

EXPOSURE DRAFT

1 Inserts for
2 **National Gas Law (Bulletin Board) Bill**
3 **2008**
4

EXPOSURE DRAFT (25/01/2008)

5
6 **1 Section 2**

7 Insert:

8 **Bulletin Board** means the website maintained by the Bulletin
9 Board operator that contains information of the kind specified in
10 the Rules in relation to natural gas services.

11 **Bulletin Board information** means information that:

- 12 (a) a person gives to the Bulletin Board operator to comply with
13 subsection 184(1); or
14 (b) a person gives to the Bulletin Board operator in
15 circumstances expressly permitted by the Rules.

16 **Bulletin Board operator** means the person prescribed by
17 Regulations made for the purposes of section 178.

18 **producer** means a person who carries on a business of producing
19 natural gas.

20 *[A consequential amendment will be made to omit this definition from*
21 *subsection 128(4) of the National Gas Law.]*

22 **storage provider** means any person who owns, operates or controls
23 a facility for storing natural gas or processable gas for injection
24 into a pipeline.

25 **uncovered pipeline user** means a person who:

- 26 (a) is a party to a contract with a service provider under which
27 the service provider provides or intends to provide a pipeline
28 service to that person by means of a pipeline that is not a
29 covered pipeline; or
30 (b) has a right under an access determination to be provided with
31 a pipeline service by means of a pipeline that is not a covered
32 pipeline.

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1 **2 Section 3**

2 Include new items in the Table to section 3 referring to sections 184,
3 186, 188 and 189.

4 **3 At the end of paragraph 73(1)(a)**

5 Add:

6 (iii) the collection, use, disclosure, copying, recording,
7 management and publication of information in relation
8 to natural gas services;

9 **4 Subparagraph 73(3)(c)(i)**

10 Omit “or the AEMC”, substitute “the AEMC or the Bulletin Board
11 operator”.

12 **5 Paragraph 73(3)(e)**

13 Omit “or the AEMC” (wherever occurring), substitute “, the AEMC or
14 the Bulletin Board operator”.

15 **6 Paragraph 73(3)(h)**

16 Omit “or the AEMC”, substitute “, the AEMC or the Bulletin Board
17 operator”.

18 **7 After Chapter 5**

19 Insert:

20 **Chapter 6—The Bulletin Board**

21 **Part 6.1—The Bulletin Board operator**

22 **178 The Bulletin Board operator**

23 The Bulletin Board operator is the person prescribed by the
24 Regulations as the Bulletin Board operator.

25 **179 Obligation to establish and maintain the Bulletin Board**

26 (1) The Bulletin Board operator first prescribed under section 178
27 must establish a website, to be known as the Bulletin Board,
28 containing information of the kind specified in the Rules in relation
29 to natural gas services.

30 (2) The Bulletin Board operator must maintain the Bulletin Board.

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- 1 (3) The Bulletin Board operator may replace the website first
2 established under subsection (1) with another website containing
3 information of the kind specified in the Rules in relation to the
4 matters mentioned in subsection (1).

5 **180 Other functions of the Bulletin Board operator**

6 The Bulletin Board operator also has the following functions:

- 7 (a) to collect and collate Bulletin Board information;
8 (b) to collect and collate other information in relation to natural
9 gas services for inclusion on the Bulletin Board;
10 (c) to derive from information of the type mentioned in
11 paragraphs (a) and (b) information for inclusion on the
12 Bulletin Board;
13 (d) to publish information on the Bulletin Board of the kind that
14 the Bulletin Board operator is required or allowed to publish
15 there under the Rules;
16 (e) to manage information of the type mentioned in
17 paragraphs (a), (b) and (c);
18 (f) such other functions as are conferred on the Bulletin Board
19 operator by this Law, the Rules or any other law.

20 **181 Powers of the Bulletin Board operator**

21 The Bulletin Board operator has the power to do all things
22 necessary or convenient to be done for or in connection with the
23 performance of its functions.

24 **182 Immunity of the Bulletin Board operator**

- 25 (1) The Bulletin Board operator or an officer or employee of the
26 Bulletin Board operator does not incur any civil monetary liability
27 for an act or omission in the performance or exercise, or purported
28 performance or exercise, of a function or power of the Bulletin
29 Board operator under this Law or the Rules unless the act or
30 omission is done or made in bad faith or through negligence.
- 31 (2) The civil monetary liability for an act or omission of a kind
32 referred to in subsection (1) done or made through negligence may
33 not exceed the prescribed maximum amount.
- 34 (3) The Regulations may, for the purposes of subsection (2), without
35 limitation do all or any of the following:

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- 1 (a) prescribe a maximum amount that is limited in its application
2 to persons, events, circumstances, losses or periods specified
3 in the Regulations;
- 4 (b) prescribe maximum amounts that vary in their application
5 according to the persons to whom or the events,
6 circumstances, losses or periods to which they are expressed
7 to apply;
- 8 (c) prescribe the manner in which a maximum amount is to be
9 divided amongst claimants.
- 10 (4) The Bulletin Board operator may enter into an agreement with a
11 person varying or excluding the operation of a provision of this
12 section and, to the extent of that agreement, that provision does not
13 apply.
- 14 (5) This section does not apply to any liability of an officer or
15 employee of a body corporate to the body corporate.
- 16 (6) In this section:
- 17 *civil monetary liability* means liability to pay damages or
18 compensation or any other amount ordered in a civil proceeding,
19 but does not include liability to pay a civil penalty under this Law,
20 an infringement penalty under Part 7.7 or the costs of a proceeding.

21 **183 Fees for services provided**

- 22 (1) The Bulletin Board operator may charge a fee specified, or a fee
23 calculated in accordance with a formula or methodology specified,
24 in the Rules for access by a person to:
- 25 (a) the Bulletin Board; or
26 (b) Bulletin Board information.
- 27 (2) The fee must not be such as to amount to taxation.

28 **Part 6.2—Bulletin Board information**

29 **184 Obligation to give information to the Bulletin Board operator**

- 30 (1) A person of the following kind who has possession or control of
31 information in relation to natural gas services must give the
32 Bulletin Board operator the information if the person is required to
33 do so under the Rules:
- 34 (a) a service provider;
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- 1 (b) a gas market operator;
2 (c) a user;
3 (d) an uncovered pipeline user;
4 (e) a producer;
5 (f) a storage provider;
6 (g) another person who is prescribed in the Regulations made for
7 the purposes of this paragraph.
- 8 (2) The information must be given to the Bulletin Board operator in
9 accordance with the Rules.
- 10 (3) Subsection (1) does not apply if the person is exempt under the
11 Rules from giving the information.

12 **185 Person cannot rely on duty of confidence to avoid compliance** 13 **with request**

14 A person must not refuse to comply with the requirement in
15 subsection 184(1) on the ground of any duty of confidence.

16 **186 Giving to Bulletin Board operator false and misleading** 17 **information**

18 A person must not give Bulletin Board information to the Bulletin
19 Board operator that the person knows is false or misleading in a
20 material particular.

21 **187 Immunity of persons giving information to the Bulletin Board** 22 **operator**

- 23 (1) A person who gives Bulletin Board information to the Bulletin
24 Board operator does not incur any civil monetary liability for an
25 act or omission in giving that information unless the act or
26 omission is done or made in bad faith or through negligence.
- 27 (2) The civil monetary liability for an act or omission of a kind
28 referred to in subsection (1) done or made through negligence may
29 not exceed the prescribed maximum amount.
- 30 (3) The Regulations may, for the purposes of subsection (2), without
31 limitation do all or any of the following:
- 32 (a) prescribe a maximum amount that is limited in its application
33 to persons, events, circumstances, losses or periods specified
34 in the Regulations;

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- 1 (b) prescribe maximum amounts that vary in their application
2 according to the persons to whom or the events,
3 circumstances, losses or periods to which they are expressed
4 to apply;
- 5 (c) prescribe the manner in which a maximum amount is to be
6 divided amongst claimants.
- 7 (4) A person mentioned in subsection (1) may enter into an agreement
8 with another person varying or excluding the operation of a
9 provision of this section and, to the extent of that agreement, that
10 provision does not apply.
- 11 (5) This section not apply to any liability of an officer or employee of
12 a body corporate to the body corporate.
- 13 (6) In this section:
- 14 *civil monetary liability* means liability to pay damages or
15 compensation or any other amount ordered in a civil proceeding,
16 but does not include liability to pay a civil penalty under this Law,
17 an infringement penalty under Part 7.7 or the costs of a proceeding.

18 **Part 6.3—Protection of information**

19 **188 Protection of information by the Bulletin Board operator**

- 20 (1) The Bulletin Board operator must not copy, record, use or disclose
21 information that is Bulletin Board information, except for the
22 purposes of exercising powers or performing functions as the
23 Bulletin Board operator.
- 24 (2) If a person ceases to be the Bulletin Board operator, the person
25 must not afterwards copy, record, use or disclose information that
26 is Bulletin Board information and that was disclosed to the person
27 as the Bulletin Board operator.
- 28 (3) Subsection (1) does not apply if:
- 29 (a) the Bulletin Board operator has the written consent for the
30 copying, recording, use or disclosure from:
- 31 (i) the person who gave the information; or
32 (ii) the person from whom the person referred to in
33 subparagraph (i) received that information; or
34 (b) the information is publicly available; or

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- 1 (c) the information is required to be used or disclosed because of
2 the operation of a law of this jurisdiction or another
3 participating jurisdiction; or
4 (d) the information is also disclosed to the Bulletin Board
5 operator:
6 (i) for reasons other than compliance with subsection
7 184(1); and
8 (ii) in circumstances other than those expressly permitted
9 by the Rules.

10 **189 Protection of information by employees etc. of the Bulletin** 11 **Board operator**

- 12 (1) A person who is:
13 (a) an officer of the Bulletin Board operator; or
14 (b) an employee of the Bulletin Board operator; or
15 (c) a person performing work for or rendering services to the
16 Bulletin Board operator otherwise than as an officer or
17 employee;
18 must not copy, record, use or disclose information that is Bulletin
19 Board information, except in that person's capacity as a person
20 who is exercising powers or performing functions, or assisting in
21 the exercise of powers or performance of functions, for the Bulletin
22 Board operator as the Bulletin Board operator.
- 23 (2) If:
24 (a) information is Bulletin Board information; and
25 (b) the information is disclosed to a person in the person's
26 capacity as:
27 (i) an officer of the Bulletin Board operator; or
28 (ii) an employee of the Bulletin Board operator; or
29 (iii) a person performing work for or rendering services to
30 the Bulletin Board operator otherwise than as an officer
31 or employee;
32 exercising powers or performing functions, or assisting in the
33 exercise of powers or performance of functions, for the
34 Bulletin Board operator; and
35 (c) one of the following applies:
36 (i) in the case of an officer of the Bulletin Board
37 operator—the person ceases to be an officer acting in
38 that capacity;

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- 1 (ii) in the case of an employee of the Bulletin Board
2 operator—the person ceases to be an employee acting in
3 that capacity;
- 4 (iii) in the case of a person performing work for or rendering
5 services to the Bulletin Board operator otherwise than as
6 an officer or employee—the person ceases to be a
7 person of that kind acting in that capacity;
- 8 the person must not afterwards copy, record, use or disclose the
9 information.
- 10 (3) Subsections (1) and (2) do not apply if:
- 11 (a) the person has the written consent for the copying, recording,
12 use or disclosure from:
- 13 (i) the person who gave the information; or
14 (ii) the person from whom the person referred to in
15 subparagraph (i) received that information; or
- 16 (b) the information is publicly available; or
- 17 (c) the information is required to be used or disclosed because of
18 the operation of a law of this jurisdiction or another
19 participating jurisdiction; or
- 20 (d) the information is also disclosed to the person:
- 21 (i) for reasons other than compliance with subsection
22 184(1); and
23 (ii) in circumstances other than those expressly permitted
24 by the Rules.

25 *[A provision like section 222 will be included in the National Gas Law,*
26 *so that judicial review of decisions of the Bulletin Board Operator is*
27 *available.]*

28 **8 After item 31 of Schedule 1**

29 Insert:

30 **Bulletin Board**

- 31 32 The establishment and maintenance of a website that contains
32 information in relation to natural gas services.
- 33 33 Principles to be applied, and procedures to be followed, by the Bulletin
34 Board operator in exercising a power or performing a function in
35 relation to the Bulletin Board.

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- 1 34 The kinds of information that may or must be given to the Bulletin
2 Board operator and the procedure for giving that information.
- 3 35 The kinds of information that may or must be included on the Bulletin
4 Board and the manner in which information is to be dealt with before
5 being put on the Bulletin Board, including, but not limited to, the
6 removal of information that would identify the person who gave the
7 information.
- 8 36 Persons, or classes of persons, to whom the requirement to give
9 information does not apply and the circumstances in which the
10 requirement does not apply, including, but not limited to, the grant of
11 power to the Bulletin Board operator to exempt persons, or classes of
12 persons, from that requirement.
- 13 37 The circumstances in which the requirement to give information may
14 start to apply again to the persons, or classes of persons, mentioned in
15 paragraph 36.
- 16 38 Persons, or classes of persons, who may access the Bulletin Board and
17 the class, or classes, of information to which they may have access.
- 18 39 The terms and conditions on which the persons, or classes of persons,
19 mentioned in paragraph 38 may access the Bulletin Board.
- 20 39A The procedure for dealing with information that was, but is no longer,
21 on the Bulletin Board.
- 22 39B Persons, or classes of persons, who may have access to information that
23 was, but is no longer on the Bulletin Board and the class, or classes, of
24 information to which they may have access.
- 25 39C The terms and conditions on which the persons, or classes of persons,
26 mentioned in paragraph 39B may have access to information that was,
27 but is no longer on the Bulletin Board.
- 28 40 The terms and conditions on which service providers, or classes of
29 service providers, may recover amounts from the Bulletin Board
30 operator for aggregating Bulletin Board information for the Bulletin
31 Board operator.
- 32 41 Variations to the Rules made for the purposes of paragraphs 32 to 40 in
33 particular circumstances, for example, in emergency situations.
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