7 Council of Australian Governments related reforms (electricity, gas, road transport)

The major infrastructure areas of electricity, gas and road transport are subject to reform requirements set out in separate inter-governmental agreements endorsed by Council of Australian Governments (COAG). Satisfactory progress in achieving the COAG reforms that were placed under the umbrella of NCP in 1995 is a condition for receipt of competition payments, as outlined in the Agreement to Implement the National Competition Policy and Related Reforms.

In accordance with the Intergovernmental Agreement on a National Water Initiative, the 2005 assessment of jurisdictions’ compliance with water commitments is to be conducted by the National Water Commission.

While these commitments are largely the responsibility of the States and Territories, the Australian Government does have some specific responsibilities (particularly in the area of gas reform). The Australian Government also seeks to assist the States and Territories in meeting their obligations.

The following sections outline reform progress in each of the targeted areas, with emphasis on the role of the Australian Government.

7.1 COAG consideration of energy market reform

During 2004, the Ministerial Council on Energy (MCE) progressed implementation of the Energy Market Reform Program as outlined in their 11 December 2003 report to the COAG on the Reform of Energy Markets. Key achievements to date include:

- The COAG Australian Energy Market Agreement, setting out the new governance and legislative structure for an Australian energy market, was endorsed by all Premiers and the Prime Minister on 30 June 2004.
Legislation establishing a new Australian Energy Regulator (AER), with responsibility for market surveillance and energy market regulation, was passed by Parliament on 25 June 2004.

Legislation establishing a new AEMC, with responsibility for rule-making and energy market development, was passed by the South Australian Parliament on 1 July 2004 and proclaimed on 22 July 2004.

The National Electricity Law Amendments Bill which will give powers and functions to the Australian Energy Market Commission (AEMC) and AER was passed by the South Australian Upper House on 14 April 2005.

7.1.1 Governance and institutions

- The AER and the AEMC will commence operations when the National Electricity (South Australia) (New National Electricity Law) Amendment Bill is proclaimed.

- The National Electricity Code Administrator will be wound up following the operational commencement of the AER and AEMC.

7.1.2 Economic regulation

- Industry consultation was undertaken on the development of a national framework for distribution and retail regulation and will inform MCE officials in the preparation of an options paper.

7.1.3 User participation

- The MCE User Participation Policy Statement was released on 30 August 2004, covering the future work programme for consumer advocacy; market mechanisms to promote demand side response in the NEM; the role of interval metering technology; and demonstration, information and capacity building.

- Consultation forums to assist in the development of options for a future, workable national advocacy model were held during
November 2004. Further consultation on the options was undertaken during April 2005.

7.2 Electricity

In July 1991, COAG agreed to develop a competitive electricity market in southern and eastern Australia. The Australian Government has taken a leading role to ensure the development and implementation of electricity reforms on a national basis. To date, competition reform in the electricity sector has delivered structural reform of publicly owned utilities, competition among electricity generators, a competitive wholesale spot market for electricity (NEM), an efficient financial contracts market, third-party access to, and economic regulation of, network services, and customer choice for contestable large electricity consumers and all retail consumers in some jurisdictions.

The NEM commenced on 13 December 1998 and has operated effectively with only minor operational problems. Market participants have been generally pleased with the market arrangements.

7.2.1 Network development

Transmission projects advanced during the period 1 July 2004 to 31 March 2005 included:

- The Basslink Project (a 480 MW non-regulated line between Tasmania and Victoria); and

- The planned South Australia/New South Wales interconnector (SNI) (a 240 MW regulated line between New South Wales and South Australia proposed by TransGrid) was subject to the appeal of Victorian Supreme Court decision of 24 July 2003 in favour of TransEnergie. The appeal was expected to be heard in the second half of 2004 until TransGrid withdrew its application license fee.

7.2.2 Retail contestability

The Queensland Government has delayed the introduction of Full retail contestability (FRC) for electricity.
7.2.3 Electricity transmission

- As part of the new national planning regime for transmission, the first annual national transmission statement was released on 30 July 2004.

- A consultation paper on the NEM — Regional Structure Review and the draft report on NEM Transmission Region Boundary Structure were released for consultation in October 2004.

- Considerable work was undertaken in response to the load shedding event of 13 August 2004 to improve response to significant system disturbances and the equity of automatic load shedding between regions. A review of under frequency load shedding settings is currently underway.

7.3 Gas

The Australian natural gas market has traditionally comprised state-based market structures, in which monopolies operated at the production, distribution and retailing stages. The supply chain was highly integrated with legislative and regulatory barriers restricting interstate trade. These characteristics, in the absence of links between the states’ pipeline systems, served to perpetuate low levels of competitive behaviour in the market place.

In February 1994, COAG agreed to facilitate developments aimed at stimulating competition, and promoting ‘free and fair trade’ in the natural gas sector. These commitments were integrated into the NCP reforms.

Governments and industry are required to:

- remove policy and regulatory impediments to retail competition in the natural gas sector;

- remove a number of restrictions on interstate trade; and

- develop a nationally integrated competitive natural gas market by:
establishing a national regulatory framework for third party access to natural gas pipelines; and

- facilitating the inter-connection of pipeline systems.

Governments and industry, through the Gas Reform Implementation Group and its predecessor, the Gas Reform Task Force, have focused primarily on developing and implementing national arrangements for third party access to natural gas pipelines.

In November 1997, the Australian Government, States and Territories agreed to enact legislation to apply a uniform national framework for third party access to all gas pipelines. This framework included the Gas Pipelines Access Law and the National Third Party Access Code for Natural Gas Pipeline Systems (National Gas Code).

To realise the benefits of third party access in the natural gas retail market, a degree of separation between the monopoly pipeline transportation business and other potentially contestable businesses is required. The access regime includes ‘ring fencing’ provisions that require the monopoly transportation business to be separated from the retail business of the company, including separate accounts, staff and customer information.

The following activities have taken place over the period 1 July 2004 to 31 March 2005.

7.3.1 Gas market development

- MCE agreed to Principles for Gas Market Development in December 2004, following consideration of draft principles released for public consultation.


- The MCE’s Expanded Gas Program integrates gas market development (wholesale) with the response to the Productivity
Commission review of the Gas Access Regime to improve the investment and regulatory environment.

- Legislation is currently being drafted to bring the gas sector under the new governance and institutional arrangements by June 2005.

7.3.2 Retail Contestability

- FRC has commenced in New South Wales, Victoria, South Australia and the Australian Capital Territory. Queensland has delayed the introduction of FRC for gas.

7.3.3 National Gas Emergency Response Protocol

- MCE Ministers signed a Memorandum of Understanding in December 2004, whereby agreeing that the affected jurisdictions, in a gas supply shortage, are to consult over the use of emergency powers. The protocol is being further developed.

7.3.4 Review of Gas Access Regime

On 29 November 2002, the MCE agreed to proceed with a review of the Gas Access Regime. The Regime consists of the Natural Gas Pipelines Access Agreement, Gas Pipelines Access Law and the National Gas Code.


The primary aim of the review was to examine the extent to which current gas access arrangements balance the interests of relevant parties, provide a relevant framework that enables efficient investment in new pipeline and network infrastructure and which can assist in facilitating a competitive market for natural gas.

The Commission was asked to take into account in its deliberations the government response to the Commission’s Review of the National Access Regime, the National Energy Policy Framework agreed by COAG

The MCE will develop a response to the report.

7.3.5 Code changes

The National Gas Pipelines Advisory Committee (NGPAC) monitors and reviews the operation of the Code and makes recommendations to Ministers on changes to the Code. The Australian Government, through the Department of Industry, Tourism and Resources is represented on NGPAC.

When considering a Code change, NGPAC prepares an information memorandum and undertakes public consultation for significant proposed changes to the Code. NGPAC considers the submissions received before making recommendations to the Ministers. There were no Code changes in 2004-05.

The MCE has agreed that the functions of the NGPAC and Gas Code Registrar will transfer to the AEMC in mid-2005 following consideration of the outcomes of the review of the Gas Access Regime.

7.4 Road transport

The NRTC was established in 1991 to oversee development and implementation of the road transport reform programme under the direction of a Ministerial Council.

In April 1995, road transport reform was integrated into the NCP process, in recognition that full implementation would boost national welfare and reduce the cost of road transport services. This involved all governments committing to the effective observance of agreed road transport reforms.

The NRTC was initially to develop the reforms progressively through six separate modules:

- uniform heavy vehicle charges;
- uniform arrangements for transportation by road of dangerous goods;
- vehicle operation reforms covering national vehicle standards, roadworthiness, mass and loading laws, oversize and overmass vehicles and road rules;
- a national heavy vehicle registration scheme;
- a national driver licensing scheme; and
- a consistent and equitable approach to compliance and enforcement with road transport laws.

To also allow timelier implementation of reforms, the six initial reform modules were broken into eleven parts. Additionally, the ATC agreed two ten point ‘fast track’ packages of reform in 1994 and 1997 known as the First and Second Heavy Vehicle Reform Packages. These reforms, taken together, form the original NRTC reform agenda of 31 reforms.

One reform, Heavy Vehicle Charges, was assessed under the first tranche in 1997, while 19 reforms were assessed in 1999.

Throughout 1999-2000 a working group, the Standing Committee on Transport, developed a framework for assessment, including consulting industry. The ATC and COAG agreed on the framework and it was provided to the NCC to serve as the basis for its June 2001 third tranche assessment of road transport reforms. Six reforms were included in this assessment framework. Only one of these reforms, a second-generation of Heavy Vehicle Charges, was relevant to the Australian Government, and it was implemented on 1 July 2001.

Of the 19 reforms in the second tranche assessment framework, the Australian Government was required to implement nine in relation to heavy vehicles registered in the Federal Interstate Registration Scheme (FIRS). Most of these were implemented previously. However, some aspects of one reform relating to heavy vehicle registration were delayed pending the broader review of the FIRS.

The Australian Government Solicitor’s review of FIRS has now been concluded. On 12 April 2005 the department advised Minister Anderson of the recommendations of this review. The department is currently
waiting for the minister’s decision on the future direction of FIRS. This
decisions will determine the need or otherwise to undertake the reform
activity in question. Once a decision has been made the department will
appropriately address this reform issue.