protection of the environment; or materially affects the provision, by a service provider, of pipeline services to which an applicable access arrangement applies.

complying with the mandate. The prudent and efficient test[20] in Part 9 of the NGR requires expenditure to be:[21]

> 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.

In the draft report, the Commission observed that the provisions currently applying to scheme pipelines appeared fit for purpose and would remain consistent with the NGO where a pipeline was to transport another covered gas. Therefore, the Commission did not recommend any changes to the rules applying to scheme pipelines.

In the case of non-scheme pipelines, the regulator has no role in approving a non-scheme pipeline service provider's expenditure or prices. These matters are instead negotiated between service providers and users. If a dispute arises, an arbitrator can be called upon to resolve the dispute. In contrast to scheme pipeline disputes, the pricing principles arbitrators are required to employ in non-scheme pipeline disputes do not currently require specific consideration to be given to any regulatory obligations a non-scheme pipeline may be subject to.

This was identified as a gap in the draft report. Consequently, the draft recommendation was to amend the rules applying to non-scheme pipelines to require arbitrators to consider regulatory obligations and requirements when arbitrating non-scheme pipeline access disputes.

3.4.2 Stakeholder responses

Most stakeholders agreed with the draft recommendations relating to scheme and non-scheme pipelines.[22]

Origin was the only stakeholder that expressed a contrary view. It commented that the pricing principles currently applying to non-scheme pipelines are broad enough to allow the arbitrator to consider regulatory obligations and requirements if required.[23]

3.4.3 Commission analysis

The draft report set out the Commission's view that the relevant rules on scheme pipelines did not require amendment to enable the regulator to consider the implications of a government mandated change of gas for a pipeline. Stakeholders appeared to be of the same view and no information has been provided to suggest this view is incorrect. For these reasons, the Commission considers its assessment and conclusion set out in the draft report remain valid. As a result, it does not recommend any change to these rules.

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20 Part 9 of the NGR together with the revenue and pricing principles in s. 24 of the NGL sets out how a scheme pipeline's revenue requirement and reference tariffs are to be determined. The revenue and pricing principles in s. 24 of the NGL state that a service provider should be provided with a reasonable opportunity to recover at least the efficient costs the service provider incurs in "complying with a regulatory obligation or requirement."

21 Rules 79 and 91 of the NGR.

22 Submissions to draft report: APA, p. 9; Jemena, p. 5; Alinta, p. 4.

23 Origin, submission to draft report, p. 3.

In contrast to scheme pipelines, there is currently no explicit requirement for an arbitrator to consider any regulatory obligation or requirement a service provider may be subject to in providing the pipeline service to which access is sought. However, as Origin suggested, it may be possible for an arbitrator to take a government's decision to change gas for a pipeline into account under the current pricing principles as a 'cost of providing the service'. The different views on the arbitrator's considerations indicate, that there is some ambiguity regarding these rules.

The Commission is concerned that if this ambiguity remains, it could undermine a jurisdictional decision to mandate a non-scheme pipeline to transition to another covered gas if the arbitrator concludes it cannot take regulatory obligations or requirements into account. Such a conclusion could also result in the prices arising from a non-scheme pipeline access dispute being below the cost of providing the service. This could, in turn, affect the pipeline service provider's incentive and/or ability to efficiently operate or invest in the pipeline and the efficiency with which the pipeline is used, which would not be in the long term interests of consumers.

3.4.4 Final policy recommendation

The Commission's final recommendation is to remove the ambiguity in the NGR by amending the arbitration pricing principles applying to non-scheme pipelines to recognise that the price for access to a pipeline service should reflect the costs the service provider incurs in complying with a regulatory obligation or requirement.

This final recommendation is expected to contribute to the achievement of the NGO by allowing the costs to a non-scheme pipeline service provider associated with complying with any regulatory obligation or requirement (which could include a government mandated transition to another covered gas) to be taken into account by an arbitrator in an access dispute. It is consistent with what applies to scheme pipelines and will mean arbitrated prices properly reflect the cost of providing the service (including the cost of complying with any regulatory obligation or requirement). This is expected to promote efficient investment in, and efficient operation and use of, the pipeline for the long term interests of consumers, consistent with the NGO.

The Commission has considered whether any transitional arrangements may be required in relation to this final recommendation but has concluded no such arrangements are required in this instance.

3.4.5 Recommended draft rules

To give effect to the final policy recommendations outlined above, the NGR should be changed as outlined in the box below.

RECOMMENDATION 9: DRAFT RULE — AMEND ARBITRATION PRICING PRINCIPLES APPLYING TO NON-SCHEME PIPELINES

Amend the arbitration pricing principles applying to non-scheme pipelines to allow regulatory obligations and requirements to be considered by:

- including a new limb in the pricing principles stating that the price of access to a non-scheme pipeline should reflect the cost of providing that service, including the cost the service provider incurs in complying with a regulatory obligation or requirement (recommended draft rule 113Z(4)(ii))
- including a definition for regulatory obligation or requirement in Part 1 of the NGR, which largely mirrors the definition in the NGL with amendments to remove those parts of the NGL definition that are specific to scheme pipelines (recommended draft rule 1A).

3.5 Voluntary transitions to another covered gas

3.5.1 Current framework and draft recommendations

If a government does not mandate that a pipeline change to transporting another covered gas, but a service provider elects to do so, then, in the case of a scheme pipeline, the regulator would need to assess the proposal having regard to the expenditure criteria in Part 9 of the NGR. In keeping with these criteria, the regulator would need to consider whether:

- the proposed capital expenditure:[24]
  - satisfies the prudent and efficient test
  - is justifiable on the grounds that either the overall economic value of the expenditure is positive, or the present value of the expected incremental revenue to be generated as a result of the expenditure exceeds the present value of the expenditure.[25]
- the proposed operating expenditure satisfies the prudent and efficient test.[26]

For non-scheme pipelines where regulatory approval is not required, the issue would only arise if an access dispute were lodged. If this occurred, the arbitrator would need to consider the proposal having regard to the arbitration pricing principles, which focus on the cost of providing the service and the outcomes of a workably competitive market.

In the draft report, the Commission observed that the expenditure criteria currently applying to scheme pipelines and the arbitration principles applying to non-scheme pipelines appeared fit for purpose and should remain consistent with the NGO. Therefore, the Commission did not recommend any changes to these rules.

24 Rule 79 of the NGR.

25 Note rule 79(2)(c) also provides for capital expenditure to be justifiable if it is necessary to maintain and improve the safety of services, maintain the integrity of services, comply with a regulatory obligation or requirement, or maintain the service provider's capacity to meet levels of demand for services existing at the time of the capital expenditure. A voluntary transition to another gas is not expected to be justifiable on any of these grounds.

26 Rule 91 of the NGR.

3.5.2 Stakeholder responses

PIAC and Origin were the only stakeholders that commented on this aspect of the draft report. PIAC suggested that the NGR be amended to require the regulator to consider the preferences and long term interests of impacted consumers when assessing voluntary transitions by scheme pipelines.[27] However, it did not express a view on the proposal not to amend the rules applying to non-scheme pipelines.

On the other hand, Origin agreed with the draft report approach not to amend the non-scheme pipeline arbitration principles. However, it did not express a view on the recommended approach not to amend the scheme pipeline expenditure criteria.[28]

3.5.3 Commission analysis

Scheme pipelines

As outlined in the draft report, the expenditure criteria currently applying to scheme pipelines can accommodate voluntary transitions to another covered gas. If such a proposal is made by a service provider then it will, as PIAC observed, be important for the regulator to consider consumer preferences and their long term interests when evaluating the proposal.

The Commission considers these considerations would be appropriate for the regulator under these circumstances. However, it does not consider it necessary to amend the expenditure criteria to include a specific requirement for the regulator to have regard to consumer preferences. This is because the Commission is satisfied that the broader regulatory framework already provides for this to occur.

Non-scheme pipelines

Similarly, the arbitration principles applying to non-scheme pipelines appear sufficiently flexible to accommodate a voluntary change to another covered gas. The Commission remains of the view that no changes to these rules are required.

3.5.4 Final policy recommendation

The Commission does not recommend any changes to either the expenditure criteria applying to scheme pipelines, or the arbitration principles applying to non-scheme pipelines, to deal with voluntary transitions by a pipeline to another covered gas. In both cases, this is because the existing provisions in the NGR are already fit for purpose.

3.6 Regulatory treatment of government grants

3.6.1 Current framework and draft recommendations

Rule 82 of the NGR, which applies to scheme pipelines, specifies how user contributions to new capital expenditure are to be treated for regulatory purposes. However, this rule and Part 9 of the NGR, more generally, do not specify how government grants are to be treated for regulatory purposes.

27 PIAC, submission to the draft report, p. 2.
28 Origin, submission to the draft report, p. 3.

To provide more clarity, the Commission recommended in the draft report that rule 82 be amended to require government grants to be treated as capital contributions. That is, by either deducting the value of the grant from the capital expenditure to be rolled into the pipeline's capital base (subject to satisfying the relevant criteria in the NGR) or including the value of the grant in the capital base and using another mechanism to prevent the service provider from benefiting from the grant through increased revenue.

In the draft report, the Commission also considered whether equivalent changes should be made to the arbitration pricing principles applying to non-scheme pipelines but concluded the existing pricing principles are sufficiently broad to allow the arbitrator to employ a similar approach if it considered it appropriate to do so.

3.6.2 Stakeholder responses

All stakeholders that responded to this aspect of the draft report, including pipeline service providers, supported the draft recommendation to amend the scheme pipeline price and revenue rules to require government grants to be treated as capital contributions.[29]

3.6.3 Commission analysis

Scheme pipelines

Consistent with its draft recommendation, which was supported by stakeholders, the Commission recommends amending rule 82 of the NGR to make it clear that any such grants are to be treated in the same manner as capital contributions by users. That is, the value of the grant could either be:

- deducted from the capital expenditure before it is rolled into the pipeline's capital base, so that it is not recoverable through reference tariffs
- included in the pipeline's capital base, with a separate mechanism in the access arrangement preventing the service provider benefiting from increased revenue as a result of the grant.

This recommendation is expected to apply to lump sums provided by governments or government agencies to service providers to support capital expenditure in a project. Apart from ensuring consumers benefit from any government grant that a pipeline service provider receives, providing this clarity in the NGR will remove any ambiguity for service providers, the regulator or dispute resolution body on how government grants are to be treated.

Non-scheme pipelines

No specific comments were received from stakeholders in response to this recommendation. Therefore, consistent with its draft recommendation, the Commission does not consider it necessary to make equivalent changes to the arbitration principles applying to non-scheme pipeline access disputes. This is because these principles are already sufficiently broad to allow the arbitrator to employ a similar approach to that outlined above for scheme pipelines if it considered it appropriate to do so. That is, it would be open to the arbitrator to treat

29 Submissions to the draft report: Alinta, p. 4; PIAC, p. 2; Jemena, p. 5; APA, p. 9.

government grants as if they were capital contributions and deduct them from the capital base when calculating the cost of providing the pipeline service.

3.6.4 Final policy recommendation

The Commission's final recommendation is to amend rule 82 of the NGR, which applies to scheme pipelines, to require the regulator to treat government grants in the same manner as user capital contributions under this rule.

This final recommendation is expected to contribute to the achievement of the NGO by ensuring that consumers do not pay pipeline charges to recover the cost of facilities that have been funded through government grants.

The Commission has considered whether any transitional arrangements may be required in relation to this final recommendation. Given this recommendation would affect an access arrangement decision, the Commission recommends the transitional rules state that if at the time the rules are implemented the regulator has made a draft decision, the new rules do not apply.

3.6.5 Recommended draft rules

To give effect to the final policy recommendation and transitional arrangements outlined above, the NGR should be changed as outlined in the boxes below.

> RECOMMENDATION 10: DRAFT RULE — REGULATORY TREATMENT OF GOVERNMENT GRANTS
>
> Amend rule 82 of the NGR to recognise that a service provider may receive a capital contribution towards its capital expenditure from parties other than a user, which would then allow the regulator to treat it as a capital contribution (recommended draft rule 82(1)-82(3)).

> RECOMMENDATION 11: DRAFT TRANSITIONAL RULE — GOVERNMENT GRANTS
>
> Insert a transitional rule (recommended draft transitional rule Schedule 6, Part 2A) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

3.7 Regulatory treatment of concessional finance

3.7.1 Current framework and draft recommendations

Currently, concessional financing is not treated any differently to other forms of financing received by a service provider under Part 9 of the NGR. The term concessional finance is used in this context to refer to a below market rate finance provided to a service provider by

a government or government agency for specific capital expenditure (e.g. Clean Energy Finance Corporation but not a related body corporate of the service provider).

To provide more guidance on how concessional finance should be treated in relation to scheme pipelines, the Commission recommended in the draft report that rule 82 be amended to provide the regulator with discretion to treat concessional finance in the same manner as user capital contributions and government grants.[30]

3.7.2 Stakeholder responses

Stakeholders were divided on the draft recommendation relating to concessional finance. Alinta and PIAC supported the regulator having discretion to treat concessional finance as a capital contribution.[31] PIAC stated:[32]

> We support the draft recommendation requiring government grants and concessional finance to be treated as capital contributions. Any extension of the regulatory framework must ensure consumers do not pay charges to recover the costs of facilities which have been funded through government grants or concessional finance.

In contrast, the ENA and pipeline service providers (AGIG, APA, ATCO and Jemena) were opposed to the draft recommendation.[33] The ENA, for example, stated that:[34]

> Treating concessional finance differently to any other form of debt financing also goes against the principles embedded in setting the cost of debt in the Rate of Return Instrument and the incentive based regulatory framework. The regulatory practice in Australia is to set the cost of debt for a benchmark entity rather than set for the specific circumstances of the individual firm — this recommendation is a notable step away from this and fundamentally changes the regulatory framework in Australia.

ATCO echoed the ENA's response and stated that concessional finance is provided to "incentivise investment where it would not normally occur".[35] Jemena expressed a similar view and noted that treating concessional finance as a capital contribution would "undermine government policy" and "further dampen incentives to innovate and deliver a renewable gas future".[36] AGIG stated that unlike a government grant, a concessional finance stream would still result in capital needing to be repaid and so is "fundamentally different in nature to a contribution or grant".[37]

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30 That is, by either deducting the value from the capital expenditure to be rolled into the pipeline's capital base (subject to satisfying the relevant criteria in the NGR) or including the value in the capital base and using another mechanism to prevent the service provider from benefiting through increased revenue.

31 Submissions to the draft report: Alinta, p. 4; PIAC, p. 2.

32 PIAC, submission to the draft report, p. 2.

33 Submissions to the draft report: AGIG, p. 2; ENA, p. 4; Jemena, p. 5; ATCO, p. 2; APA, p. 9.

34 ENA, submission to the draft report, p. 4.

35 ATCO, submission to the draft report, pp. 5-6.

36 Jemena, submission to the draft report, p. 5.

37 AGIG, submission to the draft report, p. 2.

3.7.3 Commission analysis

There is a risk under the current rules that concessional finance from a government funding body could result in service providers benefiting in circumstances where the government funding body intended that some or all of the benefit of the lower cost of finance would flow through to pipeline users and ultimately to consumers in the form of lower prices.

In this regard, it should be noted that concessional finance may be provided by a government funding body to achieve a range of different objectives, such as to:

- benefit pipeline users and consumers through lower prices, and/or
- support an investment that would not otherwise be undertaken by the service provider in the absence of concessional finance.

These purposes are not necessarily mutually exclusive.

Where some or all of the concessional finance is intended to benefit consumers, the pipeline regulatory framework should enable the regulator to take it into account when determining reference tariffs by treating some or all of the value of the benefit of the concessional finance as a capital contribution.

However, where some or all of the concessional finance is provided to support an investment that would not otherwise occur, there is some risk that treating it as a capital contribution could undermine the policy intent of the relevant government funding body and impact incentives to carry out certain capital expenditure (as noted by some stakeholders).

The draft recommendation was to provide discretion to the regulator to determine how to treat concessional financing. However, stakeholder feedback indicated that this approach may not provide sufficient guidance for the regulator, service providers, pipeline users or consumers. As a result, the Commission has reconsidered the approach set out in its draft report with the objective of providing greater clarity on the regulatory treatment of concessional finance.

In doing so, the Commission has considered the potential information asymmetry that may arise for the regulator when a service provider receives concessional finance from a government funding body. For example, in order to assess the purpose of concessional finance, the regulator would need information from both the service provider and the government funding body.

To overcome this information asymmetry, the NGR should require a service provider to notify the regulator that it has received concessional financing and to provide certain information about those financial arrangements as part of its access arrangement proposal. This approach has the benefit of utilising an existing and relevant decision making process. Where the regulator considers the information provided is deficient, it will be able to use its existing powers to obtain additional information from the service provider.

As information from the government funding body would also be relevant to the regulator's decision, the Commission recommends that the NGR also require that the regulator should consult with the government funding body with the objective of determining:

- whether the intention was for some or all of the benefit of the concessional finance to be treated as a capital contribution so that the benefit flows through to consumers
- if so, what proportion of the concessional finance was intended to be treated in this way.

Such a requirement would also enable the regulator to be informed of any other relevant aspects of the financing arrangement in place.

Under this recommended approach, the regulator would be required to treat the benefit associated with some or all of the concessional finance as a capital contribution if it is satisfied that the government funding body's intention was for that benefit to flow through to pipeline users and consumers. To do so, the regulator would need to determine the value of the benefit, having regard to the information provided by the service provider, the government funding body and any other information the regulator considers appropriate.

If rather than benefiting pipeline users, the government funding body's intention was for some or all the benefits to flow to the service provider (e.g. to support investment that would not otherwise occur), the regulator would not be able to treat that component of the concessional finance as a capital contribution. For example, if the government funding body's intention was for 20 per cent of the benefit to flow to the service provider, then the regulator would not be able to treat that 20 per cent as a capital contribution.

While the Commission notes the view expressed by some stakeholders that concessional finance should not be treated differently from other forms of debt, it considers concessional finance provided by a taxpayer-funded body can be distinguished from other forms of debt.

The regulatory framework recognises that using a benchmark entity approach provides an incentive for service providers to seek out ways to reduce costs and 'better the benchmark' set by the regulator. This applies to financing as to other costs. However, funds from a government funding body for a particular capital project may be of a different nature to funding 'business as usual' costs because there may be a specific policy purpose for providing the funds. Consequently, there is a risk that a government funding body's policy intent in providing concessional finance could be undermined if the regulatory framework does not provide for some flexibility in the extent to which the benefits of the concessional finance are to be passed on to consumers through lower prices.

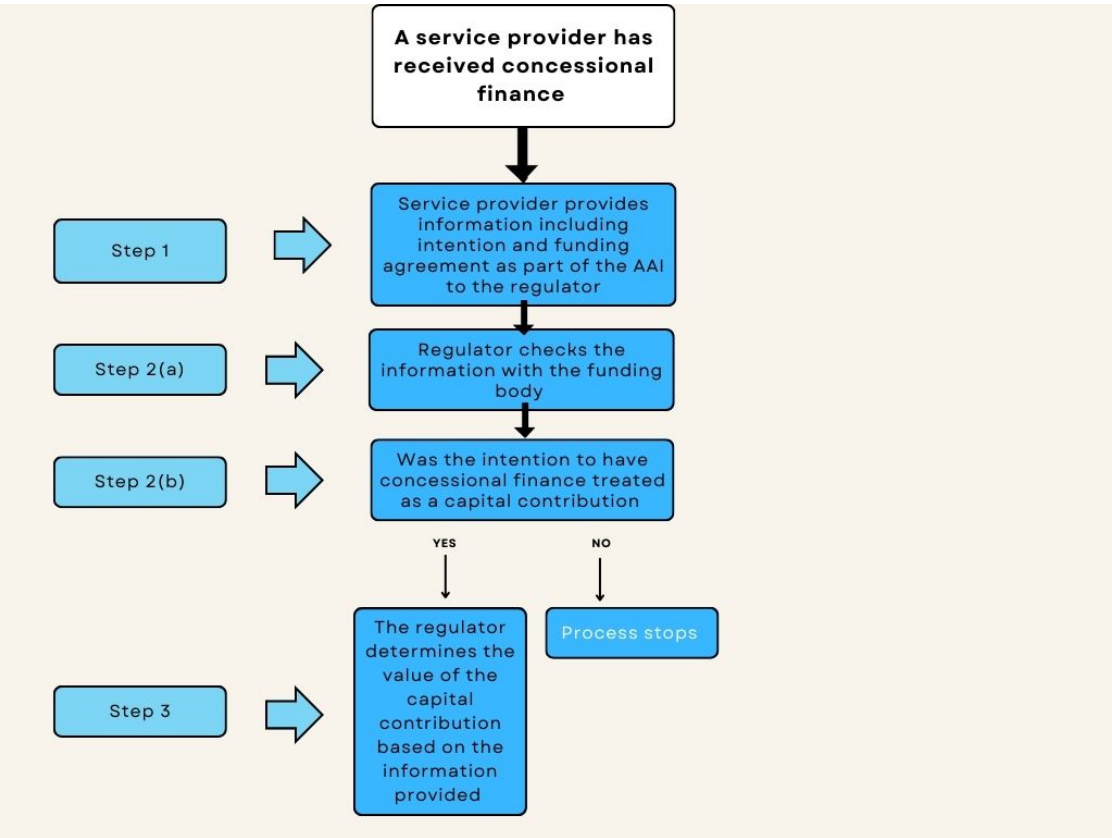
For these reasons, the Commission recommends amending rule 82 to require:

- scheme pipeline service providers to inform the regulator during the access arrangement process if they have received concessional finance from a government funding body
- the regulator to consult with the service provider and the government funding body to determine what the purpose of the concessional finance was and, if relevant, the extent to which the concessional finance is intended to be treated as a capital contribution
- the regulator, where it is satisfied that the government funding body's intention was that some or all of the benefit should be treated as a capital contribution, to:
    - determine the value of the benefit having regard to the information provided by the service provider, any information provided by the government funding body and any other information the regulator considers appropriate

- treat that benefit as if it had been provided to the service provider in the form of a capital contribution under rule 82(1)-(3).

The manner in which this is intended to work is illustrated in the figure below.

Figure 3.1: Regulatory treatment of concessional finance



Source: AEMC.

3.7.4 Final policy recommendation

The Commission's final recommendation is to amend rule 82 of the NGR to:

- allow the regulator to treat some or all of the benefit of concessional finance as a capital contribution where it is satisfied that this was the government funding body's intention
- enable the regulator to obtain the information it requires to determine the government funding body's intention and, if relevant, the extent to which the concessional finance it intended to be treated as a capital contribution.

This final recommendation is expected to contribute to the achievement of the NGO by ensuring that consumers do not pay pipeline charges to recover the cost of facilities that have been funded through concessional finance, where the intent of that finance was to reduce costs to consumers.

In addition, the final recommendation is expected to contribute to the NGO by enabling some or all of the benefit of the concessional finance to remain with the service provider where it was the government funding body's intent to support investment that otherwise would not occur.

Providing greater guidance to the regulator, service provider, prospective investors and gas users on the regulatory treatment of concessional financing is also consistent with the NGO.

The Commission has considered whether any transitional arrangements may be required in relation to these final recommendations. Given the recommendations would affect an access arrangement decision, the Commission recommends a transitional rule that provides that the concessional finance amendments to rule 82 of the NGR will not apply in relation to an access arrangement for which the regulator has made a draft decision when the new rules commence.

3.7.5 Recommended draft rules

To give effect to the final policy recommendation and transitional arrangements outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 12: DRAFT RULE — REGULATORY TREATMENT OF CONCESSIONAL FINANCE

Amend rule 82 of the NGR to:

- define concessional finance as below market rate finance provided for investment in specific capital expenditure (recommended draft rule 82(8))
- recognise that a service provider may receive a capital contribution towards its capital expenditure from parties other than a user (recommended draft rules 82(1)-82(3))
- require a service provider to inform the regulator if it receives concessional finance from a government funding body (recommended draft rule 82(4))
- require the regulator to:
  - consult with the service provider and the government funding body if it is informed by the service provider that concessional finance has been received (recommended draft rule 82(5))
  - seek submissions or comments from the government funding body on whether it intended some or all of the concessional finance to be treated as a capital contribution and, if so, what proportion should be treated in this way (recommended draft rule 82(6))
  - treat some or all of the value of the concessional finance as a capital contribution if it is satisfied that this was the government funding body's intention and determine the value that is to be treated as a capital contribution (recommended draft rule 82(7)).

RECOMMENDATION 13: DRAFT TRANSITIONAL RULE — CONCESSIONAL FINANCE

Insert a transitional rule (recommended draft transitional rule Schedule 6, Part 2A) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

4 RING FENCING FRAMEWORK

BOX 2: SUMMARY OF CHAPTER

This chapter focuses on the ring fencing and associate contract arrangements that apply to pipelines under the NGL and NGR.

As some stakeholders have observed, if competition is to emerge in potentially contestable parts of the covered gas market (which includes the hydrogen and renewable gas industry), it will be important to have robust ring fencing and associate contract arrangements in place from the commencement of the reforms. Absent such arrangements, pipeline service providers could use their market power to impede competition in these parts of the industry, potentially impacting the long term structure of the sector, contrary to the long term interests of consumers.

Based on the AER's advice, stakeholder feedback and the Commission's own review, the existing arrangements appear relatively robust, but improvements could be made to some aspects of the arrangements that will apply across all covered gases.

These improvements are reflected in the Commission's final recommendations, which are to:

- make minor amendments to the ring fencing exemption framework to:
  - clarify the intent of the criteria
  - make it consistent with other exemption frameworks in the NGR (including requiring the regulator to consider imposing conditions on exemptions)
- strengthen the associate contract arrangements by:
  - amending the associate contract notification requirements to introduce an advance notice requirement for certain contracts, and to require service providers to explain why the contract does not breach the NGL
  - amending the associate contract approval provisions to:
    - place the onus on service providers to demonstrate compliance with the NGL
    - extend the decision making timeframe and require public consultation if the regulator is considering approving a contract that breaches the NGL
- simplify the consultation process for minor variations and revocations
- provide for greater transparency of processes and decisions by requiring the regulator to publish a ring fencing guide and all ring fencing and associate contract decisions.

These final recommendations are expected to promote the NGO by supporting the development of competition in potentially contestable parts of the hydrogen and renewable gas industry, which is in the long term interests of consumers.

The NGL and NGR include mechanisms that are intended to limit the ability of vertically integrated pipeline service providers to adversely affect competition in contestable parts of the market. The NGL, for instance, requires service providers to comply with:

- the following minimum ring fencing requirements set out in the NGL, unless the regulator grants an exemption:[38]
  - service providers must not carry on a related business of producing, purchasing or selling natural gas or processable gas[39]
  - service providers must ensure that marketing staff are not shared with an associate that takes part in a related business
  - service providers must prepare, maintain and keep separate accounts and a consolidated set of accounts for their entire business.
- additional ring fencing requirements specified in a regulator's ring fencing determination[40]
- the associate contract provisions set out in the NGL,[41] which prohibit service providers from entering into, varying, or giving effect to a provision in an associate contract[42] that breaches the following requirements, unless approved by the regulator:
  - an associate contract (or variation) must not have the purpose, or have, or be likely to have the effect, of substantially lessening competition in a market for gas services
  - an associate contract (or variation) must not be inconsistent with the competitive parity rule.

While the ring fencing and associate contract arrangements currently apply to service providers of natural gas pipelines, officials have proposed extending their application to service providers of pipelines transporting any covered gas. They have also proposed amending the definition of 'related business' to include the businesses of:[43]

- producing primary gas or processable gas
- purchasing or selling covered gas or processable gas (but not to the extent necessary for the safe and reliable operation of a pipeline or for balancing)
- providing blend processing services by means of a blend processing facility.[44]

As part of the broader review of the changes to be made to the national framework, Senior Officials asked the AER to provide advice on whether the ring fencing or associate contract arrangements required amendment in the context of extending the NGL and NGR to hydrogen and renewable gas blends. The AER's advice was provided on 21 February 2022

38 Sections 137-141 of the NGL.

39 A service provider is not prohibited from purchasing or selling natural gas or processable gas to the extent necessary for the safe and reliable operation of a pipeline, or to provide balancing services.

40 Section 143 of the NGL.

41 Sections 147-148 of the NGL.

42 The term associate contract is defined in the NGL as: a) a contract, arrangement or understanding between a service provider and an associate of the service provider in connection with the provision of an associate pipeline service b) a contract, arrangement or understanding between a service provider and any person in connection with the provision of an associate pipeline service (i) that provides a direct or indirect benefit to an associate; and (ii) that is not at arm's length.

43 Officials, *Extending the national gas regulatory framework to hydrogen and renewable gases and blends*, consultation paper, 31 March 2022, p. 25.

44 Note that this does not include in-pipeline blending.

and suggested changes to the arrangements set out in both the NGL and NGR.[45] Officials consulted on the suggested NGL changes as part of their March 2022 consultation paper, while the Commission consulted on the suggested NGR changes in its draft report.

This chapter sets out the stakeholder feedback that was received in response to the AER's suggested changes to the NGR, the Commission's analysis and final policy recommendations. It also sets out the Commission's recommendations on the changes to be made to the NGR to give effect to the final policy recommendations and the transitional arrangements for the ring fencing and associate contract arrangements. These recommendations have been made to be consistent with the changes to the NGL that the officials have identified.

In addition to the changes identified in this chapter, consequential changes to the NGR are set out in appendix D.

For further detail on the recommended changes to the rules, see the accompanying draft rule.

4.1 Applying the assessment framework

The Commission's final recommendations are intended to facilitate competition in contestable parts of the covered gas market (which includes the hydrogen and renewable gas industry), which is in the long term interests of consumers, by providing for robust ring fencing and associate contract arrangements. The final recommendations are intended to achieve this by:

- allowing for a more targeted and proportionate ring fencing exemption framework by clarifying the intent of the exemption criterion in rule 34(c)(3), requiring the regulator to consider whether to impose conditions on exemptions and making other changes to bring the exemption framework into line with other exemption frameworks in the NGR
- strengthening the associate contract arrangements by:
  - implementing an advance notice requirement for associate contracts that pose the greatest risk to competition in contestable parts of the industry
  - making other changes to the notification and approval processes to:
    - address the information asymmetries the regulator would otherwise face when assessing these contracts
    - provide the regulator sufficient time to make an informed decision
    - provide for public consultation in those cases where the regulator is considering approving a contract that may breach the NGL associate contract prohibitions
- reducing the administrative burden associated with minor variations and revocations, while also allowing for greater transparency of processes and decisions by requiring:
  - the regulator to publish a guide that sets out the processes to be followed and information to be provided for ring fencing and associate contract decisions
  - the regulator to publish all ring fencing and associate contract decisions
  - these decisions to be included on the AEMC's pipeline register.

45 AER, Advice on gas ring-fencing for hydrogen and renewable gas blending, 21 February 2022.

The implementation of these final recommendations is expected to promote allocative, productive and dynamic efficiency by supporting the development of competition in contestable parts of the covered gas industry and efficient investment in, and efficient operation and use of covered gas pipelines and the facilities connected to these pipelines.

More generally, the final recommendations are fit for purpose, targeted and proportionate to the issues they are intended to address. They are also expected to provide the stability and transparency of arrangements required to enable service providers, regulators and market participants to make informed and efficient decisions.

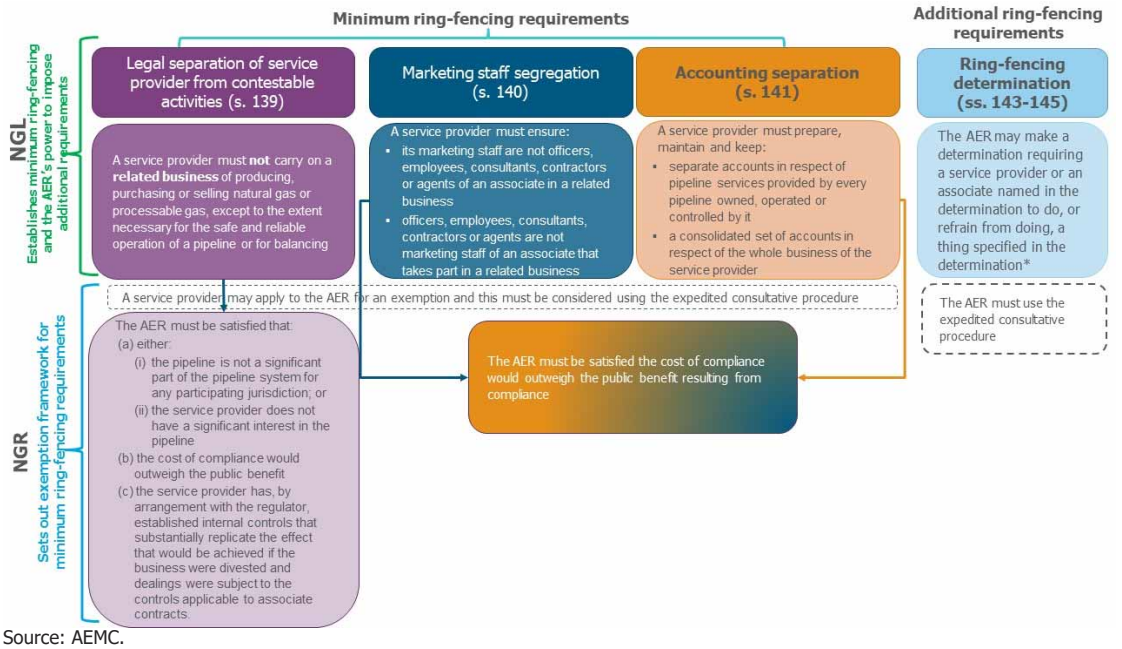
Taken together, these final recommendations are expected to contribute to the achievement of the NGO by promoting efficient investment in and the efficient operation and use of covered gas services for the long term interests of consumers.

4.2 Ring fencing arrangements

Figure 4.1 provides an overview of the ring fencing arrangements that are currently provided for by the NGL and NGR. As this figure shows:

- the NGL sets out the minimum ring fencing requirements that apply to all pipeline service providers and confer the regulator with power to impose additional ring fencing requirements on named service providers and/or associates through a ring fencing determination
- the NGR sets out the exemption framework that applies to the minimum ring fencing requirements and the consultation process to be followed by the regulator when granting exemptions and making a ring fencing determination.

Figure 4.1: Ring fencing arrangements



Source: AEMC.

Note: If the AER decides to make a ring fencing determination, it must have regard to the following principles (and the costs likely to be incurred complying with the additional requirements):

a. If one part of the service provider's business is providing pipeline services to another part of the service provider's business or to an associate, the pipeline service provider must ensure that pipeline services are provided as if they were a separate unrelated entity

b. users and prospective users should have sufficient information to understand whether a service provider is complying with the requirements by an efficient service provider or associate complying with the additional requirements.

In its advice, the AER identified the following issues with the current ring fencing provisions in the NGR that it considered should be changed:

- the exemption framework for the minimum ring fencing requirements does not:
  - provide the regulator sufficient discretion when deciding whether to grant an exemption
  - allow the regulator to grant class exemptions from the minimum ring fencing requirements
  - expressly provide for the regulator to impose any conditions on exemptions.
- the consultation provisions in the NGR do not provide the regulator with sufficient flexibility to deal with minor or uncontroversial variations and/or revocations of minimum ring fencing exemptions and additional ring fencing requirements.

The table below provides a summary of the advice the AER provided on how each of these potential problems could be addressed.

Table 4.1: **Summary of AER advice**

ISSUE	AER SUGGESTED NGR AMENDMENTS
Exemption framework for minimum ring fencing requirements	The AER suggested amending the NGR to: (a) replace the existing exemption criteria with higher level criteria (similar to those that apply to electricity distribution) to provide the regulator greater discretion when deciding whether to grant an exemption (b) allow the regulator to grant class exemptions from the minimum ring fencing requirements.
Conditions on exemptions from the minimum ring fencing requirement	The AER suggested that the NGR be amended to allow the regulator to impose conditions (e.g. a time limit, a scope limit and/or a volumetric limit, a requirement to divest assets) on exemptions, where appropriate.
Consultation process for minor and uncontroversial variations and revocations	The AER suggested that the regulator should have greater discretion to determine the appropriate level of consultation to employ when varying or revoking an exemption from the minimum or additional ring fencing requirements.

Source: AER, Advice on gas ring-fencing for hydrogen and renewable gas blending, 21 February 2022.

These three aspects of the AER's advice are considered in turn below.

4.2.1 Exemption framework for minimum ring fencing requirements

Stakeholder responses

Regulatory discretion and class exemptions

Stakeholders were divided on the AER's suggestion that the minimum ring fencing exemption criteria be amended to provide the regulator more discretion to determine whether to grant an exemption.

Pipeline service providers (AGIG, APA, AusNet and Jemena), the ENA and Bioenergy Australia supported the suggestion, with a number of these stakeholders noting it would bring the ring fencing arrangements into line with what applies in electricity.[46]

46 Submissions to the draft report: AGIG, p. 5; APA, p. 9; AusNet, p. 3; Jemena, p. 6; ENA, p. 6; Bioenergy Australia, p. 1.

Conversely, Origin, Alinta, PIAC and the National Environmental Law Association (WA) (NELA (WA)) were strongly opposed to the suggestion. These stakeholders observed that:[47]

- effective ring fencing was required to promote the development of competition in contestable parts of the market, which is in the long term interests of consumers
- the case had not been made for such a material change to the existing arrangements.

Origin, for example, stated that:[48]

> We do not support the proposed amendments to the minimum ring-fencing requirements. Effective ring-fencing of pipeline service providers and their affiliates operating in competitive environments is essential to promoting the long-term interests of consumers, and there is currently no demonstrated need to amend the existing process… as noted by the AEMC, there are other options currently available to service providers to progress initiatives, including:
>
> - partnering with unrelated parties to undertake the contestable activities of production, processing and/or supplying these gases; and
> - establishing an associate to carry out the contestable activities, which is what a number of service providers are understood to have already done.

NELA (WA) also noted that greater discretion could result in divergence of regulatory outcomes and make it harder for market development.[49]

Engie noted that while it was not opposed to bringing the ring fencing arrangements into line with what applies in electricity, it did not see the need for the suggested change.[50]

In contrast to the exemption criteria, most stakeholders, including a number of pipeline service providers, were opposed to allowing the regulator to grant class exemptions from the minimum ring fencing requirements.[51]

These stakeholders were concerned that granting an exemption to a class of service providers without considering the specific circumstances could result in exemptions being granted in circumstances where it could adversely affect competition. Some stakeholders also noted that they did not think the need for class exemptions had been demonstrated.[52]

Jemena, for example, stated that:[53]

> Class exemptions presume that there are identifiable classes with similar characteristics that justify exemption across a particular category. It enables the regulator to make assumptions about the class rather conducting a specific analysis of each participant.

47 Submissions to the draft report: Origin, p. 3; Alinta, pp. 18-19; PIAC, p. 2; NELA (WA), pp. 3-4.
48 Origin, submission to the draft report, p. 3.
49 NELA (WA), submission to the draft report, pp. 3-4.
50 Engie, submission to the draft report, pp. 2-3.
51 Submissions to the draft report: PIAC, p. 2; NELA (WA), pp. 3-4; Alinta, p. 19; Origin, p. 4; Engie, p. 2; APGA, p. 2; Jemena, p. 7; ENA, p. 7.
52 Submissions to the draft report: Origin, p. 4; ENA, p. 7.
53 Jemena, submission to the draft report, p. 7.

> …we do not consider the characteristics of the existing and emerging gas markets justify departing from a case-by-case analysis. While additional ringfencing requirements imposed on a class basis may impede the development of markets, class based exemptions could have anti-competitive effects.

Alinta made a similar observation, noting that:[54]

> While class exemptions may reduce the burden of assessing exemptions from ring fencing, this burden is unproven and the risks inherent with class exemptions given the uncertainty of how the renewable gases market will evolve means individual assessments of exemptions should continue until a case for change can be made.

In contrast, AGIG, AusNet and APA supported the suggestion to allow for class exemptions. AGIG noted that it could be used for pilot or early stage projects and APA noting that it would provide for greater flexibility in the framework.[55]

Other changes to the exemption criteria

In addition to commenting on the AER's suggested changes, the draft report asked stakeholders whether any of the exemption criteria would need to be amended if a decision is made not to replace them with higher level criteria. Alinta was the only stakeholder that responded to this question. It commented that while most of the exemption criteria appeared fit for purpose, the exemption criterion in rule 34(3)(c) appeared to require full ring fencing, which Alinta stated appeared contrary to the purpose of the exemption.[56]

Commission analysis

Exemption criteria

Before assessing the AER's suggested changes to the exemption framework, it is important to recognise that there are some fundamental differences between the ring fencing arrangements applying to gas and electricity. The key differences can be summarised as follows:

- Legal framework: The National Electricity Law is silent on ring fencing requirements for network service providers while the National Electricity Rules provide the AER with the discretion to determine the scope of the ring fencing arrangements and exemptions in a guideline. In contrast, the NGL sets out the minimum ring fencing requirements that all pipeline service providers must comply with unless they obtain an exemption under the NGR. The NGR then sets out the limited circumstances in which an exemption can be granted by the regulator.
- Starting point for ring fencing: In electricity, distribution network service providers are prohibited from providing any services other than distribution or transmission services unless they obtain a ring fencing waiver from the AER. In contrast, pipeline service

54 Alinta, submission to the draft report, p. 19.
55 Submissions to the draft report: AGIG, p. 5; AusNet, p. 3; APA, p. 10.
56 Alinta, submission to the draft report, p. 18.

providers are currently only prohibited from producing, purchasing or selling gas. There are therefore a large number of activities that pipeline service providers can undertake without having to obtain an exemption, which their electricity distribution counterparts would require a ring fencing waiver for.[57]

This difference in the starting points for ring fencing helps to explain why the exemption frameworks that have been developed for electricity and gas service providers are so different.

For instance, in electricity distribution, where the starting point is that distribution network service providers cannot provide any services other than distribution or transmission services, there is a need for greater discretion in the exemption criteria to enable the regulator to grant ring fencing waivers for activities that will have little or no effect on competition in other markets. This can be seen in the type of ring fencing waivers the AER has granted to date, with the AER granting waivers to allow distribution network service providers to undertake services such as field services, training services, telecommunication services and storage services.[58]

The need for the same degree of regulatory discretion does not arise in gas because the only activities pipeline service providers are currently prohibited from undertaking are producing, purchasing or selling gas — activities where the risks to competition posed by vertically integrated pipeline service providers are greatest.[59]

As a result, the exemption criteria in the NGR applying to the carrying on of these businesses are more restrictive than they are in electricity; exemptions are only available where the risk to competition can be minimised. This is reflected in rule 34 of the NGR, which currently only allows an exemption from producing, purchasing or selling gas where the regulator is satisfied that:

- either the pipeline is not a significant part of the pipeline system in the participating jurisdiction, or 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
- the cost of compliance with the relevant ring fencing requirement would outweigh the public benefit resulting from compliance
- the service provider has, by arrangement with the regulator, established internal controls that mirror the controls applicable to associate contracts.

A decision could be made to replace the exemption criteria in the NGR as suggested by the AER. However, to bring the gas ring fencing arrangements into line with what applies to electricity service providers, changes would also need to be made to the NGL to prohibit pipeline service providers from providing any service other than pipeline services. This would represent a substantial change to the gas ring fencing framework.

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57 In contrast to electricity distribution, pipeline service providers do not, however, require an exemption to provide services of these types.

58 See https://www.aer.gov.au/networks-pipelines/ring-fencing/ring-fencing-waivers.

59 To date the AER has not granted any waivers for electricity distribution network service providers to undertake these types of activities.

Absent this change, it is not apparent that it would be in the long term interests of consumers to allow greater discretion in relation to the minimum ring fencing requirements given the adverse effect it could have on competition in contestable parts of the market if pipeline service providers are allowed to produce, sell or purchase gas, the costs of which would ultimately be borne by consumers.

The difference in the starting points for ring fencing is also an important factor when considering the suggestion to enable class exemptions to be made. It is difficult to establish that it would be in the long term interests of consumers to enable class exemptions from the minimum ring fencing requirements. While class exemptions may be useful in the electricity context where the starting point is that service providers can only provide distribution or transmission services,[60] the case for its use for gas, where pipeline service providers are only prohibited from producing, selling or purchasing gas, is less clear.

For example, the circumstances under which a regulator could be confident in granting an exemption from the prohibition on producing gas to a class of service providers, without undertaking a case-by-case assessment of the competition impacts of doing so are not readily identifiable. This point was raised by some stakeholders who were concerned about the inherent competition risks associated with class exemptions, the costs of which would be borne by consumers.

It is with the long term interests of consumers in mind that the Commission has concluded that the exemption framework should not be amended to provide for greater regulatory discretion or for class exemptions. Rather, exemptions from the minimum ring fencing requirements should continue to only be available in limited circumstances and should be assessed by the regulator on a case-by-case basis, having regard to the specific circumstances of the service provider and the activity from which it seeks an exemption. The Commission considers the existing exemption criteria remain appropriate (apart from a minor change discussed below).

Some pipeline service providers have suggested that retaining the current arrangements could impede the development of the hydrogen and renewable gas industry in the early stages. However, there are other options available to service providers that want to conduct trials, including:

- partnering with unrelated parties to undertake the contestable activities of production, processing and/or supplying these gases
- establishing an associate to carry out the contestable activities, with any pipeline service contract then entered into being subject to the associate contract arrangements.

In making the recommendations on ring fencing exemptions, the Commission has also considered the potential impact on the structure of covered gas market (particularly the hydrogen and renewable gas industry).

In this regard, allowing pipeline service providers to operate in contestable parts of this market, even for trial purposes, has the potential to impede the development of competition

60 The class waiver power could, for example, be used in electricity to allow a class of network service providers to undertake activities that the regulator is satisfied will have no effect on competition (e.g. field or training services).

in production and retailing by discouraging other suppliers from entering the market. It could also accord service providers an incentive to foreclose competition in these parts of the market, by restricting access to their pipelines, providing competitors with access on less favourable terms, or cross subsidising activities with revenue derived from the provision of monopoly pipeline services.

To enable market dynamics and the needs of consumers to drive the development of the hydrogen and renewable gas industry, it is therefore important that robust ring fencing arrangements are in place at the earliest opportunity — that is, from the commencement of the reforms.

In the Commission's view the existing minimum ring fencing requirements, once extended, should achieve this outcome. Consequently, it has concluded that the exemption framework does not require substantial changes to support the development of the covered gas industry. However, if circumstances in the gas market change in the future, and it becomes clearer that there should be greater discretion in the exemption criteria and/or class exemptions, then a rule change request could be lodged with the AEMC.

Other amendments to the exemption criteria

While the Commission is not recommending significant changes to the exemption framework, it is clear from the feedback provided by Alinta[61] that there is some ambiguity surrounding the intent of the following exemption criterion in rule 34(3)(c) of the NGR:

> 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.

This could be interpreted as requiring the service provider to put in place:

- full ring fencing arrangements, as Alinta observed, or
- equivalent controls to those that apply to associate contracts.

To obtain a better understanding of the intent of this criterion, the Commission has reviewed prior ring fencing decisions that have considered this criterion.[62] It has also reviewed the drafting of the equivalent provision in the *National Third Party Access Code for Natural Gas Pipelines*.[63]

Based on this information, the Commission has concluded that the likely intent is to require the service provider to put in place equivalent controls to those that apply to associate contracts. That is, to treat any use of the pipeline by the service provider as if the use were being undertaken by a separate entity that is subject to the associate contract arrangements.

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61 Alinta, submission to the consultation paper, p. 19.

62 See for example, AER, *Meridian SeamGas Joint Venture and WestSide Corporation Limited Ring fencing exemption application*, final decision, July 2012.

63 See section 4.15 of the *National Third Party Access Code for Natural Gas Pipelines*.

This intent in the NGR could be made clearer by simplifying the drafting of the rule as follows:

> the service provider has, by arrangement with the AER, established internal controls that substantially replicate the controls that would apply to associate contracts if the related business was carried on by an associate of the service provider.

Given the confusion caused by the current drafting and the potential for the obligation to be considered more broadly than intended, the Commission considers the drafting changes above should be made. The rule should be more targeted and proportionate to the issues it is intended to address.

Final policy recommendation

The Commission's final recommendation is to clarify the intent of the exemption criterion in rule 34(3)(c) of the NGR.

This final recommendation is expected to promote the NGO by providing service providers and the regulator with more clarity on the intent of this criterion and the internal controls that would need to be put in place if an exemption is to be granted. No transitional arrangements are required to implement this recommendation.

Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the box below.

RECOMMENDATION 14: DRAFT RULE — CLARIFY THE INTENDED OPERATION OF THE EXEMPTION CRITERION

Amend the exemption criterion that apply to exemptions from minimum ring fencing requirements (recommended draft rule 34(3)(c)) to state that:

- the service provider has, by arrangement with the AER, established internal controls that substantially replicate the controls that would apply to associate contracts if the related business was carried on by an associate of the service provider.

4.2.2 Conditions on exemptions from the minimum ring fencing requirements

Stakeholder responses

Stakeholders were generally supportive of the AER's suggestion to allow the regulator to impose conditions on exemptions from the minimum ring fencing requirements. Most stakeholders also supported the suggestion in the draft report that this aspect of the exemption framework be made consistent with other exemption frameworks in the NGR by:[64]

64 Submissions to the draft report: PIAC, p. 2; Alinta, p. 19; Origin, p. 4; AGIG, p. 6; APA, p. 10; AusNet, p. 4; ENA, p. 8; Jemena, p. 8.

- requiring service providers to immediately notify the regulator if conditions change, such that the service provider no longer qualifies for an exemption
- clarifying the power the regulator has to revoke an exemption and to vary any conditions that the regulator may have imposed on the exemption.

Alinta and Origin also supported the suggestion that the regulator be able to specify a review and/or expiration date in an exemption. PIAC supported periodic reviews of exemptions, or reviews where there has been a material change to the operations of the exempted party.[65]

In contrast, AusNet, Jemena and the ENA, were concerned that if the NGR required an expiration date for a ring fencing exemption then this could affect investment certainty.[66] Jemena suggested that rather than requiring an expiration date for an exemption, the regulator be left to consider this when deciding whether to impose conditions on an exemption.[67]

Jemena, the ENA and APA were also concerned about the power the regulator would have to revoke exemptions or vary conditions. APA suggested that limits be placed on the regulator's ability to vary or revoke an exemption.[68]

Commission analysis

As the AER noted in its advice, the lack of an explicit ability to impose conditions on minimum ring fencing exemptions contrasts with other parts of the NGR, including the associate contract provisions in rule 32 of the NGR.

Other parts of the NGR that allow for exemptions from certain obligations, such as Parts 23 and 24, also specify that the regulator may grant an exemption subject to any conditions determined by the regulator. These provisions also allow conditions to be varied on application by the service provider, or on the regulator's own initiative.[69]

Amending s. 148A of the NGL as proposed by officials to clearly enable conditions to be imposed on minimum ring fencing exemptions and amending the NGR to require the regulator to consider imposing conditions on exemptions would therefore bring this aspect of the ring fencing framework into line with other parts of the NGR. The Commission considers this is an appropriate outcome.

As the AER noted in its advice, the regulator could use this power to impose a range of conditions on an exemption, including:

- a limit on the scope of the activities that the exemption applies to (e.g. the condition could allow the service provider to produce a gas but not to purchase or sell another gas)
- a limit on the volume that the exemption applies to (e.g. the condition could only allow the service provider to produce 100 GJ of gas but no more)

65 Submissions to the draft report: Alinta, p. 19; Origin, p. 4; PIAC, p. 2.
66 Submissions to the draft report: AusNet, p. 4; Jemena, p. 8; ENA, p. 8.
67 Jemena, submission to the draft report, p. 8.
68 Submissions to the draft report: APA, p. 10; Jemena, p. 8; ENA, p. 8.
69 See rules 586(1) and 612(1) of the NGR.

- a limit on the term of the exemption (e.g. the condition could only allow for an exemption of two years, or could require the exemption to be reviewed in two years).

In relation to the latter of these types of conditions, the Commission has considered stakeholder views on whether the NGR should require the regulator to specify an expiration or review date, or if reliance should instead be placed on the regulator's ability to do so through a condition.

The second of these approaches would provide more flexibility for the regulator in those cases where a review or expiration date may not be appropriate. Therefore, the Commission recommends amending the NGR to require the regulator to consider whether conditions should be imposed upon an exemption to the ring fencing requirements. These considerations can include the duration and scope of the exemption.

In addition, the Commission recommends that other changes be made to improve consistency between the ring fencing exemption framework and other exemption frameworks in the NGR. Not only would these changes establish a more consistent approach to exemption frameworks within the NGR, but they would also bring the ring fencing framework into line with better regulatory practice. Specifically, the Commission recommends that the ring fencing exemption framework require:

- a service provider that has been granted an exemption must notify the regulator without delay if it no longer qualifies for an exemption
- the regulator revoke an exemption from the minimum ring fencing requirements if, in its reasonable opinion, the exemption criteria are no longer satisfied and empower it to vary conditions placed on an exemption from the minimum ring fencing requirements
- the regulator publish all ring fencing related decisions (including exemption decisions, decisions not to grant exemptions, revocation and variation decisions and additional ring fencing determinations)
- these decisions be included on the AEMC pipeline register.

While some service providers expressed concerns about the second of these recommendations, it mirrors the rules in other parts of the NGR.[70] In addition:

- the regulator would only be able to revoke an exemption if, in its reasonable opinion, the exemption criteria are no longer satisfied
- when deciding whether to vary a condition on an exemption, the regulator would be exercising regulatory discretion and would therefore be expected to have regard to the NGO.

The Commission considers these constraints are sufficient to address the concerns raised by service providers.

Final policy recommendation

The Commission's final recommendations are to:

70 For example, rules 586-587 and rules 612-613 of the NGR.

- require the regulator when making an exemption decision to consider whether to impose any conditions
- require a service provider that has been granted an exemption to notify the regulator without delay if it no longer qualifies for an exemption
- require the AER to revoke an exemption from the minimum ring fencing requirements if, in its reasonable opinion, the exemption criteria are no longer satisfied
- clarify the power the regulator has to vary conditions placed on an exemption from the minimum ring fencing requirements
- require greater transparency of ring fencing decisions by requiring the regulator to publish all ring fencing decisions and by providing for these decisions to be included on the AEMC's pipeline register

These final recommendations are expected to promote the NGO by allowing for:

- more targeted and proportionate exemptions from the minimum ring fencing requirements and greater flexibility to deal with any changes that may occur over time (e.g. which may necessitate an exemption being reviewed, revoked or varied)
- greater transparency of the ring fencing arrangements applying to pipelines, which should provide for more efficient decision making by service providers and market participants.

The Commission has considered whether any transitional arrangements are required to implement these final recommendations, but concluded there is no need for any such arrangements in this case.

Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 15: DRAFT RULE — ALLOW FOR CONDITIONS ON EXEMPTIONS AND ASSOCIATED CHANGES

Amend the ring fencing provisions in Part 6 of the NGR to:

- require the regulator to consider whether to impose any conditions when granting an exemption from the minimum ring fencing requirements (recommended draft rule 35(1))
- require a service provider to comply with any conditions of an exemption (recommended draft rule 35(2))
- require a service provider that has been granted an exemption to notify the regulator without delay if it no longer qualifies for the exemption (recommended draft rule 34(6))
- require the regulator to revoke exemptions from the minimum ring fencing requirements if, in its reasonable opinion, the exemption criteria are no longer satisfied (recommended draft rule 35A(1))

- empower the regulator to vary any conditions it has imposed on an exemption from the minimum ring fencing requirement (recommended draft rule 35(3)).

RECOMMENDATION 16: DRAFT RULE — TRANSPARENCY OF RING FENCING DECISIONS

Amend the NGR to require:

- the regulator to maintain a register of ring fencing decisions (including exemption decisions, decisions not to grant exemptions, ring fencing determinations, variation and revocation decisions) (recommended draft rule 35E)
- ring fencing decisions to be included on the AEMC's pipeline register (recommended draft rule 133(4)).

4.2.3 Consultation process for minor and uncontroversial variations and revocations

Stakeholder responses

Stakeholders expressed mixed views on the AER's suggestion that the regulator have more discretion to determine the appropriate level of consultation for variations and revocations of exemptions from the minimum and additional ring fencing requirements.

AGIG, AusNet and Origin supported the suggested change.[71] However, Jemena and the ENA believe the same consultation process that applies to the original decision should apply to these decisions because a variation or revocation can be of equal significance to the initial granting of the exemption.[72]

Alinta also expressed concern about the suggested change. It stated that variations and revocations may not be trivial to the market and that there should be transparency in these processes. Alinta stated that if any discretion is to be provided in this area, it should be limited to where the variation or revocation is of an "immaterial nature and impact".[73]

Commission analysis

Schedule 2 clause 20 of the NGL currently requires the regulator to employ the same process when varying or revoking a decision as it does when making a decision. This includes ring fencing exemption decisions and additional ring fencing requirements, which in keeping with rules 30 and 34(2) of the NGR must be made using the expedited consultative procedure. As the AER observed, this procedure must be used even if the regulator is contemplating a minor or uncontroversial amendment.

71 Submissions to the draft report: AGIG, p. 6; AusNet, p. 5; Origin, p. 4.
72 Submissions to the draft report: ENA, p. 8; Jemena, p. 8.
73 Alinta, submission to the draft report, p. 20.

The Commission understands from the feedback provided by Jemena, the ENA and Alinta that their main concern is that what the regulator considers 'minor' or 'uncontroversial', may be considered material by the service provider and/or other market participants. In other parts of the NGR, this problem has been overcome by defining objective circumstances in which a variation can be considered 'minor' or 'uncontroversial' by the regulator.

For example, rule 68 of the NGR allows the regulator to employ a simpler consultation process if an access arrangement must be varied or revoked to address an error or deficiency arising as a result of a clerical mistake or an accidental slip or omission, a miscalculation or misdescription, or a defect in form. In these cases, the regulator is only required to consult with the service provider and any other person with whom it considers consultation is required.

This rule provides a useful guide on the circumstances in which a regulator could reasonably have discretion to conduct a simpler consultation process for variations to and revocations of ring fencing related decisions. Adopting this approach would also address the concerns that Jemena, the ENA and Alinta raised about what constitutes a 'minor' or 'uncontroversial' change.

Therefore, the Commission recommends including an equivalent provision in the ring fencing framework to apply when a variation or revocation to address a clerical mistake, accidental slip, omission, misdescription or defect in form. For any other type of variation or revocation, the regulator would still be required to employ the same consultation process it uses to make the original decision (i.e. the expedited consultative procedure).

Final policy recommendation

The Commission's final recommendation is to allow the regulator to employ a simpler consultation process where a variation or revocation of an exemption or additional ring fencing requirement is necessary in order to address a material error or deficiency of one or more of the following kinds:

- a clerical mistake, accidental slip or omission
- a miscalculation or misdescription
- a defect in form.

In these instances, the regulator will be able to consult with the service provider and any other persons it considers appropriate.

For all other variations or revocations, the regulator would be required to employ the same process it used to make the original decision (i.e. the expedited consultation process).

This final recommendation is expected to promote the NGO by:

- reducing the administrative burden for the regulator, service providers and other stakeholders for minor variations in, and revocations of, ring fencing decisions
- maintaining an appropriate level of consultation and transparency for all other variations and revocations.

The Commission has considered whether any transitional arrangements are required to implement these final recommendations, but concluded there is no need for any such arrangements in this case.

Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the box below.

RECOMMENDATION 17: DRAFT RULE — ALLOW A SIMPLER CONSULTATION PROCESS FOR MINOR MISTAKES, OMISSIONS & DEFECTS

Amend the ring fencing provisions in Part 5 of the NGR to include a new rule (recommended draft rule 35F) that:

- allows the AER to employ a simpler consultation process for variations or revocations of minimum ring fencing exemptions and additional ring fencing requirements if the decision is affected by a material error or deficiency of one or more of the following kinds:
  - a clerical mistake or an accidental slip or omission
  - a miscalculation or misdescription
  - a defect in form
- specifies that in these instances, the AER can vary or revoke a decision following consultation with the relevant service provider and any other persons with whom it considers consultation appropriate.

4.2.4 Transitional arrangements for ring fencing

The Commission has considered whether any other transitional arrangements may be required to accommodate the changes being made to the ring fencing requirements in the NGL. As outlined above, officials have proposed to extend the minimum ring fencing requirements to service providers transporting any covered gas. They have also proposed amending the definition of 'related business' to include the businesses of:[74]

- producing primary gas or processable gas
- purchasing or selling covered gas or processable gas (but not to the extent necessary for the safe and reliable operation of a pipeline or for balancing)
- providing blend processing services by means of a blend processing facility.

This extension of the NGL will mean the trials that are currently being undertaken by some service providers, which don't contravene the existing ring fencing provisions, could do so under the extended provisions unless they obtain an exemption under the NGR. The trials that fall into this category are:

74 Officials, *Extending the national gas regulatory framework to hydrogen and renewable gases and blends*, consultation paper, 31 March 2022, p. 25.

- AGIG's HyP SA and HyP Gladstone trial projects
- Jemena's Western Sydney Green Gas Project
- ATCO's Clean Energy Innovation Hub, hydrogen refuelling station and hydrogen blending projects.

Consequently, the Commission recommends that a time and scope limited exemption from the minimum ring fencing requirements be applied to these projects. Specifically, that the transitional rules exempt:

- AGIG's HyP SA and HyP Gladstone trial projects from the prohibitions on carrying on a related business of producing, purchasing and selling hydrogen and providing blend processing services and the marketing staff segregation requirements until the earlier of the end of the trial and 30 November 2026.
- Jemena's Western Sydney Green Gas Project from the prohibitions on carrying on a related business of producing, purchasing and selling hydrogen and providing blend processing services and the marketing staff segregation requirements until the earlier of the end of the trial and 30 November 2026.
- ATCO's Clean Energy Innovation Hub and its associated Hydrogen Refueller Station and hydrogen blending trial projects from the prohibitions on carrying on a related business of producing hydrogen (the Clean Energy Innovation Hub), purchasing or selling hydrogen (the Hydrogen Refueller Station) and providing blend processing services (the hydrogen blending project), and the marketing staff segregation requirements until the earlier of the end of the trial and 30 November 2026.

The 30 November 2026 date specified in these transitional rules reflects when the HyP SA and Western Sydney Green Gas Project trials are expected to end. If these trials, or any of the other trials listed above, finish prior to 30 November 2026, then under the recommended transitional arrangement the exemption will cease. If the service providers want to extend the trials beyond 30 November 2026, then they would be expected to restructure their arrangements so that the service provider is no longer undertaking these related businesses. In the Commission's view, the term of this exemption is appropriate and will provide time for either the trials to be completed, or for service providers to restructure their arrangements.

To mitigate against the risk that these service providers may seek to provide their own business preferential access to the pipeline, these exemptions should also be subject to the same condition that would apply if an exemption was obtained under rule 34 of the NGR. That is, the service providers should be required to establish internal controls that substantially replicate the controls that would apply to associate contracts if the related business was carried on by an associate. They should also be required to provide details of these internal controls to the regulator.

In addition, the transitional rules should clarify that the exemption should not be taken to mean that the services provided by these trial projects are pipeline services. This clarity is required to avoid any suggestion that the costs associated with these projects should be capable of being recovered from pipeline users through reference tariffs because an exemption has been granted.

Ultimately it will be a matter for the regulator to determine whether any of these projects do constitute a pipeline service and if the costs should be recovered through reference tariffs. To enable the regulator to properly consider this, the transitional rules should require the service providers to:

- maintain separate accounts for the trial projects
- provide these accounts to the regulator annually with the methodology used by the service provider to allocate costs to the trial project.

As all of these trial projects have received some government funding, the Commission expects this to be taken into account if the regulator decides the costs can be recovered from pipeline users.

To give effect to the transitional arrangements outlined above, the transitional provisions in the rules should be changed as outlined in the box below.

RECOMMENDATION 18: DRAFT TRANSITIONAL RULE — MINIMUM RING FENCING REQUIREMENTS TRANSITIONAL EXEMPTIONS

Amend Schedule 6 Part 2 of the NGR to:

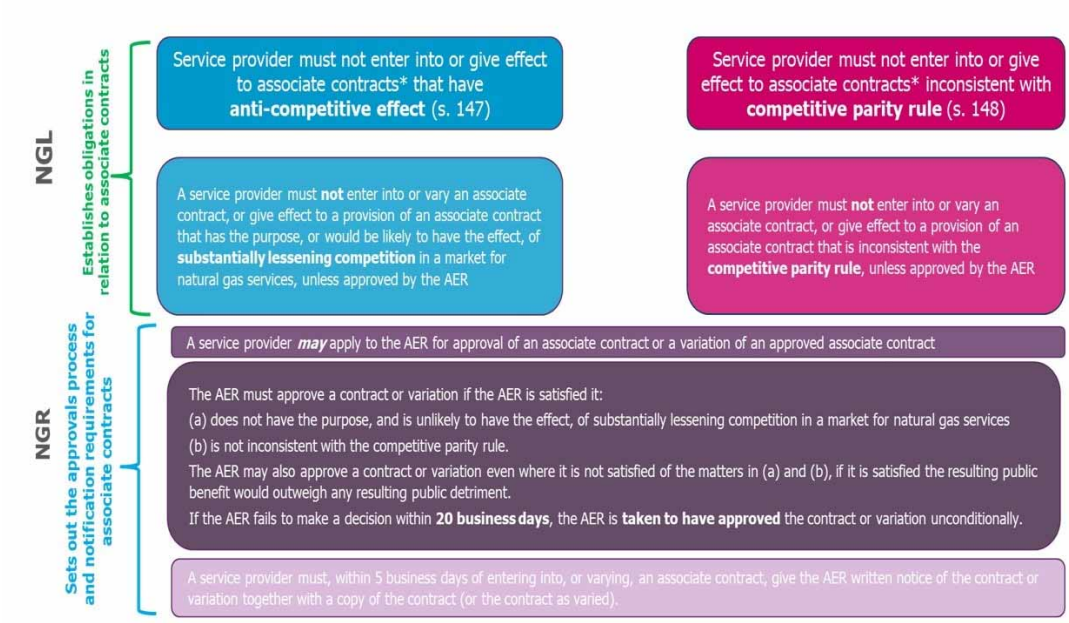
- provide designated entities (ATCO, AGIG and Jemena) with an exemption from the specified minimum ring fencing requirements for the transition period (i.e. the earlier of the end of the trial and 30 November 2026) in relation to the designated trial project (i.e. Clean Energy Innovation Hub, Hydrogen Refueller Station and hydrogen blending trial projects, HyP SA, HyP Gladstone, Western Sydney Green Gas Project)
- subject the exemption to the conditions that the designated entity:
  - establish internal controls that substantially replicate the controls that would apply to associate contracts if the designated trial project was carried on by an associate of the designated entity and provide details of the internal controls to the regulator
  - maintain separate accounts for the designated trial projects
  - provide these accounts to the regulator annually, along with the methodology used to allocate costs to the designated trial projects.
- specify the conditions relating to establishing internal controls and maintaining separate accounts must be complied with within three months after the commencement date and the requirement to provide accounts to the regulator annually must be complied with within 15 months after the commencement date.
- clarify that the exemption should not be taken to mean that a related business carried on by the designated entities is a pipeline service.

4.3 Associate contract arrangements

Figure 4.2 provides an overview of the current associate contract arrangements. As this figure shows:

- the NGL prohibits service providers from entering into, varying, or giving effect to a provision in an associate contract that has the following effects:[75]
  - the contract has the purpose, or would have, or be likely to have the effect, of substantially lessening competition in a market for gas services, unless the contract or variation is approved by the regulator under the NGR[76]
  - the contract is inconsistent with the competitive parity rule, unless the contract or variation is approved by the regulator under the NGR.[77]
- the NGR sets out:
  - the process to be followed by a service provider and regulator if the service provider decides to seek approval of an associate contract or variation to an associate contract
  - the notification requirements that apply to associate contracts.

Figure 4.2: Associate contract arrangements



Source: AEMC.

Note: An associate is defined in the NGL as:

(a) a contract arrangement or understanding between a service provider and an associate of the service provider in connection with the provision of an associate pipeline service; or

(b) a contract, arrangement or understanding between a service provider and any person in connection with the provision of an associate pipeline service —

(i) that provides a direct or indirect benefit to an associate; and

(ii) that is not at arm's length.

An associate pipeline service is defined as a pipeline service provided by means of a pipeline other than a pipeline to which a greenfields incentive determination applies.

75 Sections 147-148 of the NGL.

76 Section 147 of the NGL.

77 Section 148 of the NGL.

In its advice, the AER identified the following as potential problems with the associate contract arrangements in the NGR:

- the rules do not provide for adequate regulatory oversight of associate contracts that pose a high risk of contravening the NGL
- the associate contract approval process currently:
  - places the onus on the regulator, who faces significant information asymmetries, to demonstrate that an associate contract would contravene the NGL
  - only provides the regulator with 20 business days to decide on whether to approve an associate contract or variation, otherwise it is taken as approved.
- the rules provide limited guidance on what is intended by the competitive parity rule.

The table below provides a summary of the advice the AER provided on how these potential problems could be addressed.

Table 4.2: **Summary of AER advice on associate contract arrangements**

ISSUE	AER SUGGESTED NGR AMENDMENTS
Limited regulatory oversight of certain associate contracts	The NGR be amended to provide the regulator with the power to require service providers with associate contracts of a certain class or kind to seek the regulator's approval before entering into the contract.
Limitations of the associate contract approval process	The NGR be amended to: • require service providers to demonstrate, to the regulator's reasonable satisfaction, that the associate contract will not have an anti-competitive effect or be inconsistent with the competitive parity rule • allow the regulator to request further information from the service provider about the associate contract • extend the time the regulator has to make a decision and/or introduce a stop-the-clock provision that can be triggered if the regulator requests further information from the service provider.
Competitive parity rule	The NGR be amended to provide greater guidance on the competitive parity rule to clarify expectations for service providers' dealings with associates.

Source: AER, Advice on gas ring-fencing for hydrogen and renewable gas blending, 21 February 2022.

These three aspects of the AER's advice are considered in turn below.

4.3.1 Regulatory oversight of specified associate contracts

Stakeholder responses

Stakeholders were divided on the AER's suggestion that associate contracts of a certain class or kind be submitted to the regulator for approval prior to entry.

Alinta and Origin considered that pre-approval should be required for contracts representing the greatest risk to competition, which Origin noted were contracts with associates operating in contestable (or potentially contestable) parts of the market.

AGIG, APA, AusNet, Jemena and the ENA were opposed to the change and noted that in their view the current framework is fit for purpose.[78] Some of these stakeholders also expressed concern about the effect that the approval requirement could have on the timeliness of commercial negotiations.

Commission analysis

The Commission understands from the AER's advice that its main concern with the current arrangements is that it relies on retrospective enforcement action being taken by a regulator if it identifies a breach of the NGL prohibitions. This can be contrasted to the arrangements that applied under the *National Third Party Access Code for Natural Gas Pipeline Systems* (Gas Code), which required service providers to obtain regulatory approval before entering into an associate contract.[79]

The Commission understands from the explanatory material that was published at the time the NGR was developed that the Gas Code's pre-approval process was to be replaced with a process that would operate similarly to the authorisation of anti-competitive conduct process under Part IV of the *Competition and Consumer Act 2010* (then the *Trade Practices Act 1974*). That is, prohibiting associate contracts or variations to these contracts that have an anti-competitive effect or that are inconsistent with the competitive parity rule but allowing the regulator to authorise (approve) such arrangements if the public benefit outweighs the public detriment.[80]

> A broad public benefit/detriment test has been included in the NGR to allow the approval of an associate contract where it does not meet the requirements….
>
> The test will include situations where the AER is satisfied that the approval of the associate contract would result, or be likely to result, in a benefit to the public that outweighs the detriment from the anticompetitive effects of an associate contract in a similar way to authorisation under Part VII of the Trade Practices Act.

78 Submissions to the draft report: AGIG, p. 7; APA, p. 11; AusNet, p. 6; Jemena, p. 10; ENA, p. 9.

79 See sections 7.1-7.6 of the Code.

80 Explanatory Material for the Second Exposure Draft of the NGL, July 2007, p. 22; SCO, Response to issues raised in submissions on the NGR, 14 May 2007, p. 15.

The approval framework under the NGR is similar to the approach to authorisation of anti-competitive conduct under Part IV of the *Competition and Consumer Act 2010* in that it allows service providers to voluntarily seek approval of associate contracts (or variations) that:

- do not breach the NGL prohibitions
- do breach the NGL prohibitions where the public benefit outweighs the public detriment.

It is only in this limited context that regulatory approval of associate contracts is currently envisaged under the NGL and NGR. Therefore, significant changes would need to be made to the NGL to implement the approval process suggested by the AER, which is beyond the scope of this review.

As a result, the Commission has developed an alternative solution comprising:

- a new advance notice regime
- amending the existing post notification requirements.

Advance notice requirement

The Commission recommends amending the associate contract notification provisions in the NGR to implement an advance notice requirement. Under this new requirement, service providers proposing to enter into an associate contract (or variation) that meets the following criteria would be required to notify the regulator 20 business days before entering into the contract (or variation):

1. the associate contract (or variation) is between the service provider and an associate that carries on a related business (as that term is defined in the NGL)[81]
2. the terms of access that would apply under the associate contract (or variation) differ from the standing terms published by the service provider under rule 101C.[82]

These criteria are intended to capture those contracts that pose the greatest risk to competition; which are contracts that provide associates operating in contestable parts of the market with access on different terms to the standing terms offered to other users.

For those associate contracts that meet the criteria and for which the service provider has not sought regulatory approval, the service provider would be required to provide the regulator with:

- a description of the key terms of the proposed contract (or variation) or the form of the proposed contract or variation
- an explanation as to why the contract (or variation) does not breach the NGL prohibitions.

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81 Under the changes proposed by officials, the term 'related business' will be amended to include: (a) producing primary gas or processable gas, (b) purchasing or selling covered gas or processable gas (but not to the extent necessary for the safe and reliable operation of a pipeline or for balancing) and (c) providing blend processing services by means of a blend processing facility.

82 Note that the term 'standing terms' is defined in Part 10 of the NGR as the applicable access arrangement for reference services approved by the regulator for scheme pipelines, or information set out in rule 101C for non-reference services and for non-scheme pipelines.

One of the main benefits of this advance notice requirement is that it will provide the regulator with greater flexibility to take action if it has concerns that a proposed contract or variation will breach the NGL. It would, for example, provide the regulator time to raise any concerns that it has with the service provider before the contract (or variation) is executed, or to encourage the service provider to submit an application for approval of the contract (or variation).

If these measures fail and the regulator has concerns that the contract (or variation) will breach the prohibitions in the NGL, it could seek an order injuncting the service provider from entering into the contract (or variation).

The inclusion of this new requirement in the NGR is expected to:

- address the concerns raised by the AER about the level of regulatory oversight of certain contracts
- address the concerns some service providers raised about the effect that a pre-approval process could have on the timeliness of commercial negotiations because under this alternative approach regulatory approval will not be required
- reduce the administrative burden associated for both service providers and regulators by limiting the scope of the requirement to contracts that pose the greatest risk to competition
- provide service providers with greater certainty as to the terms on which access can be provided to avoid being subject to the advance notice requirements.

The Commission's recommendation would require service providers to notify the regulator 20 business days prior to entering into a specified associate contract. From a regulator's perspective a longer advance notification period would be preferable. However, this needs to be balanced against the point in time at which the service provider's negotiations are sufficiently progressed for the key terms to be provided to the regulator.

On balance, the Commission considers 20 business days strikes the right balance between these two requirements, noting that the regulator does not have to make a decision in this time. Rather, the regulator's role would be to review the key terms and determine whether any action needs to be taken if it has a concern that the NGL prohibitions would be breached.

Post-notification requirements

In addition to the advance notice requirements set out above, rule 33 of the NGR currently requires service providers to provide the regulator with the associate contract (or variation) within five business days of entering into that contract (or variation). This notification requirement applies to all associate contracts and variations and would continue to do so. Service providers that have to notify the regulator in advance of entering into an associate contract (or variation) would therefore also need to provide the regulator with the executed contract (or variation).

To address the information asymmetry that the regulator is likely to face when assessing the executed contracts (or variations), the Commission recommends that service providers be required to include an explanation as to why the executed contract (or variation) does not

breach the NGL when providing the executed contract (or variation) to the regulator. This requirement is not expected to impose an undue burden on the service provider. It reflects the fact that the service provider is better placed to demonstrate compliance with the NGL than the regulator is.

Final policy recommendation

The Commission's final policy recommendations in relation to the associate contract notification requirements in the NGR are to:

- Introduce an advance notice requirement that will require service providers proposing to enter into an associate contract (or a variation) that meets the following criteria to notify the regulator 20 business days prior to entering into the contract (or variation):
  - the associate contract (or variation) is between the service provider and an associate that carries on a related business (as that term is defined in the NGL)
  - the contract (or variation) is for the provision of a pipeline service to the associate on the standing terms published by the service provider under rule 101C.

  As part of the notification, service providers will be required to provide the regulator:
  - a description of the key terms of the proposed contract (or variation) or the form of the proposed contract (or variation)
  - an explanation as to why the contract (or variation) does not breach the prohibitions in the NGL.
- Amend the post-notification requirements to require the service provider to provide the regulator with information on why the contract (or variation) does not breach the prohibitions in the NGL when providing the regulator with the executed contract (or variation).

If implemented, these final recommendations are expected to promote the NGO by providing for greater regulatory oversight of those associate contracts that pose the greatest risk to competition in contestable parts of the covered gas market and the long term interests of consumers. They should do so in a targeted and proportionate manner and to provide the stability and transparency of regulatory arrangements required to enable consumers, market participants and investors to make efficient decisions.

The Commission has considered whether any transitional arrangements may be required to implement these final recommendations. While the changes to the post-notification requirements should be able to commence from the start of the rules, there is a risk that service providers would be unable to comply with the 20 business day advance notice requirement if they are in the process of negotiating an associate contract when the rules come into effect. To address this risk, it is recommended that commencement of this new obligation be delayed by 20 business days after the rules are made.

Recommended draft rules

To give effect to the final policy recommendations and the transitional arrangements outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 19: DRAFT RULE — AMEND THE ASSOCIATE CONTRACT NOTIFICATION REQUIREMENTS

Amend the associate contract provisions in Division 2 of Part 5 of the NGR to:

- introduce an advance notice requirement (recommended draft rule 32A) that requires service providers that are proposing to enter into an associate contract (or variation) that meets the following criteria (referred to in the draft rule as "specified associate contracts") to notify the regulator 20 days prior to entering into the contract (or variation):
  - the associate contract (or variation) is between the service provider and an associate that carries on a related business (as that term is defined in the NGL)
  - the price and conditions of access that would apply to the associate would not be based on the standing terms published by the service provider under rule 101C.
- As part of the notification, service providers would be required to provide the regulator with "associate contract information" (recommended draft rule 31), being:
  - a description of the relationship of the associate to the service provider
  - a description of the business operated by the associate
  - a description of the key terms of the proposed contract (or variation) or the form of the proposed contract (or variation)
  - an explanation as to why the contract (or variation) does not breach NGL prohibitions.
- Advance notice would not be required where a service provider has sought regulatory approval for the proposed contract (see recommended draft rule 31, definition of "excluded contract").

Amend the post-notification requirements to require the service provider to provide the regulator with the same type of information provided in respect of contracts for which advance notice is provided, or approval sought. If a service provider has sought pre-approval of an associate contract or provided advance notice of the contract (or variation), the service provider may provide a statement describing any changes in the information that has previously been provided (recommended draft rule 33(1)(c)).

RECOMMENDATION 20: DRAFT TRANSITIONAL RULE — ASSOCIATE CONTRACT NOTIFICATION TRANSITIONAL RULES

Specify in the schedule of amending rules that recommended draft rule 32A does not commence until 20 business days after the rule is made.

4.3.2 Associate contract approval process

Stakeholder responses

Stakeholders expressed mixed views on the AER's suggestion that the onus of demonstrating that an associate contract complies with the prohibitions set out in the NGL should sit with the service provider.

Origin and Alinta supported this suggestion and noted that service providers are better placed than the regulator to demonstrate compliance.[83] Origin and Alinta also supported providing the regulator with the power to obtain further information from the service provider if required.[84]

In contrast, AGIG, APA and AusNet consider the onus already sits with the service provider to demonstrate compliance.[85] AGIG did, however, note that if the NGR are amended, it would be reasonable to require service providers to include any information they seek to rely on to demonstrate compliance and to also allow the regulator to request more information. [86] In contrast, APA and AusNet do not think the regulator requires any additional powers to request information from the service provider.[87]

As to the amount of time the regulator should have to make its decision:

- Origin, Alinta and APA supported providing the regulator more time to make its decision and also the inclusion of a stop-the-clock provision.[88] APA stated that extending the process by an additional 20 business days is acceptable.[89] Origin also suggested that the regulator provide up-front guidance on the type of information to be provided by the service provider to enable the decision-making time frames to be met.[90]
- AGIG and AusNet did not consider it necessary to extend the decision-making time frame.[91] AGIG also noted that if a stop-the-clock provision is to be included, there should be a limit on the extent to which the time limit can be extended.[92]
- Jemena and the ENA did not support the inclusion of a stop-the-clock provision because they were concerned about the effect it could have on the timeliness of the decision.[93]

In the draft report, stakeholders were also asked whether there should be public consultation on associate contract approval decisions. The pipeline service providers that responded to this question did not consider public consultation was necessary.[94] However, Origin

83 Submissions to the draft report: Origin, p. 5; Alinta, p. 21.
84 Submissions to the draft report: Origin, p. 5; Alinta, p. 21.
85 Submissions to the draft report: AGIG, p. 8; APA, p. 12; AusNet, p. 6.
86 AGIG, submission to the draft report, p. 8.
87 Submissions to the draft report: APA, p. 12 AusNet, p. 6.
88 Submissions to the draft report: Origin, p. 5; Alinta, p. 22; APA, p. 12.
89 APA, submission to the draft report, p. 12.
90 Origin, submission to the draft report, p. 5.
91 Submissions to the draft report: AGIG, p. 8; AusNet, p. 7.
92 AGIG, submission to the draft report, p. 8.
93 Submissions to the draft report: Jemena, p. 11; ENA, p. 11.
94 Submissions to the draft report: AGIG, p. 9; AusNet, p. 7; Jemena, p. 11; ENA, p. 11.

considered the regulator should have the discretion to be able to consult and should provide up-front guidance on the circumstances in which public consultation may be appropriate.[95]

Commission analysis

The associate contract approval process is set out in rule 32 of the NGR. It allows service providers to apply to the regulator for approval of an associate contract, a proposed associate contract or a proposed variation of an approved associate contract. If an application is made, then:

- rule 32(2) requires the regulator to approve the contract or variation if it is satisfied that the contract or variation does not breach the NGL prohibitions
- rule 32(3) allows the regulator to approve a contract or variation that breaches the NGL prohibitions, if it is satisfied the resulting public benefit would outweigh any resulting public detriment
- rule 32(4) allows the regulator to impose any conditions on an approval that it considers appropriate
- rule 32(5) states that if the regulator fails to make its decision within 20 business days of receiving the application, it will be taken to have approved the contract or variation unconditionally.

Onus of demonstrating compliance with the NGL

As the AER observed, rule 32(2) of the NGR, effectively places the onus on the regulator to establish that an associate contract or variation contravenes the NGL, rather than placing the onus on the service provider to demonstrate that either:

- the contract or variation does not breach the prohibitions in the NGL, or
- if it does breach the NGL prohibitions that the public benefit of breaching the prohibitions would outweigh the public detriment.

As noted by Origin and Alinta, this is a deficiency in the current arrangements because it fails to recognise the information asymmetries that the regulator is likely to face when assessing associate contracts and variations. The regulator does not, for example, have access to all the other pipeline service contracts a service provider has entered into, which could help to inform whether the contract in question may have an anti-competitive effect, or breach the competitive parity rule.[96]

To address this current deficiency, the Commission recommends amending rule 32 of the NGR to:

- Require service providers that apply to have an associate contract or variation approved, to include in the application a statement setting out the reasons why they consider:
  - the contract or variation does not breach the NGL prohibitions, or

95 Origin, submission to the draft report, p. 5.

96 Submissions to the draft report: Origin, p. 5; Alinta, p. 22.

  - if the contract or variation would breach the NGL prohibitions, that the resulting public benefits would outweigh the resulting public detriment.
- Allow the regulator to request any additional information from the service provider that is required to conduct the assessment
- Only require the regulator to approve an associate contract if the service provider has demonstrated to the regulator's reasonable satisfaction that it will not breach the NGL prohibitions. If the regulator is not so satisfied it may approve the contract if it is satisfied that the resulting public benefits from the relevant contract or variation would outweigh the resulting public detriment.

Public consultation

Another deficiency in the current arrangements is that rule 32 of the NGR does not provide for any form of public consultation. While this may be less of an issue for contracts or variations that do not breach the NGL prohibitions, this is not the case in relation to contracts or variations that would breach the NGL.

As noted above, rule 32(3) of the NGR allows the regulator to authorise these types of contracts or variations where it is satisfied that the public benefits outweigh the public detriments. However, no provision has been made for the regulator to consult with interested parties on the public benefits or detriments, or the decision more generally. This is in direct contrast to the process for authorisation of anti-competitive conduct under the *Competition and Consumer Act 2010,* where such assessments are undertaken in a transparent and consultative manner.

To address this issue, the Commission recommends requiring the regulator to consult using the standard consultative procedure if it is considering exercising the power under rule 32(3) of the NGR.

While the introduction of this requirement may slow the approval process, it would only apply to contracts or variations that the regulator considers would breach the competitive parity rule and/or have the effect or likely effect of substantially lessening competition in a market for covered gas services. Given the consequences associated with such a decision, the Commission considers the potential cost of additional time and administration in conducting a public consultation process to be more than offset by the potential benefits of a transparent decision making process. It also considers it appropriate to provide the regulator sufficient time to consult before making a decision under rule 32(3) of the NGR.

Decision-making time frames for contracts or variations that do not breach the NGL

As outlined above, rule 32(5) of the NGR currently requires the regulator to make a decision on an application for approval of an associate contract (or variation) within 20 business days, otherwise it will be taken to have approved the contract (or variation).

As the AER and most stakeholders observed, this does not provide the regulator with sufficient time to make an informed decision about whether to approve a contract (or variation).

The default position of the regulator being taken to have approved the contract (or variation) is also concerning given the potential for these contracts to breach the NGL prohibitions.

In considering these two aspects of the current framework, the Commission considers there are benefits in making the following changes:

- remove the default approval
- allow the regulator 40 business days to make a decision
- include a stop-the-clock power, which the regulator could trigger if it requests further information from the service provider.

To address the concerns that some stakeholders raised about the potential for a stop-the-clock power to delay the decision making process, the Commission recommends the regulator publish a guide that sets out:

- the process to be followed if an application for approval of an associate contract is made (including any preliminary conferences that may be required)
- the information to be provided by the service provider when making such an application.

This guide could also set out the process to be followed and information to be provided in relation to the associate contract advance notice process set out in the preceding section and the ring fencing exemption process.

While not a binding guideline that service providers are required to comply with, the Commission considers the regulator, service providers and other stakeholders would benefit from greater clarity on the information to be provided by service providers and how these decision making processes would work in practice. It is anticipated that the guide would facilitate more timely and focused decisions.

Transparency of associate contract approvals

The final improvement that the Commission recommends be made to the associate contract approval provisions in the NGR is to require:

- the regulator to publish its associate contract related decisions (including decisions to approve (or not approve) associate contracts or variations to these contracts)
- these decisions to be included on the AEMC's pipeline register.

Greater transparency of these decisions should provide market participants with greater confidence in the approvals process and should also provide more guidance to pipeline service providers on those cases where the regulator may approve such contracts.

Final policy recommendation

The Commission's final recommendations are to amend the associate contract approval process provisions in the NGR to:

- address the information asymmetries faced by the regulator by:
  - requiring service providers that apply to have an associate contract or variation approved, to include in the application a statement setting out the reasons why they consider:

    - — the contract or variation does not breach the NGL prohibitions, or
    - — if the contract or variation would breach an NGL prohibition, that the public benefits would outweigh the public detriment.
  - allowing the regulator to request additional information from the service provider if required.
- in the case of decisions under rule 32(2):
  - only require the regulator to approve an associate contract if the service provider has demonstrated to the regulator's reasonable satisfaction that it will not breach the NGL prohibitions
  - remove the deemed approval, extend the decision making timeframe to 40 business days and include a stop-the-clock provision that can be triggered if the regulator seeks further information.
- in the case of decisions under rule 32(3) require the regulator to consult using the standard consultative procedure
- require the regulator to publish a guide setting out the process to be followed and the information to be provided by a service provider if approval of a contract is sought
- require the regulator to publish any associate contract related decisions and include these decisions on the AEMC's pipeline register.

These final recommendations are expected to promote the NGO by:

- supporting more informed and efficient decision making by the regulator (i.e. by reducing the information asymmetries faced by the regulator, allowing public consultation on decisions that could adversely affect competition and providing the regulator with an appropriate amount of time to make decisions)
- allowing a more efficient approval process (i.e. by requiring the regulator to set out the process to be followed and information to be provided in a non-binding guide)
- providing market participants with greater confidence in the approvals process and more guidance to pipeline service providers (i.e. by requiring greater transparency of associate contract decisions).

The Commission has considered whether any transitional arrangements are required in relation to these final recommendations and recommends that the transitional rules:

- exclude from the operation of the amended rule 32 applications for approval of associate contracts made by a service provider prior to the commencement of the new rules
- require the regulator to publish the decision guide within eight months of the commencement of the rules
- clarify that the requirement to publish associate contract related decisions does not apply to decisions made prior to the commencement of the rules.

Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 21: DRAFT RULE — AMEND THE ASSOCIATE CONTRACT APPROVAL PROCESS

Amend the associate contract approval process provisions to:

- require service providers that apply to have an associate contract or variation approved, to include in the application a statement setting out the reasons that (recommended draft rule 32(1A) and (1B)):
  - the contract or variation does not breach the NGL prohibitions, or
  - if the contract or variation would breach the NGL prohibitions, that the public benefits would outweigh the public detriment.
- require the regulator to consult using the standard consultative procedure if it is considering making a decision to approve a contract that breaches the NGL prohibitions (recommended draft rule 32(3A))
- for contracts other than those specified above:
  - only require the regulator to approve an associate contract if the service provider has demonstrated to the regulator's reasonable satisfaction that it will not breach the NGL prohibitions (recommended draft rule 32(2)
  - extend the decision making timeframe to 40 business days and include a stop-the-clock provision that can be triggered if the regulator seeks further information (recommended draft rule 32(6).

Include a new rule that requires the regulator to publish a guide that sets out the process to be followed and the information to be provided by a service provider for any ring fencing and associate contract related decisions made under the NGR (recommended draft rule 35D).

RECOMMENDATION 22: DRAFT RULE — TRANSPARENCY OF ASSOCIATE CONTRACT APPROVAL DECISIONS

Amend the NGR to require:

- the regulator to publish associate contract decisions (including approval decisions, decisions not to approve, variation and revocation decisions) (recommended draft rule 35E)
- associate contract decisions to be included on the AEMC's pipeline register (recommended draft rule 133(4)).

RECOMMENDATION 23: DRAFT TRANSITIONAL RULE — ASSOCIATE CONTRACT APPROVAL

Include transitional rules in the NGR that:

- exclude from the operation of amended rule 32 applications for approval of associate contracts made by a service provider prior to the commencement of the new rules (recommended draft transitional rule Schedule 6, Part 1, rule 2)
- require the regulator to publish the ring fencing decision guide within eight months of the commencement of the rules (recommended draft transitional rule Schedule 6, Part 1, rule 3)
- exclude associate contract decisions made before the commencement date from the publication requirements in recommended draft rules 35E and 133(4) (recommended draft transitional rule Schedule 6, Part 1, rule 4).

4.3.3 Guidance on competitive parity rule

Stakeholder responses

Mixed views were expressed on the AER's suggestion that the NGR should provide greater guidance on the competitive parity rule. Alinta and Origin stated that there would be benefit in providing greater guidance on this rule.[97] However, AGIG, AusNet, the ENA and Jemena did not see the need for any additional guidance in the NGR.[98]

Commission analysis

The competitive parity rule is set out in s. 148 of the NGL and states:

> the competitive parity rule is the rule that a pipeline service provider must ensure that any pipeline services that the pipeline service provider provides to an associate of the pipeline service provider are provided to that associate as if that associate were a separate unrelated entity.

As the AER and some stakeholders have observed, the competitive parity rule provides limited guidance on the types of matters that the regulator should consider when deciding whether the rule has been complied with. The Commission considered amending the NGR to provide more guidance as sought. However, there is a risk that doing so could inadvertently narrow its intended operation. Therefore, the Commission considers additional guidance should not be provided in the NGR.

97 Submissions to the draft report: Alinta, p. 22; Origin, p. 5.

98 Submissions to the draft report: AGIG, p. 9; AusNet, p. 7; ENA, p. 11; Jemena, p. 12.

Final policy recommendation

The Commission's final recommendation is not to amend the NGR to provide more guidance on the competitive parity rule.

5 MARKET TRANSPARENCY MECHANISMS

BOX 3: SUMMARY OF CHAPTER

This chapter focuses on the five market transparency mechanisms provided for under the NGR (the Gas Statement of Opportunities (GSOO), the Victorian Gas Planning Report (VGPR), the Natural Gas Services Bulletin Board (Bulletin Board), AER gas price reporting and non-pipeline infrastructure access reporting) and considers whether they should be extended to other covered gases, and if so, how this can be implemented.

Stakeholder feedback and the Commission's own analysis of these matters indicate that if these transparency mechanisms are not extended to other covered gases, material information gaps could emerge, which could have a range of adverse effects on the market, economic efficiency and consumers more generally.

Therefore, the Commission has concluded that the NGR should be amended to extend the application of the five transparency mechanisms to the facilities and activities involved in the supply of other covered gases. The mechanisms should also be amended to implement some new reporting obligations to facilitate access to the infrastructure involved in the supply of covered gases.

The Commission's key final recommendations are to:

- extend the application of the GSOO, VGPR, Bulletin Board, AER gas price reporting and non-pipeline infrastructure access reporting to other covered gases
- recognise blend processing facilities as distinct facilities and extend the GSOO, VGPR, Bulletin Board and non-pipeline infrastructure access reporting to these facilities
- require information on pipeline blending and blending related curtailments to be published on the Bulletin Board
- enable AEMO to collect information from unregistered participants for the VGPR and to also use information obtained for the purposes of the VGPR for the GSOO and vice versa.

These final recommendations are expected to promote the NGO by supporting the efficient operation of markets for covered gases and associated services by promoting efficient investment in, and the efficient operation and use of covered gas services for the long term interests of consumers. They are also fit for purpose, targeted and proportionate to the issues they are intended to address and expected to provide the stability and transparency of regulatory arrangements required to enable consumers, market participants and investors to make efficient decisions.

The NGL and NGR currently establish the following market transparency mechanisms:

- the Gas Statement of Opportunities (GSOO), which is an annual report published by AEMO that assesses the adequacy (or otherwise) of supply in eastern Australia to meet forecast demand and the outlook for the industry over a 20-year outlook period[99]
- the Victorian Gas Planning Report (VGPR), which is a biennial report published by AEMO that provides a supply and demand outlook and pipeline capacity adequacy assessment for the Victorian Declared Transmission System (DTS) over a five-year outlook period[100]
- the Natural Gas Services Bulletin Board (Bulletin Board or BB), which is a website operated by AEMO that contains market and system information for a range of facilities involved in the supply and use of natural gas in eastern Australia and the Northern Territory.[101]

In 2020, Energy Ministers agreed to implement a range of improvements to the GSOO and the Bulletin Board and to require the AER to publish a range of gas price information once the Australian Competition & Consumer Commission's (ACCC) Gas Inquiry ceases, which is expected to occur in 2025. The amendments to the NGL and NGR required to give effect to these transparency reforms are set out in the rule made by the South Australian minister in June 2022 and will come into effect by the middle of April 2023.[102]

In addition, Energy Ministers have agreed that stand-alone compression and storage facility operators should publish information on their standing terms and actual prices paid by other users to help facilitate third party access (referred to as 'non-pipeline infrastructure access reporting'). The amendments to the NGR required to give effect to this transparency measure are being implemented through the pipeline reform package, which is expected to be implemented later this year.[103] Given Energy Ministers have already agreed to these amendments, this final report proceeds on the basis that the amendments are made.

In the draft report, the Commission recommended that:

- the GSOO, VGPR, Bulletin Board, AER gas price reporting functions and non-pipeline infrastructure access reporting obligations be extended to other covered gases
- blend processing facilities be recognised as distinct facilities and subject to the GSOO, VGPR, Bulletin Board and non-pipeline infrastructure access reporting obligations
- the Bulletin Board include information on pipeline blending and blending related curtailments
- AEMO be given the power to collect information from unregistered participants for the VGPR and to use information obtained for the VGPR for the GSOO and vice versa.

99 See https://aemo.com.au/en/energy-systems/gas/gas-forecasting-and-planning/gas-statement-of-opportunities-gsoo
100 See http://aemo.com.au/en/energy-systems/gas/gas-forecasting-and-planning/victorian-gas-planning-report
101 See http://aemo.com.au/en/energy-systems/gas/gas-bulletin-board-gbb
102 See https://www.energy.gov.au/government-priorities/energy-ministers/energy-ministers-publications/regulatory-amendments-increase-transparency-gas-market
103 See http://energyministers.gov.au/publications/energy-senior-officials-release-gas-pipeline-draft-legal-package-consultation

This chapter sets out stakeholder feedback received on these draft recommendations, the Commission's analysis and final policy recommendations. It also sets out the Commission's recommendations on the changes to be made to the relevant parts of the NGR to:

- give effect to the final policy recommendations
- implement the transitional arrangements that will be required to give AEMO and market participants sufficient time to comply with the new reporting requirements.

In addition to the changes identified in this chapter, consequential changes to the NGR are set out in appendix D.

For further detail on the recommended changes to the rules, see the accompanying draft rule.

5.1 Applying the assessment framework

The Commission's final recommendations are to:

- extend the GSOO, VGPR, Bulletin Board, AER gas price reporting and non-pipeline infrastructure access reporting to other covered gases
- recognise blend processing facilities as distinct facilities and subject to the GSOO, VGPR, Bulletin Board and non-pipeline infrastructure access reporting obligations
- include information on pipeline blending and blending related curtailments in the Bulletin Board
- allow AEMO to collect information from unregistered participants for the purposes of the VGPR and use information obtained for the purposes of the VGPR for the GSOO and vice versa.

Stakeholder feedback and the Commission's own analysis of these matters indicate that if these recommendations are not implemented, material information gaps could emerge and have a range of adverse effects on the market, economic efficiency and consumers more generally. Failure to implement these recommendations could, for example, result in material gaps in:

- the supply forecasts developed as part of the GSOO and VGPR, which could result in inefficient decisions being made about bringing on new sources of supply and infrastructure
- the Bulletin Board and the AER's gas price reporting, which could impede the efficient trade of gas and gas services and result in inefficient decisions being made about the provision and use of other covered gases and associated services.

It could also impede access to the infrastructure captured by the Bulletin Board and non-pipeline infrastructure access reporting obligations.

The implementation of these recommendations is expected to promote the efficient operation of the markets for other covered gases and associated services in the following ways:

- **GSOO and VGPR:** The final recommendations should enable market participants to make more informed and efficient planning and investment decisions by allowing them to

understand the adequacy of supply from all covered gases and associated infrastructure to meet forecast demand.

- **Bulletin Board:** The final recommendations are expected to allow:
  - market participants to make more informed and efficient decisions about the supply and use of other covered gases and associated services, facilitate the efficient trade of these gases and services and support access to facilities involved in their supply, by providing for the timely publication of pricing, system and operational information
  - prospective suppliers of covered gases make more informed decisions about whether to connect to a pipeline by providing for the publication of information on pipeline blending and the pattern of blending related curtailments.
- **AER's gas price reporting function**: The final recommendations are intended to facilitate the efficient trade of other covered gases and allow market participants to respond in a more efficient manner to price signals, by providing for greater transparency of the prices paid for other covered gases under gas supply and gas swap agreements.
- **Non-pipeline infrastructure terms and prices**: The final recommendations are intended to facilitate third party access to the compression, storage and blend processing facilities involved in the supply of other covered gases, by requiring facility operators to publish their standing terms, the method and inputs used to calculate standing prices and information on the prices actually paid by facility users.

While these final recommendations will impose some reporting costs on suppliers of covered gases and associated services, most of the information will only have to be reported on an intermittent basis. For example, the information required by AEMO to prepare the GSOO is only collected once a year, while information for the VGPR is collected every one or two years. Most of the information to be reported by non-pipeline infrastructure facility operators is also standing data and so will only have to be updated if new contracts are entered into. As a result, the costs associated with these reporting obligations are not expected to be significant.

In addition, the final recommendations provide for the extension of existing measures in the NGR and the implementation of some new measures that are intended to minimise compliance costs, including:

- the extension of the remote BB facility concept to the GSOO, so that facilities that are not directly or indirectly connected to an east coast facilitated market would not be subject to either the GSOO or Bulletin Board reporting obligations
- the Bulletin Board reporting obligations would not apply to facilities with a nameplate rating less than 10 TJ/day and exemptions would be available where AEMO is satisfied the information will be provided by another person, or in the case of lateral gathering pipelines, the information is not material
- exemptions from the non-pipeline infrastructure access reporting obligations would be available where the AER is satisfied that the facility is not a third party access facility
- only requiring pipelines to report on pipeline blending and blending related curtailments where the pipeline is transporting a gas blend and a blending limit applies.

These measures are intended to provide an appropriate balance between enabling market participants and other parties to have access to the information required to make informed and efficient decisions, and minimising compliance costs. They are also intended to:

- be targeted, fit for purpose and proportionate to the issues they are intended to address
- provide the stability and transparency of regulatory arrangements required to enable market participants to make efficient decisions.

Taken together, the final transparency related recommendations are expected to contribute to the NGO by promoting efficient investment in, and the efficient operation and use of covered gas services in the long term interest of consumers.

5.2 Extend the GSOO to other covered gases

5.2.1 Current framework and draft recommendations

The objective of the GSOO is to make information available to assist market participants and other persons to make informed investment decisions in the natural gas industry and to understand the adequacy of supply to meet forecast demand over a 20-year period.

The GSOO provisions in the NGL and Part 15D of the NGR have recently been amended as part of the transparency reform package.[104] Broadly, the new GSOO provisions set out:

- AEMO's obligation to publish the GSOO
- the content that must be included in the GSOO
- AEMO's powers to issue a GSOO survey to collect information that it considers reasonably necessary for the publication of the GSOO, the scope and application of which is to be set out in GSOO Procedures to be published by AEMO
- the obligations of reporting entities identified in AEMO's GSOO Procedures to participate in the GSOO survey and to comply with both the information standard set out in the Part 15D of the NGR and the GSOO Procedures.

In the draft report, the Commission recommended that:

- the GSOO be extended to other covered gases and that:
  - facilities and activities involved in their supply (other than remote BB facilities) be treated in the same manner as those involved in the supply of natural gas (where appropriate)
  - blend processing facilities be treated separately, with specific information to be reported on these facilities in the GSOO
  - AEMO be allowed, but not required, to report on the feedstock used in the production of other covered gases
- AEMO be able to use the information it obtains for the purposes of the GSOO when preparing the VGPR and vice versa.

104 See http://energyministers.gov.au/publications/energy-senior-officials-release-gas-pipeline-draft-legal-package-consultation

5.2.2 Stakeholder responses

Stakeholders generally supported the draft recommendations relating to the GSOO.[105] Engie and Alinta were the only stakeholders that raised any concerns about the proposed extension of the GSOO. They were both concerned about the regulatory imposts that may be associated with the extension to the nascent hydrogen and renewable gas industry.[106]

5.2.3 Commissions analysis

Extension of the GSOO to other covered gases

The Commission's draft recommendations extended the GSOO to other covered gases. As Engie and Alinta have observed, there will be some reporting costs associated with this extension. These costs are not, however, expected to be significant, given the nature of the information to be reported and the infrequency with which information is collected (i.e. annually). The costs are also expected to be outweighed by the efficiency benefits that will flow from greater transparency which includes enabling market participants to make more informed and efficient planning and investment decisions.

On balance, the Commission is satisfied that the extension is targeted, fit for purpose and proportionate to the information gaps that could arise if the extension does not occur. Therefore, the Commission considers that its draft recommendation remains appropriate.

Treatment of blend processing facilities

The Commission's draft recommendations also provided for the separate treatment of blend processing facilities. Stakeholders did not provide any specific feedback on this draft recommendation.

As outlined in the draft report, the information to be reported on blend processing facilities for the purposes of the GSOO will differ from the information to be reported by other facilities involved in the supply of covered gases. It is appropriate therefore to treat these facilities as separate facilities for the purposes of the GSOO. As a result, the final recommendation reflects the draft recommendation.

Information on the feedstock used in the production of covered gases

The Commission's draft recommendations allowed, but did not require, AEMO to report on the feedstock used in the production of other covered gases. Stakeholders did not provide any feedback on this draft recommendation.

As noted in the draft report, this draft recommendation differs from the approach taken in relation to natural gas, where information on reserves and resources must be included in the GSOO. The difference in approach stems from the fact that while natural gas reserves and resources place a cap on the amount of natural gas that can be produced, this may not be

105 Submissions to the draft report: AEMO, p. 1; AGIG, p. 5; PIAC, p. 2; AusNet, p. 1; NELA (WA), p. 2; Origin, p. 5; Jemena, p. 13; GAMAA, p. 2; APA, p. 13.

106 Submissions to the draft report: Engie, p. 2; Alinta, p. 5.

the case for other covered gases if they are produced from renewable resources. For example, if hydrogen is produced from:

- electricity generated by a wind turbine, then there would, in principle, be no cap on what can be produced, other than the cap posed by the capacity of the hydrogen electrolyser and the availability of wind
- natural gas, then the availability of natural gas reserves and resources would cap the amount of hydrogen that could be produced.

In the first example, the inclusion of information on feedstock in the GSOO may not be very informative, but in the second example it would be. To accommodate the potential different situations, some flexibility is required in the GSOO rules to allow AEMO to report information on the feedstock used by suppliers of other covered gases and the factors that may affect the availability of that feedstock, where it is appropriate to do so. The Commission considers that this approach is suitable and is reflected in the final recommendation.

Information used for the purpose of the VGPR

The final element of the Commission's draft recommendations on the GSOO was to allow AEMO to use any information it obtains through a GSOO survey for the purposes of the VGPR and vice versa. Stakeholders supported this draft recommendation, with a number observing that it would reduce the reporting burden for market participants.

This observation is consistent with the Commission's own view on the benefits of making this change to the GSOO and VGPR rules. The Commission does not propose any changes and consequently, the final recommendation is the same as the draft recommendation.

5.2.4 Final policy recommendations

The Commission's final policy recommendations in relation to the GSOO are to:

- extend the GSOO to other covered gases and, in doing so
  - treat the facilities and activities involved in their supply (other than remote BB facilities) in the same manner as those involved in the supply of natural gas (where appropriate) (see Table 5.1)
  - require blend processing facilities to be treated separately with specific information to be reported on these facilities in the GSOO (see Table 5.1)
  - allow, but not require, AEMO to report on the feedstock used in the production of other covered gases
- enable AEMO to use the information it obtains for the purposes of the GSOO when preparing the VGPR and vice versa.

These final recommendations are expected to contribute to the achievement of the NGO by allowing AEMO to properly assess the adequacy (or otherwise) of supply and the associated infrastructure to meet forecast demand over the outlook period. This will, in turn, enable market participants to identify the longer term development needs of the gas market and to make more informed and efficient planning and investment decisions. Such information may also support informed decisions by policy makers.

These benefits are expected to outweigh the reporting and administrative costs that AEMO and facilities are likely to incur as a result of the extension, which will be further reduced by allowing AEMO to use information collected for the purposes of the VGPR for the GSOO and vice versa.

Table 5.1: **Extension of the GSOO to other covered gases**

	NATURAL GAS	OTHER COVERED GASES
Production facilities		
Feedstock used in the production of the gas	Must be reported	May be reported (with factors that may affect availability)
Production forecasts	Yes	Yes
Contracted production	Yes	Yes
Annual and peak day capacity of, and constraints on, production	Yes	Yes
Committed and proposed new or expanded production facilities	Yes	Yes
Factors that may affect the volume of gas supplied by production facilities	Yes	Yes
Transmission pipelines		
Annual and peak day capacity of, and constraints on, transmission pipelines	Yes	Yes
Committed and proposed new, expanded or augmented pipelines	Yes	Yes
Factors that may affect the volume of gas supplied by transmission pipelines	Yes	Yes
Storage facilities		
Peak day capacity of, and constraints on transmission pipelines	Yes	Yes
Committed and proposed new or expanded storage facilities	Yes	Yes
Factors that may affect the volume of gas supplied by storage facilities	Yes	Yes
Blend processing facilities		
Blend production forecasts	n.a.	Yes
Contracted blend processing	n.a	Yes
Annual and peak day capacity of, and constraints on, blend processing facilities	n.a.	Yes
Committed and proposed new or expanded blend processing facilities	n.a.	Yes
Factors that may affect the volume of gas supplied by blend processing facilities	n.a	Yes

The Commission has consulted with AEMO on whether any transitional arrangements are required for the GSOO. AEMO has advised that before the new reporting obligations can flow through to the GSOO, it would need to update the GSOO Procedures to extend the GSOO survey to other covered gases and the list of persons (or classes of persons) from whom it would collect information. The additional complexity posed by the GSOO is that AEMO usually requests information from market participants six months before publishing the GSOO (i.e. information is requested in September for the March GSOO), so the changes to the GSOO Procedures would need to be made prior to September.

More generally, AEMO has advised that procedure and system changes arising as a result of this review and the DWGM rule change (which commences on 1 May 2024) will be significant. It also expects to have other gas procedures and processes to update over the near term arising from the recent Energy Ministers Meeting.[107]

Consequently, AEMO has suggested that the transitional arrangements allow the GSOO Procedures to be updated in the first half of 2024. This would allow the amended GSOO survey to be used to collect information for the March 2025 GSOO.

This timing is reflected in the draft transitional arrangements, which:

- assume an effective date for the commencement of the new GSOO rules in Part 15D as 31 July 2024 (Part 15D amendments effective date)
- require AEMO to review and where necessary, amend and publish the GSOO Procedures to take into account the amending rule by no later than the Part 15D amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 15D amendments effective date to be taken to satisfy the consultation requirements in Part 15B of the NGR.

5.2.5 Recommended draft rules

To give effect to the final policy recommendations and transitional arrangements outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 24: DRAFT RULE — EXTEND THE GSOO TO OTHER COVERED GASES

Amend Part 15D of the NGR to:

- Define the gases that will be subject to the GSOO (i.e. all covered gases) and recognise the expanded scope of the GSOO by replacing the terms 'natural gas' and 'natural gas industry' with 'covered gas' and 'covered gas industry' (recommended draft rules 135K and 135KE).

107 Energy Ministers, Meeting communique, 12 August 2022. See: https://www.energy.gov.au/government-priorities/energy-ministers/meetings-and-communiques.

- Exclude remote BB facilities from the scope of the GSOO (recommended draft rules 135K and 135KA).
- Include a new definition for the term 'gas processing plant' to make clear that it extends to facilities producing primary gases (recommended draft rule 135K).
- Define gas blend processing to cover only blending (and not deblending) (recommended draft rule 135K).
- Require the GSOO to include the following information on gas blend processing (recommended draft rule 135KB):
  - blend processing forecasts
  - the volume of gas blend processing contracted in each year of forecast horizon
  - annual and peak day capacity of, and constraints on, blend processing facilities
  - committed and proposed, new or expanded blend processing facilities
  - factors that may affect the volume of gas supplied by blend processing facilities
- Allow, but not require, the GSOO to include information on the feedstock used to create primary gases (excluding natural gas) and the factors that may affect the availability of that feedstock (recommended draft rule 135KB(2A).

RECOMMENDATION 25: DRAFT RULE — ENABLE AEMO TO USE INFORMATION FROM THE GSOO SURVEY FOR VGPR AND VICE VERSA

Amend Parts 15D and 19 of the NGR to allow AEMO to use information for either purpose by:

- amending the use and disclosure of GSOO survey information rule in Part 15D to allow AEMO to use any information it obtains through this survey for the purposes of the VGPR (recommended draft rule 135KH(1A)).
- amending the use and disclosure of VGPR information in Part 19 to allow AEMO to use any information it obtains for the VGPR for the purposes of the GSOO (recommended draft rule 324(8)).

RECOMMENDATION 26: DRAFT TRANSITIONAL RULE — GSOO AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the new GSOO rules in Part 15D is 31 July 2024.

Insert transitional rules (recommended draft transitional rule Schedule 6, Part 3) that:

- require AEMO to review and where necessary, amend and publish the GSOO Procedures to take into account the amending rule by that effective date

- require the GSOO procedures to take effect on and from that effective date
- allow consultation undertaken by AEMO before that effective date to be taken to satisfy the consultation requirements in Part 15B of the NGR.

5.3 Extend the VGPR to other covered gases

5.3.1 Current framework and draft recommendations

The objective of the VGPR is to facilitate planning and investment decisions in the DTS and to make information available to assist market participants and other parties make economically efficient investment decisions in natural gas markets.

The planning review provisions in rules 323-325 of Part 19 of the NGR set out:

- AEMO's obligation to publish the VGPR
- the information that AEMO must include in the VGPR and the matters it must take into account when preparing the VGPR
- the obligations of DWGM registered participants, as specified in Part 15A of the NGR, to provide AEMO with the information specified in rules 324(2)-(4) and to comply with the information standard set out in rule 324(7)
- AEMO's power to exempt DWGM registered participants from some or all of the disclosure obligations.

In the draft report, the Commission recommended that:

- the VGPR be extended to other covered gases and, in doing so:
  - treat the facilities and activities involved in their supply in the same manner as those involved in the supply of natural gas (where appropriate)
  - require blend processing facilities be treated separately, with specific information to be reported by these facilities for the purposes of the VGPR
- AEMO be allowed to collect information from persons that are not DWGM registered participants for the purposes of the VGPR and to set out any information it intends to collect from non-registered participants in the wholesale market procedures.

5.3.2 Stakeholder responses

Stakeholders generally supported the draft recommendations relating to the VGPR.[108]

Engie was the only stakeholder that raised any concerns about the proposed extension of the VGPR to other covered gases. As with the GSOO extension, Engie was concerned that the extension would give rise to regulatory imposts.[109]

108 Submissions to the draft report: AEMO, p. 1; AGIG, p. 5; PIAC, p. 2; AusNet, p. 1; NELA (WA), p. 2; Origin, p. 5; Jemena, p. 13; GAMAA, p. 2; APA, p. 14.

109 Engie, submission to the draft report, p. 2.

APA also raised some concerns about the draft recommendation to allow AEMO to collect information from unregistered participants.[110]

5.3.3 Commission analysis

Extension of the VGPR to other covered gases

The Commission's draft recommendations provided for the extension of the VGPR to other covered gases. As Engie has observed, there will be some reporting costs associated with this extension. These costs are not, however, expected to be significant, given the nature of the information to be reported and the infrequency with which information is collected. The costs are also expected to be outweighed by the efficiency benefits that will flow from greater transparency in this area, which include enabling market participants to make more informed and efficient planning and investment decisions.

The Commission does not therefore propose to make any changes to its approach, so the final recommendation mirrors the draft recommendation.

Treatment of blend processing facilities

Stakeholders did not provide any specific feedback on the proposed treatment of blend processing facilities. Consistent with the approach that has been recommended for the GSOO and Bulletin Board, the Commission is of the view that blend processing facilities should be treated as separate facilities for the purposes of the VGPR. The Commission considers that its draft recommendation remains appropriate and so the final recommendation is the same.

Who can be required to provide AEMO information for the VGPR

The VGPR related reporting obligations in rules 323-324 of the NGR are currently tied to the registration arrangements set out in Part 15A of the NGR. While the list of registration categories will be amended through the distribution connected facilities rule change process, there may be facilities from whom AEMO requires information for the purposes of preparing the VGPR that are not required to register. To address this gap, the draft recommendations enabled AEMO to collect information from any person that has possession or control of information that it requires to prepare the VGPR.

The Commission has considered the concerns that APA raised about this power, which appear to be that AEMO could exercise the power without constraint. On this point, it is important to recognise that AEMO would only be able to collect equivalent information to that collected from registered participants and where there is a direct connection to the VGPR. AEMO would also be required to specify the information it intends to collect from these parties in the wholesale market procedures, so there will be transparency on the use of this power. In the Commission's view, these constraints are sufficient.

As a result, the Commission does not propose to make any changes to this aspect of the draft recommendations. The final recommendation reflects the draft recommendation.

110 APA, submission to the draft report, p. 3.

5.3.4 Final policy recommendations

The Commission's final policy recommendations are to:

- extend the VGPR to other covered gases and, in doing so:
  - treat the facilities and activities involved in their supply in the same manner as those involved in the supply of natural gas (where appropriate) (see Table 5.2)
  - require blend processing facilities to be treated separately with specific information to be reported by these facilities for the purposes of the VGPR (see Table 5.2)[111]
- allow AEMO to collect information from persons that are not DWGM registered participants for the purposes of the VGPR and require AEMO to set out any information it intends to collect from non-registered participants in the wholesale market procedures.

If implemented, these final recommendations are expected to contribute to the achievement of the NGO by allowing AEMO to properly assess the adequacy (or otherwise) of supply and the associated infrastructure to meet forecast demand over the outlook period. This will, in turn, help market participants to identify the longer term development needs of the gas market and to make more informed and efficient planning and investment decisions. The amended VGPR should also enable policy makers to make well informed decisions.

These benefits are expected to outweigh the reporting and administrative costs that AEMO and facilities are likely to incur as a result of the extension. The costs of the changes will be further reduced by allowing AEMO to use information collected for the purposes of the GSOO for the VGPR.

The Commission has consulted with AEMO on whether any transitional arrangements are required for the VGPR. It has advised that while some small changes would need to be made to the wholesale market procedures to enable it to collect information from non-registered participants, transitional arrangements are not required to accommodate the extension of the VGPR. The Commission does not therefore recommend any specific transitional arrangements for the VGPR. It recommends that the effective date for the VGPR amendment be the same as the effective date for other changes to Part 19 recommended in this report.

111 To give effect to this, DTS connected blend processing facilities will need to become DWGM registered facilities and DWGM facility operators. Other consequential changes are set out in chapter 7 of this final report.

Table 5.2: Extension of the VGPR to other covered gases

	NATURAL GAS	OTHER COVERED GASES
Information to be provided by producers[a]		
Available & prospective gas supply, source of supply	Yes	Yes
Gas supply projects	Yes	Yes
Forecasts of equipment availability, constraints and maintenance (DTS connected facilities)	Yes	Yes
Information to be provided by pipeline service providers[a]		
Pipeline projects (including extensions and expansions)	Yes	Yes
Forecasts of equipment availability, constraints and maintenance (DTS connected facilities)	Yes	Yes
Distributors: Peak daily demand for 1 in 2 peak demand conditions and anticipated material constraints that may affect DTS	Yes	Yes
Information to be provided by storage facility operators[a]		
Storage capacity and inventory availability	Yes	Yes
Storage operating parameters	Yes	Yes
Storage projects	Yes	Yes
Forecasts of equipment availability, constraints and maintenance (DTS connected facilities)	Yes	Yes
Information to be provided by blend processing service providers[a]		
Blend processing capacity	n.a.	Yes
Forecasts of equipment availability, constraints and maintenance (DTS connected facilities)[b]	n.a.	Yes
Blend processing facility projects (including expansions)	n.a.	Yes

Note: a. All information to be provided is for annual forecasts for the next 5 years and monthly forecasts for the next year for the following year.
b. Consistent with the current application of rule 324(4), these obligations would only apply to DTS connected blend processing facilities. As part of the DWGM rule change, a new rule will be inserted that requires distribution connected facilities to provide information to AEMO about the maintenance of the facility in accordance with the maintenance planning procedures.

5.3.5 Recommended draft rules

To give effect to the final policy recommendations outlined above, the NGR should be changed as outlined in the boxes below.

> RECOMMENDATION 27: DRAFT RULE — EXTEND THE VGPR TO OTHER COVERED GASES
>
> Amend Part 19 and 15B of the NGR to extend the VGPR to other covered gases by:
>
> - specifying the gases to be captured by the VGPR (i.e. natural gas, processable gas and other covered gases) (recommended draft rule 200)
> - requiring the VGPR to include forecasts in respect of blend processing facility capacities by facility (recommended draft rule 323(3)(h))
> - requiring AEMO to take into account for the VGPR committed projects for new or additional blend processing facilities (recommended draft rule 323(4))
> - requiring the registration of the operators of DTS connected blend processing facilities (recommended draft rules 135A and 200) and treating the blend processing service provider as a DWGM facility operator (recommended draft rule 200)
> - requiring blend processing facility operators to provide AEMO with information on:
>   - blend processing capacities (recommended draft rule 324(2)(e))
>   - blend processing facility projects (including expansions) (recommended draft rule 324(2)(c)).

> RECOMMENDATION 28: DRAFT RULE — ENABLE AEMO TO COLLECT VGPR INFORMATION FROM PARTIES NOT REGISTERED IN THE DWGM
>
> Amend Part 19 and Part 15B of the NGR to:
>
> - allow AEMO to collect information for the VGPR from persons that are not DWGM registered participants (recommended draft rule 324A)
> - require any information that AEMO intends to collect using this power and who it intends to collect the information from to be set out in the wholesale market procedures (recommended draft rules 324A and 135EA(2)).

5.4 Extend the Bulletin Board to other covered gases

5.4.1 Current framework and draft recommendations

The objective of the Bulletin Board is to make information relating to the natural gas industry available to market participants and other persons to facilitate:

- trade in natural gas and natural gas services
- informed and efficient decisions in relation to the provision and use of natural gas and natural gas services
- negotiations for access to BB pipelines and other BB facilities providing third party access.

The Bulletin Board provisions are in Part 18 of the NGR and have recently been amended as part of the transparency reform package. At a high level, Part 18 of the NGR sets out:

- the registration requirements for facility operators with a nameplate rating of greater than or equal to 10 TJ/day that are not remote BB facilities and other parties that are required to register as Bulletin Board reporting entities
- the information that Bulletin Board reporting entities are required to provide to AEMO for publication on the Bulletin Board, which includes information on:
  - facilities involved in the supply of natural gas (e.g. nameplate capacity, daily use of, or consumption by, facilities, capacity outlooks, nomination and forecast use of facilities, uncontracted capacity and proposed developments)
  - large user facilities and their demand for gas
  - short term gas supply and gas swap transactions, LNG export transactions, transportation and storage capacity trades
- the obligation that Bulletin Board reporting entities have to comply with the information standard in Part 18 of the NGR and AEMO's Bulletin Board Procedures
- AEMO's ability to exempt facilities from the requirement to register, or from the obligation to provide some or all of the information specified in Part 18 of the NGR
- AEMO's obligation to publish information on the Bulletin Board.

In the draft report, the Commission recommended that:

- Part 18 of the NGR be amended to:
  - extend the Bulletin Board to other covered gases
  - require blend processing facilities to be subject to specific reporting obligations
  - require pipelines to report a range of information on blending and blending-related curtailment.
- Part 15B of the NGR be amended to allow (but not require) AEMO to provide further guidance on how nameplate rating is to be measured in the Bulletin Board Procedures.

5.4.2 Stakeholder responses

Stakeholders generally supported the draft recommendations relating to the Bulletin Board.[112] However, some questions were raised about the draft recommendations to:

- require separate reporting by blend processing facilities
- require pipelines to report information on blending.

112 Submissions to the draft report: NELA (WA), p. 6; Origin, p. 5; Alinta, p. 9; PIAC, p. 2; AusNet, p. 1; Jemena, p. 13.

Engie was the only stakeholder that raised any concerns about extending the Bulletin Board. Similar to its comments on the GSOO and VGPR, Engie was concerned about the regulatory imposts associated with the extension.[113]

Treatment of blend processing facilities

The draft recommendation to treat blend processing facilities as separate facilities for reporting purposes was supported by most stakeholders. APA, however, questioned this proposal, noting that in its view these facilities should either be assumed to form part of the pipeline or a production facility and should not subject to separate reporting.[114] APA also questioned the value of the information that would be reported by these facilities.[115]

Jemena was not opposed to the publication of specific information by blend processing facilities, but did suggest that the reporting threshold for these facilities be based on net injections rather than the nameplate capacity of the facility. It noted that the use of the facility's nameplate capacity may result in reporting obligations being imposed on facilities blending very small volumes of hydrogen.[116]

Pipeline reporting on blending

Stakeholders generally supported the draft recommendation to require pipelines to report information on blending and blending related curtailments to help inform prospective suppliers' decisions to connect to a pipeline. AGIG, however, questioned the need for this information to be reported on the Bulletin Board, noting that there would be costs associated with doing this.[117] AGIG went on to suggest that if this information is to be reported on the Bulletin Board, it should be reported quarterly rather than monthly in the initial stages of market development.[118]

Several stakeholders also suggested a more targeted application of the obligation to report on blending, with:

- APGA, AGIG, and Bioenergy Australia suggesting that this obligation only apply where the pipeline is licensed to carry a gas blend[119]
- APA suggesting that the obligation only apply when a hydrogen or renewable gas connection occurs[120]
- Jemena suggested that the obligation only apply where a pipeline is licensed to transport non-methane blends (e.g. a hydrogen-natural gas blend) because methane blends are not subject to the same type of blending cap or constraint.[121]

113 Engie, submission to the draft report, p. 2.
114 APA, submission to the draft report, pp. 16 and 18.
115 APA, submission to the draft report, p. 16.
116 Jemena, submission to the draft report, p. 13.
117 AGIG, submission to the draft report, p. 3.
118 AGIG, submission to AEMC draft paper, p. 3.
119 Submissions to the draft report: APGA, p. 3; AGIG, p. 3; Bioenergy Australia, p. 3.
120 APA, submission to the draft report, p. 17.
121 Jemena, submission to the draft report, p. 13.

5.4.3 Commission analysis

Extension of the Bulletin Board to other covered gases

The draft recommendations provided for the extension of the Bulletin Board to other covered gases. As Engie has observed, there will be some reporting costs associated with this change. However, it is important to recognise that the Bulletin Board already includes measures that are intended to minimise reporting costs, which would continue to apply. These include:

- the remote BB facilities exclusion, which means that facilities that are not directly or indirectly connected to a facilitated market in the east coast would not be required to comply with the reporting obligations[122]
- the Bulletin Board reporting threshold, which means that facilities with a nameplate rating of less than 10 TJ/day (equivalent to an electrolyser with a nameplate capacity of 130 MW) would not be required to comply with the reporting obligations
- the Bulletin Board exemption framework, which allows AEMO to grant:[123]
    - a full exemption from the Bulletin Board reporting obligations to lateral gathering pipelines, where it is satisfied the information is not material having regard to the purpose of the Bulletin Board[124]
    - an exemption from one or more of the Bulletin Board reporting obligations, where it is satisfied the information will be provided to it by another person.

The costs incurred by the reporting parties must also be considered in the context of the market wide benefits that are expected to flow from the publication of market and operational information on other covered gases and the facilities and activities associated with their supply. These benefits are intended to support the efficient operation of the market for covered gases and services by:

- enabling market participants to make more efficient decisions about the supply and use of covered gases and associated services through the publication of market and operational information on all parts of the supply chain and large user demand
- facilitating the efficient trade of covered gases and associated services through the publication of timely information on short term prices and other operational information, which will reduce search and transaction costs and aid the price discovery process
- supporting access to facilities involved in the supply of covered gases through the publication of information on uncontracted capacity and other related information.

As a result, the Commission is satisfied that extending the Bulletin Board to covered gases is necessary and consistent with the NGO. The final recommendation is consistent with the draft recommendation.

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122 In its submission, APA suggested that the Bulletin Board be amended to exclude facilities that are not providing third party access or that have a single user that are supplying a single market that is not connected to, or cannot supply, the domestic market. This approach appears to already be captured by the remote BB facility exclusion. That is, if a BB facility is connected to a transmission pipeline that is not connected (directly or indirectly) to a facilitated market in the east coast, then, irrespective of whether it is providing third party access or has a single user, it will not be subject to the BB reporting obligations.

123 Rule 164 of the NGR.

124 A lateral gathering pipeline is a pipeline operated as part of an upstream producing operation and used to transport gas for injection into another Bulletin Board facility forming part of that operation.

Treatment of blend processing facilities

The Commission's draft recommendations allowed for blend processing facilities to be treated as separate facilities for the purposes of the Bulletin Board. While APA questioned this recommendation, the separate treatment of these facilities recognises that blend processing facilities operate differently to other facilities. This is because blend processing facilities both withdraw and inject quantities of gas, so the two-way operation must be properly reflected on the Bulletin Board so that their operation and impact on the market can be properly understood.

The blend processing facility's nameplate rating, for example, will need to reflect the amount of gas that can be injected and withdrawn from a pipeline by the facility and the amount of gas that can be blended by the facility. The daily use data will also need to include information on the quantity of gas withdrawn from a pipeline and the quantity of gas that is injected into a pipeline. This approach provides the benefit of greater clarity to all participants and AEMO on the flow of gas in and out of these facilities. As a result, the Commission does not propose to make any changes to this approach. The final recommendation is consistent with the draft recommendation.

As to the reporting threshold that would apply to these facilities, the intention is that the threshold that currently applies to other comparable facilities would also apply to blend processing facilities. Therefore, it would be based on the maximum quantity of gas that can be injected into one or more pipelines from the blend processing facility on a gas day and not on a net injection basis as proposed by Jemena. While this may mean the reporting obligations apply to facilities that are injecting small volumes of hydrogen, this is appropriate given the facilities will be capable of withdrawing material volumes of natural gas from a pipeline and reinjecting material volumes of a blend into a pipeline. Given the effect that their operation could have on the market, it will be important for these facilities to be subject to the Bulletin Board reporting obligations.

Pipeline reporting on blending

The draft recommendations provided for transmission and distribution pipelines that meet the Bulletin Board reporting threshold to report the following:

- standing information on the blending limit applicable to the pipeline
- information on the highest, lowest and average blend level achieved on the pipeline in the last month
- information on the number of times any injecting facility has been curtailed in the last month to maintain blending limits and the extent of the curtailment on each occasion it has occurred (aggregated across all the facilities that have been curtailed).

The intention in requiring this information to be published is that it will help prospective suppliers of other covered gases make more informed decisions about whether to try to connect to a particular pipeline and to undertake more informed access negotiations with the pipeline service provider.

As some service providers observed, there is unlikely to be any value in requiring pipelines to report this information if:

- the pipeline is not transporting a gas blend (e.g. if it is just transporting natural gas, pure hydrogen, pure biomethane or synthetic methane)
- the pipeline is transporting a gas blend, but there are no limits on the level of blending that can occur (e.g. if biomethane is being blended with natural gas, there may be no constraint on blending).

The Commission has therefore considered how to limit the application of this reporting obligation so the rule is better targeted. Some service providers suggested the obligation could be changed to only requiring service providers that are licensed to carry a gas blend to report. However, this would not address the point raised by Jemena, which is that not all gas blends will be subject to a blending cap or constraint. Rather than using pipeline licences, it would be more appropriate to:

1. limit the application of this reporting obligation to pipelines that meet the BB reporting threshold that are transporting a gas blend and that are subject to a blending limit
2. require all transmission and distribution pipelines that meet the requirements in (1) to report:
    a. standing information to AEMO on the blending limit that applies to the pipeline
    b. information on blend levels and curtailment.[125]

Framing the reporting obligation in this manner is expected to remove unnecessary reporting costs, while also meeting the intent of requiring this information to be published. That is, to help prospective suppliers of other covered gases make more informed decisions about whether to try to connect to a particular pipeline and, if so, to undertake more informed access negotiations with the pipeline service provider.

AGIG questioned whether this information on pipeline blending should be published on the Bulletin Board. Publication on individual service provider websites would be feasible but result in dispersed information. Instead, the Bulletin Board is the most appropriate location for the information, given the centralised and public nature of the Bulletin Board and broader market transparency benefits associated with this information. Specifically, having greater transparency around any constraints on blending that may apply to a pipeline will help retailers and large users make more informed decisions about the supply and use of other covered gases and associated services.

To be of benefit to the market, pipeline blending information would need to be reported in a relatively timely manner. In the draft report, the Commission sought to strike the appropriate balance by requiring information to be reported on a monthly rather than a daily basis. In response, AGIG suggested that reporting should instead be on a quarterly basis. However, the Commission considers quarterly reporting would result in too long a delay and diminish the value of the information to prospective suppliers of other covered gases and the market

125 Note that the curtailment related reporting obligations would not apply to the DTS or to a DDS because the injection of gas in those cases is scheduled through the market and the DWGM rule change provides for blending constraints to be taken into account in the scheduling process.

more generally. The Commission therefore remains of the view that information on pipeline blending should be reported on a monthly basis.

While there will be some costs associated with these new reporting obligations, the costs are expected to be low because this information is only reported on a monthly basis. Most pipeline service providers (including those operating distribution pipelines, such as AGIG, APA and Jemena) also have existing systems in place to report information to AEMO.

Measurement of nameplate rating

The draft recommendations allowed AEMO to provide further detail on how the nameplate rating is to be measured in the Bulletin Board Procedures. No specific comments were received from stakeholders on this recommendation. The Commission has therefore retained this recommendation.

Extension of Bulletin Board to distribution connected production facilities

The draft recommendations assumed that prior amendments to Part 18 had extended the Bulletin Board reporting obligations to distribution connected production facilities. This had been the intent of the 2017 *Improvements to natural gas bulletin board rule change* as reflected in the following extract from the final determination:[126]

> The final rule removes the exemption for a production or storage facility that is not connected to a BB pipeline. The term BB pipeline is currently defined in the NGR as a BB transmission pipeline and therefore explicitly excludes distribution pipelines.
>
> The activity of facilities located within a distribution pipeline system that meet the minimum reporting threshold are able to impact local markets in the same way as facilities located on a transmission pipeline. Therefore, the reporting obligations should be applied consistently and these activities should be reported regardless of location on the east coast gas system. This will assist in achieving a fuller view of the overall east coast gas market.

While the removal of the exemption was expected to provide for this extension, a closer review of Part 18 has revealed that there are still some restrictions that limit the reporting of production facilities to those connected to a transmission pipeline. For example, the definition of 'production facility' in rule 141 is linked to injection into a BB pipeline, which in turn is defined as a transmission pipeline. The nominated and forecast use of production facilities reporting obligations in rule 185 also refers to injections into a BB pipeline.

In the context of this review, the Commission has considered whether Part 18 should be extended to distribution connected production facilities that meet the reporting threshold, given that new covered gas production facilities are expected to connect at distribution level. The Commission is satisfied that it should, in order to avoid a gap in the information available to participants and AEMO through the Bulletin Board, noting that this is also consistent with the recommended approach to reporting by distribution connected blend processing facilities.

126 AEMC, *Improvements to natural gas bulletin board*, rule determination, 26 September 2017, p. 31.

It is also consistent with what applies to distribution connected storage facilities, with the Bulletin Board already extending to these facilities.

The Commission therefore recommends that rules 141 and 185 of the NGR be amended to remove the link between production facility and transmission pipelines. In effect, this change will result in distribution connected production facilities being subject to some Bulletin Board reporting obligations. The Commission considers this is necessary as not making these changes would result in an information gap in the Bulletin Board and AEMO's understanding of the east coast gas market.

5.4.4 Final policy recommendations

The Commission's final policy recommendations are to:

- Extend the Bulletin Board to other covered gases and, in doing so:
  - treat the facilities and activities involved in their supply in the same manner as those involved in the supply of natural gas (where appropriate) (see Table 5.3)
  - require blend processing facilities that meet the Bulletin Board reporting threshold to be treated separately and subject to specific reporting obligations (see Table 5.3)
- Require distribution systems that meet the BB reporting threshold and that are transporting a gas blend that is subject to a blending limit to be registered and to report their nameplate rating and detailed facility information.
- Require registered distribution systems and transmission pipelines that meet the BB reporting threshold and are transporting a gas blend that is subject to a blending limit to report:
  - standing information on the applicable blending limit
  - the highest, lowest and average blend level achieved in the last month
  - the number of times any injecting facility has been curtailed in the last month to maintain blending limits[127] and the extent of the curtailment on each occasion it has occurred (aggregated across affected facilities).[128]
- Allow (but not require) AEMO to provide further guidance on how nameplate rating is to be measured in the Bulletin Board Procedures.
- Extend Part 18 to distribution connected production facilities that meet the reporting threshold.

The Commission also suggests that as part of its biennial review of the Bulletin Board AEMO monitors the structure of the market for other covered gases. If it becomes clear through these reviews that there is a proliferation of small covered gas suppliers that do not meet the reporting threshold, but which in aggregate could have a material effect on the market,

127 Curtailment to maintain a blending limit could occur prior to the gas day (e.g. by the pipeline service provider scheduling less than the volume nominated by the facility), or within the gas day (e.g. through a direction to reduce the amount to be supplied into the pipeline by the facility).

128 The latter of these reporting obligations would not apply to service providers of the DTS or DDS for market related curtailments, but would apply to operational curtailments by the service provider (e.g. instituted as a result of threat to the reliability of supply, the security of the system, or public safety).

AEMO (or any other person) could consider submitting a rule change request to address this gap.

These final recommendations are expected to contribute to the achievement of the NGO by:

- enabling market participants to make more informed and efficient decisions about the supply and use of other covered gases and associated services
- facilitating the efficient trade of covered gases and associated services
- supporting access to facilities involved in the supply of covered gases
- helping prospective suppliers of covered gases make more informed and efficient decisions about whether to connect to a pipeline.

These benefits are expected to outweigh the reporting and administrative costs that AEMO and facility operators are likely to incur as a result of the extension.

Table 5.3: **Extension of the Bulletin Board to other covered gases**

	NATURAL GAS	OTHER COVERED GASES
Supply related facilities (nameplate ≥ 10 TJ/day)		
Nameplate rating and facility information[a]	Yes	Yes
Production facilities: Quantity of gas injected into one or more pipelines from the production facility[b]	Yes	Yes
Transmission pipelines: Quantity of gas injected and withdrawn from each receipt and delivery point[b]	Yes	Yes
Compression: Quantity of gas compressed[b]	Yes	Yes
Storage: Quantity of gas withdrawn from storage and the quantity received and processed into storage[b]	Yes	Yes
Import facilities: Quantity of LNG received and processed into storage, quantity withdrawn from storage and quantity of natural gas injected into one or more pipelines[b]	Yes	n.a.
LNG exports: Quantity of gas delivered to the facility[b]	Yes	n.a.
Transmission pipeline and compressors linepack capacity adequacy indicator[a]	Yes	Yes
Short term capacity outlook for facility and material intra-day changes[a]	Yes	Yes
Medium term capacity outlook and facility development projects	Yes	Yes
Nominated and forecast use of facility[a,c]	Yes	Yes
Uncontracted capacity outlook, shippers with firm capacity	Yes	Yes
Natural gas reserves and resources	Yes	n.a.
Allocation method at BB allocation points	Yes	Yes
Large user facilities (nameplate ≥ 10 TJ/day)		
Nameplate rating, facility information	Yes	Yes
Daily consumption data	Yes	Yes
Transaction reporting		
Short term gas supply, gas swap transactions, transportation & storage capacity trades	Yes	Yes

	NATURAL GAS	OTHER COVERED GASES
Transportation & storage capacity trades	Yes	Yes
LNG export transactions & shipments	Yes	n.a.
Blend processing facilities (nameplate ≥ 10 TJ/day)		
Nameplate rating and facility information	n.a.	Yes
Daily quantity of gas withdrawn from a pipeline and quantity injected into pipeline	n.a.	Yes
Short term capacity outlook and material intra-day changes	n.a.	Yes
Medium term capacity outlook and facility development projects	n.a.	Yes
Nominated and forecast use of facilities	n.a.	Yes
Uncontracted capacity outlook, shippers with firm capacity	n.a.	Yes
Pipelines or distribution systems transporting a gas blend with a blending limit (nameplate ≥ 10 TJ/day)		
Standing information on the blending limit	n.a.	Yes
Distribution systems to report nameplate rating	n.a.	Yes
Highest, lowest and average blend levels (or part thereof) in last month	n.a.	Yes
Number of times any injecting facility has been curtailed in the last month to maintain blending limits and the extent of the curtailment on each occasion it has occurred (aggregated across affected facilities)[d]	n.a.	Yes

Note: a. Different information is required to be reported by different types of facilities.
b. Daily use of, or consumption by, facilities.
c. LNG export facilities are not subject to this requirement.
d. Does not apply to the DTS and DDS for market related curtailments but does apply to operational curtailment by the service provider to remain within blending limits.

The Commission has consulted with AEMO on whether any transitional arrangements are required for the Bulletin Board. AEMO has advised that it will require time to amend the Bulletin Board Procedures and put in place the required system changes. Facility operators are also likely to require some time to comply with the new provisions and, for those facilities not currently subject to the Bulletin Board, to register with AEMO.

More generally, AEMO has advised that procedure and system changes arising from this review and the DWGM rule change (which commences on 1 May 2024) will be significant.

In the case of implementing the recommended changes to the Bulletin Board, AEMO suggested these be implemented after the DWGM changes come into effect and provided a highly qualified indicative estimate of the last quarter in 2024. In doing so, AEMO noted that it should be able to provide more clarity on implementation timings prior to the finalisation of this review process in November, but cautioned that implementation could be later, depending on other work arising from the recent Energy Ministers Meeting.[129]

Given the uncertainty currently surrounding the implementation timeframes, an indicative effective date of 1 November 2024 for the Bulletin Board will be assumed for consultation on the draft transitional rules. Depending on stakeholder views and any further advice that AEMO provides on implementation timings, this date may need to be amended.

This indicative timing is reflected in the draft transitional rules, which:

- assume an effective date for new reporting obligations as 1 November 2024 (Part 18 amendments effective date)
- require AEMO to review and where necessary, amend and publish the Bulletin Board procedures by no later than the Part 18 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 18 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR
- require new facilities and facility development projects that would become subject to the Bulletin Board as a result of the changes to register with AEMO within 20 business days of the Part 18 amendments effective date.

5.4.5 Recommended draft rules

To give effect to the final policy recommendations and transitional arrangements outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 29: DRAFT RULE — EXTEND THE BULLETIN BOARD TO OTHER COVERED GASES

Extend the Bulletin Board by making the following changes to the NGR:

129 Energy Ministers, Meeting communique, 12 August 2022. See: https://www.energy.gov.au/government-priorities/energy-ministers/meetings-and-communiques.

- replace the term 'Natural Gas Services Bulletin Board' with 'Gas Bulletin Board' in the title of Part 18 and throughout other Parts of the NGR where the term is used.
- recognise the extended scope of the Gas Bulletin Board under the NGL by replacing the terms 'natural gas services', 'natural gas industry' and 'natural gas industry facilities' with 'covered gas services', 'covered gas industry' and 'covered gas industry facilities' in Part 18 (recommended draft rules 141(1), 145, 150(2) and 165)
- extend the application of Part 18 to other covered gases by defining 'gas' to mean any covered gas and using the term 'gas' in place of 'natural gas' except where referring to LNG (recommended draft rule 141(1))
- add a new term 'compression service point' and use it in 'compression delivery point' and 'compression receipt point' in order to remove the link to the defined terms in Part 25 (which will remain linked to natural gas only) (recommended draft rule 141(1))
- amend 'BB production facility' so that it is clear it applies to facilities producing hydrogen and biomethane (recommended draft rule 141(1))
- accommodate blend processing facilities with a nameplate rating of 10 TJ/day or more by:
  - including these facilities as a new type of BB facility and excluding them from the definition of 'production facility' (recommended draft rule 141)
  - including the owner, operator or controller of these facilities as a new type of facility operator (recommended draft rule 141)
  - recognising blend processing facilities in the definitions of 'daily capacity', 'reporting threshold' and 'nameplate rating' (recommended draft rules 141(1) and (2))
  - amending Division 5 where necessary to extend the reporting obligations in that Division to blend processing facilities (recommended draft rules 169(4)(b), 172(1), 175(1), 184A and 188).

RECOMMENDATION 30: DRAFT RULE — REQUIRE PIPELINE SERVICE PROVIDERS TO REPORT BLENDING INFORMATION

Introduce the new blending information reporting obligations by:

- including a definition of 'blending limit' (recommended draft rule 141(1))
- including a definition of 'BB blended gas distribution system' and add this as a type of BB facility and the owner, operator and controller as a type of BB facility operator (recommended draft rule 141)
- limiting the reporting obligations relating to BB blended gas distribution systems under Division 5 of Part 18 to rules 168 (nameplate rating), 169 (detailed facility information) and 190G (blend level and gas blend curtailment information) (recommended draft rule 144A)

- amending the definitions of 'daily capacity', 'reporting threshold' and 'nameplate rating' to provide for distribution systems (recommended draft rules 141(1) and (2))
- amending the detailed facility information rule to require information to be reported on the blending limit that applies to a BB pipeline that transports a gas blend and is subject to or applies a blending limit, and a BB blended gas distribution system (recommended draft rule 169(4))
- inserting a new rule that requires BB blended gas distribution systems and BB pipelines transporting a gas blend where a blending limit applies to report on (recommended draft rule 190G):
  - the highest, lowest and average blending levels achieved in the last month
  - the number of times any injecting facility has been curtailed in the last month to maintain blending limits (other than where arising under the scheduling arrangements in Part 19) and the extent of the curtailment on each occasion it has occurred (aggregated across affected facilities).

RECOMMENDATION 31: DRAFT RULE — ALLOW BULLETIN BOARD PROCEDURES TO PROVIDE GUIDANCE ON NAMEPLATE RATING

Amend Part 15B to allow AEMO to provide guidance on the determination of nameplate ratings through the Bulletin Board Procedures (recommended draft rule 135EA(3)).

RECOMMENDATION 32: DRAFT RULE — APPLY PART 18 TO DISTRIBUTION CONNECTED PRODUCTION FACILITIES

Clarify that Part 18 of the NGR extends to distribution connected production facilities by:

- amending the definition of 'production facility' in rule 141 to remove the link to BB pipelines (recommended draft rule 141)
- extending the definitions of 'BB shipper' and 'nomination' to distribution systems (recommended draft rule 141)
- amending the nominated and forecast use of production facility reporting obligation in rule 185 to recognise that gas may be supplied into a distribution system (recommended draft rule 185).

RECOMMENDATION 33: DRAFT TRANSITIONAL RULE — BULLETIN BOARD AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the new Bulletin Board rules in Part 18 is 1 November 2024.

Insert transitional rules (recommended draft transitional rule Schedule 6, Part 4) that:

- require AEMO to review and where necessary, amend and publish the Bulletin Board Procedures by no later than the Part 18 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 18 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR
- require new facilities and facility development projects that become subject to the Bulletin Board as a result of the changes to register with AEMO within 20 business days after the Part 18 amendments effective date.

5.5 Extend the AER's gas price reporting function to other covered gases

5.5.1 Current framework and draft recommendations

As part of the broader transparency reform package which was implemented on 30 June 2022, the AER has been given a new gas price reporting function that will commence at the expiration of the ACCC's gas inquiry, which is currently due to end in 2025.

The objective of this new function is to provide for greater transparency of gas prices and the factors that may affect these prices. It is expected to aid the price discovery process, facilitate the efficient trade of gas and allow market participants to respond efficiently to the signals reflected in these prices.

To enable the AER to perform this new function, the NGL has been amended so the AER can issue a price information order to collect information relating to its gas price reporting functions. Part 17 of the NGR has also been amended to set out:

- the gas price information to be published by the AER, which includes information on the prices payable under gas supply and gas swap agreements, LNG netback prices, LNG export prices and LNG import prices, if any import facilities are developed
- the AER's obligation to publish information obtained through a price information order in an anonymised and aggregated form
- the requirement for the AER to publish a determination that sets out, among other things, the intervals at which the information will be published and, the methods and inputs to be used to calculate prices.

In the draft report, the Commission recommended extending this new price reporting function to other covered gases. This was to be achieved by amending Part 17 of the NGR to

enable the AER to publish information on the prices for other covered gases under gas supply agreements and gas swap agreements.

5.5.2 Stakeholder responses

Most stakeholders supported the extension of the AER's gas price reporting function to other covered gases.[130] The two exceptions were:

- Bioenergy Australia, who stated it was "an unnecessary regulation of producers that should be reviewed further"[131]
- Engie, who expressed more general concerns about the extension of the transparency mechanisms to hydrogen and the regulatory impost associated with this.[132]

APA suggested that exemptions from this transparency mechanism be made available to hydrogen producers with a capacity less than 10 TJ/day, remote facilities, single user facilities and non-third party facilities.[133]

5.5.3 Commission analysis

The extension of the AER's gas price reporting function to other covered gases is intended to support the efficient operation of the markets for other covered gases and associated services. As Bioenergy Australia and Engie have observed, there will be regulatory costs associated with this extension. However:

- the costs of complying with this transparency measure for individual suppliers are expected to be relatively low given the infrequency with which these agreements are likely to be entered into and/or reported on by the AER[134]
- the new reporting obligations will not commence immediately, with the AER's new function not due to commence until after the ACCC's gas inquiry, which is currently due to expire in 2025.

In addition, the market wide benefits that are expected to flow from greater price transparency should be recognised. These include:

- facilitating the efficient trade of covered gases and associated services through the publication of information on prices, which will reduce search and transaction costs and aid the price discovery process
- enabling market participants to make more informed and efficient decisions by allowing them to respond in a more timely manner to the demand, supply and investment signals reflected in prices.

130 Submissions to the draft report: Origin, p. 5; Alinta, p. 9; PIAC, p. 2; AusNet, p. 1; Jemena, p. 13.

131 Bioenergy Australia, submission to the draft report, p. 3.

132 Engie, submission to the draft report, p. 2.

133 APA, submission to the draft report, p. 18.

134 For example, if a hydrogen producer only has two gas supply contracts in place, then it would only be required to report on the price and non-price terms and conditions in these two contracts. Depending on how the AER sets up its price information order, it is possible that this information would only need to be reported to the AER when the contracts are entered into, or varied, rather than having an ongoing obligation to report on the same contracts.

In short, the extension of the AER's gas price reporting functions to other covered gases is expected to support the efficient operation of the markets for other covered gases and associated services, the benefits of which are expected to outweigh the reporting costs.

The Commission has considered APA's suggestion regarding exemptions from the AER price reporting regime. While exemptions could be set out in the NGR, the Commission's view is that the AER is better placed to consider whether to collect price information from certain parties when it develops the price information order, which it will be required to consult with interested parties on. As a result, the Commission does not recommend implementing an exemption framework for the AER price reporting regime in the NGR. It considers APA's concerns can be addressed through the operation of price information orders.

5.5.4 Final policy recommendations

The Commission's final recommendation is to extend the AER's gas price reporting functions to other covered gases. This will require the AER to publish information on the prices and non-price terms and conditions for other covered gases under gas supply and gas swap agreements. The intention of this recommendation is to require all covered gases to be treated in the same manner (see Table 5.4).

This final recommendation is expected to contribute to the NGO and support the efficient operation of the markets for other covered gases and associated gases by:

- facilitating the efficient trade of covered gases and associated services
- enabling market participants to respond in a more efficient manner to price signals.

These benefits are expected to outweigh the costs that facilities will incur having to report information to the AER, which as noted above are expected to be relatively low given the nature of the information to be reported.

Table 5.4: Extension of the AER's gas price reporting function

	NATURAL GAS	OTHER COVERED GASES
Prices under gas supply agreements	Yes	Yes
Prices under gas swap agreements	Yes	Yes
Non-price information	Yes	Yes

Given that the AER's new gas price reporting function will not commence until after the ACCC's gas inquiry ceases (currently expected in 2025), the Commission does not consider it necessary to provide for any transitional arrangements in this case.

5.5.5 Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the box below.

RECOMMENDATION 34: DRAFT RULE — EXTEND THE AER'S GAS PRICE REPORTING FUNCTION TO OTHER COVERED GASES

Amend Part 17 of the NGR to extend the AER's gas price reporting function to other covered gases by:

- replacing the term 'natural gas' with 'gas' (recommended draft rules 140B(1)(d) and 140B(7)).
- defining 'gas' to include all covered gases (recommended draft rule 140B(7)).

5.6 Extend non-pipeline infrastructure reporting to other covered gases

5.6.1 Current framework and draft recommendations

As part of the pipeline reform package, a new Part 18A will be introduced to the NGR. The objective of this new part is to facilitate access to non-pipeline infrastructure through the publication of information on standing prices and terms and the prices paid by users of these facilities. It will initially apply to compression and storage facility operators and will set out:

- the obligation that the operators of facilities subject to this part of the NGR (referred to as 'Part 18A facilities') will have to publish information on:
  - the standing terms for each service offered by the facility (i.e. the standard terms and conditions),
  - the standing price and other prices and charges applicable to the service,
  - the methodology and inputs used to calculate the standing price and the prices payable by facility users and key non-price terms and conditions
- the publication requirements, information standard and price reporting guidelines that service providers must comply with
- the AER's power to exempt service providers from the obligation to publish this information if they are not providing third party access.

In the draft report, the Commission recommended that this new part of the NGR be amended to:

- extend its application to:
  - storage and stand-alone compression facilities involved in the supply of other covered gases
  - blend processing facilities and to set out the information to be reported to facilitate third party access to these facilities
- require all facility operators to identify the type of covered gas the facility is used to supply.

5.6.2 Stakeholder responses

Most stakeholders supported the draft recommendations to extend the new Part 18A to other covered gases and blend processing facilities.[135] The two exceptions to this were:

- Engie, who expressed a general concern about the extension of the transparency mechanisms to hydrogen and the regulatory impost associated with this.[136]
- APA, who was opposed to the extension of Part 18A to blend processing facilities, because in its view these facilities should not be treated as separate facilities (i.e. they should either be treated as part of the pipeline or part of a production facility) subject to specific reporting obligations.[137]

5.6.3 Commission analysis

The extension of Part 18A of the NGR to storage and compression facilities involved in the supply of other covered gases and blend processing facilities is intended to facilitate third party access to these facilities by requiring those facility operators that are offering or providing third party access to publish basic access related information.

As Engie observed, facility operators will incur some reporting costs in complying with these reporting obligations. However, these costs are not expected to be significant because:

- most of the information is of a standing nature (i.e. information on standing terms and the method and inputs used to calculate prices) that will be updated relatively infrequently
- information on the actual prices payable by users will only have to be reported when new contracts are entered into or varied.

It is also important to recognise the benefits that are expected to flow from the publication of this information, which include:

- reducing search and transaction costs for prospective users of these facilities
- enabling prospective users to make more informed decision about whether to seek access
- reducing the information asymmetries prospective users can face when negotiating access to these facilities.

More generally, implementing the recommendation is expected to facilitate more efficient third party access to these facilities, which will help to support the development of the hydrogen and other renewable gases industry.

On APA's concerns regarding the extension to blend processing facilities, the Commission notes that the recommended treatment of these facilities is consistent with the officials' refined approach to amending the NGL. The officials' approach allows for:

135 Submissions to the draft report: NELA (WA), p. 6; Origin, p. 5; Alinta, p. 9; PIAC, p. 2; AusNet, p. 1; Jemena, p. 13.
136 Engie, submission to the draft report, p. 2.
137 APA, submission to the draft report, pp. 18-19.

- blend processing facilities to be recognised as distinct facilities and separate from production facilities and pipelines[138]
- blend processing facilities to be subject to a new light handed third party access regime, a key element of which is the application of equivalent reporting obligations to those that will apply to compression and storage facilities under Part 18A of the NGR when implemented.

It is also consistent with the broader objectives of Energy Ministers in implementing Part 18A of the NGR, which is to facilitate third party access to non-pipeline infrastructure through the publication of basic access related information.[139]

As a result, the Commission considers that its draft recommendation remains appropriate and is reflected in the final recommendations.

5.6.4 Final policy recommendations

The Commission's final recommendations are to amend the non-pipeline infrastructure access reporting obligations in Part 18A of the NGR to:

- extend its application to other covered gases, which means that storage and compression facilities involved in the supply of other covered gases will be subject to the same reporting obligations as their natural gas counterparts (see Table 5.5)
- extend its application to blend processing facilities and to set out the information to be reported to facilitate third party access to these facilities, which will be comparable to the information to be reported by storage and compression facility operators (see Table 5.5)
- require facility operators to report on the type of covered gas the facility is used to supply and applicable blending limits.

If implemented, these final recommendations are expected to contribute to the NGO and support the efficient operation of the markets for other covered gases and associated services by facilitating more efficient third party access to storage, compression and blend processing facilities. These benefits are expected to outweigh the costs that the affected facilities will incur having to publish the information.

Table 5.5: Extension of Part 18A of the NGR

	NATURAL GAS	OTHER COVERED GASES
Standing terms and prices for each service	Yes	Yes
Methodology used to calculate standing prices	Yes	Yes

138 The term 'blend processing facility' is defined in the Draft Bill as a facility for one or both of the following: 1. The blending of one or more primary gases with or without other substances for injection into a pipeline 2. The separation of a gas blend withdrawn from a pipeline into constituent gases prior to the re-injection of a primary gas into the pipeline whether as the primary gas or a gas blend. Officials, *Extending the national gas regulatory framework to hydrogen and renewable gases and blends: proposed changes to the NGL, NERL and National Regulations*, consultation paper, 31 March 2022, p. 25.

139 COAG Energy Council, *Measures to improve transparency in the gas market: Regulation Impact Statement for Decision*, March 2020.

	NATURAL GAS	OTHER COVERED GASES
Actual prices paid and key non-price terms	Yes	Yes

The Commission understands that facility operators that become subject to the new reporting obligations are likely to require some time to prepare and publish the information. On balance, a three month delay to the commencement of the new reporting obligations should provide these facility operators sufficient time to do so. This is reflected in the draft transitional arrangements, which:

- assume an effective date for the new Part 18A reporting obligations as three months after the rules are made (Part 18A amendments effective date)
- require the AER to review and where necessary, amend and publish the price reporting guidelines by no later than the Part 18A amendments effective date
- allow any consultation undertaken by the AER prior to the Part 18A amendments effective date to satisfy the consultation requirements in Part 18A of the NGR
- clarify that blend processing facility operators commissioned on or before the Part 18A amendments effective date:
  - only become subject to the reporting obligations from the Part 18A amendments effective date
  - the requirement to publish actual prices payable information only applies to contracts in force immediately before the Part 18A amendments effective date or that is entered into on or after that date.

5.6.5 Recommended draft rules

To give effect to the final policy recommendations and transitional arrangements outlined above, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 35: DRAFT RULE — EXTEND NON-PIPELINE INFRASTRUCTURE REPORTING TO OTHER COVERED GASES

Amend Part 18A of the NGR to extend its application to other covered gases by:

- replacing the term 'natural gas' with 'gas' and defining 'gas' to include all covered gases (recommended draft rules 198B, 198G(3)-(4)).
- replacing the term 'natural gas service' with 'covered gas service' and 'covered gas industry' (recommended draft rule 198B).

RECOMMENDATION 36: DRAFT RULE — EXTEND NON-PIPELINE INFRASTRUCTURE REPORTING TO BLEND PROCESSING FACILITIES

Amend Part 18A of the NGR to extend its application to blend processing facilities by:

- changing the name of Part 18A to 'Non-pipeline infrastructure access terms and prices' to reflect its broader application
- amending the definition of a Part 18A facility to include a blend processing facility (recommended draft rule 198B)
- amending the definition of user to include a person who is a party to a contract with a service provider for the provision of a blend processing service (recommended draft rule 198B)
- amending the actual prices payable information rule to:
  - recognise blend processing services as an example of the type of service a facility may provide (recommended draft rule 198G(1)(d))
  - require blend processing facilities to report the contracted quantities as the maximum daily quantity (in GJ/day) (recommended draft rule 198G(1)(f)(iii)).

RECOMMENDATION 37: DRAFT RULE — REQUIRE FACILITY OPERATORS TO REPORT ON THE TYPE OF COVERED GAS

Insert a new requirement in the standing terms information rule (recommended draft rule 198F) to require:

- facility operators to report on the type or types of gases in respect of which the facility provides services
- blend processing facility operators to report on the gas the primary gases that may be blended and the applicable blending limits.

RECOMMENDATION 38: DRAFT TRANSITIONAL RULE — PART 18A AMENDMENTS COMMENCEMENT DATE

Specify in the schedule of amending rules that the changes to Part 18A do not take effect until three months after the rules are made.

Insert transitional rules (recommended draft transitional rule Schedule 6, Part 5) that:

- require the AER to review and where necessary, amend and publish the price reporting guidelines by no later than the Part 18A amendments effective date
- clarify that in relation to blend processing facilities commissioned on or before the Part 18A amendments effective date:

- reporting obligations commence only from the Part 18A amendments effective date
- the requirement to publish actual prices payable information only applies to contracts in force immediately before the Part 18A amendments effective date or that is entered into on or after that date.

6 SHORT TERM TRADING MARKET

BOX 4: SUMMARY OF CHAPTER

This chapter covers the short term trading market (STTM), a facilitated market for wholesale gas trading with hubs in Adelaide, Brisbane and Sydney. It examines key issues regarding the integration of other covered gases into the STTM, including:

- registration and facility categories
- settlement and reporting obligations for distribution connected facilities
- the establishment of custody transfer points (CTPs)
- the matched allocation mechanism at the Sydney hub
- gas quality specifications and responsibility for gas quality.

The STTM market design already allows for distribution connected gas injection facilities. Consequently, the final recommendations in this chapter build on these existing arrangements and adapt them to cater for the larger number of smaller facilities that may arise from the injection of other covered gases into the relevant STTM distribution system.

In making these final recommendations, the Commission has sought to ensure they are fit-for-purpose, promote efficiency and transparency, do not add complexity to current arrangements, and minimise implementation costs.

The key final recommendations made in this chapter are to:

- extend the STTM Shipper registration category to injections from blend processing facilities and allow users of these facilities to also register as STTM Users where appropriate
- introduce a single facility category ('STTM injection facility') to cover injections from distribution connected production, processing, storage and blend processing facilities, replacing the existing STTM production facility and STTM storage facility categories
- allow net bidding and settlement to be undertaken for STTM injection facilities that withdraw and inject gas at the same time
- amend the obligation for facility operators to provide expected capacity information
- allow facility aggregation by STTM injection facilities and for the submission of offers by STTM Shippers and settlement on an aggregated facility basis
- streamline the process for establishing new CTPs
- retain the existing matched allocation arrangement in Sydney
- allow alternative gas quality specifications at a CTP to be agreed by persons injecting gas at the CTP and the relevant STTM distributor (subject to jurisdictional regulatory instrument), or otherwise authorised by a jurisdictional regulatory instrument.

The national gas regulatory framework provides for facilitated markets for wholesale gas and gas transportation capacity trading in eastern Australia. These facilitated markets complement the trading of wholesale gas and gas transportation capacity through bilateral contracts, providing greater transparency and improved price discovery.

This chapter focuses on the STTM, which uses participant offers and bids to schedule deliveries from gas pipelines and other facilities at three distinct hubs in Adelaide, Brisbane and Sydney for the next gas day. The STTM is a facilitated market operated by AEMO and participation in it is mandatory. The objectives of the STTM are to:

- provide participants with a transparent and efficient market-based mechanism to trade imbalances, purchase gas on a short-term basis and efficiently allocate gas during system constraints and emergencies
- provide the market with clearer signals about the nature and cost of supply and transmission constraints.

For more information on the background of the STTM and how it relates to this review please see the consultation paper, chapter 5 'Facilitated gas markets'.[140]

This chapter sets out key issues, stakeholder feedback and final recommendations in relation to:

- registration and facility categories
- settlement and reporting obligations for distribution connected facilities
- the establishment of custody transfer points (CTPs)
- the matched allocation mechanism at the Sydney hub
- gas quality specification and responsibility for gas quality.

In addition to the changes identified in this chapter, consequential changes to the NGR are set out in appendix D. Relevantly to the STTM, this includes all instances of the term 'natural gas' in Parts 15A and 20 being replaced with 'gas'. 'Gas' will be defined in Part 20 as 'covered gas'. The NGL will be amended to introduce the term 'covered gas' which will encompass natural gas, hydrogen, biomethane and synthetic methane, etc, and any blends of these gases.

The purpose of this consequential change to the NGR is to enable the STTM to accommodate injections and withdrawals of these "new" gases (even if only natural gas or NGEs are supplied to customers). This consequential change is consistent with the current settlement arrangements within the STTM. This is because natural gas is currently settled on an energy content basis, so it is irrelevant (for settlement purposes) what type of gas is traded through the STTM so long as energy content can be measured.

For further detail on the recommended changes to the rules, see the accompanying draft rule.

140 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 27.

6.1 Applying the assessment framework

The Commission's final recommendations are intended to:

- Allow for transparency of gas flows from all facilities to be maintained by introducing a new facility category ('STTM injection facility') to capture distribution connected production, processing, storage and blend processing facilities injecting covered gases in an STTM hub.
- Facilitate market outcomes that reflect the actual demand and supply balance by requiring bidding and settlement to be undertaken on a net basis for STTM injection facilities (if classified as a net metered facility).
- Simplify existing arrangements, and make it easier for small facilities involved in injecting other covered gases into the STTM to participate in the market by:
  - extending the STTM Shipper registration category to injections from blend processing facilities
  - modifying the obligation for facility operators to provide expected capacity information
  - allowing for facility aggregation by STTM injection facilities and for the submission of offers by STTM Shippers and settlement on an aggregated facility basis
  - streamlining the process for establishing new CTPs.
- Facilitate in-pipe blending by allowing for alternative gas quality specifications at a CTP to be agreed by persons injecting gas at the CTP and the relevant STTM distributor (if such an agreement has been authorised by a jurisdictional regulatory instrument), or otherwise authorised by a jurisdictional regulatory instrument.

Consistent with the efficiency limb of the assessment framework, the implementation of these final recommendations is expected to promote allocative, productive and dynamic efficiency by requiring all gas flows to be settled through the market, permitting bidding and settlement on a net basis where necessary, and reducing barriers to entry for smaller distribution connected facilities. Further, by reducing barriers to entry for distribution connected facilities injecting other covered gases, the final recommendations are expected to facilitate the decarbonisation of the gas market and emission reduction for the economy.

The implementation of these recommendations should also avoid introducing additional complexity and associated implementation costs. More generally, the final recommendations are targeted, fit-for-purpose, and proportionate to the issues they are intended to address.

6.2 Registration and facility categories

6.2.1 Current framework and draft recommendations

In the STTM, gas is traded at CTPs between 'STTM Shippers' and 'STTM Users' (collectively, 'Trading Participants'). A CTP is a point at which gas passes from an 'STTM facility' to an STTM distribution system or transmission connected end-user. An STTM facility can fall into one of three facility categories: STTM pipeline, STTM production facility, and STTM storage facility.

Persons who supply and withdraw gas at an STTM hub must register with AEMO as STTM Shippers or STTM Users under rule 135ABA of the NGR and s. 91BRC of the NGL. In contrast, consistent with s. 91FEA of the NGL, obligations are placed on STTM facility operators directly through various rules in Part 20 of the NGR to provide information to AEMO that allows AEMO to register the facility and operate the market.

The draft report considered two main issues. First, whether new registration categories are required to accommodate facilities and participants involved in the injection of other covered gases, and second, whether changes are required to facility categories to accommodate the injection of other covered gases into the distribution system.

In relation to the first issue, the Commission recommended that no new registration categories were required to facilitate the trading of other covered gases in the STTM, including flows from blend processing facilities and facilities directly injecting covered gases other than natural gas.[141] However, the Commission recommended changes to the 'STTM Shipper' registration category in rule 135ABA of the NGR to clarify that it extends to injections from blend processing facilities, in the same way it extends to injections from gas storage and production facilities.

In relation to the second issue, the Commission recommended creating a single facility category ('STTM injection facility') to replace all current distribution connected facility types and to also capture new facility types that will inject other covered gases.

6.2.2 Stakeholder responses

Stakeholders were generally supportive of the draft recommendations regarding the STTM but suggested some modifications. AEMO supported both recommendations.[142] Alinta and Jemena supported the draft recommendation in relation to registration categories, although Jemena's support was limited.[143] APA and Origin supported the draft recommendation in relation to creating a single facility category.[144]

The ENA submitted that creating a single injection facility category may not adequately capture the different characteristics of the full range of plants and processes involved in the production and blending of covered gases.[145] It also noted that direct injection could occur into the distribution systems rather than transmission pipelines and this "would be at different operating condition(s)". As a result, the ENA questioned whether this could be covered in a single injection facility category.

Origin suggested that consideration should also be given to establishing a threshold under which STTM injection facilities could be fully exempted from participating in market

141 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, p. 85.

142 AEMO, submission to the draft report, p. 1.

143 Submissions to the draft report: Alinta, p. 10; Jemena, p. 16. Jemena did not support the recommendation to the extent it may automatically bring the procurement of UAFG with the operation of the STTM.

144 Submissions to the draft report: APA, p. 19; Origin, p. 6.

145 ENA, submission to the draft report, p. 17.

processes.[146] In its view, this approach would help manage the regulatory burden associated with trading gas (injected or withdrawn) from small blend processing facilities.

APA submitted that rather than adding blend processing facilities to rule 135ABA of the NGR, a simpler way would be to refer to the delivery of gas via an injection facility (ensuring consistency with draft recommendation 17).[147] APA also suggested removing references in the NGR to storage facilities (and therefore injection facilities) not being pipelines (specifically, the reference 'other than a pipeline'). It considered this change would ensure that the definition is not limited to a 'facility' with an associated pipeline connecting the facility, giving flexibility to industry in how covered gases are managed, stored and injected in the STTM.

6.2.3 Commission analysis

The Commission maintains its view outlined in the draft report that no new registration categories are required to facilitate the trading of other covered gases in the STTM, including flows from blend processing facilities and facilities directly injecting covered gases other than natural gas. This is because the 'dual registration' approach that is currently used for storage facilities could be used for blend processing facilities. That is, the market participant associated with blend processing facilities could withdraw natural gas as an STTM User and then inject blended gas back into the distribution system as an STTM Shipper. Further, it is not clear that there would be a sufficient difference in the operation of distribution connected blend processing facilities compared to storage facilities to warrant the introduction of a new registration category.

Some stakeholders had suggested the draft recommendations be modified to provide for certain exemptions. The Commission considers that a specific exemption from the requirement to register as a trading participant in the STTM for small injection facilities should not be introduced. As outlined in the draft report, all gas flows should be settled through the market for transparency purposes and to facilitate dispatch of the least-cost mix of gas supply. The Commission considers this approach to operating the STTM remains appropriate. Therefore, no specific exemptions (additional to the broad exemptions that AEMO can grant under rule 135AG of the NGR) should be introduced for facilities participating in the STTM, whether based on the size of the relevant facility or otherwise.

In addition, consistent with the draft report, the Commission considers that it would be appropriate to create a single facility category to replace all current distribution connected facility types and to capture new facility types that will inject other covered gases. However, following further analysis, it now considers the definition of the single injection facility category should be amended to explicitly link to the facility types for which there is a corresponding requirement to register as an STTM Shipper under draft rule 135ABA(1)(a) — that is, production, storage and blend processing facilities. Otherwise, gas injected from a distribution connected facility could not be supplied through the STTM. Under the recommended draft rule, an 'injection facility' will mean a facility (other than a pipeline) at

146 Origin, submission to the draft report, p. 1.
147 APA, submission to the draft report, p. 19.

which gas is produced, processed, blended or stored for injection directly from that facility into an STTM distribution system at a custody transfer point included in a hub, and includes an associated pipeline connecting that facility directly to the hub.[148] An 'STTM injection facility' is either a single injection facility, or two or more such facilities that have been aggregated (discussed in further detail in section 6.3.3 below).

The Commission considers the recommended draft rule will streamline current arrangements. It is unnecessary to distinguish in Part 20 of the NGR between an 'STTM production facility' and an 'STTM storage facility' and additionally (if draft changes to rule 135ABA(1)(a) are made) a 'blend processing facility'. Facility operators of these distribution connected facilities should be subject to the same obligations that currently apply in relation to 'STTM production facilities' and 'STTM storage facilities'.

The Commission considers that if, in the future, it becomes appropriate to add another facility type to those outlined in recommended draft rule 135ABA(1)(a), this could be done by amending that rule and the definition of 'injection facility'. The Commission notes that having a single injection facility category to capture the types of distribution connected facilities which are permitted to supply gas through the STTM would avoid adding unnecessary complexity to the regulatory framework.

Further, the reference to a facility at which gas is produced, processed, blended or stored in the definition of 'injection facility' in the recommended draft rule should clearly exclude pipelines. This would reflect an existing qualification that applies to the definition of 'STTM storage facility'. The exclusion would clarify that a pipeline offering a gas storage service would not also be categorised as an STTM injection facility. It is not intended to exclude storage or gas blending facilities that consist primarily of pipes from the definition of 'injection facility'.

6.2.4 Final policy recommendations

The Commission's final recommendations are to extend the STTM Shipper registration category to injections from blend processing facilities, and create a single injection facility category. Related to this, the Commission recommends that the STTM User registration category be extended to users of net metered facilities to facilitate net bidding and settlement in the STTM (discussed in section 6.3.3 below).

Using the existing registration categories should avoid adding complexity to the current registration framework. It should also avoid possible implementation costs associated with changes to AEMO's systems that may be required if new registration categories were introduced, and maintain transparency over all gas flows (even from small facilities).

Further, introducing a new facility category to capture the types of distribution connected facilities for which there is a corresponding requirement to register as an STTM Shipper is expected to be consistent with the NGO in that it should:

148 Both production and processing are specified to be clear that the term includes facilities that produce a covered gas for injection into a pipeline and facilities that process a gas that is not a covered gas (such as processable gas and biogas) for injection into a pipeline as a covered gas.

- maintain transparency of gas flows from all facilities
- avoid adding complexity through the creation of additional facility categories
- simplify existing arrangements, as there is no difference in the obligations that apply to STTM production facilities and STTM storage facilities in Part 20 of the NGR.

6.2.5 Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the boxes below. See section 6.7 for relevant recommended draft transitional rules.

RECOMMENDATION 39: DRAFT RULE — EXTEND THE STTM SHIPPER REGISTRATION CATEGORY TO PERSONS THAT INJECTION FROM BLEND PROCESSING FACILITIES

Amend the NGR to extend the definition of STTM Shipper in rule 135ABA(1)(a) to include a person that:

- is a party to a contract with a blend processing facility operator for the delivery of gas to an STTM hub from a blend processing facility that is directly connected to that STTM hub, or holds rights subcontracted from such a person; or
- is a blend processing facility operator who supplies gas on its own behalf to an STTM hub from its blend processing facility that is directly connected to that STTM hub.

RECOMMENDATION 40: DRAFT RULE — CREATE A SINGLE INJECTION FACILITY CATEGORY

Amend the NGR to:

- introduce the definition of 'injection facility' as a facility (other than a pipeline) at which gas is produced, processed, blended or stored for injection directly from that facility into an STTM distribution system at a custody transfer point included in a hub, and including an associated pipeline connecting that facility directly to the hub
- introduce the definition of 'STTM injection facility' to mean either a single injection facility, or two or more injection facilities that have been aggregated as permitted under Part 20
- remove the definitions of 'STTM production facility' and 'STTM storage facility'
- replace all instances of 'STTM production facility' and 'STTM storage facility' with 'STTM injection facility'.

6.3 Settlement and reporting obligations for distribution connected facilities

6.3.1 Current framework and draft recommendations

Under Part 20 of the NGR, both trading participants and facility operators are subject to obligations governing the operation and settlement of the market.

Trading participants are subject to a wide range of obligations, including:

- an STTM Shipper is required to submit an ex ante offer for a quantity of gas it intends to supply to a hub on a gas day[149]
- an STTM User is required to submit an ex ante or price taker bid (if applicable) for a quantity of gas it intends to withdraw.[150]

These offers and bids must comply with the requirements set out in the STTM Procedures. Under rule 464(3) of the NGR, trading participants must pay settlement amounts to AEMO. Settlement amounts include a range of charges, including ex ante market charges and variation charges.[151]

STTM facility operators are subject to a range of obligations, many of which relate to the provision of information. These include that STTM facility operators must:

- provide certain information to AEMO before gas is first delivered (e.g. default and maximum capacity) that AEMO then registers so that it has the information it needs about STTM facilities, and update AEMO of any changes to this information (rules 376 and 378 of the NGR)
- notify AEMO of expected capacity for gas days D+1, D+2 and D+3 (rule 414 of the NGR).

The draft report considered two main issues: first, whether smaller facilities should be subject to less stringent reporting requirements, and second, whether aggregation should be permitted for the purpose of complying with these reporting requirements and for settlement.

In relation to the first issue, the Commission recommended amending the current obligations under rule 414 of the NGR to specify that an STTM facility operator would only be required to provide updated capacity information if it expects there to be a 'material difference' in capacity compared to the 'substitute information' that is used by AEMO in the event of any failure to report.

'Material difference' would be defined as the magnitude of the difference exceeding the greater of A and B, where A is 600 GJ and B is the lesser of five per cent of the nameplate rating of the STTM facility (determined in accordance with Part 18 of the NGR) and 10 TJ. These values (600 GJ and five per cent) are already used in rule 463 of the NGR to determine the minimum variation levels which attract non-zero variation charges, and the Commission considered them to be a reasonable indicator of market impact. The upper bound 10 TJ, to

149 Rule 406(1) of the NGR. Under rule 406(2), an STTM Shipper is required to submit an ex ante bid for a quantity of gas it intends to withdraw — which it may do by means of an STTM pipeline only.

150 Rule 406(3) of the NGR.

151 Rule 461(2) of the NGR.

mitigate the impacts of capacity changes at very large facilities, corresponds to the Bulletin Board reporting threshold.

In relation to the second issue, the Commission recommended that facility operators should be allowed to elect to aggregate some, or all, of the STTM injection facilities they operate in an STTM hub.

Allowing net bidding and settlement for STTM injection facilities

It is anticipated that at least some blend processing facilities will withdraw gas from pipelines for blending, blend in another covered gas and then reinject the blend. Therefore, these facilities will be withdrawing and injecting gas at the same time. The additional energy injected into the market at any time will consequently only be a net quantity representing the difference between the energy being injected and the energy being withdrawn to create the blend.

Through consultation for the *DWGM distribution connected facilities rule change*, AEMO raised the issue that treating the withdrawals of these types of distribution connected blend processing facilities as separate flows to be included in demand forecasts could be problematic. This type of blend processing facility will only wish to withdraw gas for blending, so withdrawals to be scheduled into the market would be dependent on the injections that get scheduled, based on injection bids.

This issue also arises in the STTM for blend processing facilities that withdraw and inject gas at the same time. The gas that will be withdrawn for blending and reinjection should not be included in the ex ante market schedule issued by AEMO for a hub.

This issue was not identified in the draft report. It can be addressed by allowing for bidding and settlement to be undertaken on a net basis for relevant STTM injection facilities.

6.3.2 Facility operator obligations

Stakeholder responses

Alinta and EDL were supportive of the draft recommendation to modify the obligation on facility operators to provide capacity information,[152] however some other stakeholders raised concerns.

AEMO was concerned that the 10 TJ upper threshold in the draft recommendation (for the purpose of determining whether a change in facility hub capacity is material) is too high to be considered non-material.[153] It also considered that it is unlikely to be particularly onerous for STTM facilities to provide a single daily facility hub capacity value because this would likely need to be calculated for participants' own operational and commercial purposes anyway.

Further, APA submitted that updating capacity information only if there is a material change does not reduce the cost and burden of reporting.[154] To record capacity information, systems

152 Submissions to the draft report: Alinta, p. 11; EDL, p. 2.
153 AEMO, submission to the draft report, p. 2.
154 APA, submission to the draft report, p. 19.

have to be augmented or developed, data assessed against certain parameters, reported and checked by personnel to ensure it is accurate.[155] This is still required irrespective of how often this information is reported. Introducing material change thresholds adds to complexity. APA suggested that a reporting threshold of 10 TJ per day is simpler and is consistent with the Bulletin Board rules in Part 18 of the NGR.

Commission analysis

The Commission notes that part of the driver behind the draft recommendation was submissions made by stakeholders to the consultation paper that it may be beneficial if smaller facilities were subject to less stringent reporting requirements.[156] For example, biogas facilities may be unable to predict and report easily on future short-term capacity on a daily basis, particularly at the beginning of production. More generally, it may be burdensome and relatively costly for small facilities to report on expected capacity with such frequency and the benefits of this information may not be significant given the low market impact of small variations in their capacity forecasts. However, the need to reduce the reporting burden for small facilities must be balanced with the need to minimise any associated market impacts.

The Commission agrees that the 10 TJ upper threshold in the draft recommendation is too large. However, the Commission considers that it may be unduly complex to replace the 10 TJ upper threshold with a lower threshold (for example 2 TJ), due to the minimal difference between such a smaller upper threshold and the lower threshold (600 GJ). A simpler approach that would balance the competing concerns raised by stakeholders is to define 'material difference' (between expected capacity and the substitute information that would be used by AEMO) simply as being greater than 600 GJ.

Final policy recommendation

The Commission's final recommendation is to modify the obligation on facility operators to provide capacity information, such that they would not be required to provide expected capacity if there is no material difference between the expected quantity of gas and the substitute information AEMO generates. There is a 'material difference' if the magnitude of the difference exceeds 600 GJ. This is an amendment to the definition of 'material difference' proposed in the draft report.

The Commission considers that this final recommendation is consistent with achieving the NGO as it should reduce the reporting burden for injection facilities including those injecting other covered gases, which would initially be expected to be relatively small facilities. This should make it easier for these facilities to participate in the STTM and reduce barriers to entry (promoting dynamic efficiency). At the same time, the potential impact on the productive efficiency of the market is likely to be minimal since the market impact of small variations in capacity forecasts would be low. Further, there are likely to be minimal (if any) implementation costs for AEMO. This is because its systems already automatically assume

155 APA, submission to the draft report, pp. 19-20.

156 Submissions to the consultation paper: APGA, p. 11; EDL, p. 2; Jemena, p. 12; Bioenergy Australia, p. 8.

future short-term capacities for facilities to be the substitute information outlined in the STTM Procedures if no new information is provided.

Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the box below. See section 6.7 for relevant recommended draft transitional rules.

RECOMMENDATION 41: DRAFT RULE — MODIFY THE OBLIGATION FOR FACILITY OPERATORS TO PROVIDE EXPECTED CAPACITY INFORMATION

Amend the NGR in order to modify rule 414 by:

- specifying that a facility operator is not required to notify AEMO of expected capacity in respect of the following three gas days if there is no 'material difference' between the quantity of gas which the facility operator expects the facility will be able to deliver to the relevant hub and the substitute information that would be generated, in accordance with the STTM Procedures, by AEMO in the event that the facility operator does not provide this data
- specifying that there is a 'material difference' if the magnitude of the difference exceeds 600 GJ.

6.3.3 Facility aggregation

Stakeholder responses

Stakeholders were mostly supportive of the draft recommendation in relation to aggregation.[157] Jemena submitted that it was supportive of this draft recommendation, subject to ensuring that aggregation of large (>10 TJ/day) facilities would not adversely affect the safe and reliable operation of the system. [158] Aggregation of several facilities located in diverse parts of the system could mean that an issue affecting one facility may affect the market, and/or there may be no visibility of granular, facility-specific information, which may prevent timely and effective diagnosis of issues faced by the affected facility. However, Jemena clarified that, in terms of system visibility, it can specify the information it requires in connection agreements with individual facilities.

AEMO stated that facility aggregation would not impact the information Jemena collects through connection agreements and does not consider there would be an issue with disaggregation.

157 Submissions to the draft report: Alinta, p. 11; Origin, p. 6; AEMO, p. 1; APA, p. 20.

158 Jemena, submission to the draft report, p. 16.

Commission analysis

To avoid any impact on distributors' ability to operate their distribution systems, the Commission considers that facility aggregation should only be permitted if agreed by the relevant distributor and facility operator, and the recommended draft rule reflects this.

Further, in the case of disaggregation, the relevant facility operator would be required to provide AEMO with updated information in relation to the disaggregated facilities (including capacity information). Additionally, under the recommended draft rule AEMO must identify in its list of STTM facilities and STTM distribution systems any injection facilities that are being treated as a single STTM injection facility.

Final policy recommendation

The Commission's final recommendation is to allow for facility aggregation and submission of offers by aggregated facilities. Under the recommended draft rule, two or more injection facilities can only be treated as a single STTM injection facility if, among other things, all facilities are connected to the same hub and have a common STTM facility operator, and the relevant STTM distributor has agreed with the facility operator that the injection facilities can be treated as a single STTM injection facility. The recommended draft rule also allows the STTM Procedures to specify additional criteria for aggregation, allowing the framework to adapt to new circumstances.

This final recommendation is expected to enhance the NGO since it should:

- allow for offers to be submitted on an aggregated basis, which has benefits in terms of administrative simplicity and lower transaction costs
- enable deviations to be netted automatically within a group of facilities (promoting allocative efficiency)
- help reduce reporting obligations on facility operators.

Further, the final recommendation is expected to benefit shippers and facility operators, while ensuring AEMO still has sufficient visibility of gas flows. The Commission considers this final recommendation is likely to enhance productive efficiency, as well as minimise barriers to entry thereby promoting dynamic efficiency over the longer term.

Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the boxes below. See section 6.7 for relevant recommended draft transitional rules.

RECOMMENDATION 42: DRAFT RULE — ALLOW FOR FACILITY AGGREGATION AND SUBMISSION OF OFFERS BY AGGREGATED FACILITY

Amend the NGR to:

- use the new term 'STTM injection facility' to refer to a single injection facility or two or more injection facilities that satisfy the criteria for aggregation in rule 378A and that the STTM facility operator has elected to have treated as a single STTM injection facility for the purposes of Part 20
- introduce rule 378A that allows two or more injection facilities to be treated as a single STTM injection facility (with multiple CTPs) where the following criteria are satisfied, among other things:
  - all the injection facilities are connected to the same hub
  - all the injection facilities have the same STTM facility operator
  - the STTM facility operator has elected to have the injection facilities treated as a single STTM injection facility
  - any requirements for aggregation in the STTM Procedures have been fulfilled
  - the relevant STTM distributor has agreed with the STTM facility operator that the injection facilities may be treated as a single STTM injection facility.
- amend rule 376(1) to require STTM facility operators to provide information to demonstrate that the criteria for aggregation in rule 378A are satisfied, if the STTM injection facility comprises two or more injection facilities
- amend rule 377(3) to require AEMO to identify which injection facilities in the list of STTM facilities and STTM distribution systems it maintains are being treated as a single STTM injection facility.

6.3.4 Allow for bidding and settlement to be undertaken on a net basis

Commission analysis

The Commission has worked with AEMO to identify the best approach to facilitating net bidding and settlement in the STTM. The model recommended in this final report has the following features:

- The NGR would provide for AEMO to specify the criteria for net metered facilities in the STTM Procedures, having regard to a principle in the rules. This is similar to the approach adopted for the DWGM rules through the *DWGM distribution connected facilities rule change* and allows the framework to adapt to new facility configurations as they emerge.
- The NGR would require information to be given to AEMO by the STTM facility operator for each STTM injection facility demonstrating whether the STTM injection facility satisfies the criteria. If it does, AEMO will record this in the facility register and the facility will be a net metered facility for rules purposes. While this is similar to the approach adopted for the DWGM rules, it relies on the framework in the STTM under which AEMO registers information about STTM facilities, rather than the classification approach used for DWGM.
- For aggregation purposes, either all the aggregated facilities would need to be net metered facilities, or none could be.

- The term 'net energy injection' would be defined as the greater of zero and the difference between the quantity withdrawn and the quantity injected. This quantity would be used for bidding, scheduling and settlement in relation to a net metered facility.
- The title clause would be amended to ensure that chain of title is maintained in relation to the gas withdrawn from the distribution system and re-injected as part of a gas blend.
- A term 'net energy withdrawal' would be defined to cover circumstances in which the withdrawals of the net metered facility exceeds its injections. The STTM Procedures and the Retail Market Procedures (RMPs) would need to provide for settlement of net energy withdrawals. Because any net energy withdrawals would need to be allocated to an STTM User through the relevant retail gas market, the user of services provided by means of a net metered facility would need to register as an STTM User.

Final policy recommendation

The Commission's final recommendation is that the STTM rules should facilitate bidding and settlement on a net basis for facilities that withdraw and inject gas at the same time. This is necessary for the efficient operation of the market in circumstances where the quantity to be withdrawn by a facility is contingent on the quantity scheduled for injection by the facility.

The Commission's final recommendation is also to amend rule 418 of the NGR to allow for title to gas withdrawn and re-injected at blend processing facilities to remain with STTM Users (but for title to be transferred for net withdrawals). This should ensure that at all times a trading participant will be responsible for gas withdrawn and re-injected by blend processing facilities, promoting the clear allocation of roles and responsibilities in relation to the quality and safety of covered gases to consumers.

Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the box below. See section 6.7 for relevant recommended draft transitional rules.

RECOMMENDATION 43: DRAFT RULE — ALLOW NET BIDDING AND SETTLEMENT FOR SOME STTM INJECTION FACILITIES

Amend the NGR to:

- introduce and define the terms 'net metered facility', 'net energy injection' and 'net energy withdrawal'
- amend the rules so that for net metered facilities:
  - in relation to quantities of gas supplied or to be supplied to a hub, the net energy injection is used for bidding and settlement and the determination of capacity relating to the facility (but not in relation to obligations to comply with the gas quality specifications)

  - where there is a net energy injection, gas withdrawn from the hub and used to calculate the net energy injection is not included in bidding or settlement.
- introduce rule 378B to specify that the STTM Procedures must set out the criteria for classification by AEMO as a net metered facility, and must provide for the application of Part 20 in respect of net energy injections and net energy withdrawals
- specify in rule 135EA(4) that the STTM Procedures may deal with net metered facilities and their participation in the STTM
- amend rule 376(1) to specify that an STTM facility operator must provide to AEMO, for an STTM injection facility, information to demonstrate whether the STTM injection facility satisfies the criteria in the STTM Procedures for classification as a net metered facility
- specify in rule 378A that when aggregating injection facilities, either all the injection facilities must be net metered facilities, or none of them
- amend rule 418 to specify how title to, custody and control of, and risk of loss of the quantity of gas withdrawn by a net metered facility passes between trading participants.

Amend the NGR to extend the definition of STTM User in rule 135ABA(1)(b) to include a person that is not otherwise registered under the paragraph and is a user of services provided by means of a net metered facility (whether under contract, subcontract or as an owner, operator or controller withdrawing gas on its own behalf from the STTM hub at the facility).

In rule 135ABA, define 'gas' and 'net metered facility' by reference to those defined terms in Part 20.

6.4 Establishment of custody transfer points

6.4.1 Current framework and draft recommendations

For a distribution connected facility to participate in the STTM, a CTP must be established at the point where the facility is connected to the distribution system. CTPs are specified in section 2 of the STTM Procedures, as provided for by rule 135EA(4)(a) of the NGR.

If a new CTP is commissioned (or an old CTP is decommissioned), AEMO must follow the consultation process to amend the STTM Procedures as set out in Part 15B of the NGR.[159] The ordinary consultation process typically takes three months to complete.[160]

With the emergence of distribution connected injection facilities for other covered gases, significantly more CTPs may be required. The Commission found in the draft report that the current process for establishing CTPs risks being unduly onerous, or even unworkable, if AEMO is required to undertake multiple consultations over a short period.

159 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, p. 93.

160 There is an expedited consultation process (outlined in rule 135EF of the NGR), which is similar to the ordinary consultation process, but which allows AEMO to fix a date for the changes to take effect, and interested parties have a minimum of 15 business days to comment on the proposed changes (as opposed to 20 days).

For this reason, the Commission recommended streamlining the process by removing the requirements in rules 371, 372 and 372A of the NGR for the CTPs relevant to each hub to be defined in the STTM Procedures.[161] AEMO would instead be required to maintain a register of CTPs. Where AEMO proposes to update the register to include a new CTP (or to remove an existing CTP), it would be required to provide a notification to the market and invite feedback from the relevant distributor. The Commission considered a notification period of 20 business days would be sufficient to gain this feedback.

6.4.2 Stakeholder responses

Origin and APA supported the Commission's draft recommendation to streamline the process for establishing new CTPs in the STTM.[162]

While supportive of the draft recommendation, Jemena submitted that this approach removes the flexibility currently in the rules where a CTP need not be established for a new injection facility.[163] Jemena also noted that AEMO currently has the power to exempt parties from the requirement to register as participants in the STTM (rule 135AG of the NGR). In its view, an equivalent power should be established to enable AEMO to exempt production facilities from STTM obligations, in order to promote consistency and flexibility (for instance allowing small-scale trials to inject directly without needing to trade in the STTM).

6.4.3 Commission analysis

The Commission continues to consider that it is necessary to streamline the process for the creation of CTPs, and that moving the definition of the CTPs comprising each STTM hub from the STTM Procedures to a dedicated register of CTPs would be the most effective means of achieving this.

The Commission does not consider that it would be appropriate to entirely exempt production facilities from STTM obligations and to allow injections from such facilities without relevant parties trading in the STTM. Including all gas flows to and from distribution connected facilities in the market should facilitate dispatch of the least-cost mix of gas supply and will also promote transparency of gas flows. Further, the Commission's approach seeks to minimise the regulatory burdens on small-scale production facilities where appropriate, for instance through reducing reporting obligations and allowing for aggregation, and is therefore consistent with the NGO.

6.4.4 Final policy recommendation

The Commission's final recommendation is to streamline the process for establishing CTPs. It recommends achieving this by removing the requirements in rules 371, 372 and 372A of the NGR for the CTPs relevant to each hub to be defined in the STTM Procedures, and instead requiring AEMO to maintain a register of CTPs. The Commission considers this final

161 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, pp. 94-96.

162 Submissions to the draft report: Origin, p. 6; APA, p. 21.

163 Jemena, submission to the draft report, p. 16.

recommendation is fit-for-purpose and likely to reduce AEMO's administration costs, particularly if multiple new facilities injecting other covered gases are established over a similar time frame. This is because the final recommendation removes the requirement to use the procedure change process for each change to the list of CTPs which, if unchanged, has the potential to become unduly onerous while adding little value.

Further, the recommended amendment to rule 372A of the NGR will specify that further CTPs not connected to the specified STTM distribution systems can only be added with the consent of the facility operator at that CTP (as well as the service provider for the STTM pipeline). This reflects the unique nature of the Brisbane hub, which includes CTPs where gas passes straight from a transmission pipeline (the Roma Brisbane Pipeline) to a number of end-users directly connected to that transmission pipeline. These CTPs are currently specified in the STTM Procedures and are not limited by the NGR. The recommended draft rule change would appropriately govern AEMO's ability to add CTPs not connected to STTM distribution systems.

6.4.5 Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the box below. See section 6.7 for relevant recommended draft transitional rules.

RECOMMENDATION 44: DRAFT RULE — STREAMLINE THE PROCESS FOR ESTABLISHING NEW CTPS

Amend the NGR to:

- specify in rule 135EA(4) that the STTM Procedures may deal with the arrangements for determining proposals for CTPs to be included in or removed from a hub
- introduce a new rule 372B that requires AEMO to specify the CTPs comprised in each hub in a register maintained by AEMO under the STTM Procedures
- in rule 372B, require the CTP for an injection facility or an STTM pipeline to be included in the relevant hub
- in rule 372B, require the STTM Procedures to set out the arrangements for AEMO to determine changes to CTPs for a hub, which must, among other things:
  - specify the time frame and process for AEMO to consider and determine a proposal, which must include notice to the relevant STTM distributor and must allow 20 business days for the STTM distributor to respond
  - require AEMO to publish notice of its determination on the proposal.
- amend rules 371, 372 and 372A to refer to the CTP register instead of the STTM Procedures
- amend rule 372A to specify that additional CTPs not connected to one of the STTM distribution systems specified in that rule can only be added with the consent of the STTM facility operator and the service provider of the STTM pipeline at the proposed CTP.

6.5 Matched allocation mechanism

6.5.1 Current framework and draft recommendations

Unaccounted for gas (UAFG) refers to gas supplied into the gas pipeline or system that is unaccounted for in deliveries from the pipeline or system. The underlying causes for UAFG arise from gas measurement and calculation errors and physical losses. As explained in the draft report, the arrangements for managing UAFG in the STTM vary between each hub.[164]

The matched allocation mechanism for the Sydney STTM hub allows gas purchased by the relevant distributor (Jemena) to offset UAFG to be excluded from the operation of the STTM.[165] Under the current definition of 'matched allocation agreement' under Part 20 of the NGR, a matched allocation agreement must involve the operator of an STTM pipeline, which is defined as a transmission pipeline connected to the STTM. In the draft report, the Commission considered whether the definition of matched allocation agreement should be broadened to allow Jemena to purchase gas outside of the STTM to meet part of its UAFG needs from a facility injecting at the distribution level.[166]

The Commission concluded that all distribution connected facilities should participate in the STTM, whether their injections are intended to provide UAFG or not.[167] Accordingly, the Commission recommended not extending the matched allocation arrangement in Sydney to cover distribution connected facilities, and that no changes should therefore be made to the NGR to this effect.

6.5.2 Stakeholder responses

Origin submitted that it generally agreed with the Commission's recommendation.[168] However, Jemena reiterated its view that the matched allocation mechanism should be extended to cover distribution connected facilities.[169] In its view, broadening the operation of the matched allocation mechanism would help enable the underwriting of new projects and promote the procurement of renewable gases. Jemena stated:[170]

> not extending the matched allocation mechanism will create a hurdle for Jemena to procure decentralised green gas (which is not in place for natural gas) and result in the regulatory framework treating renewable gases different to how natural gas is currently treated.

164 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, p. 96.

165 Rule 500A of the NGR; AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, p. 96.

166 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, pp. 96-97.

167 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, pp. 96-97.

168 Origin, submission to the draft report, p. 6.

169 Jemena, submission to the draft report, pp. 2, 15-16.

170 Jemena, submission to the draft report, p. 16.

6.5.3 Commission analysis

The Commission considers that its draft recommendation in relation to the matched allocation mechanism should be maintained. It does not consider that any new information was contained in submissions to cause it to reconsider its view that all distribution connected facilities should participate in the STTM, whether their injections are intended to provide UAFG or not.

However, as outlined in the draft report, one implication of this recommendation is that Jemena will have two processes for purchasing UAFG in the Sydney STTM — the matched allocation mechanism for covered gases supplied from STTM (transmission) pipelines and participation in the STTM (or purchase from an STTM User) for distribution injections (of any type of covered gas). However, this does not involve discrimination on the basis of gas type i.e. between natural gas and renewable gases. Rather, these two processes differ in terms of how covered gases are supplied (i.e. either from transmission pipelines or distribution injections).

6.5.4 Final policy recommendation

The Commission's final recommendation is that the matched allocation arrangement in Sydney should not be extended to cover distribution connected facilities, and that no changes should be made to the NGR to this effect. Settling gas flows to and from distribution connected facilities through the market should facilitate dispatch of the least-cost mix of gas supply, and is therefore expected to enhance the NGO. This should also promote transparency of gas flows and avoid any barriers to entry or exit that would result from injection facilities transitioning into and out of the STTM as they moved away from supplying UAFG to the relevant distributor and vice versa.

6.6 Gas quality specification and responsibility for gas quality

6.6.1 Current framework and draft recommendations

Part 20 of the NGR defines the 'gas quality specification' in the STTM as:

> (a) the gas quality specification contained in Australian Standard AS 4564 – 2005, Specification for general purpose natural gas (as amended or replaced from time to time); and
>
> (b) any additional gas quality specifications contained in the applicable access arrangement for an STTM distribution system at that hub.

Further, rule 418(3) of the NGR provides that:

> each STTM Shipper must ensure that natural gas supplied by it to a hub complies with the gas quality specification for that hub, unless otherwise agreed in writing by the relevant STTM distributor or specifically authorised under a law of the relevant adoptive jurisdiction.

In the draft report, the Commission considered two issues. Firstly, whether Part 20 of the NGR should be amended to clarify that AS 4564 – 2005 can be augmented or replaced to accommodate blending in certain parts of STTM distribution systems. Secondly, whether the allocation of responsibility for ensuring compliance with the gas specification should change if blending occurs in distribution systems.[171]

In relation to the first issue, the Commission recommended that subject to their obligations under jurisdictional legislation, distributors should be able to agree an alternative gas quality specification at a CTP.[172] In relation to the second issue, the Commission recommended amending rule 418(3) of the NGR such that STTM Shippers would be responsible for ensuring gas supplied to a particular CTP (rather than the STTM hub generally) complies with the gas quality specification for that CTP, unless specifically authorised under jurisdictional legislation.[173] Ultimately, the Commission considered that responsibility for ensuring compliance with the gas quality specification should continue to rest with STTM Shippers as currently provided under rule 418(3) of the NGR.

6.6.2 Stakeholder responses

Alinta, Bioenergy Australia and Jemena supported the draft recommendation in relation to allowing distributors to agree to an alternative gas quality specification at a CTP.[174]

In contrast, APA and Origin called for a uniform gas quality specification to be applied throughout all relevant STTM distribution systems, or at least a gas quality specification range.[175] In their view, having different gas specifications could create complexity and uncertainty for regulators and market participants. According to Origin, the supply of NGEs across multiple facilities and injection points within a distribution system could potentially impact the safety, security and reliability of supply to consumers given its different specifications.[176] However, Origin acknowledged there is a need for distributors to retain some flexibility to agree to alternate specifications where appropriate or practical within a defined envelope. Further, APA submitted that if there is capacity for altered gas specification in certain areas of the market, this could incentivise facilities establishing in that area at the detriment to other areas.[177]

Origin was the only stakeholder to comment on the allocation of responsibility for gas quality, suggesting that liability should be placed on the party injecting gas into the distribution system or the distributor undertaking the blending within its system.[178] It stated that STTM Shippers should not be liable, considering they have no control over the quality of gas.

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171 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, pp. 98-99.

172 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, p. 100.

173 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, pp. 101-102.

174 Submissions to the draft report: Alinta, p. 13; Bioenergy Australia, p. 1; Jemena, p. 17.

175 Submissions to the draft report: APA, p. 22; Origin, p. 6.

176 Origin, submission to the draft report, p. 6.

177 APA, submission to the draft report, p. 22.

178 Origin, submission to the draft report, p. 6.

6.6.3 Commission analysis

In line with stakeholder views, the Commission considers that allowing different gas specifications in different parts of a system raises many complex issues and will need careful consideration by infrastructure operators, market participants, regulators and jurisdictions. Nonetheless, the Commission is of the view that the NGR need to accommodate rather than present a barrier to this outcome. The Commission emphasises that responsibility for the regulation of gas quality standards sits outside the NGR with jurisdictions and jurisdictional regulators, and the draft recommendation was not intended to alter this arrangement. For example, the draft recommendation would not change jurisdictional obligations on distributors to ensure the gas being delivered to end users complies with the standard gas quality specification (AS 4564 – 2005).[179] In addition, without the draft recommended change, in-pipe blending of covered gases would not be possible. That is, it is not possible to have a uniform gas quality specification for all injection points on STTM distribution systems if in-pipe blending is to occur.

Having considered the points raised by stakeholders, the Commission is satisfied that its conclusion in the draft report is still appropriate. That is, the responsibility for ensuring compliance with the gas quality specification should continue to rest with STTM Shippers and be managed contractually. No new information was contained in submissions as to why the responsibility of STTM Shippers to ensure compliance with the gas quality specification under the NGR cannot be managed contractually.

6.6.4 Final policy recommendation

The Commission's final recommendation is to allow for alternative gas quality specifications at a CTP to be agreed or authorised. This approach should allow for in-pipe blending in distribution systems and reduce barriers to entry for relevant facilities.

The Commission emphasises that this final recommendation does not affect the responsibility for the regulation of gas quality standards relating to the delivery of gas to end users that sits outside the NGR with jurisdictions and jurisdictional regulators. The recommended draft rule is intended to clarify that where a jurisdiction has allowed for the supply of other covered gases, the NGR do not present a barrier and continue to operate as intended.

Further, under the recommended draft rule, an alternative gas quality specification to the 'standard gas quality specifications' is defined as either another gas quality specification agreed in writing by persons injecting gas at the CTP and the relevant STTM distributor (and a regulatory instrument of the relevant adoptive jurisdiction specifically authorises such an agreement to be reached), or one that has been specifically authorised under a regulatory instrument of the relevant adoptive jurisdiction. Accordingly, the Commission considers that the recommended draft rule makes it clear to market participants that the rules do not allow agreement on an alternative gas quality specification unless it is specifically authorised by a jurisdictional regulatory instrument.

179 For example, see Gas Supply (Safety and Network Management) Regulation 2013 (NSW) reg 23; Gas Regulations 2012 (SA) reg 38.

The Commission's final recommendation is also that responsibility for ensuring compliance with the gas quality specification should continue to rest with STTM Shippers and be managed contractually. Maintaining the existing approach of using contractual arrangements between shippers and injecting facilities for managing gas quality should avoid introducing additional complexity and associated implementation costs through the rules. As a result, the Commission is satisfied that this approach is consistent with achieving the NGO.

6.6.5 Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the boxes below. See section 6.7 for relevant recommended draft transitional rules.

RECOMMENDATION 45: DRAFT RULE — ALLOW FOR ALTERNATIVE GAS QUALITY SPECIFICATIONS AT A CTP WHERE AUTHORISED

Amend the NGR to:

- introduce the definition of 'standard gas quality specifications' for a hub to reflect the current definition of 'gas quality specification'
- redefine 'gas quality specification' as:
  a. the standard gas quality specifications; or
  b. the relevant gas quality specification where either:
     i. another gas quality specification for the injection of gas at a CTP has been agreed in writing by persons injecting gas at the point and the relevant STTM distributor and a regulatory instrument of the relevant adoptive jurisdiction specifically authorises such an agreement to be reached; or
     ii. another gas quality specification has been specifically authorised under a regulatory instrument of the relevant adoptive jurisdiction and that authorisation is applicable to the injection of gas at the CTP.
- amend rule 418(3) to clarify that it only extends to arrangements in haulage agreements or under law that allow for the injection of off-specification gas (and does not allow an alternative gas specification to be agreed).

6.7 STTM transitional rules

The Commission considers that no specific savings or transitional arrangements are required for the recommended draft rules outlined in this chapter but that:

- the commencement date for the recommended draft rules relating to the STTM should allow AEMO sufficient time to update its systems and procedures
- the transitional rules should enable the changes to the STTM Procedures to be finalised and available to market participants a reasonable time before the commencement date.

The Commission also recommends that a transitional rule should be made requiring AEMO to make amendments to the STTM Procedures to take into account the amending rule by no later than three months before the commencement date for the recommended draft rules.

Given potential uncertainty about timing of the NGL amendments to support the rule changes, the Commission recommends that AEMO be allowed to commence the consultation process for the STTM Procedures before the rules amendments are formally made should it wish to do so.

6.7.1 Recommended draft rules

The proposed timing for commencement of the recommended draft rules outlined in this chapter is also covered in chapter 11.

To give effect to the transitional arrangement recommendation outlined above, the rules should be changed as outlined in the boxes below.

RECOMMENDATION 46: DRAFT TRANSITIONAL RULE — STTM AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the STTM-related rules is 21 November 2024.

In proposed new Part 6 in Schedule 6 to the amending rule:

- insert definitions of 'amending rule', 'Part 20 amendments effective date' and 'new Part 20'
- require AEMO to, in accordance with the Part 15B review, and where necessary, amend and publish the STTM Procedures to take into account the amending rule, by no later than three months before the Part 20 amendments effective date
- require the amendments to the STTM Procedures to take effect on and from the Part 20 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 20 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR.

7 DECLARED WHOLESALE GAS MARKET

BOX 5: SUMMARY OF CHAPTER

This chapter covers the declared wholesale gas market (DWGM), a facilitated market for wholesale gas and gas transportation in Victoria.

Through this review, the Commission has considered a number of issues regarding the facilitated markets, including the DWGM. These issues were in relation to registration, unaccounted for gas (UAFG) arrangements, settlement and allocation, metering and heating values, gas specification and management of blending constraints.

All the issues related to the settlement of distribution connected facilities in the DWGM, including registration, settlement, metering, gas specification and blending constraints, have been addressed through the Commission's consideration of the *DWGM distribution connected facilities rule change*.

The issue of heating values, and the need for more granular heating values to be determined in Victoria for use in settling non-daily metered customers in the presence of hydrogen blends, is specific to the review. This issue is discussed further in the regulated retail markets chapter of this final report.

Consequently, this chapter examines three issues:

- whether a new registration category should be created to cover blend processing facilities connected to Victoria's Declared Transmission System (DTS) and what other changes to the rules are required to facilitate their participation in the DWGM
- whether changes should be made to UAFG arrangements to accommodate initial trials involving the injection of other covered gases
- the treatment of parts of declared distribution systems (DDSs) that are connected to non-DTS pipelines with respect to the introduction of other covered gases.

In making recommendations in relation to these issues, the Commission has sought to promote efficiency and minimise implementation costs.

The key recommendations made in this chapter are to:

- create a new registration category for DTS connected blend processing facilities, allow for bidding and settlement to be undertaken on a net basis at these facilities where they satisfy the specified criteria, and make other changes to the NGR to facilitate the participation of DTS connected blend processing facilities in the DWGM
- make no changes to the UAFG arrangements in the DWGM
- make no specific changes for non-DTS connected DDSs.

The Victorian declared wholesale gas market (DWGM) is a wholesale gas market that operates on an intra-day basis and uses participant injection and withdrawal bids and demand forecasts to manage supply, demand and linepack on the DTS. The DWGM is a regulated market and participation in it is mandatory.

In contrast to the STTM — where gas is traded at the intersection of transmission pipelines and distribution systems — the Victorian DWGM encompasses the entire DTS. The DTS is subject to a market carriage access regime instead of the contract carriage arrangements used elsewhere in Australia. Under this model, the pipeline owner makes its pipeline available to AEMO, with access to it being allocated in line with market (the DWGM) outcomes. As a result, AEMO operates the DTS.

From an operational perspective, the physical characteristics of the DTS (specifically, that it is essentially a meshed network, the amount of gas it can store is relatively small such that it cannot be relied upon to manage significant deviations between demand and supply) mean it must be closely managed by AEMO to ensure that gas flows in the manner required and system integrity and safety is maintained.

For more information on the background of the DWGM and how it relates to this review see the consultation paper, chapter 5 'Facilitated gas markets'.[180]

This chapter sets out the key issues, stakeholder feedback and final recommendations in relation to:

- blend processing facilities connected to the DTS and changes required to facilitate their participation in the DWGM
- UAFG arrangements in the DWGM
- the treatment of declared distribution systems (DDSs) in Victoria that are connected to transmission pipelines other than the DTS with respect to the introduction of other covered gases.

Consequential changes to the NGR that are relevant to the DWGM are set out in appendix D. This includes the amendment of the term 'gas' as defined in Part 19 to comprise 'covered gas and processable gas' and the amendment to 'gas production facility' to clarify that it includes both gas production and gas processing.

For further detail on the recommended changes to the rules, see the accompanying draft rule.

7.1 Applying the assessment framework

The Commission's final recommendations regarding the DWGM are intended to:

- facilitate the participation of DTS connected blend processing facilities in the DWGM by introducing 'blend processing provider' as a new registration category in Part 15A of the

180 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 27.

NGR, and extend to the operators of these facilities equivalent obligations to those that apply to producers and storage providers

- result in market outcomes that reflect the actual demand and supply balance by requiring the operator of a DTS connected blend processing facility to classify the facility as a net bidding facility if the criteria for classification are met, and require bidding and settlement for net bidding facilities to be undertaken on a net basis
- ensure that transparency of gas flows from all facilities is maintained by making no changes to UAFG arrangements in the DWGM.

Consistent with the efficiency limb of the assessment framework, the implementation of these final recommendations is expected to promote allocative, productive and dynamic efficiency by ensuring that all gas flows are settled through the market and permitting bidding and settlement on a net basis where necessary.

Further, by reducing barriers to entry for DTS connected blend processing facilities, the final recommendations should facilitate the decarbonisation of the gas market. More generally, the final recommendations are targeted, fit-for-purpose, and proportionate to the issues they are intended to address.

7.2 Interaction with the DWGM distribution connected facilities rule change

As outlined in the draft report, the AEMC's consideration of the *DWGM distribution connected facilities rule change* (DWGM rule change) has been undertaken concurrently with this review. The rule change request sought to enable the participation of distribution connected production and storage facilities in the DWGM. While the request did not explicitly target the integration of other covered gases, its focus on allowing distribution connected facilities to participate in the DWGM has implications for enabling covered gases to be injected into gas distribution systems in Victoria.

All issues related to the settlement of distribution connected facilities in the DWGM are addressed through the DWGM rule change process.[181] Consequently, only issues falling outside of the scope of the rule change request are being addressed through this review. The review's draft recommendations were therefore limited in their scope to distribution systems not directly connected to the DTS and unaccounted for gas (UAFG) in the DWGM.

7.3 DTS connected blend processing facilities

7.3.1 Draft report

In preparing the draft report, the Commission did not fully consider the question of DTS connected blend processing facilities. This reflected the terms of reference focus on low level gas blends and the generally held view that the introduction of such facilities would occur within distribution systems.

181 AEMC, *DWGM distribution connected facilities*, final determination, 8 September 2022.

However, the Commission now understands that the prospect of transmission pipeline connected blending facilities may be nearer than previously thought. A reassessment of the relevant provisions of the NGR has indicated that changes would be needed to enable such facilities to participate in the DWGM as distribution connected facilities as a result of implementing the DWGM distribution connected facilities rule change.

In addition, failing to address transmission connected blend processing facilities at this time would be inconsistent with other changes recommended by the review. For example:

- economic regulation rules which cover both transmission and distribution pipelines
- market transparency mechanisms which include recommendations that impact both transmission and distribution connected blend processing facilities.

In addition, recommended changes to the NGL contemplate DTS connected blend processing facilities.[182]

On this basis, the Commission has considered what changes to the NGR should be made to recognise DTS connected blend processing facilities and enable them to participate in the DWGM fully.

Under the DWGM rule change, the operator of a distribution connected blend processing facility would participate in the DWGM by registering as a 'distribution connected facility operator' and 'market participant — blend processing service provider'. Further, the operator of a distribution connected facility that satisfies the relevant criteria must apply to AEMO for classification of the facility as a 'net bidding facility' (rule 204B).[183]

Rule 135A in Part 15A of the NGR will give DDS connected blend processing service providers their own registration category and will allow for those operators and shippers using any blend processing facility (both DDS and DTS connected) to register as market participants. However, the registration framework in rule 135A of the NGR will not extend to the operators of DTS connected blend processing facilities.

There is also the broader issue of how withdrawals by and injections from a DTS connected blend processing facility should participate in the market (given the net bidding issues raised in the DWGM rule change for DDS connected facilities).

7.3.2 Stakeholder responses

AEMC staff sought advice from AEMO staff on this issue of blend processing facilities outlined above. AEMO staff supported changes to the NGR to allow for registration of the operators of DTS connected blend processing facilities and for those facilities to be subject to the proposed net bidding arrangements for the DWGM rule change.

182 The amendments to the NGL proposed by officials will introduce a new defined term 'blend processing service provider'. This will cover all operators of blend processing facilities whether connected to a transmission or distribution pipeline. Under s. 91BJ of the NGL, a person must not participate in a declared wholesale gas market in a registrable capacity unless registered (or exempted from registration) in accordance with the NGR. Under s. 91BI of the NGL, once amended, this will include a producer or blend processing service provider who injects covered gas into a declared transmission system or a declared distribution system.

183 References to the rules in this section relate to the amending rule for the DWGM distribution connected facilities rule change.

7.3.3 Commission analysis

The Commission considers a regulatory gap will arise if the NGR does not provide for DTS connected blend processing facilities to register and participate in the DWGM. Therefore, the Commission considers a new registration category should be introduced into Part 15A of the NGR to cover DTS connected blend processing facilities.

As compared to the alternative of expanding the scope of existing registration categories (such as 'producer'), the Commission considers the approach of creating a new category is simpler. It will allow separate treatment for DTS connected blend processing facilities through Part 19 of the NGR, should the need arise.

These facilities, where they meet the relevant criteria, should be subject to the net bidding arrangements under the DWGM rule change.[184] This will address the issue outlined above, in the context of the STTM (see section 6.3), that withdrawals by DTS connected blend processing facilities scheduled into the market would be contingent on scheduled injections. As outlined in the DWGM rule change determination, if bidding and settlement is not permitted to be undertaken on a net basis for these facilities, the schedules produced by AEMO may be based on inaccurate demand forecasts, leading to poor market outcomes and deviation costs for the market participants using the facilities.

The Commission notes that it is not necessary to introduce a new market participant category for any operators of DTS connected blend processing facilities who buy and sell in the market. These operators will already be covered by the new market participant category introduced by the DWGM rule change (rule 135A(1)(d1)).

If a gas blend is to be injected into the DTS, AEMO will need to agree a departure from the standard gas quality specification. This is already accommodated for injections into the DTS under rule 287 of the NGR. For the DWGM rule change, a similar rule was introduced to allow a distributor to agree a non-standard specification to remove barriers to injection of a gas blend into a DDS. [185] The final determination for the DWGM rule change explains how this rule is intended to operate and, in particular, that the final rule clarifies that the rule is subject to jurisdictional laws and other regulatory instruments governing gas quality and safety. The Commission considers that there is benefit in adding a similar clarification to rule 287(1) of the NGR to avoid any uncertainty about whether the same principle applies to the DTS.

Part 19 of the NGR includes specific obligations for the operators of facilities connected to the DTS. These registered participants are also 'DWGM facility operators'. The specific obligations relate to:

- failure to conform to scheduling instructions (rule 216(4))
- the provision of injection and withdrawal confirmation to AEMO (rule 219(1))

184 Net injected quantities must be used for net bidding facilities, and the net bidding facility procedures must deal with the treatment of negative net injected quantities (rule 204C). With regard to negative net injected quantities, this would include provision for excluding them from the calculation of actual injections and for market participants to include them in demand forecasts.

185 AEMC, *DWGM distributed connected facilities*, final determination, 8 September 2022, p. 51.

- the ability to take responsibility for a metering installation for its facility (rule 292(2))
- the use of non-firm gas where there is a system security threat (rule 340(3))
- participation in maintenance coordination (rule 326).

The Commission considers these provisions of the NGR (together with the other provisions in Part 19 that apply to registered participants) should apply to the operators of DTS connected blend processing facilities in the same way they apply to storage providers.

Part 19 also provides for AEMO to develop the VGPR. Chapter 5 of this final report sets out the Commission's final recommendations with respect to the extension of the VGPR to blend processing facilities.

7.3.4 Final policy recommendation

The Commission recommends:

- introducing a new registration category in Part 15A of the NGR to cover the service provider for a DTS connected blend processing facility
- requiring these facilities to be settled on a net basis (if the facility meets the criteria for classification as a net bidding facility).

Introducing a distinct registration category for DTS connected blend processing facilities should promote certainty for potential market entrants about how they will participate in the DWGM. Allowing for net bidding is expected to enhance the NGO by promoting market outcomes that reflect the actual demand and supply balance, promoting allocative and productive efficiency.

The Commission also recommends recognising the operators of DTS connected blend processing facilities as a separate category in Part 19 of the NGR ('blend processing provider') and including the blend processing provider as a DWGM facility operator and extending the rules applicable to DTS connected producers and storage providers to this new category.

Further, the Commission recommends clarifying that rule 287 of the NGR (on gas quality standards for system injection points) is subject to jurisdictional laws and other regulatory instruments. This is expected to avoid any uncertainty about whether the same principle that applies at the DDS level similarly applies to the DTS.

7.3.5 Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the box below. See section 7.6 for relevant recommended draft transitional rules.

> RECOMMENDATION 47: DRAFT RULE — ALLOW DTS CONNECTED BLEND PROCESSING FACILITIES IN THE DWGM
>
> Amend the NGR to allow for registration for DTS connected blend processing facility operators

by introducing 'Blend Processing Provider' as a new registration category in rule 135A — a blend processing service provider that injects gas into a DTS.

Amend the net bidding facility framework in Part 19 of the NGR to accommodate DTS connected blend processing facilities that satisfy the net bidding facility criteria by:

- extending the definition of 'net bidding facility' and 'net injected quantity' in rule 200 to blend processing facilities connected to a DTS
- extending rules 204B and 204C (on the classification of net bidding facilities and net injected quantities to be used for net bidding facilities) to Blend Processing Providers
- making consequential changes to rules 208 (Demand forecasts) and 235 (Imbalance payments and Deviation payments).

Amend rule 287(1) so that it is consistent with rule 287A(1) by adding introductory words to clarify that any agreed departure from the standard gas quality specification is subject to any duty or requirement under any regulatory instrument relating to gas quality or safety.

Amend Part 19 of the NGR to extend to the operators of DTS connected blend processing facilities equivalent obligations to those that apply to Producers and Storage Providers, by:

- defining 'Blend Processing Provider' in rule 200 as a blend processing service provider whose blend processing facility is connected to the DTS
- extending the definition of 'DWGM facility operator' in rule 200 to include a 'Blend Processing Provider' so that the maintenance coordination arrangements in rule 326 apply
- extending the following rules to apply them to Blend Processing Providers in the same way they apply to Storage Providers: 216 (Failure to conform to scheduling instructions), 219 (Injection and withdrawal confirmations), 292(2) (Responsibility for metering installation) 340 (Non-firm gas).

7.4 Unaccounted for gas

7.4.1 Draft report

In the DWGM, retailers are required to purchase sufficient gas to cover customer consumption and forecast UAFG. In the draft report, the Commission considered whether initial trials involving the injection of other covered gases into the DDS should be accommodated by amending jurisdictional arrangements for UAFG and whether any other changes to the UAFG arrangements in the DWGM would be required. Consistent with the reasoning set out in relation to the STTM, the Commission considered that allowing UAFG to be procured by distributors outside of the DWGM market arrangements would not promote economic efficiency. Therefore, the draft recommendation was that no changes be made to the UAFG arrangements in Part 19 of the NGR.

7.4.2 Stakeholder responses

Only Origin made a submission in relation to this issue.[186] It agreed that existing arrangements for managing UAFG remain fit for purpose and that it would not be appropriate to establish a separate mechanism to allow UAFG to be procured by distributors (for example through offsetting supply of NGE) outside of the DWGM.

7.4.3 Commission analysis

No other information has emerged since the draft report. The Commission considers that allowing UAFG to be procured by distributors outside of the market would not promote economic efficiency and would be inconsistent with the reasoning set out in relation to the STTM (see section 6.5 above). All gas procurement — whether it be for offsetting UAFG or otherwise — should be through market mechanisms to facilitate dispatch of the least-cost mix of gas supply.

7.4.4 Final policy recommendation

The Commission's final recommendation is that no changes should be made to the UAFG arrangements in Part 19 of the NGR. Continuing with the existing arrangements should promote productive efficiency and avoid the implementation costs associated with the development and introduction of alternative arrangements. The Commission is satisfied that this approach is consistent with achieving the NGO.

7.5 Non-DTS pipelines

7.5.1 Draft report

In the draft report, the Commission noted there are some transmission pipelines in Victoria that are not part of the DTS (non-DTS pipelines), but connect the DTS to New South Wales, Tasmania, South Australia or to gas production and storage facilities or to other distribution systems in Victoria. Connected to some of these non-DTS transmission pipelines are distribution systems that deliver gas to end-users. As a consequence of not being directly connected to the DTS, these distribution systems are out of scope of the DWGM rule change. The Commission considered how the sale of other covered gases may occur within these locations, and whether any gaps are remaining in the regulatory framework that need to be addressed.

After reviewing the impacts of the key policy areas of the review on DDSs connected to non-DTS transmission pipelines, the Commission concluded that these distribution systems, despite not being part of the DWGM, would still be included in the recommended changes made under the review. The Commission concluded that the draft recommendations were relevant and proportionate to the needs of these distribution systems, and flexible to their governance arrangements.

186 Origin, submission to the draft report, p. 7.

7.5.2 Stakeholder feedback

Only Origin made a submission in relation to this issue.[187] Origin noted it is appropriate that DDSs not directly connected to the DTS are not included in the operation of the DWGM. It agreed that the draft recommendations that are not specific to the DWGM should still apply to those DDS locations. However, Origin suggested further analysis could be undertaken on a case-by-case basis to consider whether any additional regulatory changes would be required.

7.5.3 Commission analysis

Given that no other relevant new information has come to light and the only stakeholder comment was supportive, the Commission considers that its draft recommendation remains appropriate. Analysis since the draft report has not identified changes necessary specific for these distribution systems. Other relevant changes made (for example, to the economic regulation of pipelines) through the review will apply.

7.5.4 Final policy recommendation

The Commission's final recommendation is that no specific changes are required for DDSs not connected to the DTS. The Commission considers this recommendation is appropriate and consistent with the NGO.

7.6 DWGM transitional rules

The Commission considers that no specific savings or transitional arrangements are required once the recommended draft rules outlined in this chapter commence. However, it does recommend that:

- the commencement date for the recommended draft rules should be aligned with the commencement date for the DWGM distribution connected facilities rule change
- the transitional rules should provide for the changes to the Wholesale Market Procedures to be finalised and available to market participants at the same time as the changes made to the procedures to take into account the DWGM distribution connected facilities rule change.

Having the same commencement date for the DWGM distribution connected facilities rule change is expected to reduce unnecessary duplication for AEMO and stakeholders in relation to system and procedure changes.

For these reasons, the Commission also recommends that the transitional rules should allow AEMO to consult on the changes to the procedures as a single process.

7.6.1 Recommended draft transitional rules

The proposed timing for commencement of the recommended draft rules outlined in this chapter is set out in chapter 11.

187 Origin, submission to the draft report, p. 7.

To give effect to the recommended transitional arrangements outlined above, transitional rules are required. These recommended draft transitional rules are outlined in the box below.

RECOMMENDATION 48: DRAFT TRANSITIONAL RULE — DWGM AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the DWGM related rules is 1 May 2024.

In Part 5 in proposed new Schedule 6 to the NGR:

- insert definitions of 'amending rule', 'Part 19 amendments effective date' and 'new Part 19'
- require AEMO to, in accordance with Part 15B, review, and where necessary, amend and publish the Wholesale Market Procedures to take into account the amending rule, by no later than three months before the Part 19 amendments effective date
- require the amendments to the Wholesale Market Procedures to take effect on and from the Part 19 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 20 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR.

8 REGULATED RETAIL MARKETS

BOX 6: SUMMARY OF CHAPTER

Regulated retail markets are in operation in areas of New South Wales, the Australian Capital Territory, Queensland, South Australia and Victoria supplied by distribution systems. They facilitate retail competition by enabling retailers to sell natural gas to residential and business customers. This is achieved by setting out provisions for registering as a retail market participant, procedures for the transfer of customers between retailers, as well as processes in relation to retailer of last resort schemes[a] and metering. In states other than Victoria, there are also arrangements for gas allocation, settlement, balancing and processes to deal with unaccounted for gas.

The provisions under the NGR regulate retail gas markets in relation to retail market participation and the making of retail market procedures (RMPs).

This chapter examines whether any changes to the NGR are required in the following areas to accommodate the extension of the NGL to covered gases other than natural gas (other covered gases):

- retail market registration provisions
- metering provisions, and the governance of heating values to accommodate the injection of other covered gases
- settlement and balancing arrangements
- competition, consumer choice and cost pass through of other covered gases in the regulated retail markets.

The Commission has considered these issues and its final recommendations in relation to regulated retail markets are that:

- existing registration categories for the withdrawal of gas from the regulated retail market should be expanded to accommodate other covered gases in the markets
- the governance arrangements for heating values in regulated retail markets should remain unchanged as these well-established arrangements are fit for purpose
- no changes are required to the NGR in relation to settlement and balancing arrangements, noting that these arrangements are managed under the RMPs and applicable arrangements and contracts
- no additional mechanisms need to be introduced to address the cost of gas or competition concerns, on the basis that existing competitive processes operate over investment and operational timescales, and third party access provisions within wholesale and retail markets should remain relevant and enable the entry of new parties into the gas retail markets.

Note: a. Since Victoria has not adopted the NERL, separate retailer of last resort arrangements apply in Victoria.

The regulated gas retail markets facilitate gas retail competition by enabling retailers to sell natural gas to residential and business customers in areas of New South Wales, the Australian Capital Territory, Queensland, South Australia and Victoria supplied by distribution systems. Distributors, retailers, exempt sellers and self-contracting users must register in the retail gas market that operates in those areas.[188]

For more information on the background of the regulated retail market and how it relates to this review see the consultation paper, chapter 6 'Regulated retail markets'.[189]

This chapter sets out key issues, stakeholder feedback and final recommendations in relation to:

- retail market registration categories
- governance arrangements for local heating values
- settlement and balancing arrangements
- competition, consumer choice and cost pass through of other covered gases in the retail market.

In addition to the NGR changes identified in this chapter, consequential changes to the NGR to accommodate the extension of regulated retail market frameworks to other covered gases are set out in appendix D.

For further detail on the recommended changes to the rules, see the accompanying recommended draft rule.

8.1 Applying the assessment framework

The Commission's final recommendations are intended to:

- encourage the delivery of a new commodity (other covered gases) that could not otherwise be priced or traded within the gas market by expanding the existing retail market registration categories for participants withdrawing gas from regulated retail markets to cover blend processing service providers
- provide a clear allocation of roles and responsibilities in relation to the quality and safety of supply of other covered gases to consumers, by maintaining the existing jurisdictional responsibilities as currently relevant for natural gas
- provide stability and transparency in regulatory arrangements that will enable consumers, market participants and investors to make efficient decisions.

Consistent with the efficiency limb of the assessment framework, implementation of the final recommendations is expected to promote allocative, productive and dynamic efficiency by allowing other covered gases to be supplied through retail markets. Accordingly, the decarbonisation of the gas sector should also be facilitated to support the reduction of emissions in the Australian economy.

188 There are additional participants, for example, transmission service providers, in some markets.

189 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, October 2021, p. 46.

More generally, the final recommendations are targeted, fit-for-purpose, and proportionate to the issues they are intended to address.

8.2 Registration categories

8.2.1 Current framework and draft recommendations

Retail markets facilitate retail competition by enabling retailers to sell natural gas to residential and business customers.

This is achieved by setting out provisions for registering as a retail market participant, procedures for the transfer of customers between retailers, as well as processes in relation to the retailer of last resort scheme, metering, and in states other than Victoria, arrangements for gas allocation, settlement, balancing and processes to deal with unaccounted for gas.

Rules 135AB(1) and (2) of the NGR set out the registrable capacities in the retail markets of New South Wales-Australian Capital Territory and Queensland as:

- network operator
- retailer
- self contracting user
- distributor

Rule 135AB(3) of the NGR similarly sets out registrable capacities in the retail market of South Australia as:

- network operator
- network operator (Mildura region)
- retailer
- self contracting user
- transmission system operator
- swing service provider
- shipper.

The registrable capacities in the retail market of Victoria are listed in rule 135AB(4) of the NGR as:

- transmission system service provider
- distributor
- market participant — retailer
- market participant — other.

The draft report sets out the Commission's considerations on whether these registration categories should be amended to accommodate primary gas producers or facility operators who supply the primary gases to create gas blends.

In the draft report, the Commission concluded no changes were required to the registration categories in the NGR to accommodate injections by blend processing service providers. This

was because, to the extent required for balancing and settlement in the relevant market, injection information is provided by the registered pipeline service providers.[190]

In contrast, the Commission concluded that the existing market registration categories would not recognise the withdrawal of gas from blend processing facilities in their current form. Consequently, the Commission's draft recommendation was to expand the existing regulated retail market registration categories for each market for withdrawals of gas to capture blend processing facilities.

8.2.2 Stakeholder responses

There was some support for the draft recommendation to extend the existing registration categories to capture blend processing facilities.[191]

However, Jemena was not supportive of amending the definition of 'self contracting user' (for the News South Wales-Australian Capital Territory, South Australia and Queensland retail markets) to include blend processing service providers since, in its view, these participants do not typically inject gas into the distribution system.[192]

8.2.3 Commission analysis

The Commission considers that the concern surrounding the nature of the 'self contracting user' registration category is not warranted since injections are already covered in retail markets through pipeline nominations. The intent of the draft recommendation was simply to accommodate withdrawals by blend processing facilities as these would not otherwise be recognised in the retail markets even though they should be.

8.2.4 Final policy recommendation

The Commission recommends expanding the existing regulated retail market registration categories for withdrawals of gas to include blend processing service providers. To achieve this in the retail markets of New South Wales and the Australia Capital Territory, Queensland, and South Australia, the relevant registrable category of 'self contracting user' should be expanded to include users that have a contract with a service provider for haulage services but do not fall within the registrable capacity of retailer. Under this expanded approach, users withdrawing gas for use in blend processing facilities would fall within the registrable capacity of self contracting user.

In the Victorian regulated retail market, the final recommendation can be implemented by expanding the existing retail market category of 'market participant – other' to include users of declared distribution systems that do not fall within any other registrable capacity, which would include users withdrawing gas for use in blend processing facilities.

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190 Changes required to the facilitated market registration provisions to accommodate injections by blend processing service providers or direct injection of other covered gases are considered in the context of the STTM and DWGM. See chapter 7 of this final report and AEMC, *DWGM distribution connected facilities*, final determination, 8 September 2022.

191 Submissions to the draft report: Origin, p. 7; NELA (WA), p. 7.

192 Jemena, submission to the draft report, p. 17.

The Commission considers the final recommendation is likely to contribute to the achievement of the NGO because it:

- Expands the existing categories of retail market participant to cover new services and commodities that could not otherwise be priced or traded within the gas market. The recommended change is likely to encourage the delivery of a new service or commodity and encourage allocative, productive and dynamic efficiency in the provision of those services to end users.
- Provides for the implementation of the required changes in a manner that is targeted, fit for purpose and proportionate to the issues that need to be addressed in order that the sale of other covered gases is incorporated in regulated retail markets.

8.2.5 Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the box below.

RECOMMENDATION 49: DRAFT RULE — EXPAND EXISTING REGISTRATION CATEGORIES IN REGULATED RETAIL MARKETS

Amend the NGR:

- For the New South Wales and the Australian Capital Territory (rule 135AB(1)(c)), Queensland (rule 135AB(2)(c)) and South Australia (rule 135AB(3)(d)) regulated retail markets, amend the registrable category of 'self contracting user' to include any user that has a contract with a service provider for the haulage of gas but does not fall within the registrable capacity of 'retailer'. Amend the registrable capacity of 'retailer' in each of rules 135AB(1)(b), 135AB(2)(b) and 135AB(3)(c) to exclude from that registrable capacity any exempt seller that sells gas only to related bodies corporate of that exempt seller. This type of exempt seller will continue to fall within the registrable capacity of 'self contracting user'.
- For the Victorian regulated retail market (rule 135AB(4)(d)) expand the registrable category of 'market participant – other' to include any user of a declared distribution system that does not fall within any other registrable capacity for the market.

8.3 Metering and heating values

8.3.1 Current framework and draft recommendations

Metering

Metering procedures in relation to regulated retail markets cover processes for metering installations, meter reads, and the data flows required between AEMO, distributors, retailers

and other parties to facilitate the retail market. The metering procedures in relation to regulated retail markets are summarised in AEMO's consultation paper on the Procedures.[193]

In its draft report, the Commission considered whether metering arrangements for the regulated retail markets needed to be changed so that consumers would be charged correctly. It concluded that no changes to the NGR in relation to metering arrangements would be necessary as potential changes were being addressed through AEMO's review of the procedures (including RMPs).

Heating value governance

The table below summarises the existing arrangements in relation to heating value calculations and governance in regulated retail markets. These requirements are defined in the RMPs and jurisdictional laws and regulations. In Victoria, Part 19 of the NGR also sets out detailed requirements in relation to the calculation of the energy content of gas.

Table 8.1: Heating value governance in regulated retail markets

	VIC	QLD	SA	NSW-ACT
AEMO	Calculate HV Determine HV zones	Publish HV	Verify and publish new HV zones	Publish HV
Distributor	Calculate energy data using HVs from AEMO	Calculate HV and energy data	Calculate HV and energy data	Calculate HV and energy data
Retailer	Use energy data to bill customers	Use energy data to bill customers	Use energy data to bill customers	Use energy data to bill customers
State body	Essential Services Commission maintains Gas Distribution System Code which sets out process for AEMO to calculate HV	Department of Energy and Public Works administers and monitors legislation affecting the Queensland gas sector	Essential Services Commission of South Australia maintains gas metering code, sets out arrangements for calculating HV	Distributors are required to lodge safety and operating plans with the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services

Source: AEMO procedures, state legislation. Note: HV = heating value.

193 AEMO, *Extending the national gas regulatory framework to hydrogen blends and renewable gases,* consultation on the procedures, October 2021, p. 24.

In its draft report, the Commission considered whether any changes should be made to the governance of heating values in the regulated retail markets. Specifically, whether local heating values need to be determined for specific parts of the system and calculated more often than under current arrangements. It concluded that no changes to the governance arrangements for heating value calculations and zone determination were required and that jurisdictional bodies should retain responsibility.

In forming this conclusion, the Commission observed there was little justification for expanding AEMO's role or providing AEMO with a specific head of power for making procedures in relation to heating values given the current scope of AEMO's role and access to information.

While noting jurisdictions should continue their oversight of heating values, the Commission also recommended that they consider if there are opportunities to improve the consistency in requirements across the jurisdictions.

8.3.2 Stakeholder responses

Some stakeholders agreed that AEMO's powers in relation to heating values need not be expanded. These stakeholders supported the draft recommendation that jurisdictions should review measures for heating value calculations at injection and withdrawals points.[194]

Alinta suggested that the impact of heating values and measurement from injections of other covered gases should be monitored.[195]

8.3.3 Commission analysis

Consistent with AEMO's preliminary analysis in the consultation paper on the procedures, no required changes to the NGR were identified by AEMO in its draft report on the procedures.[196] Specifically, on monitoring heating values, the Commission considers that it remains appropriate for jurisdictions to retain the responsibility of such activities.

Since no new information has come to light and stakeholders have only expressed support for the draft recommendations, the Commission considers that its draft recommendations remain appropriate.

8.3.4 Final policy recommendations

The Commission recommends not making changes to the NGR in relation to metering arrangements since potential changes to metering requirements are being addressed through AEMO's review of the Procedures.

Further, the Commission recommends not changing the governance arrangements for heating value calculations and zone determination and that jurisdictional bodies should retain these responsibilities. It also recommends that jurisdictions review measures for heating value

194 Submissions to the draft report: Origin, p. 7; NELA (WA), p. 5.
195 Alinta, submission to the draft report, p. 14.
196 AEMO, *Draft report — Hydrogen blends and renewable gases procedures review*, 31 March 2022.

calculations at injection and withdrawal points and consider if greater consistency across jurisdictions can be made.

The Commission considers these final recommendations are consistent with the NGO, as they:

- provide a clear allocation of roles and responsibilities in relation to the quality and safety of supply of other covered gases to consumers by maintaining the existing jurisdictional responsibilities as currently relevant for natural gas
- provide stability and transparency in regulatory arrangements that will enable consumers, market participants and investors to make efficient decisions.

8.4 Settlement and balancing

8.4.1 Current framework and draft recommendations

AEMO is the retail market operator in the regulated retail markets. It is responsible for managing the daily allocation of gas to retailers to enable settlement. These responsibilities are carried out under the RMPs. These determine how user injections and withdrawals into/from a distribution system are defined, calculated, provided to AEMO and used to determine balancing, allocation, settlement and any reconciliation that is required.

In its draft report, the Commission considered whether the settlement and balancing arrangements needed to be amended to accommodate the injection of other covered gases at a distribution system level. It considered that injecting other covered gases into distribution systems would have the potential to distort settlement in the RMPs.

The Commission noted AEMO was considering other issues relating to settlement and balancing and AEMO's preliminary analysis was that the existing processes in the RMPs for balancing, allocations, settlement and reconciliation should remain fit for purpose for the introduction of other covered gases.[197]

8.4.2 Stakeholder responses

No stakeholder responses were received in relation to settlement and balancing arrangements in the regulated retail markets.

8.4.3 Commission analysis

AEMO's draft report for its review of its procedures concluded that changes to the RMPs were not required for the allocation, balancing or settlement methodologies or processes beyond minor definitional changes.[198]

However, as outlined in chapter 6 above in the context of the STTM, since the publication of the draft report, a new issue has been identified in relation to net metering at blend processing facilities.

197 AEMO, *Extending the national gas regulatory framework to hydrogen blends and renewable gases, consultation on the procedures*, 21 October 2021, p. 27.

198 AEMO, *AEMO Draft Report — Hydrogen blends and renewable gases procedures review*, 31 March 2022, p. 25.

At STTM hubs, gas withdrawals by blend processing facilities will be identified through the relevant retail market. For those facilities which are classified as net metered facilities, any withdrawals of gas will need to be netted off energy injections.

Consequently, the RMPs will need to provide for quantities of gas withdrawn by net metered facilities to be identified in a manner which permits the calculation of injections on a net basis and also allows them to be excluded from the total quantities taken to be withdrawn by an STTM User (except to the extent that there is a net energy withdrawal).

8.4.4 Final policy recommendation

In light of the net metering issue, the Commission recommends that rule 135EA of the NGR governing the matters about which procedures may be made should be amended to specify that the RMPs should provide for the arrangements necessary to support the introduction of net metered facilities in the STTM.

The Commission is satisfied that, if made, this recommended rule change would be consistent with the NGO as it would support the introduction of facilities that withdraw and inject gas simultaneously, such as blending facilities, while allowing the markets to operate efficiently. Enabling such facilities to operate will provide greater opportunities for new facilities using other covered gases, supporting the decarbonisation of the gas sector and the reduction of emissions across the economy.

8.4.5 Recommended draft rules

To give effect to the final policy recommendation outlined above, the NGR should be changed as outlined in the box below.

> RECOMMENDATION 50: DRAFT RULE — EXPAND MATTERS ABOUT WHICH RETAIL MARKET PROCEDURES MAY BE MADE
>
> Amend rule 135EA of the NGR to specify that the RMPs should provide for the arrangements for registration of a net bidding meter, and arrangements for net withdrawals at a net metered facility to be treated as a meter reading for the purposes of the RMP.

8.5 Cost of gas and competition concerns

8.5.1 Current framework and draft recommendations

The Commission considered some additional aspects of gas retail markets that may need to change to accommodate other covered gases in its draft report. These included:

- the treatment of the cost of the renewable component of other covered gases
- consumer choice in relation to the ability of consumers to opt in or out of a renewable gas blend
- competition between blending projects in a particular network such that renewable covered gases are provided on a competitive basis to end users.

It concluded that no changes to the NGR or NERR were required to address the impact of the cost of gas or the potential impact on retail competition. The Commission considered that in terms of the cost of producing other covered gases, the retail markets should continue to operate as they do now with natural gas. Unless a government mandated renewable gas target is applied, which could change the cost merit order, this issue is best managed by the ability of a retailer to decline to contract for the other covered gas from the supplier. Projects will need a contract with at least one retailer to proceed. Alternatively, the project will need to bid competitively into the spot market at a price that allows dispatch equivalent to the desired production level to be achieved. Either way, the sale of other covered gases would need to be price competitive for retailers to be able to sell gas to customers.

Similarly, the Commission considered existing market mechanics should continue to support retail competition, and there was no indication that competition in the markets would decline as a result of the introduction of other covered gases.

8.5.2 Stakeholder responses

Alinta and Origin agreed with the draft recommendation that no changes are required in the NGR or NERR to address cost of gas or competition issues.[199]

However, PIAC did not support the draft recommendation. It suggested that the NGR should prescribe cost allocation and transparency around any flow through costs associated with other covered gases. It rejected contentions that the 'renewable' component of gas blends could be managed by the market like the renewable component of electricity. In its view, this was not a reasonable comparison. According to PIAC, this is because renewable electricity can seamlessly replace non-renewable electricity with no consumer detriment or impact (assuming it is price competitive).[200]

8.5.3 Commission analysis

The Commission does not agree that the NGR should prescribe cost allocation and transparency around flow through costs associated with other covered gases (see section 9.3.4). This is because distributors and retailers have jurisdictional obligations to ensure gas delivered to end users complies with the standard gas quality specification (AS 4564 – 2005).[201]

As long as these jurisdictional obligations are discharged, other covered gases supplied by retailers should, from a consumer use point of view, be equivalent to natural gas (albeit not necessarily from a price perspective).[202] Accordingly, there is nothing to suggest that the current operation of the gas retail markets will not adequately apply competitive pressure on the price of other covered gases for consumers.

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199 Submissions to the draft report: Alinta, p. 14; Origin, p. 7.

200 PIAC, submission to the draft report, p. 3.

201 See for example Gas Supply (Safety and Network Management) Regulation 2013 (NSW) reg 23; Gas Regulations 2012 (SA) regs 38-39.

202 This is reflected in the concept of 'natural gas equivalent' gas and is relevant to the NERR.

As discussed in the draft report, absent state-mandated renewable gas targets, retailers can decline to contract for other covered gases from suppliers. Since projects will need a contract with at least one retailer to proceed, suppliers of other covered gases will be subject to competitive pressure to price competitively for retailers and consumers. Alternatively, the project will need to bid competitively into the spot market at a price such that the desired production level is scheduled.

Further, in investment timescales, pipelines transporting covered gases will be subject to the economic regulatory framework in the NGR. In addition, third party access should apply to blend processing facilities through the proposed new Chapter 5A in the NGL (Third party access obligations for non-pipeline facilities) recommended by officials.[203]

In addition, it would be reasonable to expect competition for new projects involving other covered gases to continue across the jurisdictions as the economy reduces its reliance on natural gas in the process of decarbonisation. This competition should result in a decline in the cost of other covered gases as the number and scale of projects grow.

In an operational context, where there are multiple hydrogen and renewable gas projects located within a retail market, competitive pressure can continue to apply to the projects as retailers can compete to supply their customers.

The Commission's final recommendations on consumer protections and market transparency outlined in chapter 9 and chapter 5 are expected to support a competitive environment for other covered gases.

8.5.4 Final policy recommendation

For the above reasons, the Commission's final recommendation is that no changes are required to the NGR or NERR to address the potential impact of the cost of gas or the impact on retail competition.

The Commission considers this recommendation is consistent with the NGO as it enables the existing market mechanisms to apply in the same way across all covered gases and for the success of any new covered gas to be determined on its competitive merit rather than by its treatment in the NGR or NERR.

The recommendation also avoids any additional complexity and cost that would result in treating different covered gases in different ways, as well as the potential to impact consumer choice. It is also consistent with the intent of this review — to enable other covered gases to be accommodated in the gas and retail regulatory frameworks but not to promote any one gas over another.

As a result, the NGR and NERR frameworks will enable the market — consumers and other end-users, pipelines and suppliers — to work towards reducing emissions.

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203 Officials, *Extending the national gas regulatory framework to hydrogen and renewable gases and blends: Proposed changes to NGL, NERL and National Regulations*, consultation paper, 31 March 2022, pp. 40-41.

9 CONSUMER PROTECTIONS

BOX 7: SUMMARY OF CHAPTER

The NERL and NERR establish a national framework for the provision of a range of energy specific consumer protections to customers. The NERL and NERR have been adopted in the Australian Capital Territory, New South Wales, South Australia and Queensland.

The consultation paper identified potential gaps in the national consumer protection framework if the NERL and NERR are extended to NGEs. The gaps related to the different physical properties or price of NGEs compared to natural gas. In the draft report, the Commission made draft recommendations to require customers to be notified of a transition to an NGE, require standard and market retail contracts to specify whether natural gas or an NGE is supplied to customers and, require retailers to indicate the date of a transition to an NGE in historical billing information provided to a customer. The Commission did not recommend any changes in relation to notifications of price changes associated with a transition to an NGE, changes to billing requirements or gas quality risks.

This chapter examines key issues, summarises stakeholder feedback and sets out the Commission's final recommendations on the following issues:

- customer notifications in relation to the transition of a pipeline or part of a pipeline to an NGE
- customer notifications of changes to customer prices as a result of a transition to an NGE
- arrangements for billing on transition to an NGE
- gas quality risks.

The Commission recommends the NERR be changed to:

- require a distributor to notify retailers and AEMO prior to a change to the type of gas that may be supplied to customers in a pipeline or part of a pipeline
- require a retailer, following receipt of a transition notice from a distributor, to notify their small customers in the relevant pipeline that the type of gas that may be supplied to those customers is changing
- amend the model terms and conditions for standard retail contracts and market retail contracts to require retailers to specify the type of gas that may be sold and supplied by retailers under the contract
- require retailers to indicate, in historical billing information provided to a customer in relation to gas, whether the gas sold and supplied to the customer has changed in the historical billing period.

The NERL and NERR establish a national framework for the provision of a range of energy specific consumer protections to customers. The NERL and NERR have been adopted in the Australian Capital Territory, New South Wales, South Australia and Queensland. Local legislation regulates energy retail matters in Victoria, Tasmania and Western Australia.[204] The consumer protections under the NERL and NERR that relate to the sale and supply of natural gas are complemented by Part 12A of the NGR which relates to gas connections for retail customers and Part 21 of the NGR which relates to retail support obligations between distributors and retailers (together the national gas consumer protection framework).-

For more information on the national gas consumer protection framework and how it relates to this review see the consultation paper, chapter 7 'Consumer protections'.[205]

Based on the approach to extending the NERL in the official's paper, the Commission has considered the changes to consumer protections in the NERR that would be required if the NERL is extended to NGEs and other covered gases prescribed for the purposes of the NERL (prescribed covered gases). It has not considered the changes to the NERR that might be required if the NERL was extended to covered gases that are not suitable for use in customers' existing appliances.[206]

In the Commission's consultation paper stakeholders were asked whether if the NERL and NERR were extended to NGEs, the consumer protection framework in the NERR required amendment to reflect the different physical properties and price of NGEs compared to natural gas.

This chapter sets out key issues, stakeholder feedback and final recommendations in relation to:

- customer notifications in relation to a change in the type of gas supplied in a pipeline or part of a pipeline
- customer notifications of changes to customer prices because of changes in the type of gas supplied to the customer
- arrangements for billing if there is a change in the type of gas supplied to a customer
- gas quality risks, being the increased risk that customers could be supplied with gas that is unsuitable for use in their appliances if they are supplied with a gas other than natural gas.

In addition to the changes identified in this chapter, consequential changes to the NERR are set out in appendix D.

Recommended draft rules consistent with the Commission's final policy recommendations are included in the accompanying draft rule.

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204 The Northern Territory's gas reticulation and retail sale sectors are very small and there is no specific regulation of the retail sale and supply of natural gas in the Northern Territory. The *Dangerous Goods Regulations 1985* made under the *Dangerous Goods Act 1998* (NT) regulate gas works, gas installations (including meters) and appliances and gas fitters. The NERL also applies as a law of the Commonwealth in the offshore area of each state.

205 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 52.

206 Under the proposed changes to the NERL outlined in the official's paper, the NERL and NERR will be extended to an NGE supplied in a pipeline as if it were natural gas. The NERL and NERR will only be extended to a covered gas other than natural gas and NGEs if that gas is designated as a prescribed covered gas under the NERL.

9.1 Applying the assessment framework

The Commission's final recommendations are intended to facilitate more efficient use of energy services by enhancing transparency and strengthening the confidence of gas consumers in the market by:

- requiring consumers to be notified prior to a change in the type of gas they are supplied
- amending the required contents of standard retail contracts and market retail contracts to require retailers to specify if a gas other than natural gas may be supplied under the contract
- amending the historical billing information provisions to require retailers to notify customers who request historical billing information of any change in gas type that occurred in the relevant historical billing period

The Commission considers these changes are compatible with the development and application of consumer protections for small customers, including, existing consumer protections under the NERL and NERR,[207] and jurisdictional instruments which require customers to be provided with accurate and relevant information about how they consume energy. Consistent with the implementation considerations limb of the assessment framework, the Commission's final recommendations:

- are appropriately targeted, fit for purpose and proportionate to the issues they are intended to address
- provide stability and transparency in regulatory arrangements to enable consumers to make efficient decisions.

9.2 Notice of a change to gas type

9.2.1 Current framework and draft recommendations

The physical properties of NGEs, prescribed covered gases and natural gas may differ in several respects. From a consumer perspective, the difference in energy density (the calorific or heating value) is perhaps the most important[208] and the energy density of NGEs or prescribed covered gases may be higher or lower than natural gas.[209] This means that greater or lesser volumes of these gases may need to be supplied to a customer's premises to deliver the same heating value as natural gas.[210]

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207 For example, see rules 32, 46A, 48A, 56, 59 of the NERR.

208 This review assumes that NGEs will not be supplied to customers unless it is safe for use in existing appliances and processes.

209 For example, the heating value of hydrogen is lower than that of natural gas. GPA Engineering estimated the heating value of a 10% hydrogen blend would be around 6.8% lower than natural gas (if differences in lean and rich natural gases are considered, GPA Engineering estimates that the difference in heating value would range from between 6% and 8%): GPA Engineering, *Hydrogen in the gas distribution networks — A kickstart project as an input into the development of a National Hydrogen Strategy for Australia*, 2019, p. 30. However, other constituent gases may have a higher heating value than natural gas.

210 Heating value is a key component in the calculation of consumed energy. Metered gas volumes are turned into a measure of consumed energy (in megajoules) by multiplying the volume of gas used by a pressure factor and a heating value. It is assumed for the purposes of this chapter that the consumed energy calculated for customers supplied with an NGE will be accurate as (1) existing meters at a customer's premise will be able to accurately measure the volume of gas supplied to a customer and (2) any adjustments to gas chromatographs on distribution systems required to enable the accurate measurement of the heating value of NGEs will be made.

In the draft report, the Commission recommended amending the NERR to:[211]

- require a transition notice to be provided prior to changes being made to the type of gas supplied to customers:
  - from distributors to retailers and AEMO
  - from retailers to small customers.
- amend the model terms and conditions for standard retail contracts and the minimum requirements for market retail contracts to require retailers to specify the type of gas that may be sold by retailers.

The draft recommendation for the transition notice also specified details of the information to be provided, including:

- the date of transition to the NGE
- the type of NGE the distributor is licensed to transport and any limits on blending that may apply
- the potential impact of the supply of the NGE on the quantity of gas consumed by customers and heating values compared to the supply of natural gas. In the case of an NGE which is a gas blend, the draft recommendation provided that the potential impact could be expressed as a range, but must include the impact at the highest permitted blend limit.

9.2.2 Stakeholder responses

Stakeholder views varied in relation to the draft recommendation that notices of a transition to an NGE be provided to small customers. Most stakeholders who provided feedback agreed that customers have a right to be appropriately informed of the type of gas they are being supplied.[212] In contrast, the ENA stated that:[213]

> The reporting requirements seem superfluous. It is likely unnecessary during the market development stage because the intermittent nature of blending should be clearly explained by gas networks to customers participating in trials.

Additionally, Jemena commented that "at this stage there is no need for a mandated regulatory requirement to notify customers".[214]

Among those stakeholders who provided general support for a transition notice, views differed on whether notices should be required on transition from natural gas to biomethane and on the content, frequency, and responsibility for providing notices.

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211 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases,* draft report, 31 March 2022, pp. 130-132.

212 Submissions to the draft report: AGIG, pp. 3-4; Alinta, pp. 14-17; EDL, p. 3; Jemena, p. 18; NELA (WA), pp. 4-5; Origin, p. 7; PIAC, p. 3.

213 ENA, submission to the draft report, pp. 4-5.

214 Jemena, submission to the draft report, p. 18.

Bioenergy Australia and EDL considered that transition notices should not be required where the transition is from natural gas to biomethane.[215] EDL considered it important that:[216]

> smaller consumers are made aware in advance of changes to the composition of pipeline gas that affect the price, quality or quantity of the product they receive, including the need to switch any end user equipment. However, EDL notes that there should be no need for notification for a switch to biomethane as it is fully substitutable for natural gas.

Further, AGIG submitted that:[217]

> more consideration should be given to the content and frequency of issuing transparency notices to ensure it strikes an appropriate balance of providing useful information to customers while also minimising cost and administration burdens on the parties.

NELA (WA) considered transition notices should be provided in accessible formats such as by video or infographic so stakeholders can readily understand the changes being communicated.[218]

In addition, although Origin agreed retailers will have a role in communicating information to customers, for example, in relation to pricing and/or consumption impacts, it did not consider retailers should be responsible for informing customers that a distribution system is transitioning to an NGE:[219]

> the initial supply of NGEs is likely to be driven by distributor/government initiatives over which retailers have no control, including in relation to addressing potential concerns around gas quality.

There was limited stakeholder feedback provided on whether the contract terms should be changed to indicate the type of gas supplied under standard retail contracts and market retail contracts. Alinta supported the draft recommendation. However, Jemena was not supportive on the basis that it did not consider the requirement would achieve the intended effect because the gas procured by a customer's retailer may not be delivered to that customer.[220]

9.2.3 Commission analysis

In developing its final recommendations on customer notifications of changes to gas type, the Commission considered stakeholder feedback on whether notices should be required on a change to all types of gas, the appropriate level of prescription regarding the contents of change of gas type notices and the frequency of such notices. In light of stakeholder

215 Submissions to the draft report: EDL, p. 3; Bioenergy Australia, p. 2.
216 EDL, submission to the draft report, p. 3.
217 AGIG, submission to the draft report, p. 3.
218 NELA (WA), submission to the draft report, pp. 4-5.
219 Origin, submission to the draft report, p. 7.
220 Submissions to the draft report: Alinta, p. 16; Jemena, p. 19.

feedback and further analysis, the Commission considers that a change from the draft recommendation is appropriate. The final recommendation on notices of changes of gas type differs from the draft recommendation in the following key respects:

- Notices will only be required where there is a change to gas type, being a change in the primary gas supplied or the primary gases that make up the gas blend supplied (e.g. a change from natural gas to a natural gas/hydrogen blend). Notices will not be required in cases where the only change is a change to the volume of each primary gas that is blended together to make the relevant gas blend, or a change to the blending limit that the relevant pipeline applies or is subject to. The purpose of this change is to notify consumers of a change of gas type to enhance transparency and help to alleviate any safety concerns consumers may have about being supplied with a gas other than natural gas. This will provide an avenue for consumers to access information and raise concerns with their retailer or distributor.
- Notices will not be required where the change of gas type is from natural gas to biomethane or a biomethane/natural gas blend. This change recognises that biomethane has the same physical characteristics as natural gas and customers should not see any change to heating value or volume of gas consumption because of a change in their supply from natural gas to biomethane or a biomethane/natural gas blend. In such situations, a notice of a change of gas is unlikely to provide benefits to consumers but would have a cost to implement.
- Greater clarity has been provided on the transition date to be specified in the notice to address concerns raised by some stakeholders that it was not clear how the transition date would be identified. The transition date is the first day on which there may be a different gas type supplied by the relevant pipeline.

The Commission has also considered Origin's submission that governments or distributors, rather than retailers, should be required to communicate with customers as they are likely to drive initiatives to change the type of gas supplied to customers. This is a reasonable expectation from Origin, especially in the early stages of developing hydrogen and renewable gases. However, the Commission considers retailers are best placed to communicate with customers as they manage the customer relationship. Under the final recommendation, distributors will provide retailers and AEMO with the key information required for retailers to communicate with their customers. This recognises the importance of distributors in the transition of the gas sector.

9.2.4 Final policy recommendation

The Commission's final policy recommendation is that:

- customer retail contracts must specify if a customer is or may be supplied with a gas other than natural gas
- a distributor must notify retailers and AEMO of a change of gas type including:
  - the date from which the gas type may change
  - the type of gas that may be transported by the pipeline

  - if the gas that may be supplied is a gas blend, any limits on blending that the pipeline is subject to or applies
  - the potential impact of the change of gas type on the volume of gas and the heating value of gas consumed by customers whose premises are connected to the relevant pipeline, compared to the type of gas supplied to the customer immediately prior to the transition date.
- if a retailer receives a notice of change of gas type from a distributor they must notify their customers on the relevant pipeline of the change of gas type, including:
  - the date from which the gas type may change
  - a copy of the notice provided by the distributor (or where that notice may be found on the distributor's website)
  - contact information for the retailer and distributor
  - any other information relevant to the customer's understanding of how the transition may impact the customer.

Notices of changes of gas type will not be required where:

- the change of gas type is from natural gas to biomethane or a natural gas/biomethane blend, or
- there is a change to the volume of each primary gas that is blended together to make the relevant gas blend or there is a change to the blending limit that the relevant pipeline applies or is subject to.

The Commission considers that notifying customers of the type of gas they are supplied with will contribute to the achievement of the NERO by promoting more efficient use of energy services, enhancing transparency and strengthening the confidence of gas consumers in the market. The Commission also considers the final recommendation, if implemented, is compatible with existing consumer protections under the NERL and NERR,[221] and jurisdictional instruments which require customers to be provided with accurate and relevant information about how they consume energy. A notice of change to gas type should help to mitigate or alleviate safety concerns consumers may have about being supplied with a gas other than natural gas by providing an avenue for consumers to access information and raise concerns with their retailer or distributor.

The Commission has considered whether any transitional arrangements may be required to implement these final recommendations. To give retailers and distributors time to make alterations to retail contracts and develop processes for providing transition notices when required, the Commission recommends that the commencement of the rules to implement the final recommendations above should be delayed by three months from the date the rule is made (the effective date). In addition, the Commission recommends transitional arrangements to:

- require retailers to make the required changes to their retail contracts by the effective date. Retailers are not required to change market retail contracts to specify the type of

221 For example, see rules 32, 46A, 48A, 56, 59 of the NERR.

gas supplied if those contracts were entered into before the effective date, unless those contracts are varied after the effective date

- specify that the requirement to provide notices of change of gas type does not apply to changes of gas type that occur prior to the effective date.

9.2.5 Recommended draft rules

To give effect to the final policy recommendations and transitional arrangements recommendations outlined above, the NERR should be changed as outlined in the boxes below.

RECOMMENDATION 51: DRAFT RULE — REQUIRE CUSTOMER NOTICE OF CHANGE OF GAS TYPE

Introduce a new Part 8B in the NERR to provide for customers to be informed of a change in the type of gas they may be supplied with by:

- requiring distributors to notify relevant retailers and AEMO in writing prior to a change of gas type in a distribution system (or part of a distribution system) and publish the notice on its website (recommended draft rule 147D). The notice must include:
  - the date on which there may be a change of gas type in the distribution system
  - the type of gas that may be supplied
  - whether the change of gas type will be for a fixed time period or on an ongoing basis
  - if the type of gas that may be supplied through a distribution system is a gas blend:
    - the primary gases that may be blended together to make the gas blend
    - whether that distribution system applies or is subject to a limit on the amount of a primary gas that can form part of a gas blend (blending limit).
  - the potential impact of the change of gas type on the volume of gas and heating value of gas that may be consumed by customers who are supplied with the gas.
- requiring distributors to consult with retailers and AEMO in relation to the proposed transition date prior to issuing a notice under recommended draft rule 147D (recommended draft rule 147E)
- requiring retailers to notify their small customers of a change of gas type, if a retailer receives a notice from a distributor (recommended draft rule 147F)
- allowing the AER to make guidelines, in accordance with the retail consultation procedures, in relation to the form and content of notices (recommended draft rule 147G).

Customers will not be notified of a change of gas type if:

- the type of gas they are supplied with changes from natural gas to biomethane or to a blend of natural gas and biomethane (recommended draft rule 147D(4)(a)), or

- if there is no change to the primary gases that may be blended together to make the gas blend but the volume of a primary gas that forms part of the blend or a blending limit changes (recommended draft rule 147D(4)(b)).

RECOMMENDATION 52: DRAFT RULE — AMEND CUSTOMER RETAIL CONTRACTS

Amend Part 2 Division 7 and Schedule 1 of the NERR to introduce requirements for retailers to specify under market retail contracts and standard retail contracts (recommended draft rule 49B and recommended draft clause 3.3(b) of Schedule 1 respectively):

- the type of gas that may be supplied under the contract
- if the gas is a gas blend, the primary gases that are blended together to make the gas blend.

RECOMMENDATION 53: DRAFT TRANSITIONAL RULE — NOTICE OF CHANGE OF GAS TYPE AND AMENDMENTS TO CUSTOMER CONTRACTS

- Specify in the schedule of amending rules that recommended draft Part 8B of the NERR and the recommended draft rules to change retail contracts commence three months from the date the rule is made (the effective date)
- Insert transitional rules (recommended draft transitional rule Schedule 3, New Part xx) that provide that:
  - distributors are not required to provide a notice under new subrule 147D(1) in relation to a change of gas type that occurred before the effective date
  - retailers must make alterations to their standard retail contracts by the effective date
  - new rule 49B applies to market retail contracts entered into prior to the effective date if, after the effective date, the contract is varied.

9.3 Notice of price changes because of a change to an NGE or prescribed covered gas

9.3.1 Current framework and draft recommendations

A retailer may increase the prices it charges to customers connected to a distribution system that has transitioned to an NGE or a prescribed covered gas because there may be higher costs associated with supplying that gas compared to supplying natural gas.

The variation of price provisions in s. 23 of the NERL set out:

- the power of the retailer to vary standing offer prices from time to time

- the obligation that the retailer and AER publish standing offer prices and any variation of those prices on their websites
- the requirement for a retailer to publish a notice about the variation, and inform affected customers during the next billing period
- information on the date the variation takes effect.

Rule 46 of the NERR contains the rules relating to tariffs and charges including:

- the retailer obligation to give notice of any variation that may affect customers
- the timing of delivery of the notice and content such as specifying the date the variation takes effect and the existing and future tariffs and charges
- the exemptions to providing a notice, for example, in circumstances where the customer has entered into a market retail contract within 10 business days before the variation date.

In the consultation paper, it was noted that these provisions raise the issue of whether retailers that change prices because of the transition should be required to disclose this as a reason for a variation at the time the relevant changes are notified.[222] In the draft report, the Commission concluded it was appropriate that any variation in price due to the change in supply of a gas product should be disclosed to customers. It considered the current notification requirements in the NERR are fit for purpose for any price variations which may occur as a result of a transition to an NGE. Therefore, the Commission made no recommendation to change the NERR in relation to price variations.

9.3.2 Stakeholder responses

Only three stakeholders made submissions in relation to the draft recommendation on notification of price changes. Alinta and Origin agreed with the draft recommendation.[223] Origin stated that:[224]

> the existing notification process for advising customers of actual variations to prices, tariffs and charges is adequate, and additional arrangements to notify customers of potential price changes due to a transition to NGE would add unnecessary complexity for retailers and customers.

However, consistent with its submission to the consultation paper, PIAC submitted that new arrangements for price change notifications were justified on the basis that, particularly in the long term, consumers need price impact information relating to NGEs to enable comparisons with the cost of an electrified household.[225]

222 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 56.
223 Submissions to the draft report: Alinta, p. 17; Origin, p. 7.
224 Origin, submission to the draft report, p. 7.
225 PIAC, submission to the draft report, p. 3.

9.3.3 Commission analysis

As stated in the draft report, it is appropriate that any variation in price due to the change in the type of gas product supplied should be disclosed to customers. This view is consistent with those expressed by some stakeholders who made submissions on this issue.

The Commission considers that its conclusion set out in its draft report remains valid. Specifically, that no changes are required to the NERR to provide for notification of price variations due to a change in the type of gas supplied to a customer. This is because the current provisions in the NERR are fit for purpose and enable the policy objective to be achieved.

In line with the concerns raised by PIAC, the Commission considers that access to information on prices (and price changes) is key to consumers engaging in the energy market and making comparisons between different energy supply arrangements. However, the Commission does not consider specific arrangements to notify customers of price variations due to the type of gas product supplied are warranted. Creating new arrangements to notify customers of price impacts due to a transition will place an administrative burden on retailers that are unlikely to provide greater benefits. Such new arrangements may confuse consumers given that price variations may be made for a combination of reasons. On this basis, the Commission considers the potential costs of requiring price variation notices relating to changes in gas type would outweigh any benefits of providing such a notice.

9.3.4 Final policy recommendation

The Commission recommends no changes be made to the NERR in relation to notification of price changes on the basis that the current NERR requirements are fit for purpose.

In the Commission's view, this final recommendation is consistent with the NERO. This is because introducing a new requirement for retailers to notify customers of changes in price related to a transition to an NGE or prescribed covered gas would not promote the efficient operation and use of energy services as it would place unnecessary administrative burden on retailers and may confuse consumers given that variations in price may be made for a number of reasons.

9.4 Arrangements for billing on changing to an NGE or prescribed covered gas

9.4.1 Current framework and draft recommendations

As noted in section 9.2.1 above, the energy density of NGEs or prescribed covered gases may be higher or lower than natural gas and therefore different volumes of these gases may need to be supplied to a customer's premises to deliver the same heating value as natural gas. Following the transition to an NGE or prescribed covered gas at their premises, a customer will continue to be billed based on the energy content of the gas supplied to their premises. However, their bill may indicate an increase, or decrease, in the metered consumption

(volume) of gas due to the supply of the new gas, rather than a change in the consumption pattern of the customer.[226]

The consultation paper sought stakeholder views on whether changes may be required to arrangements for billing under the NERR to reflect the different physical properties of NGEs compared to natural gas. This included considering changes to historical billing data and the imposition of a requirement for an actual meter read before a pipeline begins supplying an NGE.[227]

The draft report recommended:

- amending rule 28 of the NERR to introduce a requirement for retailers to include the date of a transition to an NGE (if any) in historical billing information provided to a gas customer
- not requiring retailers to issue a bill based on an actual meter read before a pipeline begins supplying an NGE.

The Commission considered its draft recommendation to require retailers to include the date of a transition to an NGE (if any) in historical billing information was likely to result in customers and customer advocates receiving information that may assist in resolving issues and disputes.[228]

The draft recommendation not to introduce a requirement for an actual bill on a change to an NGE was based on both stakeholder feedback that introducing such a requirement may be logistically challenging and costly and further analysis on how customer bills are calculated where customers have accumulation meters. This analysis indicated that although issuing a bill on transition might have some benefits to customers in relation to additional transparency regarding the change, it is unlikely to materially improve the accuracy of customer bills. This is because customers with accumulation meters are billed based on their total consumption over the meter reading period multiplied by the average of the daily heating value over that period. The use of average daily heating values over the meter reading period means the changes in the energy content of the gas consumed by customers over the meter reading period will be taken into account in customers' bills despite a transition to an NGE during the meter reading period. For this reason, provided the daily heating value of gas delivered to customers is measured accurately,[229] a requirement for a transition bill would not materially increase the accuracy of customer billing.

9.4.2 Stakeholder responses

All stakeholders who made submissions on the draft recommendation to make no change to billing requirements supported the Commission's position. Stakeholders agreed that issuing a bill on the transition date would be costly and offer little benefit to consumers.

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226 Note that billing is calculated on MJ consumed and not on volume of gas.

227 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 56.

228 For example, if the date of a transition to an NGE is indicated on historical billing information, customers or their advocates may have greater insight as to the reasons for a change to inputs to customers' bills such as changes to heating values or volumes of gas consumed.

229 See section 8.3 of this report for a discussion on heating value and metering in retail markets.

Stakeholders were also generally supportive of the draft recommendation to indicate the date of a transition to an NGE in historical billing information.[230] PIAC noted:[231]

> This information is crucial for effective consumer decision making and would assist in resolving any disputes which may arise from the transition to a Natural Gas Equivalent.

Jemena, while supportive of the objective of improving transparency and customer confidence in the gas, indicated that it would not be possible to identify a specific transition date:[232]

> There is no fixed date a gas distribution network transitions to an NGE as there is no transition. The JGN is capable of transporting natural gas, biomethane or synthetic methane now. What gases are actually transported depends day to day on what gases are injected into our network.

9.4.3 Commission analysis

The Commission considers its draft recommendation, and its reasons for it remain valid; retailers should not be required to issue a bill to customers on a change to an NGE or a prescribed covered gas.

However, there is a benefit in requiring retailers to indicate in historical billing information requested by customers under rule 28 of the NERR the date of any change of gas type that occurred during the relevant historical period. This draft recommendation was generally supported by most stakeholders who made submissions on the issue on the basis that it would enhance transparency and provide customers and customer advocates with information that may assist in resolving issues and disputes.

Jemena has commented that it is not possible to specify the date a pipeline will transition to an NGE. The Commission understands that a gas blend supplied in a pipeline may change from time to time based on the gases injected into a pipeline on any given day. It notes it is currently true that the actual blend of gases that comprise natural gas may vary while remaining within the required technical specification.

However, it was not the intention of the draft recommendation to require constantly updated information on precise blends of constituent gases as they move through a pipeline. Instead, the Commission's policy intent is that customers are made aware in historical billing information of the first date from which they may be supplied with a new type of gas or gas blend. This information should be readily available to distributors because they control the interconnection of facilities with their pipelines and monitor injections into their pipelines. To address the questions raised on this issue, the final recommendation clarifies that the transition date is the first date on which a new type of gas or gas blend may be supplied to a customer.

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230 Submissions to the draft report: Origin, p. 7; PIAC, p. 3.
231 PIAC, submission to the draft report, p. 3.
232 Jemena, submission to the draft report, p. 19.

9.4.4 Final policy recommendation

The Commission's final policy recommendation is to introduce a requirement for retailers to indicate in historical billing information the first date on which a pipeline changed from supplying natural gas to supplying another covered gas.

If implemented, this requirement to include the transition date on historical billing information is likely to promote the NERO by enabling the efficient use of energy services by customers by assisting customers to understand the reasons for changes to components of their billing data that may result from a change in gas type. The recommended rule change is also expected to be compatible with the development and application of consumer protections for small customers.[233] This is because the requirement would provide customers (and their advocates) with information that should enable them to better understand their use of energy. The recommended change is considered proportionate to the issue it is intended to address while not imposing significant costs on retailers.

The Commission has considered whether any transitional arrangements may be required to implement this final recommendation. To give retailers time to develop processes for providing change of gas type information in historical billing information, the Commission recommends that the commencement of the rules to implement the final recommendation above should be delayed by 6 months from the date the rule is made.

9.4.5 Recommended draft rules

To give effect to the final policy recommendations outlined above, the NERR should be changed as outlined in the box below.

> RECOMMENDATION 54: DRAFT RULE — AMEND HISTORICAL BILLING INFORMATION
>
> Amend Part 2 Division 4 of the NERR to require a retailer to include in historical billing data it provides a small customer the date of any change of gas type that occurred during the period for which data is provided (recommended draft rule 28(1A)).

> RECOMMENDATION 55: DRAFT TRANSITIONAL RULE — HISTORICAL BILLING INFORMATION
>
> Specify in the schedule of amending rules that recommended draft rule 28(1A) commence six months after the rule is made.

233 Section 236(2)(b) of the NERL.

9.5 Gas quality risk issues

9.5.1 Current framework and draft recommendations

In the consultation paper, it was noted that once the national gas regulatory frameworks accommodate NGEs, the quality of the gas stream may be more variable than it currently is because NGEs may be made up of a blend of natural gas and other gases or gases other than natural gas.[234]

Under s. 316(1) of the NERL, retailers and distributors have no civil monetary liability for loss or damage suffered by a customer due to the defective supply of energy unless they have acted in bad faith or through negligence. The potential liability of retailers and distributors for negligence is capped under Regulations made under the NERL. In addition, some jurisdictions have further limited the liability of distributors to customers under local regulations.

In the draft report, the Commission concluded that making changes to the immunity in s. 316(1) of the NERL could represent a significant reallocation of risk between retailers, distributors and customers and did not consider a change to the scope of the immunity under the NERL would promote the NERO. It noted that a change to the allocation of risk under the immunity is likely to require retailers and distributors to review and potentially change their approach to risk management. This could result in additional costs flowing through to consumers in the form of higher prices. However, the Commission was not provided with sufficient evidence that a change to the allocation of risk under the immunity in s. 316(1) of the NERL would promote more efficient operation and use of energy services in the long term interests of consumers.

For this reason, the Commission's draft recommendation was to make no change to the immunity under s. 316(1) of the NERL in relation to defective gas supply or changes to the NERR in respect of gas quality. However, it highlighted the importance of customers having an ability to access adequate compensation if they suffer loss as a result of gas quality issues that arise due to the negligence of distributors in monitoring gas quality in their systems. Consequently, the Commission recommended that jurisdictions:

- review liability caps that apply to distributors under local legislation as these limits may prevent customers accessing appropriate levels of compensation for loss or damage due to defective gas quality
- review their gas composition measurement and monitoring frameworks to consider whether those frameworks enable the collection of information about the quality of gas supplied to customers (at network withdrawal points).

9.5.2 Stakeholder responses

Only one stakeholder commented on gas quality issues in their submission to the draft report. Origin did not comment on the scope of the immunity in s. 316(1) of the NERL or customer access to compensation mechanisms. However, it did consider that liability for gas quality issues should reside with distributors, given that purchasers, shippers and retailers

234 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 57.

have no control or visibility over the quality of gas injected and withdrawn from a distribution system.[235] Similar concerns were raised by AGL, Alinta and EnergyAustralia in their submissions to the consultation paper.[236]

9.5.3 Commission analysis

As set out in the draft report, the existing mechanisms to manage customer disputes and complaints under the NERL and NERR framework can be utilised by customers who have suffered loss or damage due to gas quality issues.[237] However, the limits on distributors' liability for negligence applied by some jurisdictions under local regulations may prevent customers accessing appropriate levels of compensation for loss or damage due to defective gas quality (e.g. the liability cap in NSW is $5,000).

In relation to allocation of liability for gas quality between retailers and distributors, the Commission considers these matters will need to be resolved through the contractual arrangements between retailers and pipeline service providers,[238] rather than through the NERL or NERR. Hence, the Commission recommends no changes to the NERL or NERR be made to address this issue.

The Commission does not consider making changes to the immunity in s. 316(1) of the NERL would promote the NERO. A change to the immunity could represent a significant reallocation of risk between retailers, distributors and customers requiring retailers and distributors to review and potentially change their approach to risk management. This risk reallocation could potentially result in additional costs flowing through to consumers in the form of higher prices. The Commission was not provided with sufficient evidence that a change to the allocation of risk under the immunity would promote more efficient operation and use of energy services in the long term interests of consumers.

9.5.4 Final policy recommendation

The Commission recommends no change be made to the NERL or NERR in relation to gas quality issues, including the immunity under s. 316(1) of the NERL in relation to defective gas supply or changes to the NERR in respect of gas quality.

However, consistent with its draft report, the Commission recommends jurisdictions review:

- liability caps that apply to distributors under local legislation as these limits may prevent customers accessing appropriate levels of compensation for loss or damage due to defective gas quality
- their gas composition measurement and monitoring frameworks to consider whether those frameworks enable the collection of information about the quality of gas supplied to customers (at network withdrawal points).

235 Origin, submission to the draft report, p. 8.
236 Submissions to the consultation paper: AGL, p. 14; Alinta, pp. 12-13; EnergyAustralia, p. 5.
237 Part 4 of the NERL.
238 Including in the review of access arrangements including the form of reference service agreements.

10 REGULATORY SANDBOX FRAMEWORK

BOX 8: SUMMARY OF CHAPTER

When implemented, the new regulatory sandbox framework will enable energy market participants to trial innovative concepts in the market on a time-limited basis and with appropriate safeguards in place.

The consultation paper identified gaps in the draft regulatory sandbox rules that could emerge if the NGL and NERL enabled the scope of trial projects under the regulatory sandbox framework to include the trial supply of NGEs or other gas products to customers in a pipeline or part of a pipeline (a 'change of product trial').

The key potential issues identified were:

- the practicality of a retail customer opting out of a 'change of product trial'
- whether the consultation requirements in the regulatory sandbox framework were appropriate and adequate for 'change of product' trials
- whether more stringent assessments of the safety, security and reliability impacts of a 'change of product trial' should be introduced.

In its draft report, the Commission considered whether the regulatory sandbox framework would be used for 'change of product trials' under the proposed approach to extending the NGL and NERL to covered gases. It determined that as jurisdictions will retain control over whether a gas or gas blend may be supplied in a pipeline, parties wishing to trial the supply of a new gas or gas blend in a pipeline will need to obtain relevant jurisdictional approvals for that trial supply outside the regulatory sandbox framework. In other words, the AER and AEMC will not decide, through the granting of trial waivers or trial rules for trial projects respectively, whether a gas or gas blend may be supplied through a pipeline.

As a result of this approach, the potential issues discussed in the consultation paper relating to 'change of product' will not arise. Therefore, the Commission made a draft recommendation to make no changes to the draft regulatory sandbox rules.

This chapter summarises stakeholder feedback on the draft recommendation and then sets out the Commission's final recommendation to make no changes to the forthcoming regulatory sandbox rules.

A regulatory sandbox is a framework within which market participants can test innovative concepts in the market under relaxed regulatory requirements at a smaller scale, on a time limited basis and with appropriate safeguards in place.

A bill to amend the NEL, NGL and NERL has been introduced into the South Australian House of Assembly[239] and, if passed by the South Australian Parliament, will empower the South

239 Statutes Amendment (National Energy Laws) (Regulatory Sandboxing) Bill 2021.

Australian Minister for Energy to make amendments to the NER, NGR and NERR in relation to a regulatory sandbox framework.

When implemented, the regulatory sandbox framework will provide:

- the AEMC with power to make rules in relation to trial projects
- the AER with powers to grant waivers in relation to trial projects. These waiver powers will be in addition to the AER's existing powers to grant waivers and exemptions under the national energy laws and rules, such as exemptions from the ring fencing requirements in the NGL.[240]

For more information on the regulatory sandbox framework and how it relates to this review see the consultation paper, chapter 8 'Regulatory sandbox framework'.[241]

This chapter sets out the key issue, stakeholder feedback and the Commission's final recommendation in relation to changes to the draft regulatory sandbox rules required to accommodate the extension of the NGL to covered gases and the extension of the NERL to NGEs and prescribed covered gases.[242]

10.1 Applying the assessment framework

In making its final recommendation, the Commission has considered the implementation limb of the assessment framework under which it considers whether proposed changes to the rules are targeted, fit for purpose and proportionate to the issues they are intended to address and provide for stable and transparent regulatory arrangements.

The Commission considers the expected regulatory sandbox rules, when extended to NGEs and other covered gases, will be fit for purpose without any changes. It considers that no changes to the rules are required to support the use of the framework to trial innovative approaches to the provision of covered gas services[243] or the sale and supply of NGEs and prescribed covered gases.

10.2 Supply of natural gas equivalents in trials

10.2.1 Current framework and draft recommendations

In the consultation paper, it was assumed that:

- the extension of the national gas framework to NGEs might allow the trial supply of an NGE to customers in a pipeline or part of a pipeline

240 The trial waiver provisions in the draft regulatory sandbox amendments do not empower the AER to give trial waivers in relation to the ring fencing requirements in the NGL (see chapter 4 of this report). Under the draft regulatory sandbox amendments to the NGL, the AER is only empowered to give waivers of specified registration requirements in the NGL and provisions of the NGR (new s. 30W of the NGL, introduced by s. 35 of the Statutes Amendment (National Energy Laws) (Regulatory Sandboxing) Bill 2021).

241 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 60.

242 Under the proposed changes to the NERL and NERR will be extended to an NGE supplied in a pipeline as if it were natural gas. The NERL and NERR will only be extended to covered gases other than natural gas and NGEs if such gases are prescribed for the purposes of the NERL.

243 Under the draft amendments to the NGL, covered gas services will mean a pipeline service, the supply of a covered gas or a service ancillary to the supply of covered gas.

- the regulatory sandbox framework might be used for such a trial supply.

Under the current draft regulatory sandbox rules, the trial project guidelines made by the AER must provide for processes by which, and grounds upon which, a person to whom a trial waiver is granted must allow a retail customer to opt out of a trial project.[244] If a trial project involved the trial supply of an NGE in a pipeline, all customers connected to the relevant pipeline would be supplied with that gas product for the duration of the trial. It is not practical for an individual customer to have the ability to opt out of these trials (referred to as 'change of product trials').

In its draft report, the Commission considered whether the regulatory sandbox framework would be used for 'change of product trials' under the officials' proposed approach to extending the NGL and NERL to covered gases. The Commission determined that, as jurisdictions will retain control over whether a gas or gas blend may be supplied in a pipeline, parties wishing to trial the supply of a new gas or gas blend in a pipeline will need to obtain relevant jurisdictional approvals for that trial supply outside the regulatory sandbox framework. In other words, the AER and AEMC will not make the decision, through the granting of trial waivers or trial rules for trial projects respectively, on whether the supply of a particular gas or gas blend can occur in a pipeline.

As a result of this approach, the potential issues discussed in the consultation paper relating to 'change of product' trials will not arise and the draft recommendation was to make no changes to the draft regulatory sandbox rules. The Commission did not identify any other gaps that were expected to emerge in the draft regulatory sandbox rules as a result of the extension of the NGL to covered gases and the extension of the NERL to NGEs and other gases prescribed for the purposes of the NERL (prescribed covered gases).[245]

10.2.2 Stakeholder responses

There was limited stakeholder feedback provided in relation to the draft recommendation that no changes are required to the draft regulatory sandbox rules.

PIAC agreed no changes should be made to the regulatory sandbox framework. However, it recommended that when undertaking public consultation on a trial waiver, the AER should consider whether there is a:[246]

> demonstration of support from the impacted community and consumers, derived from robust engagement.

NELA (WA) suggested there was a flawed assumption in the draft report that the regulatory sandbox reform packages will be made in their current form, given the South Australian Parliament may decide not to implement the reforms. It recommended the Commission make amendments to:[247]

244 Draft NER clause 8.17.3, NGR rule 135OB and NERR rule 184.

245 Under the draft amendments to the NERL, the NERL will apply to the sale and supply of natural gas, NGEs and other covered gases that are prescribed by Regulations.

246 PIAC, submission to the draft report, p. 3.

247 NELA (WA), submission to the draft report, p. 7.

deal with the scenario where these foreshadowed changes are not made, for the sake of completeness.

10.2.3 Commission analysis

The Commission acknowledges the issue raised by NELA (WA) that the South Australian Parliament has not yet made the decision to introduce the regulatory sandbox framework and that the framework may not be introduced or may be amended before it is introduced. The Commission's final recommendation is based on the draft regulatory sandbox rules released for consultation. If regulatory sandbox rules are made in a substantially different form from the draft rules, further consideration would be required to determine whether any gaps would arise in those rules if the NGL is extended to covered gases and the NERL is extended to NGEs and prescribed covered gases.

For the reasons in the draft report as outlined above, the Commission considers the potential issues discussed in the consultation paper relating to 'change of product' trials will not arise. Therefore, no changes are required to the draft regulatory sandbox rules to address those issues.

The Commission has not identified any other gaps that are likely to emerge in the draft regulatory sandbox rules due to the extension of the NGL and NERL to gases other than natural gas. It considers the regulatory sandbox framework, if made in the same form or substantially in the same form as consulted on, will allow trial proponents to seek trial waivers or trial rules for genuinely innovative projects that test an approach to the provision of covered gas services or the sale and supply of natural gas, NGEs or prescribed covered gases. This is consistent with the intent of the framework.

10.2.4 Final policy recommendation

The Commission considers its final recommendation to make no change to the regulatory framework should contribute to the achievement of the NGO and NERO because no issues have been identified in the current regulatory framework if the NGL is extended to covered gases and the NERL to NGEs and prescribed covered gases.

The extension of the regulatory sandbox framework is consistent with the NGO and NERO as it should enable innovation in the supply of new gas services that meet the needs and interests of consumers.

11 TRANSITIONAL ARRANGEMENTS

This chapter is intended to provide additional information on the recommended approach to implementing the Commission's recommended changes to the NGR and NERR and the associated transitional and savings arrangements.

11.1 Approach to implementation

In this final report, the Commission has recommended specific amendments to the NGR and the NERR. Accompanying this report are relevant sections from the NGR and the NERR with those recommendations shown in mark-up.

The consultation process for responding to these recommended draft rules is outlined in chapter 1.

Following the next stage of consultation, the Commission will prepare its recommended final rule changes for consideration by officials. The amending rules making changes to the NGR and NERR will be agreed by Energy Ministers and will be made by the South Australian Minister under proposed new section 294FC of the NGL and proposed new section 238AC of the NERL.[248]

11.2 Commencement timing

In preparing the recommended draft rules, the Commission has assumed that the changes to the NGR for the regulatory sandbox framework and the pipeline reform package will have been made and commenced before the Minister made rules resulting from this review.

The Commission has also considered the commencement timing for each set of recommendations. Table 11.1 sets out the recommended commencement timing for each set of changes. The dates in the table assume that the South Australian Minister will make the NGR and NERR amending rules by the end of 2023 so AEMO has sufficient time to make the necessary changes to its systems and procedures before the relevant rules commence.

Table 11.1: Recommended commencement timing

TOPIC	RULES AFFECTED	PROPOSED COMMENCEMENT
Transitional rules for the NGR	New schedule 6 to the NGR	When the Minister makes the NGR amending rule
Transitional rules for the NERR	New Part 18 of Schedule 3 of the NERR	When the Minister makes the NERR amending rule
Economic regulation	Parts 6, 8, 9, 10, 11, 12 and 15 of the NGR	When the amending rule is made, except in the case of changes to the prescribed transparency provisions which will commence two months

248 Under the National Gas Access (Western Australia) Law only changes to the NGR that have been adopted under an order made by the Western Australian minister will apply in Western Australia.

TOPIC	RULES AFFECTED	PROPOSED COMMENCEMENT
		after the amending rule is made
Ring fencing framework	Part 5 of the NGR	When the amending rule is made, except in the case of the new advance notice of associate contract provisions which will commence 20 business days after the amending rule is made
Market transparency - GSOO	Part 15D of the NGR	31 July 2024
Market transparency - AER gas price reporting	Part 17 of the NGR	When the NGR amending rule is made, with reporting to commence after the ACCC Inquiry
Market transparency - Gas Bulletin Board	Part 18 of the NGR Rule 135 EA(3)(ib)	1 November 2024
Market transparency - non-pipeline infrastructure terms and prices	Part 18A of the NGR	Three months after the NGR amending rule is made
Market transparency - VGPR	VGPR-related rules in Part 19 of the NGR	1 May 2024
Short term trading market	Part 20 of the NGR and related changes in Parts 15A and 15B	21 November 2024
Declared wholesale gas market including changes for market transparency	Part 19 of the NGR (excluding VGPR changes) and related changes in Parts 15A and 15B	1 May 2024
Consumer protections	Parts 2 and new 8B, Schedule 1 of the NERR	Three months after the amending rule is made for all amendments except amendments to historical billing information requirements which commence six months after the amending rule is made
Consequential amendments	Parts 21 to 26 of the NGR	When the Minister makes the NGR amending rule

Source: AEMC.

The Commission has also considered the need for savings and transitional rules. Its specific recommendations are included in each chapter of the report.

ABBREVIATIONS

AA	access arrangement
ACCC	Australian Competition & Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AGIG	Australian Gas Infrastructure Group
APGA	Australian Pipelines and Gas Association
ARENA	Australian Renewable Energy Agency
BB	Bulletin Board
Commission	See AEMC
CTP	custody transfer point
DDS	declared distribution system
DTS	declared transmission system
DTS SP	declared transmission system service provider
DWGM	Declared Wholesale Gas Market
ERA	Economic Regulation Authority
ESC	Essential Services Commission
GAMAA	Gas Appliance Manufacturers Association of Australia
GJ	gigajoule
GSOO	Gas Statement of Opportunities
LNG	liquefied natural gas
MJ	megajoule
MJ/h	megajoule-hour
MOS	market operator services
NERL	National Energy Retail Law
NERO	national energy retail objective
NERR	National Energy Retail Rules
NGE	natural gas equivalent
NGL	National Gas Law
NGO	national gas objective
NGR	National Gas Rules
PIAC	Public Interest Advocacy Centre
RMP	Retail Market Procedures
STTM	Short Term Trading Market
TJ	terajoule
UAFG	unaccounted for gas
VGPR	Victorian Gas Planning Report

A SUMMARY OF OTHER ISSUES RAISED IN SUBMISSIONS

This appendix sets out the issues raised in the second round of consultation in this review process and the AEMC's response to each issue. If an issue raised in a submission has been discussed in the main body of this document, it has not been included in this table.[249]

Table A.1: Summary of other issues raised in submissions to the draft report

STAKEHOLDER	ISSUE	AEMC RESPONSE
OTHER ISSUES		
GAMAA, p. 1.	Concerned that any changes required at a jurisdictional level will not be considered as part of the work on the national gas regulatory framework. Consider this is not conducive to a nationally consistent and coordinated approach in the transition away from natural gas and will act as a disincentive for manufacturers of gas appliances to invest.	Other covered gases will not be supplied unless the relevant jurisdiction approves them. The AEMC understands all governments are working together on the transition for the gas sector, and this review is one part of that process.
Private individuals (Private, Jim Crosthwaite, John Godfrey)	If blends are to be contemplated, they must provide consumers with transparency on their production method and their carbon emissions when burnt.	Transparency regarding the relative carbon emissions and production method are being considered by the Clean Energy Regulator through its guarantee of origin scheme.[a]
Private individuals (Michael Nolan, Jim Crosthwaite)	Don't make the wholesale regulatory change, instead injection of other gases into pipeline should only be on a case by case basis	The purpose of this review is to enable new gases to be included within the gas regulatory framework rather than sit outside it. Whether a new gas is used in specific pipelines and in the facilitated markets will only be possible after the relevant

249 Issues raised in the first round of consultation are included in the draft report. AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, p. 148.

STAKEHOLDER	ISSUE	AEMC RESPONSE
OTHER ISSUES		
		jurisdiction determines it is safe to do so.[b]
Private individuals	Don't make the change to allow hydrogen, gas to the home should be phased out (Private, Keith Burrows, Robert Davis). The government should focus on planned reduction in gas demand (Michael Nolan, Jim Crosthwaite)	The purpose of the review is to enable the regulatory frameworks to facilitate decarbonisation and emissions reduction to occur. It is not to identify the preferred technology to achieve a particular decarbonisation objective.
Private individuals (Michael Nolan, Jim Crosthwaite, John Godfrey)	Focus for gas should be emissions reduction	The purpose of this review is to enable new gases (including lower emission and renewable gases) to be included within the gas regulatory framework rather than sit outside it. Energy Ministers agreed to put an emissions objective into the national energy objectives as the first action under a now agreed National Energy Transformation Partnership.[c]
Private individuals (Private, Michael Nolan, Jim Crosthwaite)	Blended fuels will be more expensive and cost vulnerable consumers more (more general costs from pipes to vulnerable consumers and rapid depreciation of assets).	Section 8.5 of this report discusses cost of gas and competition concerns. The review has also considered consumer protections in chapter 9.
QUEN	Wants government to establish a green hydrogen reserve, and wants to understand what, if anything, is happening on this for Queensland and all states in the NEM. AEMO to establish a hydrogen database like its Generation Information Page.	Establishing reserves of fuel is a matter for government. As a first step, the Bulletin Board will include the location and capacity of facilities that use hydrogen and renewable gas (section 5.4 of this report).

Note: a. https://www.cleanenergyregulator.gov.au/Infohub/Markets/guarantee-of-origin
b. Energy Ministers, *Extending the national gas regulatory framework to hydrogen and renewable gases proposed changes to NGL, NERL and National Regulations*, consultation paper, 31 March 2022, ch. 2.
c. https://www.energy.gov.au/sites/default/files/2022-08/Energy%20Ministers%20Meeting%20Communique%20-%2012%20August%202022.docx

B ASSESSMENT FRAMEWORK

The terms of reference from Energy Ministers are made under the NGL and the NERL and specify the purpose of the review is for the AEMC to:[250]

> advise Energy Ministers on the initial rules required in the national gas and retail regulatory frameworks to accommodate low level hydrogen blends and renewable gases, and advise on any changes to the law required to enable these rules.

This appendix outlines the:

- decision-making framework the Commission must apply to determine whether the draft recommended rules contribute to the NGO and the NERO
- assessment framework.

B.1 Achieving the NGO and NERO

In light of the purpose of this review, the Commission's advice to Energy Ministers reflects its considerations of what amendments to the NGR and NERR should be made to achieve the Energy Ministers' objective but also be consistent with achieving the relevant energy objectives.

The Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national gas objective (NGO)[251] and the national energy retail objective (NERO).[252]

The NGO is:[253]

> to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, safety, reliability and security of supply of natural gas.

The NERO is:[254]

> to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.

In relation to the NERO, the Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").[255]

250 Energy Ministers, terms of reference, 24 August 2021, p. 3.
251 Section 291(1) of the NGL.
252 Section 236(1) of the NERL.
253 Section 23 of the NGL.
254 Section 13 of the NERL.
255 Section 236(2)(b) of the NERL.

Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.[256] If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made.

There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

B.2 Assessment framework

To determine whether the review's recommendations would be likely to promote the NGO and the NERO, the Commission has carried out its assessment against the framework outlined below.

The assessment framework includes the following criteria:

- **Efficiency**: By expanding an existing market to cover new services and commodities that could not otherwise be priced or traded within the gas market, do the changes being considered encourage the delivery of a new service or commodity and thereby encourage:
  - Allocative efficiency — do the changes being considered enable market prices which facilitate the allocation of gas, including natural gas equivalents, to their highest valued uses.
  - Productive efficiency — do the changes being considered enable operational signals to facilitate dispatch of the least-cost mix of gas supply, including natural gas equivalents, to meet demand.
  - Dynamic efficiency — do the changes being considered minimise barriers to entry and promote efficient investment in the gas market, including investment in production and storage facilities as well as investment in the distribution and transmission systems to meet gas demand over time.
- **Innovation:** whether the proposed changes facilitate innovation in the development of gas production, storage, transmission and distribution facilities and in the provision of gas services to end users.
- **Implementation considerations**: Are the proposed changes targeted, fit for purpose and proportionate to the issues they are intended to address. Do the proposed changes provide the stability and transparency in regulatory arrangements to enable consumers, market participants and investors to make efficient decisions. Consideration will be given to existing and prospective production facilities and the impact of any changes recommended on their actual and planned operations. Consideration of implementation factors will include considering whether and how future production facilities can be incorporated into the existing market design without introducing excessive complexity.

256 That is, the legal tests set out in s. 236(1) and (2)(b) of the NERL.

- **Decarbonisation**: Whether market arrangements will enable the decarbonisation of the energy market.
- **Quality, safety, reliability and security of supply of natural gas**: Whether the changes provide a clear allocation of roles and responsibilities in relation to the quality and safety of supply of natural gas equivalents to consumers.
- **Consumer protections**: Whether changes being considered under the review are compatible with the development and application of consumer protections for small customers, including, but not limited to protections relating to hardship customers. Whether the changes being considered allow for additional protections for the supply of natural gas equivalents.

C FINAL LAW RECOMMENDATIONS

C.1 Final law recommendations to Senior Officials

As part of the terms of reference for the review, the AEMC was tasked by Energy Ministers to provide its views on any required changes to the NGL and NERL and the prioritisation of any identified gaps so these can be reflected in the legislation to be prepared, for Energy Ministers by officials. The AEMC has worked closely with officials and other market bodies in carrying out this task.

On 3 February 2022, Senior Officials were provided with drafting instructions for proposed amendments to the laws and regulations required to extend the regulatory frameworks to low-level hydrogen-natural gas blends and renewable gases. The nature of these drafting instructions is set out in appendix D of the draft report.[257]

As part of its review, the AEMC has also considered whether any changes are needed to the NGL and NERL in addition to those contemplated by the 3 February 2022 drafting instructions for the Laws and Regulations.

On 24 February 2022, the AEMC recommended to Senior Officials three additional changes to the NGL. Further information on these recommendations can be found in appendix D of the draft report.[258]

As part of the second stage of its review, the AEMC reconsidered whether any other law and regulation changes should be recommended to Senior Officials. On 15 June 2022, following consideration of stakeholder submissions to the draft report, the AEMC advised Senior Officials that it had no recommendations for further amendments to the NGL or NERL.

257 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, 31 March 2022, p. 158.
258 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, draft report, 31 March 2022, p. 159.

D CONSEQUENTIAL RULE CHANGES REQUIRED

Beyond the draft rule change recommendations specific to the focus areas of the review that have been outlined in this final report, there are also consequential changes required to the NGR and NERR to extend the national gas regulatory frameworks to other covered gases. Table D.1 outlines these consequential changes.

Table D.1: Consequential changes to the NGR and NERR

PART	CHANGES
NGR Part 1: Preliminary	References to 'natural gas' would be changed to 'covered gas'. This would ensure all the definitions extend to all covered gas. Where relevant, a Part will have its own definition of 'gas'.
NGR Part 4: Regulatory determinations and elections	References to 'natural gas' would be changed to 'covered gas'. Rule 25 would be amended by requiring an application for a greenfield incentive determination to include, where relevant, an estimate of the feedstock used to create a primary gas (other than natural gas) at any upstream location to be served by the pipeline and an estimate of the rate of production from that location. This mirrors the existing requirement for applications to include information on natural gas reserves and rate of production from upstream locations.
NGR Part 5: Ring fencing	References to 'natural gas services' would be changed to 'covered gas services'.
NGR Part 8: Access arrangements for scheme pipelines	References to 'natural gas' would be changed to 'covered gas'.
NGR Part 10: Prescribed transparency information	References to 'natural gas' would be changed to 'gas' and 'gas' would be defined as covered gas. The reference to the Natural Gas Services Bulletin Board would be changed to 'Gas Bulletin Board'.
NGR Part 11: Access negotiation framework	'Gas' would be defined as covered gas.
NGR Part 12A: Gas connection for retail customers	References to 'natural gas' would be changed to 'gas' and 'gas' would be defined as covered gas.
NGR Part 15A: Registered participants	In Division 1, all references to 'natural gas' would be changed to gas and would be given: • in rule 135A, the meaning in Part 19; • in rule 135ABA, the meaning in Part 20.

PART	CHANGES
	The definition of 'blend processing facility' and 'blend processing service provider' in new 135A(2), proposed to be added by the DWGM rule change would be removed, since the NGL term would apply once the NGL is amended. The reference to the Natural Gas Services Bulletin Board in rule 135CF would be changed to 'Gas Bulletin Board'. The reference to 'natural gas' in rule 135D would be changed to 'gas'.
NGR Part 15B: Procedures	All references to 'natural gas' would be changed to 'gas'. The references to the Natural Gas Services Bulletin Board in rule 135EA(3) would be changed to 'Gas Bulletin Board'.
NGR Part 15C: Dispute resolution	Rule 135G(2)(c) (which currently refers to the natural gas industry) would be amended to refer to 'the relevant parts of the covered gas industry'.
NGR Part 15D: Gas statement of opportunities	Except where the reference is to natural gas reserves or to natural gas being used for LNG, references to 'natural gas' would be changed to gas and would be defined as covered gas.
NGR Part 15E: Trial waivers, trial Rules and trial Projects	In rule 135MB(2) and 135N(1)(j), the reference to AEMO's 'operation and administration of markets for natural gas' would be amended to refer to AEMO's operation and administration of 'wholesale or retail gas markets'. Otherwise, references to 'natural gas' would be changed to 'covered gas'.
NGR Part 16: Confidential information	In rule 136, references to 'natural gas' would change to 'covered gas'.
NGR Part 17: Miscellaneous provisions relating to the AER	Except where the reference is to natural gas reserves or to natural gas being used for LNG, references to 'natural gas' would be changed to 'gas' and would be defined as covered gas.
NGR Part 18: Natural Gas Bulletin Board	Except where the reference is to natural gas reserves or to natural gas being used for LNG, references to 'natural gas' would be changed to 'gas'. Gas would mean any covered gas. The reference to the 'Natural Gas Services Bulletin Board' in the Bulletin Board definition in rule 141 would be changed to 'Gas Bulletin Board'. The references to the 'natural gas industry', 'natural gas services' and 'natural gas industry facility' in the Part would be replaced with 'covered gas industry', 'covered gas services' and 'covered gas industry facility'

PART	CHANGES
NGR Part 18A: Compression and storage terms and prices	The name of the Part would be changed to 'Non-pipeline infrastructure access terms and prices'. References to natural gas would be changed to 'gas' and defined as covered gas.
NGR Part 19: DWGM	The definition of 'gas production facility' in rule 200 would be amended to extend it to any gas processing plant (including a biogas processing plant) and any primary gas production plant. The definition of 'gas' would be amended so it includes 'any covered gas and processable gas'.
NGR Part 20: STTM	References to 'natural gas' would be replaced with 'gas' and gas would mean 'any covered gas'.
NGR Part 24: Facilitating capacity trades and the capacity auction	References to natural gas in this Part would not be amended, but a new definition of natural gas would be added in rule 593 to give it an extended meaning, to include a gas blend that is suitable for consumption as natural gas. The purpose of the change is to avoid doubt about whether Part 24 applies to a facility where a methane-based gas is blended with natural gas. The definition of 'Part 24 facility' would be limited to facilities providing services in relation to natural gas. The references to the 'Natural Gas Services Bulletin Board' in the defined term 'publish' in rule 593 and in rule 629 would be changed to 'Gas Bulletin Board'.
NGR Part 25: Capacity auction	References to 'natural gas' or 'natural gas industry' in this Part would not be amended, but a new definition of natural gas would be added in rule 647 to give it an extended meaning, to include a gas blend that is suitable for consumption as natural gas. The purpose of the change is to avoid doubt about whether Part 25 applies to a facility where a methane-based gas is blended with natural gas. The definition of 'auction facility' would be limited to facilities providing services in relation to natural gas or NGEs.
NGR Part 26: Standard market timetable	The term 'natural gas facility' would be changed to 'covered gas facility' and would be expanded to include a blend processing facility and would be used in place of 'natural gas facility' in the Part. In 'gas storage facility', the reference to 'natural gas' would be replaced with 'covered gas'. The defined term 'production facility', would be replaced with a new term that covers any gas processing plant (including a biogas processing plant) and any primary gas production plant and their respective associated facilities.

PART	CHANGES
	In the term 'renomination', the phrase 'for the use of transportation capacity' would be deleted to reflect the extended meaning of 'covered gas facility'. Other references to 'natural gas' would be replaced with 'covered gas'. In rule 677(2)(b), the words 'the points' would be added before 'at or between' to correct an existing error.
NERR Part 13: Trial waivers, trial Rules and trial projects	References to natural gas would be changed to 'gas'.

E CIVIL AND CONDUCT PROVISIONS

E.1 Civil penalty provisions

The Commission cannot create new civil penalty provisions. However, it may recommend to the Energy Ministers Meeting that new or existing provisions of the NGR and NERR be classified as civil penalty provisions. In considering the classification of recommended civil penalty provisions, the Commission has consulted with the AER, ERA and AEMO.

Table E.1 outlines the recommended new civil penalty provisions in the NGR and Table E.2 outlines the recommended new civil penalty provisions in the NERR.

Table E.1: Recommended new civil penalty provisions in the NGR

RULE	DESCRIPTION OF RECOMMENDED CIVIL PENALTY PROVISION	PROPOSED TIER AND RATIONALE
Part 5, rule 32A(1)	This subrule requires a service provider to give the AER advance notice of entry into, or variation of, specified associate contracts.	A tier 2 civil penalty provision is proposed for alignment with the existing classification of rule 33 relating to the notification of entry into associate contracts.
Part 5, rule 34(6)	This subrule requires a service provider that has been granted an exemption from the minimum ring fencing requirements to notify the AER without delay if circumstances change such that the service provider no longer qualifies for the exemption	A tier 1 civil penalty provision is proposed as a breach may result (indirectly) in consumer harm through competition impacts if ring fencing is not appropriate. Breaches can also be considered as inappropriate market participant behaviour.
Part 5, rule 35(2)	This subrule requires a service provider granted an exemption from the minimum ring fencing requirements to comply with any conditions imposed on that exemption.	A tier 1 civil penalty provision is proposed as a breach may result (indirectly) in consumer harm through competition impacts if ring fencing is not appropriate. Breaches can also be considered as inappropriate market participant behaviour.
Schedule 6, Part 4, subrule 3(2)	This subrule requires specific persons to apply to AEMO to register under the new Part 18 as the Bulletin Board reporting entity for the relevant facility no later than 20 business days after the Part 18 effective date.	Tier 1 is proposed because this is consistent with the tier applicable to the obligation to register in Part 18 and with the approach taken in the Minister-made rules for the transparency reforms.

Table E.2: **Recommended new civil penalty provisions in the NERR**

RULE	DESCRIPTION OF RECOMMENDED CIVIL PENALTY PROVISION	PROPOSED TIER AND RATIONALE
New Part 8B, rule 147D(1)	This subrule requires distributors to notify retailers and AEMO in writing prior to a change of gas type in a distribution system or part of a distribution system.	A tier 3 civil penalty provision is proposed because the subrule imposes requirements relating to the provision of notices or information to customers.
New Part 8B, rule 147F(1)	This rule requires retailers to notify their small customers of a change of gas type.	A tier 3 civil penalty provision is proposed because the rule imposes requirements relating to the provision of notices or information to customers.

Table E.3 and Table E.4 outline existing civil penalty provisions in the NGR and NERR, respectively, that are amended in the recommended draft rules. The Commission recommends that the current classifications for these rules remain unchanged.

Table E.3: **Existing civil penalty provisions in the NGR to be amended**

RULE	DESCRIPTION OF CHANGE	DESCRIPTION OF RULE	CLASSIFICATION
Part 5, rule 33(1)	Amended to require the relevant service provider to provide specified information on the contract when notifying the regulator of contracts or variations.	This subrule requires a service provider who has entered into or varied an associate contract to provide the contract to the AER.	Tier 2
Part 18, rule 150(2)	Amended to substitute term natural gas industry with covered gas industry facility.	This subrule requires a facility operator to apply to AEMO to register as the BB reporting entity for a BB facility for which it is or intends to be an operator.	Tier 1 (when the Minister-made transparency rules come into effect)
Part 20, rule 399(2)	Amended, substitute term natural gas with gas.	This subrule requires a STTM Shipper to not submit a MOS increase or decrease offer unless it is entitled under a registered trading right to increase or decrease the quantity of gas supplied to or withdrawn from a hub.	Tier 1

RULE	DESCRIPTION OF CHANGE	DESCRIPTION OF RULE	CLASSIFICATION
Part 20, rule 410(1)	Amended, substitute term natural gas with gas.	This subrule requires a Trading Participant to submit to AEMO in good faith ex ante offers, ex ante bids or price taker bids (and any variations) for that gas day, to reflect the estimate of the quantities of gas the Trading Participant expects to supply or withdraw.	Tier 1
Part 20, rule 414(1)	Amended to insert at start of paragraph the words 'subject to subrule (4)' and substitute term natural gas with gas.	This subrule requires an STTM facility operator to notify AEMO of the quantity of gas which it expects the facility will be able to deliver to the relevant hub on different gas days.	Tier 1
Part 20, rule 418(3)	Amended to provide greater clarity on location of gas supply i.e. at a custody transfer point.	This subrule requires a STTM Shipper to ensure gas supplied by it to a hub at a custody transfer point complies with quality specifications unless there has been an agreement in writing with the STTM Distributor to supply that gas or the Shipper is authorised under law.	Tier 1
Part 20, rule 288(10)	Amended, substitute term natural gas with gas.	This subrule requires a STTM User to undertake certain actions such as cease to withdraw gas from the STTM distribution system, if AEMO issues a suspension notice, no later than 10 business days after the commencement of the gas day from which the suspension takes effect.	Tier 1

Table E.4: **Existing civil penalty provision in the NERR to be amended**

RULE	DESCRIPTION OF CHANGE	DESCRIPTION OF RULE	CLASSIFICATION
Part 2, rule 28	Amended, with additional subrule 1A added.	This subrule requires a retailer to provide as part of a small customer's historical billing data, information on whether there has been a change of gas type during the previous two years, being the specific date the gas type changed.	Tier 3

E.2 Conduct provisions

The Commission cannot create new conduct provisions. However, it may recommend to the Energy Ministers Meeting that new or existing provisions of the NGR be classified as conduct provisions. In considering the classification of recommended conduct provisions, the Commission has consulted with the AER, ERA and AEMO.

The Commission recommends that a new subrule 32A(1) in Part 5 of the NGR be classified as a conduct provision. This subrule requires a service provider to give the AER advance notice of entry into, or variation of, specified associate contracts. The classification is proposed for alignment with the existing civil penalty classification of rule 33 of the NGR relating to the notification of entry into associate contracts.

The Commission recommends amendments to the existing conduct provisions listed below (Table E.5) and recommends retaining their current classifications.

Table E.5: Existing conduct provisions in the NGR to be amended

RULE	DESCRIPTION OF RECOMMENDED CONDUCT PROVISION
33(1)	Amended to insert new subrules (1)(b) and (1)(c).
165(1)	Amended, substituted in the note the term natural gas industry to covered gas industry.
399(2)	Amended, substitute the term natural gas with gas.
410(1)	Amended, substitute the term natural gas with gas.
418(4)	Amended, substitute the term natural gas with gas.
452(6)	Amended, substitute the term natural gas with gas.
488(10)	Amended, substitute the term natural gas with gas.

F RECOMMENDED DRAFT RULES

RECOMMENDATION 1: DRAFT RULE — CLARIFY THE RIGHT TO CONNECT TO A PIPELINE AND CONNECTION COST RECOVERY FOR SERVICE PROVIDERS

Amend the interconnection rules in the new Part 6 of the NGR that will be implemented through the pipeline reforms to:

- state that a person will only have a right to connect a facility to a pipeline where the connection is consistent with the safe and reliable supply of gas to end users (recommended draft rule 37(a))
- enable a service provider (where it has developed an interconnection or part of an interconnection), to recover as part of its interconnection fee the directly attributable cost of metering and monitoring the quality of the gas injected by the connecting facility (recommended draft rule 38(3)(b)).

Amend the access negotiation framework rules in Part 11 of the NGR to:

- clarify that further investigations relating to interconnections can relate to the safe and reliable supply of gas to end users (recommended draft rule 105A(1))
- recognise that a service provider does not have to make an access offer in relation to an interconnection that would be inconsistent with the safe and reliable supply of gas to end users (recommended draft rule 105D(4)(b)).

Amend the access dispute provisions in Part 12 of the NGR to recognise the ability of the dispute resolution body not to make an access determination that would require an interconnection that is inconsistent with the safe and reliable supply of gas to end users (recommended draft rule 113V(5)).

RECOMMENDATION 2: DRAFT RULE — REQUIRE PUBLICATION OF INFORMATION ON COVERED GAS SUPPLIER CONNECTIONS

Amend the pipeline information provisions in Part 10 of the NGR (recommended draft rules 101B(2)(b)(ii) and 101B(2)(c)(iii)) to require all pipeline service providers to publish on their website the following details of each covered gas supply facility that is connected to the pipeline:

- the location of the facility
- the type of the facility
- the type of gas or gas blend injected into the pipeline by the facility
- the gas specification that applies at the receipt point at which the facility is connected.

RECOMMENDATION 3: DRAFT TRANSITIONAL RULE — PUBLICATION OF INFORMATION ON COVERED GAS SUPPLIER CONNECTIONS

Specify in the schedule of amending rules that the obligation to report on covered gas supplier connections does not commence until two months after the rules are made.

RECOMMENDATION 4: DRAFT RULE — REQUIRE SERVICE PROVIDERS TO PUBLISH SUPPLIER CURTAILMENT METHODOLOGY

Amend the NGR to:

- include a definition of supplier curtailment methodology in Part 1 of the NGR (see recommended draft rule 3(1))
- require service providers to publish the supplier curtailment methodology on their website, with this methodology to form part of 'pipeline information' for the purposes of Part 10 of the NGR (see recommended draft rule 101B(2)(f)).

RECOMMENDATION 5: DRAFT RULE — INCLUDE SUPPLIER CURTAILMENT METHODOLOGY IN AN ACCESS ARRANGEMENT

Amend the access arrangement provisions in Part 8 of the NGR to require scheme pipeline service providers to include their supplier curtailment methodology in the access arrangement, so that it is subject to review by the regulator (see recommended draft rule 48(1)).

RECOMMENDATION 6: DRAFT TRANSITIONAL RULE — SUPPLIER CURTAILMENT METHODOLOGIES

Specify in the schedule of amending rules that the obligation to publish the supplier curtailment methodology under Part 10 of the NGR does not commence until two months after the rules are made.

Insert transitional rules (recommended draft transitional rule Schedule 6, Part 2A) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

RECOMMENDATION 7: DRAFT RULE — REQUIRE SERVICE PROVIDERS TO REPORT ON GAS TYPES AND CHANGES

Amend the pipeline information provisions in Part 10 of the NGR to require service providers to include the following on their website (recommended draft rule 101B(2)):

(a) the type of gas the pipeline is transporting

(b) if a gas blend is being transported, the gases that have been blended together to create the blend and any blending limit that applies to the pipeline

(c) the following if the service provider is aware that the type of gas transported through the pipeline is going to change in the future:

- the new type of covered gas that will be transported through the pipeline
- the date on which the change of gas type is expected to occur, and if the change will be for a fixed time period, the end date of that period
- information about whether the new type of gas will be transported between all receipt points and delivery points on the pipeline or only a subset of delivery points and receipt points
- information about whether the service provider has received approval from any jurisdictional safety and technical regulator to change the type of gas transported through the pipeline
- if the type of gas transported through the pipeline is going to change on an on-going basis, information about whether the change is being made to comply with a regulatory obligation or requirement.

Amend the access arrangement and access arrangement information provisions in Part 8 of the NGR to require scheme pipeline service providers to include:

- the information referred to in (a) and (b) above in their access arrangement (recommended draft rule 48(1)(a1))
- the information referred to in (c) above in their access arrangement information (recommended draft rule 72(1)(n)).

Amend the gas pipeline register provisions in Part 15 of the NGR to require the information in (a)-(c) to be included in the gas pipeline register (recommended draft rule 133(3)).

RECOMMENDATION 8: DRAFT TRANSITIONAL RULE — OBLIGATION TO REPORT ON GAS TYPE AND CHANGES

Specify in the schedule of amending rules that a service provider's obligation to report on its website the information on gas type and changes set out in recommended draft rule 101B(2) does not commence until two months after the rules are made.

RECOMMENDATION 9: DRAFT RULE — AMEND ARBITRATION PRICING PRINCIPLES APPLYING TO NON-SCHEME PIPELINES

Amend the arbitration pricing principles applying to non-scheme pipelines to allow regulatory obligations and requirements to be considered by:

- including a new limb in the pricing principles stating that the price of access to a non-scheme pipeline should reflect the cost of providing that service, including the cost the service provider incurs in complying with a regulatory obligation or requirement (recommended draft rule 113Z(4)(ii))
- including a definition for regulatory obligation or requirement in Part 1 of the NGR, which largely mirrors the definition in the NGL with amendments to remove those parts of the NGL definition that are specific to scheme pipelines (recommended draft rule 1A).

RECOMMENDATION 10: DRAFT RULE — REGULATORY TREATMENT OF GOVERNMENT GRANTS

Amend rule 82 of the NGR to recognise that a service provider may receive a capital contribution towards its capital expenditure from parties other than a user, which would then allow the regulator to treat it as a capital contribution (recommended draft rule 82(1)-82(3)).

RECOMMENDATION 11: DRAFT TRANSITIONAL RULE — GOVERNMENT GRANTS

Insert a transitional rule (recommended draft transitional rule Schedule 6, Part 2A) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

RECOMMENDATION 12: DRAFT RULE — REGULATORY TREATMENT OF CONCESSIONAL FINANCE

Amend rule 82 of the NGR to:

- define concessional finance as below market rate finance provided for investment in specific capital expenditure (recommended draft rule 82(8))
- recognise that a service provider may receive a capital contribution towards its capital expenditure from parties other than a user (recommended draft rules 82(1)-82(3))
- require a service provider to inform the regulator if it receives concessional finance from a government funding body (recommended draft rule 82(4))

- require the regulator to:
  - consult with the service provider and the government funding body if it is informed by the service provider that concessional finance has been received (recommended draft rule 82(5))
  - seek submissions or comments from the government funding body on whether it intended some or all of the concessional finance to be treated as a capital contribution and, if so, what proportion should be treated in this way (recommended draft rule 82(6))
  - treat some or all of the value of the concessional finance as a capital contribution if it is satisfied that this was the government funding body's intention and determine the value that is to be treated as a capital contribution (recommended draft rule 82(7)).

RECOMMENDATION 13: DRAFT TRANSITIONAL RULE — CONCESSIONAL FINANCE

Insert a transitional rule (recommended draft transitional rule Schedule 6, Part 2A) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

RECOMMENDATION 14: DRAFT RULE — CLARIFY THE INTENDED OPERATION OF THE EXEMPTION CRITERION

Amend the exemption criterion that apply to exemptions from minimum ring fencing requirements (recommended draft rule 34(3)(c)) to state that:

- the service provider has, by arrangement with the AER, established internal controls that substantially replicate the controls that would apply to associate contracts if the related business was carried on by an associate of the service provider.

RECOMMENDATION 15: DRAFT RULE — ALLOW FOR CONDITIONS ON EXEMPTIONS AND ASSOCIATED CHANGES

Amend the ring fencing provisions in Part 6 of the NGR to:

- require the regulator to consider whether to impose any conditions when granting an exemption from the minimum ring fencing requirements (recommended draft rule 35(1))

- require a service provider to comply with any conditions of an exemption (recommended draft rule 35(2))
- require a service provider that has been granted an exemption to notify the regulator without delay if it no longer qualifies for the exemption (recommended draft rule 34(6))
- require the regulator to revoke exemptions from the minimum ring fencing requirements if, in its reasonable opinion, the exemption criteria are no longer satisfied (recommended draft rule 35A(1))
- empower the regulator to vary any conditions it has imposed on an exemption from the minimum ring fencing requirement (recommended draft rule 35(3)).

RECOMMENDATION 16: DRAFT RULE — TRANSPARENCY OF RING FENCING DECISIONS

Amend the NGR to require:

- the regulator to maintain a register of ring fencing decisions (including exemption decisions, decisions not to grant exemptions, ring fencing determinations, variation and revocation decisions) (recommended draft rule 35E)
- ring fencing decisions to be included on the AEMC's pipeline register (recommended draft rule 133(4)).

RECOMMENDATION 17: DRAFT RULE — ALLOW A SIMPLER CONSULTATION PROCESS FOR MINOR MISTAKES, OMISSIONS & DEFECTS

Amend the ring fencing provisions in Part 5 of the NGR to include a new rule (recommended draft rule 35F) that:

- allows the AER to employ a simpler consultation process for variations or revocations of minimum ring fencing exemptions and additional ring fencing requirements if the decision is affected by a material error or deficiency of one or more of the following kinds:
  - a clerical mistake or an accidental slip or omission
  - a miscalculation or misdescription
  - a defect in form
- specifies that in these instances, the AER can vary or revoke a decision following consultation with the relevant service provider and any other persons with whom it considers consultation appropriate.

RECOMMENDATION 18: DRAFT TRANSITIONAL RULE — MINIMUM RING FENCING REQUIREMENTS TRANSITIONAL EXEMPTIONS

Amend Schedule 6 Part 2 of the NGR to:

- provide designated entities (ATCO, AGIG and Jemena) with an exemption from the specified minimum ring fencing requirements for the transition period (i.e. the earlier of the end of the trial and 30 November 2026) in relation to the designated trial project (i.e. Clean Energy Innovation Hub, Hydrogen Refueller Station and hydrogen blending trial projects, HyP SA, HyP Gladstone, Western Sydney Green Gas Project)
- subject the exemption to the conditions that the designated entity:
  - establish internal controls that substantially replicate the controls that would apply to associate contracts if the designated trial project was carried on by an associate of the designated entity and provide details of the internal controls to the regulator
  - maintain separate accounts for the designated trial projects
  - provide these accounts to the regulator annually, along with the methodology used to allocate costs to the designated trial projects.
- specify the conditions relating to establishing internal controls and maintaining separate accounts must be complied with within three months after the commencement date and the requirement to provide accounts to the regulator annually must be complied with within 15 months after the commencement date.
- clarify that the exemption should not be taken to mean that a related business carried on by the designated entities is a pipeline service.

RECOMMENDATION 19: DRAFT RULE — AMEND THE ASSOCIATE CONTRACT NOTIFICATION REQUIREMENTS

Amend the associate contract provisions in Division 2 of Part 5 of the NGR to:

- introduce an advance notice requirement (recommended draft rule 32A) that requires service providers that are proposing to enter into an associate contract (or variation) that meets the following criteria (referred to in the draft rule as "specified associate contracts") to notify the regulator 20 days prior to entering into the contract (or variation):
  - the associate contract (or variation) is between the service provider and an associate that carries on a related business (as that term is defined in the NGL)
  - the price and conditions of access that would apply to the associate would not be based on the standing terms published by the service provider under rule 101C.
- As part of the notification, service providers would be required to provide the regulator with "associate contract information" (recommended draft rule 31), being:

  - a description of the relationship of the associate to the service provider
  - a description of the business operated by the associate
  - a description of the key terms of the proposed contract (or variation) or the form of the proposed contract (or variation)
  - an explanation as to why the contract (or variation) does not breach NGL prohibitions.
- Advance notice would not be required where a service provider has sought regulatory approval for the proposed contract (see recommended draft rule 31, definition of "excluded contract").

Amend the post-notification requirements to require the service provider to provide the regulator with the same type of information provided in respect of contracts for which advance notice is provided, or approval sought. If a service provider has sought pre-approval of an associate contract or provided advance notice of the contract (or variation), the service provider may provide a statement describing any changes in the information that has previously been provided (recommended draft rule 33(1)(c)).

RECOMMENDATION 20: DRAFT TRANSITIONAL RULE — ASSOCIATE CONTRACT NOTIFICATION TRANSITIONAL RULES

Specify in the schedule of amending rules that recommended draft rule 32A does not commence until 20 business days after the rule is made.

RECOMMENDATION 21: DRAFT RULE — AMEND THE ASSOCIATE CONTRACT APPROVAL PROCESS

Amend the associate contract approval process provisions to:

- require service providers that apply to have an associate contract or variation approved, to include in the application a statement setting out the reasons that (recommended draft rule 32(1A) and (1B)):
  - the contract or variation does not breach the NGL prohibitions, or
  - if the contract or variation would breach the NGL prohibitions, that the public benefits would outweigh the public detriment.
- require the regulator to consult using the standard consultative procedure if it is considering making a decision to approve a contract that breaches the NGL prohibitions (recommended draft rule 32(3A))
- for contracts other than those specified above:

- only require the regulator to approve an associate contract if the service provider has demonstrated to the regulator's reasonable satisfaction that it will not breach the NGL prohibitions (recommended draft rule 32(2)
- extend the decision making timeframe to 40 business days and include a stop-the-clock provision that can be triggered if the regulator seeks further information (recommended draft rule 32(6).

Include a new rule that requires the regulator to publish a guide that sets out the process to be followed and the information to be provided by a service provider for any ring fencing and associate contract related decisions made under the NGR (recommended draft rule 35D).

RECOMMENDATION 22: DRAFT RULE — TRANSPARENCY OF ASSOCIATE CONTRACT APPROVAL DECISIONS

Amend the NGR to require:

- the regulator to publish associate contract decisions (including approval decisions, decisions not to approve, variation and revocation decisions) (recommended draft rule 35E)
- associate contract decisions to be included on the AEMC's pipeline register (recommended draft rule 133(4)).

RECOMMENDATION 23: DRAFT TRANSITIONAL RULE — ASSOCIATE CONTRACT APPROVAL

Include transitional rules in the NGR that:

- exclude from the operation of amended rule 32 applications for approval of associate contracts made by a service provider prior to the commencement of the new rules (recommended draft transitional rule Schedule 6, Part 1, rule 2)
- require the regulator to publish the ring fencing decision guide within eight months of the commencement of the rules (recommended draft transitional rule Schedule 6, Part 1, rule 3)
- exclude associate contract decisions made before the commencement date from the publication requirements in recommended draft rules 35E and 133(4) (recommended draft transitional rule Schedule 6, Part 1, rule 4).

RECOMMENDATION 24: DRAFT RULE — EXTEND THE GSOO TO OTHER COVERED GASES

Amend Part 15D of the NGR to:

- Define the gases that will be subject to the GSOO (i.e. all covered gases) and recognise the expanded scope of the GSOO by replacing the terms 'natural gas' and 'natural gas industry' with 'covered gas' and 'covered gas industry' (recommended draft rules 135K and 135KE).
- Exclude remote BB facilities from the scope of the GSOO (recommended draft rules 135K and 135KA).
- Include a new definition for the term 'gas processing plant' to make clear that it extends to facilities producing primary gases (recommended draft rule 135K).
- Define gas blend processing to cover only blending (and not deblending) (recommended draft rule 135K).
- Require the GSOO to include the following information on gas blend processing (recommended draft rule 135KB):
  - blend processing forecasts
  - the volume of gas blend processing contracted in each year of forecast horizon
  - annual and peak day capacity of, and constraints on, blend processing facilities
  - committed and proposed, new or expanded blend processing facilities
  - factors that may affect the volume of gas supplied by blend processing facilities
- Allow, but not require, the GSOO to include information on the feedstock used to create primary gases (excluding natural gas) and the factors that may affect the availability of that feedstock (recommended draft rule 135KB(2A).

RECOMMENDATION 25: DRAFT RULE — ENABLE AEMO TO USE INFORMATION FROM THE GSOO SURVEY FOR VGPR AND VICE VERSA

Amend Parts 15D and 19 of the NGR to allow AEMO to use information for either purpose by:

- amending the use and disclosure of GSOO survey information rule in Part 15D to allow AEMO to use any information it obtains through this survey for the purposes of the VGPR (recommended draft rule 135KH(1A)).
- amending the use and disclosure of VGPR information in Part 19 to allow AEMO to use any information it obtains for the VGPR for the purposes of the GSOO (recommended draft rule 324(8)).

RECOMMENDATION 26: DRAFT TRANSITIONAL RULE — GSOO AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the new GSOO rules in Part 15D is 31 July 2024.

Insert transitional rules (recommended draft transitional rule Schedule 6, Part 3) that:

- require AEMO to review and where necessary, amend and publish the GSOO Procedures to take into account the amending rule by that effective date
- require the GSOO procedures to take effect on and from that effective date
- allow consultation undertaken by AEMO before that effective date to be taken to satisfy the consultation requirements in Part 15B of the NGR.

RECOMMENDATION 27: DRAFT RULE — EXTEND THE VGPR TO OTHER COVERED GASES

Amend Part 19 and 15B of the NGR to extend the VGPR to other covered gases by:

- specifying the gases to be captured by the VGPR (i.e. natural gas, processable gas and other covered gases) (recommended draft rule 200)
- requiring the VGPR to include forecasts in respect of blend processing facility capacities by facility (recommended draft rule 323(3)(h))
- requiring AEMO to take into account for the VGPR committed projects for new or additional blend processing facilities (recommended draft rule 323(4))
- requiring the registration of the operators of DTS connected blend processing facilities (recommended draft rules 135A and 200) and treating the blend processing service provider as a DWGM facility operator (recommended draft rule 200)
- requiring blend processing facility operators to provide AEMO with information on:
  - blend processing capacities (recommended draft rule 324(2)(e))
  - blend processing facility projects (including expansions) (recommended draft rule 324(2)(c)).

RECOMMENDATION 28: DRAFT RULE — ENABLE AEMO TO COLLECT VGPR INFORMATION FROM PARTIES NOT REGISTERED IN THE DWGM

Amend Part 19 and Part 15B of the NGR to:

- allow AEMO to collect information for the VGPR from persons that are not DWGM registered participants (recommended draft rule 324A)

- require any information that AEMO intends to collect using this power and who it intends to collect the information from to be set out in the wholesale market procedures (recommended draft rules 324A and 135EA(2)).

RECOMMENDATION 29: DRAFT RULE — EXTEND THE BULLETIN BOARD TO OTHER COVERED GASES

Extend the Bulletin Board by making the following changes to the NGR:

- replace the term 'Natural Gas Services Bulletin Board' with 'Gas Bulletin Board' in the title of Part 18 and throughout other Parts of the NGR where the term is used.
- recognise the extended scope of the Gas Bulletin Board under the NGL by replacing the terms 'natural gas services', 'natural gas industry' and 'natural gas industry facilities' with 'covered gas services', 'covered gas industry' and 'covered gas industry facilities' in Part 18 (recommended draft rules 141(1), 145, 150(2) and 165)
- extend the application of Part 18 to other covered gases by defining 'gas' to mean any covered gas and using the term 'gas' in place of 'natural gas' except where referring to LNG (recommended draft rule 141(1))
- add a new term 'compression service point' and use it in 'compression delivery point' and 'compression receipt point' in order to remove the link to the defined terms in Part 25 (which will remain linked to natural gas only) (recommended draft rule 141(1))
- amend 'BB production facility' so that it is clear it applies to facilities producing hydrogen and biomethane (recommended draft rule 141(1))
- accommodate blend processing facilities with a nameplate rating of 10 TJ/day or more by:
  - including these facilities as a new type of BB facility and excluding them from the definition of 'production facility' (recommended draft rule 141)
  - including the owner, operator or controller of these facilities as a new type of facility operator (recommended draft rule 141)
  - recognising blend processing facilities in the definitions of 'daily capacity', 'reporting threshold' and 'nameplate rating' (recommended draft rules 141(1) and (2))
  - amending Division 5 where necessary to extend the reporting obligations in that Division to blend processing facilities (recommended draft rules 169(4)(b), 172(1), 175(1), 184A and 188).

RECOMMENDATION 30: DRAFT RULE — REQUIRE PIPELINE SERVICE PROVIDERS TO REPORT BLENDING INFORMATION

Introduce the new blending information reporting obligations by:

- including a definition of 'blending limit' (recommended draft rule 141(1))
- including a definition of 'BB blended gas distribution system' and add this as a type of BB facility and the owner, operator and controller as a type of BB facility operator (recommended draft rule 141)
- limiting the reporting obligations relating to BB blended gas distribution systems under Division 5 of Part 18 to rules 168 (nameplate rating), 169 (detailed facility information) and 190G (blend level and gas blend curtailment information) (recommended draft rule 144A)
- amending the definitions of 'daily capacity', 'reporting threshold' and 'nameplate rating' to provide for distribution systems (recommended draft rules 141(1) and (2))
- amending the detailed facility information rule to require information to be reported on the blending limit that applies to a BB pipeline that transports a gas blend and is subject to or applies a blending limit, and a BB blended gas distribution system (recommended draft rule 169(4))
- inserting a new rule that requires BB blended gas distribution systems and BB pipelines transporting a gas blend where a blending limit applies to report on (recommended draft rule 190G):
  - the highest, lowest and average blending levels achieved in the last month
  - the number of times any injecting facility has been curtailed in the last month to maintain blending limits (other than where arising under the scheduling arrangements in Part 19) and the extent of the curtailment on each occasion it has occurred (aggregated across affected facilities).

RECOMMENDATION 31: DRAFT RULE — ALLOW BULLETIN BOARD PROCEDURES TO PROVIDE GUIDANCE ON NAMEPLATE RATING

Amend Part 15B to allow AEMO to provide guidance on the determination of nameplate ratings through the Bulletin Board Procedures (recommended draft rule 135EA(3)).

RECOMMENDATION 32: DRAFT RULE — APPLY PART 18 TO DISTRIBUTION CONNECTED PRODUCTION FACILITIES

Clarify that Part 18 of the NGR extends to distribution connected production facilities by:

- amending the definition of 'production facility' in rule 141 to remove the link to BB pipelines (recommended draft rule 141)
- extending the definitions of 'BB shipper' and 'nomination' to distribution systems (recommended draft rule 141)
- amending the nominated and forecast use of production facility reporting obligation in rule 185 to recognise that gas may be supplied into a distribution system (recommended draft rule 185).

RECOMMENDATION 33: DRAFT TRANSITIONAL RULE — BULLETIN BOARD AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the new Bulletin Board rules in Part 18 is 1 November 2024.

Insert transitional rules (recommended draft transitional rule Schedule 6, Part 4) that:

- require AEMO to review and where necessary, amend and publish the Bulletin Board Procedures by no later than the Part 18 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 18 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR
- require new facilities and facility development projects that become subject to the Bulletin Board as a result of the changes to register with AEMO within 20 business days after the Part 18 amendments effective date.

RECOMMENDATION 34: DRAFT RULE — EXTEND THE AER'S GAS PRICE REPORTING FUNCTION TO OTHER COVERED GASES

Amend Part 17 of the NGR to extend the AER's gas price reporting function to other covered gases by:

- replacing the term 'natural gas' with 'gas' (recommended draft rules 140B(1)(d) and 140B(7)).
- defining 'gas' to include all covered gases (recommended draft rule 140B(7)).

RECOMMENDATION 35: DRAFT RULE — EXTEND NON-PIPELINE INFRASTRUCTURE REPORTING TO OTHER COVERED GASES

Amend Part 18A of the NGR to extend its application to other covered gases by:

- replacing the term 'natural gas' with 'gas' and defining 'gas' to include all covered gases (recommended draft rules 198B, 198G(3)-(4)).
- replacing the term 'natural gas service' with 'covered gas service' and 'covered gas industry' (recommended draft rule 198B).

RECOMMENDATION 36: DRAFT RULE — EXTEND NON-PIPELINE INFRASTRUCTURE REPORTING TO BLEND PROCESSING FACILITIES

Amend Part 18A of the NGR to extend its application to blend processing facilities by:

- changing the name of Part 18A to 'Non-pipeline infrastructure access terms and prices' to reflect its broader application
- amending the definition of a Part 18A facility to include a blend processing facility (recommended draft rule 198B)
- amending the definition of user to include a person who is a party to a contract with a service provider for the provision of a blend processing service (recommended draft rule 198B)
- amending the actual prices payable information rule to:
  - recognise blend processing services as an example of the type of service a facility may provide (recommended draft rule 198G(1)(d))
  - require blend processing facilities to report the contracted quantities as the maximum daily quantity (in GJ/day) (recommended draft rule 198G(1)(f)(iii)).

RECOMMENDATION 37: DRAFT RULE — REQUIRE FACILITY OPERATORS TO REPORT ON THE TYPE OF COVERED GAS

Insert a new requirement in the standing terms information rule (recommended draft rule 198F) to require:

- facility operators to report on the type or types of gases in respect of which the facility provides services
- blend processing facility operators to report on the gas the primary gases that may be blended and the applicable blending limits.

RECOMMENDATION 38: DRAFT TRANSITIONAL RULE — PART 18A AMENDMENTS COMMENCEMENT DATE

Specify in the schedule of amending rules that the changes to Part 18A do not take effect until three months after the rules are made.

Insert transitional rules (recommended draft transitional rule Schedule 6, Part 5) that:

- require the AER to review and where necessary, amend and publish the price reporting guidelines by no later than the Part 18A amendments effective date
- clarify that in relation to blend processing facilities commissioned on or before the Part 18A amendments effective date:
  - reporting obligations commence only from the Part 18A amendments effective date
  - the requirement to publish actual prices payable information only applies to contracts in force immediately before the Part 18A amendments effective date or that is entered into on or after that date.

RECOMMENDATION 39: DRAFT RULE — EXTEND THE STTM SHIPPER REGISTRATION CATEGORY TO PERSONS THAT INJECTION FROM BLEND PROCESSING FACILITIES

Amend the NGR to extend the definition of STTM Shipper in rule 135ABA(1)(a) to include a person that:

- is a party to a contract with a blend processing facility operator for the delivery of gas to an STTM hub from a blend processing facility that is directly connected to that STTM hub, or holds rights subcontracted from such a person; or
- is a blend processing facility operator who supplies gas on its own behalf to an STTM hub from its blend processing facility that is directly connected to that STTM hub.

RECOMMENDATION 40: DRAFT RULE — CREATE A SINGLE INJECTION FACILITY CATEGORY

Amend the NGR to:

- introduce the definition of 'injection facility' as a facility (other than a pipeline) at which gas is produced, processed, blended or stored for injection directly from that facility into an STTM distribution system at a custody transfer point included in a hub, and including an associated pipeline connecting that facility directly to the hub

- introduce the definition of 'STTM injection facility' to mean either a single injection facility, or two or more injection facilities that have been aggregated as permitted under Part 20
- remove the definitions of 'STTM production facility' and 'STTM storage facility'
- replace all instances of 'STTM production facility' and 'STTM storage facility' with 'STTM injection facility'.

RECOMMENDATION 41: DRAFT RULE — MODIFY THE OBLIGATION FOR FACILITY OPERATORS TO PROVIDE EXPECTED CAPACITY INFORMATION

Amend the NGR in order to modify rule 414 by:

- specifying that a facility operator is not required to notify AEMO of expected capacity in respect of the following three gas days if there is no 'material difference' between the quantity of gas which the facility operator expects the facility will be able to deliver to the relevant hub and the substitute information that would be generated, in accordance with the STTM Procedures, by AEMO in the event that the facility operator does not provide this data
- specifying that there is a 'material difference' if the magnitude of the difference exceeds 600 GJ.

RECOMMENDATION 42: DRAFT RULE — ALLOW FOR FACILITY AGGREGATION AND SUBMISSION OF OFFERS BY AGGREGATED FACILITY

Amend the NGR to:

- use the new term 'STTM injection facility' to refer to a single injection facility or two or more injection facilities that satisfy the criteria for aggregation in rule 378A and that the STTM facility operator has elected to have treated as a single STTM injection facility for the purposes of Part 20
- introduce rule 378A that allows two or more injection facilities to be treated as a single STTM injection facility (with multiple CTPs) where the following criteria are satisfied, among other things:
  - all the injection facilities are connected to the same hub
  - all the injection facilities have the same STTM facility operator
  - the STTM facility operator has elected to have the injection facilities treated as a single STTM injection facility
  - any requirements for aggregation in the STTM Procedures have been fulfilled

    - the relevant STTM distributor has agreed with the STTM facility operator that the injection facilities may be treated as a single STTM injection facility.
- amend rule 376(1) to require STTM facility operators to provide information to demonstrate that the criteria for aggregation in rule 378A are satisfied, if the STTM injection facility comprises two or more injection facilities
- amend rule 377(3) to require AEMO to identify which injection facilities in the list of STTM facilities and STTM distribution systems it maintains are being treated as a single STTM injection facility.

RECOMMENDATION 43: DRAFT RULE — ALLOW NET BIDDING AND SETTLEMENT FOR SOME STTM INJECTION FACILITIES

Amend the NGR to:

- introduce and define the terms 'net metered facility', 'net energy injection' and 'net energy withdrawal'
- amend the rules so that for net metered facilities:
    - in relation to quantities of gas supplied or to be supplied to a hub, the net energy injection is used for bidding and settlement and the determination of capacity relating to the facility (but not in relation to obligations to comply with the gas quality specifications)
    - where there is a net energy injection, gas withdrawn from the hub and used to calculate the net energy injection is not included in bidding or settlement.
- introduce rule 378B to specify that the STTM Procedures must set out the criteria for classification by AEMO as a net metered facility, and must provide for the application of Part 20 in respect of net energy injections and net energy withdrawals
- specify in rule 135EA(4) that the STTM Procedures may deal with net metered facilities and their participation in the STTM
- amend rule 376(1) to specify that an STTM facility operator must provide to AEMO, for an STTM injection facility, information to demonstrate whether the STTM injection facility satisfies the criteria in the STTM Procedures for classification as a net metered facility
- specify in rule 378A that when aggregating injection facilities, either all the injection facilities must be net metered facilities, or none of them
- amend rule 418 to specify how title to, custody and control of, and risk of loss of the quantity of gas withdrawn by a net metered facility passes between trading participants.

Amend the NGR to extend the definition of STTM User in rule 135ABA(1)(b) to include a person that is not otherwise registered under the paragraph and is a user of services provided by means of a net metered facility (whether under contract, subcontract or as an owner,

operator or controller withdrawing gas on its own behalf from the STTM hub at the facility).

In rule 135ABA, define 'gas' and 'net metered facility' by reference to those defined terms in Part 20.

RECOMMENDATION 44: DRAFT RULE — STREAMLINE THE PROCESS FOR ESTABLISHING NEW CTPS

Amend the NGR to:

- specify in rule 135EA(4) that the STTM Procedures may deal with the arrangements for determining proposals for CTPs to be included in or removed from a hub
- introduce a new rule 372B that requires AEMO to specify the CTPs comprised in each hub in a register maintained by AEMO under the STTM Procedures
- in rule 372B, require the CTP for an injection facility or an STTM pipeline to be included in the relevant hub
- in rule 372B, require the STTM Procedures to set out the arrangements for AEMO to determine changes to CTPs for a hub, which must, among other things:
  - specify the time frame and process for AEMO to consider and determine a proposal, which must include notice to the relevant STTM distributor and must allow 20 business days for the STTM distributor to respond
  - require AEMO to publish notice of its determination on the proposal.
- amend rules 371, 372 and 372A to refer to the CTP register instead of the STTM Procedures
- amend rule 372A to specify that additional CTPs not connected to one of the STTM distribution systems specified in that rule can only be added with the consent of the STTM facility operator and the service provider of the STTM pipeline at the proposed CTP.

RECOMMENDATION 45: DRAFT RULE — ALLOW FOR ALTERNATIVE GAS QUALITY SPECIFICATIONS AT A CTP WHERE AUTHORISED

Amend the NGR to:

- introduce the definition of 'standard gas quality specifications' for a hub to reflect the current definition of 'gas quality specification'
- redefine 'gas quality specification' as:
  a. the standard gas quality specifications; or
  b. the relevant gas quality specification where either:

i. another gas quality specification for the injection of gas at a CTP has been agreed in writing by persons injecting gas at the point and the relevant STTM distributor and a regulatory instrument of the relevant adoptive jurisdiction specifically authorises such an agreement to be reached; or

ii. another gas quality specification has been specifically authorised under a regulatory instrument of the relevant adoptive jurisdiction and that authorisation is applicable to the injection of gas at the CTP.

- amend rule 418(3) to clarify that it only extends to arrangements in haulage agreements or under law that allow for the injection of off-specification gas (and does not allow an alternative gas specification to be agreed).

RECOMMENDATION 46: DRAFT TRANSITIONAL RULE — STTM AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the STTM-related rules is 21 November 2024.

In proposed new Part 6 in Schedule 6 to the amending rule:

- insert definitions of 'amending rule', 'Part 20 amendments effective date' and 'new Part 20'
- require AEMO to, in accordance with the Part 15B review, and where necessary, amend and publish the STTM Procedures to take into account the amending rule, by no later than three months before the Part 20 amendments effective date
- require the amendments to the STTM Procedures to take effect on and from the Part 20 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 20 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR.

RECOMMENDATION 47: DRAFT RULE — ALLOW DTS CONNECTED BLEND PROCESSING FACILITIES IN THE DWGM

Amend the NGR to allow for registration for DTS connected blend processing facility operators by introducing 'Blend Processing Provider' as a new registration category in rule 135A — a blend processing service provider that injects gas into a DTS.

Amend the net bidding facility framework in Part 19 of the NGR to accommodate DTS connected blend processing facilities that satisfy the net bidding facility criteria by:

- extending the definition of 'net bidding facility' and 'net injected quantity' in rule 200 to blend processing facilities connected to a DTS
- extending rules 204B and 204C (on the classification of net bidding facilities and net injected quantities to be used for net bidding facilities) to Blend Processing Providers
- making consequential changes to rules 208 (Demand forecasts) and 235 (Imbalance payments and Deviation payments).

Amend rule 287(1) so that it is consistent with rule 287A(1) by adding introductory words to clarify that any agreed departure from the standard gas quality specification is subject to any duty or requirement under any regulatory instrument relating to gas quality or safety.

Amend Part 19 of the NGR to extend to the operators of DTS connected blend processing facilities equivalent obligations to those that apply to Producers and Storage Providers, by:

- defining 'Blend Processing Provider' in rule 200 as a blend processing service provider whose blend processing facility is connected to the DTS
- extending the definition of 'DWGM facility operator' in rule 200 to include a 'Blend Processing Provider' so that the maintenance coordination arrangements in rule 326 apply
- extending the following rules to apply them to Blend Processing Providers in the same way they apply to Storage Providers: 216 (Failure to conform to scheduling instructions), 219 (Injection and withdrawal confirmations), 292(2) (Responsibility for metering installation) 340 (Non-firm gas).

RECOMMENDATION 48: DRAFT TRANSITIONAL RULE — DWGM AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the DWGM related rules is 1 May 2024.

In Part 5 in proposed new Schedule 6 to the NGR:

- insert definitions of 'amending rule', 'Part 19 amendments effective date' and 'new Part 19'
- require AEMO to, in accordance with Part 15B, review, and where necessary, amend and publish the Wholesale Market Procedures to take into account the amending rule, by no later than three months before the Part 19 amendments effective date
- require the amendments to the Wholesale Market Procedures to take effect on and from the Part 19 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 20 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR.

RECOMMENDATION 49: DRAFT RULE — EXPAND EXISTING REGISTRATION CATEGORIES IN REGULATED RETAIL MARKETS

Amend the NGR:

- For the New South Wales and the Australian Capital Territory (rule 135AB(1)(c)), Queensland (rule 135AB(2)(c)) and South Australia (rule 135AB(3)(d)) regulated retail markets, amend the registrable category of 'self contracting user' to include any user that has a contract with a service provider for the haulage of gas but does not fall within the registrable capacity of 'retailer'. Amend the registrable capacity of 'retailer' in each of rules 135AB(1)(b), 135AB(2)(b) and 135AB(3)(c) to exclude from that registrable capacity any exempt seller that sells gas only to related bodies corporate of that exempt seller. This type of exempt seller will continue to fall within the registrable capacity of 'self contracting user'.
- For the Victorian regulated retail market (rule 135AB(4)(d)) expand the registrable category of 'market participant – other' to include any user of a declared distribution system that does not fall within any other registrable capacity for the market.

RECOMMENDATION 50: DRAFT RULE — EXPAND MATTERS ABOUT WHICH RETAIL MARKET PROCEDURES MAY BE MADE

Amend rule 135EA of the NGR to specify that the RMPs should provide for the arrangements for registration of a net bidding meter, and arrangements for net withdrawals at a net metered facility to be treated as a meter reading for the purposes of the RMP.

RECOMMENDATION 51: DRAFT RULE — REQUIRE CUSTOMER NOTICE OF CHANGE OF GAS TYPE

Introduce a new Part 8B in the NERR to provide for customers to be informed of a change in the type of gas they may be supplied with by:

- requiring distributors to notify relevant retailers and AEMO in writing prior to a change of gas type in a distribution system (or part of a distribution system) and publish the notice on its website (recommended draft rule 147D). The notice must include:
  - the date on which there may be a change of gas type in the distribution system
  - the type of gas that may be supplied
  - whether the change of gas type will be for a fixed time period or on an ongoing basis
  - if the type of gas that may be supplied through a distribution system is a gas blend:
    - the primary gases that may be blended together to make the gas blend

  - — whether that distribution system applies or is subject to a limit on the amount of a primary gas that can form part of a gas blend (blending limit).
  - the potential impact of the change of gas type on the volume of gas and heating value of gas that may be consumed by customers who are supplied with the gas.
- requiring distributors to consult with retailers and AEMO in relation to the proposed transition date prior to issuing a notice under recommended draft rule 147D (recommended draft rule 147E)
- requiring retailers to notify their small customers of a change of gas type, if a retailer receives a notice from a distributor (recommended draft rule 147F)
- allowing the AER to make guidelines, in accordance with the retail consultation procedures, in relation to the form and content of notices (recommended draft rule 147G).

Customers will not be notified of a change of gas type if:

- the type of gas they are supplied with changes from natural gas to biomethane or to a blend of natural gas and biomethane (recommended draft rule 147D(4)(a)), or
- if there is no change to the primary gases that may be blended together to make the gas blend but the volume of a primary gas that forms part of the blend or a blending limit changes (recommended draft rule 147D(4)(b)).

RECOMMENDATION 52: DRAFT RULE — AMEND CUSTOMER RETAIL CONTRACTS

Amend Part 2 Division 7 and Schedule 1 of the NERR to introduce requirements for retailers to specify under market retail contracts and standard retail contracts (recommended draft rule 49B and recommended draft clause 3.3(b) of Schedule 1 respectively):

- the type of gas that may be supplied under the contract
- if the gas is a gas blend, the primary gases that are blended together to make the gas blend.

RECOMMENDATION 53: DRAFT TRANSITIONAL RULE — NOTICE OF CHANGE OF GAS TYPE AND AMENDMENTS TO CUSTOMER CONTRACTS

- Specify in the schedule of amending rules that recommended draft Part 8B of the NERR and the recommended draft rules to change retail contracts commence three months from the date the rule is made (the effective date)

- Insert transitional rules (recommended draft transitional rule Schedule 3, New Part xx) that provide that:
  - distributors are not required to provide a notice under new subrule 147D(1) in relation to a change of gas type that occurred before the effective date
  - retailers must make alterations to their standard retail contracts by the effective date
  - new rule 49B applies to market retail contracts entered into prior to the effective date if, after the effective date, the contract is varied.

RECOMMENDATION 54: DRAFT RULE — AMEND HISTORICAL BILLING INFORMATION

Amend Part 2 Division 4 of the NERR to require a retailer to include in historical billing data it provides a small customer the date of any change of gas type that occurred during the period for which data is provided (recommended draft rule 28(1A)).

RECOMMENDATION 55: DRAFT TRANSITIONAL RULE — HISTORICAL BILLING INFORMATION

Specify in the schedule of amending rules that recommended draft rule 28(1A) commence six months after the rule is made.