

**Standing Committee of Officials of the
Ministerial Council on Energy**

Statement of Approach

A New Legislative Framework for Gas

September 2005

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This Statement of Approach has been prepared by the Standing Committee of Officials (SCO), to outline its approach to the development of the new National Gas Law and National Gas Rules. This work, which involves the restructuring of the existing Gas Law and Code, is to give effect to the requirements set out in the *Australian Energy Market Agreement* as agreed to by the Council of Australian Governments.

The Paper is for consultation only and should not be read as a settled or final view of SCO or the Ministerial Council on Energy (MCE).

Submissions are invited on the proposed approach to the development of the new National Gas Law and Rules as well as the preliminary positions taken in developing the legislative package. SCO will respond in writing to the key issues raised in submissions.

The Statement of Approach can be accessed electronically at the MCE website at www.mce.gov.au.

Submissions should be lodged by 5 October 2005, preferably electronically to:

The Manager – Energy Market Reform Team
National Energy Market Branch
Department of Industry, Tourism and Resources
GPO Box 9839
CANBERRA ACT 2601
MCEMarketReform@industry.gov.au

MCE Standing Committee of Officials

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1. Purpose of the paper

This paper seeks stakeholders' views in relation to the proposed structure and content of the gas legislative package to progress the MCE reform agenda. The gas legislative package establishes a new legislative framework for the natural gas sector and will comprise the National Gas Law (NGL) and National Gas Rules.

The legislative package seeks to give effect to the requirements of the Council of Australian Governments' (CoAG) Australian Energy Market Agreement (AEMA), outlined in Section 3.1, endorsed by the Prime Minister and Premiers in June 2004.

The SCO will provide a response in November 2005 to key issues raised in relation to the Statement of Approach and on any issues raised in relation to the development of the NGL and National Gas Rules. Following this, an Exposure Draft of the NGL and National Gas Rules is to be prepared and released for public consultation in March-April 2006.

Public consultation on the Exposure Draft will entail information sessions where stakeholders can ask questions and raise issues. The details of proposed information sessions are expected to be announced in February 2006.

Full details of the Exposure Draft and public consultation will be announced through MCE Energy Market Bulletins and placed on the MCE website at www.mce.gov.au when available.

2. Background

2.1 *The Ministerial Council on Energy Reform Agenda*

The set of reforms currently being undertaken arose out of the MCE's December 2003 report to CoAG, *Reform of Energy Markets*,¹ which identified a number of specific objectives for the reform program, the most relevant to the gas reform agenda being to:

- strengthen the quality, timeliness and national character of **governance** of the energy markets, to improve the climate for investment;
- streamline and improve the quality of **economic regulation** across energy markets, to lower the cost and complexity of regulation facing investors, enhance regulatory certainty and lower barriers to competition; and
- further increase the penetration of **natural gas**, to lower energy costs and improve energy services, particularly in regional Australia, and reduce greenhouse emissions.

¹ Ministerial Council on Energy Report to the Council of Australian Government, *Reform of Energy Markets*, 11 December 2003.

The MCE's December 2003 report contained specific reforms to the governance arrangements for the energy sector, and recommended further activities for the achievement of the other objectives, including an in-principle agreement to develop a national approach to energy access under the *Trade Practices Act 1974*, covering electricity and gas transmission and distribution.

The MCE's report, including the objectives set out above and the specific recommendations, was endorsed by First Ministers and formed the basis for the CoAG AEMA on 30 June 2004.² This inter-governmental agreement set out the timetable for the progressive introduction of the new governance arrangements for the gas sector from mid 2005³. In broad terms, the new governance arrangements will comprise:

- *The MCE*, the national policy and governance body for the Australian energy market including for electricity and gas, with a power to direct reviews by the AEMC with respect to rule-making and market development;
- *The Australian Energy Market Commission (AEMC)*, responsible for rule-making and market development functions in respect of electricity and natural gas transmission and distribution networks and retail markets (other than retail pricing); and
- *The Australian Energy Regulator (AER)*, responsible for enforcement and economic regulation of electricity and gas transmission and distribution networks and retail markets.

Consistent with the change in the governance arrangements for economic regulation in the industry, a new legal structure has also been agreed. In particular, the legal framework for economic regulation in both electricity (NEM) and gas is being modified to consist of:

- the law (National Electricity Law (NEL) and National Gas Law (NGL)), to be modified by Parliaments, consistent with the processes set out in the AEMA;
- statutory rules (National Electricity Rules and National Gas Rules), the AEMC will be responsible for the Rules and the amendment process in accordance with the procedures set out in the NEL and NGL;
- statements of policy principle from the MCE to the AEMC, subject to the procedures set out in the NEL and NGL.

² Council of Australian Governments, *Intergovernmental Agreement on an Australian Energy Market*, 30 June 2004.

³ Under the Agreement, WA is not committed to transferring functions to the AER related to gas, and to the AER and AEMC relating to electricity. WA is committed to conferring functions to the AEMC relating to the making of Gas Access Rules.

2.2 *Regulatory bodies and functions*

Pursuant to the MCE's national energy market reform program, two new regulatory bodies, the AER and AEMC, commenced operations on 1 July 2005. Consistent with electricity, the gas legislative package will bring the economic regulation of gas infrastructure under this governance arrangement.

2.2.1 *Australian Energy Regulator (AER)*

The AER is established by the *Trade Practices Act 1974* (see Part IIIAA). The AER can exercise functions or powers under Commonwealth Law. Further, section 44AI provides that a State/Territory energy law may confer functions or powers, or impose duties, on the AER for the purposes of that law.⁴ Any such duty or function or power must accord with the AEMA or any other relevant agreement.

The legislative package will transfer responsibility for economic regulation of gas transmission and distribution networks access from the ACCC and local regulators to the AER. Western Australia will retain its local regulator for the economic regulation of gas transmission and distribution networks access. It may elect at a later time to be subject to the AER jurisdiction for natural gas.

Further information on the AER is available at www.aer.gov.au.

2.2.2 *The Australian Energy Market Commission (AEMC)*

The AEMC is established by the *Australian Energy Market Commission Establishment Act 2004* (SA). Section 6 of that Act provides that the AEMC has the rule-making, market development and other functions conferred on the AEMC under National Energy Laws.

The gas legislative package will transfer all the National Gas Pipelines Advisory Committee (NGPAC) and Code Registrar functions to the AEMC. Rule making functions in relation to gas access will be conferred on the AEMC.

Further information on the AEMC is available at www.aemc.gov.au.

2.3 *Australian Energy Market Agreement (AEMA)*

The NGL will give effect to the provisions of the AEMA, setting out the new governance and legislative structure for an Australian energy market as follows:

⁴ State/Territory energy law is defined to include a law of a State or Territory that is prescribed by regulations.

Table 1: Functions of the Australian Energy Market Commission (AEMC)

AEMA Provision	Scope of Legislative Package
8.1 (b) - <i>“all functions associated with rule-making and market development currently performed by the National Gas Pipelines Advisory Committee and, to the extent applicable, the Code Registrar in respect of natural gas transmission and distribution networks”</i>	<p>This legislative package will transfer all the National Gas Pipelines Advisory Committee (NGPAC) and Code Registrar functions to the AEMC.</p> <p>Rule making functions in relation to access to transmission and distribution systems will transfer from NGPAC to the AEMC.</p> <p>NGPAC and the Code Registrar will be dissolved.</p>
8.1 (c) – <i>“rule-making and market development functions conferred by jurisdictions in respect of electricity and natural gas distribution networks and retail markets (other than retail pricing)”</i>	<p>This gas legislation package will not transfer additional functions relating to the regulatory framework protecting end users or further gas market development functions currently being considered by the Ministerial Council on Energy.</p> <p>This work is being separately progressed by the MCE Standing Committee of Officials. Legislative changes arising from this work will be the subject of a separate legislative package.</p>

Table 2: Functions of the Australian Energy Regulator (AER)

AEMA Provision	Scope of Legislative Package
9.1 (b) – <i>“economic regulation of gas transmission networks for all Parties subject to the jurisdiction of the AER, and in particular enforcing the National Gas Code.”</i>	<p>This legislative package will transfer responsibility for economic regulation of gas transmission networks from the ACCC to the AER.</p> <p>Western Australia will retain its local regulator for the economic regulation of gas transmission networks. It may elect at a later time to be subject to the AER jurisdiction for natural gas.</p>
9.1 (d) – <i>“economic regulation of natural gas distribution networks and retail markets (other than retail pricing) for the Parties subject to the jurisdiction of the AER.”</i>	<p>This gas legislation package will transfer responsibility for economic regulation of gas distribution networks access from local regulators to the AER.</p> <p>Western Australia will retain its local regulator for the economic regulation of gas distribution networks access. It may elect at a later time to be subject to the AER jurisdiction for natural gas.</p> <p>Work relating to the end-user retail and distribution regulatory framework is being separately progressed by the MCE Standing Committee of Officials. Legislative changes arising from this work will be the subject of a subsequent legislative package.</p>

2.4 Work program

The MCE held its ninth meeting on 20 May 2005 and adopted a revised timeframe for the development of a gas legislative package to address the requirements of the AEMA. The MCE announced that it aimed to have an exposure draft of the legislative package by end February 2006. The MCE also announced that the legislative package would reflect the response to the Productivity Commission's Review of the Gas Access Regime, the agreed approach to merits review and a national approach to energy access.

The Energy Market Reform Bulletin No. 43 outlined the scope of the work program for the development and implementation of a new NGL.

Further to the MCE's Communiqué of 20 May 2005, the bulletin announced that the package of legislation would address:

- governance and institutional arrangements with a view to convergence, where appropriate, between the NGL and the new NEL;
- outcomes from the MCE response to the Productivity Commission's (PC's) Review of the Gas Access Regime;
- outcomes from the work undertaken in relation to merits review; and
- outcomes from work undertaken in relation to wholesale gas market development, if the MCE takes a decision within the timeframe.

It is anticipated that a new NGL and Rules may, in future, address issues other than gas access, such as wholesale gas market development and the retail regulatory framework. As such, the NGL will be structured in separate legislative modules to provide for gas access now, and the inclusion of gas market development and the retail regulatory framework as subsequent modules in the future, when agreement is reached on these matters.

In accordance with the AEMA, Western Australia is to implement its own complementary gas legislation. The MCE governance model for natural gas and the Gas Pipelines Access module will be the only parts of the new NGL applying in Western Australia. The subsequent modules will not automatically apply to Western Australia until such time as it elects to adopt them.

3 Current Legislative Scheme

The legislative scheme for access to natural gas transmission and distribution networks currently comprises:

- the *Gas Pipelines Access (South Australia) Act 1997* (South Australian Application Act);
- the Gas Pipelines Access Law (schedule 1 to the South Australian Application Act) (GPAL);
- the *Gas Pipelines Access (Western Australia) Act 1998*;
- the WA Gas Pipelines Access Law (schedule 1 to the WA Gas Act) (WA GPAL);

- the National Third Party Access Code for Natural Gas Pipeline Systems (schedule 2 to the South Australian Application Act, and included as part of the definition of the Gas Pipelines Access Law in the South Australian Application Act) (the Code);
- the Gas Pipelines Access (South Australia) Regulations (South Australian Regulations) and the Gas Pipelines Access (Western Australia) Regulations 2000; and
- various State, Territory and Commonwealth application Acts applying the GPAL, Code and South Australian Regulations as law in each of the scheme participants. The current scheme participants are the Commonwealth, New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, the Australian Capital Territory and the Northern Territory.

4 Proposed Legislative Scheme

4.1 Overarching principles

In developing the gas legislative package for the MCE's consideration, SCO is seeking to implement the new energy market governance arrangements for the gas sector. SCO recognises that unlike the NEL, gas legislation has been limited to date to access only. Rather than simply converting the current Gas Pipelines Access Law to the NGL and the Code to the National Gas Rules, the governance and institutional arrangements require that a more considered restructuring take place. SCO has therefore adopted the following principles:

- wherever feasible, and unless there is a good policy reason to do otherwise, alignment with the new electricity regulatory regime should occur;
- the architecture of the regulatory framework should be enshrined in the NGL, (i.e. high level policy and framework matters will be included in the NGL);
- procedural and technical details should remain in the new Gas Rules;
- the Rule change process should be enshrined in the NGL; and
- general legislative principles which confer and determine the scope of functions, powers, rights and obligations should be included in the NGL.

These principles are intended to ensure that the provisions of the NGL will provide certainty to regulatory processes, creating an environment conducive to ongoing investment. At the same time, the flexibility of the Rule change process will allow the detail of regulation to be responsive to the needs of market participants. The principles will guide SCO on the structure and content of the legislative package, outlined in Sections 4.2 to 4.4 and in further detail at Appendix 1.

4.2 New legislative scheme, adopting the principles

It is proposed that the gas legislative scheme for access to gas networks be amended so that, to the extent possible, it is harmonised with the (new) national electricity market legislative scheme. This will require the current GPAL and the Gas Code to be divided up into the NGL and National Gas Rules.

One key feature of the legislative package is the rule change process. This has been modelled on the NEL and will be similarly enshrined in the NGL. Under this process Ministers will no longer have a role in approving rule changes. As with the NEL, rules proposed by any person (including MCE, industry participants and end users), will go through an extensive consultation process and then be made by the AEMC if they satisfy the gas objective.

The other key features of the legislative package will be as follows:

- A new NGL will be enacted to mirror the new NEL, to the extent appropriate. The NGL will be a schedule to the South Australian Application Act (as amended, or replaced). Any subsequent changes to the NGL will require the unanimous approval of the MCE;
- The NGL will empower the South Australian Minister to make the initial National Gas Rules. The National Gas Rules will replace the National Third Party Access Code for Natural Gas Pipeline Systems. The National Gas Rules will not be a schedule to the South Australian Application Act (unlike the Code) but will continue to have the status of statutory rules. The initial rules will be gazetted in the *South Australian Government Gazette* and an updated set of rules will be available from the AEMC's website.
- As the AEMC will be responsible for the Gas Rule amendment process it will subsume the current roles of the NGPAC and the Code Registrar. The AEMC will also be able to conduct reviews in relation to the gas market, at the direction of the MCE and independently in relation to issues concerning the National Gas Rules. The MCE will also be able to issue Statements of Policy Principle to guide the AEMC in carrying out its functions but will not be able to otherwise direct the AEMC outside of the NGL.
- Initially, the National Gas Rules will relate only to matters regarding access to gas transmission and distribution pipelines (consistent with the current subject matter of the Code). The NGL and Rules may, in future, address regulatory requirements other than those related to gas pipeline access, such as gas wholesale market development and a nationally agreed distribution and retail regulatory framework. Further legislative amendment will be required in this event.
- The AER will become responsible for economic regulation/approval of access arrangements for gas transmission and distribution networks and arbitration of access disputes, in place of the ACCC and local regulators (other than in Western Australia). The Economic Regulation Authority will continue to be the regulator in Western Australia for both transmission pipelines and distribution networks. As is

currently the case, an independent arbiter and not the Economic Regulation Authority will arbitrate access disputes in Western Australia.

- The AER will be responsible for enforcing the NGL and National Gas Rules in the place of relevant regulators and will be given appropriate enforcement powers (including information gathering powers) similar to those in the NEL. Existing rights of other persons to bring proceedings under the GPAL will be carried over to the NGL.
- The decisions of the AEMC and AER will be subject to judicial review consistent with the NEL regime (merits review is being considered separately, see section 5 below).

Application Acts and WA arrangements

Amended or new Application Acts will be enacted by each of the scheme participants to apply the new NGL, the National Gas Rules and Regulations as a law of the relevant scheme participant. These will not be part of the Exposure Draft on which the MCE will publicly consult.

Western Australia will enact complementary legislation applying to the NGL as it relates to gas pipeline access that “substantially corresponds” to the access module of the NGL. As with the Gas Access Code, the National Gas Rules initially made by the South Australian Minister and subsequently amended through the AEMC will apply to Western Australia. While WA does not have to make National Gas Rules, it will make National Gas Regulations (as currently the case) relating to gas pipeline access and any other functions it confers on the AEMC that substantially correspond to those in South Australia.

4.3 Distinction between new gas legislative scheme and electricity legislative scheme

Some important distinctions between the gas and electricity legislative schemes will be retained (as indicated earlier the gas scheme may continue to evolve in the future):

- *Covered pipelines only* - the gas legislative scheme will continue to regulate covered pipelines only subject to the outcome of the MCE’s consideration of the monitoring model options canvassed in the consultation paper on the Response to the PC Review of the Gas Access Regime. The procedure for determining whether or not a pipeline is to be covered will be specified in the NGL;
- *Access arrangements* – certain fundamental principles in relation to access arrangements and certain minimum content requirements will be elevated from the Code to the NGL and retain their current essential features;
- *Gas Rules to relate to access only* - the Rules will initially only govern matters relating to access to gas transmission and distribution networks, consistent with the subject matter of the current Code. The Rules will therefore be more limited in scope than the National Electricity Rules (which also govern the national electricity market and electricity metering);
- *Arbitration of access disputes* - the NGL will set out the procedure for arbitration of disputes regarding access to gas transmission and distribution

networks and the functions and powers of the AER as arbitrator. This will be similar to the process currently in the GPAL together with essential provision moved up from the Code.

- *Proceedings* – Consistent with the current GPAL, individuals will be able to bring proceedings to enforce ‘conduct provisions’.

Appendix 1 describes in broad terms how the principles for dividing the GPAL into the NGL and National Gas Rules may be applied.

5 Link to other MCE work programs

In addition to addressing the requirements of the AEMA, the gas legislative package will incorporate outcomes of other MCE work programs where they reach conclusion. The MCE communiqué of 20 May 2005 noted:

“The MCE work program for 2005-06 aims for consultation on: the preliminary response to the PC Review of the Gas Access Regime; the approach to merits review; and the national approach to energy access in September 2005. The MCE aims to have an exposure draft of the full legislative package addressing all matters including the response to the Productivity Commission and industry comments by end February 2006.”

The Exposure Draft of the legislative package will reflect the outcomes of these work programs where they have been finalised. The MCE expects to make decisions on these matters in November 2005.

The other MCE work programs are the subject of separate consultation processes and relevant policy decisions will be incorporated in the legislative package. Public consultation on the Exposure Draft will extend only to technical and drafting matters and MCE policy decisions will not be revisited.

Details of these work programs and others are available either via the MCE website at www.mce.gov.au and via Energy Market Reform Bulletins.

6 Timetable

The SCO will release a written response to the key issues raised in relation to the Statement of Approach in early November 2005, prior to the MCE’s release of the Exposure Draft.

The Statement of Approach and outcomes of other MCE work programs will be incorporated into the Exposure Draft of the NGL for consultation in March – April 2006. It is anticipated the final NGL will be introduced into the South Australian Parliament in June 2006.

Specific release dates as well as dates for consultation on the Exposure Draft will be announced through Energy Market Reform Bulletins and placed on the MCE website at www.mce.gov.au.

Appendix 1: Division into NGL and National Gas Rules

The following table describes in broad terms the structure of the gas legislative package and how the principles for dividing the GPAL into the NGL and National Gas Rules may be applied. The final placement of particular provisions will inevitably be dependent upon the response to this paper, the outcome of the PC response process, a decision on merits review, appropriate legal drafting considerations and the MCE's approval.

Current Chapter/Provision	GPAA	Future	National Electricity (SA) Act 1996
These are the sections of the <i>Gas Pipelines Access (South Australia) Act 1997</i> before Schedule 1 on Third Party Access to Natural Gas Pipelines.	ss. 1-47	The purpose of this part of the Act is to apply the NGL to the jurisdiction of South Australia similar to all the other application acts. Similar to electricity it also includes a power to make regulations. There will no longer be a need to deal with the Code Registrar or Local Regulator.	<i>National Electricity (South Australia) Act 1996</i> ss. 1-14 (in front of the NEL)

Current Chapter/Provision	GPAL	Future	NEL equivalents
Part 1 Preliminary	ss. 1-4	The preliminary part of the NGL will resemble the NEL with: <ul style="list-style-type: none"> - Provision for MCE statements of policy principles; - An objective clause; and - Detail on how the law applies in each jurisdiction (eg Rules to have force of law). 	ss. 1-10
Part 2 Code. This currently includes amendment procedure and availability of copies of the Code.	ss. 5-8	The procedural and technical detail in the Code will become the National Gas Rules. These will be made subject to a rule change procedure in the NGL analogous to that in the NEL. Therefore, the rule change process will include: <ul style="list-style-type: none"> - The ability for any person to propose a rule change other than the AEMC, which will only be able to propose changes to correct minor errors or which are non-material; - Extensive consultation on rule proposals including opportunities for submissions, hearings, a draft determination and a final determination; and - A rule making test similar to the NEL where the rule will or is likely to contribute to achieving the gas market objective. There will also need to be a part in the NGL conferring powers and functions on the AEMC. This will include: <ul style="list-style-type: none"> - The power to make the National Gas Rules (which at this stage will only be for access issues); - Obligation to have regard to gas objective 	ss. 87 - 108 ss. 29-48 and Schedule 1

Current Chapter/Provision	GPAL	Future	NEL equivalents
		and MCE statements of policy principles; - Ability for the AEMC to conduct reviews (both directed by MCE and independently similar to NEL); - Obligations for documents to be publicly available and in relation to confidentiality; and - Provision for delegations.	
Part 3 Pipelines. This currently deals with classification of a Pipeline as distribution or transmission. Section 13 also deals with preventing or hindering access to a pipeline.	ss. 9-13	The present provisions of the GPAL and the Code which provide for coverage are needlessly complex in that they provide first in the GPAL for the classification of pipelines as transmission or distribution and then separately under the Code for coverage. These decisions are in both instances made by Ministers acting in some instances in the case of classification, and in all instances in the case of coverage, on the recommendation of the NCC. The Code provisions will be elevated to the NGL to sit with the classification provisions. While all decisions will remain to be taken by the relevant Minister, classification and coverage will be dealt with as one: not as a two-stage process as at present. The role of making recommendations will be retained (currently the NCC). An equivalent of s. 13 will be retained.	No equivalent.
Part 4 Arbitration of access disputes. This deals with how a dispute over access is to be arbitrated.	ss. 14-31	The current focus of the arbitration process on access disputes rather than market disputes necessitates that the NGL will be closer to the GPAL provisions than the NEL. The information provisions will be consistent with s. 44AAF of the <i>Trade Practices Act 1974</i> . The NGL will also contain key parts of the arbitration architecture from Chapter 6 of the Code and the provisions that confer and determine the scope of functions, powers, rights and obligations, with purely procedural aspects remaining in the National Gas Rules. The criminal offence provisions in this part will remain with the penalty being \$2,000 for individuals and \$10,000 for bodies corporate (i.e. the same penalty as for comparable offence provisions in the NEL).	See generally 8.2 of National Electricity Rules.
Part 5 Proceedings for breach of law. This deals with the enforcement of the GPAL with provision for civil penalties, injunctions, damages and declaratory relief.	ss. 32- 37	The NGL enforcement regime will pick up many of the relevant enforcement provisions from the NEL. In particular: - The AER will be the body responsible for enforcing all of the NGL and National Gas Rules; - The existing civil penalty provisions will remain and civil penalties will be a maximum for individuals of \$20,000 and \$2,000 for every day a breach continues, and for bodies corporate \$100,000 and \$10,000 for every day a breach continues; - There will be an infringement notice	ss. 58-86

Current Chapter/Provision	GPAL	Future	NEL equivalents
		<p>system as in the NEL;</p> <p>There will be an equivalent of ‘conduct provisions’ as in the GPAL which any person can enforce by obtaining declarations, injunctions or damages for injury suffered.</p> <p>There will also be provision for judicial review of AEMC decisions in the NGL.</p> <p>Judicial review of AER decisions is already provided for in the <i>Trade Practices Act 1974</i>.</p> <p>Western Australian will include provision for judicial review in its gas law. Proceedings in the NEL with no equivalent in the NGL will not be replicated (e.g. rebidding penalties).</p>	
<p>Part 6 Administrative appeals.</p> <p>This part deals with merits review of coverage and economic regulatory decisions.</p>	ss. 38-39	The issue of merits review is being considered separately.	No equivalent.
<p>Part 7 General. This part deals with supply and haulage of natural gas, information gathering and disclosure of confidential information.</p>	ss. 40-43	<p>The obligations in s. 40 will be retained in the NGL.</p> <p>The information gathering powers will be modelled on the NEL and contained in a new part conferring functions and powers on the AER.</p>	ss. 15-28
<p>Appendix to Schedule 1— Miscellaneous provisions relating to interpretation.</p>	ss. 1-42	These interpretative provisions will be updated and adapted as necessary to give effect to the new provisions above. They will remain in a schedule to the NGL. The interpretative schedule will apply to the NGL and National Gas Rules.	See Schedule 2 of the NEL.

Current Chapter/Provision	Code	Future	NEL or National Electricity Rules
1.Coverage	1.1-1.41	The Code provisions which provide for coverage will be elevated to Part 2 of the NGL and will form part of the classification provisions. Refer to the comments above in relation to Part 3 of the GPAL.	No equivalent
2.Access Arrangements	2.1-2.52	<p>The core principles in this chapter dealing with access arrangements are considered part of the architecture of the gas access regime such that they should be placed in the NGL in a new part. This includes:</p> <ul style="list-style-type: none"> - the obligation on the Service Provider to submit an access arrangement and applicable access arrangement information in accordance with the National Gas Rules; - the power for the AER to approve access arrangements; and - the key criteria to assess access arrangements (which is currently being considered as part of the response to the PC review). <p>The procedural detail will remain in the National Gas Rules to expand on the general principles contained in the NGL (e.g. the detail of public consultation requirements).</p>	Note comparison to Chapter 6 of the National Electricity Rules.

Current Chapter/Provision	Code	Future	NEL or National Electricity Rules
3.Content of an Access Arrangement	3.1-3.36	<p>Similar to the comment in relation to chapter 2, to the extent to which the requirements of this chapter prescribe minimum contents of an access arrangement, they are fundamental to the access regime for gas and so are to be elevated to the NGL. This includes:</p> <ul style="list-style-type: none"> - a statement of the core content requirements of an access arrangement; and - an obligation to comply with a service provider's queuing policy. <p>Procedural matters and details on the content requirements for an access arrangement will remain in the National Gas Rules.</p> <p>It is also intended that the competitive tender provisions (3.21-3.36) will be simplified in the conversion to rules to be substantially modelled on the new provisions proposed in Division 2B of the <i>Trade Practices Amendment (National Access Regime) Bill 2005</i>.</p>	Note comparison to Chapter 6 of the National Electricity Rules.
4.Ring Fencing Arrangements	4.1-4.24	The fundamental aspects of ring-fencing arrangements in this chapter will be elevated to the NGL with the procedural detail remaining in the National Gas Rules.	Dealt with differently in 6.20 of the National Electricity Rules.
5.Information and Timelines for Negotiation	5.1-5.9	The general requirement for an information package will be elevated to the NGL as will the general obligation to respond to access requests. The detail will remain in the National Gas Rules.	
6.Dispute Resolution	6.1-6.27	The provisions of this chapter dealing with the scope of the AER's powers as arbitrator will be elevated to the NGL adding to the obligations in Part 4. The procedural detail will remain in the National Gas Rules.	See generally chapter 8 of the National Electricity Rules.
7.General Regulatory and Miscellaneous Provisions	7.1-7.22	<p>The essential elements of the associate contracts clauses will be enshrined in the NGL similar to the ring-fencing provisions but the detail remain in the National Gas Rules. In particular, they will be adapted so that associate contracts will be reported only but there will be a power to void associate contracts where that contract has the effect or likely effect of undermining the integrity of the ringfencing provisions.</p> <p>The key obligations in relation to the giving of reasons and keeping a public register will be in the NGL.</p> <p>Other procedural provisions in this part will remain in the National Gas Rules.</p>	
8.Reference Tariff Principles	8.1-8.49	The key considerations for the AER's decision making here (including in relation to the rate of return) is expected to be in the NGL but the vast detail of the chapter will remain in the National Gas Rules.	Note comparison to Chapter 6 of the National Electricity Rules.
9.Code Change	9.1-9.4	This will be replaced by the rule change process, see comments above under Part 2 of the GPAL.	ss. 87 - 108

Current Chapter/Provision	Code	Future	NEL or National Electricity Rules
10.Interpretation	10.1-10.9	Much of this relates essentially to the structure of the Code and will be captured in the NGL.	
Attachment A—Information Disclosure by a Service Provider to Interested Parties		Relevance of Attachment A will be ascertained as part of the response to Recommendation 7.13 of the PC Access Review. Other work may also be undertaken on Attachment A	
Schedule A—Pipelines to be Covered from Commencement of the Code		It is intended that the AEMC will be required to publish and maintain a list of Covered Pipelines on its website. This is essentially a saving and transitional issue.	

Regulations made by South Australian Minister.	1-7 and Schedules 1 and 2	There will be a limited need for regulations similar to those currently in place and as required in the NEL (e.g. for the content of a rule change application). In particular, regulations will continue to deal with the prescription of civil penalty provisions.	National Electricity (South Australia) Regulations
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