



APGA
50 YEARS 1968–2018

Submission to the Consultation Paper

Capacity Trading Reform Package:
Draft legal and regulatory framework

27/04/2018

Introduction

The Australian Pipelines and Gas Association (APGA) welcomes the opportunity to respond to the Gas Market Reform Group's (GMRG) Consultation Paper on the draft legal and regulatory framework for the Capacity Trading Reform Package.

APGA is the peak body representing Australasia's pipeline infrastructure, with a focus on gas transmission, but also including transportation of other products. Our members include owners, operators, constructors, advisers, engineering companies and suppliers of pipeline products and services.

APGA's members build, own and operate the gas transmission infrastructure connecting the disparate gas supply basins and demand centres of Australia, offering a wide range of services to gas producers, retailers and users. The replacement value of Australia's gas transmission infrastructure is estimated to be \$50 billion.

Experience of the NGL and NGR

Since 2000, APGA's members have invested in and built over \$10 billion of infrastructure providing 5,000km of coverage across 13 major new gas transmission pipelines and expansions of existing pipelines in Australia. A similar amount of investment has occurred in maintaining existing infrastructure. This investment has occurred to meet the demand of Australia's gas markets, which has experienced unprecedented change in the last five years.

It is this investment that has created the interconnected East Coast gas grid, provides increased options for gas supply for Australian gas users and will now connect the NT market to the broader East Coast market. This investment has all occurred under the framework provided by the National Gas Law 2008 (NGL) and the National Gas Rules (NGR).

APGA Submission

The APGA Submission is provided in the attached GMRG '*Stakeholder feedback template*'.

GMRG Stakeholder feedback template

The template below has been developed to enable stakeholders to provide their feedback on the questions posed in this 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>APGA appreciates that the Consultation Paper and draft package of legislative and regulatory changes, in seeking to achieve its goals, necessarily covers a broad range of issues – many of which have been discussed extensively during previous consultation rounds. For the sake of clarity, aside from some ‘overview’ comments in this section of the document, APGA will primarily limit its comments to some of the key “refinements” in the package that fall outside the scope of current COAG Energy Council approvals. Two key areas of focus for APGA in this regard are the issues relating to the determination of zones on a pipeline and the treatment of backhaul services.</p> <p>In APGA’s view the capacity trading reform package has a high degree of complexity, where many aspects make sense when viewed in isolation. However, when viewed in relation to existing gas market regulations and commercial practices, it becomes apparent that the package contains internal and external inconsistencies, a significant amount of unnecessary detail that increases its administrative complexity in some areas, over-generalisation in other areas which gives rise to future regulatory uncertainty and other potential problems when overlaid with existing primary market regulations and primary GTAs. The package also has a strong market focus which comes at the expense of physical operational concerns in places.</p> <p>A general concern APGA has about the package is the 1 March 2019 commencement deadline for the proposed reforms, and whether this date is achievable in practice. APGA notes that there does not appear to be a back-stop procedure in place in the event that the implementation process runs behind schedule. In our view, a decision</p>

	Questions	Feedback
		<p>on when the capacity trading platform and day-ahead auction should commence (or 'go live') should be dependent on meeting a set of 'readiness' criteria. APGA suggests that AEMO be directed to develop an appropriate set of readiness criteria and be given a clear line of accountability for ensuring these are met before a decision to go-live is undertaken.</p> <p>In a related concern, APGA notes the all-encompassing scope of the capacity trading reform package and the fact that its key aspects, including backhaul services, are all to be implemented simultaneously. This fact in itself creates significant and potentially unnecessary operational and market risks. The absence of analysis quantifying likely future demand for the capacity trading platform and day-ahead auction services – and their likely impact and costs incurred on the primary market – also means that the market is taking on additional risks and incurring costs for uncertain gain.</p> <p>In APGA's view, an efficient and practical solution is to take a staged approach to implementation, with the first stage consisting only of contracted but un-nominated capacity on select routes. One key advantage of this approach is that backhaul services would not be included in the first stage (service providers don't contract to provide backhaul services, so there is no contracted but un-nominated backhaul capacity).</p> <p>Backhaul is an important service but the implications of its inclusion in this package have not yet been fully thought through. Daily fluctuations on line pack and gas throughput can impact service provider's ability to meet gas delivery guarantees, and the inclusion of backhaul in the day-ahead auction may affect their capacity to respond to such fluctuations in unpredictable ways. In APGA's view, these aspects alone warrant further analysis before backhaul services are implemented in the capacity trading reform package.</p> <p>The staged approach to implementation would also be more consistent with the original Australian Energy Market Commission (AEMC) recommendation for the "development and introduction of a daily, day-ahead capacity auction for contracted</p>

	Questions	Feedback
		<p>but un-nominated pipeline capacity”^[1]. Once implementation of the first stage is successfully completed, other services and routes could then be progressively added over time – subject to a cost/benefit analysis and confirmation from AEMC that their inclusion is consistent with the NGO.</p> <p>The pipeline routes to be included in the first stage would be selected on the basis that their inclusion is likely (according to a cost/benefit analysis) to provide a net market benefit. Additional routes could be added later if their inclusion is formally requested by a legitimate shipper and approved by an independent entity like the AER following a review.</p> <p>In APGA’s view, the adoption of a staged approach to implementation of the capacity trading reform package would reduce regulatory uncertainty and mitigate some of the significant risks and costs noted above. At minimum, this approach would allow additional time and opportunity for policy makers, AEMO and industry to test the operational aspects of implementing the reforms – while still moving forward with key aspects as scheduled. It would also enable testing of market demand for core aspects of the capacity trading platform and day-ahead auction before it is expanded to include the range of additional services covered in the current package. This focus on getting the basics right and making any necessary adjustments before moving to include more costly refinements, arguably has a greater likelihood of minimising overall costs and maximising benefits than the current plan to rapidly implement a range of reforms covering most aspects of the gas transmission market simultaneously.</p>
2.	Do the market bodies have adequate powers to do what they need to do to facilitate the outcomes sought by the reforms?	In APGA’s view, as noted above, instead of setting an arbitrary deadline of 1 March 2019 for when the capacity trading platform and day-ahead auction should commence (or ‘go-live’), it would be useful to empower AEMO to develop a set of readiness criteria and give them a clear line of accountability for ensuring these are met before a decision to go-live is undertaken.

^[1] AEMC, Stage 2 Report, East Coast Wholesale Gas Markets and Pipeline Frameworks Review dated 23 May 2016, Table 1 Recommendations, Recommendation 5, page 14.

	Questions	Feedback
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?	
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?	
5.	Are any other transitional rules not currently included in Schedule 5 required? If so, what are they and why are they required?	
4.1.1 Exemptions		
6.	<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>In the Consultation Paper the GMRG proposes modifications to its 'final recommendations' relating to exemptions from the obligation to publish a standard operational agreement and to participate in the day-ahead auction. APGA welcomes the new proposals to the extent that they reduce unnecessary red tape and regulatory complexity, and especially welcomes the single shipper exemption.</p> <p>However, APGA is strongly of the view that the exemption for pipelines under 10 TJ should be a total exemption, and that such pipelines should not have to develop and offer to enter into a standard operational agreement if requested to do so by a prospective shipper.</p> <p>With regard to the proposal to replace the "single end-user facility" criterion with the "single-shipper" criterion used in Part 23 of the NGR, APGA agrees that this makes sense. The original obligation served no purpose yet imposed additional costs on service providers and, ultimately, end-users.</p>
7.	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 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.	APGA notes the proposal to adopt a new definition of the term 'compression facility' in the NGR – ostensibly to ensure the reforms only capture stand-alone compression facilities such as Moomba, Wallumbilla, Ballera and Iona facilities, and not integrated facilities or compression facilities that are used upstream or for other purposes. In APGA's view the new proposal is an improvement in this regard.

	Questions	Feedback
	<p>Part 24 compression service facility 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</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>The Consultation Paper states that the single shipper and sub-10TJ/day exemptions “only exempt the facilities from the obligation to publish a standard operational agreement and do not exempt the facilities from having to offer to enter into such an agreement if requested to do so by a prospective shipper. If such a request is received, the service provider will have 60 business days to develop and offer the standard operational agreement”.</p> <p>APGA is concerned that the obligation to develop a standard operational agreement if requested to do so by a prospective shipper effectively gives <i>carte blanche</i> to anyone who wants to make a service provider produce such a document – but does not impose any reciprocal obligations. It could therefore be open to careless or even vexatious use by a shipper that has no serious intention and/or ability to even enter into such an agreement if offered. APGA also notes that there has been no cost-benefit analysis of the impact on a small sub-10 TJ pipeline from having to develop a standard operational agreement. In APGA’s view, the proposed exceptions to the exemption not only appear unfair, it is unclear what the market benefit of this would be.</p> <p>An additional concern APGA has with the Consultation Paper proposals relating to exemptions is the 60-day deadline for developing a standard operational agreement if requested. In APGA’s view 60 days may be too short to be practicable in some cases. Due to the fact that each scenario would be unique, it is difficult to suggest a credible alternative to the 60-day deadline. Instead, APGA suggests an alternative solution whereby service providers are required to submit an implementation schedule (for developing a standard operational agreement) to the regulator within 20 business days of receiving a request. The regulator could then assess whether the proposed implementation schedule was reasonable and either agree the proposed schedule or give an alternative deadline.</p>

	Questions	Feedback
		<p>As well as removing the ability to revoke exemptions for single shippers and pipelines under 10 TJ, APGA is also of the view that in the case of an included pipeline that has not been part of any trades on the capacity trading platform or day-ahead auction process within a 12-month period, the service provider should have the ability to apply to the regulator for an exemption. It would be up the regulator to make the final determination whether the exemption was warranted.</p> <p>APGA also notes the decision to retain the 10 TJ/day nameplate capacity threshold (consistent with the Gas Bulletin Board threshold) rather than adopting the 10TJ/day average daily flows threshold in Part 23 of the NGR. APGA acknowledges the merits of alignment with the GBB threshold, but also reiterates its general preference for alignment with already established thresholds in Part 23 where possible to minimize administrative complexity.</p>
9.	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.	APGA would also like to express reservations about the proposal to allow a single shipper exemption to be revoked if another shipper enters into an operational TSA with the service provider. APGA acknowledges that in some situations such a revocation may be appropriate, but its applicability should be decided on a case-by-case basis – including whether there is any realistic prospect of additional shippers emerging who may also wish to seek secondary capacity (i.e. the prospective second shipper may be a special case). If such prospects are not realistic, then revocation of the exemption would only serve to incur significant administrative costs with zero market benefit to show for it.
4.1.2 Governance model for the Code		
10.	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.	APGA notes the proposed role of the AER in relation to the OTSC and is of the view that the AER may provide some check on the OTSC, as well as welcome additional expertise. However, APGA also notes that the development of these types of Codes and similar work are not a standard role for AER, so their expertise and therefore usefulness in this process may be limited. Also, APGA is of the view that the OTSC is focussed on the secondary market and will therefore not be focussed on achieving the NGO, which is a drawback.
11.	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	

	Questions	Feedback
	the changes you would 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.	In APGA's view, the addition of provisions to allow service providers to overcome any limitations on capacity trading in facility agreements through a request and negotiate framework rather than moving to a standard form agreement model, or more prescriptive provisions in the NGR is a welcome development. However, some concerns remain.
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?	
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?	APGA is concerned that the proposed requirement for shipper's transportation services to be capable of being unbundled may lead to unwelcome complications. This is particularly the case where two separate services should ideally be sold together for technical or market reasons (i.e. if one is reliant the other). The proposal also ignores implied services, such as an expectation that compression be supplied with pipeline services.
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?	Under the new proposals, it will be possible for shippers to automatically move from one entry or exit point to another without regard to the opportunity cost of doing so. In this regard, the proposal does not take into account the implications for new investment. For example, if a service provider commissions a new entry or exit point on the basis that a shipper wants to contract for its use, they will no longer have a contractual guarantee that the shipper won't simply exercise their right to utilize a different entry/exit point, removing the ability of the service provider to sell services at that location and potentially leaving the service provider with a stranded asset at the original location. This also has negative implications for existing GTAs.
16.	Do you agree with the proposal in rule 643(6) to restrict the ability of service providers to make its consent on a receipt or delivery point change conditional on obtaining the consent of a third party but only: (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 (b) if the third party is another transportation facility user or an associate of another transportation facility user, the requirement to	

	Questions	Feedback
	<p>obtain that person's consent arises under a contractual provision entered into before 3 January 2018.</p> <p>If not, why?</p>	
4.1.4 Governance arrangements for the specification of zones		
17.	<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 issues around the specification of zones are a key area of concern for APGA. As service providers have previously stated, the specification of zones is an operational matter and should be largely left to service providers. However, in the Consultation Paper the GMRG is proposing to give "AEMO responsibility for determining the zones that will be used for the capacity trading platform and auction by type (i.e. receipt zones or delivery zones)."</p> <p>APGA's preferred approach is for an alternative governance framework, under which service providers would propose zones and AEMO would be responsible for approving the zones and carrying out any consultation on the zones. To ensure that service provider proposals receive an appropriate level of scrutiny, AEMO could retain an independent firm to certify the proposals – or to make recommendations in this regard.</p> <p>The Consultation Paper states that under an approach such as that preferred by service providers and APGA "<i>operational considerations may be given greater weight than market considerations under this propose-respond model</i>". It goes on to state that "<i>While operational constraints are important considerations in defining zones and, in particular, the ability to understand whether capacity can be transferred on a one-for-one...basis between points within a zone, the zones are not intended to impact on those operational constraints; rather, the impact of operational constraints in a zone are intended to be assessed and weighed against the benefits to the market in grouping points within a zone</i>". This and subsequent text in the report is problematic for APGA, as it seems to suggest that operational constraints are secondary relative to market issues. This makes little sense to APGA because there is little point in having an ideal market friendly arrangement if it can't be executed in practice due to operational constraints. Operational considerations should be paramount – they go directly to the ability of a service provider to guarantee delivery of firm services and are essential for energy reliability and security.</p>

	Questions	Feedback
		<p>The GMRG proposal also appears far more cumbersome than the industry-preferred approach and includes some areas of uncertainty around what exactly compliance with some of the requirements will entail.</p> <p>APGA notes that the Consultation Paper contains no evidence or strong argumentation as to why service providers shouldn't propose the zone boundaries in the first instance. In APGA's view, a decision to take the GMRG proposed approach rather than the industry proposed approach indicates a lack of trust on the part of the GMRG in relation to service providers, which is unfortunate as it may lead to an unnecessarily suboptimal outcome in this instance. While there have been areas of genuine disagreement between service providers and the GMRG during the development of the capacity trading reform package – as is to be expected for such a comprehensive reform – service providers have nonetheless taken a constructive approach to the consultation process with GMRG. It is therefore unclear to APGA what the basis for such a lack of trust might be.</p> <p>APGA also has questions as to whether AEMO has the necessary expertise to determine the zones without direct industry guidance. In our view, only service providers fully understand the precise operational and commercial implications of a particular zone configuration. It therefore makes no sense to bypass their knowledge and judgement in the first instance in this regard and turn the process over to AEMO. Compared to service providers, AEMO will need to expend far greater effort to reach a determination, as well as running a greater risk of reaching a solution that will later prove operationally problematic. With a lesser understanding of a pipeline's capabilities, AEMO is very likely to be more conservative than service providers in determining zones.</p> <p>The approach preferred by APGA and service providers makes more sense in this regard, as it allows operational issues to be placed at the forefront, while still providing a backstop whereby AEMO can determine whether service provider proposals contain unnecessary bias (for commercial or other reasons) – and make the necessary amendments.</p> <p>APGA is also concerned that the operational and market risks of getting the zone boundaries wrong lies entirely with the service providers – even though these are</p>

	Questions	Feedback
		<p>being set by AEMO. There is the potential for Service Providers to end up with undeliverable trade obligations, through no fault of their own but for which they would still bear the consequences. APGA notes that the new proposals include no recourse to arbitration – meaning that AEMO has the final say across the board. Although the proposed industry-based panel will at least review the zones once they are established, AEMO will be strongly represented at these meetings also so a challenge to their determinations through this medium could be problematic. APGA also has concerns that the proposed process could result in the provision of confidential information on pipeline developments to this panel.</p> <p>More general concerns APGA has include the fact that the principles are entirely focused on the secondary market. There is therefore scope for zones established for secondary capacity trading and auctions to have an undesirable impact on the primary market. However, there is no analysis or reference to this in the Consultation Paper.</p>
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.	
19.	Do you agree with the information disclosure obligations that service providers would be subject to under the NGR?	APGA notes the proposal that the NGR will require service providers to provide AEMO with the information it reasonably requires for the assessment of the proposed zones. They will also be required to undertake any modelling or assessment of proposed zones if required by AEMO. Such a requirement demonstrates little appreciation for the complexities of pipeline capacity modelling. Service providers do not have idle modelling capability on standby – the modelling capability that exists is in constant use ensuring optimal operation of assets on a daily basis. Further, the details as to what specific information should be provided are unclear and could potentially prove both onerous and costly.
20.	Do you think any additional guidance on the specification of zones is required in the NGR?	
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.	

	Questions	Feedback
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	<p>In general, APGA is comfortable with the proposal to limit the availability of grandfathered rights to gas fired generators as, in our view, this is what it was envisaged these rights were for anyway. However, APGA remains concerned that the eventual prioritisation of the auction product ahead of the as-available and authorised overrun rights held by gas fired generators could adversely impact the operation of the NEM. The standardised capacity products that will be available on the capacity trading platform and day-ahead auction will not be a direct substitute for services currently used to manage demand risks.</p> <p>APGA acknowledges the statement in the Consultation Paper that “<i>shippers will still be able to manage demand risks under the new arrangements – it is just the manner in which this is done that would change</i>”. The consultation paper also states that “<i>The GMRG understands that allowing these rights to be grandfathered could increase some of the risks associated with the auction product (i.e. because these rights will rank ahead of the auction product and result in less CBU capacity being released into the auction). However, it is important to recognise that if gas fired generators are able to acquire capacity through the capacity trading platform or auction at a lower cost...than their as available or authorised overrun service, they are unlikely to utilise these rights. It should not therefore be assumed that these rights will always be exercised</i>”.</p> <p>In APGA’s view, these proposals entail unnecessary risks and are based on unnecessarily complex reasoning. The whole edifice seems to rest on the assumption that gas fired generators are going to be able to reliably acquire additional capacity via the capacity trading platform or the auction, and accordingly that they will increasingly cease exercising their as available and authorised overrun service rights. In this regard, the two-year grandfathering timeframe seems somewhat arbitrary and there is no mechanism in place to address what should happen if gas generators don’t move to the capacity trading platform and auction process (or another mechanism) as expected.</p>
23.	Do you think the proposed two-year transitional period for grandfathered rights is appropriate? If not, please explain why.	APGA proposes that instead of a transitional two-year timeframe, the GMRG instead schedules a review of gas generator’s use of the capacity trading platform and auction process after two years, and then makes a decision on whether to give these priority over as available or authorised overrun services (complete with grandfathering rights).

	Questions	Feedback
		If gas generators find they are able to procure the necessary additional capacity from the platform and the auction (or by other means) with a sufficient degree of reliability, then this will be evident at the time of the review and it will be straightforward to transition to the new arrangements at that time.
24.	Are there any other limitations that you think should be placed on the availability and/or use of grandfathered rights?	
5.1.2 Contract path specification		
25.	<p>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:</p> <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. 	<p>The GMRG has decided to use a hybrid model for forward haul and compression auction services. This model will allow auction participants to bid for any unused capacity at individual receipt or delivery points, but their ability to secure capacity at those points will, in the case of a pipeline, depend on whether there is sufficient contracted but un-nominated capacity available in the receipt point zone and delivery point zone they wish to use; and contracted but un-nominated capacity on the pipeline segments connecting the receipt point zone and delivery point zone.</p> <p>In APGA's view, the proposed arrangements in this regard have some timing or sequencing implications. Using the proposed contract path model, service providers arguably can't schedule spare capacity until after they have allocated capacity for the day-ahead auction process. However, in practice, service providers need to be able to schedule any of their available spare (i.e. uncontracted) capacity at the same time that they schedule the rest of their 'firm' services. The 'short-term firm' category may partially address this issue but further clarification is needed.</p>
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	<p>The Consultation Paper states that auction backhaul services will be available on single direction pipelines between backhaul receipt and delivery points, that AEMO determines should be included in the auction from time to time.</p> <p>In APGA's view the question that should be asked but has not been addressed by the GMRG is: what are the consequences of backhaul? This includes the operational consequences, how to calculate how much capacity can be allocated to backhaul on any given day, and the implications of this for the amount of capacity that services providers need to hold in reserve to as a backup to ensure delivery of firm services. This is particularly relevant during periods of extended high utilisation on a pipeline and APGA remains highly concerned that backhaul continues to be treated as a simple act of accounting.</p>

	Questions	Feedback
		<p>APGA is also not aware of any analysis on the market impacts of the inclusion of backhaul in the capacity auction. There does not appear to be any consideration of the effects on the prices in STTMs, DWGM or Gas Supply Hubs or on the users of these markets.</p> <p>In addition to the complex operational issues arising from the inclusion of backhaul services, APGA also notes that the inclusion of backhaul falls outside the scope of the original AEMC recommendation for the “development and introduction of a daily, day-ahead capacity auction for contracted but un-nominated pipeline capacity”^[1] in any case. Service providers don’t contract to provide backhaul services on single direction pipelines, so there is no “contracted but un-nominated” backhaul capacity in the Australian market for the purposes of the AEMC recommendation. This further supports APGA’s point made in section 1.3 of the submission that a staged approach should be taken to the implementation of the capacity trading reform package, with the first stage only to apply to contracted but un-nominated capacity on select routes. This would initially and, in APGA’s view, quite correctly exclude backhaul services.</p>
27.	<p>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 decision, or should it just be carried out by reference to the Part 25 objective and the NGO?</p>	<p>In APGA’s view, it is important to ensure that the determination of backhaul points to be included in the auction does not lead to a physical increase of the forward haul flows on any section of the pipeline, as this could lead to a reduction of uncontracted primary capacity. If the auction includes backhaul products from notional receipt points on single direction pipelines which are then allocated to delivery points along the pipeline, the resulting delivery obligation would be met via the utilisation of additional physical forward haul. This additional physical forward haul is likely to be sourced from uncontracted forward haul capacity – effectively eroding uncontracted primary capacity on the affected pipeline.</p>
<p>5.1.3 Methodology used to calculate auction quantity limits</p>		
28.	<p>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?</p>	

^[1] AEMC, Stage 2 Report, East Coast Wholesale Gas Markets and Pipeline Frameworks Review dated 23 May 2016, Table 1 Recommendations, Recommendation 5, page 14.

	Questions	Feedback
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.	
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?	In the Consultation Paper and the draft rules and regulations there does not appear to be a specific barrier to extending the coverage of the day-ahead auction to include regular spare capacity as well as contracted but un-nominated capacity. APGA notes that the reforms as currently proposed will already lead to encroachments on uncontracted spare capacity at receipt and delivery points. In APGA's view, the draft legislation should be amended to make this distinction.
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?	
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%)? 	
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?	
34.	Are there are 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?	
7.1 Allocation arrangements		

	Questions	Feedback
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?	
36.	Is there other information regarding allocation arrangements that should be published to ensure these agreements do not act as a barrier to trade?	
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 start time and, as applicable, the nomination cut-off time? If not, why?	
38.	With regard to the information required to be published by facility operators: <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? 	
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?	
40.	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: <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 commissioning), prior to publishing 	

	Questions	Feedback
	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"	
2	Section 2 (1), various new definitions	
3	Section 2 (1), definition of "initial National Gas Rules"	
4	Section 2 (1), definition of "Natural Gas Services Bulletin Board"	
5	Section 8 (3)	
6	Section 27 Functions and powers of the AER	
7	Section 74 Subject matter for National Gas Rules	
8	Section 74 (1) (aab)–(aad)	
9	Section 74 (3) (fb)	
10	Sections 83B–83D	
11	Section 91A— AEMO's statutory functions	
12	Section 91A (1) (gb) and (gc)	
13	Chapter 2, Part 6, Divisions 2C–2E	
14	Chapter 2, Part 6, Division 6, Subdivisions 3 and 4	
15	Section 91GG Disclosure of protected information for safety, proper operation of the market etc	
16	Section 91H Obligations under Rules or Procedures to make payments	
17	Section 218 AEMO's obligation to maintain Bulletin Board	
18	Section 219 AEMO's other functions as operator of Natural Gas Services Bulletin Board	
19	Section 223 Obligation to give information to AEMO about natural gas and natural gas services	
20	Section 223A	
21	Section 224 Person cannot rely on duty of confidence to avoid compliance with obligation	
22	Chapter 7A	
23	Section 294G	

24	Section 322 Service provider may enter into agreement for access different from applicable access arrangement	
25	Schedule 1-Subject matter for the National Gas Rules	
26	Schedule 1, items 55T	
27	Schedule 1, items 68A–68G	
28	Schedule 1, item 69A	
Schedule 2	Amendment of National Gas Regulations	
1	Regulation 5A Definition of compression service facility	
2	Regulation 10 Maximum civil monetary liabilities	
3	Regulation 10 (1) (dc) and (dd)	
4	Regulation 10 (1) (e)	
5	Regulation 10 (2)	
6	Regulation 10 (2) (d) and (e)	
7	Regulation 10 (3), definition of “ <i>prescribed amount</i> ”	
8	Regulation 10 (3), definition of “ <i>relevant event</i> ”	
9	Regulation 10 (3), definition of “ <i>relevant event</i> ”	
10	Schedule 2 Exclusions from definition of pipeline	
11	Schedule 3 Civil penalties	
12	Schedule 4 Conduct provisions	

3. National Gas Rules

Part 15A Registered Participants

Draft Rules	Issue	Feedback
Division 3	Participant fees	
135C	Definitions	
135CA	Development of participant fee structure	
135CC	Components of participant fees	
135CF	Budgeted revenue requirements	

Part 18 Natural Gas Services Bulletin Board

Draft Rules	Issue	Feedback
Division 1	Interpretation and application	
141	Interpretation	
Division 2	Bulletin Board	
147	AEMO to maintain BB Register	
Division 3	Register and registration	
158A	Obligation to register as BB allocation agent	
158B	Obligation to register BB allocation point	
158C	Registrations for capacity transaction reporting	
158D	Appointment of capacity transaction reporting agent	
160	AEMO to register	
161	Revocation of registration	
Division 4	Information standard and related obligations	
165	Standard for information or data given under this Part or the BB Procedures	
Division 5	Information to be provided by BB reporting entities	
168	Nameplate rating information	
170A	Allocation methodology and agreement	
174	[Not used]. – Deletion of Secondary trade date for BB pipelines	
190A	Obligation to report	
190B	Reporting by the GSH Operator	
Division 7	Publication of information by AEMO	
195A	Publication of capacity transaction information	
195B	Publication of capacity auction information	

Part 22 Gas Trading Exchange

Draft Rules	Issue	Feedback
Division 1	Preliminary	
533	Definitions	
Division 2	Operator	
534	Fees recoverable by AEMO	
536	Determination of payments on close out	
536A	Payments where primary facility agreement is terminated	

Part 24 Facilitating capacity trades and the capacity auction

Draft Rules	Issue	Feedback
Division 1	Preliminary	
591	Application	
592	Structure of this Part	
593	Definitions and interpretation	
594	Part 23 does not apply	
Division 2	Operational Transportation Service Code	
595	Objective and effective date	
596	Content of the Code	
597	Standard operational transportation services and auction services	
598	Standard terms and facility specific terms	
599	Establishment and operation of the OTS Code Panel	
600	Functions of the Operational Transportation Service Code Panel	
601	Code modification proposals	
602	Consultation by the OTS Panel	
603	AER response to OTS Code Panel recommendations	
604	Code modifications	
605	Principles for making Code modification decisions	
606	Members of the OTS Code Panel	
607	Nomination, election and appointment of members	
608	Obligations of OTS Code Panel members	
609	Meetings of the OTS Code Panel	
Division 3	Exemptions and registration	
610	Scope of exemptions	
611	Exemptions granted by the AER	
612	Exemption conditions	
613	Revocation	
614	Making and form of application	
615	Decision on application	

616	Decision to vary or revoke an exemption	
617	AEMO to maintain register and publish guide	
618	Registration of transportation service providers	
619	Obligation to register Part 24 facilities	
620	Multiple transportation service providers for a Part 24 facility	
621	Change of transportation service provider	
622	Application for registration	
623	AEMO to register applicants and their facilities	
624	Revocation of registration	
Division 4	Matters for the Capacity Transfer and Auction Procedures	
625	Information about contracts	
626	Service point and pipeline segment specifications	
627	Allocation to zones	
628	Principles for determining zones	
629	Transportation service point register and information about zones	
630	Interface with the STTM and the DWGM	
Division 5	Obligations of transportation service providers relating to standard form agreements	
631	Obligation to publish	
632	Content of standard operational agreements	
633	Amendments to standard operational agreements	
634	Recovery of standardisation costs	
635	AER review of standard form agreements	
636	Requests for standard operational agreements	
637	Offers for standard operational agreements	
Division 6	Other service provider obligations	
638	Giving effect to operational transfers	
639	Service continuity for primary service termination or suspension	
640	Amendment of facility agreements	
641	New facility agreements	
642	Principles for terms to facilitate sale by operational transfer	
643	Changes to pipeline service points	

Part 25 Capacity Auction

Draft Rules	Issue	Feedback
Division 1	Preliminary	
645	Objective	
646	This Part	
647	Definitions and interpretation	
648	Pipeline classification	
649	Auction information standard	
Division 2	Capacity auction	
650	Auction services	
651	Auction service priority principles	
652	Capacity auction design principles	
653	Auction quantity limits	
654	Application and information	
655	Giving effect to auction results	
656	Establishment and operation of the capacity auction	
657	Auction Procedures and auction agreement	
658	Suspension and termination of an auction participant	
659	Fees recoverable by AEMO	
660	Auction amounts payable by auction participants	
Division 3	Market conduct and nomination rules	
661	General requirements	
662	Conduct in relation to auctions	
663	Nominations and renominations must not be false or misleading	
664	AER monitoring	
665	Facility operators to keep nomination and scheduling records	
666	Renomination records of transportation facility users	
Division 4	Payment of capacity auction revenues	
667	Billing period settlement amounts for facility operators	
668	Final statements	

669	Payments	
670	Settlement queries and disputes	
671	Revised statements	
672	Payment of adjustments	
673	Maximum total payment in respect of a billing period	
674	Interest on overdue amounts	
675	Application of GST	

Part 26 Standard market timetable

Draft Rules	Issue	Feedback
676	Application of this Part	
677	Definitions and interpretation	
678	Standard market timetable	

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	
2	Initial Procedures	
Part 2	Transitional arrangements for Part 18	
1	Definitions	
2	Commencement of secondary reporting obligations	
3	Allocation agents and allocation points on the commencement date	
4	Former remote pipelines	
Part 3	Transitional arrangements for Part 24	
1	Definitions	
2	Code modifications	
3	Northern Territory exemption	
4	Transitional Part 24 exemptions	
5	Registration in relation to Part 24 facilities on the Part 24 commencement date	
6	Initial transportation service point register	
7	Capacity trading platform commencement	
Part 4	Transitional arrangements for new Part 25 (other than compression reporting)	
1	Definitions	
2	Capacity auction start date	
3	Protected services	
4	Facility operator nomination and scheduling records	
5	Renomination records	
Part 5	Transitional arrangements for reporting by compression service facilities	
1	Definitions and interpretation	
2	Application	
3	Information standard and related matters	
4	Capacity Transfer and Auction Procedures	

Draft Rules	Issue	Feedback
5	Nameplate rating information	
6	Detailed facility information	
7	Gas day start times	
8	Short term capacity outlooks	
9	Linepack/capacity adequacy indicator	
10	Nominated and forecast use of compression facilities	
11	Daily production data	
12	Publication by AEMO	
Part 6	Transitional arrangements for the standard market timetable	
1	Definitions	
2	Use of standard market timetable	
3	Information about gas market transition	
4	Information about natural gas facility transition	

4. Operational Gas Transportation Agreement Code

Clause	Issue	Feedback
Part 1	This code	
1	Introduction	
2	Definitions and interpretation	
3	Contents of this Code	
Part 2	Form of agreement – operational transportation services agreement	
1	Agreement documents	
2	Definitions and interpretation	
3	Agreement details	
Part 3	Standard terms - operational and commercial terms	
1	Definitions and interpretation	
2	Services	
3	Service Standards	
4	Nominations and Scheduling	
5	System Use Gas	
6	Hourly Limitations	
7	Curtailment	
8	Park Account	
9	Maintenance	
10	Gas Quality	
11	Pressure and Temperature	
12	Imbalance	
13	Unauthorised Overrun	
14	Use of Delivery Points and Receipt Points	
15	Metering and Apportionment	
16	Title, Risk, Responsibility and Co-ordination	
17	Liability	
18	Force Majeure Events	
19	Charges and Payment	
20	GST	

Clause	Issue	Feedback
21	Standing, Insurance and Credit Support	
22	Suspension and Termination	
23	Dispute Resolution	
24	Assignment/Novation	
25	Representations and Warranties	
26	Confidentiality	
27	Notices	
28	Bilateral Trades	
29	Miscellaneous	
Part 4	Description of services – operational TSA	
1	Traded Forward Haul Service	
2	Traded Park Service	
3	Traded Compression Service	
4	Forward Haul Auction Service	
5	Backhaul Auction Service	
6	Compression Auction Service	
Part 5	Requirements for facility specific terms – operational TSA	
1	General	
2	Definitions in Facility Specific Terms	
3	Other Services	
4	Scheduling	
5	Priority Principles	
6	System Use Gas	
7	Hourly Limitations	
8	Pressure and Temperature	
9	Charges	
10	Imbalance	
11	Odourisation	
12	Metering Principles	
13	Operational Communications	
14	Compressor Operation	

Clause	Issue	Feedback
15	Compression Services	
16	Receipt and Delivery Points	
17	Trading – other entitlements	
18	Accommodating Differences in Gas Days	
19	Specific Facility Issues	