

NATIONAL GAS (AUSTRALIAN ENERGY MARKET OPERATOR)
AMENDMENT RULES 2009

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***National Gas (Australian Energy Market Operator) Amendment Rules
2009***

Part 1 Preliminary

1 Citation

These Rules may be cited as the *National Gas (Australian Energy Market Operator) Amendment Rules 2009*.

2 Rules amended

The *National Gas Rules* are amended in accordance with Part 2.

3 Commencement of amendments.

The amendments commence on the commencement of the *National Gas (Australian Energy Market Operator) Amendment Act 2009*.

Part 2 Amendment of National Gas Rules

4 Amendment of Rule 3 (Interpretation)

Rule 3

Insert (in alphabetical order)

extended consultation procedure means the procedure for consultative decision making laid down in rule 9A.

5 Insertion of Rule 9A

After Rule 9

Insert

9A Extended consultation procedures

- (1) This Rule applies wherever any person (the **consulting party**) is required by the Rules to comply with the extended consultation procedures.
- (2) The consulting party must give a notice to all persons with whom consultation is required:
 - (a) giving particulars of the matter under consultation; and
 - (b) inviting written submissions on the matter under consultation; and
 - (c) fixing a date (to be not less than 25 business days after the notice is given) as the closing date for submissions.

Consultation is required with the persons nominated by the relevant provision as those with whom consultation is required or, if no persons are specifically nominated, all Registered participants, and interested persons. Consultation is also required with AEMO if AEMO is not itself the consulting party. If consultation is required with Registered participants or a particular class of Registered participants, the obligation to consult extends to persons registered as Intending participants or Intending participants of the relevant class (as the case requires).

- (3) The notice must be published as follows:
 - (a) if the consulting party is the AEMC, the AER or AEMO – the consulting party must publish the notice on its website;
 - (b) in any other case – the consulting party must give AEMO a

copy of the notice and AEMO must, within 3 business days of receipt of the notice, publish the notice on its website.

- (4) A written submission:
 - (a) must be received by the consulting party on or before the closing date for submissions (and if not so received will not be regarded as a valid submission for the purposes of this Rule); and
 - (b) may state whether the person making the submission considers that a meeting about the matter under consultation is necessary or desirable and, if so, the reasons why such a meeting is necessary or desirable.
- (5) The consulting party must within 20 business days from the closing date for submissions consider all valid submissions and if, after considering the submissions, the consulting party concludes that it is necessary or desirable to hold a meeting or meetings, the consulting party must endeavour to hold the meeting or meetings within a further 25 business days.
- (6) When the consulting party has completed its consideration of the matter under consultation (and any meetings to be held under subrule (5) have been held), the consulting party:
 - (a) must publish a draft report setting out:
 - (i) the conclusions and any determinations proposed by the consulting party; and
 - (ii) the reasons for the consulting party's conclusions; and
 - (iii) the procedure followed by the consulting party in its consideration of the matter; and
 - (iv) a summary of each issue that the consulting party considers material contained in a valid written submission or raised in the course of a meeting and the consulting party's response to that issue; and
 - (v) in a notice at the front of the draft report – an invitation to the persons from whom submissions were sought to make written submissions to the consulting party on the draft report before a closing date (at least 10 business days after publication of the draft report) stated in the invitation; and
 - (b) must make the draft report available to the persons from whom submissions were sought; and

- (c) subject to Rule138A, must, at the request of a person from whom submission was sought, make available material submitted to the consulting party.
- (7) The draft report must be published as follows:
- (a) if the consulting party is the AEMC, the AER or AEMO – the consulting party must publish the draft report on its website;
 - (b) in any other case – the consulting party must give AEMO a copy of the draft report and AEMO must, within 3 business days of receipt of the draft report, publish the draft report on its website.
- (8) The consulting party must consider all valid submissions on the draft report within 30 business days after the closing date for submissions and, at the conclusion of its consideration, the consulting party:
- (a) must publish a final report setting out:
 - (i) the conclusions and determinations of the consulting party; and
 - (ii) the reasons for the consulting party's conclusions; and
 - (iii) the procedure followed by the consulting party in its consideration of the matter; and
 - (iv) a summary of each issue that the consulting party considers material contained in a valid written submission and the consulting party's response to that issue; and
 - (b) must make the final report available to the persons from whom submissions were sought.
- (9) The final report must be published as follows:
- (a) if the consulting party is the AEMC, the AER or AEMO – the consulting party must publish the report on its website;
 - (b) in any other case – the consulting party must give AEMO a copy of the final report and AEMO must, within 3 business days of receipt of the report, publish it on its website.
- (10) The consulting party must not make a decision or determination to which the extended consultation procedures apply until the consulting party has completed all the procedures set out in this Rule (but substantial compliance is sufficient).

6 Substitution of Rule 100

Rule 100

Omit, substitute

100 General requirement for consistency

The provisions of an access arrangement must be consistent with:

- (a) the national gas objective; and
- (b) the Rules and Procedures as in force when the terms and conditions of the access arrangement are determined or revised.

7 Insertion of Parts 15A to 15D

After rule 135

Insert

Part 15A Registered participants

Division 1 Registration

135A Market participation

- (1) A person participates, in a registrable capacity, in the retail gas market of New South Wales and the Australian Capital Territory if the person is:
 - (a) a Service Provider that holds, or is required to hold, a reticulator's authorisation under the *Gas Supply Act 1996* (NSW) or a corresponding licence, approval or authorisation under the *Utilities Act 2000* (ACT) ;
 - (b) a User or Non-scheme Pipeline User that holds, or is required to hold, a supplier's authorisation under the *Gas Supply Act 1996* (NSW) or a corresponding licence approval or authorisation under the *Utilities Act 2000* (ACT);
 - (c) a User or Non-scheme Pipeline User that:
 - (i) is a party to a contract with a service provider for the provision of haulage services in New South Wales or the Australian Capital Territory (or both); and
 - (ii) is an end-user; and

- (iii) is not required to hold a supplier's authorisation under the *Gas Supply Act 1996* (NSW) or a corresponding licence, approval or authorisation under the *Utilities Act 2000* (ACT).
- (2) A person participates, in a registrable capacity, in the retail gas market of Queensland if the person is:
 - (a) a Service Provider that holds, or is required to hold, a distribution authority under the *Gas Supply Act 2003* (Qld);
 - (b) a User or Non-scheme Pipeline User that holds, or is required to hold, a retail authority under the *Gas Supply Act 2003* (Qld).
- (3) A person participates, in a registrable capacity, in the retail gas market of South Australia if the person is:
 - (a) a Service Provider that holds, or is required to hold, a gas distribution licence under the *Gas Act 1997* (SA); or
 - (b) a User or Non-Scheme Pipeline User that:
 - (i) holds, or is required to hold, a gas retailing licence under the *Gas Act 1997* (SA); or
 - (ii) carries on the business of a gas retailer in South Australia; or
 - (c) a User or Non-scheme Pipeline User that:
 - (i) is a party to a contract with a Service Provider for the provision of haulage services in South Australia; and
 - (ii) is an end-user; and
 - (iii) is not required to hold a gas retailing licence under the *Gas Act 1997* (SA).
- (4) A person participates, in a registrable capacity, in the retail gas market of Victoria if the person is:
 - (a) a Service Provider in respect of a transmission pipeline or a distribution pipeline in respect of Victoria; or
 - (b) a User or Non-scheme Pipeline User of a transmission pipeline or a distribution pipeline in respect of Victoria.

135AB General requirements for registration

A person who is to be registered as a participant:

- (a) must be resident or permanently established in Australia; and
- (b) must not be an externally administered body corporate (as defined in the *Corporations Act 2001*) or under a similar form of administration under the laws of some other jurisdiction; and
- (c) must not be immune from liabilities incurred as a Registered participant (except to the extent the immunity is conferred under the Law or the Rules); and
- (d) must be capable of being sued in its own name in a court of competent jurisdiction; and
- (e) must have adequate financial resources:
 - (i) for participation in the market in the relevant capacity; and
 - (ii) to meet creditworthiness requirements imposed by the Procedures governing the relevant market; and
- (f) must have the expertise and other resources necessary for compliance with the Rules and Procedures governing the relevant market; and
- (g) must comply with any other requirements imposed by the Rules or Procedures governing the relevant market, or determined by AEMO to be appropriate to a participant of the relevant class in the relevant market.

135AC Application for registration

- (1) An application for registration:
 - (a) must be in the form, and contain the information, required by AEMO; and
 - (b) must be accompanied by the fee determined by AEMO.
- (2) AEMO may, within 5 business days of receiving an application, ask the applicant to provide further information or clarification in support of the application if, in AEMO's reasonable opinion, the application:
 - (a) is incomplete; or
 - (b) requires clarification.

- (3) If AEMO asks for further information or clarification under subrule (2), the application is taken to have been made when the further information or clarification is provided to AEMO's satisfaction.
- (4) If the further information or clarification is not provided to AEMO's satisfaction within 15 business days of the request, the application lapses.

135AD Registration

- (1) If AEMO is satisfied that an applicant meets the requirements for registration, AEMO must register the applicant as a participant in the relevant registrable capacity or capacities.
- (2) If AEMO is not satisfied that an applicant meets the requirements for registration, AEMO must:
 - (a) refuse the application; and
 - (b) give the applicant written reasons for the refusal.
- (3) AEMO must decide an application within 15 business days after the date of the application.

135AE Intending participants

- (1) AEMO may register an applicant as an Intending participant if satisfied that the applicant intends to participate in a registrable capacity but does not require registration immediately.
- (2) A person registered as an Intending participant has the rights and obligations of a Registered participant to an extent determined by AEMO.

135AF Exemption from registration

- (1) AEMO may:
 - (a) exempt an applicant for an exemption from registration; or
 - (b) grant, by notice published on its website, a general exemption from registration in favour of a class of persons defined in the notice.
- (2) An exemption must be consistent with:
 - (a) the national gas objective; and
 - (b) relevant guidelines issued from time to time by AEMO.
- (3) An application for an exemption:

- (a) must be in the form, and contain the information, required by AEMO; and
 - (b) must be accompanied by the fee determined by AEMO.
- (4) AEMO may:
- (a) grant an exemption unconditionally; or
 - (b) grant an exemption on specified conditions; or
 - (c) refuse an application for an exemption.
- (5) If AEMO refuses an application for an exemption, or grants an exemption on conditions, AEMO must give the applicant written reasons for its decision.

135AG Revocation of registration or exemption

- (1) AEMO may, with the written consent of a Registered participant or the holder of an exemption, revoke the registration or exemption.
- (2) AEMO may revoke the registration of a Registered participant if satisfied that the Registered participant has ceased to meet the requirements for registration.
- (3) AEMO may revoke an exemption from registration if satisfied that the holder of the exemption:
 - (a) no longer qualifies for the exemption; or
 - (b) has contravened a condition of the exemption.
- (4) Before AEMO revokes a registration or exemption under subrule (2) or (3), it must give the holder of the registration or exemption a reasonable opportunity to make representations on the proposed revocation.

135AH Liability after revocation

The revocation of a registration does not affect a liability that had accrued under the Rules or the Procedures before the revocation.

Division 2 Register

135B Obligation to keep register

- (1) AEMO must establish and maintain a register of Registered participants.

- (2) The register must include for each Registered participant:
 - (a) the name and contact details for the Registered participant; and
 - (b) the capacity or capacities in which the Registered participant is registered; and
 - (c) the wholesale or retail gas market for which the Registered participant is registered; and
 - (d) any further information determined by AEMO.
- (3) The register must be published on AEMO's website.

Division 3 Participant fees

135C Definitions

In this Division:

AEMO T means Australian Energy Market Operator (Transitional) Limited (ACN 132 770 104).

establishment expenditure means expenditure in connection with the establishment of AEMO or the assumption of its functions under the Law or the Rules incurred by:

- (a) the Commonwealth; or
- (b) AEMO T; or
- (c) AEMO; or
- (d) a former gas market operator.

interested party means a person that:

- (a) has, in AEMO's opinion, an interest in the structure of participant fees; or
- (b) identifies itself to AEMO as having an interest in the structure of participant fees.

participant fees means fees payable by Registered participants under this Division.

135CA Development of Participant fee structure

- (1) AEMO must develop, review and publish, in consultation with Registered participants, interested parties and such other persons

as AEMO thinks appropriate, the structure (including the introduction and determination) of participant fees for such periods as AEMO considers appropriate.

- (2) AEMO must consult on its proposed fee structure in accordance with the extended consultation procedure.
- (3) In determining the structure of participant fees, AEMO:
 - (a) must have regard to the national gas objective; and
 - (b) must have regard to the following principles:
 - (i) the fee structure should be simple;
 - (ii) the components of the fees charged to each Registered participant should be reflective of the extent to which the budgeted revenue requirements for AEMO involve that Registered participant;
 - (iii) the fee structure should not discriminate unreasonably against a category or categories of Registered participants; and
 - (c) must have regard to other fee structures that it thinks appropriate for comparison purposes.
- (4) The following principles are relevant to the recovery of recurrent expenditure
 - (a) if AEMO recovers an excess of revenue over expenditure from the provision of a particular service in a financial year, it may roll over the excess to a later financial year (or later financial years) so as to reduce revenue requirements in the later financial year (or years);
 - (b) AEMO may recover a shortfall of revenue in a later financial year or later financial years;
 - (c) AEMO may take any other action it considers desirable to smooth the impact of actual or anticipated cost variations on the users of a service provided by AEMO.
- (5) Subject to subrule (6), capital expenditures are recovered through the depreciation or amortisation of the assets acquired by the capital expenditures in a manner that is consistent with generally accepted accounting principles.
- (6) Establishment expenditure is to be recovered over a period of 4 years from the changeover date or, if there is more than one

changeover date, from the last of them.

135CB Major gas project

- (1) AEMO may determine any of the following projects to be a major gas project:
 - (a) a major reform or development (including an anticipated reform or development) of a regulated gas market;
 - (b) a major change (including an anticipated change) to any of AEMO's functions, responsibilities, obligations or powers under the Rules or the Procedures;
 - (c) a major change (including an anticipated change) to any of the computer software or systems that AEMO uses in the performance of any of its functions, responsibilities, obligations or powers under the Rules or the Procedures.
- (2) AEMO must consult on a determination under this Rule in accordance with the extended consultation procedure.
- (3) When AEMO determines a project to be a major gas project, it must also determine the start date for recovery and the period or periods for recovery of the costs of the project.
- (4) AEMO must also determine a participant fee to be used for the recovery of the costs of the project until the next general determination of participant fees.

135CC Components of Participant fees

- (1) The components of participant fees may include (but are not limited to) the following:
 - (a) registration fees comprising an annual fee for each registrable capacity in which a Registered participant is registered;
 - (b) gas market and system operation fees to recover AEMO's budgeted revenue requirement for gas market operation and (where relevant) system operation;
 - (c) full retail contestability fees to recover AEMO's budgeted revenue requirement for effecting the transfer of customers between retailers and for administration and operation of the associated business procedures and systems;
 - (d) gas market planning fees including fees to recover the costs of preparing the gas statement of opportunities;

- (e) administration fees to recover the remainder of AEMO's budgeted revenue requirements.
- (2) If the costs of providing services related to gas market operation, or services related to achieving full retail contestability, vary materially from location to location, differential fees reflecting the difference in costs should be prepared for each location.

Note

- 1. AEMO's expenditures for providing services as operator of the Natural Gas Services Bulletin Board are dealt with separately under Part 18.
- 2. The fees may reflect adjustments under Rule 135CA(4).

135CD Publication of fee structure

At least 3 months before fees determined under this Division take effect, AEMO must publish to Registered participants and such other persons as AEMO thinks appropriate:

- (a) the participant fee structure; and
- (b) the methods used to determine the fees; and
- (c) an assessment of the extent to which the fee structure complies with the principles set out in Rule 135CA.

135CE Payment of participant fees

- (1) AEMO may charge participant fees by giving the Registered participant a statement setting out the relevant components of the participant fees, the amount payable by the Registered participant and the date for payment.
- (2) A Registered participant must pay to AEMO the amount stated to be payable by the specified date for payment (whether or not the Registered participant disputes the amount payable).

135CF Budgeted revenue requirements

- (1) AEMO must prepare and publish before the beginning of each financial year a budget of AEMO's revenue requirements for that financial year.
- (2) The budget must take into account and separately identify projected revenue requirements for:
 - (a) AEMO's expenditures for gas market and system operation; and
 - (b) AEMO's expenditures for providing services as the operator of the Natural Gas Services Bulletin Board; and

- (c) AEMO's expenditures for effecting the transfer of customers between retailers and for administration and operation of the associated business procedures and systems; and
 - (d) AEMO's expenditures for gas market planning including preparing and publishing the gas statement of opportunities; and
 - (e) AEMO's other expenditure requirements, operating costs and margin associated with services provided to the gas industry; and
 - (f) AEMO's consumer advocacy funding obligation under these Rules; and
 - (g) any revenue shortfall or excess carried forward from an earlier financial year; and
 - (h) the funding requirements of participant compensation funds.
- (3) AEMO must allocate expenditures that cannot be specifically related to electricity activities or gas activities (***residual expenditures***) between the electricity and gas industries in a manner that:
- (a) ensures that the total amount of the residual expenditures is divided in full between the electricity and gas industries; and
 - (b) ensures that each industry bears an allocation at least equal to the amount by which residual expenditures would be reduced if services were no longer provided to that industry; and
 - (c) promotes the efficient use of electricity and gas services.

Division 4 Consumer advocacy funding

135D Consumer advocacy funding obligation

- (1) AEMO must pay to the AEMC, as required under the relevant Act, the amount of its consumer advocacy funding obligation for each financial year.
- (2) AEMO may recover the costs of meeting its consumer advocacy funding obligation from participant fees and may allocate the costs to retailers.
- (3) In this Rule:

consumer advocacy funding obligation means the share of the

costs of administration and funding allocated to gas under a budget prepared by the Consumer Advocacy Panel and approved by the MCE under Part 4 of the relevant Act.

Consumer Advocacy Panel means the Consumer Advocacy Panel established under the relevant Act.

relevant Act means the *Australian Energy Market Commission Establishment Act 2004* (SA).

Part 15B Procedures

135E General purpose of this Part

- (1) This Part describes the process for making Procedures.
- (2) It applies to the 3 types of Procedures :
 - (a) Procedures governing the operation of a retail gas market (Retail Gas Market Procedures); and
 - (b) Procedures governing the operation of the declared wholesale gas market of an adoptive jurisdiction (Wholesale Gas Market Procedures); and
 - (c) Procedures governing the operation of the Bulletin Board (Bulletin Board Procedures).

135EA Matters about which Procedures may be made

- (1) Retail Gas Market Procedures may deal with the following matters:
 - (a) the administration, operation and maintenance of delivery points, the maintenance of a delivery points register, and the information to be included in the register;
 - (b) transactions affecting the information recorded in the delivery points register including a change of user, creation of a delivery point, disconnection of a delivery point and correction transactions;
 - (c) delivery point discovery processes;
 - (d) bulk transfer of delivery points;
 - (e) the maintenance of a register recording the transport of natural gas through a network;
 - (f) arrangements for last resort supply events;

- (g) metering;
- (h) the provision and maintenance of, and access to, metering equipment;
- (i) the roles and responsibilities of metering data agents;
- (j) the creation, maintenance and storage of metering data;
- (k) the calculation of the energy represented by a given quantity of natural gas;
- (l) nomination, balancing, allocation and reconciliation of natural gas;
- (m) the processes and arrangements for ensuring that a retail gas market is adequately supplied with gas (balancing);
- (n) the making of forecasts related to the retail gas market;
- (o) the user's title to natural gas;
- (p) the calculation and payment of charges for gas used by customers;
- (q) audit and reporting;
- (r) the administration and operation of a retail gas market business system;
- (s) the maintenance and disclosure of information about the retail gas market;
- (t) any other subject relevant to a retail gas market on which the Law or the Rules contemplate the making of Procedures.

[Note: This list is under development and comments would be welcomed.]

- (2) Wholesale Market Procedures may deal with the following matters:
- (a)
 - (b)
 - (c) any other subject relevant to a declared wholesale gas market on which the Law or the Rules contemplate the making of Procedures.

[Note: The subjects to be contained in this list are currently under consideration.]

- (3) The Bulletin Board Procedures may deal with the following matters:
- (a) the manner in which AEMO maintains, and publishes information on, the Bulletin Board including the format of any registers or reports required or permitted by the Rules;
 - (b) the manner and form of applications to AEMO related to the Bulletin Board;
 - (c) the time, manner and form for providing AEMO with information in connection with the Bulletin Board and the collection and collation of that information;
 - (d) the terms and conditions of use of the Bulletin Board;
 - (e) restrictions on the use of the free text facility;
 - (f) the determination of any matter AEMO is required or allowed to determine under the Rules including forecasts of peak demand;
 - (g) the definition of:
 - (i) demand zones;
 - (ii) production zones;
 - (h) the meaning of symbols used for the purposes of the Bulletin Board;
 - (i) the definition of terms or the designation of status for the purposes of the Rules governing the operation of the Bulletin Board;
 - (j) the estimation, calculation and recovery of BB operating costs;
 - (k) any other subject relevant to the Bulletin Board on which the Law or the Rules contemplate the making of Procedures.

135EB Preconditions for making Procedures

- (1) AEMO may only make Procedures if AEMO is satisfied that the Procedures:
- (a) are consistent with the Law and the Rules; and
 - (b) are appropriate having regard to:
 - (i) the national gas objective; and
 - (ii) any compliance costs likely to be incurred by AEMO, the

AER, Registered participants or BB participants in consequence of the Procedures;

- (iii) any principles stated in the Rules that are applicable to the relevant Procedures.
- (2) In making Retail Market Procedures, AEMO must have regard to existing access arrangements.
- (3) However, AEMO may make Retail Market Procedures that are inconsistent with an access arrangement.

135EC Impact and implementation report

- (1) AEMO must, after consulting with Registered participants and other interested persons, establish a process (the **approved process**) for:
 - (a) examining and assessing a proposal for the making of Procedures; and
 - (b) preparing a report (an **impact and implementation report**) containing:
 - (i) a critical examination of a proposal for the making of Procedures; and
 - (ii) an assessment of the likely effect of the proposed Procedures; and
 - (iii) a recommendation on whether the Procedures should be made.
- (2) AEMO must consult on the proposed approved process in accordance with the extended consultation procedure.
- (3) AEMO must publish the approved process on its website.

135ED Proposal for making Procedures

- (1) AEMO or any other person may propose the making of Procedures.
- (2) The proposal must include:
 - (a) a draft of the proposed Procedures; and
 - (b) a description of, and an explanation of the reasons for, the proposed Procedures.
- (3) Within 10 business days of formulating, or receiving from some

other proponent, a proposal for the making of Procedures, AEMO must prepare an impact and implementation report in accordance with the approved process.

- (4) AEMO may reject a proposal if AEMO reasonably considers that the proposed Procedures:
 - (a) lie beyond AEMO's power to make Procedures; or
 - (b) are similar to Procedures proposed, but rejected, in the previous 12 months; or
 - (c) are misconceived or lacking in substance.
- (5) AEMO must give the proponent written reasons for rejection of a proposal under subrule (4).
- (6) If a proponent withdraws its proposal for the making of Procedures, the process for making the Procedures lapses unless AEMO decides to adopt the proposal.
- (7) If AEMO is the proponent, subrules (4) to (6) do not apply.

135EE Ordinary process for making Procedures

- (1) This Rule describes the ordinary process for making Procedures.

Note

This Rule represents the minimum requirements to which AEMO is subject. AEMO is not prevented from seeking useful commentary on the proposal by other means and from other sources.

- (2) AEMO must publish on its website a notice:
 - (a) setting out the proposed Procedures together with the impact and implementation report; and
 - (b) inviting Registered participants and other interested persons to submit written comments on the proposed Procedures to AEMO on or before a date (which must be at least 20 business days after the date of the notice) specified in the notice.
- (3) The notice under subrule (2) must be published no more than 10 business days after completion of the impact and implementation report.
- (4) AEMO must publish a decision on its website within 20 business days after the closing date for submissions that:
 - (a) summarises any comments received on the proposed

Procedures; and

- (b) sets out the proposed Procedures and, if they have been revised in the light of the comments received, describes how and why, and at whose suggestion, they have been revised; and
 - (c) if the decision is to make the proposed Procedures - specifies the day on which the Procedures are to take effect; and
 - (d) if the decision is against making the proposed Procedures – states that the proposal has been rejected.
- (5) At least 15 business days before the day on which new Procedures are to take effect or an earlier date fixed by the Rules in a particular case, AEMO must:
- (a) give notice to each Registered participant (in a manner and form determined by AEMO) of the new Procedures; and
 - (b) publish the new Procedures on its website; and
 - (c) make copies of the new Procedures available to the public at its public offices.
- (6) In determining whether or not to make Procedures under this Rule, AEMO:
- (a) must take into account all comments that it receives by the closing date for comments; and
 - (b) may, but is not required to, take into account any comments that it receives after that date.

135EF Expedited process for making Procedures

- (1) This Rule describes the expedited process for making Procedures.
- (2) The expedited process is applicable if AEMO considers that:
 - (a) the Procedures are urgently necessary:
 - (i) to ensure the proper operation of a regulated gas market; or
 - (ii) to ensure an adequate supply of gas; or
 - (iii) to ensure an appropriate response to an emergency; or
 - (b) the Procedures are non-material (i.e. unlikely to have a significant financial or operational impact on Registered

participants).

- (3) If the expedited process is applicable to a proposal, AEMO must, within 10 business days after completing an impact and implementation report, publish on its website a notice:
 - (a) setting out the proposed Procedures together with the impact and implementation report; and
 - (b) stating that AEMO considers the expedited procedure applicable to the making of the Procedures; and
 - (c) inviting Registered participants and other interested persons to submit written comments on the proposed Procedures to AEMO on or before a date (which must be at least 15 business days after the date of the notice) specified in the notice; and
 - (d) fixing a date (the ***proposed effective date***) for the proposed Procedures to take effect.
- (4) After the closing date for submissions, AEMO must, by notice published on its website:
 - (a) confirm the proposal and confirm the proposed effective date or defer the proposed effective date to a later date specified in the notice; or
 - (b) amend the proposal and confirm the proposed effective date or defer the proposed effective date to a later date specified in the notice; or
 - (c) defer a decision on the proposal, provide for further consultation before a final decision on the proposal is made, and provide for notification of the final decision; or
 - (d) withdraw the proposal.
- (5) At least 15 business days before the day on which Procedures are to take effect, AEMO must:
 - (a) give notice to each Registered participant (in a manner and form determined by AEMO) of the Procedures; and
 - (b) publish the Procedures on its website;
 - (c) make copies of the Procedures available to the public at its public offices.

135EG Time limits

AEMO may, by notice published on its website, extend a time limit fixed by or under this Part.

Part 15C Dispute resolution

Division 1 Preliminary

135F Definitions

In this Part:

eligible person means any of the following:

- (a) AEMO;
- (b) a Registered participant;
- (c) a person classified by some other provision of the Rules or the Procedures as a person to whom the dispute resolution provisions of this Part apply.

excluded dispute means:

- (a) an access dispute; or
- (b) a dispute that is classified as an excluded dispute under another provision of the Rules.

party to a relevant dispute means an eligible person whose interests are involved in or directly affected by the relevant dispute.

relevant dispute means a dispute (other than an excluded dispute) between eligible persons about:

- (a) the application or interpretation of these Rules or the Procedures; or
- (b) a liability or alleged liability under these Rules or the Procedures; or
- (c) a matter that is under some other provision of these Rules or the Procedures to be determined under this Part; or
- (d) a matter that is, by agreement between the parties to the dispute, to be resolved under this Part.

Stage 1 dispute resolution process means a dispute resolution

process under Rule 135H.

Stage 2 dispute resolution process means a dispute resolution process under Rules 135HB to 135HH .

135FA General principles

- (1) Dispute resolution processes under this Part should, as far as practicable, be guided by the national gas objective.
- (2) In any dispute resolution process under this Part:
 - (a) account must be taken of the skills and knowledge required for resolution of the relevant dispute; and
 - (b) the rules of natural justice are to be observed.
- (3) In addition, any Stage 1 dispute resolution process and any mediation process that may be used as part of a Stage 2 dispute resolution process should, as far as practicable:
 - (a) be simple, quick and inexpensive; and
 - (b) preserve or enhance the relationship between the parties to the relevant dispute; and
 - (c) place emphasis on conflict avoidance; and
 - (d) encourage resolution of relevant disputes without legal representation or undue legal formality.

135FB Resolution of relevant dispute not to extend to imposition of sanctions

- (1) This Part is directed at resolving relevant disputes and not at imposing sanctions for breach of the Rules or Procedures.
- (2) An action for breach of the Rules or Procedures may only be taken by the AER under the Law.

135FC Legal professional privilege

Nothing in these Rules requires a person to disclose:

- (a) information that is the subject of legal professional privilege; or
- (b) documents that would disclose information subject to legal professional privilege.

135FD Dispute management contacts

- (1) Each Registered participant and AEMO must nominate a person to be the first point of contact for relevant disputes (the ***dispute management contact***).
- (2) If a person (other than a Registered participant or AEMO) becomes a party to a relevant dispute, that person must nominate a dispute management contact within 2 business days of becoming a party to the relevant dispute.
- (3) A nomination of a dispute management contact under subrule (1) or (2) is made by giving the Adviser written notice of the name and contact details of the dispute management contact.
- (4) The person for whom the dispute management contact is nominated must promptly notify the Adviser of:
 - (a) any change of dispute management contact; and
 - (b) any changes to contact details for the dispute management contact.
- (5) The Adviser must publish the names and contact details of all current dispute management contacts as notified to the Adviser.
- (6) If the name and contact details of a dispute management contact for a party to a relevant dispute are published under subrule (5), any notice or other document to be served on the party is to be served on the dispute management contact.

Division 2 Adviser and dispute resolution panel pool

135G Appointment of dispute resolution adviser

- (1) There is to be a dispute resolution adviser (the ***Adviser***).
- (2) The Adviser:
 - (a) must have detailed knowledge and experience of non-litigious dispute resolution procedures (***alternative dispute resolution procedures***); and
 - (b) must be able to decide the most appropriate alternative dispute resolution procedures for a particular relevant dispute; and
 - (c) must have a good understanding of the natural gas industry or the capacity to acquire a good understanding of the natural gas industry quickly; and

- (d) must not have any material direct or indirect interest or association that involves or is likely to involve the Adviser in relevant disputes.
- (3) The Adviser will be appointed by the AER for a term of 3 years and, at the end of a term of appointment, will be eligible for re-appointment.
- (4) The Adviser will be appointed on terms and conditions determined by the AER.

135GA Disclosure of interest

The Adviser must disclose to the AER any material direct or indirect interest or association that involves or is likely to involve the Adviser in a relevant dispute.

135GB Adviser's functions

- (1) The Adviser is responsible for ensuring the effective operation of the provisions of this Part for dispute resolution.
- (2) The Adviser must report to AEMO and Registered participants at least once in each quarter about dispute resolution under this Part.

135GC Pool for constitution of dispute resolution panels

- (1) The Adviser must establish and maintain a pool of persons from which the members of a dispute resolution panel may be selected under Rule 135HD.
- (2) In selecting persons to constitute the pool, the Adviser must have regard to:
 - (a) the need for members of a dispute resolution panel to have an appropriate range of skills; and
 - (b) the need to ensure that the membership of the pool is properly representative (as far as practicable) of all participating jurisdictions.
- (3) The Adviser must review the composition of the pool at least once in every successive period of 3 years.

135GD Guidance notes

- (1) The Adviser may issue guidance notes relating to the conduct of any part of the Stage 1 or Stage 2 dispute resolution processes.
- (2) Guidance notes are intended to promote the efficient use of

resources and processes but are not binding.

Division 3 Dispute resolution procedures

135H Stage 1 dispute resolution process

- (1) A party to a relevant dispute may initiate the dispute resolution process by serving a notice (a **Stage 1 notice**) on one or more parties to the relevant dispute and giving a copy of the notice to the Adviser.
- (2) A Stage 1 notice must be served:
 - (a) within a period fixed by the Rules for the relevant dispute ; or
 - (b) if no such period is fixed by the Rules – within 90 business days after the relevant dispute arises.
- (3) A Stage 1 notice:
 - (a) must be in a form approved and published by the Adviser; and
 - (b) must contain the names of each eligible person that the party serving the Stage 1 notice believes to be a party to the relevant dispute and a statement setting out the circumstances giving rise to the relevant dispute.
- (4) Within 15 business days after service of a Stage 1 notice, representatives of the parties that served or were served with the Stage 1 notice must meet to determine, by agreement, the course of the dispute resolution process.
- (5) The meeting is to be held on a without prejudice basis and:
 - (a) may, if the parties agree, be arranged and chaired by the Adviser; and
 - (b) may be conducted in person, by telephone, video conference or a similar method of communication; and
 - (c) may agree that the dispute resolution process should proceed by direct discussions between parties, by mediation or in any other way; and
 - (d) must consider whether there are other parties to the relevant dispute who should be served with a Stage 1 notice;
 - (e) may agree, subject to subrule (6), to keep confidential:
 - (i) the fact that the relevant dispute exists; and

(ii) any information exchanged between them for the purposes of attempting to resolve the relevant dispute.

(6) If AEMO is served with a Stage 1 notice:

- (a) AEMO must immediately notify the parties and the Adviser of any other persons that AEMO considers may have an interest in the relevant dispute; and
- (b) if all parties agree, AEMO must notify those other persons of the relevant dispute.

(7) If:

- (a) a party to the relevant dispute on whom a Stage 1 notice is served does not agree to participate in the proceedings for resolution of the relevant dispute; or
- (b) the relevant dispute is not resolved within 45 business days of service of a Stage 1 notice (or a lesser period agreed by all parties); or
- (c) the disputing parties have not agreed to the giving of notification under subrule (6)(b) within 10 business days after AEMO gives its notice under subrule (6)(a),

a party may, no later than 60 business days after service of a Stage 1 notice, refer the matter to the Adviser by serving a Stage 2 notice.

135HA Effect of time limits for Stage 1

(1) If a Stage 2 notice has not been served within 60 business days of service of the Stage 1 notice in respect of a relevant dispute, any obligations or requirements arising under Rule 135H in relation to the relevant dispute, other than obligations of confidentiality, cease to have effect.

(2) If:

- (a) a Stage 1 notice has not been served within the time limit applicable under Rule 135H(2); or
- (b) a Stage 2 notice has not been served within 60 business days of service of the Stage 1 notice,

a Stage 2 notice may be served on the Adviser.

(3) If a Stage 2 notice is served under subrule (2), the Adviser will refer the relevant dispute to a dispute resolution panel but the panel may only determine the relevant dispute if, in the opinion of the panel, no

party would suffer undue prejudice as a result of the relevant dispute being referred outside the specified period.

135HB Stage 2 dispute resolution processes

- (1) A Stage 2 notice must:
 - (a) be in a form approved and published by the Adviser; and
 - (b) contain the names of all parties to the relevant dispute; and
 - (c) if the party serving the Stage 2 notice does not agree to the Adviser attempting to resolve the relevant dispute and requires the Adviser to refer the relevant dispute to a dispute resolution panel for determination, contain a statement to that effect.
- (2) Where a relevant dispute is referred to the Adviser, the Adviser must immediately notify each party identified in the Stage 2 notice of that fact. Each party must within 15 business days of being so notified, provide to the Adviser a statement setting out:
 - (a) a brief history of the relevant dispute and the circumstances giving rise to it; and
 - (b) a statement of the issues involved in the relevant dispute.
- (3) The Adviser must, within 30 business days of being served with a Stage 2 notice:
 - (a) if the parties agree – attempt to resolve the relevant dispute by any means the Adviser, having regard to the principles set out in Rule 135FA(2) and (3), considers appropriate; or
 - (b) refer the relevant dispute to a dispute resolution panel for determination.
- (4) If the Adviser attempts to resolve the relevant dispute under subrule (3)(a), the Adviser may, at any time and for any reason, abandon the attempt and refer the relevant dispute to a dispute resolution panel for determination.
- (5) If the Adviser refers a relevant dispute to a dispute resolution panel, the Adviser must promptly:
 - (a) publish notice of the referral to all Registered participants; and
 - (b) give notice of the referral to AEMO, the AER and the AEMC.

135HC Disclosure of information by direction

- (1) If a party to the relevant dispute has requested, in writing, information that is in the possession of another party for the purpose of:
- (a) preparing a Stage 1 notice; or
 - (b) participating in a Stage 1 process; or
 - (c) preparing the statement required to be provided under Rule 135HB(2),

and the other party has either refused to provide the information or failed to provide the information within 15 business days of the request, the party requesting the information may ask the Adviser to appoint a member of the dispute resolution panel pool to give directions about the disclosure of information.

- (2) A member of the pool appointed to exercise functions under this Rule must be a former judge of a State or Territory Supreme Court, the Federal Court or the High Court.
- (3) A member of the pool so appointed may give one or more of the following directions to a party to the relevant dispute:
- (a) a direction that the party provide to the member of the pool all information in its possession that is relevant to the relevant dispute;
 - (b) a direction that the party provide to another party such information as the member of the pool considers to be necessary for a purpose referred to in subrule (1);
 - (c) a direction to a party to which information may be provided relating to the use and disclosure of the information by that party (including a direction to keep information confidential);
 - (d) a direction that a party enter into a confidentiality agreement, and any other person to whom the information may be disclosed by that party enter into a confidentiality agreement, before the information is provided;
 - (e) a direction specifying the time within which, the means by which and the form in which the information is to be provided;
 - (f) a direction specifying the terms and conditions of a confidentiality agreement that a party or other person is to enter into.

- (4) A direction under subrule (3) is binding on the party to which it is given and the party must comply with it.
- (5) A person appointed to give directions under this Rule:
 - (a) is not bound by the rules of evidence but must observe the rules of natural justice; and
 - (b) is subject to the same requirements as to actual or apparent conflict of interest as a member of a dispute resolution panel.
- (6) A decision to make, or not to make, a direction under this Rule is, for the purposes of section 270B of the Law, an appealable decision.

135HD Establishment of dispute resolution panel

- (1) If the Adviser refers a relevant dispute for resolution by a dispute resolution panel, the Adviser must establish the dispute resolution panel to determine the relevant dispute.
- (2) A dispute resolution panel consists of 3 members or a lesser number of members agreed by the parties.
- (3) A person is eligible for appointment to a panel if, in the Adviser's opinion, the person is:
 - (a) expert in the field to which the relevant dispute relates; or
 - (b) experienced or trained in dispute resolution techniques.
- (4) A member of the panel is to be drawn from the pool unless, in the Adviser's opinion, no suitable person is available from the pool (and, on the appointment of a person from outside the pool as a member of a panel, the person becomes a member of the pool).
- (5) The Adviser will appoint one member of a dispute resolution panel as the Chair of the panel.
- (6) The Adviser must consult with the parties on the composition of the dispute resolution panel (but the obligation to consult does not apply to a person who is later joined as a party).
- (7) A decision by the Adviser on the composition of the dispute resolution panel is final and binding on all parties to the relevant dispute.
- (8) If:
 - (a) a party to a relevant dispute reasonably believes that the

Adviser has an interest that may compromise the Adviser's impartiality in relation to that relevant dispute or the Adviser discloses the existence of such an interest; and

- (b) a party objects, by written notice to the Adviser, to the Adviser exercising functions under this Rule,

a person must be appointed to act in the position of the Adviser under this Rule with the written agreement of all parties or, if they have not agreed on such an appointment within 5 business days of the date of the objection, by the AER at the request of any party.

- (9) A person is not eligible to be appointed and must not remain as a member of a Dispute resolution panel if the person has an interest that compromises, or would reasonably be seen to compromise, the person's impartiality in relation to the relevant dispute. The person must disclose any such interest to the Adviser before appointment and, if the interest arises or the person becomes aware of it after appointment, must disclose the interest to the Adviser and the parties to the relevant dispute. The parties may, by written agreement, waive their right to require the person to withdraw from the proceedings.
- (10) A member of the pool who is a member, or former member, of a dispute resolution panel is eligible for appointment as a member of another dispute resolution panel.

135HE Parties to proceedings before the panel

- (1) The dispute resolution panel may resolve any question about who are the parties to the relevant dispute and:
 - (a) may permit or order a person to join, or be joined, as party to the proceedings before the panel; or
 - (b) may permit the withdrawal or order the exclusion of a person as party to the proceedings before the panel.
- (2) If a person is joined as a party after proceedings have commenced, the panel must give the party a written notice setting out:
 - (a) the names of the other parties to the relevant dispute; and
 - (b) a brief history of the relevant dispute and the circumstances giving rise to it; and
 - (c) the results of any earlier dispute resolution processes undertaken in relation to the relevant dispute under the Rules; and

- (d) if the person has been involuntarily joined as a party to the proceedings by order of the panel – a statement of the grounds on which the panel has made the order.

135HF Proceedings of the dispute resolution panel

- (1) The dispute resolution panel may give the parties such directions as it considers necessary for the proper conduct of the proceedings.
- (2) The directions may (for example) include one or more of the following:
 - (a) a direction as to the place where the proceedings are to be conducted (which may include premises of a party);
 - (b) a direction requiring the parties to prepare and exchange written submissions or other documents;
 - (c) a direction limiting or prohibiting the cross-examination of witnesses;
 - (d) a direction that the proceedings or part of the proceedings be conducted solely on the basis of documentary evidence or written submissions;
 - (e) a direction that the party provide the panel with all information in its possession that is relevant to the relevant dispute;
 - (f) a direction that the party provide information relevant to the relevant dispute to another party;
 - (g) a direction to a party to which information is to be provided relating to the use and disclosure of the information by that party (including a direction to keep information confidential);
 - (h) a direction that a party enter into a confidentiality agreement, and any other person to whom the information may be disclosed by that party enter into a confidentiality agreement, before the information is provided;
 - (i) a direction specifying the time within which, the means by which and the form in which the information is to be provided;
 - (j) a direction specifying the terms and conditions of a confidentiality agreement that a party or other person is to enter into.
- (3) The panel may, with the consent of all parties, refer a relevant dispute for mediation.

- (4) The panel:
 - (a) is not bound by the rules of evidence and may inform itself in any way it thinks fit; but
 - (b) must observe the rules of natural justice.

135HG Decisions of the dispute resolution panel

- (1) A decision agreed by a majority of the members of a dispute resolution panel is a decision of the panel and, if the panel consists of 2 members who are unable to reach a unanimous decision, the Chair's decision is the decision of the panel.
- (2) A dispute resolution panel must decide a relevant dispute as quickly as possible and, in any case, within any maximum time limit fixed for the relevant dispute by the Rules.
- (3) However, the panel may extend a maximum time limit if:
 - (a) all parties agree in writing; or
 - (b) the panel recommends the extension to the Adviser (after taking into account possible prejudice to the parties) and the Adviser agrees in writing to the extension; or
 - (c) the panel refers the relevant dispute for mediation.

135HH Determination of relevant disputes

- (1) The dispute resolution panel may make a determination:
 - (a) requiring a party to the relevant dispute to do all or any of the following:
 - (i) to take specified action;
 - (ii) to cease or refrain from taking specified action;
 - (iii) to pay a monetary amount to another party to the relevant dispute; and
 - (b) granting any other form of relief that may be appropriate in the circumstances; and
 - (c) fixing the time for compliance with the determination.
- (2) A determination of a dispute resolution panel is binding on all parties to the relevant dispute.
- (3) As soon as practicable after complying with the determination of a

dispute resolution panel, the person required to comply must report to the Adviser.

- (4) Non-compliance with the determination is a breach of the Rules in respect of which the AER may take action in accordance with the Law.

Division 4 Miscellaneous

135J Legal representation

- (1) A person is entitled to be represented by a lawyer in proceedings under this Part.
- (2) However, in Stage 1 proceedings a party is not entitled to use its lawyer as its primary advocate unless all other parties agree.
- (3) A dispute resolution panel may give any direction it considers appropriate about the role of the parties' legal representatives in the proceedings.

135JA Costs of Adviser, dispute resolution panel etc

- (1) The costs of Stage 1 and Stage 2 dispute resolution processes including the costs of the Adviser, a member of the pool, or a dispute resolution panel in relation to a relevant dispute are to be borne by the parties to the relevant dispute.
- (2) Subject to a determination by the dispute resolution panel, the costs are to be borne:
 - (a) as agreed by the parties; or
 - (b) if there is no agreement – equally.
- (3) The dispute resolution panel may, on application by an interested party, alter the allocation of costs under subrule (2) if satisfied that a party unreasonably prolonged the relevant dispute or that there is some other good reason to alter the allocation of costs under that subrule.

135JB Settlement by agreement

- (1) The parties to proceedings for the resolution of a relevant dispute may settle the proceedings by a written agreement between them.
- (2) An agreement under this Rule is binding on the parties.
- (3) Non-compliance with an agreement for the settlement of a relevant dispute is a breach of the Rules in respect of which the AER may

take action in accordance with the Law.

135JC Publication of determinations

- (1) A dispute resolution panel must, on making a determination, provide the AER with a copy of the determination.
- (2) The AER must publish the determination (with the exclusion of confidential information).

Part 15D Gas statement of opportunities

135K Definitions

In this Part:

participating jurisdiction does not include Western Australia or the Northern Territory unless this Part applies in the relevant jurisdiction.

peak day capacity

- (a) when used in reference to a pipeline – means the maximum quantity of natural gas that can be transported through the pipeline on a gas day under normal operating conditions;
- (b) when used in reference to a production facility – means the maximum daily production capacity of the production facility under normal operating conditions;
- (c) when used in reference to a storage facility – means the maximum quantity of natural gas that the storage facility can hold in storage and the maximum daily quantity of natural gas that the storage facility can withdraw, inject or produce

135KA Application

- (1) This Part does not apply in Western Australia until a day fixed by or under legislation of that State.
- (2) This Part does not apply in the Northern Territory until a day fixed by or under legislation of that Territory.

135KB Contents of GSOO

- (1) The gas statement of opportunities must contain, for each participating jurisdiction, for the period of 10 years commencing on 1 January of the first calendar year to follow its publication, information about:

- (a) natural gas reserves (including prospective or contingent resources); and
 - (b) annual and peak day capacity of, and constraints affecting, gas production facilities; and
 - (c) committed and proposed new or expanded gas production facilities; and
 - (d) projected demand for natural gas (including annual and peak day forecasts) for each demand zone; and
 - (e) annual and peak day transmission capacity and constraints (including interconnection constraints); and
 - (f) peak day capacity of, and constraints on, storage facilities; and
 - (g) committed and proposed new transmission pipelines and pipeline augmentations;
 - (h) committed and proposed new or expanded storage facilities.
- (2) The gas statement of opportunities must also, if practicable, include forecasts of annual reserves and demand for a further period of 10 years from the end of the period of 10 years referred to in subrule (1).
- (3) Forecasts made for the purposes of the gas statement of opportunities must be made as far as possible on a consistent basis.

135KC Revision of GSOO

The gas statement of opportunities must be revised in each calendar year and re-published by 31 December of that year.

135KD Publication of supplement to GSOO

If, before the last quarter of a calendar year, significant and verifiable new information relevant to the gas statement of opportunities is brought to AEMO's attention, AEMO must publish on its website as soon as practicable a supplement to the gas statement of opportunities:

- (a) summarising the new information; and
- (b) indicating how the gas statement of opportunities is affected by the new information.

8 Amendment of Rule 136 (Interpretation)

Rule 136

Insert (in alphabetical order)

confidential information means information:

- (a) provided to a Registered participant or to AEMO under or in connection with the Rules or the Procedures or derived from information so provided; and
- (b) classified by or under the Rules or the Procedures, or by AEMO, the AER or the AEMC, as confidential information.

9 Insertion of Rule 138A

After Rule 138

Insert

138A General confidentiality obligation of Registered participant

- (1) A Registered participant must keep confidential any confidential information that comes into the participant's possession or control in the course of the participant's business.
- (2) A Registered participant:
 - (a) must not disclose confidential information except as permitted by these Rules; and
 - (b) must only use or reproduce confidential information for the purpose for which it was disclosed or another purpose contemplated by these Rules; and
 - (c) must not permit unauthorised persons to have access to confidential information.
- (3) A Registered participant must use all reasonable endeavours to prevent unauthorised access to confidential information in its possession or control.
- (4) A distributor must not disclose to a retailer that is a related body corporate of the distributor confidential information about a retailer that is not a related body corporate of the distributor.
- (5) This Rule does not prevent:
 - (a) the use or disclosure of information that has entered the public domain; or

- (b) the disclosure, subject to subrule (4), of information for the purposes of the Rules or the Procedures or for obtaining advice about the application of the Rules or the Procedures to officers, employees, auditors or professional advisers of the Registered participant or a related body corporate; or
 - (c) the use or disclosure of confidential information with the consent of the person to whom the duty of confidentiality is owed; or
 - (d) the use or disclosure of information as required by law or a lawful requirement imposed by a government agency, stock exchange or other authority or body; or
 - (e) the use or disclosure of information for the purposes of legal proceedings (including arbitration proceedings, proceedings for an expert determination of a disputed question, or proceedings by way of mediation or some other alternative dispute resolution mechanism); or
 - (f) the use or disclosure of information to protect the safety of any person or property; or
 - (g) the use or disclosure of information reasonably required in connection with the Registered participant's financing arrangements, investment in the Registered participant, or a disposal of the Registered participant's assets; or
 - (h) the disclosure of information to AEMO, the AER, the AEMC or the ACCC or another regulatory body having jurisdiction over the Registered participant; or
 - (i) the use or disclosure of information of a historical nature for the preparation of a report under the Rules or the Procedures; or
 - (j) the use or disclosure of information in an aggregated or other form in which its confidential aspects cannot be identified; or
 - (k) the use or disclosure of trivial information.
- (6) A Registered participant that proposes to disclose information under subrule (5)(b), (d) or (h) must inform the person to whom disclosure is proposed of the confidentiality of the information.
- (7) AEMO must develop and implement as far as practicable a policy to protect information that AEMO acquires in the exercise of its statutory functions from use or disclosure contrary to the Rules or the Procedures.

- (8) AEMO must, in consultation with the AEMC, develop and implement policies:
 - (a) to protect from unauthorised use or disclosure information acquired by bodies constituted under the Rules; and
 - (b) to provide for dissemination of such information, where appropriate, among Registered participants.
- (9) A Registered participant is liable to indemnify the AEMC, the AER and AEMO against loss or damage sustained as a result of a breach of this Rule by the Registered participant or an officer, employee or agent of the Registered participant.
- (10) When confidential information is disclosed either in accordance with or in breach of this Rule, the duty of confidentiality imposed by this Rule extends to the person to whom the information is disclosed.

10 Amendment of rule 143 (This Part does not apply in Western Australia)

Rule 143

Omit "National Gas Access (Western Australia) Act 2008"

Insert "National Gas Access (WA) Act 2009"

11 Revocation of Part 18, Division 4

Part 18, Division 4 (Rules 156 to 162)

omit

12 Amendment of Schedule 1

Schedule 1, clause 1, definition of ***date of transition***, paragraph (b)

Omit "section 31 of the National Gas Access (Western Australia) Act 2008"

Insert "section 30 of the National Gas Access (WA) Act 2009"