



13 March 2009

Mr Steve Rodgers
Governance Section
National Energy Market Branch
Department of Resources, Energy and Tourism
GPO Box 1564
CANBERRA ACT 2601

(via e-mail to: AEMO_ISC@ret.gov.au)

Dear Mr Rodgers

**RE: EXPOSURE DRAFTS OF DECLARED WHOLESALE GAS MARKET RULES:
APPEA COMMENTS**

The following comments are provided by the Australian Petroleum Production & Exploration Association (APPEA) on aspects of the Exposure Drafts of Declared Wholesale Gas Market Rules.

The Australian Petroleum Production & Exploration Association represents the upstream oil and gas industry in Australia. APPEA member companies produce around 98 per cent of Australia's oil and gas. Further information on APPEA and its members, and on the upstream oil and gas industry in Australia, can be found at www.appea.com.au.

Key Issues

APPEA's assessment of the Exposure Drafts has identified the following key issues from an upstream oil and gas industry perspective:

- *maintenance planning (rule 141)*: rule 141 allows the Australian Energy Market Operator (AEMO) to direct a Producer, Pipeline or Storage Provider to cancel, delay or suspend maintenance if in AEMO's reasonable opinion (a) the maintenance is not being conducted in such a way as to minimise disruption to the declared transmission system, and (b) the plant and/or equipment will not be materially damaged by deferring the maintenance.

A Producer is defined as including any Gas Processing Plant and associated facilities (we note there is no definition in relation to associated facilities and so what these may include is unclear). This means that due to the broad definition of Producer and the discretion provide to AEMO, this could potentially affect

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maintenance of not only the Gas Plants, but associated equipment for liquids and Offshore

Such legislation is a significant change, and would potentially conflict directly with the existing regulatory frameworks of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and of relevant State Occupational Health and Safety acts, such as, by way of example, the responsibilities of licensed operators of Major Hazard Facilities.

Based on the National Gas Rules (NGR) being largely text taken directly from the Victorian Market and System Operation Rules (MSOR) with most changes being only those approved via the Gas Market Consultative Committee (GMCC) in 2008, it is not reasonable that changes to maintenance provisions for Producers would occur without either the change process for the MSOR or the new NGR's themselves being utilised for that purpose.

APPEA is therefore very concerned with the changes proposed and the fact that the changes did not follow the processes envisaged in either the existing or new arrangements.

In the rest of this draft, the Victorian MSOR appears to have been taken as the basis. In this clause, however, Producers were specifically added.

APPEA recommends this change and the associated modification of the rules not proceed without the proper application of a change process.

- *intervention and market suspension (rule 150)*: the opening lines of rule 150 include that this clause does not limit AEMO's ability to take action in its absolute discretion to (a) maintain and improve reliability of the system (supply and distribution), and (b) in the interests of public safety.

APPEA notes there appears to be no consideration in the rule for the economic interests of the party who would be directed to perform actions. Does a right for AEMO to "maintain and improve" reliability extend to AEMO having the right to direct what would be uneconomic investment, or to require such investment to occur with priority over other planned investments? APPEA is also concerned that such AEMO discretion may directly conflict with existing regulatory offshore and onshore frameworks, as highlighted in the comments above for rule 141.

APPEA notes that the powers contained in the proposed rule 150 do not appear in the existing MSOR and, as per the changes proposed to rule 141, APPEA is concerned they have not had the benefit of a thorough review process as defined in the Rules.



APPEA recommends the application of this rule be clarified, including conflicts with existing legislative frameworks. It should be made clear of any specific circumstances in which AEMO could direct investments to "maintain and improve" reliability noting the rights parties have to govern their own investments within existing legislative arrangements, including consideration of their legitimate economic interests. Specifically, this rule should not require investment and should be limited to ensuring safe operation (that potentially is covered by other legislation).

APPEA would welcome the opportunity to discuss our submission with you and I will be in contact to make arrangements. In the meantime, if you have any queries, please feel free to contact me on 6267 0902 or via e-mail at ddwyer@appea.com.au.

Yours sincerely

A handwritten signature in blue ink that reads "Damian Dwyer". The signature is fluid and cursive, with a long, sweeping underline.

DAMIAN DWYER

Director – Energy Markets & Climate Change