

Minutes

Standardisation Project Team Meeting No. 9

- Date/Time:** Tuesday 4 July 2017, 10.00 am
- Location:** Level 6, 201 Elizabeth St, Sydney
- Attendees:**
- | | |
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| <i>Project team</i> | Sally Calder, AGL
Ainslie Lynch, APA
Simon Taylor, DBP
Peter Frost, EnergyAustralia
Jan Peric, Jemena
Paul Williamson, Epic |
| <i>Guests</i> | Amanda Seaton, JWS
Anthony Groom, JWS |
| <i>GMRG</i> | Nicole Dodd, analyst
Angelo Mantsio, specialist technical advisor
Katherine Lowe, GMRG senior technical advisor
Eamonn Corrigan, GMRG facilitator |
- Apologies:** Samantha Staunton, Epic
Michael Handley, Origin
Brad Mills, Shell
- Purpose:** Provide guidance to lawyers
- Reference:** ST.9.20170704

	Agenda Item	Discussion	Actions	Decisions / Views
1	Recap on previous meeting	<p>The minutes of the previous meeting were preliminarily approved with any further comments to be received offline by the end of the week. This extra time was allowed to accommodate some team members that had not yet had a chance to review the minutes due to annual leave.</p> <p>The team noted the progress that had been made by the other project teams and discussed the integration of verification processes, timing of the processes, contracting arrangements and systems for the capacity trading platform and auction design.</p>	<p>Minutes have been amended to reflect members comments:</p> <ol style="list-style-type: none"> 1. Pipelines would discuss receipt and delivery point flexibility at the 17 and 18 July meeting 2. Noted that both 'park and loan' and 'park' services would require an underlying transportation agreement. 	
2	Introduction to JWS	<p>Amanda Seaton and Anthony Groom from Johnson Winter & Slattery (JWS) were introduced to the team as the lawyers appointed by the GMRG to provide legal advice for the capacity trading related reforms (including drafting the terms of the operational gas transportation agreement (OTA) that will be used for capacity purchased via the capacity trading platform and the auction and advising on the appropriate legal arrangements). The group:</p> <ul style="list-style-type: none"> • Discussed the intended approach to drafting the OTA and how they would balance these interests. The group noted the experience the lawyers have between them in dealing with the relevant regulatory arrangements, contracts and negotiations, acting on behalf of an array of participants, which would lend itself to a balanced approach. Similarly, balanced guidance would be provided by the project team and the public consultation process. • Discussed the mandatory or voluntary nature of the standard terms, including: 	<p>GMRG to consult on whether secondary shippers are to be allowed to include the capacity bought in the secondary capacity market in their primary GTA and make use of the provisions in the primary GTA or not and to seek policy guidance if required on this matter.</p>	

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		<ul style="list-style-type: none"> ○ Whether pipeline operators would be required to offer the standardised OTA to all prospective shippers. The group considered whether it was vital to the success of the reform process that all shippers had access to this agreement as a minimum. ○ Whether all capacity traded as secondary capacity would be required to be nominated against the OTA, or if shippers who had a primary GTA would be able to include the capacity bought in the secondary market in their primary GTA and nominate against the primary GTA. The group sees merit in allowing shippers to use their primary GTA to minimise the cost of administering multiple contracts. The group also noted that this would encourage more liquidity by providing flexibility for shippers. The group noted the potential market bias and unequal playing field that could be created given each buyer will value the product differently, . ○ The group discussed if pipeline operators could make the decision whether shippers were able to use their primary agreement to ship secondary gas on a case by case basis. The group considered that this could likely be done on a shipper by shipper basis, but a transaction by transaction basis may not be feasible. ○ Discussed the ability for shippers and pipeline operators to negotiate the OTA for secondary capacity 		

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		<p>beyond the minimum standard terms.</p> <ul style="list-style-type: none"> ○ The group agreed to defer making a decision on the voluntary or mandatory nature of the components of the reform package, and the obligations on each party, until a full picture of the platforms, products and paperwork can be considered. The team acknowledged the standard set of terms was a required outcome of the process regardless and continued to progress making these valuable for the market. ● Discussed the delineation between the product definition and the agreements between shippers and pipeline operators, for example, including where flexibility (variances in hourly quantity) would be located. ● Discussed the potential risk for both the shipper and the pipeline operator if there was a gap between the primary GTAs and the OTA. JWS noted they do not have access to primary GTAs due to confidentiality and would thus be relying on participants to undertake this gap analysis and test whether the arrangements put in place would work with legacy arrangements. 		
3	Operational Transfer and Auction drafting with JWS	<p>The team discussed the preliminary position they had come to on the terms of the OTA with JWS:</p> <ul style="list-style-type: none"> ● JWS considered the team had progressed to resolve a significant number of the terms, with most seeming reasonably straightforward, and some requiring more consideration. ● The team explained the thinking and previous discussions that had 	<p>GMRG to add to the parking lot to consider if and how different pressure regimes on different pipelines may be handled. There may be other differences that could also be considered by this process.</p> <p>JWS to draft a standardised operational transport agreement, for review by the team prior to discussion at Meeting 11 (Scheduled 1 and 2 August 2017).</p>	<ul style="list-style-type: none"> ●

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		<p>resulted in the agreement they had to come on each term, using the terms documented in the previous minutes (Meeting 8, 20/6/2017) as a basis.</p> <ul style="list-style-type: none"> • The group noted some items of the terms had been parked until decisions were made by 3rd parties (other project teams and COAG EC). • The group discussed the flexibility of the terms for upcoming changes. For example, timings could be written in terms of 'offsets' from the gas day start time instead of specified times in the main body of the agreement. • The group noted that a number of the terms are required for 'when things go wrong'. As such, they may not often be called upon, but the details of these terms are critical when needed. For example, the indemnity and liability regime for off-specification gas. • Discussed existing contracts where parties may be forced into a position where they are automatically in breach of the contract, but this is not currently considered an issue due to practical arrangements in place (for example, pressure requirements of pipelines). The group noted it may not always be the case that practically these arrangements work, and discussed whether there may be opportunities to improve these arrangements through this process to avoid this situation. • Noted all parties accessing the secondary capacity arrangements would have to complete their own due diligence and understand their own contractual risk. • Discussed the existing liability regimes in place in the industry, for 		

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		<p>example in the context of off-specification gas. Similarly the pipeline operator's liability for failure to deliver in breach of contract was further discussed, including the definition of direct and consequential loss and the difference in the ideal term for shippers and for pipeline operators. The group confirmed that the following was still up for debate:</p> <ul style="list-style-type: none"> ○ Whether a shipper's liability would be uncapped ○ A pipeline operator's liability if it failed to provide notice ○ What the pipeline operator's liability would be for failure to deliver. <p>The group noted it was likely that standard principles could be standardised but quantities (such as caps) would be more difficult as these depend on external parties such as insurance providers.</p> <ul style="list-style-type: none"> ● Discussed the differences in the current primary gas transportation agreements (GTAs) between different pipeline operators and the implications of these. For example, each pipeline operator may define a unit of firm capacity slightly differently, or may have legacy arrangements such that foundation shippers have a higher priority than those with firm capacity. Similarly curtailment regimes could include different services depending on the pipeline. The group considered a way forward on this could be to define 'firm' as priority 1 except to extent specified in the schedule. This is yet to be tested. ● The group noted that imbalance trading is to 		

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		be further discussed at the next meeting.		
4	Break	N/A	N/A	N/A
5	Governance arrangements for standardised terms	<p>JWS tabled their preliminary thinking (in the form of a diagram – refer Appendix A) in regards to the governance arrangements for the capacity trading reform package, and what instruments may be required to give effect to the different components of the package. The group:</p> <ul style="list-style-type: none"> • Noted the diagram was currently missing the communication link between the platform operator(s) and the gas transporters (pipeline operators). • Discussed the agreed approach to have a standardised set of terms (Codified Standard Terms) for the OTA across the pipeline operators, with an accompanying module to specify the technical details where standardising these has not been justified. JWS noted they have made a number of assumptions when considering this approach (refer Appendix A for list of assumptions). • Discussed the appropriate governance arrangements for this approach, including: <ol style="list-style-type: none"> 1. How does a shipper get access to the terms? 2. How does someone identify what the terms are? 3. Who owns and approves the set of terms? <ol style="list-style-type: none"> a. Who owns the standardised section and how is change managed? b. Who owns the pipeline specific section and how is change managed? • In discussing this, the group considered: <ol style="list-style-type: none"> 1. JWS has assumed that pipeline operators would be required to offer shippers the 	<p>JWS to further consider governance options for a Codified Standard Terms to give effect to the OTA. Options will be canvassed in GMRG’s consultation paper.</p> <p>GMRG to add consideration of transitional issues to the parking lot.</p>	

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		<p>standardised terms as a minimum. The obligation to do so is likely to be given effect in the National Gas Law, and articulated in the National Gas Rules.</p> <p>2. The group discussed where the master version of the terms is to be located, noting links to this document would likely be provided in multiple places regardless. The group discussed the merits of the master version being located on AEMO's website, each pipeline operator's website, or as an AEMC document (as an annex to or a creature of the Rules).</p> <p>3. The group discussed possible approaches for the approval and change management of the documentation:</p> <ul style="list-style-type: none"> • The pipeline specific section of the OTA will be defined by each pipeline operator for their pipeline. • The group discussed the approval process for these terms, to ensure the pipeline specific terms do not introduce obligations that change the intention of the standardisation. The group considered a formal schedule could be an appropriate approach to avoid this. • The pipeline operators are likely to be obligated to deliver their initial set of terms to an appropriate body when the obligations are introduced. Following the initial submission, the group considered it may be too onerous with further complications introduced to have every update approved. Instead, this could be achieved through negative approval, that is, if a party identified an issue with a schedule, this could be brought to 		

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		<p>the party responsible for compliance oversight (for example, the AER).</p> <ul style="list-style-type: none"> • A notice period should be considered for a pipeline operator to make changes. The version in place at the time of the transaction would be applied for that capacity. • Defining the standardised section of the OTA as a set of Codified Standard Terms (CST), 'as amended from time to time'. This allows for being able to change the agreement for everyone who has signed up at the same time. There is still a question as to the appropriate body responsible for managing the change process, and the guidelines or obligations that should be in place for the change process. The team discussed the following options: <ul style="list-style-type: none"> ○ The AEMC, with the CST a schedule to the Rules and as such subject to the Rule change process. ○ AEMO, with the CST forming a Procedure, subject to the change process defined through the NGL. ○ AEMO, using a similar approach to the Gas Supply Hub reference group. It was noted the GSH differs in that it is a voluntary market, and as such this may not be appropriate for the capacity trading reform package. ○ AER, subject to a specified consultation approach. ○ Panel model, similar to that in place for the Settlement Residue Auctions (SRA) that run in the National Electricity Market (NEM). The details of this would have to be considered, as to the appropriate body to perform the secretariat 		

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		<p>function, process for applying for changes, consultation processes, the final decision making process, and who may have the casting vote.</p> <ul style="list-style-type: none"> ○ The group considered the Panel Model most appropriate at this stage, with more consideration to be given to the details of this model for the CST. The group considered it was important to maintain a process with industry involvement. ● The group also discussed if there should be a moratoria on making changes to the standardised terms for 12 months once in operation, and considered this could be limiting if there were errors or omissions in the original documentation. ● The group also acknowledged a need to consider transitional issues. 		
6	Allocation Agreements	<p>The team discussed if there was merit in further pursuing an alternative approach for allocation agreements, and:</p> <ul style="list-style-type: none"> ● Discussed whether secondary shippers can be deemed at point, and noted this had been considered as too complex when there was a multi-shipper agreement already in place, which may be complex with multiple levels, to allocate gas at that point or where there is a contribution agreement. ● Considered the transparency arrangements that would lead to shippers having a better understanding of the allocation agreements they would have to sign up to and who to contact to arrange this. ● Discussed the required processes for a shipper to set up in the market, including signing onto 	<p>GMRG to add to the parking lot consideration of how a 'user guide' may be put together to guide participants on the structure of the Australian gas markets.</p>	<p>The team confirmed their preliminary agreement for:</p> <ul style="list-style-type: none"> ● The 'Allocation procedures' term in the OTA could reflect APA's general term – 'as per multi-shipper agreement or pro-rated by nomination' as a starting point for the drafting. <p>There is to be transparency requirements for specifying who to contact and where shippers should go to sign up to an allocation agreement.</p>

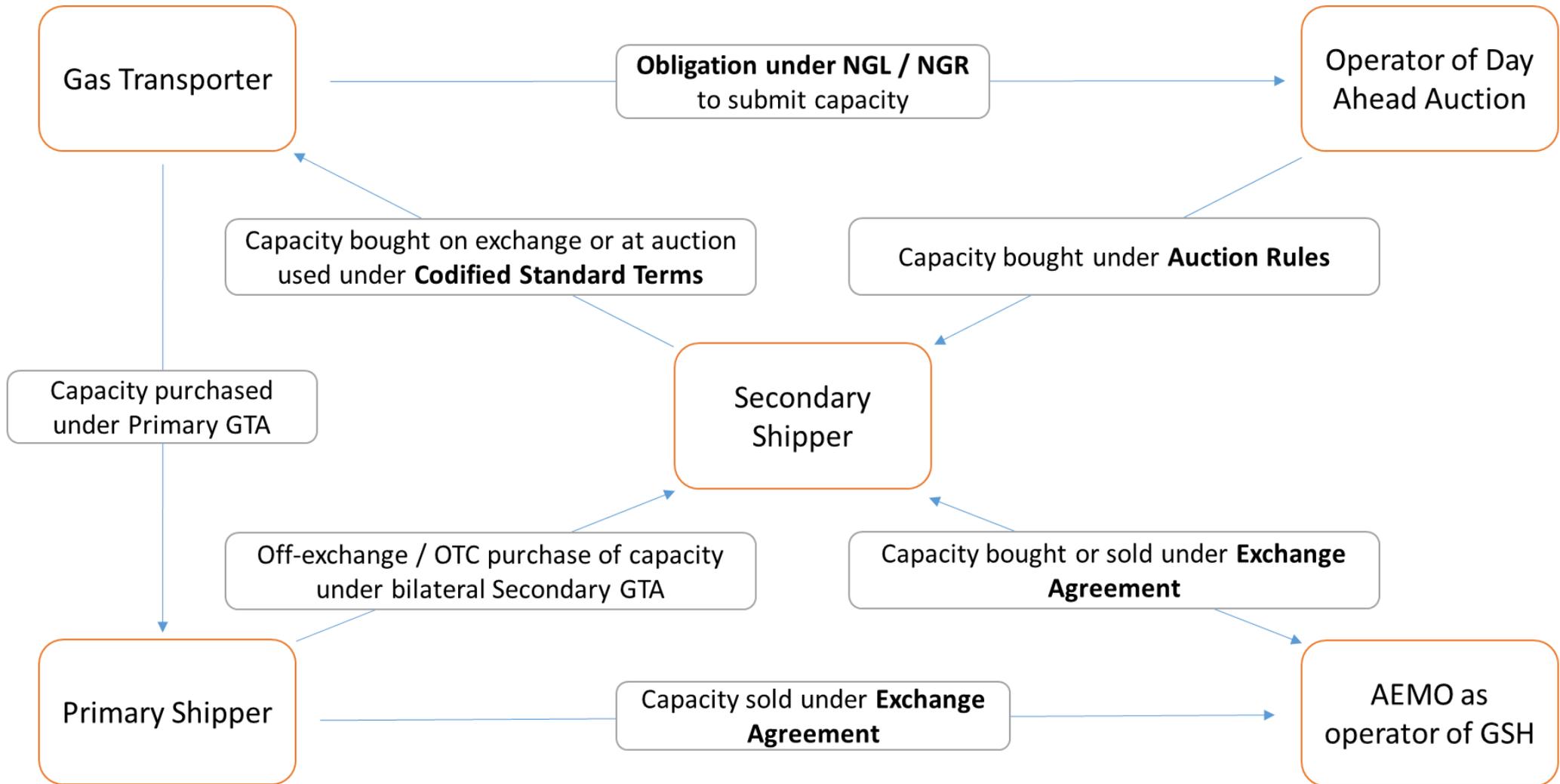
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		<p>allocation agreements, and getting set up in the pipeline operators' systems and that this takes time initially.</p> <p>Discussed the different bases for pro-rating allocations (for example, via nominations or via contracted capacity).</p>		
7	Project Team Road Map	<p>The team noted the intended timeline to consult on the draft standardised terms in mid-late August. In preparation:</p> <ul style="list-style-type: none"> • Draft terms are expected to be provided to the team in the week of 17 July to allow time to provide feedback at the following meeting (1 and 2 August). • Project team members and their respective organisations will also have a chance to comment as part of the public consultation process. <p>The team noted the meeting scheduled for 14 and 15 August has been tentatively cancelled and the meeting scheduled for 29 and 30 August is intended to be used to discuss reporting requirements.</p>		
8	Close	N/A		
9	Next meetings	<p>Joint meeting Tuesday 11 July via AEMO's VCU facilities.</p> <p>Next double meeting moved to Monday 17 July (10-3) and Tuesday 18 July (8:30-12:30) in Sydney to discuss receipt and delivery point flexibility and imbalance trading.</p>		

Appendix A: Preliminary Governance Arrangements (JWS)

JWS prepared the diagram on the following page to discuss their preliminary thinking in the Governance arrangements for the reform package.

JWS has made the following assumptions when considering this approach:

- The OTA will be a contractual arrangement (that is, between the secondary shipper and the pipeline operator, not existing in a legislative instrument)
- The agreement would be bilateral, not multilateral
- If the capacity trading platform is to be operated by AEMO (and facilitated through the Gas Supply Hub Exchange Agreement), the pipeline operator is not going to become a party to this agreement. In this context, it is noted that the communication links will need to be arranged.
- It will be mandatory for pipeline operators to offer the standardised set of terms (note, no assumption has been made regarding whether secondary capacity will be required to be shipped on this agreement).
- There is to be one set of terms to the extent possible to facilitate both traded secondary capacity and that bought on the auction.
- There is to be standard terms and pipeline specific terms.
- Product definition is a combination of how it is defined under the Exchange Agreement plus how it is to be delivered under the agreement between the secondary shipper and pipeline operator.



Overview of mechanisms for trading capacity. Documents in **bold** are within scope of the GMRG reforms.