



2 September 2009

Ms Michelle Croker
Gas Market Development Section
National Energy Market Branch
Department of Resources, Energy and Tourism
GPO Box 1564
CANBERRA ACT 2601

Release of the *National (Short Term Trading Market) Amendment Rules 2009*

Dear Ms Croker

The Australian Pipeline Industry Association and pipeline operators welcome the opportunity to comment on the *National Gas (Short Term Trading Market) Amendment Rules 2009*.

The comments provided in the submission particularly reflect the views and concerns of those gas pipeline operators most affected by the Rules. These companies are: APA Group, Epic Energy, Jemena, and South East Australia Gas Pty Ltd. These pipeline operators have participated in the development process for the Short Term Trading Market (STTM) design and drafting of the new STTM Law and Rules through the STTM Working Group, STTM Steering Group, STTM Industry Legal Working Group and Gas Market Leaders Group (GMLG). Consequently, many of the issues and concerns previously raised by the pipeline operators have been addressed via these committees and processes. This submission does not seek to change any arrangements or processes already agreed under the STTM development framework, but seeks clarity on a number of issues and, in particular, seeks to register the pipeline operators' concerns about some aspects of the Rules.

APIA is also very concerned about the recent decision to increase the proposed liability cap. In its submission on the Law, APIA outlined why the cap should be reduced significantly (from \$400,000 per claimant/event and \$100 million pa) to no more than \$400,000 pa in total. APIA is disappointed to find that the cap has in fact been increased to \$2 million per claimant/event.

APIA is also concerned that its submission to cap its members officers and directors liability to \$1 has not been acknowledged. APIA does not understand why there can be a proposal for consistency on the \$2 million company liability with AEMO, yet no consistency proposed on AEMO's officers cap of \$1.

Whilst APIA understands the arguments for consistency with the electricity cap, APIA considers consistency with electricity markets is not a compelling justification. The total value of the electricity market is roughly an order of magnitude larger than the total value of the gas market (In 2006/07 the electricity supply industry contributed \$13.1 billion to GDP as opposed to the gas supply industry's contribution of \$1.4 billion). As such, penalties that are appropriate in the electricity market are excessive in the gas market. When one considers that the STTM will only apply in the Adelaide and Sydney gas markets, as opposed to the multiple jurisdictions covered by the NEM, the penalties seem even more inappropriate.

The current requirements expose Pipeline Operators to new and unacceptable risks, without compensation. The minor concessions regarding defining of the immunity are welcome, but in context, still leave the Pipeline Operators exposed to significant risk which is unlikely to be coverable by insurance and if it were would impose very significant additional cost. We seek for this decision to be reviewed, so as to avoid unnecessary costs to our customers.

Please contact me or any of the pipeline operator STTM representatives if you wish to discuss our comments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cheryl Cartwright', with a long horizontal line extending to the right.

CHERYL CARTWRIGHT
Chief Executive



APIA and Pipeline Operators comments on the National Gas (Short Term Trading Market) Amendment Rules 2009

1. INTRODUCTION

The Australian Pipeline Industry Association (APIA) welcomes the opportunity to comment on the National Gas (Short Term Trading Market) Amendment Rules 2009 (the Rules).

APIA is the peak national body representing the interests of Australia's transmission pipeline sector. APIA's current membership is predominantly involved in high-pressure gas transmission. APIA's members include contractors, owners, operators, advisers and engineering companies and suppliers of products and services.

The comments provided below particularly reflect the views and concerns of those gas pipeline operators most affected by the Bill. These companies are: APA Group, Epic Energy, Jemena, and South East Australia Gas Pty Ltd. These pipeline operators have all participated in the development of the Short Term Trading Market (STTM) Design and drafting of the new STTM Law and Rules through the STTM Working Group, STTM Steering Group, STTM Industry Legal Working Group and Gas Market Leaders Group (GMLG). Consequently many of the issues and concerns previously raised by the pipeline operators have been addressed via these committees and processes. This submission does not seek to change any arrangements or processes already determined, rather it seeks clarity on a number of issues and in particular register the pipeline operators serious concerns about both the proposed treatment of liabilities in the Bill and the compensation for Pipeline Operator costs contained in the Bill.

During the STTM design process there was a diversity of industry views and consequently in some cases the outcomes were not ideal from a pipeline operator point of view. However, APIA and the pipeline operators understand that the STTM is largely being implemented for the benefit of shippers and network users, so comments have been limited to where it was felt critical to ensure the success of the new market continued investment in gas infrastructure and the long term security of gas supply.

2. COMMENTS ON THE RULES

2.1 NSW Gas Supply Continuity Scheme

APIA would prefer that these Rules are effective replacements for the NSW Gas Supply Continuity Scheme (“the Scheme”). In order to ensure the objectives of that Scheme are met, we recommend that the STTM Contingency Gas Procedures are largely taken from the Scheme.

2.2 CPRS

APIA submits that CPRS costs and any other costs imposed by changes to legislation and regulation (e.g. costs imposed by changes to NGL or the proposed NERL, etc) be allowed to be passed through in a manner similar to GST clauses included in the Rules.

2.3 Procedures

As a general principle of good regulatory governance, APIA prefers that the items to be addressed in procedures be limited. The current listing of items to be addressed in procedures is open ended, which may result in AEMO becoming a de facto drafter and enforcer of regulations, rather than a market operator. APIA strongly supports that there should be a formal consultation process prior to material amendment of procedures etc. Following this consultation AEMO should either reflect substantive points made in the consultation in the Procedures or publish reasons why these substantive points were not accepted.

Once all the Procedures are drafted, there should be an opportunity for industry participants to review the balance between the Rules and the Procedures, to ensure that the procedures are indeed only procedural.

2.4 STTM interface Protocol (367)

APIA seeks clarity on what occurs if the AEMO consultation on the STTM interface protocol results in differing views being put forward by participants or if the views put forward are otherwise not adequately reflected in the protocol. It is assumed that a rule change could be sought from AEMC in the event of the protocol being unworkable, but some consideration should be given to including a statement to the effect that AEMO will consult and attempt to reflect substantive points made in the consultation in the final protocol or, in the event substantive points are in conflict, AEMO will publish reasons why certain substantive points were not accepted.

2.5 Sydney Hub (370)

APIA seeks additional clarity on the treatment of the Sydney Gas “In-Hub” production. This does not need to be in the Rules per se but some indication of its treatment should be provided.

2.6 Registration fee

This fee should be “reasonable”.

2.7 Trigger events

APIA seeks clarity in the Rules on what the trigger events may be.

2.8 Information (380)

Information which is kept by AEMO should be kept confidential to the extent it is marked confidential or it is otherwise indicated that the information is confidential.

2.9 MOS (400+)

The Rules state that a person must not submit a MOS offer unless they are an eligible contract holder. However the original agreed design also allows for pipeline operators to register as a trading participant and submit MOS offers. Pipeline Operators should not have to have a contract with themselves, so the Rules should be amended to reflect the agreed design in this regard.

The definitions for the MOS increase stack and the MOS decrease stack infer that the pipeline operator is to allocate MOS gas according to the order they appear in the MOS stack.

This does not reflect recent discussions between AEMO and Pipeline Operators where Pipeline Operators were advised they have some discretion in allocating MOS.

This may be sensible for flow controlled pipelines with negligible MOS, and perhaps in the start up phase if Shippers have not agreed an allocation algorithm. However, Pipeline Operators would only agree to this if they have immunity for this activity

Whilst APIA sees some merit in the allowing some discretion advised by AEMO, its interest here is more to seek clarity on what is actually proposed, because the draft Rules do not seem to have sufficient flexibility to allow Pipeline Operator discretion in MOS allocation.

In relation to the procurement of MOS by AEMO, APIA believes that AEMO should always be required to be advised by an industry body (405 (1) (b) and not be permitted to determine themselves (as in 405 (1) (a)) if MOS is required.

2.10 CPI

The Rules should allow for automatic CPI increases in the market parameters such as the MOS cap. MPC, APC etc. If not, there should be an annual review.

2.11 Capacity Information (415)

The Rules say “the STTM facility operator must notify AEMO of the quantity of gas it expects, in good faith, that the STTM facility will be able to deliver to the relevant hub”. In other STTM documentation, the word “estimate” is used to describe this function. Pipeline Operators believe that the word “estimate” should also be used in the Rules. Whilst Pipeline Operators will seek to develop reasonable and robust

forecasts, these forecasts are unlikely to be accurate due to weather conditions, shipper forecasts (including the historical inaccuracy in the shipper forecasts), and other unknown factors such as industrial end-users' activities. It is unreasonable to ascribe a level of accuracy to the capacity number which is not real.

2.12 Liability for Scheduling errors (451)

Pipeline Operators seek the same “no-liability” for scheduling errors that AEMO has, ie AEMO is limited to the participant compensation fund. In undertaking scheduling, pipeline operators are, in effect, undertaking a function of the market operator because it is more efficient and effective for them to do so.

2.13 Review of hubs (489)

APIA submits that this review should include ACT, Queensland, WA and Victoria and should include the original MMA type approach that looked at the costs and benefits of the STTM. APIA suggests that the wording throughout the Rules should be broad enough to allow ACT, Vic, Queensland and WA to be easily included.