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New arrangements for regulation of natural gas pipeline services

The commencement of the [National Gas Law](#) (NGL) has brought in new arrangements for the regulation of transmission and distribution natural gas pipeline services. The NGL provides for regulation of transmission and distribution natural gas pipeline services by the Australian Energy Market Commission as rule maker and the Australian Energy Regulator as economic regulator and enforcement body. The Ministerial Council on Energy maintains policy oversight of gas regulation.

On 1 July 2008, the NGL—a Schedule to the [National Gas \(South Australia\) Act 2008 \(SA\)](#)—and the [National Gas Rules](#) (the Rules) made under it commenced operation in all jurisdictions other than Western Australia. Western Australia has application legislation in its Parliament and aims to commence the regime by October 2008.

The new arrangements are modelled on the [National Electricity Law](#), as extensively amended in 2007, to ensure relative consistency between electricity and gas regulation.

Background

The NGL replaces the previous scheme for the regulation of natural gas pipeline services, which was contained in two schedules to the *Gas Pipelines Access (South Australia) Act 1997*, known collectively as the Gas Pipelines Access Law.

Pipeline services are provided by means of transmission or distribution pipelines. The former provide, at high pressure, long-haul bulk gas transport services from production fields to cities and towns and to large customers located along the route of the pipeline. The distribution pipelines provide the backbone of the network and also, operating at low pressure, deliver gas to the end customer.

The reforms embodied in the NGL and the Rules bring gas transmission and distribution access regulation under the jurisdiction of:

- the Australian Energy Regulator (established by the *Trade Practices Act 1974*), responsible for economic regulation in all jurisdictions other than Western Australia where the Economic Regulation Authority retains this role
- the Australian Energy Market Commission (a South Australian statutory authority), responsible for rule making and market development

- the Australian Competition Tribunal (continued by the Trade Practices Act) as the merits review body
- the National Competition Council (established by the Trade Practices Act) as the coverage recommendation body and decision maker on light regulation determinations
- the Victorian Energy Networks Corporation (continued by the *Gas Industry Act 2001 (Vic)*) as the current operator of the Bulletin Board (see below), to be replaced by the Australian Energy Market Operator in July 2009.

The Ministerial Council on Energy is also enshrined by the NGL as the policy maker for gas regulation.

The NGL also establishes a compulsory [Bulletin Board](#) to provide information about natural gas services and to assist in the response to gas emergencies. This Bulletin Board is open to the public.

Outline of reforms

In addition to replicating many of the key recent National Electricity Law reforms, the NGL also provides for:

- the alignment of the **national gas objective**—which will guide the Australian Energy Market Commission and the Australian Energy Regulator in carrying out their functions—with the national electricity objective
- ‘**light regulation**’ of some pipeline services, removing the necessity for up-front price regulation in an access arrangement
- a ‘**positive economic value test**’ for investment in existing pipelines
- the adoption of the National Electricity Law **access dispute** process so that disputes will be resolved by the Australian Energy Regulator under a procedure broadly consistent with that in the Trade Practices Act
- the continuation of the **greenfields incentives** established in 2006 under the Gas Pipelines Access Law, which was designed to promote investment in new gas pipelines.

The cooperative regime is intended to be an effective access regime under Pt IIIA of the Trade Practices Act and, accordingly, promote more efficient operation of gas markets. The regulatory regime will be particularly important in accommodating increasing demand for gas which is partly driven by changes in climate change policy.

The legislation involves complex issues in conferring jurisdiction on a range of Commonwealth and State/Territory bodies as well as Ministers through a mixture of Commonwealth and State/Territory legislation.

AGS was closely involved with the Department of Resources, Energy and Tourism in formulating the reforms and ensuring that the legislative instruments reflected the policy intent.

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