



New South Wales

# Gas Pipelines Access (New South Wales) (Savings and Transitional) Regulation 1999

under the

Gas Pipelines Access (New South Wales) Act 1998

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Gas Pipelines Access (New South Wales) Act 1998*.

KIMBERLY MAXWELL YEADON

Minister for Energy

## Explanatory note

The objects of this Regulation are:

- (a) to postpone, from 1 July 1999 to 1 October 1999, the date on which third party access rights under the *Gas Pipelines Access (New South Wales) Law* become available to gas users who consume 1 terajoule or more of natural gas per year, and
- (b) to postpone, from 1 July 1999 to 1 July 2000, the date on which third party access rights under the *Gas Pipelines Access (New South Wales) Law* become available to all other gas users to whom those rights are not yet available, and
- (c) to provide that an access undertaking given by the AGL Gas Networks Limited be modified in certain respects for the purpose of facilitating its review in accordance with the *Gas Pipelines Access (New South Wales) Law*, and

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(d) to modify the Access Code under the *Gas Pipelines Access (New South Wales) Law* in connection with the review of the access undertaking referred to in paragraph (c).

This Regulation is made under the *Gas Pipelines Access (New South Wales) Act 1998*, including clause 1 of Schedule 2 (the power to make regulations of a savings or transitional nature).

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## Gas Pipelines Access (New South Wales) (Savings and Transitional) Regulation 1999

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Gas Pipelines Access (New South Wales) (Savings and Transitional) Regulation 1999*.

#### 2 Definitions

In this Regulation:

**AGL** means AGL Gas Networks Limited (ACN 003 004 322).

**AGL access undertaking** means the access undertaking established by AGL under section 20 of the 1996 Act, as set out in the document entitled *Access Undertaking & Access Undertaking Information* and dated July 1997.

**first review**, in relation to the AGL access undertaking, means the first review of that undertaking referred to in clause 3 (4) of Schedule 2 to the 1998 Act.

**the 1996 Act** means the *Gas Supply Act 1996*.

**the 1997 Regulation** means the *Gas Supply (General) Regulation 1997*.

**the 1998 Act** means the *Gas Pipelines Access (New South Wales) Act 1998*.

**the new Access Code** means the *National Third Party Access Code for Natural Gas Pipeline Systems* (a copy of which, as agreed by the Council of Australian Governments on 7 November 1997, is set out in Schedule 2 to the *Gas Pipelines Access (South Australia) Act 1997* of South Australia) or, if that Code is amended in accordance with Schedule 1 to that Act, that Code as so amended and in force for the time being, as it applies because of section 7 of the 1998 Act as a law of New South Wales.

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*the old Access Code* means the Access Code under the 1996 Act, as in force immediately before the commencement of the 1998 Act.

*Tribunal* means the Independent Pricing and Regulatory Tribunal established under the *Independent Pricing and Regulatory Tribunal Act 1992*.

### 3 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

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## Part 2 Postponement of third party access for certain persons

### 4 Postponement of dates from which certain persons become users or prospective users under new Access Code

- (1) The objects of this clause are:
  - (a) to postpone, from 1 July 1999 to 1 October 1999, the date on which third party access rights under the *Gas Pipelines Access (New South Wales) Law* become available to gas users who consume 1 terajoule or more of natural gas per year, and
  - (b) to postpone, from 1 July 1999 to 1 July 2000, the date on which third party access rights under the *Gas Pipelines Access (New South Wales) Law* become available to all other gas users to whom those rights are not yet available.
- (2) A person is taken not to be a user or prospective user within the meaning of the new Access Code unless the person:
  - (a) belongs to a class of persons who, pursuant to clause 28 (subclause (5) excepted) of the 1997 Regulation (as in force immediately before the commencement of the 1998 Act), were declared to be system users for the purposes of the definition of **system user** in the Dictionary to the 1996 Act (as then in force), or
  - (b) is a person who, pursuant to subclause (3) of this clause, is declared to be a user or prospective user for the purposes of the new Access Code.
- (3) On and from 1 October 1999, the following persons are declared to be users or prospective users for the purposes of the new Access Code:
  - (a) any single person to whom at least 1 terajoule of natural gas has been supplied for consumption by that person during the period of 12 months ending on 1 October 1999,
  - (b) any single person to whom at least 1 terajoule of natural gas has (at any time between 1 October 1998 and 1 October 1999) been contracted to be supplied for consumption by that person during the following period of 12 months,
  - (c) any single person to whom at least 1 terajoule of natural gas is (at any time between 1 October 1999 and 1 July 2000)

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contracted to be supplied for consumption by that person during the following period of 12 months,

- (d) any authorised supplier (within the meaning of the 1996 Act) to whom any quantity of natural gas is supplied, but in respect only of the resupply of the natural gas by that authorised supplier to persons referred to in paragraphs (a), (b) and (c) who are not themselves authorised suppliers.
- (4) However:
- (a) in calculating the rate at which natural gas is for the time being supplied to a person:
    - (i) for the purposes of subclause (3) (a), natural gas supplied to a site to which less than 1 terajoule of natural gas has been supplied during the period of 12 months referred to in that paragraph, and
    - (ii) for the purposes of subclause (3) (b), natural gas contracted to be supplied to a site to which less than 1 terajoule of natural gas has been contracted to be supplied during the period of 12 months referred to in that paragraph, and
    - (iii) for the purposes of subclause (3) (c), natural gas contracted to be supplied to a site to which less than 1 terajoule of natural gas is contracted to be supplied during the period of 12 months referred to in that paragraph, and
    - (iv) in any case, natural gas supplied to a site outside New South Wales,is not to be taken into account, and
  - (b) a person who is declared to be a user or prospective user by operation of subclause (3) is declared to be a user or prospective user in respect only of natural gas supplied to a site to which natural gas is for the time being supplied at a rate of 1 terajoule or more per year.
- (5) This clause ceases to have effect on 1 July 2000.
- (6) This clause has effect despite any provision of the *Gas Pipelines Access (New South Wales) Law* or the *Gas Pipelines Access (New South Wales) Regulations*.

## **Part 3 Modification of AGL access undertaking**

### **5 Object of Part**

The object of this Part is to facilitate the review of the AGL access undertaking under section 2 of the new Access Code, as referred to in clause 3 of Schedule 2 to the 1998 Act.

### **6 Modification of AGL access undertaking**

- (1) The AGL access undertaking is to be read and construed as if it were modified:
  - (a) in the manner set out in Schedule 1 to this Regulation, and
  - (b) in such manner as may from time to time be specified in an order made by the Tribunal and published in the Gazette.
- (2) An order referred to in subclause (1) (b):
  - (a) may deal only with such matters as are a necessary consequence of, or as are necessary to give full effect to, the modifications set out in Schedule 1 to this Regulation, and
  - (b) has effect only if it is published in the Gazette before the commencement of the revisions to the AGL access undertaking that arise from the first review of that undertaking under the new Access Code.
- (3) As soon as practicable after making an order referred to in subclause (1) (b), the Tribunal is to cause notice of the order to be given to AGL.
- (4) Failure to comply with the requirements of subclause (3) in relation to an order referred to in subclause (1) (b) does not affect the validity of the order.
- (5) This Regulation, and any action taken by the Tribunal in accordance with this Regulation, have effect despite the provisions of the old Access Code, the 1996 Act, the new Access Code or the 1998 Act.

### **7 Application of section 2 of new Access Code to AGL access undertaking**

- (1) For the purpose of enabling the Tribunal (as the Relevant Regulator under the new Access Code) to deal with proposed revisions to the AGL access undertaking under section 2 of the new Access Code

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(being proposed revisions for the purpose of the first review of that undertaking):

- (a) section 2.24 of the new Access Code is taken to include a requirement that the Relevant Regulator must take into account any additional revenue which AGL has received, or will receive, for the transitional period over and above the revenue that AGL would have received, or would receive, had the revisions come into effect on 1 July 1999, and
  - (b) the documents submitted to the Tribunal during January 1999 in the form of a new access undertaking to replace the AGL access undertaking are taken to be:
    - (i) proposed revisions to the AGL undertaking, and
    - (ii) the applicable Access Arrangement Information, referred to in section 2.28 of the new Access Code.
- (2) In this clause, the *transitional period* means the period from and including 1 July 1999 to the commencement of the revisions to the AGL access undertaking that arise from the first review of that undertaking under the new Access Code.

### 8 Expiry of Part

This Part ceases to have effect on the commencement of the revisions to the AGL access undertaking that arise from the first review of that undertaking under the new Access Code.

**Note.** Clause 12.2 (b) of the *National Gas Pipelines Access Agreement* provides that transitional arrangements of the kind effected by this Part must come to an end no later than 1 September 2001 unless otherwise approved on behalf of the parties to that agreement.



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## Schedule 1 Modification of AGL access undertaking

(Clause 6)

### [1] Review of access undertaking

Section 7 of the AGL access undertaking is taken to have been replaced by a provision to the following effect:

#### 7 Review of access undertaking

- (1) For the purposes of the new Access Code:
  - (a) 5 January 1999 is to be the Revisions Submission Date, and
  - (b) 31 January 2000 is to be the Revisions Commencement Date.
- (2) In this section, *new Access Code* means the *National Third Party Access Code for Natural Gas Pipeline Systems* (a copy of which, as agreed by the Council of Australian Governments on 7 November 1997, is set out in Schedule 2 to the *Gas Pipelines Access (South Australia) Act 1997* of South Australia) or, if that Code is amended in accordance with Schedule 1 to that Act, that Code as so amended and in force for the time being, as it applies because of section 7 of the *Gas Pipelines Access (New South Wales) Act 1998* as a law of New South Wales.

### [2] Financial matters relating to periods following 1998/1999 financial year

A section to the following effect is taken to have been inserted after section 7 of the AGL access undertaking:

#### 7A Financial matters relating to periods following 1998/1999 financial year

To the extent to which this undertaking fails to specify any cost, price, charge, tariff or other amount in relation to a period occurring after 30 June 1999 (the *later period*), the cost, price, charge, tariff or other amount specified by this undertaking in relation to the corresponding period of the 1998/1999 financial year is taken to be specified by this undertaking in relation to the later period.

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BY AUTHORITY