INDEPENDENT
MARKET
OPERATOR

Draft Rule Change Report
GSI Fee Arrangements – Inclusion of Registered Production Facility Operators

GRC_2014_01

Standard Rule Change Process

Date: 2 October 2014

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Executive summary

The Public Utilities Office (PUO) proposed to amend the Gas Service Information (GSI) Fee allocation methodology to recover the cost of providing GSI Services from both Registered Shippers and Registered Production Facility Operators. Under the GSI Rules (Part 7, Division 4), the cost of providing GSI Services is currently recovered from Registered Shippers only.

The PUO considered that these costs should be recovered from participants across the gas supply chain. This is on the basis that the costs should be allocated to those who benefit from the GSI Services. The PUO noted that both buyers and sellers of gas are likely to benefit from the information provided by the GSI Services.

Proposed amendments

The PUO proposed to:

1. allocate the total GSI Fees equally between Registered Shippers and Registered Production Facility Operators;
2. allocate the Registered Shippers' share between individual Registered Shippers on the basis of the individual share of the sum of the Aggregated Shipper Delivery Quantities for all Registered Shippers; and
3. allocate the Registered Production Facility Operators' share between individual Registered Production Facility Operators on the basis of the individual share of the sum of total gas produced, which was proposed to be defined as the sum of each GBB Production Facility's Daily Actual Flow Data for the relevant GSI Invoice Period.

The PUO also recognised that the current definition of Aggregated Shipper Delivery Quantity does not prevent the double counting of natural gas shipped via Storage Facilities as it does with gas transferred between GBB Pipelines. The PUO noted that this disadvantages Registered Shippers storing gas in Storage Facilities. The PUO therefore also proposed to amend the definition of Aggregated Shipper Delivery Quantity to remove the double counting of gas transferred through a Storage Facility.

Consultation

A pre Rule Change Proposal was presented to the Gas Advisory Board (GAB) at its 18 February 2014 meeting. GAB members discussed the different options of including the Registered Production Facility Operators into the GSI Fee allocation methodology. At the meeting, GAB members had polarised views with respect to the concept of whether the GSI Fees should be allocated across both Registered Shippers and Registered Production Facility Operators. GAB members representing Gas Shippers were supportive of the concept, arguing that this provides for a more equitable GSI Fee allocation. GAB members representing Gas Producers opposed the concept arguing that producers would pass on the GSI Fees to their customers (the shippers) and therefore the proposed change would not change who finally bears the costs.

The PUO considered feedback from the GAB members and revised the pre Rule Change Proposal which was presented again at the 20 May 2014 meeting. The pre Rule Change Proposal outlined the PUO's preferred option to allocate GSI Fees equally between Registered

Shippers and Registered Production Facility Operators. GAB members reiterated their views on the concept. Those GAB members that supported the proposed changes to the allocation method supported the equal split of GSI Fees between Registered Shippers and Registered Production Facility Operators. The PUO informed the GAB that the Rule Change Proposal would be submitted into the formal rule change process on the basis of an equal split between Registered Shippers and Registered Production Facility Operators and then split within these groups on the basis of volume.

The PUO formally submitted the proposal into the Standard Rule Change Process on 9 July 2014. The IMO published the Rule Change Notice and Proposal on 15 July 2014.

Following the submission into the formal process, at the 16 July 2014 GAB meeting, the PUO noted that it had also included in the Rule Change Proposal amendments to the definition of the Aggregated Shipper Delivery Quantity to prevent the double counting of gas shipped via a Storage Facility.

The first submission period for this Rule Change Proposal was held between 16 July and 26 August 2014. During this period, submissions were received from Alcoa of Australia (Alcoa), the Australian Petroleum Production and Exploration Association (APPEA) and Synergy. The IMO also received out of session submissions from Alinta Energy (Alinta), Apache Energy (Apache) and North West Shelf Gas.

In their submissions Alcoa, Alinta and Synergy supported the allocation of GSI Fees between Registered Shippers and Registered Production Facility Operators on the basis that this would provide for a more equitable cost allocation. Alcoa and Synergy also supported the removal of the double counting of the volumes shipped via a Storage Facility.

Apache, APPEA and North West Shelf Gas considered that the proposed amendments would not be consistent with the GSI Objectives on the basis that it may increase costs due to the additional administration. They also noted that the proposed changes would ultimately not change the party paying the fees as it is likely that the Registered Production Facility Operators will pass through these costs to Registered Shippers.

GSI Objective assessment

The IMO considers that the proposed amendments to allocate costs between Registered Shippers and Registered Production Facility Operators are consistent with the GSI Objectives.

The IMO considers that the more equitable allocation of the GSI Fees amongst the beneficiaries of the GSI Services would outweigh any potential minor increase in costs or administration.

The IMO considers that the proposed amendments to remove the double counting of gas shipped via a Storage Facility will better achieve GSI Objectives (c) and (d) and are consistent with the remaining GSI Objectives.

Practicality and cost of implementation

The IMO is expected to incur costs of around $8,500 to develop and implement a new report from the GBB compiling the Aggregated Daily Actual Flow Data. These costs can be met from within the IMO’s existing budget. The IMO will need to make minor changes to the methodology used to allocate GSI Fees and associated invoicing processes.

Registered Production Facility Operators have indicated that they will incur minor costs to implement process changes associated with invoicing GSI Fees but did not indicate the expected amount of these additional costs.

North West Shelf Gas and Apache anticipate the need to introduce new processes to pass through the GSI Fees to their customers. North West Shelf Gas also noted that it would undertake a review of the current gas sales agreements in the light of the proposed changes.

The IMO expects that the proposed change of the definition of the Aggregated Shipper Delivery Quantity will have a minor impact on the data provided by Registered Pipeline Operators. However, the IMO did not receive any submissions addressing this issue.

The IMO considers that the proposed commencement date allows sufficient time for both the IMO and Gas Market Participants to implement the necessary administrative changes.

The IMO notes that the Rule Change Proposal contains amendments to subrules that are Civil Penalty Provisions and introduces a new subrule which is proposed to be a Civil Penalty Provision. Under the GSI Rules, all Civil Penalty Provisions are Protected Provisions. Under rule 144 of the GSI Rules, amendments to Protected Provisions require the Amending Rules in this Rule Change Proposal to be approved by the Minister. The IMO has engaged with the PUO to progress these amendments.

The IMO's proposed decision

The IMO's proposed decision is to accept the Rule Change Proposal as modified following the first submission period.

Next steps

The IMO now invites interested stakeholders to make submissions on this Draft Rule Change Report by **5:00 PM Thursday 30 October 2014**.

1. Rule change process and timetable

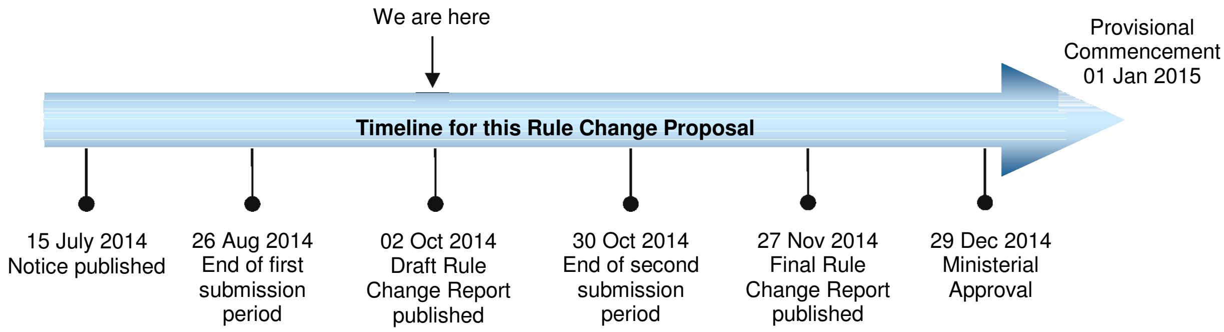
On 9 July 2014, the Public Utilities Office (PUO) submitted, on behalf of the Minister for Energy, a Rule Change Proposal regarding a change to the methodology used to allocate Gas Service Information (GSI) Fees to include Registered Production Facility Operators. The PUO proposed changes to:

- introduce new subrules 115A(1), 115A(2), 115A(3), 117(3) and 117(4) of the GSI Rules;
- amend rule 114 and subrules 118(1), 118(3), 118(4), 119(4), 119(5), 119(6), 119(7), 120(1), 120(2), 120(3), 120(4) and Schedule 1 of the GSI Rules;
- amend rule 116 to introduce three new subrules 116(1), 116(2) and 116(3) of the GSI Rules; and
- amend the explanatory note associated with subrule 119(2) of the GSI Rules.

This proposal is being processed using the Standard Rule Change Process, described in rules 135 to 137 of the GSI Rules.

In accordance with subrule 141(1) of the GSI Rules, the IMO extended the timeframe for the date of publication of this Draft Rule Change Report by six Business Days to allow sufficient time for the IMO to consider in detail the submissions received during the first submission period and those received out of session. The notices of extension were published on the GSI Website on 23 September and 26 September 2014.

The key dates in processing this Rule Change Proposal are:



2. Call for second round submissions

The IMO invites interested stakeholders to make submissions on this Draft Rule Change Report. The submission period is 20 Business Days from the publication date of this report. Submissions must be delivered to the IMO by **5:00 PM Thursday 30 October 2014**.

The IMO prefers to receive submissions by email (using the submission form available on the GSI Website: http://www.imowa.com.au/rule-changes) to: market.development@imowa.com.au.

Submissions may also be sent to the IMO by fax or post, addressed to:

Independent Market Operator
Attn: Group Manager, Development and Capacity
PO Box 7096
Cloisters Square, PERTH, WA 6850
Fax: (08) 9254 4399

3. Proposed amendments

3.1. The Rule Change Proposal

The PUO proposed to amend the GSI Fee allocation methodology to recover the cost of providing GSI Services from both Registered Shippers and Registered Production Facility Operators. Currently, the cost of providing GSI Services is recovered from Registered Shippers only. The PUO considered that GSI Fees should be recovered from participants across the gas supply chain. This was on the basis that the costs should be allocated to those who benefit from the GSI Services. The PUO noted that both buyers and sellers of gas are likely to benefit from the information provided by the GSI Services.

The PUO proposed to:

- amend rule 114 along with subrules 118(1), 118(3), 118(4), 119(4), 119(5), 119(6), 119(7), 120(1), 120(2), 120(3), 120(4), the explanatory note associated with subrule 119(2) and Schedule 1 of the GSI Rules and introduce new subrules 117(3) and 117(4) of the GSI Rules to reflect that GSI Fees are recovered from Registered Shippers and Registered Production Facility Operators and to include Registered Production Facility Operators in the invoicing process;

- create a new rule 115A including new subrules 115A(1), 115A(2) and 115A(3) and amend Schedule 1 of the GSI Rules to introduce the calculation of the Aggregated Daily Actual Flow Data as the basis on which to apportion GSI Fees within the group of Registered Production Facility Operators; and

- amend rule 116 to include three subrules 116(1), 116(2) and 116(3) of the GSI Rules to introduce the equal allocation of GSI Fees between Registered Shippers and Registered Production Facility Operators and provide for the volumetric distribution of GSI Fees within each of these two groups.

The PUO also recognised that the current definition of Aggregated Shipper Delivery Quantity does not prevent the double counting of natural gas shipped via Storage Facilities as it does with GBB Pipelines. The PUO noted that this disadvantages Registered Shippers storing gas in Storage Facilities. The PUO therefore also proposed to amend the definition of Aggregated Shipper Delivery Quantity in Schedule 1 of the GSI Rules to remove the double counting.

For full details of the Rule Change Proposal please refer to the GSI Website: http://www.imowa.com.au/GRC_2014_01.

3.2. The IMO's initial assessment of the Rule Change Proposal

The IMO decided to proceed with the proposal on the basis that section 4 of the Rule Change Proposal indicated that the proposed amendments would better address the GSI Objectives. The IMO therefore considered that Gas Market Participants should be given an opportunity to provide submissions on the proposal.

3.3. Protected Provisions, Reviewable Decisions and Civil Penalties

The IMO notes that subrules 118(1), 118(3) and 119(5) of the GSI Rules which are proposed to be amended are Category A Civil Penalty Provisions. In addition, the proposed new subrule 115A(3) of the GSI Rules is proposed to be added as a Category A Civil Penalty Provision. As these subrules are (or are proposed to be) Civil Penalty Provisions and therefore Protected Provisions under rule 144 of the GSI Rules, the Amending Rules in this Rule Change Proposal require Ministerial approval.

The IMO has engaged with the PUO to progress these amendments.

4. Consultation

4.1. The Gas Advisory Board

A pre Rule Change Proposal was presented to the Gas Advisory Board (GAB) at its 18 February 2014 meeting. GAB members discussed the merits of allocating costs to Registered Production Facility Operators. At the meeting, GAB members had polarised views with respect to the concept of the allocation of GSI Fees to Registered Production Facility Operators. Additionally, GAB members discussed the different options of including Registered Production Facility Operators into the GSI Fee allocation methodology, including the option to split the GSI Fees between Registered Production Facility Operators and Registered Shippers equally, on a volumetric basis or based on the number of Registered Participants.

Mr Pete Di Bona noted that the proposed approach was a change from the simple principle that was agreed and adopted in 2012, which was implemented to avoid the administrative complexities associated with allocation of fees, and questioned what was driving the changes proposed. Dr Natalia Kostecki noted that at the time, the PUO agreed with the approach adopted but noted that the Minister believes that the allocation of the GSI Fees should be based on the benefits received, and therefore should also be levied on producers.

The PUO revised the pre Rule Change Proposal which was again presented at the 20 May 2014 meeting. The pre Rule Change Proposal outlined the PUO's preferred option to allocate GSI Fees equally between Registered Shippers and Registered Production Facility Operators. GAB members reiterated their general views on the proposal and made the following comments:

- Mr Di Bona noted that the IMO had considered this issue in development of the GSI Rules and decided that it was more efficient to levy the fees on the Registered Shippers only. The Chair noted that the IMO had determined that both methods would be consistent with the GSI Objectives.
- Mr Di Bona expressed his concern that the fee structure had only recently been established and that such a significant change early in the operation of the GSI Rules would set a precedent. Mr Stan Reid noted that rules were necessarily revisited regularly

and changed over time.

- Mr Mark Cooper noted that end-users should be the ultimate beneficiaries of the GSI Services and therefore should bear the costs. He further noted that shippers should be best placed to pass this cost on.

- Mr Andrew Sutherland noted that the basis on which the current arrangement was made was that shippers were able to pass the cost on, which is an assumption that doesn't necessarily hold true.

- Mr Di Bona questioned what method was used to allocate fees on the east coast and what the justification was. The Chair and Mr John Jamieson noted that the fees were similarly levied on shippers and that they expected that this was because shippers were perceived to be in the best place to pass the costs through to the end-users and the arrangement reduces the overall administrative burden.

- Mr Ian Mumford and Mr Chris Campbell considered that the provision of information under the GSI Rules benefitted the whole market and therefore believed that a 50/50 split was reasonable.

- Mr Hans Niklasson considered that if there is value to both shippers and producers, the costs should be split accordingly.

The PUO informed the GAB that the Rule Change Proposal would be submitted into the formal process on the basis of an equal split between Registered Shippers and Registered Production Facility Operators and then split within these groups on the basis of volume.

The PUO formally submitted the proposal into the Standard Rule Change Process on 9 July 2014. The IMO published the Rule Change Notice and Proposal on 15 July 2014.

Following the proposal's submission into the formal process, at the 16 July 2014 GAB meeting the PUO noted that it had also included in the Rule Change Proposal amendments to the definition of Aggregated Shipper Delivery Quantity to prevent the double counting of gas shipped via a Storage Facility.

Further details are available in the GAB meeting minutes available on the GSI Website: http://www.imowa.com.au/GAB.

4.2. Submissions received during the first submission period

The first submission period for this Rule Change Proposal was held between 16 July and 26 August 2014. During the submission period, submissions were received from Alcoa of Australia (Alcoa), the Australian Petroleum Production and Exploration Association (APPEA) and Synergy. The IMO also received out of session submissions from Alinta Energy (Alinta), Apache Energy (Apache) and North West Shelf Gas.

In their submissions Alcoa, Alinta and Synergy supported the allocation of GSI Fees between Registered Shippers and Registered Production Facility Operators. Alcoa and Synergy also supported the removal of the double counting of the volumes shipped through Storage Facilities. Alcoa also identified the benefit that sharing the costs for GSI Services across both user groups would be likely to encourage greater participation and further development of the GSI.

In their submissions Apache, APPEA and North West Shelf Gas did not support the proposed change to the GSI Fee allocation method and considered that the proposed amendments would not be consistent with the GSI Objectives. Each of these parties submitted that it would likely incur additional costs due to the increased administration and would ultimately not change the party paying the fees as it is likely that Registered Production Facility Operators will pass these costs through to their customers (shippers).

Further details with respect to the issues raised in submissions and the IMO's responses to those issues are provided in section 4.3 of this report.

The assessment by submitting parties as to whether the proposal would better achieve the GSI Objectives is summarised below:

Submitter	GSI Objective Assessment
Alcoa	Better achieves all four GSI Objectives.
APPEA	None provided.
Synergy	None provided.
Alinta Energy	None provided.
Apache Energy	Does not achieve the GSI Objectives.
North West Shelf Gas	Does not achieve the GSI Objectives.

A copy of all submissions in full received during the first submission period is available on the GSI Website: http://www.imowa.com.au/GRC_2014_01.

4.3. The IMO's response to submissions received during the first submission period

The IMO's response to each of the issues identified during the first submission period is presented in the table over the page:

Submitter	Comment/Change Requested	IMO's Response
1. Timing of proposed change		
North West Shelf Gas	North West Shelf Gas notes that the existing GSI Fee allocation methodology was adopted after extensive consultation with all industry participants. It considers that given that the current rules were adopted following this extensive consultation (over 1 year) there is no case for now seeking to amend the rules in this substantive manner.	The IMO notes that legislative frameworks designed to consider operational aspects of markets and industry are necessarily revisited regularly and changed over time to ensure that they remain relevant. The IMO therefore does not consider the timeframe since the GSI Rules were established to be a relevant consideration in making its decision.
APPEA	APPEA notes that the existing cost recovery arrangements only recently went through considerable stakeholder engagement.	
2. Achievement of the GSI Objectives		
Apache	Apache does not consider that the proposed changes to the GSI Rules will facilitate the achievement of the GSI Objectives.	The IMO highlights that in the Second Consultation Draft of the GSI Rules: Response to Submissions the IMO states: "During consultation on the Second Consultation Draft of the GSI Rules, the IMO raised the possibility of a change to the cost recovery arrangements to share the costs between gas Production Facility Operators and Shippers. The IMO considered that this approach of sharing the costs between Shippers and Production Facility Operators would also be an appropriate fee recovery mechanism, being more symmetrical on face value and also consistent with the GSI Objectives." The IMO remains of the view that the proposed amendments will not be misaligned with the GSI Objectives or any other part of the legislative framework. The IMO acknowledges that some Registered Production Facility Operators have indicated that they will be able to pass these costs on to Registered Shippers. The IMO considers that this is consistent with the principle that end-users will ultimately bear the costs associated with the provision of GSI Services while allocating cost more symmetrically.
APPEA	APPEA notes the Rule Change Proposal is not justified and considers that the proposed amendments will lead to an economically inefficient outcome.	
North West Shelf Gas	North West Shelf Gas does not support the proposal to amend the GSI Fee allocation methodology to recover the cost of providing GSI Services from both Registered Shippers and Registered Production Facility Operators on the basis that it is "[m]isaligned with the objectives of the Gas Services Information Act 2012". It notes that the objectives of the Gas Bulletin Board (GBB) and Gas Statement of Opportunities (GSOO) under Section 6 of the GSI Act are: "to promote the long term interests of consumers of natural gas…". As Registered Shippers are the group most proximate to "consumers of natural gas", it is thus reasonable that they pay for the costs associated with these services. This was acknowledged as part of the reasoning for the current GSI	

Submitter	Comment/Change Requested	IMO's Response
	Fee structure by the IMO, who wrote: "...in the absence of a mechanism to directly charge all end-users, the IMO has sought to charge fees as close as possible to consumers to reduce the degree to which costs may be absorbed by other parties as they are passed through the supply chain".	
APPEA	APPEA notes that the GSI Objectives do not mention gas trading as a purpose, primary or otherwise, of the GBB. APPEA understands that it was a policy decision by government at the time of the GSI being developed that gas trading not be included in the functions of the GSI Services.	The IMO notes that while the GAB has been investigating gas trading, this Rule Change Proposal does not consider this. Instead it refers to the provision of information with respect to the delivery and receipt of gas trades, which in turn may lead to trading opportunities under existing market arrangements.
3. Equity of cost recovery		
APPEA	APPEA notes that the Rule Change Proposal fails to adequately outline any benefits that producers allegedly receive from the GSI initiatives. Throughout the Rule Change Proposal, the justification for placing a cost recovery burden on Gas Producers is that they "may also benefit from GSI Services". APPEA's members consider that there is no evidence or analysis that quantifies any benefits accruing to Gas Producers from the introduction of the GSI Services. In the absence of any such evidence, the Rule Change Proposal must be rejected on the grounds that it does not identify or address a failure in the current GSI Rules.	The IMO acknowledges that there is no assessment in the Rule Change Proposal of the benefits GSI Services provide for Registered Production Facility Operators. However, the IMO considers that all parties across the whole gas market value chain benefit from the provision of information by an independent source and that the GSI Services increase transparency in the gas market and reduce the effort of compiling the provided information for all Gas Market Participants. The IMO notes that the cost-benefit analysis carried out by the Sapere Research Group[1] during the development of the GSI Rules identified benefits including more efficient risk management, increased competition and improved coordination of outages. The net benefits of the GSI were estimated to be $4.8 million under the central case scenario. In particular, the IMO considers that Registered Production Facility Operators benefit from the GSOO. The GSOO provides a 10 year outlook on the Western Australian gas

[1] Available at http://www.imowa.com.au/docs/default-source/gisp/final_cba_report_-_20_december_2012.pdf?sfvrsn=2

Submitter	Comment/Change Requested	IMO's Response
		market, improves transparency and highlights opportunities that will assist with the further business development. Hence the GSOO provides valuable information supporting investment decisions and risk management as well as an efficient Western Australian gas market, which is of benefit for Registered Production Facility Operators and Registered Shippers. It should also be noted that the GSOO uses information from the GBB in its analysis. The IMO therefore considers that both Registered Shippers and Registered Production Facility Operators benefit from the provision of GSI Services and consequently should bear part of the associated costs, to achieve a more equitable fee structure. The IMO also highlights that it may make rules on grounds other than a "failure in the GSI Rules".
North West Shelf Gas	North West Shelf Gas considers that the proposed amendments would be inequitable on the basis that Registered Production Facility Operators already incur a disproportionately large share of (upfront and ongoing) costs to meet their obligations associated with the provision of GSI Services. It states that, given the discrepancy in compliance cost burden and the ability of Registered Shippers to pass on their costs to end consumers it would be unfair to require Registered Production Facility Operators to bear further costs.	The IMO acknowledges North West Shelf Gas' view that part of the rationale for not including other parties than Registered Shippers in the current GSI Fee allocation was that Registered Shippers have fewer obligations and therefore incur less costs providing data to the GBB then other Registered Participants. The IMO considers that all Gas Market Participants incur compliance costs associated with meeting their obligations to provide data. Furthermore, the IMO notes that most data is provided by Registered Pipeline Operators and that Registered Production Facility Operators have been granted exemptions for most of their data provision obligations under subrule 73(2) of the GSI Rules and therefore only have to provide very limited data.
4. Additional administrative costs incurred by Registered Production Facility Operators		
Apache	Apache notes that the proposed changes will likely result in an additional administrative burden being placed on Registered Production Facility Operators.	The IMO acknowledges the potential for additional processes (and associated costs) related to enabling Registered Production Facility Operators to pass the GSI Fees on to Registered Shippers. The IMO notes that Registered Production Facility Operators will already have the processes and systems in place to invoice Registered
North West Shelf Gas	North West Shelf Gas notes that the proposed amendments will increase complexity and administrative burden for	

Submitter	Comment/Change Requested	IMO's Response
	Registered Production Facility Operators and Registered Shippers. In particular, the process of passing through the GSI Fees from producers to their customers (Registered Shippers) increases complexity in the gas market (disputes over payment, etc.) and leads to additional administration costs for both Registered Production Facility Operators and Registered Shippers to deal with this issue, whilst potentially not changing the end result for either party.	Shippers and therefore would not expect these additional administrative costs to be material. As noted above, the IMO considers that the more equitable allocation of the GSI Fees amongst the beneficiaries of the GSI Services would outweigh any potential minor increase in costs or administration.
5. Potential of Registered Production Facility Operators passing through the costs to Registered Shippers		
North West Shelf Gas	North West Shelf Gas notes that under many gas sales agreements between gas producers and their customers, additional imposts, taxes, etc. can be recovered by the gas producers from their customers. GSI Fees are likely to qualify as an additional impost, tax, etc. Therefore, a result of the proposed rule change will be that Registered Production Facility Operators will, in accordance with their gas sales agreements, seek to recover GSI Fee costs from their customers (Registered Shippers).	The IMO notes that in its submissions, both North West Shelf Gas and Apache stated that Registered Production Facility Operators would be able to pass the additional costs associated with the Rule Change Proposal through to Registered Shippers.
Apache	Apache notes that it is likely that The net effect of the proposed changes is that Registered Shippers continue to bear 100% of the total GSI Fees. Apache notes that it is also likely to pass on any extra costs incurred by as a result of the changes to the shippers.	

4.4. Public forums and workshops

No public forums or workshops were held with regard to this Rule Change Proposal.

5. The IMO's draft assessment

In preparing its Draft Rule Change Report, the IMO must assess the Rule Change Proposal in light of rules 127 and 128 of the GSI Rules.

Rule 127 outlines that the IMO "must not make Amending Rules unless it is satisfied that the Rules, as proposed to be amended or replaced, are consistent with the GSI Objectives".

Additionally, rule 128 states, when deciding whether to make Amending Rules, the IMO must have regard to the following:

- any applicable policy direction given to the IMO under rule 126;
- the practicality and cost of implementing the Rule Change Proposal;
- the relevant views expressed in any submissions received by the IMO on the Rule Change Proposal;
- the relevant views expressed at any public forums or workshops, or in other consultation with Gas Market Participants, held by the IMO on the Rule Change Proposal;
- the relevant views expressed by the GAB where it met to consider the Rule Change Proposal; and
- any information that the IMO considers necessary to assess the Rule Change Proposal.

The IMO notes that there has not been any applicable policy direction from the Minister in respect of this Rule Change Proposal. A summary of the views expressed in submissions, workshops and public forums and by the GAB is available in section 4 of this report.

The IMO's assessment is outlined in the following sub-sections.

5.1. Additional amendments to the proposed Amending Rules

Following the first submission period the IMO has made some additional changes to the proposed Amending Rules including:

- subrule 115A(3) and Schedule 1 of the GSI Rules to include the situation where a Registered Production Facility Operator is given an exemption in respect to providing Daily Actual Flow Data and it is instead provided by a Registered Pipeline Operator;
- rules 119 and 120 of the GSI Rules to clarify that GSI Invoices are issued to Registered Participants rather than Gas Market Participants more broadly; and

- Schedule 1 of the GSI Rules to further amend the wording of the definition of the Daily Actual Flow Data to ensure that estimated data from Registered Pipeline Operators and Registered Production Facility Operators may only be used in cases where meter data is not available.

These additional changes to the proposed Amending Rules presented in the Rule Change Proposal are outlined in detail in Appendix 1 of this Draft Rule Change Report.

5.2. GSI Objective assessment

The IMO considers that the GSI Rules as a whole, if amended as presented in section 7, will not only be consistent with the GSI Objectives but also allow the GSI Rules to better GSI Objectives (c) and (d).

The IMO's assessment is presented below:

GSI Fee allocation

The IMO considers that the proposed amendments to allocate GSI Fees equally between Registered Shippers and Registered Production Facility Operators are consistent with the GSI Objectives and represent a more equitable approach to recovering costs on the basis of the benefits received.

Removal of double counting

The IMO considers that the proposed amendments to remove the double counting of gas shipped via a Storage Facility will better achieve GSI Objectives (c) and (d) as they will ensure that:

- Registered Shippers who ship gas through a Storage Facility are not financially penalised via GSI Fees for doing so; and

- Gas Market Participants do not make inefficient investment or operational decisions by avoiding the use of Storage Facilities on the basis of the additional costs involved.

For these reasons, the IMO considers that the proposed amendments better promote the long term interests of consumers of natural gas in relation to:

- the efficient investment in natural gas services in the State (GSI Objective (c)); and

- the facilitation of competition in the use of natural gas services in the State (GSI Objective (d)).

The IMO considers that the proposed amendments to remove double counting are also consistent with the remaining GSI Objectives.

5.3. Practicality and cost of implementation

5.3.1. Cost

The IMO is expected to incur costs of around $8,500 to develop and implement a new report from the GBB compiling the Aggregated Daily Actual Flow Data. These costs can be met from within the IMO's existing budget.

Registered Production Facility Operators have indicated that they will incur minor costs to implement process changes associated with invoicing GSI Fees. The IMO notes that the submissions did not quantify these costs.

The IMO expects that Registered Pipeline Operators will have to adjust their calculation of Aggregated Shipper Delivery Quantities. Due to the proposed change in the definition, they will have to exclude delivery quantities for Delivery Points feeding into a GBB Storage Facility. The IMO considers that the costs associated with the change in calculation are likely to be minor.

5.3.2. Practicality

In addition to the development of a new GBB report, the IMO will need to make minor changes to the methodology used to allocate GSI Fees and associated invoicing processes. The required changes have to be in place by the end of the first GSI Invoice Period the proposed Amending Rules apply to, which is three months after the commencement of the Amending Rules. The IMO considers that the proposed commencement date allows sufficient time for the IMO to implement the required changes.

North West Shelf Gas and Apache anticipate the need to introduce new processes able to pass through the GSI Fees to their customers (shippers). North West Shelf Gas also noted that it would undertake a review of the current gas sales agreements in the light of the proposed changes. The IMO considers that the proposed commencement date allows sufficient time for Gas Market Participants to implement the necessary administrative changes.

The IMO expects that Registered Pipeline Operators will have to adjust their calculation of the Aggregated Shipper Delivery Quantity and therefore may need to implement minor changes to their IT systems. These changes will also need to be in place by the end of the first GSI Invoice Period the Amending Rules apply to. The IMO considers that the proposed commencement date allows sufficient time for the Registered Pipeline Operators to implement these changes.

The IMO notes that the Rule Change Proposal contains amendments to subrules that are Civil Penalty Provisions and introduces a new subrule proposed to be a Civil Penalty Provision. Therefore, these subrules are or are proposed to be Protected Provisions. Under rule 144 of the GSI Rules, amendments to Protected Provisions and the introduction of a new Protected Provision require the Amending Rules in this Rule Change Proposal to be approved by the Minister. The IMO has consulted with the PUO to progress the proposed changes.

The IMO has identified that both GSI Procedures: Registration, Deregistration, Exemptions and Transfer and Operation of the Gas Bulletin Board and the Emergency Management Facility require minor amendments to reflect the proposed GSI Fee allocation methodology. The necessary amendments to these GSI Procedures will be progressed through the GAB at an upcoming meeting, prior to submission in the formal procedure change process.

6. The IMO's proposed decision

The IMO's proposed decision is to accept the Rule Change Proposal as modified by the amendments outlined in section 5.1 of this Draft Rule Change Report.

6.1. Reasons for the decision

The IMO made its proposed decision on the basis that:

- the proposed Amending Rules are consistent with the GSI Objectives and better achieve GSI Objectives (c) and (d);
- the additional costs associated with the proposed changes are considered to be minor;
- the proposed changes will recognise that the GSI Services provide benefits to Gas Market Participants across the whole value chain and provide for greater equity among Registered Production Facility Operators and Registered Shippers and should support greater participation in the GSI Services;
- while recognising that no Gas Market Participant wishes to pay GSI Fees, the GSI Fees for Registered Production Facility Operators under the proposed allocation methodology are estimated to be around 0.34 cents per gigajoule[2] (based on the current GSI Budget and share proposed to be allocated to Registered Production Facility Operators) and therefore the allocation of fees is not considered to have a significant impact on Registered Production Facility Operators in the context of the Western Australian gas market. The IMO also notes the intent of Registered Production Facility Operators to pass these costs through to their customers (shippers).

6.2. Proposed Commencement details

The Amending Rules are proposed to commence at **8:00 AM** on **01 January 2015**.

7. Proposed Amending Rules

The proposed Amending Rules as presented in the Rule Change Proposal and amended following the first submission period are as follows (~~deleted text~~, <u>added text</u>):

114 IMO may recover GSI Services costs

For each Financial Year, the IMO may recover from Registered Shippers<u> and Registered Production Facility Operators</u> an amount equal to the Approved Annual Revenue for that Financial Year.

…

[2] This is calculated as 50% of the current GSI Fee for Registered Shippers under the current GSI Fee allocation, which was 0.688 cents per gigajoule in the most recent GSI Invoice Period.

115A Calculation of Aggregated Daily Actual Flow Data

(1) The IMO must calculate the Aggregated Daily Actual Flow Data for each Registered Production Facility Operator for each GSI Invoice Period, within 20 Business Days after the end of the period.

(2) Aggregated Daily Actual Flow Data must include the quantities injected for each Gas Day that starts in that GSI Invoice Period.

(3) If the Registered Participant providing the Daily Actual Flow Data for a Registered Production Facility under either rule 60 or subrule 73(1) or the IMO becomes aware of a change to the Daily Actual Flow Data for a Registered Production Facility for a particular GSI Invoice Period (but no later than one year after the end of that period) then the operator must provide the IMO with an updated version of the relevant quantities for that period as soon as practicable.

Note: This subrule is a civil penalty provision for the purposes of the GSI Regulations. (See the GSI Regulations, regulation 15 and Schedule 1).

116 Basis for calculation of GSI Fees ~~for Registered Shipper~~

(1) ~~The GSI Fee F for a Registered Shipper s for GSI Invoice Period p in Financial Year y is calculated as:~~

~~F(s,p) = ((Budget(y) * days in p / days in y) + U(p) – UR(p))~~

~~* DG(s,p) / TG(p)~~

The GSI Fees F for the GSI Invoice Period p in Financial Year y is calculated as:

$$F(p) = Budget(y) \times \frac{days\ in\ p}{days\ in\ y} + U(p) - UR(p)$$

W~~w~~here:

$Budget(y)$ ~~Budget (y)~~ is:

(a) if the Minister has approved the GSI Budget Proposal for Financial Year y, the Approved Annual Revenue for Financial Year y; or

(b) if the Minister has not yet approved the GSI Budget Proposal for Financial Year y, the Approved Annual Revenue for the previous Financial Year;

$U(p)$ ~~U(p)~~ is the sum of any GSI Fees invoiced for preceding GSI Invoice Periods but unpaid at the time GSI Fees for GSI Invoice Period p are invoiced and which the IMO reasonably believes it will not be able to recover from the party invoiced (and has not been previously reallocated ~~to Registered Shippers~~ as a U(p) amount); and

$\underline{UR(p)}$ ~~UR(p)~~ is the sum of any amounts included in the calculation of U for a preceding GSI Invoice Period which have been recovered since the GSI Fees for GSI Invoice Period p-1 were invoiced~~;~~.

(2) The GSI Fee for the GSI Invoice Period p for a Registered Shipper s is calculated as:

$$f(s,p) = 0.5 \times F(p) \times \frac{DG(s,p)}{TDG(p)}$$

Where:

$\underline{DG(s,p)}$ ~~DG(s,p)~~ is the total of the Aggregated Shipper Delivery Quantities for each Registered Shipper s and GSI Invoice Period p from all GBB Pipelines that provided the shipper with a pipeline service in GSI Invoice Period p; and

$\underline{TDG(p)}$ ~~TG(p)~~ is the sum of the ~~DG(s,p)~~$\underline{DG(s,p)}$ quantities for all Registered Shippers for GSI Invoice Period p.

(3) The GSI Fee for the GSI Invoice Period p for a Registered Production Facility Operator x is calculated as:

$$f(x,p) = 0.5 \times F(p) \times \frac{PG(x,p)}{TPG(p)}$$

Where:

$PG(x,p)$ is the total of the Aggregated Daily Actual Flow Data for Registered Production Facility Operator x and for the GSI Invoice Period p as calculated by the IMO under rule 115A; and

$TPG(p)$ is the sum of the $PG(x,p)$ quantities for all Registered Production Facility Operators and for the GSI Invoice Period p.

117 IMO to issue GSI Invoice

…

(3) Where the IMO is able to calculate the Aggregated Daily Actual Flow Data under rule 115A within 20 Business Days after the end of the relevant GSI Invoice Period, the IMO must, within 30 Business Days of the end of that period:

(a) calculate the GSI Fee for each Registered Production Facility Operator for that period in accordance with rule 116; and

(b) issue a GSI Invoice to each Registered Production Facility Operator for that period.

(4) Where the IMO is not able to calculate the Aggregated Daily Actual Flow Data under rule 115A within 20 Business Days after the end of the relevant GSI Invoice Period, the IMO may:

(a) issue a GSI Invoice later than the time specified in subrule (3); or

(b) calculate the GSI Fees and issue GSI Invoices in accordance with subrule (3) based on the best data available to the IMO.

118 Obligation to pay GSI Invoice

(1) Subject to subrules (2) and (4), a Registered Shipper or Registered Production Facility Operator must pay a GSI Invoice within 10 Business Days after the receipt of the invoice, regardless of whether there is a dispute regarding the invoice under rule 120.

Note: This subrule is a civil penalty provision for the purposes of the GSI Regulations. (See the GSI Regulations, regulation 15 and Schedule 1).

…

(3) A Registered Shipper or Registered Production Facility Operator must pay a replacement invoice within 10 Business Days after receipt of the invoice, regardless of whether there is a dispute regarding the invoice under rule 120.

Note: This subrule is a civil penalty provision for the purposes of the GSI Regulations. (See the GSI Regulations, regulation 15 and Schedule 1).

(4) A Registered Shipper or Registered Production Facility Operator is not required to pay a GSI Invoice if the invoice is for an amount of less than one dollar.

119 Review of GSI Fee calculation

…

(2) The IMO may also, subject to subrule (3), recalculate the GSI Fees for a GSI Invoice Period at any other time if it considers it appropriate in all the circumstances.

Note: For example, this could be a manifest error in the original calculations, or notification of a significant change to Aggregated Shipper Delivery Quantities or Aggregated Daily Actual Flow Data.

…

(4) Where the IMO recalculates GSI Fees for a GSI Invoice Period, the IMO must send an Adjustment GSI Invoice to each Registered Shipper or Registered Production Facility Operator, as applicable.

(5) A Registered Shipper or Registered Production Facility Operator must, within 10 Business Days of receiving an Adjustment GSI Invoice, pay any amounts owing.

Note: This subrule is a civil penalty provision for the purposes of the GSI Regulations. (See the GSI Regulations, regulation 15 and Schedule 1).

(6) Where an Adjustment GSI Invoice reduces the amount payable by a Registered Shipper or Registered Production Facility Operator, the IMO must credit the relevant amount to the next GSI Invoice issued under rule 117 to ~~that shipper~~ the relevant Registered Participant.

(7) Where a Registered Shipper or Registered Production Facility Operator is no longer registered with the IMO and has a credit balance, the IMO must, as soon as practicable, pay the amount ~~to the shipper~~ by direct bank transfer to an account nominated by ~~the Shipper~~ the relevant Gas Market Participant.

120 Disputes regarding GSI Invoices

(1) If a Registered Shipper or Registered Production Facility Operator wishes to dispute a GSI Invoice received from the IMO, it must notify the IMO of the disputed invoice within 10 Business Days after receiving the invoice and the Registered ~~Shipper~~ Participant and the IMO must seek to resolve that dispute in accordance with the dispute resolution process set out in this rule.

(2) To resolve the dispute:

(a) ~~the Registered Shipper~~the relevant Registered Participant must, when notifying the dispute to the IMO, inform the IMO of the reasons for it disputing the GSI Invoice;

(b) the IMO must provide sufficient information to ~~the Registered Shipper~~ the relevant Registered Participant regarding the calculation of the disputed amount, within 10 Business Days of the dispute being notified;

(c) a nominated representative of ~~each of the Registered Shipper~~ the relevant Registered Participant and the IMO must seek to resolve the dispute within 10 Business Days of the IMO providing the necessary information to the Registered ~~Shipper~~Participant; and

(d) if the dispute is not resolved by the nominated representatives as referred to in subrule (2)(c):

(i) where the IMO and ~~the Registered Shipper~~ the relevant Registered Participant can agree on a means of resolving the dispute by mediation, expert determination or some other similar alternative dispute resolution mechanism, the IMO and ~~the Registered Shipper~~ the relevant Registered Participant must use that mechanism; or

(ii) in the event that the IMO and ~~the Registered Shipper~~ the relevant Registered Participant are unable to agree on a dispute resolution mechanism, either party may commence proceedings before a court of competent jurisdiction in relation to the dispute.

(3) If, as a result of the resolution of a dispute regarding a GSI Invoice, the IMO is obliged to repay to a Registered Shipper or Registered Production Facility Operator part or the whole of an amount received under rule 118, then the IMO must repay the amount (at the option of ~~the Registered Shipper~~ the relevant Gas Market Participant) either:

(a) by way of a credit on the next GSI Invoice issued under rule 117 for a GSI Invoice Period; or

(b) by a payment to ~~the Registered Shipper~~ the relevant Gas Market Participant within 10 Business Days after the day resolution is reached.

(4) If as a result of the resolution of a dispute regarding a GSI Invoice, there is a finding that the GSI Invoices for one or more Registered Shippers or Registered Production Facility Operators were incorrectly calculated, the IMO must recalculate the GSI Fees for the relevant GSI Invoice Period for all Registered Shippers or Registered Production Facility Operators in accordance with rule 119.

…

Schedule 1 - Glossary

Adjustment GSI Invoice means an invoice that is sent to a Registered Shipper or Registered Production Facility Operator after:

(a) recalculation of the GSI Fees payable for a GSI Invoice Period under rule 119; or

(b) an adjustment to the GST amount payable for a GSI Invoice Period under rule 124.

Aggregated Daily Actual Flow Data means, for a Registered Production Facility Operator, the quantity of natural gas that has been injected from that Facility into GBB Pipelines for the relevant GSI Invoice Period determined from data provided under rule 60 or subrule 73(1).

Aggregated Shipper Delivery Quantity means, for a Registered Shipper and a GBB Pipeline, the delivery quantities for that Shipper aggregated for all Delivery Points on the GBB Pipeline, except those Delivery Points feeding into another GBB Pipeline or GBB Storage Facility (see rule 115).

…

Daily Actual Flow Data means, for a Gas Day:

(a) for a GBB Pipeline, the actual flows on that Gas Day for each Receipt Point and each Delivery Point on that pipeline, determined by the Registered Pipeline Operator on the basis of operational metering data where available or otherwise, where such data is not available, estimated by the Registered Pipeline Operator~~or estimated by the operator~~;

…

(c) for a GBB Production Facility, the quantity of natural gas that ~~is metered (based on operational metering data) as having been, or estimated by the Registered Production Facility Operator to have been,~~ has been injected from the ~~f~~Facility into each relevant Receipt Point on a GBB Pipeline on that Gas Day determined on the basis of operational metering data where available or otherwise, where such data is not available, estimated by the Registered Production Facility Operator.

…

GSI Fee means the fee payable by a Registered Shipper or Registered Production Facility Operator to the IMO and calculated under rule 116.

GSI Invoice means an invoice issued to a Registered Shipper or Registered Production Facility Operator by the IMO, and includes an Adjustment GSI Invoice.

Appendix 1. Further amendments to the proposed Amending Rules

The IMO proposes to make amendments to the proposed Amending Rules following the first submission period. These changes are as follows (~~deleted text~~, <u>added text</u> from the proposed Amending Rule Change Proposal):

115A Calculation of Aggregated Daily Actual Flow Data

. . .

(3) If ~~a Registered Production Facility Operator~~ <u>the Registered Participant providing Daily Actual Flow Data for a Registered Production Facility under either rule 60 or subrule 73(1)</u> or the IMO becomes aware of a change to the Daily Actual Flow Data for a particular GSI Invoice Period (but no later than one year after the end of that period) then the operator must provide the IMO with an updated version of the relevant quantities for that period as soon as practicable.

Note: This subrule is a civil penalty provision for the purposes of the GSI Regulations. (See the GSI Regulations, regulation 15 and Schedule 1).

119 Review of GSI Fee calculation

…

(6) Where an Adjustment GSI Invoice reduces the amount payable by a Registered Shipper or Registered Production Facility Operator, the IMO must credit the relevant amount to the next GSI Invoice issued under rule 117 to the relevant ~~Gas Market Participant~~<u>Registered Participant</u>.

(7) Where a Registered Shipper or Registered Production Facility Operator is no longer registered with the IMO and has a credit balance, the IMO must, as soon as practicable, pay the amount ~~to the shipper~~ by direct bank transfer to an account nominated by ~~the shipper~~ <u>the relevant Gas Market Participant</u>.

120 Disputes regarding GSI Invoices

(1) If a Registered Shipper or Registered Production Facility Operator wishes to dispute a GSI Invoice received from the IMO, it must notify the IMO of the disputed invoice within 10 Business Days after receiving the invoice and the ~~relevant Gas Market~~ <u>Registered</u> Participant and the IMO must seek to resolve that dispute in accordance with the dispute resolution process set out in this rule.

(2) To resolve the dispute:

(a) the relevant ~~Gas Market~~ Registered Participant must, when notifying the dispute to the IMO, inform the IMO of the reasons for it disputing the GSI Invoice;

(b) the IMO must provide sufficient information to the relevant ~~Gas Market~~ Registered Participant regarding the calculation of the disputed amount, within 10 Business Days of the dispute being notified;

(c) a nominated representative of the relevant ~~Gas Market~~ Registered Participant and the IMO must seek to resolve the dispute within 10 Business Days of the IMO providing the necessary information to the ~~Gas Market~~ Registered Participant; and

(d) if the dispute is not resolved by the nominated representatives as referred to in subrule (2)(c):

(i) where the IMO and the relevant ~~Gas Market~~ Registered Participant can agree on a means of resolving the dispute by mediation, expert determination or some other similar alternative dispute resolution mechanism, the IMO and the relevant ~~Gas Market~~ Registered Participant must use that mechanism; or

(ii) in the event that the IMO and the relevant ~~Gas Market~~ Registered Participant are unable to agree on a dispute resolution mechanism, either party may commence proceedings before a court of competent jurisdiction in relation to the dispute.

…

Schedule 1- Glossary

…

Aggregated Daily Actual Flow Data means, for a Registered Production Facility Operator, the quantity of natural gas that has been injected from that Facility into GBB Pipelines for the relevant GSI Invoice Period determined from data provided under rule 60 or subrule 73(1).

. . .

Daily Actual Flow Data means, for a Gas Day:

(a) for a GBB Pipeline, the actual flows on that Gas Day for each Receipt Point and each Delivery Point on that pipeline, determined by the Registered Pipeline Operator on the basis of operational metering data where available or otherwise, where such data is not available, estimated by the Registered Pipeline Operator~~or estimated by the operator~~;

…

(c) for a GBB Production Facility, the quantity of natural gas that has been injected from the Facility into each relevant Receipt Point on a GBB Pipeline on that Gas Day determined on the basis of operational metering data where available or otherwise, where such data is not available, estimated by the Registered Production Facility Operator.