

Explanatory Material on the Draft *National Gas (South Australia) (Short Term Trading Gas Market) Amendment Bill 2009*

Introduction

To facilitate the establishment of a Short Term Trading Market (STTM) for natural gas the Ministerial Council on Energy's Standing Committee of Officials (SCO) has, in consultation with the Gas Market Leaders Group (GMLG), prepared an exposure draft of amendments to National Gas Law (NGL). These amendments are designed to give high level legal support to the STTM while leaving the detail concerning the operation of the market in the National Gas Rules (NGR) and technical detail in the STTM Procedures (Procedures). Amendments to the NGR and Procedures are currently being prepared by SCO and GMLG and it is anticipated an exposure draft of the NGR amendments will be available for consultation in July with the Procedures to follow later this year.

The design of the STTM, as well as these proposed amendments, have not yet been agreed by the Ministerial Council on Energy (MCE) or SCO.

Background

The MCE agreed in April 2004 to expand the gas market element of the energy market reform program to accelerate the development of a reliable, competitive and secure gas market and to further increase the penetration of natural gas. In December 2004, MCE approved a set of Principles for Gas Market Development as a basis for developing the Australian gas wholesale market and later established the GMLG to develop a Gas Market Development Plan.

The GMLG's Gas Market Development Plan, finalised in June 2006, presented MCE with seven recommendations, including three initiatives focussed on improving information disclosure and market transparency:

- the National Gas Market Bulletin Board;
- an annual national gas supply/demand statement (Gas Statement of Opportunities); and
- the development of the detailed design of a STTM.

Related to these measures was a separate initiative to create a single National Gas Market Operator that would administer the Bulletin Board and STTM and produce the annual national gas statement. The Market Operator proposal has subsequently evolved into the Australian Energy Market Operator (AEMO), which will assume responsibility for both the gas and electricity markets from 1 July 2009.

In April 2008, the MCE accepted the GMLG's recommendation to proceed with the detailed design and implementation of a STTM and asked the GMLG to oversee the STTM project until AEMO is established.

Objectives

The STTM will help facilitate the development of economically efficient gas markets through:

- providing clear market and pricing signals to existing participants, potential entrants and consumers;
- encouraging better informed investment and risk management decisions;
- facilitating secondary trading between shippers and users, for gas-fired power generators and for trading over interconnecting pipelines;
- facilitating greater demand side response by users, particularly at times of supply constraints; and
- enhancing market liquidity.

Market Design

The GMLG completed its detailed market design in April 2009 with key features being that the STTM will:

- be a city gate or 'hub'-based market operating initially in Sydney and Adelaide (separate markets but governed by the same rules);
- be administered by the AEMO;
- operate in parallel with existing gas transportation contracts/access arrangements, gas supply agreements and retail market rules (other than balancing arrangements);
- establish a single daily market clearing hub price before each gas day (i.e. an ex ante market price), by matching supply and demand through 'offers' and 'bids' to deliver gas to, and take gas from, each hub;
- rely on allocations performed by pipeline operators (or allocation agents), and by AEMO in its retail market operator role, to determine the quantity of gas delivered to, or taken from, the hub by each shipper and network user; and
- replace existing balancing services under the relevant gas retail markets by empowering AEMO to procure a Market Operator Service (MOS) to balance physical deviations on a pipeline, being the difference between the actual gas flows on a day (as allocated by pipeline operators and distributors) and the pipeline operator's schedule of gas flows for that day.

Legal Framework

Jurisdictions and the STTM Project Team have begun preparing legislation to implement the STTM. This includes amendments to the NGL for introduction into the South Australian Parliament later this year. The legal package also includes amendments to the NGR which will be made by the South Australian Minister following passage of the legislation, and a set of STTM Procedures which will be made by AEMO. It is anticipated that an exposure draft of the NGR amendments will be available for consultation in July with the Procedures to follow later this year.

Under the conceptual framework for the STTM legislation the NGL will deal with a limited number of high level features of the regime, the NGR will contain the detail of the market operation and the Procedures will address lower level technical matters. The table below illustrates this approach.

Instrument	Responsibility	Subject Matter
National Gas Law	Made by SA Parliament, as the lead legislator. Application Acts govern the extent to which the national gas legislation applies in the relevant jurisdiction.	The STTM will be authorised under the NGL, which will make high level provisions for: <ul style="list-style-type: none"> • STTM establishment; • the functions of AEMO in relation to the STTM; and • liabilities of AEMO and other participants (where appropriate) in relation to the STTM.
National Gas Rules	Made initially by the South Australian Minister, subject to MCE endorsement. Future amendments to be made by the Australian Energy Market Commission, in accordance with the rule change procedures outlined in the NGL.	The rules for the STTM will be incorporated in the NGR and will deal with issues such as registration, market operations, balancing arrangements via MOS, contingency gas and settlements.
STTM Procedures	Made by AEMO, in accordance with the NGL/NGR. The initial STTM Procedures will be made by the AEMO Board.	STTM Procedures will cover technical and operational matters. The initial procedures will be developed and made by AEMO, who will also be able to amend STTM Procedures, consistent with the consultation process in the NGR.

The NGL Amendments

The exposure draft of the NGL contains a small number of high level provisions to support the establishment of the STTM. The draft has been developed by the jurisdictional STTM Legal Working Group in consultation with GMLG and is designed to support the amendments to the NGR being developed by GMLG and SCO.

The STTM law provisions will be predominately located in a new Division 2A in Chapter 2 Part 6 of the NGL. The following summary highlights some of the key aspects of the Law.

Application of the STTM

The STTM is intended to operate initially in New South Wales and South Australia in clearly defined hubs within the metropolitan areas, which will be specified in the NGR. To facilitate this process, the new s91BRA provides that the STTM provisions will only apply in jurisdictions which have legislated to adopt them. It is intended

that both of these jurisdictions will adopt the STTM prior to its commencement. This mechanism also allows other jurisdictions to adopt the STTM in the future.

AEMO's Statutory Functions

Amendments to s91A empower AEMO to perform its "STTM Functions". These are defined at a high level in the new s91BRB which permits AEMO to operate and administer the STTM and to make Procedures covering the operation of the market. The detail of how AEMO will perform these functions will mostly be dealt with in the NGR.

Market Participation

The new Subdivision 2 provides support for Rules governing registration to participate in the STTM and prohibits the injection of gas into a hub by a person who is not registered. These provisions are modelled on the market participation provisions being placed in the NGL for the Victorian wholesale market and the retail markets. They provide high level support for registration while leaving the detail of the registration process in the NGR.

STTM Procedures

Subdivision 3 allows AEMO to make the STTM Procedures. It is modelled on the procedure making powers for the Victorian wholesale market and the regulated retail markets. It should also be noted that the process for making Procedures in that will be introduced into Part 15B of the NGR by the AEMO amendments will apply to these Procedures.

The new item 87 of Schedule 3 also allows AEMO to make the initial set of procedures without undergoing the consultation process specified in Part 15B.

STTM Information

Section 91FEA obliges the following classes of people to provide information to AEMO if required by the Rules:

- a) an STTM trading participant;
- b) a service provider;
- c) a storage provider;
- d) a producer; and
- e) another person who is prescribed by the Regulations.

Failure to provide information under this provision will attract a civil penalty while providing false or misleading information is an offence under s91FEC.

AEMO will not be empowered to use market information instruments to gather information for the STTM.

Title to Gas

The new s91BRF requires any Registered Participant delivering gas to a hub to demonstrate that they have title to that gas or authority to transfer title and a new head of power has been inserted into Schedule 1 following item 55L allowing the NGR to determine ownership of gas in the market.

Urgent Rule Change

The definition of “urgent rule” in s290 of the NGL has been amended to allow urgent rules to be made if failure to make the rule would threaten or prejudice the operation of a regulated gas market. This change makes this provision consistent with its equivalent in s87 of the National Electricity Law.