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1 June 2012

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

RECEIVED
05 JUN 2012

Dear Mr Pierce

Rule change proposal – Market Operator Service and Bulletin Board pipeline operator cost recovery processes

Please find attached a rule change proposal to amend the provisions of the National Gas Rules (Rules) relating to Market Operator Service (MOS) allocation service costs and Bulletin Board (BB) aggregation and information services costs.

Following the first use of provisions in Part 20 of the Rules for assessment of MOS allocation service costs in 2011, the Australian Energy Market Operator (AEMO) and the Australian Energy Regulator (AER) identified a number of issues with the current processes.

The AER has developed this rule change proposal in close consultation with AEMO, and AEMO has provided a letter of support, which is included as an attachment to the proposal.

The proposed changes to the assessment processes include the AER taking a decision making role on cost invoices referred to it for assessment, instead of its current role providing advice to AEMO. This improves the clarity of roles and provides for a more appropriate allocation of relevant functions to the AER in its role as economic regulator.

The AER is also proposing information requirements and a decision making test that would put the onus on pipeline operators to justify why their invoiced costs reflect the efficient costs that would be incurred by a prudent operator. This will improve the efficiency and operation of the assessment process, including by allowing for more effective engagement of other stakeholders in the process. Assessment timeframes would also be extended to allow sufficient time for the AER to appropriately assess cost invoices, and to clarify these with pipeline operators if required.

Together the proposed changes will advance the National Gas Objective and provide for a more efficient process for assessing MOS and BB pipeline operator cost recovery proposals.

The AER recognises that the proposed Rule will not be finalised in time for the assessment of invoices for 2011-12 costs. However, we hope for the AEMC's consideration to be finalised in advance of June 2013, to allow it to apply for the assessment of invoices for 2012-13 costs.

Should you have any questions or queries regarding the attached proposal, please contact Tom Leuner on (03) 9290 1890.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Reeves', written in a cursive style.

Andrew Reeves
Chairman



Rule change proposal

Market Operator Service (MOS) and Bulletin Board (BB) Pipeline Operator Cost Recovery Processes

AER's proposed changes to the National Gas Rules

June 2012

For the purposes of section 298 of the *National Gas Law*, this rule change is proposed by:

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The following matters are set out in this rule change proposal:

- a description of the Rule that the AER proposes;
- a statement of the nature and scope of the issue to be addressed and an explanation of how the proposed Rule would address the issue;
- an explanation of how the proposed Rule will or is likely to contribute to the achievement of the national gas objective; and
- an explanation of the expected benefits and costs and the potential impacts of the proposed Rule on those likely to be affected.

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Attachment A: Summary of 2010-11 process

Attachment B: Proposed Rules

Attachment C: AEMO letter of support

1 Overview of proposal

In 2011, following the commencement of the Gas Short Term Trading Market (STTM), pipeline operators sought recovery of Market Operator Service (MOS) allocation service costs, which resulted in the MOS cost recovery processes prescribed in Part 20 of the National Gas Rules (Rules) being tested for the first time. Following the conclusion of this process, the Australian Energy Regulator (AER) and the Australian Energy Market Operator (AEMO) reviewed the process for MOS cost recovery. The AER and AEMO identified a number of key issues with the current process in light of recent experiences.

The AER has developed this rule change proposal in close consultation with AEMO, and AEMO has provided the letter at Attachment C in support of the proposal.

This rule change proposal seeks to modify the Rules to allow for a more efficient assessment process for MOS allocation service costs. As the Rules provide for substantially similar process in relation to the recovery of Bulletin Board (BB) aggregation and information costs incurred by BB pipeline operators, it is proposed that corresponding modifications are also made to the BB process. For convenience, this proposal focuses on the Rules relating to MOS, but the same principles, issues and proposed solutions apply for the BB (Part 18, Division 10 of the Rules).

The key proposed changes to the assessment process are:

- Additional information will be published once cost estimates and cost invoices are provided. Information requirements will be tightened so that pipeline operators must submit more supporting information with their cost estimates and invoices justifying why costs reflect the efficient costs that would be incurred by a prudent operator. This will improve assessment of the invoices and allow other stakeholders to more effectively comment. Following the outcome of the rule change request, AEMO proposes to consider if any associated changes are required to its STTM Procedures.
- The AER will become the decision maker on the appropriate level of MOS allocation service costs in cases where AEMO receives an objection to the payment of an invoice or where AEMO may otherwise exercise its discretion to refer an invoice to the AER. Currently AEMO is the final decision maker, even where the AER is required to provide advice.
- The AER will determine an amount of MOS allocation service costs that it considers reflects the efficient costs that would be incurred by a prudent operator. This efficiency test will replace the current assessment of whether the invoiced costs are 'reasonably incurred'.
- The timeframes provided in the Rules will be extended so that the AER has sufficient time to conduct an appropriate assessment of the cost invoices, including allowing the AER to seek additional information from pipeline operators if required. It is proposed that the AER be required to make a decision within 60 business days, but that the AER can extend this by a further 30 business

days if required (for example if the AER has been waiting on additional information from a pipeline operator and more assessment time is needed).

- The provision of further clarity around the definition of MOS allocation service costs. This should make clear that the MOS allocation service includes allocating pipeline deviations as MOS or overrun MOS in accordance with Gas Rule 421, but does not include other parts of the process for determining STTM facility allocations. This will make it clearer that a broader set of costs cannot be recovered under the definition of MOS allocation service costs.

The following key features of the assessment process would not change:

- Pipeline operators continue to provide a cost estimate in advance. The cost estimate is simply published by AEMO, no assessment or opportunity for comment occurs until cost invoices are submitted. Stakeholders have indicated that there is benefit in retaining this step in the process so as to get an up front indication of the likely costs.
- AEMO continues to receive cost invoices and associated supporting evidence from pipeline operators.
- AEMO continues to publish invoices and seek objections.
- If no objections are received AEMO can pay invoices without the AER being involved in the process (although AEMO could exercise its discretion to refer an invoice to the AER).
- The AER is involved in assessing invoices where an objection is received (however the AER would become decision maker instead of it being an option for AEMO to seek the AER's advice).
- AEMO makes final payment of all invoices (in accordance with the AER determination if applicable).

The making of the proposed Rule contributes to the National Gas Objective (NGO) in that it would contribute to the efficient operation and use of natural gas services and is in the long term interests of consumers.

The proposed assessment process should give greater confidence to shippers that costs have been assessed appropriately and this will promote the efficient allocation of costs. Greater opportunities will be created for shippers to respond to justifications of invoices put forward by put forward by pipeline operators and for pipeline operators to respond to AER requests to clarify their proposals. Assessment costs are not expected to increase, with the process remaining appropriate for the level of costs being assessed.

The remainder of this rule change proposal is structured as follows:

- Background on the current process and some of the issues that arose when the AER and AEMO assessed 2010-11 MOS allocation costs in late 2011

- Statement of issues on the existing Rules (the nature and scope of issues with the current rules and how the proposed Rule addresses the identified issues)
- Description of the proposed Rule
- Assessment of proposed Rule against National Gas Objective
- Statement of benefits and costs
- Draft text of proposed Rule.

2 Background

2.1 MOS allocations and STTM facility allocations

In the STTM hubs of Adelaide, Sydney and Brisbane, the respective pipeline operators are required to allocate Market Operator Service (MOS) gas on a daily basis, in response to deviations on pipelines or at the hubs. MOS is a standing agreement between pipeline operators and shippers to balance positive or negative deviations at the end of each gas day; by increasing or decreasing the quantity of gas supplied to the hub.

STTM pipeline operators are also required under rule 419 to provide AEMO with a daily allocation notice which includes:

- STTM facility allocations (deliveries) for each shipper on that pipeline; and
- MOS allocations, being the quantity and price of MOS gas allocated to each MOS provider on that pipeline, using AEMO's MOS offer stack.¹

Rule 421 outlines the procedures pipeline operators are to follow when allocating MOS gas (i.e. balancing gas) in response to pipeline deviations on a gas day. Pipeline operators must also notify AEMO if no MOS gas was allocated for a gas day.

This simplified example explains the link between STTM facility allocations, MOS allocations and pipeline deviations by reference to what was nominated to a pipeline and what was delivered:

- Shippers nominate 60 TJ for shipping to a hub on pipeline X
- Higher than forecast demand in the hub means 65 TJ of gas enters the hub from pipeline X on the gas day – the STTM facility allocation is 65 TJ
- The MOS component of that STTM facility allocation is 5 TJ being the difference between the actual gas measured entering the hub and gas nominated (assuming the pipeline attempted to ship what was nominated) – the pipeline deviation.

¹ MOS providers (shippers) provide their MOS offers on a fixed 3-month basis; these are capped at \$50/GJ. Pipeline operators allocate daily MOS from lowest to highest priced offers.

MOS is therefore derived based on total STTM facility allocations and total nominations.

2.2 MOS allocation service costs

The Rules allow for pipeline operators that wish to recover their costs associated with providing the MOS allocation service to seek to do so.

The key definition determining what costs can be claimed is outlined in rule 364:

MOS allocation service costs means the costs reasonably incurred by an STTM pipeline operator (including fees and expenses payable to an allocation agent) for the purpose of allocating pipeline deviations as MOS or overrun MOS in accordance with rule 421 (the MOS allocation service), to the extent that those costs:

- (a) are either:
 - (i) incremental costs incurred exclusively for the provision of the MOS allocation service; or
 - (ii) a proportionate share of any incremental costs reasonably attributable to the provision of the MOS allocation service; and
- (b) would not have been incurred but for the requirement to provide the MOS allocation service; and
- (c) are not offset by benefits reasonably available to the STTM pipeline operator in relation to its other activities.

Clause 424(6) of the Rules also relevantly provides that invoices provided to AEMO to recover MOS allocation service costs must not include amounts a pipeline operator has already recovered, or is entitled to recover, from STTM shippers or any other person either at law (other than Part 20 of the Rules or the National Gas Law) or under any contract, arrangement or understanding, or pursuant to an access arrangement.

2.3 Assessment of requests to recover MOS allocation service costs

This rule change proposal mainly seeks to address identified deficiencies with the current process set out in rules 424 and 425 for the assessment of proposals from pipeline operators to recover their MOS allocation service costs.

A summary of the requirements of rules 424 and 425 is as follows:

Submission of cost estimates and invoices

Pipeline operators that wish to recover MOS allocation service costs must:

- give AEMO an estimate of MOS allocation service costs they will seek to recover by 31 January in each year, for the financial year commencing on the following 1 July

- notify AEMO as soon as possible of any expected material variation from the cost estimate
- issue AEMO with a tax invoice regarding costs for the period ending 30 June, no later than 20 business days after the start of the next financial year
- provide reasonable evidence to show cost estimates and any notified variations are reasonable and invoiced costs were actually incurred for providing MOS allocation services. Evidence must also justify any material variation between invoiced amounts and the most recent cost estimate provided to AEMO.

AEMO is required to:

- publish any cost estimates received
- publish any notice of variation
- publish any invoices received and seek comments for at least 10 business days as to whether there is any objection to payment of those invoices.

Assessment and payment of invoiced amounts

After AEMO seeks objections on invoices received, the assessment of those invoices is to be conducted as follows:

- If an objection to the payment of an invoice is received, AEMO may, within 10 business days after receiving an objection, request the AER's advice on the amount payable.
- If AEMO seeks the AER's advice:
 - the AER must provide its advice to AEMO within 15 business days of the request, having regard to the evidence provided to AEMO.
 - AEMO must determine the amount payable, consistent with the AER's advice, within 30 business days of receiving the advice.
- If the AER does not provide advice to AEMO (this could be because no objection is received or because AEMO does not seek the AER's advice), AEMO must determine the amount payable, having regard to the evidence provided by the pipeline operator, within 30 business days of receiving the invoice.
- AEMO must pay any amount it has determined as payable as soon as practicable after making the determination.

A similar process exists in rules 197 and 198 in relation to assessment of costs associated with providing aggregation and information services in relation to the Gas Bulletin Board.

2.4 Assessment process for 2010-11 MOS allocation service costs

A summary of how the above process worked in practice for the assessment of MOS allocation service costs in 2010-11 is at **Attachment A**. This was the first relevant assessment under rules 424 and 425, following the STTM's commencement (at Sydney and Adelaide hubs) on 1 September 2010.

In brief, key issues to arise were:

- Once invoices were published, an objection to the invoices was received and AEMO sought the AER's advice.
- The AER was ultimately unable to provide advice to AEMO specifying the amount payable for one of the four pipeline operator's invoiced costs because of the extremely tight deadline and the need to seek further information and clarify aspects of the invoices with the pipeline operators within that deadline.
- Pipeline operators expressed differing interpretations of what costs were recoverable under the definition of MOS allocation service costs.
- AEMO determined the amounts payable, but because the AER was unable to provide advice on the amount payable for one pipeline operator, AEMO had to do further work and seek additional advice regarding the costs of the pipeline operator prior to making the determination.

2.5 Summary of MOS allocation service costs approved and cost estimates

The MOS allocation service cost claims since market commencement are summarised in the table below. The Adelaide and Sydney STTM hubs commenced on 1 September 2010, which means setup costs prior to that date and operating costs to 30 June 2011 for the SEAGas Pipeline, Moomba Adelaide Pipeline (MAP), Eastern Gas Pipeline (EGP) and Moomba Sydney Pipeline (MSP) have already been assessed and paid. For 2011-12 and 2012-13 cost estimates have been submitted by the pipeline operators, but costs have not yet been assessed. The start up costs for Roma to Brisbane Pipeline (RBP) is also a cost estimate, and relates to costs incurred prior to the commencement of the Brisbane STTM hub on 1 December 2011.

Table 1: Summary of pipeline operator MOS allocation service costs

MOS costs	Adelaide		Sydney		Brisbane
	SEAGas	MAP	EGP	MSP	RBP
Start up/ commencement costs	\$62,724	\$37,387	\$239,726	\$589,157	\$624,602 (estimate)
1 Sept 10 – 30 June 11	\$12,314	\$3,413	\$23,413	\$226,689	N/A
2011 – 2012 estimates	\$15,000	\$268,943	\$18,601	\$268,653	\$127,832
2012-2013 estimates	\$15,000	\$234,803	\$18,601	\$110,762	\$110,762

Source: AEMO, *Current Energy Market Budget and Fees: STTM MOS Allocation Service Costs*, http://www.aemo.com.au/registration/budget_fees.html.

3 Statement of issues on existing Rules

This section outlines each of the identified issues with the current Rules and then how the proposed Rule addresses the identified issues.

3.1 Efficiency of costs

3.1.1 Nature of issues with current Rules

Currently the assessment of MOS allocation service costs includes whether the proposed costs meet the definition of having been ‘reasonably incurred’ by the pipeline operator.

However, there is currently no assessment of whether the level of costs incurred by the pipeline operator is an efficient level of costs or the need for pipeline operators to justify that their costs were incurred efficiently or prudently. An assessment of efficiency is considered to place more appropriate incentives on pipeline operators to reduce their costs to efficient levels as it reduces the likelihood of recovery of costs that are above efficient levels. It is appropriate that STTM shippers are not required to pay for costs above those that the AER considers have been incurred efficiently. As further discussed in section 5 of this proposal, the proposed change to the decision making test to include assessment on the basis of efficiency is considered to be an important part of ensuring that the MOS assessment process to be administered by the AER appropriately advances the National Gas Objective.

3.1.2 How the proposed Rule addresses the identified issues

It is proposed that the pipeline operator will need to provide evidence that costs are efficient, and in determining the appropriate level of MOS allocation service costs the AER would apply an efficiency test, rather than a test of reasonableness.

It is proposed that the AER be required to assess the invoice by reference to the efficient MOS allocation service costs that the AER considers would have been incurred by a prudent operator.

The AER may refuse to accept the amount specified in an invoice if it is not satisfied by the associated evidence that the invoice reflects efficient costs. This provides further incentives for the pipeline operators to provide appropriate evidence to justify their cost invoice.

3.2 Information requirements - justification of invoices

3.2.1 Nature of issues with current Rules

The information provided by pipeline operators (and therefore the information published by AEMO for comment), currently provides relatively limited justification for the level of MOS service costs claimed in cost invoices.

Current information requirements (primarily specified in the STTM Procedures) also mean that in practice the AER must seek significant additional information from pipeline operators in order to undertake the assessment of invoiced costs.

3.2.2 How the proposed Rule addresses the identified issues

Pipeline operators should be required to explain in sufficient detail the reasons why the costs that they are claiming are efficient (rather than just ‘reasonably incurred’).

Amendments to rule 424(5) will be needed to ensure that the required evidence included with cost estimates and invoices provide justification that costs reflect efficient costs that could be expected to be, or would have been, incurred by a prudent operator. The AER will need to have regard to this evidence when making its determination.

AEMO will consider any associated changes to the specific information requirements in its STTM Procedures following the outcome of this rule change process.

Improved information requirements will improve the quality of consultation and will reduce the amount of information the AER needs to subsequently request at the time of assessment.

3.3 Appropriate decision maker

3.3.1 Nature of issues with current Rules

The pipeline operators submit their tax invoices after each financial year to AEMO who publishes and seeks objections. If it receives an objection AEMO must decide whether to seek the AER’s advice on the amount payable. After doing so, and receiving that advice, AEMO still has to determine the amount payable to pipeline operators.

Therefore under the current process, AEMO is the decision maker (even where advice is provided by the AER) on whether the invoiced costs are reasonable. Arguably, it may be more appropriate for the AER, as economic regulator, to be responsible for making determinations on the appropriate level of MOS allocation service costs.

Further, if the AER is unable to provide advice in the timeframe provided (as occurred in 2010-11), there is currently potential for ‘double handling’ in that the relevant information will be handed back to AEMO for it to then consider the reasonableness of the claims.

3.3.2 How the proposed Rule addresses the identified issues

AEMO and the AER consider that the AER is in the best position to assess cost invoices and determine the appropriate level of MOS allocation service costs. This would include an assessment of the efficient level of costs that would have been incurred by a prudent operator. On this basis it is proposed that the AER becomes the decision maker where an objection is raised, and in this circumstance will advise AEMO of the amounts to pay. If no objection is raised, AEMO could pay the invoiced amount without need for a determination from the AER. Alternatively, AEMO could exercise a proposed discretion to refer an invoice to the AER in the absence of an objection if it considers that the invoice should be assessed.

Under this proposed arrangement AEMO continues to receive invoices from pipeline operators and seeks objections. It also continues to pay invoices. The change to the process recognises the AER’s role as economic regulator by making it responsible for

determinations on MOS allocation service costs, where an assessment of the invoice is required.

3.4 Time allowed for assessment of invoiced costs

3.4.1 Nature of issues with current Rules

One of the most significant problems with the current process relates to insufficient time for undertaking an assessment of MOS allocation service costs. Under the current rules, the AER is required to respond to an AEMO request for advice within 15 business days. This is insufficient to allow for a robust and comprehensive assessment of multiple pipeline operators' MOS allocation costs. In 2010-11 four pipelines needed to be assessed and if the number of STTM hubs grows there will also be additional pipelines to assess within the timeframe (five pipelines will need to be assessed in 2011-12).

Notwithstanding the tight deadline, the AER is also required to seek supporting information and evidence of the proposed costs, allowing as least 5 business days (for procedural fairness). Following this, AER staff have to undertake the analysis, and at the same time liaise with the pipeline operators to clarify their cost proposals. Finally staff are required to write the advice and seek AER Board approval, and allow time for any changes. All of the above currently needs to be done within 15 business days.

Despite the AER being the body undertaking the key assessment work, it only has 15 business days to provide advice to AEMO, while AEMO has 30 business days after receiving AER advice to make a determination.

It is noted also that a significant amount of the AER's assessment time is spent waiting on information from businesses – as the clock does not stop when the AER is waiting for information this eats into assessment time.

As noted, while the AER provided advice to AEMO on MOS allocation service costs for APA Group in 2010-11, the AER was unable to specify an amount for APA in that advice because of the tight timeframe prescribed in the Rules.

3.4.2 How the proposed Rule addresses the identified issues

It is proposed that the time allowed for assessment of invoices by the AER be changed to 60 business days, with the ability for the AER to extend this deadline by a further 30 business days if required. The clock would start upon the AER's receipt of a request from AEMO to make a determination. AEMO's request would also forward the AER the invoices, any objections received, and all the associated evidence justifying the cost invoices.

The additional assessment time would allow the AER to properly determine MOS allocation service cost amounts, including allowing more time for businesses to respond to requests for information. The ability to extend the deadline by a further 30 business days allows the AER to deal with circumstances where there has been a delay to the process, such as a need to wait for information from pipeline operators or where the determination involves questions of unusual complexity or difficulty. The additional time may also reduce assessment costs, as the AER will be able to more efficiently allocate resources to the task.

While the longer allowance for assessment time, if used, may mean a short delay in the payment of invoices by AEMO, the additional time before payment is likely to be relatively modest. A short delay is considered to be manageable given the modest level of costs involved.

Further, as noted above it is proposed that the AER would make a determination of MOS allocation service costs, rather than providing advice to AEMO, and AEMO making a determination. The removal of this double handling may reduce the amount of time between when the AER has assessed costs and when AEMO can pay the invoices, somewhat offsetting the additional assessment time.

3.5 Clarity of definition of MOS allocation service costs

3.5.1 Nature of issues with current Rules

The experience of assessing invoices for MOS allocation service costs for 2010-11 highlighted different opinions as to which costs are recoverable as MOS allocation service costs. Some parties had a broader interpretation of what costs were attributable as MOS allocation costs.

There are a broader set of costs associated with the process for determining STTM facility allocations that are not part of the costs of providing the MOS allocation service and would have been incurred regardless of the requirement to provide the MOS allocation service. Such costs should not be recoverable under the definition of MOS allocation service costs.

3.5.2 How the proposed Rule addresses the identified issues

The proposed Rule clarifies the definition of MOS allocation service, which is part of the definition of MOS allocation service costs. It confirms that costs associated with allocating pipeline deviations as MOS or overrun MOS in accordance with Rule 421 are recoverable, but that other parts of the process for determining STTM facility allocations are not part of the MOS allocation service and associated costs are therefore not recoverable under the definition of MOS allocation service costs.

4 Description of the proposed Rule

The proposed changes to the assessment process are summarised below (the full text of the proposed amendments to the Rules is included at **Attachment B**):

4.1 Assessment of efficient costs

The intent is that it will be necessary for the pipeline operator to establish that their invoiced MOS allocation service costs represent the efficient costs that would have been incurred by a prudent operator.

The AER will be required to assess the invoice by reference to the efficient MOS allocation service costs that the AER considers would have been incurred by a prudent operator.

The AER may refuse to accept the amount specified in an invoice if the pipeline operator has not satisfied the AER that the amount reflects the efficient MOS allocation service costs that would have been incurred by a prudent operator. In that

case the AER must determine the amount payable based on the AER's opinion of those efficient costs, taking into account the justification provided by the pipeline operator and any other information it considers relevant.

This will involve amendments to the definition of MOS allocation service costs in rule 364. The reference to costs 'reasonably' incurred in the definition will need to be removed. The proposed efficiency test would be incorporated into rules 424 and 425.

4.2 Increased information requirements

It is intended that pipeline operators be required to provide a breakdown of their estimated and invoiced MOS allocation service costs as well as a justification why each element of their cost proposal is efficient.

Changes to rule 424(5) will be required to ensure information required addresses whether the invoiced costs are efficient. Amendments to the specific evidence required for this purpose may be made in the STTM Procedures without further rule changes.

4.3 Change of decision maker

Rule 425 would be amended so that the AER will become the decision maker required to determine amounts of MOS allocation service costs in cases where AEMO receives an objection to the payment of an invoice (or where AEMO exercises its discretion to refer an invoice to the AER). In these cases AEMO would be required to provide invoices and associated evidence to the AER as soon as practicable after the end of its consultation period. The AER would then determine the amount payable to the STTM pipeline operator in respect of MOS allocation service costs. AEMO will be able to pay invoices without making a further determination.

AEMO will be able to pay invoices that it does not refer to the AER, where no objection is received, without any action from the AER and without needing to make a further determination.

4.4 Extension of assessment timeframes

The timeframes provided in rule 425 would be extended so that the AER has sufficient time to conduct an appropriate assessment of the cost invoices, including allowing the AER to seek additional information from pipeline operators. It is proposed that the AER be required to make a decision within 60 business days, but that the AER can extend this by a further 30 business days if required. The AER may extend the timeframe by publishing a notice and specifying its reasons in circumstances where the determination involves questions of unusual complexity or difficulty, or where the AER is waiting on additional information from a pipeline operator that is relevant to its determination.

4.5 Clarification of costs not claimable as MOS allocation service costs

Further clarity will be added by including a new definition of 'MOS allocation service' in Rule 364. The proposed definition of MOS allocation service covers the allocation of pipeline deviations as MOS or overrun MOS in accordance with Rule

421, but excludes any other part of the process for determining STTM facility allocations.

Adding the above exclusion to the definition of MOS allocation service will confirm that costs that are not part of the MOS allocation service, but relate to other parts of the process for determining STTM facility allocations, are not recoverable under the definition of MOS allocation service costs.

4.6 Consequential changes to Gas Bulletin Board processes

To the extent that changes are made to the process in rules 424 and 425, those changes should also be reflected in rules 197 and 198, so that the process for assessing BB aggregation and information services costs remain consistent with the changes to the MOS allocation service cost assessment process.

5 Assessment of Rule against National Gas Objective

The AER and AEMO consider that the proposed Rule will contribute to the achievement of the National Gas Objective (NGO). The NGO is stated in section 23 of the National Gas Law:

The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.

The proposed Rule contributes to the efficient operation and use of natural gas services and is in the long term interests of consumers.

As noted above, the rule changes are intended to improve the efficiency and operation of the assessment process for MOS allocation service costs. This can be expected to allow for a more efficient allocation of costs for the supply of MOS allocation services. STTM Shippers are expected to be able to have greater confidence that the costs recovered by pipeline operators reflect the efficient cost of providing the MOS allocation service. Efficient pricing of natural gas services, of which efficient recovery of costs associated with MOS allocation services is one element, promotes the long term interests of consumers.

Improving the engagement of STTM shippers in consultation processes and improving the clarity of the roles of the AER and AEMO in the assessment process is also likely to lead to a more effective assessment process which is in the interests of all stakeholders.

6 Costs and benefits and potential impacts on those affected

Benefits

Benefits of the proposed Rule include:

- a better balance between quick decision making and thorough assessment and consultation processes
- improved confidence of stakeholders in the assessment process and more effective engagement of STTM shippers in the consultation process
- reduced likelihood of cost recovery for costs that are above efficient levels – and therefore creation of incentives for pipeline operators to minimise costs to efficient levels
- creation of administrative efficiencies for AEMO and the AER in assessing cost proposals
- clearer accountability for decision making and more appropriate allocation of relevant functions to the AER in its role as economic regulator;
- better opportunities for the AER to engage with pipeline operators to clarify aspects of their invoices (including more time for pipeline operators to comment or clarify aspects if required)

The consequential changes in respect of the Gas Bulletin Board will have the same benefits as the changes in respect of MOS allocation service costs – and there is further benefit in having a consistent cost assessment process for both costs.

Costs

Costs arising from the rule changes are expected to be minimal.

Any costs associated with additional time between the submissions of invoices and payment of invoices is expected to be minimal. While the AER will have longer to assess proposals where an objection is made, less time may be needed by AEMO following AER's decision. In addition, the size of amounts invoiced is relatively modest and hence a small delay for the assessment of invoices is manageable for pipeline operators.

The additional need to provide justification that costs are efficient will create some additional work for pipeline operators, however, this will be appropriate for the scale of invoiced costs. To the extent that provision of greater justification up front reduces the need for the AER to subsequently request that information from pipeline operators later in the assessment process, the requirements would not add to existing costs.

Summary of the 2010-11 assessment process

In **September 2010**², AEMO published cost estimates provided by the four STTM pipeline operators for the period from market start (1 September 2010) to 30 June 2011. The four pipeline operators³ were:

- APA Group
- Epic Energy
- Jemena
- SEAGas

The estimates are published for information only and comment was not sought.

On **2 August 2011** AEMO published the invoices received from the four pipeline operators and sought comment as to whether there was any objection to paying them.

On **3 August 2011** TRUenergy, a shipper at both STTM hubs, wrote to AEMO to object.

On **16 August 2011** AEMO formally requested the AER's advice on the MOS allocation service costs for the four pipeline operators.

The AER was required to provide a response within 15 business days, according to the Rules. Accordingly, the AER was required to respond by **6 September 2011**.

Given the tight timeframes the AER used formal information gathering powers under section 42 of National Gas Law (Gas Law) to seek information and supporting documents from the pipeline operators regarding their proposed costs.

- AER sent s.42 notices to the pipeline operators on **17 August 2011**, asking them to respond within a week (by **24 August 2011**). While not ideal, given the limited time available to the AER, it was the maximum amount of time that could be provided. However AER staff did call ahead to inform the pipeline operators that a s.42 notice was likely to arrive on 17 August.
- Although all four pipeline operators responded by the deadline, staff were required to seek further clarification regarding their responses.

In the time available staff were unable to ascertain whether the costs proposed by APA Group (APA) represented their MOS allocation service costs (as defined in Gas

² These were provided to AEMO on 30 August 2010 rather than 31 January 2010 for the first year of operation.

³ These costs related to the two STTM facility pipelines providing MOS services to the Sydney hub (Moomba Sydney Pipeline and Eastern Gas Pipeline) and the Adelaide hub (Moomba Adelaide Pipeline and SEAGas pipeline) at that time. From 1 December 2011 there is a new STTM facility pipeline providing MOS services to the Brisbane hub (Roma to Brisbane Pipeline).

Rule 364). Staff accepted the majority of costs proposed by the other three pipeline operators, with minor revisions during the process.

On 6 September 2011, the AER provided AEMO with its advice in respect of the MOS allocation service costs of Epic Energy, Jemena and SEAGas. It also advised AEMO that within the time available it was not able to determine whether the costs proposed by APA represented their MOS allocation service costs. The AER's advice noted:

With respect to the APA Group, while the AER are not suggesting that costs have not been incurred, the AER is not confident that the allocation of costs have been apportioned reasonably. As a result, and given the time constraints placed on the AER, it cannot provide advice to AEMO with respect to the Invoice provided by the APA Group.

The AER also noted it would provide all information received in response to its s.42 notices and assist AEMO in making a final decision on MOS allocation service costs.

On 28 November 2011, AEMO published final invoices for the four pipeline operators. AEMO determined the amount payable for Epic Energy, Jemena and SEAGas in line with the advice provided by the AER. Following the AER's advice, AEMO met with the APA Group to discuss their claim and AEMO engaged external support to assist in the review of APA's claim. Following the discussions with the APA Group and the external review APA Group's claim was revised down and finalised.

AEMO assessed APA's costs to be approximately \$816,000. This was down from APA's original tax invoice of approximately \$957,000.

Table 2: Summary of pipeline operators' MOS allocation service costs 2010-11 (ex GST)

Pipeline (owner)	Adelaide hub		Sydney hub	
	SEAGas Pipeline (SEAGas Pty Ltd)	Moomba to Adelaide Pipeline (Epic Energy)	Eastern Gas Pipeline (Jemena)	Moomba to Sydney Pipeline (APA Group)
Original estimate	\$ 76,124	\$ 216,254	\$ 274,485	\$ 891,966
Initial invoice from pipeline operators	\$ 75,463	\$ 163,200	\$ 263,139	\$ 957,394
Final amounts paid by AEMO	\$ 75,038	\$ 40,800	\$ 263,139	\$ 815,846

Source: AEMO, STTM MOS Allocation Costs – Sydney and Adelaide Hubs: 2010-11 Final Invoices

MOS / BB Pipeline Operator Cost Recovery Rule Change Proposal

Attachment B – Draft Rule

1. Amendments to NGR Part 20

364 Definitions

MOS allocation service means the allocation of pipeline deviations as MOS or overrun MOS in accordance with rule 421, but excludes any other part of the process for determining STTM facility allocations.

MOS allocation service costs means the costs ~~reasonably~~ incurred by an STTM pipeline operator (including fees and expenses payable to an allocation agent) in providing the MOS allocation service, for the purpose of allocating pipeline deviations as MOS or overrun MOS in accordance with rule 421 (the MOS allocation service), to the extent that those costs:

- (a) are either:
 - (i) incremental costs incurred exclusively for the provision of the MOS allocation service; or
 - (ii) a proportionate share of any incremental costs reasonably attributable to the provision of the MOS allocation service; and
- (b) would not have been incurred but for the requirement to provide the MOS allocation service; and
- (c) are not offset by benefits reasonably available to the STTM pipeline operator in relation to its other activities.

424 MOS allocation service costs

- (1) An STTM pipeline operator that wishes to recover its MOS allocation service costs must give AEMO an estimate of those costs no later than 31 January in each year ~~in respect of MOS allocation service costs~~ for the financial year commencing on the following 1 July.
- (2) AEMO must publish any estimate received under subrule (1).
- (3) If at any time an STTM pipeline operator expects that its actual MOS allocation service costs in any period will vary materially from the costs specified in its estimate for that period under subrule (1), the STTM pipeline operator must give notice ~~notify~~ AEMO a revised estimate of the expected variation and a statement of the reason for that variation, and AEMO must publish that revised estimate and statement ~~notice~~.

- (4) No later than 20 business days after the start of each financial year, an STTM pipeline operator that wishes to recover its MOS allocation service costs must issue to AEMO a tax invoice in respect of its actual MOS allocation service costs during the previous financial year.
- (5) An STTM pipeline operator must, in accordance with the STTM Procedures, provide AEMO with reasonable evidence to demonstrate that:
- (a) each estimate given under subrule (1) or ~~revised expected variation notified~~ under subrule (3) reflects the efficient MOS allocation service costs expected to be incurred by a prudent operator; and
 - (b) the costs specified in a tax invoice issued under subrule (4) reflect the efficient MOS allocation service costs that would have been incurred by a prudent operator; ~~it has incurred the costs specified in each tax invoice issued under subrule (4); and~~
 - ~~(c) any material variation between the costs specified in a tax invoice issued under subrule (4) and the last estimate of those costs given to AEMO is reasonable; and~~
 - ~~(d) all costs specified in an estimate or invoice are MOS allocation service costs.~~
- (6) An STTM pipeline operator must not issue a tax invoice to AEMO under subrule (4) which includes an amount that the STTM pipeline operator has recovered, or is entitled to recover, from an STTM Shipper or any other person either at law (other than under this Part or the NGL) or under any contract, arrangement or understanding, or pursuant to an access arrangement.

425 AEMO to pay MOS allocation service costs

- (1) AEMO must publish a tax invoice received under rule 424(4) as soon as practicable and specify a period of seek comment for at least 10 business days during which any person may object on whether there is any objection to the payment of that invoice.
- (2) AEMO may, and must if any person objects to the payment, ~~AEMO~~, as soon as practicable after the end of the period referred to in subrule (1), request the AER to make a determination under this Rule and give the AER a copy of the invoice, any objections received and may, within 10 business days after receiving the objection, request the AER for advice on the amount payable (if any) in respect of the invoice, having regard to the evidence provided to AEMO under rule 424(5) in respect of that invoice.
- (3) The AER must, within ~~1560~~ business days after receiving a request ~~for advice~~ under subrule (2), determine the amount payable to the STTM pipeline operator in respect of MOS allocation service costs in accordance with subrule (4), and must publish that determination ~~provide that advice to AEMO~~.

(3A) The AER may extend the time limit fixed for making a determination under subrule (3) by a further period of not more than 30 business days:

- (a) if the AER considers that the determination involves questions of unusual complexity or difficulty; or
- (b) to allow for the time taken by the STTM pipeline operator to provide additional information relevant to the AER's determination in response to any request or notice issued by the AER,

and the AER must publish a notice of its decision to extend the time limit, specifying the reasons for that decision and the period of the extension.

(4) In making a determination under subrule (3), the AER:

~~AEMO must, within 30 business days after receipt of the tax invoice under rule 424(4) or the advice from the AER under subrule (3) (whichever is the later), determine the amount payable (if any) in respect of the invoice:~~

- (a) ~~(a)~~ must have regard to the evidence provided under rule 424(5);
- (b) may have regard to any other relevant information;
- (c) must either approve or reject the amount specified in the invoice;
- (d) may reject the amount specified in the invoice if the STTM pipeline operator has not satisfied the AER, having regard to the evidence provided under rule 424(5) or in accordance with a request or notice issued by the AER, that the amount reflects the efficient MOS allocation service costs that would have been incurred by a prudent operator; and
- (e) must, if it rejects the amount specified in the invoice, determine the amount that, in the AER's opinion, reflects the efficient MOS allocation service costs that would have been incurred by a prudent operator.

~~if the AER has provided advice to AEMO under subrule (3) consistent with that advice; or~~

~~(b) otherwise having regard to the evidence provided under rule 424(5).~~

(5) AEMO must pay the STTM pipeline operator:

- (a) if AEMO has not made a request to the AER under subrule (2), the amount specified in the invoice within 30 business days after receipt; or
- (b) otherwise, the amount determined by the AER under subrule (3) within 30 business days after the AER publishes that determination any amount determined under subrule (4) as soon as practicable after making that determination.

2. Amendments to NGR Part 18 – Natural Gas Bulletin Board

General

In Part 18, replace 'the AEMO' or 'The AEMO' with 'AEMO' wherever they occur.

141 Interpretation

actual BB costs in relation to an invoice period means the sum of:

- (a) the AEMO's actual costs of operating and maintaining the Bulletin Board in accordance with this Part during the invoice period, including the amounts paid or payable by the AEMO ~~pursuant to tax invoices provided to the AEMO~~ under Division 10 ~~to the extent those tax invoices are for the provision of~~ aggregation and information services provided during that invoice period; and
- (b) the AEMO's actual costs incurred during the invoice period in providing information under rule 186,

less the sum of any information retrieval fees paid to the AEMO under rule 186 during the invoice period.

aggregation and information services means the services provided by a pipeline operator in aggregating and providing information to the AEMO in compliance with rules 173 and 196.

~~**aggregation and information services costs** means the costs incurred by a pipeline operator in providing aggregation and information services.~~

197 Pipeline operator to provide ~~costs of~~ aggregation and information services costs

- (1) No later than 20 business days after the start of an invoice period, each pipeline operator that wishes to recover its ~~costs of providing~~ aggregation and information services costs must provide to the AEMO:
 - (a) an estimate of its ~~costs of providing~~ aggregation and information services costs during that invoice period; and
 - (b) a tax invoice in relation to its actual ~~costs of providing~~ aggregation and information services costs during the previous invoice period.
- (2) A pipeline operator must in accordance with the BB Procedures provide the AEMO with reasonable evidence to demonstrate that:
 - (a) the estimate referred to in subrule (1)(a) ~~is reasonable~~ represents the efficient aggregation and information services costs expected to be incurred by a prudent operator; and

(b) ~~it has incurred~~ the costs specified in its tax invoice issued under subrule (1)(b) represent the efficient aggregation and information services costs that would have been incurred by a prudent operator.

(3) A pipeline operator must not issue a tax invoice to the AEMO under subrule (1)(b) which includes an amount that it has recovered, or is entitled to recover, from a BB shipper or any other person either at law (other than under this Part or the *Law*) or under any contract, arrangement or understanding, or pursuant to an access arrangement.

198 AEMO to pay pipeline operator for provision of aggregation and information services

(1) The AEMO must publish on its website a tax invoice received under rule 197 as soon as practicable and specify a period of at least 10 business days during which any person may object practical and seek comment for 10 business days on whether there is any objection to the payment of that invoice.

(2) AEMO may, and must if ~~any person objects to the payment, as soon as practicable after the end of the period referred to in subrule (1), request the AER to make a determination under this Rule and give the AER a copy of the invoice, any objections received and the evidence provided to AEMO under rule 197(2) in respect of that invoice. the AEMO may refer the question of payment to the AER for advice within 10 business days after receiving the objection.~~

(3) The AER must, within ~~15-60~~ business days after receiving a request under subrule (2), determine the amount payable to the pipeline operator in respect of aggregation and information services costs in accordance with subrule (3B), and must publish that determination ~~the question of payment is referred to it, provide the advice referred to in subrule (2) to the AEMO.~~

(3A) The AER may extend the time limit fixed for making a determination under subrule (3) by a further period of not more than 30 business days:

(a) if the AER considers that the determination involves questions of unusual complexity or difficulty; or

(b) to allow for the time taken by the pipeline operator to provide additional information relevant to the AER's determination in response to any request or notice issued by the AER,

and the AER must publish a notice of its decision to extend the time limit, specifying the reasons for that decision and the period of the extension.

(3B) In making a determination under subrule (3), the AER:

(a) must have regard to the evidence provided under rule 197(2);

(b) may have regard to any other relevant information;

- (c) must either approve or reject the amount specified in the invoice;
- (d) may reject the amount specified in the invoice if the pipeline operator has not satisfied the AER, having regard to the evidence provided under rule 197(2) or in accordance with a request or notice issued by the AER, that the amount reflects the efficient aggregation and information services costs that would have been incurred by a prudent operator; and
- (e) must, if it rejects the amount specified in the invoice, determine the amount that, in the AER's opinion, reflects the efficient aggregation and information services costs that would have been incurred by a prudent operator.
- ~~(4) Subject to being satisfied that the invoice should be paid, having regard to the evidence presented under rule 197(2) and any advice provided by the AER under subrule (3), the AEMO must pay the tax invoice within 20 business days pipeline operator:~~
- (a) if AEMO has not made a request to the AER under subrule (2), the amount specified in the invoice within 30 business days after receipt; or
- (b) otherwise, the amount determined by the AER under subrule (3) within 30 business days after the AER publishes that determination.
- ~~after receipt of the invoice or within 10 business days of receiving advice from the AER under subrule (3) (whichever is the later).~~



1 June 2012

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

FROM THE OFFICE OF THE
CHIEF EXECUTIVE OFFICER

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John,
Dear Mr Pierce

Rule change proposal – Market Operator Service and Bulletin Board pipeline operator cost recovery processes

I understand the Australian Energy Regulator (AER) is submitting a rule change proposal to amend the provisions of the National Gas Rules (NGR) relating to Market Operator Service (MOS) allocation service costs in the Short Term Trading Market (STTM), and the National Gas Market Bulletin Board (GBB) aggregation and information service costs.

AEMO supports the AER's rule change proposal and has worked closely with AER in its development.

The rule change proposal seeks to address a number of issues that were identified in the first practical application, in 2011, of the current process for assessing MOS allocation service costs, as set out in Part 20 of the NGR.

The key issues identified were:

- The current timeframes are insufficient to allow for a comprehensive assessment of the MOS cost claims by the AER.
- Under the current process, AEMO is placed in the role of decision maker on whether or not to accept the cost claims submitted by service providers. It is more appropriate for the AER, as the economic regulator, to be responsible for making determinations on whether such costs are reasonable and/or efficient, and the amounts to be payable.
- There is limited supporting information provided to justify those claims at the time the invoices are submitted, which provides limited context to AEMO, the AER and external parties on the basis for the claims.
- There is limited clarity on what costs are claimable as MOS allocation service costs.

AER's proposed refinements to address the above issues were discussed by the STTM Consultative Forum at its meeting in February 2012. It was also noted that the MOS service cost recovery provisions currently mirror the GBB cost recovery provisions. It was generally agreed that if the MOS allocation service cost recovery framework were to be amended, then the GBB cost recovery provisions should also be amended to be consistent.

Should you have any queries, please do not hesitate to contact Terry Grimwade, Executive General Manager, Market Performance, on 03 9609 8520.

Yours sincerely

Matt Zema
Managing Director and Chief Executive Officer

