



Attachment 2 Stakeholder feedback template

The template below has been developed to enable stakeholders to provide their feedback on the questions posed in the Consultation Paper and any other issues that they would like to provide feedback on. The GMRG strongly encourages stakeholders to use this template, so that it can have due regard to the views expressed by stakeholders on each issue. Stakeholders should not feel obliged to answer each question, but rather address those issues of particular interest or concern.

1. Explanatory note questions

	Questions	Feedback
3.4 Questions on the overall legal and regulatory framework		
1.	Do you believe the proposed amendments to the NGL, Regulations and NGR implement the design of the capacity trading reforms effectively? If not, why not?	<p>In APA's view, the proposed amendments to the NGL, Regulations and Rules do not go far enough to ensure that transportation service providers do not breach their existing contractual obligations. For example:</p> <ul style="list-style-type: none"> • APA's contracts provide that it must schedule and curtail in a certain sequence, and the priority lists do not recognise an auction product that will sit above as available, authorised overrun, interruptible etc. APA has an obligation to schedule these services if it receives a nomination and there is available capacity. Once scheduled, curtailment rights are limited (especially for as available services, which are firm once scheduled) and a nomination from an auction winner is not a contractual excuse to curtail those services. A legislative change is required to override existing contractual provisions and relieve service providers for liability to the extent that services are not scheduled, or are curtailed, due to the auction. • Gas day harmonisation – APA does not have change in law provisions in all contracts that will allow it to unilaterally change all of its obligations, which must be performed by a certain time in the day (for example, confirming the schedule and sending out allocation reports). <p>In the absence of the GMRG undertaking an analysis of each primary contract and drafting necessary exceptions in the legislation, APA is of the view that it is necessary to include a generic clause which gives service providers relief from contractual liability to the extent that the failure to provide the services in accordance with the terms of the primary contract was due to an obligation imposed on service providers under the rules relating to the auction; essentially inserting the benefit of a change in law exception in relation to these reforms.</p> <p>Please also refer to the comments on the definition of 'capacity auction' in the proposed changes to section 2(1) of the NGL.</p>



	Questions	Feedback
2.	Do the market bodies have adequate powers to do what they need to do to facilitate the outcomes sought by the reforms?	<p>There are a number of circumstances discussed in response to specific provisions in the NGL and Rules (below) where APA considers that an additional stage of consideration, or level of oversight is appropriate. These mostly arise in respect of AEMO's broad powers to develop and amend manuals, determine the composition, functioning and decisions of the OTS Code Panel, and impose other obligations on service providers.</p> <p>APA assumes that AEMO will develop the Capacity Transfer and Auction Procedures (Procedures) in accordance with Part 15B of the Rules. APA notes that Part 15B does not specifically provide for a similar process to be followed when amendments are made to the Procedures. In addition, the process for AEMO to develop and subsequently amend the OTS Code Panel manual is not specified. This is in contrast to the detailed process and rules that apply to changes to the Operational Transportation Service Code. This is a clear oversight in the NGR that needs to be corrected.</p>
3.	Do you agree with the GMRG's recommendation with regard to which rules are classified as civil penalty and/or conduct provisions (see Appendix A)? If not, why?	<p>APA is concerned that in a number of circumstances Rules, which require a degree of judgement, or which apply a subjective test in respect of compliance, are subject to civil penalty and conduct provisions. APA is particularly concerned in relation to Rules 632(2), 632(3), 634(2) and 634(5). APA does not believe these provisions should be civil penalty provisions.</p> <p>APA is also concerned that the time given for transportation service providers to undertake some tasks is inadequate, and poses a risk of APA breaching civil penalty and conduct provisions. These circumstances are highlighted in APA's comments on the NGL and Rules provisions below, and include:</p> <ul style="list-style-type: none"> • The time provided to offer a standard operational transportation agreement capable of execution (5 business days). • The time within which a transportation service provider must advise if it can accommodate a change in receipt or delivery point (5 business days). • Amendment of facility agreements (30 days).
4.	Are there any changes to the NGL, Regulations or NGR that you consider are necessary to ensure parties are unable to game or undermine the intended objective of the reform package?	<p>Please refer to the comments provided in response to item 1 above.</p> <p>Also, APA believes that provisions in Part 25 related to the nomination of unallocated auction capacity open clear opportunities for gaming of the auction to access capacity at zero cost. It was not made clear during consultation process that these provisions would be included. In APA's view, they should not form part of auction Rules because of the incentives they create. An auction participant's renomination rights should be limited to the auction capacity allocated to them via the auction. This mirrors a firm shipper's renomination rights, which do not exceed their firm capacity under contract.</p>
5.	Are any other transitional rules not currently included in Schedule 5 required? If so, what are they and why are they required?	<p>APA expects that there will be a high volume of requests to transportation service providers to vary agreements under Rule 640 to include the operational transportation service in contracts soon after the capacity trading rules come into effect.</p>



	Questions	Feedback
		<p>APA considers that there should be a transitional rule that extends allowable times to make these changes in light of the workload this may create in transition.</p>
<p>4.1.1 Exemptions</p>		
<p>6.</p>	<p>Having regard to the objectives of the capacity trading reforms and the Energy Council's approval of the GMRG's recommendation on coverage of the auction, do you agree with the proposal to:</p> <ul style="list-style-type: none"> • Apply the same exemption criteria to the obligation to publish a standard operational agreement and the auction? If not, why? • Replace the single end-user facility criterion, with a single shipper criterion? If not, why? 	<p>APA considers that an exemption granted to a pipeline that has capacity of less than 10TJ per day should be complete. It is unlikely that the overall benefits of participation in the auction for such a small pipeline will exceed the costs of participation, in particular the upfront and ongoing systems costs involved. It may be appropriate to require such pipelines to offer a standard operational agreement to facilitate capacity trades, if requested by a shipper, without also exposing the pipeline to the costs of auction participation.</p> <p>As a broader policy matter, APA is concerned that the GMRG, through its various reforms in Part 23, 24 and 25, has created a very significant barrier to third party access. APA notes that all elements of Part 23, 24 and 25 can be avoided where a pipeline owner does not provide third party access.</p> <p>Prior to the introduction of these reforms, a pipeline owner's incentives to provide third party access related to operational matters and cost (if there were no material competition issues in play). Where a third party sought to access a pipeline at a rate that exceeded the costs of providing that access, access was likely to be granted.</p> <p>With the advent of the obligations under Parts 23, 24 and 25, which offer complete exemptions to those that do not provide third party access, any agreement to provide access to a third party opens the otherwise exempt service provider to significant regulatory obligations and the risk of arbitration across its whole asset. It is unlikely that even an otherwise economic offer from an access seeker to use pipeline capacity would be accepted with these risks in play. Inefficient bypass and limits to competition are likely to result.</p> <p>This issue in particular arises for shippers seeking to gain access to the Wallumbilla Gladstone Pipeline (WGP) from the south, as there is a section of pipeline between the WGP and the rest of the east coast pipeline system that does not provide third party access (note that this pipeline segment is not owned by APA). The new Rules under Parts 23, 24 and 25 make third party access to this pipeline segment unlikely. This is an example of the barriers that regulatory interventions otherwise designed to facilitate access can create if not appropriately integrated with other parts of the regulatory framework.</p>
<p>7.</p>	<p>Do you think the following definition of 'Part 24 compression service facility' will achieve the objective of capturing stand-alone compressors, such as the Moomba, Ballera, Wallumbilla and Iona compression facilities, but excluding other compression facilities (e.g. compression facilities</p>	<p>The proposed definition is not sufficiently clear. For example, the pressure differential is not necessarily between two different pipelines. Moomba compression is required between the Moomba Gas Plant Receipt Point on the SWQP and the Ballera Delivery Point also on the SWQP. Wallumbilla compression is required between the Wallumbilla Low Pressure Trade Point and the Wallumbilla High Pressure Trade Point; also both on the SWQP. However, if the definition was broadened it would be unclear that midline compressors were excluded. APA suggests that, rather than using a generic definition, the specific compression facilities</p>



	Questions	Feedback
	<p>that form part of the pipeline that are used to provide an integrated service and upstream compression facilities? If not, please explain what amendments you think need to be made to this definition.</p> <p>Part 24 compression service facility <i>means a compression service facility that is or may be used to transport natural gas between a transmission pipeline operating at lower pressure and a transmission pipeline operating at higher pressure in order to facilitate the flow of natural gas between two or more receipt or delivery points where the receipt or delivery points are located on different transmission pipelines</i></p>	<p>be nominated, and potentially added to via Regulations. If this approach is adopted the Rules would need to set out some principles for determining which compression facilities should be subject to these provisions.</p>
8.	<p>Do you agree with the proposal to allow facilities with a nameplate rating less than 10 TJ/day and single shipper facilities, up to 60 business days to develop and offer a standard operational agreement? If not, why?</p>	<p>Please refer to the comments provided in response to question 6 above and Rule 611 below.</p>
9.	<p>Do you agree with the proposal to allow a single shipper exemption to be revoked if another shipper enters into an operational TSA with the service provider? If not, please explain why.</p>	<p>Please refer to the comments provided in response to Rule 611 below.</p>
<p>4.1.2 Governance model for the Code</p>		
10.	<p>Do you agree with the proposal to allow the AER to play a more proactive role in overseeing modifications to the Code? If not, please explain why.</p>	<p>Please refer to the comments provided in response to Rule 601 below.</p>
11.	<p>Do you agree with the proposed composition of the OTS Code Panel, which will comprise: two service providers, two shippers (one of which must be a large end-user) and AEMO? If not, please explain why not and the changes you would</p>	<p>Please refer to the comments provided in response to Rule 606 below. APA has further concerns with the definition of a quorum, discussed under Rule 609 below.</p>



	Questions	Feedback
	suggest be made to the composition of the OTS Code Panel.	
4.1.3 Measures to address contractual limitations in facility agreements		
12.	Do you agree with the proposal to use a request and negotiate framework, rather than a standard form agreement model or more prescriptive provisions in the NGR to overcome the limitations on capacity trading in facility agreements? If not, please explain why.	<p>Yes, a more prescriptive framework is impractical due to the bespoke nature of existing primary capacity GTAs.</p> <p>APA has some concerns in relation to the specific requirements to change facility agreements, discussed further in response to Rules 640, 642 and 643 below.</p>
13.	Do you think the 30 day period allowed for service providers to respond to a shipper seeking an amending agreement is appropriate? If not, why?	No, this is insufficient. Each primary capacity GTA is bespoke and the amendments that are required to give effect to the proposed principles are extensive. The only workable way to draft the necessary amendments is to complete an amendment and restatement agreement for each contract. This is a time consuming (and expensive) task. APA suggests that a minimum of 30 business days is required, with a minimum of 60 business days during a transition period following commencement of the rule change (to provide additional time to deal with the initial demand). Please also refer to the comments provided in response to question 5 above and Rule 606 below.
14.	Do you agree with the principles that service providers will be required to give effect to when amending the facility agreement in rule 642?	APA has some concerns in relation to the specific requirements to change facility agreements, discussed further in response to Rules 640, 642 and 643 below.
15.	Do you agree with the proposal to require service providers to comply with the change in receipt and delivery point provisions in rule 643?	APA has concerns in relation to the specific requirements to change facility agreements, discussed further in response to Rules 640, 642 and 643 below.
16.	<p>Do you agree with the proposal in rule 643(6) to restrict the ability of service provider's to make its consent on a receipt or delivery point change conditional on obtaining the consent of a third party but only:</p> <p>(a) where the transportation service provider would be in breach of contract if it gave effect to the request without the consent of the third party; and</p> <p>(b) if the third party is another transportation facility user or an associate of another transportation facility user, the requirement</p>	<p>APA does not support these changes.</p> <p>APA considers that there has not been adequate consideration of the implications on the primary market, and in particular the investment risks faced by pipeline service providers, where shippers have broad rights to change to receipt and delivery points under contract.</p> <p>Long term GTAs underpin new investment in capacity, including new pipelines, connection points and additional capacity. In many circumstances, investments are made for individual shippers at particular locations, where there is no alternative use for capacity if that shipper ceases to take capacity at that site. If a shipper has the ability to transfer capacity that has been the subject of an investment for that shipper,</p>



	Questions	Feedback
	<p>to obtain that person's consent arises under a contractual provision entered into before 3 January 2018.</p> <p>If not, why?</p>	<p>prior to the end of that foundation contract, then the base investment underpinned by long term contracts is undermined.</p> <p>While APA notes that the service provider can ensure that it continues to receive the same revenue under the contract, there is no assurance that the service provider continues to receive the same revenue on the pipeline as a whole, as the change in receipt or delivery point can sterilise additional pipeline capacity for which the service provider has no scope to be compensated through sales to other shippers.</p> <p>This is exacerbated on a pipeline that is fully regulated, where a now disused lateral or compression facility can be removed from the capital base, thereby reducing tariffs for all shippers (including the foundation shipper for that investment), and the service provider cannot recover their investment at all.</p> <p>For these reasons, the rules for changes to receipt and delivery points for scheme pipelines must be subject to technical and commercial considerations.</p>
<p>4.1.4 Governance arrangements for the specification of zones</p>		
<p>17.</p>	<p>Do you agree with the GMRG's proposed change to the governance arrangements for the specification of zones? If not, please explain why not and set out the arrangements that you think should be employed.</p>	<p>The principles set out in Rules 628(1) and (2) are focussed on the secondary trading market only. This is problematic for the following reasons:</p> <ul style="list-style-type: none"> • This is inappropriate and inconsistent with the NGO. It is important that the principles take into account the potential to adversely affect the primary market contrary to the NGO. • There appears to be an assumption that the definition of zones is independent of primary market pricing as primary shippers are already being paid in the primary market. This is incorrect if a shipper can buy primary capacity at one location, and then use zones to transport that capacity to another location that has a higher tariff (either to itself or to a related party), thereby avoiding primary market tariffs. Primary market tariff boundaries are relevant to the setting to zone boundaries to avoid this type of gaming. • Zone boundaries must avoid excessive (uncompensated) capacity sterilisation within the zones by ensuring that capacity at locations within a zone is sufficiently substitutable on a near 1-to-1 basis. This was a clear principle under the former zone boundary definitions discussed in earlier consultation processes, and is an important principle in ensuring that the secondary market arrangements do not undermine primary market contracting and investment by undermining the ability of the service provider to recover the costs of service provision. <p>In general, APA is concerned at the attempt to divorce the setting of zone boundaries from the physical characteristics of the assets providing the service. Both primary and secondary shippers expect secondary market transactions to be physically executable. Setting zones without reference to the physical capability of the system risks undermining the secondary trading and auction markets by increasing the likelihood that trades cannot be completed because of physical capacity limits. This is contrary to policy aims.</p>



	Questions	Feedback
18.	Do you agree with the specification of the principles that AEMO would be required to have regard to when determining the allocation of service points to zones? If not, please set out why not and any amendments you would propose to these principles.	Please refer to the comments provided above, and in response to Rule 628 below.
19.	Do you agree with the information disclosure obligations that service providers would be subject to under the NGR?	Please refer to the comments provided above, and in response to Rules 625 and 626 below.
20.	Do you think any additional guidance on the specification of zones is required in the NGR?	Please refer to the comments provided above, and in response to Division 4 of Part 24 below.
4.1.5 Other matters		
21.	Do you think the proposed service provider cost recovery arrangements provide sufficient protection against the risk of 'gold plating' or 'cost shifting'? If not, please explain why and identify any other measures you think should be employed.	<p>APA considers that the proposed arrangements are unnecessarily prescriptive and require excessive justification and publication. These are out of step with rules applying to any other service provided by transportation service providers and provide conflicting guidance on the recovery of costs.</p> <p>Standardisation costs are specified within Rule 634(1) as (effectively) the reasonably incurred directly attributable and verifiable costs associated with complying with the new regulatory requirements under Part 24 and the Capacity Transport and Auction Procedures. The recovery of these costs from customers, and some oversight of these costs by the AER, is reasonable and accepted by APA.</p> <p>It is nonsensical, however, to impose an additional test, beyond cost recovery, as applies under proposed Rule 634(5), that the costs also reflect the outcomes of a workably competitive market. These are costs incurred in fulfilling a regulatory requirement; they are not related to, nor can they be compared with, any benchmark arising from a competitive market. This is a manifestly inappropriate test for what is effectively regulated cost recovery.</p> <p>Furthermore, civil penalty provisions under Rule 634 should be limited to the requirements on the service provider to publish information (such as Rule 634(6)) and retain information (634(7)). Neither of these provisions should be conduct provisions. Compliance with what are effectively pricing principles for the recovery of standardisation costs is achieved through the ability for the AER to review and amend those charges under sub-rules 635(1) and 635(2). Compliance of an AER decision in this respect is appropriately a civil penalty provision under Clause 635(4). Please also refer to APA's comments in relation to proposed Rule 634 in this regard.</p>



Questions		Feedback
		APA considers that Rule 634(1) should also include costs that arise in relation to systems and processes to comply with its obligations under Part 25, including specific reporting obligations to the AER and AEMO that may be specified under instruments other than the Procedures.
5.1.1 Grandfathered rights		
22.	Do you think the proposal to limit the availability of grandfathered rights to gas fired generators for use at their generation plant is appropriate? If not, please explain why	It is unclear how to apply these grandfathered rights specific to gas fired generators where transportation services are provided to a shipper with gas fired generation in its portfolio, and services are provided within a portfolio of other services.
23.	Do you think the proposed two-year transitional period for grandfathered rights is appropriate? If not, please explain why.	No comment
24.	Are there any other limitations that you think should be placed on the availability and/or use of grandfathered rights?	No comment
5.1.2 Contract path specification		
25.	Do you agree with the GMRG's proposal to use the hybrid model for forward haul and compression services? If not, please explain why and in doing so: <ul style="list-style-type: none"> ▪ set out the approach you think should be employed; and ▪ why you think this approach is more consistent with the objectives of the capacity trading reform package, the NGO and the Energy Council's Vision. 	APA accepts in principle the use of the hybrid model for forward haul and compression services. APA has identified some issues with the specific implementation of the model, raised in response to Rule 650 in particular.
26.	Do you agree with the proposal to allow AEMO to determine the backhaul receipt and delivery points to be included in the auction? If not, please explain why	No comment
27.	If AEMO is to determine the backhaul points to be included in the auction, do you think any principles need to be included in the NGR to guide this	Determination of backhaul products to be included in the auction should be limited to single direction pipeline segments (as is currently proposed), but only in circumstances where the resultant backhaul allocation does not physically increase the forward haul flows on any section of the pipeline. This could arise if backhaul products from notional receipt points on single direction pipelines are included in the



	Questions	Feedback
	decision, or should it just be carried out by reference to the Part 25 objective and the NGO?	auction (such as STTM 'from the hub' points at the end of a pipeline). Allocation of backhaul from these points to delivery points along the pipeline would result in additional physical forward haul being utilised to meet the delivery obligation, which could potentially come from uncontracted primary forward haul capacity. This was never the intent of the reforms and would mean that the auction was allocating uncontracted primary capacity.
5.1.3 Methodology used to calculate auction quantity limits		
28.	Do you agree with the proposal to require the methodology to be used to calculate the auction quantity limits to be specified in the Auction Procedures? If not, why?	Please refer to the comments provided in response to Rule 628 below.
29.	Do you think any additional principles need to be included in the NGR to guide AEMO's development of this methodology? If so, please specify the principles and why you think they are required.	Please refer to the comments provided in response to Rule 628 below.
5.1.4 Other matters		
30.	Do you think the balance that has been struck between the various legal and regulatory instrument is appropriate? If not, what changes do you think need to be made to achieve a better balance?	APA has identified circumstances where either the rules are too prescriptive and may lock in unnecessary processes or obligations, or do not provide adequate guidance or procedural certainty, and therefore require further elaboration. These circumstances are outlined in respect of individual provisions below.
31.	Do you think there are any contractual or other legal impediments to prevent auction facility operators giving effect to the results of the auction and auction service priorities? If so, what are they and how do you think they could be addressed?	Please refer to the comments provided in response to item 1 above.
32.	Do you think information on intra-day curtailments to capacity sold in the auction should be published on the Bulletin Board during the gas day? If so: <ul style="list-style-type: none"> ▪ What benefit do you think it would provide? ▪ Do you think the obligation to report this information should be limited to material curtailments (e.g. where the capacity sold in the auction is curtailed by more than 10%)? 	If market participants see a value in the publication of any information on the Bulletin Board, then such information should be limited to aggregated information on auction quantities only and not require additional detail to be gathered from facility operators beyond what is currently being proposed to be provided to AEMO each day (firm renominations or physical constraint). The confidential nature of shipper behaviours, in particular large users or GPGs, should be considered when deciding on whether information should be published. In addition, there should also be a clear cost benefit analysis applied to any requirement.



	Questions	Feedback
33.	Do you think information on the grandfathered rights that have been scheduled ahead of the auction should be published on the Bulletin Board after the gas day? If so, what benefit do you think it would provide?	It is hard to see value in the publication of this information, given that firm contractual requirements are subject to change at any point. Such historical information is therefore unlikely to be useful for future availability of auction capacity.
34.	Are there any other types of information that you think could be published that have not already been identified, which would allow auction participants to better understand the risks?	Current and proposed information reporting requirements are already extensive and it is hard to envisage what additional information could be provided that would not either disclose confidential shipper information and/or involve a disproportionate cost burden to provide.
7.1 Allocation arrangements		
35.	Do you have any concerns with allocation agents that operate at points through which gas is injected into or withdrawn from a Part 24 facility being required to provide AEMO with the information set out in Table 7.1?	<p>APA is comfortable with the information where there is actually a written allocation agreement. At many locations there is not. In the absence of allocation agreements, the practice is that the producer or end user (as applicable) decides the allocation methodology or performs the allocations and/or all parties simply default to a standard rule, such as priority or pro-rate.</p> <p>APA suggests that the following information be published:</p> <ul style="list-style-type: none"> • Where there is a written allocation agreement in place, the information proposed by the GMRG. • Where there is no written allocation agreement: <ul style="list-style-type: none"> - The identity of the allocation agent and, where that person is the pipeline service provider, contact details. - Where allocations are performed by the pipeline service provider, a description of the allocation methodology used at the allocation point. - Where allocations are performed by the pipeline service provider, a description of what steps the proposed user must take to become a party to the allocation arrangements, including any cost involved.
36.	Is there other information regarding allocation arrangements that should be published to ensure these agreements do not act as a barrier to trade?	No, if there are any barriers then APA assists its customers to avoid them by performing allocations at in-pipe trade points.
8.1 Transitional arrangements		
37.	Are the provisions in the NGL and Part 26 of the NGR sufficient to trigger change of law provisions and enable changes required to existing contracts to implement the harmonisation of the gas day	No, most of APA's contracts do not have change in law provisions that allow a change in terms and conditions (only an ability to pass through increased costs as a result in law changes). APA has no unilateral right to change the gas day in its contracts.



	Questions	Feedback
	start time and, as applicable, the nomination cut-off time? If not, why?	<p>Compliance with the proposed transitional measures merely amounts to a publication of intentions without any authority to implement them. APA believes that a new provision should be included in the NGL to override existing times in contracts that are tied to existing gas day definitions.</p> <p>Please refer to the response to item 1 above.</p>
38.	<p>With regard to the information required to be published by facility operators:</p> <ul style="list-style-type: none"> Do you think transitional rule 4, Part 6 (Schedule 5) will facilitate coordination between interconnected facilities and AEMO without being overly burdensome on facility operators? If not, why? Is the 30 June 2019 cut-off date for publication appropriate? If not, when should this information be required to be published and why? 	<p>As noted above, APA does not have a unilateral right to amend the meaning of gas day in all of its existing contracts. Accordingly, the Rules should provide that no act or omission of a facility operator in implementing arrangements for nominations, scheduling or adjustments to capacity entitlements in accordance with Part 6 of Schedule 5 of the Rules will of itself cause the facility operator to be in breach of its obligations to transportation facility users in respect of the applicable transportation services.</p> <p>Please refer to the response to item 1 above.</p>
9.1 Key timings		
39.	Do you have any concerns with the timings outlined Chapter 9? If so, what are they and how do you suggest the timings are adjusted?	No comment
40.	<p>In the event the capacity trading reforms are applied in the Northern Territory, do you believe the timings set out in Table 9.4 are appropriate? For example:</p> <ul style="list-style-type: none"> Part 18 of the NGR uses 'NT application date', defined as the date falling 90 days after the date on which the first NT interconnector is commissioned, to determine when Part 18 applies to facilities in the NT. Following this 90 day period, BB facilities that are also NT facilities have 20 business days to apply to AEMO to register under Part 18. In practice, this means that NT auction facilities may be subject to the capacity auction (which commences on the date falling 80 business days after 	No comment



	Questions	Feedback
	commissioning), prior to publishing information on the Bulletin Board. Should the Part 18 obligations come into effect for NT auction facilities prior to the commencement of the auction?	



2. National Gas Laws Amendments (Capacity Trading and Auctions)

Amendment	Issue	Feedback
Schedule 1	Amendment of National Gas Law	
1	Section 2 (1), definition of "Bulletin Board information"	No comment
2	Section 2 (1), various new definitions	<p>Definition of 'capacity auction'</p> <p>The intention behind the reforms was that the capacity auction provisions were limited to AEMO-run auctions of contracted, but unominated capacity. The way in which 'capacity auction' has been defined in section 2(1) does not clearly limit the scope of the capacity auction provision in the NGL and the Rules to contracted, but unominated capacity, or to auctions operated by AEMO. In particular:</p> <ul style="list-style-type: none"> • Capacity auction means "an auction through which a person may buy transportation capacity". • Transportation capacity means "a right under a contract with a transportation service provider to be provided with a transportation service by means of the transportation service provider's transportation facility, for a given quantity of natural gas over a given period of time". <p>This is clearly problematic and not what was intended in the Capacity Trading Reform Package. Both the Capacity Trading Reform Package Final Recommendation dated November 2017 as well as this Consultation Paper clearly intended for the scope of the capacity auction to be limited to capacity that is both contracted and unominated. Any extension of scope beyond contracted but unominated capacity would have the consequence of service providers being required to commit twice to the same capacity and put compliance with existing contracts at risk.</p> <p>The definition of capacity auction should be amended to clearly reflect that the auction contemplated by the reforms are limited to auctions operated by AEMO as contemplated by Parts 24 and 25 and not any auction that occurs in the market.</p> <p>The definition of 'transportation capacity' referred to in the definition of 'capacity auction' should be amended to clearly limit the capacity that is capable of being auctioned to contracted, but unominated capacity.</p> <p>Definition of 'transportation services'</p>



	<p>Transportation service is defined as “a pipeline service or a service provided by means of a compression service facility or a service specified by the Regulations”. Pipeline services is already defined broadly in the NGL to include haulage services (firm and non-firm) and ancillary services.</p> <p>The use of the definition of pipeline services has the following implications:</p> <ul style="list-style-type: none"> • There is no limitation of the capacity auction to haulage and associated compression services. For example, it could apply to storage services. • There is no limitation to firm haulage services. The capacity auction provisions could, therefore, apply to contracted as available or interruptible haulage services. <p>Definition of ‘compression service facility’</p> <p>A ‘compression service facility’ is defined as:</p> <p>“(a) a facility (whether or not forming part of another facility or located on or connected to another facility) for compressing natural gas; or (b) a part of a facility referred to in paragraph (a), but does not include— (c) a facility operated as part of a gathering system operated as part of an upstream producing operation; or (d) anything downstream of a point on a pipeline from which a person takes natural gas for consumption purposes;”</p> <p>APA considers that this definition is ambiguous as it could potentially include midline compression rather than specific facilities.</p> <p>Definition of ‘standard operational agreement’</p> <p>This term could be unclear as pipeline operation is broader than providing operational transport services. APA suggests that this term is renamed to improve clarity in NGL to “Standard Operational Transportation Service Agreement”.</p> <p>Scope of transaction support arrangements</p> <p>The potential scope of the NGL and Rules in relation to what might constitute ‘transaction support arrangements’ is very broad.</p> <p>APA notes that, at page 33 of the Consultation Paper, transaction support arrangements are explained as follows:</p> <p><i>“To facilitate trade conducted through the exchange and the auction, service providers will be required to comply with the transaction support arrangements in the Capacity Transfer and Auction Procedures. Among other things, these arrangements will set out the process, form and timing of the exchanges of information between AEMO and service providers, the validation process and the circumstances in which service providers can decline to give effect to a transfer. Subject to some limitations, service providers will also be required by the NGR (and contractually) to give effect to operational transfers.”</i></p> <p>While there is a requirement that the arrangement be transacted from a gas trading exchange or capacity auction, APA has the following concerns with the potential scope of the arrangements:</p> <ul style="list-style-type: none"> • The arrangements will be developed at AEMO’s discretion during the course of developing the Procedures. The Rules only provide guidance on the content of the Procedures insofar as they relate to capacity auctions.
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		<ul style="list-style-type: none"> The proposed changes to the NGL and Rules provide no articulation of what those arrangements might involve and particularly what are related goods and services. The proposed amendments to AEMO’s powers and functions set out in sections 74, 91A, 91BRQ and Schedule 1 of the NGL are expressed separately from capacity auctions, which seem to imply that they could operate outside the context of the capacity auctions. <p>The scope of ‘transaction support arrangements’ should be properly articulated in the NGL or the Rules, to be expressly limited to arrangements necessary to support the services provided through the exchange and the auction, rather than the broader “transportation with respect to transportation capacity and related goods and services”. As set out above, APA considers that the scope of the auction should be limited to the allocation of CBU capacity, and not other primary capacity services.</p>
3	Section 2 (1), definition of "initial National Gas Rules"	No comment
4	Section 2 (1), definition of "Natural Gas Services Bulletin Board"	No comment
5	Section 8 (3)	<p>Section 8(3) states: <i>“If AEMO controls or operates (without at the same time owning) a compression service facility or another facility of a type prescribed by the Regulations for the purposes of paragraph (c) of the definition of transportation facility in this section, AEMO is not for that reason to be taken to be a transportation service provider for the purposes of this Law.”</i></p> <p>It is not at all clear from the proposed NGL and Rules in what circumstances AEMO would be required to control or operate a compression service facility. The only circumstances in which APA contemplates AEMO operating or controlling a compression service facility is in relation to the Declared Transmission System, which is expressly exempt from the scope of the Capacity Trading Reform Package. Table 3.1 on page 26 of the Consultation Paper, which sets out the proposed changes to the regulators’ functions, similarly does not appear to contemplate new functions or powers for AEMO that involve controlling or operating a compression service facility.</p> <p>The significance and implications of AEMO controlling or operating a compression service facility did not form part of the consultation process relating to the Capacity Trading Reform Package.</p> <p>APA therefore proposes that this section be deleted.</p>



6	Section 27 Functions and powers of the AER	No comment
7	Section 74 Subject matter for National Gas Rules	No comment
8	Section 74 (1) (aab)–(aad)	<p>Section 74(1)(aab) states that the Rules can regulate: <i>“the capacity auction functions of AEMO, the operation of a capacity auction and the activities of transportation service providers and transportation facility users in connection with a capacity auction”</i></p> <p>While APA notes that the first part of these powers are restricted to the capacity auction functions of AEMO, that latter part seems to extend to rules to potentially regulate the actions of transportation service providers and users in connection with a capacity auction. As the definition of a capacity auction is not limited to an auction operated by AEMO, as discussed above in more detail, this provision could allow the Rules to extend to auctions conducted by transportation services providers for primary capacity.</p> <p>APA notes that the rules governing queuing arrangements for scheme pipelines under full regulation contemplate auctions in respect of primary capacity, and the approved access arrangement for the Goldfields Gas Pipeline includes an auction process as part of its queuing requirements.</p> <p>APA considers that this Rule-making head of power should be limited to Rules in respect of the capacity auction functions of AEMO, and the activities of transportation service providers and transportation facility users in connection with a capacity auction conducted by AEMO.</p>
9	Section 74 (3) (fb)	No comment
10	Sections 83B–83D	<p>Section 83B</p> <p>Section 83B states that the standard market timetable may, inter alia: <i>“provide for the times for exchange of information about use of transportation services and deliveries and receipts of natural gas;”</i></p> <p>APA’s understanding is that the standard market timetable relates to standing gas day start and nomination deadlines across relevant assets. APA does not believe it is necessary to extend this standardisation to specifying the times for exchange of information about use of transportation services and deliveries and receipts of natural gas to all contracts, services and pipelines that may be subject to the gas day standardisation reforms. To do so would lead to increased implementation costs for a standard market timetable, without commensurate benefit, as the standardisation reforms have potentially broader application than the new markets, such as the auction, which might require further standardisation in the area of information exchange.</p> <p>APA considers that this exchange of information is appropriately governed by one or both of the following arrangements:</p>



		<ul style="list-style-type: none"> the Procedures, where they relate to the exchange of information necessary for the operation of the auction or capacity trading platform; and/or the contract between the service provider and the user (and only this contract where the auction or capacity trading platform is not applicable). <p>APA does not believe that the exchange of information on a particular timetable is necessary to implement the policy purpose of a standard gas day except in respect to the operation of the auction or trading market (for which there is an adequate new head of power under the revised rule 74). All other exchange can be governed by contract between service provider and user, and revised as needed between the parties.</p> <p>APA suggests deletion of proposed subsection 83B(2)(b).</p> <p>Section 83D – False or misleading statements</p> <p>It is APA’s understanding that the costs of implementing a standard gas day incurred by both persons listed under 83D will be recovered under contract using, for example, change in regulation/legislation clauses. As such, the amount to be recovered is governed under contract between the parties.</p> <p>In this context, it is unclear as to the purpose of section 83D, in particular, to whom false and misleading statements are made and how these matters are determined, under this provision.</p> <p>APA considers that this section creates uncertainty as to the governing law for contractual negotiations between parties, which, in many cases, includes provision for independent determination/arbitration of such matters, and represents unnecessary government intervention into existing contractual arrangements between parties.</p>
11	Section 91A— AEMO’s statutory functions	Please refer to the comments in relation to the definition of ‘transaction support arrangements’ in item 2 above.
12	Section 91A (1) (gb) and (gc)	Please refer to the comments in relation to the definition of ‘transaction support arrangements’ in item 2 above.
13	Chapter 2, Part 6, Divisions 2C–2E	<p>AEMO’s trading powers</p> <p>Section 91BRM(2) provides that “AEMO may trade in transportation capacity to the extent necessary or desirable for the efficient operation of a capacity auction”. Section 91BRS, under Division E, entitled ‘Transportation service provider registration’, provides that for purposes of performing statutory functions, AEMO is not required to be registered.</p> <p>It is not clear why AEMO would require the power to trade capacity in the context of an auction. This was not contemplated at any stage of the consultation process relating to the Capacity Trading Reform Package. The potential for AEMO to participate in the auction is an</p>



		<p>important policy matter. The auction does not involve the trade of capacity, and it is unclear how AEMO's involvement in the auction could increase its efficient operation. In addition to substantially changing the financial and other risk exposure of the market operator, owned by governments and industry, the purpose of AEMO participation in the auction is unclear, and may undermine confidence in the market where AEMO is not subject to the same market drivers as other participants — for example, because of its limitations in liability — and not-for-profit status.</p> <p>APA considers that this power be removed from section 91BRM(1) as it has not been part of previous policy considerations, and gives rise to broader issues related to market governance, market confidence and incentives than appear to have been contemplated in the GMRG policy development process.</p> <p>AEMO's broad powers</p> <p>APA is concerned that the NGL and Rules contain only limited detail on the design of the auction and confer very broad powers on AEMO in respect to market design and the obligations of parties. While the NGL states that the Procedures cannot create an offence or provide for a criminal or civil penalty, a failure to comply with a direction from AEMO to rectify an alleged breach or take specified measures to comply with the Procedures is proposed as a civil penalty provision under the Rules. These are very broad powers that are arguably not appropriate to vest with a market operator.</p>
14	Chapter 2, Part 6, Division 6, Subdivisions 3 and 4	No comment
15	Section 91GG Disclosure of protected information for safety, proper operation of the market etc	No comment
16	Section 91H Obligations under Rules or Procedures to make payments	<p>The definition of a Registered Participant is very confusing. The definition states that a Registered Participant includes:</p> <ul style="list-style-type: none"> • an exempted participant • a capacity auction participant • a transportation service provider registered with AEMO under section 91BRS; and • a gas exchange member. <p>Under section 91BRS, a transportation service provider can be exempted from the need to register. It is unclear whether an exempted participant under the definition of 'Registered Participant' in section 91H includes a Transportation Service Provider exempted under section 91 BRS, or some other class of exempted provider.</p>



17	Section 218 AEMO's obligation to maintain Bulletin Board	No comment
18	Section 219 AEMO's other functions as operator of Natural Gas Services Bulletin Board	No comment
19	Section 223 Obligation to give information to AEMO about natural gas and natural gas services	No comment
20	Section 223A	No comment
21	Section 224 Person cannot rely on duty of confidence to avoid compliance with obligation	No comment
22	Chapter 7A	<p>Section 228C(3) To avoid confusion about when a standard operation agreement takes effect, APA proposes that section 228C(3) be amended to state: “(3) A standard operational agreement takes effect as a contract between the transportation service provider and another person when: (a) the other person accepts the transportation service provider's offer to enter into the standard operational agreement <u>by signing the standard operational agreement</u>; and (b) any pre-conditions to the formation of the contract are satisfied.”</p> <p>Section 228K</p>



		It is not clear on what basis a prohibition on price discrimination is required in this context. The practical effect of this prohibition is to fix operational transportation service charges over time, such that they cannot respond to changing market circumstances, for example, in response to changes in actual or forecast demand for services compared to those assumed when prices were set. It would also limit the ability for service providers to waive certain charges where circumstances warrant this approach. APA notes that the ACCC has not found any issues of inefficient price discrimination through multiple inquiries into transportation service providers. APA proposes that this section be removed.
23	Section 294G	No comment
24	Section 322 Service provider may enter into agreement for access different from applicable access arrangement	No comment
25	Schedule 1- Subject matter for the National Gas Rules	No comment
26	Schedule 1, items 55T	No comment
27	Schedule 1, items 68A–68G	No comment
28	Schedule 1, item 69A	No comment
Schedule 2	Amendment of National Gas Regulations	
1	Regulation 5A Definition of compression service facility	No comment
2	Regulation 10 Maximum civil	No comment



	monetary liabilities	
3	Regulation 10 (1) (dc) and (dd)	No comment
4	Regulation 10 (1) (e)	No comment
5	Regulation 10 (2)	No comment
6	Regulation 10 (2) (d) and (e)	No comment
7	Regulation 10 (3), definition of "prescribed amount"	No comment
8	Regulation 10 (3), definition of "relevant event"	No comment
9	Regulation 10 (3), definition of "relevant event"	No comment
10	Schedule 2 Exclusions from definition of pipeline	No comment
11	Schedule 3 Civil penalties	No comment
12	Schedule 4 Conduct provisions	No comment



3. National Gas Rules

Part 15A Registered Participants

Draft Rules	Issue	Feedback
Division 3	Participant fees	
135C	Definitions	No comment
135CA	Development of participant fee structure	No comment
135CC	Components of participant fees	No comment
135CF	Budgeted revenue requirements	No comment



Part 18 Natural Gas Services Bulletin Board

Draft Rules	Issue	Feedback
Division 1	Interpretation and application	
141	Interpretation	No comment (note definitions that refer to other sections (for e.g. Part 24 compression service facility) are dealt with under those respective sections)
Division 2	Bulletin Board	
147	AEMO to maintain BB Register	No comment
Division 3	Register and registration	
158A	Obligation to register as BB allocation agent	No comment
158B	Obligation to register BB allocation point	No comment
158C	Registrations for capacity transaction reporting	No comment
158D	Appointment of capacity transaction reporting agent	No comment
160	AEMO to register	No comment
161	Revocation of registration	No comment
Division 4	Information standard and related obligations	
165	Standard for information or data given under this Part or the BB Procedures	No comment
Division 5	Information to be provided by BB reporting entities	
168	Nameplate rating information	No comment
170A	Allocation methodology and agreement	No comment
174	[Not used]. – Deletion of Secondary trade date for BB pipelines	No comment
190A	Obligation to report	No comment
190B	Reporting by the GSH Operator	No comment
Division 7	Publication of information by AEMO	
195A	Publication of capacity transaction information	No comment
195B	Publication of capacity auction information	No comment



Part 22 Gas Trading Exchange

Draft Rules	Issue	Feedback
Division 1	Preliminary	
533	Definitions	No comment
Division 2	Operator	
534	Fees recoverable by AEMO	Changes to fees recoverable by AEMO are appropriate
536	Determination of payments on close out	Change to fee determination on close out is appropriate
536A	Payments where primary facility agreement is terminated	The methodology proposed in this rule is not appropriate and potentially results in AEMO determining the price paid for primary capacity. This rule obligates service providers to provide a primary capacity service to a secondary shipper through no default of the service provider and is not in line with the original intent of the capacity trading reform. The liability incurred by the secondary shipper over this period could be significantly in excess of credit support limits governing secondary capacity trades, which assume that primary shipper payment credit support is managed through the primary contract. A more appropriate mechanism would be to create a compensation fund for secondary shippers affected by the default of a primary shipper as is the case in other AEMO markets. This methodology would allow market participants to fund the costs of any defaults created within the market rather than forcing the obligation onto the service provider.



Part 24 Facilitating capacity trades and capacity auctions

Draft Rules	Issue	Feedback
Division 1		
Preliminary		
591	Application	No comment
592	Structure of this Part	No comment
593	Definitions and interpretation	<p>Rule 593(4)(b) provides that a person required by a provision of this Part to give information or data to AEMO or the AER, including information resulting from calculations, must maintain any equipment from which that information or data is derived. APA notes that this is proposed to be both a civil penalty and conduct provision.</p> <p>This obligation is burdensome and could be interpreted to require transportation service providers to keep meters and infrastructure commissioned, even if there is no user for example if a dormant delivery point is in a zone. APA proposes that the circumstances in which a meter and infrastructure is required to be kept commissioned and maintained be limited to circumstances where there is an active user of that infrastructure.</p> <p>In addition, information provided to the AER or AEMO will use IT systems and processes. As with requirements elsewhere in the Rules that data is retained for seven years, these requirements could mean that service providers must retain and keep replaced or redundant systems and capabilities operational, which can be a very costly exercise, and may not be possible. This obligation appears to apply even where the data has been exported into new systems. This arises from the obligation to maintain any equipment from which the data derived. APA proposes that this obligation should specify that data should remain accessible in accordance with the auction information standard and should be limited to a period of three years, instead of seven. APA notes that data that is more than three years old, such as nominations data, is unlikely to be instructive in respect to current market circumstances.</p>
594	Part 23 does not apply	No comment
Division 2		
Operational Transportation Service Code		
595	Objective and effective date	<p>APA is of the view that the objective of the Operational Transportation Service Code (Code) should be the NGO.</p> <p>Having several sub-objectives in the rules is confusing and makes enforcement of the various provisions of the NGL and the Rules difficult. It also leads to uncertainty in circumstances where an objective conflicts with the NGO.</p> <p>The sole focus of Code objective is on access to operational transportation services. However, elements of the Code, in particular liability, indemnity and force majeure provisions can impact the ability of a pipeline service provider to provide any pipeline service, and that service provider's ongoing viability. These are elements captured in the NGO (such as through the long-term interests of consumers), and should be the basis of development and ongoing revisions to the Code.</p>



596	Content of the Code	No comment
597	Standard operational transportation services and auction services	<p>Rule 597(c) states that priority at a receipt or delivery point is given to only firm forward haul services or firm compression services provided under a primary facility agreement.</p> <p>The ability to provide operational capacity at a service point can be impacted by firm primary storage agreements and, in some circumstances, by firm backhaul agreements. This must also be taken into account where relevant.</p>
598	Standard terms and facility specific terms	No comment
599	Establishment and operation of the OTS Code Panel	<p>Rule 599(1) provides that AEMO must, amongst other things, develop, maintain and publish:</p> <ul style="list-style-type: none"> • Election procedures for the OTS Code Panel, which address membership of the Panel, how sectors decide on their representation (through the election procedures), and powers to remove members from the Panel (through the Manual). • An Operating Manual for the OTS Code Panel, which addresses the manner in which the Panel performs its functions. <p>These broad powers, coupled with the apparent lack of consultation requirements for amendments to the Procedures, effectively gives AEMO indirect control over aspects of the Code.</p> <p>Given the central role of the Panel in assessing and recommending changes to the Code, it does not appear appropriate that AEMO have such broad and unfettered control over Panel membership. More guidance is required in the Rules on the scope of AEMO's powers, which should not extend to determining how a sector chooses to represent itself on the Panel.</p>
600	Functions of the Operational Transportation Service Code Panel	No comment
601	Code modification proposals	<p>The scope of the limitation on who can propose modifications to Rule 601(1) is confusing. In particular, it could be interpreted that an organisation represented on the Panel is not able to make Code modification proposals. In APA's view, this clause should not preclude a transportation service provider or, indeed, a transportation facility user represented on the Panel from making modification proposals, subject to conflict rules in which case Rule 606 provides for an alternate.</p> <p>Rule 601(3) gives AEMO the unfettered power to unilaterally reject a Code modification proposal if AEMO reasonably considers that the proposal is misconceived or lacking in substance. While Rule 601(4) provides that AEMO must send a copy of the decision to the AER and the Panel, there are no provisions for either to give any input or take any steps if they disagree with AEMO's decision. This is another example of the inappropriately broad scope of AEMO's powers under the proposed changes to the NGL and NGR.</p>



		APA proposes that this clause be recast as a power for the OTS Code Panel, such that the Panel can reject a proposal as misconceived or lacking in substance. The provisions of Rule 601(4) can still apply to a decision of the Panel, with new powers for the AER to disagree with the Panel's decision and require the Panel to follow the process in Rule 601(6).
602	Consultation by the OTS Panel	<p>Rule 602(3) provides that a notice inviting written comments on Code modification proposals from interested parties is not required in circumstances where the modification is “urgently necessary to ensure the proper operation of the capacity auction or gas trading exchange or the safe and reliable operation of one or more transportation facilities” or “non-material (that is, the modification corrects a minor error on the Code or is unlikely to have a significant financial impact)”.</p> <p>While APA appreciates that there are circumstances where a full consultation process is not warranted, further clarity should be provided when a modification is urgently required and when a modification is unlikely to have a significant financial impact.</p>
603	AER response to OTS Code Panel recommendations	No comment
604	Code modifications	Please refer to APA's comment in relation Rule 602(3) above.
605	Principles for making Code modification decisions	<p>APA is of the view the principles the AER must take into account regarding Rule 605(1) and (2) are too narrow in scope. APA considers that the Rules should be amended such that the AER must take into account the NGO in place of the narrowly defined Code objective.</p> <p>It is essential that arrangements that support the secondary trade of capacity take into account both the legitimate business interests of transportation service providers, and the interests of those that have existing contractual rights to use facilities, as, without protecting these rights, the secondary market cannot be expected to flourish. Reference to the NGO would achieve this. The secondary market is not independent of the primary market, and decisions made that only consider the secondary market effects can have serious adverse implications for primary market outcomes. APA further notes that the proposed Code objective provides limited, if any, policy or regulatory guidance (it is, rather, focused on competitive market outcomes) and, as such, does not provide meaningful guidance to the AER on the future development of the Code.</p> <p>Should the GMRG decide to retain the Code objective, the , “legitimate business interests of transportation service providers in relation to transportation facilities”, which is currently included as a consideration the AER may take into account under Rule 605(2), should be moved Rule 605(1), as this is a consideration that should be mandatory for the AER to take into account.</p> <p>Rule 605(4) provides that the AER must specify the time within which a transportation service provider must publish a new standard operational agreement following a Code modification, which is not shorter than 20 business days. While this time period may be sufficient if the change relates to the standard terms, if the change relates to amendments to the principles for facility specific terms, then more time is likely to be required.</p>
606	Members of the OTS Code Panel	The Rules prescribe how Panel members are determined. APA queries whether this level of prescription is required, in particular, the apparent requirement that members be elected.



		As discussed in response to Rule 599, Rule 606(2) provides that members of the Panel can be removed in accordance with the Manual, which is developed by AEMO. This is another example of the inappropriately broad scope of AEMO's powers under the proposed changes to the NGL and NGR.
607	Nomination, election and appointment of members	Please refer to the comments provided in relation to Rule 606.
608	Obligations of OTS Code Panel members	No comment.
609	Meetings of the OTS Code Panel	<p>APA notes that AEMO as the chair of the Panel has a casting vote on all decisions. This is another example of the inappropriately broad scope of AEMO's powers under the proposed changes to the NGL and NGR. APA proposes that Rule 609(2) be amended to provide for a rotating chair, giving the transportation service providers, facility users and AEMO each an opportunity to appoint the chair of the panel.</p> <p>In order to ensure that all parties' interests are represented at Panel meetings, APA proposes that the quorum set out in Rule 609(4) be amended to provide that the three members present must comprise the AEMO member and one representative elected by each of the transportation service providers and the transportation facility users.</p>
Division 3	Exemptions and registration	
610	Scope of exemptions	No comment
611	Exemptions granted by the AER	<p>Rule 611(1)(b) creates uncertainty about whether an exemption will be granted, as it places the decision about whether to grant an exemption within the AER's discretion. In APA's view, the criteria used to determine whether an exemption should be granted should be factual and strictly applied. The discretion to grant or refuse an exemption creates a risk for policy to be driven using discretionary powers, notwithstanding exemption criteria. APA considers that Rule 611(1)(b) should be deleted.</p> <p>Rule 611(6) provides for a condition to be imposed on an exemption that has the effect that an exemption on the basis of a single user facility or of a nameplate rating of less than 10TJ per day will only apply until a request for access from a secondary shipper is received. It is not clear whether this means that, when an access request is received from a secondary shipper, the transportation service provider provides the shipper with a standard operational agreement or whether this also means that the previously exempt pipeline is now part of the capacity trading and auction platform too.</p> <p>This should be clarified. If the latter, this sub-rule should only apply to single shipper pipelines. APA is of the view that it is not appropriate for low capacity pipelines to be subject to the capacity trading and auction platform. The direct costs of compliance for such pipelines are likely to materially exceed any benefits that may arise from having the auction and platform apply to these pipelines. APA further notes that the provisions of Part 23 would apply to non-scheme pipelines should a secondary shipper be unable to negotiate reasonable access to a pipeline with nameplate capacity less than 10TJ per day.</p>



612	Exemption conditions	Please refer to the comment in relation to Rule 611(6) above.
613	Revocation	No comment
614	Making and form of application	No comment
615	Decision on application	No comment
616	Decision to vary or revoke an exemption	No comment
617	AEMO to maintain register and publish guide	Rule 617(2)(d) reflects the ability of AEMO to extend the information required to be provided by transportation service providers, as set out in the Procedures, without consultation. This is another example of the inappropriately broad scope of AEMO's powers under the proposed changes to the NGL and NGR.
618	Registration of transportation service providers	It would appear to be an unnecessary layer of regulatory compliance to both register every service provider for a facility and, then, register each facility, including a responsible service provider, where there is more than one service provider for that facility. The concept of 'service provider' is well established for scheme pipelines, where any person who owns, controls or operates a scheme pipeline is considered a service provider and, where there is more than one service provider, the group can appoint a complying service provider. APA considers that the obligations under rules 618 and 619 can be materially reduced, while achieving the same results, by only requiring Part 24 facilities to register, and for the complying service provider (providing evidence that they are the complying service provider) to undertake that registration. It is unclear what extra assurance is provided by having separate registers of service providers, entities and complying service providers where this has not proven necessary for scheme pipelines.
619	Obligation to register Part 24 facilities	See comments in relation to Rule 618
620	Multiple transportation service providers for a Part 24 facility	See comments in relation to Rule 618
621	Change of transportation service provider	<p>The obligations on outgoing transportation service providers provided for in this Rule are more burdensome than obligations on fully regulated pipeline service providers. It is not clear on what basis the administrative burden is justified, particularly in circumstances where the new transportation service provider is required to apply to register under this Rule in any event.</p> <p>It is entirely inappropriate to categorise a failure to notify a change within 5 business days as a civil penalty provision. An underlying change in ownership, operation and control of a transportation facility does not change the obligations that apply to that facility as a registered facility. As such, a change in service provider is an administrative matter only and should not be subject to such strict timetable to inform, or civil penalty provisions, in any way.</p>



622	Application for registration	No comment
623	AEMO to register applicants and their facilities	No comment
624	Revocation of registration	No comment
Division 4	Matters for the Capacity Transfer and Auction Procedures	
625	Information about contracts	This Rule allows AEMO to set the scope and requirements, including time to provide information, that create civil penalty provisions. APA notes that AEMO is provided no guidance on how to develop these requirements and, as previously mentioned, is not specifically required under the Rules to consult on changes on those requirements. This is another example of the inappropriately broad scope of AEMO's powers under the proposed changes to the NGL and NGR.
626	Service point and pipeline segment specifications	Rule 626(2)(b) is an extension of AEMO's powers in relation to the information required by the Procedures. The obligation to provide this information is also categorised as a civil penalty provision. This is another example of the inappropriately broad scope of AEMO's powers under the proposed changes to the NGL and NGR.
627	Allocation to zones	<p>The process for AEMO to allocate service points to zones provides for a process for AEMO to determine for itself the circumstances where it can apply an expedited process. It is inappropriate for AEMO to both have the power to make a decision and the ability to circumvent processes designed to inform that decision.</p> <p>Further, in making a decision to apply an expedited process, AEMO appears to only be required to consider whether the proposal is likely to have an adverse impact on transportation facility users. It is not required to consider transportation service providers at all. Consideration of whether to apply an expedited process must also take account likely adverse impacts on transportation service providers, and the safety and integrity of the facility.</p>
628	Principles for determining zones	<p>The principles set out in Rules 628(1) and (2) are focussed on the secondary trading market only. This is problematic for the following reasons:</p> <ul style="list-style-type: none"> • This is inappropriate and inconsistent with the NGO. It is important that the principles take into account the potential to adversely affect the primary market contrary to the NGO. • There appears to be an assumption that the definition of zones is independent of primary market pricing as primary shippers are already being paid in the primary market. This is incorrect if a shipper can buy primary capacity at one location, and then use zones to transport that capacity to another location that has a higher tariff (either to itself or to a related party), thereby avoiding primary market tariffs. Primary market tariff boundaries are relevant to the setting of zone boundaries to avoid this type of gaming.



		<ul style="list-style-type: none"> Zone boundaries must avoid excessive (uncompensated) capacity sterilisation within the zones by ensuring that capacity at locations within a zone is sufficiently substitutable on a near 1-to-1 basis. This was a clear principle under the former zone boundary definitions discussed in earlier consultation processes, and is an important principle in ensuring that the secondary market arrangements do not undermine primary market contracting and investment by undermining the ability of the service provider to recover the costs of service provision. <p>In general, APA is concerned at the attempt to divorce the setting of zone boundaries from the physical characteristics of the assets providing the service. Both primary and secondary shippers expect secondary market transactions to be physically executable. Defining zones without reference to the physical capability of the system risks undermining the secondary trading and auction markets by increasing the likelihood that trades cannot be completed because of physical capacity limits. This is contrary to policy aims.</p> <p>The purpose and scope of Rule 628(3) is not clear from the current wording.</p>
629	Transportation service point register and information about zones	<p>Rule 629(2) has the potential to create a very burdensome obligation on transportation service providers. It is not clear that this is strictly required to operate the capacity trading and auction platform.</p> <p>As drafted, AEMO will need to publish either modelling or historical data for every zone, which it will likely require from transportation service providers. Across APA's network there is expected to be a large number of zones. It will not be possible for APA to prepare this information for market start, and APA believes that not all zones will be controversial or have meaningful constraints that would warrant such publication.</p> <p>To the extent that this requirement is retained, AEMO should have guided discretion over if and when it publishes information, including the nature of that information and which zones have information published.</p>
630	Interface with the STTM and the DWGM	No comment
Division 5	Obligations of transportation service providers relating to standard form agreements	
631	Obligation to publish	It is not clear why a transportation service provider is required to notify the AER of the publication of a standard operating agreement or variation in terms of Rule 631(3). This is a further administrative burden placed on transportation service providers where it is not clear that the obligation is strictly required to operate the capacity trading and auction platform.



		APA proposes that this obligation be reduced to requiring transportation service providers to date stamp the standard operating agreement published on their website and indicate which version of the document is being published, as is already required under Rule 632(4).
632	Content of standard operational agreements	<p>Rule 632(2) is not appropriate to designate as a civil penalty provision or a conduct provision as it involves the exercise of judgement, rather than the mere fact of undertaking an act, because it includes ensuring that facility specific terms are consistent with the Code objective.</p> <p>Rule 632(3) is not appropriate to designate as a civil penalty provision or a conduct provision as it involves the exercise of judgement, rather than the mere fact of undertaking an act, because it includes ensuring that charges are consistent with the outcomes of a workably competitive market. This is particularly the case as the AER has powers to review and vary charges under Rule 634. Making Rule 632(3) civil penalty and conduct provisions suggests that any act by the AER to vary a charge would open a service provider to civil penalties and conduct proceedings. This is manifestly inappropriate and this provision should not be subject to civil or conduct provisions. APA further notes that aspects of Rule 634(2)-(7) are designated as civil and conduct provisions, duplicating that under Rule 634. This duplication is inappropriate.</p>
633	Amendments to standard operational agreements	The purpose of the requirement to publish old versions of the standard operating agreement for a period of three years in Rule 633(4)(b) is not clear. In APA's view it is also likely to be confusing to shippers and lead to unnecessary requests for terms that are no longer available.
634	Recovery of standardisation costs	<p>The proposed rules for the recovery of standardisation costs are unreasonable, and provide conflicting guidance on the recovery of costs.</p> <p>Standardisation costs are specified within Rule 634(1) as (effectively) the reasonably incurred directly attributable and verifiable costs associated with complying with the new regulatory requirements under Part 24 and the Capacity Transport and Auction Procedures. The recovery of these costs from customers, and some oversight of these costs by the AER, is reasonable and accepted by APA.</p> <p>It is nonsensical, however, to impose an additional test, beyond cost recovery, as applies under proposed Rule 634(5), that the costs also reflect the outcomes of a workably competitive market. These are costs incurred in fulfilling a regulatory requirement; they are not related to, nor can they be compared with, any benchmark arising from a competitive market. This is a manifestly inappropriate test for what is effectively regulated cost recovery.</p> <p>Further, it is inappropriate that Rule 634(2) be designated as a civil or conduct provision. The provision operates in favour of service providers, giving them some assurance that they can recover their costs. In this context, what would a breach by a service provider entail?</p> <p>It is also inappropriate that Rule 634(5) be designated a civil or conduct provision. As discussed in response to Rule 632, this provision provides guidance to service providers, users and the regulator on how to strike the balance between charges to different classes of users over time. These are regulatory matters for judgement that relate to the achievement of Rule 634(2). They are not matters suitable for classing as civil or conduct provisions.</p>



		<p>Civil penalty provisions under this Rule should be limited to the requirements on the service provider to publish information (such as Rule 634(6)) and retain information (such as (634(7))). Neither of these provisions should be conduct provisions. Compliance with what are effectively pricing principles for the recovery of standardisation costs is achieved through the ability for the AER to review and amend those charges under sub-rules 635(1) and 635(2). Compliance of an AER decision in this respect is appropriately a civil penalty provision under Clause 635(4).</p> <p>APA considers that Rule 634(1) should also include costs that arise in relation to systems and processes to comply with its obligations under Part 25, including specific reporting obligations to the AER and AEMO that may be specified under instruments other than the Procedures.</p>
635	AER review of standard form agreements	Rule 635(3) requires that if the AER is not satisfied that the standard operational agreement complies with the Rules and the Code, then the service provider must prepare a new one for review in 10 business days. This period is too short. In APA's view, this period should not be less than 20 business days.
636	Requests for standard operational agreements	An operational service agreement would be a service offering under Part 23. The requirements relating to response times, detail on how to gain access, and information to be included as a part of the operational service agreement are already covered in Part 23 of the NGR. Of particular concern, the Part 24 obligations are inconsistent with those in Part 23, creating confusion and increasing the risk of non-compliance in areas subject to civil penalty provisions.
637	Offers for standard operational agreements	<p>Rule 637(1) creates a double obligation in that it and Part 23 provide for time frames within which a transportation service provider must respond to a request. In any event, five business days within which to make an offer is too short. It is reasonable to assume there may be many requests for services across multiple APA pipelines and service points following commencement of Part 24. In addition, the offer must be in a form capable of acceptance. Transportation service providers will be required to obtain appropriate delegated authority approvals. Five business days is insufficient for that process.</p> <p>Rule 637(4) provides for an excusal where a standard operating agreement previously entered into between the parties was terminated for breach. This should be extended to include where any contract previously entered into between the parties was terminated for breach; and the new circumstances now included in clause 22.2 of the Standard Terms of the Code, because termination for exceeding a liability cap is not necessarily termination for failure to comply with the agreement.</p> <p>Rule 637(5) grants the AER the power to reverse the transportation service provider's determination to decline to offer a standard operational agreement. APA proposes that a transportation service provider should be given an opportunity to make representations to the AER before a decision is reversed.</p>
Division 6	Other service provider obligations	
638	Giving effect to operational transfers	<p>Transportation service providers should not be required to give effect to a capacity trade unless the transportation service provider and the primary shipper have negotiated the necessary amendments to the primary facility agreement, as contemplated by rule 640. APA therefore proposes an amendment that Rule 638(2)(b) be deleted and replaced with:</p> <p><i>"the primary facility agreement containing the amendments contemplated in Rule 640, and the terms and conditions of other relevant facility agreements"</i></p>



639	Service continuity for primary service termination or suspension	<p>Transportation service providers should not be required to provide transportation services indefinitely in circumstances where the rights to the capacity under the primary facility agreement have been suspended as contemplated in Rule 639(4). This would incentivise a termination of the agreement, rather than a dispute resolution process. The primary shipper will have less incentive to remedy the default, likely caused by non-payment, if the transportation service provider is still obliged to perform the services for the secondary shipper (all while the secondary shipper may still be paying the primary shipper for the capacity).</p> <p>To the extent Rule 639(4) remains part of the Reform Package, the transportation service provider must receive the same amount of compensation that it would have received from the primary shipper from the prudential cover held by AEMO. APA notes that the prudential cover under the Code must be sufficient to provide for this.</p>
640	Amendment of facility agreements	<p>Given the extent of amendments required to primary facility agreements, the 30 day time period contemplated in Rule 640(1) is insufficient. A minimum of 30 business days is reasonable, however, a longer response time will be necessary during a transition period following commencement of Part 24.</p> <p>APA believes there are some special circumstances where capacity trading and changes in receipt and delivery points should not be available. A key example may be where a regulated service provider is providing a particular shipper with an approved prudent discount (subsidised by other users on the pipeline) because it is efficient to retain that user on the pipeline. Allowing a shipper in receipt of a prudent discount scope to change delivery points or trade capacity undermines the intent of the regulatory framework for prudent discounts, and the confidence of other shippers that their contribution to a prudent discount is appropriate. APA considers that there needs to be scope for transportation service providers to apply to the AER not to give effect to these provisions in circumstances where it is not conducive to efficient service provision.</p>
641	New facility agreements	<p>APA understands from the GMRG that Rule 641 is limited in application to completely new facility agreements that have been entered into after the Part 24 commencement date and not variations to existing facility agreements, which occur after the Part 24 commencement date. In order to clarify this issue, APA proposes that:</p> <ul style="list-style-type: none"> • A new definition is included in Rule 593(1) for 'new facility agreement': <i>'new facility agreement means a facility agreement entered into on or after the Part 24 commencement date, but excluding a variation to a facility agreement where the facility agreement was entered into before the Part 24 commencement date'</i>. • The term 'facility agreement' is replaced throughout Rule 641 with the term 'new facility agreement'.
642	Principles for terms to facilitate sale by operational transfer	<p>The principle of 'unbundling' referred to in Rule 642(2)(a) is new and has not previously been consulted upon as part of the consultation process. Unlike the other proposed principles, this concept was not discussed amongst the standardisation working group or consultation papers on the capacity trading reforms, and gives rise to significant issues in providing safe and reliable pipeline services.</p> <p>APA offers a range of 'multi-asset' services to its customers. The rights of customers to particular services are set out in those contracts, largely through the specification of particular services (transportation, compression, park, loan), at specified locations to particular MDQs. APA's understanding of the intention of capacity trading reforms throughout the development process was that:</p> <ul style="list-style-type: none"> • if a service is sold by a transportation service provider as a standalone service, then that service is capable of being on-traded by the primary shipper, but



		<ul style="list-style-type: none"> • if a transportation service provider sells a single service comprised of parts, those individual parts are not capable of being 'unbundled' and on-traded separately by primary shippers. <p>APA is concerned that Rule 642 goes further than this. APA is concerned that a shipper can 'infer' a standalone service that is not specified in the contract because it is sold as part of a single service, and separate that inferred service ('unbundle it') and sell it separately. Such an approach goes beyond the sale of existing contractual rights (that is, rights specified in contract), and was at no stage discussed, much less agreed, in working groups engaged in advising on the capacity trading reforms.</p> <p>APA's main concern with the proposed rules relates to the creation of the new right for shippers, not specified in contract, which, if unbundled and traded separately from otherwise 'bundled' services, could lead to the sale of firm capacity in excess of existing contractual rights, and facility capacity. An example relates to the provision on RBP westernhaul capacity.</p> <p>Firm westernhaul capacity on the RBP is made possible by the operation of compressors at Wallumbilla providing suction on the RBP. In effect, this compression capacity operates like midline compression. APA is concerned the operation of this provision could 'convert' the use of this compression to provide the westernhaul service into a compression service for separate sale. This would lead to the creation of firm contractual rights in excess of physical capacity or firm contractual rights. This is not an acceptable outcome and is inconsistent with the capacity trading reforms, which are limited to the trade of rights already held by shippers.</p> <p>In addition, APA has committed to provide some services on the assumption that they are bundled and can be delivered by swapping volumes, redirecting different gas specifications and managing linepacks at peak times. This is to the benefit of shippers as it allows for additional capacity to be provided without the costs of expansion.</p> <p>The creation of a new right for shippers to unbundle services sold as a single service is inappropriate, not practical of implementation and goes beyond the scope of the capacity trading and auction reforms that has been discussed and consulted on to date. APA proposes that Rule 642(2)(a) is deleted.</p> <p>Rule 642(3)(b) has the effect that a transportation service provider has to provide a service even though an insolvent primary shipper is receiving funds from a secondary shipper. This imposes an increased credit risk on a transportation service provider for a 14 day period.</p>
643	Changes to pipeline service points	<p>APA considers that there has not been adequate consideration of the implications on the primary market and, in particular, investment, where shippers have broad rights to change receipt and delivery points under contract.</p> <p>Long-term gas transportation agreements underpin new investment in capacity, including new pipelines, connection points and additional capacity. In many circumstances, investments are made for individual shippers at particular locations, where there is no alternative use for capacity if that shipper ceases to take capacity at that site. If a shipper has the ability to transfer capacity that has been the subject of an investment for that shipper, prior to the end of that foundation contract, then the basis of investments underpinned by long-term contracts is undermined.</p>



		<p>While APA notes that a service provider can ensure that it continues to receive the same revenue under the contract, there is no assurance that the service provider continues to receive the same revenue on the pipeline as a whole. This is because the change in receipt or delivery point can sterilise additional pipeline capacity for which the service provider has no scope to be compensated through sale to other shippers.</p> <p>Further, where this occurs on a pipeline that is fully regulated, a now disused lateral or compression facility can be removed from the capital base, thereby reducing tariffs for all shippers (including the foundation shipper for that investment), and the service provider cannot recover their investment at all.</p> <p>APA considers that the right to change receipt and delivery points must be subject to technical and commercial considerations. The Rules may provide for a shipper to refer a service provider's decision not to accept a change in receipt or delivery point to the AER for review. APA does not consider this is appropriate, however, as shippers can (and do) seek this flexibility within their contracts.</p>
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Part 25 Capacity Auction

Draft Rules	Issue	Feedback
Division 1 Preliminary		
645	Objective	APA is of the view that the objective should be the NGO. As mentioned previously, having several sub-objectives in the rules is confusing and makes enforcement of the various provisions of the NGL and NGO difficult. It also leads to uncertainty in circumstances where an objective conflicts with the NGO.
646	This Part	No comment
647	Definitions and interpretation	<p>APA proposes amendments to the following definitions:</p> <ul style="list-style-type: none"> In Rule 647(2): <i>'renomination means a request made after the nomination cut-off time day-ahead nomination and includes a nomination in respect of a gas day made after the nomination cut-off time for the gas day.'</i> In Rule 647(3), after sub-rule clause (g) include the following words, which will apply to each of sub-clauses (a) – (g): <i>'as determined by the facility operator based on the physical and operational characteristics for each gas day'.</i>
648	Pipeline classification	No comment
649	Auction information standard	APA's comments in respect of Rule 593(4)(b) above, in respect of the requirement to "maintain any equipment from that information or data are derived", applies equally to this Rule.
Division 2 Capacity auction		
650	Auction services	No comment
651	Auction service priority principles	<p>'Firm park services' need to be added as services that receive priority over auction services in Rules 651(1)(a)(i) and Rule 651(1)(c) .</p> <p>Rule 651(d) allows auction shippers to submit renominations for capacity in excess of their allocated auction capacity, and to receive that unallocated auction capacity ahead of other lower tier services, and at zero tariff, even though they did not participate in the auction for that capacity.</p> <p>One of the stated aims in introducing the capacity auction for contracted but unominated capacity is to ensure that this capacity is allocated to those that value it most. Allowing auction shippers (including, potentially, shippers that have not even bid for particular capacity in the auction) to nominate for unallocated capacity after the auction is completed, fundamentally undermines this outcome, and opens clear opportunities for gaming as it incentivises shippers not to participate in the auction to ensure that the clearing price is zero. It would also mean that unallocated auction capacity is never allocated to lower tier services, as those shippers would instead nominate for free auction capacity after the auction is run. This effectively leaves the auction capacity open for allocation past the initial bidding period but at the price set by the initial capacity bids. This does not create an effective market for contracted but unominated capacity,</p>



		<p>and certainly does not lead to outcomes consistent with a workably competitive market for that capacity. It instead provides incentives for gaming.</p> <p>Renominations for auction capacity for each auction shipper should be capped at the capacity won in the auction by that shipper. This will better incentivise bidding behaviour and lead to auction outcomes that signal constraints. A right for auction shippers to renominate capacity above their particular (paid) allocation would also represent a right that firm shippers do not have. Firm shippers do not have the automatic right to increase nominations above their contracted MDQ so it would be appropriate to limit this right for auction shippers to their MDQ acquired through the auction as well.</p> <p>Further, auction bids and capacity allocations should reflect, as accurately as possible, the delivery requirements of the pipeline to ensure operational stability. This right would undermine incentives for shippers to bid their full requirements at auction.</p>
652	Capacity auction design principles	No comment
653	Auction quantity limits	<p>Rules 653(4) and (6) provide for the types of auction quantity limits determined for each gas day.</p> <p>APA proposes that compression service facilities be treated the same as pipelines for definitions of zone and segment capacity. From an auction design perspective, there is no difference between compression receipt and delivery point capacity; and pipeline receipt and delivery point capacity; and compression capacity is no different to pipeline segment capacity.</p>
654	Application and information	No comment
655	Giving effect to auction results	No comment
656	Establishment and operation of the capacity auction	No comment
657	Auction Procedures and auction agreement	No comment
658	Suspension and termination of an auction participant	No comment
659	Fees recoverable by AEMO	No comment
660	Auction amounts payable by auction participants	No comment
Division 3	Market conduct and nomination rules	
661	General requirements	No comment



662	Conduct in relation to auctions	No comment
663	Nominations and renominations must not be false or misleading	APA considers that under Rule 663(4), the court must also have regard to the NGO.
664	AER monitoring	No comment
665	Facility operators to keep nomination and scheduling records	<p>These obligations, whilst largely appropriate, have the potential to be extremely onerous and costly to implement. APA proposes that Rule 665 be amended to include a requirement that the costs and obligations of record keeping and reporting are proportionate and do not impose an unnecessary cost burden on the operation of the auction. It may be appropriate to review the requirement to retain seven years of records in this light, deferring the period of record keeping to the Guidelines.</p> <p>Furthermore, incremental costs incurred by service providers to meet these requirements should be included in allowable service provider cost recovery under Part 24.</p> <p>Guidelines developed by the AER under Rule 665(3) and 666(5) should also specify that amendments must follow the standard consultative procedure.</p>
666	Renomination records of transportation facility users	Rule 666(2) needs to clarify that the base for determining a 10% change is the initial nomination made by capacity auction shippers after auction capacity has been allocated and the last day ahead nomination made by firm shippers prior to nomination cut-off.
Division 4	Payment of capacity auction revenues	
667	Billing period settlement amounts for facility operators	No comment
668	Final statements	No comment
669	Payments	The intention of Rule 669(5) is unclear.
670	Settlement queries and disputes	No comment
671	Revised statements	No comment
672	Payment of adjustments	No comment
673	Maximum total payment in respect of a billing period	Rule 673(3) provides that, if the maximum total payment is not sufficient to meet the aggregate of amounts payable by AEMO to each of the facility operators, any amount payable during the relevant period will be reduced according to the formula set out. APA notes that the NER contains further provisions to allow generators to be paid the shortfall in



		circumstances where AEMO subsequently recovers the amount. APA proposes that appropriate provisions be included in the NGR to the extent that AEMO subsequently recovers the amount, including through credit support.
674	Interest on overdue amounts	Rule 674 should provide for any interest paid on an amount owing to a facility operator to be passed through to that facility operator.
675	Application of GST	No comment



Part 26 Standard market timetable

Draft Rules	Issue	Feedback
676	Application of this Part	No comment
677	Definitions and interpretation	No comment
678	Standard market timetable	No comment



Schedule 5 Transitional Provisions for the introduction of the capacity trading reforms

Draft Rules	Issue	Feedback
Part 1	Transitional arrangements for Part 15B	
1	Definition	No comment
2	Initial Procedures	No comment
Part 2	Transitional arrangements for Part 18	
1	Definitions	No comment
2	Commencement of secondary reporting obligations	No comment
3	Allocation agents and allocation points on the commencement date	No comment
4	Former remote pipelines	No comment
Part 3	Transitional arrangements for Part 24	
1	Definitions	No comment
2	Code modifications	No comment
3	Northern Territory exemption	No comment
4	Transitional Part 24 exemptions	No comment
5	Registration in relation to Part 24 facilities on the Part 24 commencement date	<p>APA reiterates its comments in response to questions 5 and 13 above that it expects that there will be a high volume of requests to transportation service providers to vary agreements under Rule 640 to include operational transportation service in contracts soon after the capacity trading rules come into effect.</p> <p>APA considers that an additional transitional provision that extends the allowable time to make these changes is required in light of the workload this may create in transition. In particular, APA suggests that a minimum of 60 business days during a transition period following commencement of the rule change (to provide additional time to deal with the initial demand).</p>
6	Initial transportation service point register	No comment
7	Capacity trading platform commencement	No comment



Draft Rules	Issue	Feedback
Part 4	Transitional arrangements for new Part 25 (other than compression reporting)	
1	Definitions	No comment
2	Capacity auction start date	No comment
3	Protected services	No comment
4	Facility operator nomination and scheduling records	No comment
5	Renomination records	No comment
Part 5	Transitional arrangements for reporting by compression service facilities	
1	Definitions and interpretation	No comment
2	Application	No comment
3	Information standard and related matters	No comment
4	Capacity Transfer and Auction Procedures	No comment
5	Nameplate rating information	No comment
6	Detailed facility information	No comment
7	Gas day start times	No comment
8	Short term capacity outlooks	No comment
9	Linepack/capacity adequacy indicator	No comment
10	Nominated and forecast use of compression facilities	No comment
11	Daily production data	No comment
12	Publication by AEMO	No comment
Part 6	Transitional arrangements for the standard market timetable	
1	Definitions	No comment
2	Use of standard market timetable	No comment
3	Information about gas market transition	No comment
4	Information about natural gas facility transition	No comment



4. Operational Gas Transportation Agreement Code

Clause	Issue	Feedback
Part 1	This code	
1	Introduction	No comment
2	Definitions and interpretation	No comment
3	Contents of this Code	No comment
Part 2	Form of agreement – operational transportation services agreement	
1	Agreement documents	No comment
2	Definitions and interpretation	No comment
3	Agreement details	See comments below in relation to clause 2 of Part 3 regarding the need to include a 'Services Effective Date' or 'Commencement Date'.
Part 3	Standard terms - operational and commercial terms	
1	Definitions and interpretation	
2	Services	<p>Clause 2.1</p> <p>The Services must be provided on each day during the Term, which commences on the execution date. Between execution and service commencement a number of things need to occur, for example, implement a new transportation agreement into IT systems, deliver customer training, prepare and exchange necessary credit support, et cetera. There needs to be a concept of 'Services Effective Date': a date following execution when the parties are ready for the services to actually be provided. We suggest that this be left to the parties to negotiate because both parties need to be operationally ready and the user does not want to incur monthly charges prior to readiness. This could be inserted in the "Agreement details".</p>
3	Service Standards	No comment
4	Nominations and Scheduling	<p>Clause 4.7</p> <p>Renominations for backhaul services need to be made subject to there being sufficient flows in the opposite direction.</p>
5	System Use Gas	No comment
6	Hourly Limitations	No comment



Clause	Issue	Feedback
7	Curtailment	No comment
8	Park Account	No comment
9	Maintenance	No comment
10	Gas Quality	A shipper's liability for injecting out of specification gas has now been limited to \$20 million. This new limitation has not previously been consulted on and grossly understates the potential damages incurred by service providers if such a situation were to arise. Such a low cap does not provide a sufficient incentive for shippers to put sufficient safeguards in place to prevent such an event and thereby threatens the integrity of the system and security of supply. The cap should be removed.
11	Pressure and Temperature	No comment
12	Imbalance	No comment
13	Unauthorised Overrun	No comment
14	Use of Delivery Points and Receipt Points	No comment
15	Metering and Apportionment	No comment
16	Title, Risk, Responsibility and Co-ordination	No comment
17	Liability	<p>Clause 17.1(b)-(d) (Sub-shipper access to liability cap)</p> <p>The Standardisation Working Group has repeatedly raised questions about the purpose of clause 17.1(b) and how it might be interpreted. The clause has been amended but remains poorly drafted and difficult to interpret. It should be a complete indemnity. The policy intent is that capacity trades are performed by operational transfer however this provision would appear to encourage bare transfers by creating a favourable risk regime for the bare transferor. The indemnity should be complete (that is, no mixing of access to the cap) and the bare transferor and the bare transferee should, as between themselves, resolve the apportionment of damages claimed from the service provider.</p> <p>Clause 17.1(g) (Shipper liability cap)</p> <p>The shipper cap is new. It is inappropriately low and does not represent the potential losses faced by service providers where shippers (who do not need to qualify for any technical expertise requirements before having a right to enter into this contract) breach the agreement. \$2 million provides little, if any, incentive to comply with the contract conditions. This represents a threat to the integrity of the system and security of supply. If a cap is to remain then, regardless of the quantum, the cap should not apply for the shipper's negligence (as the shipper should be suitably insured).</p>



Clause	Issue	Feedback
18	Force Majeure Events	No comment
19	Charges and Payment	No comment
20	GST	No comment
21	Standing, Insurance and Credit Support	No comment
22	Suspension and Termination	No comment
23	Dispute Resolution	No comment
24	Assignment/Novation	No comment
25	Representations and Warranties	No comment
26	Confidentiality	No comment
27	Notices	No comment
28	Bilateral Trades	<p>The drafting of this new clause is confused.</p> <ul style="list-style-type: none"> The clause seems to relate to the TSA shipper selling capacity (compared to buying capacity), however, the definition of “Bilateral Trade” refers to the “acquisition of” capacity. This needs to be clarified and appropriate adjustments made. Clause 28.2(d)(ii) is unclear. It is not clear whether the intent is that a shipper cannot sell more than what they have. <p>Clause 28.3 (Grounds to refuse Bilateral Trades)</p> <p>In addition to the matters listed, service providers should not be required to give effect to a Bilateral Trade if the counterparty to the trade is in breach of its facility agreement (primary or secondary GTA). Clause 2.2(d) does not adequately address this issue. This clause prevents shippers from acquiring capacity under bilateral trades if the counterparty does not comply with its transfer obligations under its agreement, however, the counterparty may comply with these obligations but still be in breach of its agreement on other grounds.</p>
29	Miscellaneous	No comment
Part 4	Description of services – operational TSA	
1	Traded Forward Haul Service	No comment



Clause	Issue	Feedback
2	Traded Park Service	<p>The idea that gas can be delivered to or from the notional parking location under a 'Qualifying Facility Agreement' is not practical. It needs to be clear what contractual terms and conditions govern the transportation to and from the "notional point" on the pipeline. Given that parking gas does not involve custody transfer, the parties will be unclear as to which contract will set out the rights and obligations. For example, if gas was lost, how would the parties determine whether the user's rights of recourse against the service provider were under the TSA or the 'Qualifying Haulage Agreement'?</p> <p>A TSA service should be regulated by the TSA alone and provided or on-sold under the TSA. References to 'Qualifying Haulage Agreements' should be deleted from this service description.</p> <p>We note that the GMRG's objective can be achieved through the imbalance trading mechanism (see clause 12.5), where there is a clear transfer of commodity from one contract to another.</p>
3	Traded Compression Service	No comment
4	Forward Haul Auction Service	No comment
5	Backhaul Auction Service	No comment
6	Compression Auction Service	No comment
Part 5	Requirements for facility specific terms – operational TSA	
1	General	No comment
2	Definitions in Facility Specific Terms	No comment
3	Other Services	No comment
4	Scheduling	No comment
5	Priority Principles	No comment
6	System Use Gas	No comment
7	Hourly Limitations	No comment
8	Pressure and Temperature	No comment
9	Charges	No comment
10	Imbalance	No comment
11	Odourisation	No comment



Clause	Issue	Feedback
12	Metering Principles	No comment
13	Operational Communications	No comment
14	Compressor Operation	This clause is unclear. It could be read as requiring APA to compress gas from low pressure receipt points at Wallumbilla without the shipper having acquired a Wallumbilla compression service. It is not clear how it is intended to relate to clause 15 (Compressor Operation).
15	Compression Services	No comment
16	Receipt and Delivery Points	No comment
17	Trading – other entitlements	No comment
18	Accommodating Differences in Gas Days	No comment
19	Specific Facility Issues	No comment