



REPORT

Operational transportation service agreement compliance review

February 2020

© Commonwealth of Australia 2020

This work is copyright. In addition to any use permitted under the Copyright Act 1968, all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence, with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication. The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the Director, Corporate Communications,
Australian Competition and Consumer Commission,
GPO Box 3131,
Canberra ACT 2601
or publishing.unit@acc.gov.au.

Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Tel: 1300 585165

Email: AERInquiry@aer.gov.au

AER Reference: 61834

Contents

Shortened form	v
1 Executive Summary	1
2 Background.....	4
2.1. The capacity trading reforms.....	4
2.2. Operational Transportation Service Agreements	6
3 About the review.....	7
3.1. Impetus for OTSA review	7
3.2. Scope of OTSA review.....	7
3.3. OTSA review process	8
4 Standardisation costs and charges	11
4.1. Legal requirements.....	11
4.2. Our approach	12
4.3. Analysis	12
4.3.1 Costs.....	13
4.3.2 Recovery mechanism.....	14
4.3.3 Charges	15
4.4. Conclusion	20
5 Transparency	21
5.1. Legal requirements.....	21
5.2. Our approach	21
5.3. Analysis	22
5.4. Conclusion	24
6 Standard terms and facility specific terms.....	25
6.1. Legal requirements.....	25

6.2. Our approach	26
6.3. Analysis	28
6.4. Conclusion	34
Attachment 1: Review provisions under the NGR.....	36
Attachment 2: Standard OTSAs reviewed.....	37

Shortened form

Shortened form	Extended form
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
AGP	Amadeus Gas Pipeline
BCF	Ballera Compression Facility
BWP	Berwyndale Wallumbilla Pipeline
CGP	Carpentaria Gas Pipeline
COAG	Council of Australian Governments
Code	Operational Transportation Service Code
CTP	Capacity Trading Platform
DAA	Day Ahead Auction
DDP	Darling Downs Pipeline
EGP	Eastern Gas Pipeline
GJ	Gigajoule
GMRG	Gas Market Reform Group
ICF	Iona Compression Facility
MAPS	Moomba to Adelaide Pipeline System
MCF	Moomba Compression Facility
MDQ	Maximum Daily Quantity
MHQ	Maximum Hourly Quantity
MSP	Moomba to Sydney Pipeline
NGL	National Gas Law
NGP	Northern Gas Pipeline
NGO	National Gas Objective
NGR	National Gas Rules
OTSA	Operational Transportation Service Agreements
panel	Operation Transportation Service Code Panel

PCA	Port Campbell to Adelaide Pipeline
PCI	Port Campbell to Iona Pipeline
QGP	Queensland Gas Pipeline
RBP	Roma to Brisbane Pipeline
RP	Roma Pipeline
SEPS	South East Pipeline System
SESA	South East South Australia Pipeline
SCO	COAG Energy Council's Senior Committee of Officials
SWQP	South West Queensland Pipeline
TGP	Tasmanian Gas Pipeline
VicHub	VicHub Pipeline
WCFA	Wallumbilla Compression Facility A
WCFB	Wallumbilla Compression Facility B
WGP	Wallumbilla Gladstone Pipeline

1 Executive Summary

The National Gas Rules (NGR) require the AER to review and report on compliance with provisions in the NGR and the Operational Transportation Service Code (Code)¹ regarding standard Operational Transportation Service Agreements (standard OTSAs) and recovery of standardisation costs.²

The provisions were included in the NGR as part of the capacity trading reform package implemented in 2018. The standard OTSAs support the operation of the Capacity Trading Platform (CTP) and Day Ahead Auction (DAA), allowing participants access to contracted capacity that has not been nominated for use. The CTP and DAA are in their infancy, having only been operating since 1 March 2019. The review has been conducted in relation to the standard OTSAs required to be published before 22 August 2019.³ It covers 24 facilities of 8 separate transportation service providers.⁴

We assessed the extent of compliance for all facility and transportation service providers based on a review of published information and invited shippers and other stakeholders to provide information. Our review was informed by advice from external consultants and further information sought from transportation service providers on specific issues identified by us across various facilities. We also required an independent audit of APA Group's standardisation costs.

This has enabled us to test the overall extent of compliance and take a risk-based approach when identifying areas for more detailed consideration, consistent with our Compliance and Enforcement Policy.⁵

Our focus has been on:

- the standardisation charges; are they reasonable, incremental and reflect the charging principles set out in the NGR?
- transparency; does the transportation service provider's published standardisation costs and charge information met the NGR requirements?
- standard OTSAs; do these incorporate the standard terms set out in the Code and are any facility specific terms consistent with the NGR and Code?

¹ Operational Transportation Services Code, Version 1, 22 November 2018. See <https://www.aer.gov.au/wholesale-markets/pipeline-capacity-trading-and-day-ahead-auction/operational-transportation-service-code>

² NGR, Part 24, Subdivision 5.1. (excluding rule 635). This covers rules 631 (Obligation to prepare and publish standard OTSAs), rule 632 (Content of standard OTSAs), rule 633 (Amendments to standard OTSAs) and rule 634 (Recovery of standardisation costs). The review is required by rule 7 of Part 3 of Schedule 5 of the NGR, which is set out in attachment 1 of this report.

³ As required by rule 7 of Part 3 of Schedule 5. While the rule allows the AER to extend the review to standard OTSAs published by conditionally exempt facilities, no such standard OTSAs were identified for this review.

⁴ These facilities are set out in Attachment 2.

⁵ AER Compliance and Enforcement Policy, July 2019, available at: <https://www.aer.gov.au/publications/corporate-documents/aer-compliance-enforcement-policy>

The reform package was intended to promote standardisation of the terms on which traded capacity could be used while also allowing for operational and technical differences and other commercial arrangements on each facility.⁶ The framework for standard OTSAs and standardisation cost recovery therefore provides the businesses with a degree of flexibility. This has been taken into account in our approach to this compliance review.

We have also taken into account the Code objective, which is to provide for access to operational transportation services on reasonable terms, which for the purposes of Part 24 of the NGR, is taken to mean at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market.⁷

Transportation service providers have put some effort into configuring their business operations to the new CTP and DAA arrangements under the OTSA framework through the contractual terms and conditions they are now offering. The transportation service providers have also co-operated with our review and worked with us to address our concerns.

We are satisfied that there is nothing at this time to indicate a need for further investigation or enforcement action. In reaching this conclusion, we have taken into account the results of this review and the absence of complaints from shippers. We have found:

- all the transportation service providers have published OTSAs and charges on their websites
- the standardisation costs reflect the incremental cost of establishing and maintaining the arrangements, and appear reasonable
- although the charging structures vary between transportation service providers, these are unlikely to represent a substantial barrier to secondary capacity trading
- the standard and facility specific agreements adopted by the transportation service providers comply with the NGR and do not appear to discriminate in favour of the primary shippers on the pipelines.

This compliance review was included in the reform package at the suggestion of stakeholders⁸ and has provided an opportunity to test and foster compliance with this aspect of the reform package at an early stage. The timing of the review means that its outcomes will be available for the review of the capacity trading reforms to be undertaken by COAG Energy Council's Senior Committee of Officials (SCO) two years after implementation. The timing also coincides with the end of the 12-month period during which non-urgent or non-material amendments to the Code were not able to be made and so will be available to inform the panel responsible for considering proposals to amend the Code.⁹

⁶ NGR, rule 596(3) states: The Code must, to the extent reasonably practicable, provide for the terms and conditions for the provision of a standard operational transportation service to be specified in the standard terms (in preference to facility specific terms). The principles for making Code amendment decisions in rule 605 include taking into account the operational and technical requirements necessary for the safe and reliable operation of transportation facilities, the legitimate business interests of transportation service providers in relation to transportation facilities and the interests of all persons who have a right to use transportation facilities.

⁷ NGR, rule 595(1).

⁸ GMRG, Capacity Trading Reform Package: Final legal and regulatory framework, Explanatory Note, 22 November 2018.

⁹ Rule 2 of Part 3 of Schedule 5 of the NGR.

The review has provided some insight into areas that might be considered for further Code development. There may be scope for further standardisation (e.g. operational flow orders), clarification on the provision of information (e.g. metering equipment failures), the use of facility-wide approaches (e.g. scheduling systems, pressure, temperature and metering arrangements) and more flexibility arrangements (e.g. changes to pressure and temperature requirements). For the SCO review scheduled for 2021, there may also be merit in considering a framework for the AER to access information about primary facility agreements when conducting a review of facility specific terms.

We have an on-going role in reviewing the standard OTSAs under the NGR.¹⁰ Although this review was conducted early with little or no concerns raised by stakeholders at a time where there has been minimal market activity, our review should not be read as precluding further action if users or prospective users have concerns with the framework, particularly as the market matures, users gain further experience with the agreements and the Code develops.

¹⁰ NGR, rule 635.

2 Background

2.1 The capacity trading reforms

The capacity trading reforms were recommended by the Australian Energy Market Commission (AEMC)¹¹ and endorsed by the COAG Energy Council in August 2016.¹² The reforms are intended to foster greater liquidity in the market for secondary transportation capacity and improve the efficiency with which transportation capacity is allocated and used.

The reform package has five key elements:

- A new capacity trading platform (CTP) that forms part of the gas trading exchange, which provides for exchange-based trading of commonly traded transportation products and a listing service for more individualised products
- A day-ahead auction (DAA) of contracted but un-nominated capacity, which is conducted daily on non-exempt transportation facilities shortly after nomination cut-off time and subject to a reserve price of zero
- A range of measures to facilitate trade on the CTP and the DAA, including the development of standard OTSAs to establish standard contract terms between transportation service providers and shippers
- A reporting framework for secondary capacity trades and a number of other transparency measures to facilitate capacity trading and the DAA
- A standard market timetable to operate across the east coast and the Northern Territory.

To implement the reforms, the National Gas Law (NGL) and NGR were amended to establish the institutional arrangements for the CTP and DAA, and to specify the obligations of transportation service providers and other market participants under the capacity trading reform package. The transportation service provider obligations under the NGL most relevant to this review are, in summary:

- A transportation service provider must prepare and publish on its website a form of operational transportation service agreement for the facility that complies with the applicable requirements of the NGR and the Code (NGL s. 228B)
- A transportation service provider must on request by any person make an offer to enter into the standard OTSA for the facility, and if the offer is accepted must enter into the agreement (NGL s. 228C). However a transportation service provider is not prevented from entering into an operational transportation service agreement that is different to its standard OTSA published (NGL s. 228F).

The requirements for standard OTSAs are set out in the NGR and the Code. An outline of the NGR rules relating to standard OTSAs is set out in table 1.

¹¹ AEMC, *Eastern Australian Wholesale Gas Market and Pipelines Framework Review*, 28 July 2016.

¹² COAG Energy Council, *Bulletin Two - Gas Market Reform Package*, August 2016.

Table 1: Outline of National Gas Rules Part 24 Subdivision 5.1

Rule	Content	Description
631	Obligation to prepare and publish a standard OTSA	Transportation service provider has 40 business days to publish standard OTSA following the application date.
632	Content of standard OTSA	Must incorporate standard terms in the Code with no alterations other than permitted alterations. Must incorporate facility specific terms that are consistent with the NGR and Code.
633	Amendment of standard OTSA	Deals with requirements for amending a standard OTSA.
634	Recovery of standardisation costs	Provides for recovery by transportation service providers of certain reasonable costs relating to capacity trading (including OTSAs).
635	AER review of standard OTSAs	Ongoing AER function to review a standard OTSA for compliance with Code etc.

The initial Code was an instrument made by the SA Minister. It may be amended by the AER in accordance with the NGR.¹³ AEMO must also establish a panel to receive, consult on and make recommendations about proposed amendments to the Code.¹⁴ The Code is in five parts and deals with the matters described in table 2 below.

Table 2: Operational Transportation Service Code

Part	Title	Description
1	This Code	Introduction
2	Form of Agreement	Blank template OTSA.
3	Operational and Commercial Terms	Sets out the standard terms which must be incorporated into any standard OTSA with no alterations other than permitted alterations.
4	Standard Operational Transportation Services	Describes the six services which are standard operational transportation services.
5	Facility Specific Terms	Sets out requirements relating to facility specific terms.

The standard terms cover operational matters required for gas transportation services such as nomination, scheduling and curtailment. They also cover matters such as invoicing and payment, liability and dispute resolution.

¹³ NGR, rule 595(3).

¹⁴ NGR, rules 599 and 600.

Facility specific terms are made and published by each transportation service provider for each of its transportation facilities. Under the Code, the facility specific terms:

- must contain facility specific information as temperature and pressure requirements, any non-standard gas specification, priority principles for scheduling and curtailment and metering principles
- may deal with other matters permitted by the Code, including requirements to provide system use gas, hourly limitations, charges and provisions to deal with the specific circumstances of the facility not adequately addressed by the Code
- cannot vary the standard terms except where permitted by the Code.

2.2 Operational Transportation Service Agreements

A shipper wanting to acquire pipeline capacity allocated to another shipper must have in place an agreement with the pipeline operator setting out operational and commercial terms applying to the use of the acquired capacity.

A standard OTSA is a variety of agreement serving this purpose, but there are others. For example, where a shipper acquiring additional capacity is already using capacity it acquired directly from the operator, the shipper and the operator may decide to amend their primary agreement to deal with the use of capacity acquired by the shipper from another shipper or through the DAA. The terms of such OTSA alternatives are subject to negotiation by the parties.

However, a standard OTSA functions as a backstop where a shipper and a transportation service operator cannot agree to terms governing the use of capacity acquired from another shipper or through the DAA. Under the NGR, a transportation service operator is required to publish a standard OTSA which meets the requirements of the NGR and the Code, even where its preferred mode is to negotiate OTSA alternatives with potential secondary shippers. A transportation service operator must offer to enter an agreement in the form of a standard OTSA if requested by an eligible prospective secondary shipper. A timeline for concluding an OTSA in such cases is laid out in the NGR.

The AER may review a standard OTSA – and the standardisation charges associated with this – at any time at its own initiative or in response to a request by a shipper.¹⁵ The AER may require the service provider to amend a non-compliant OTSA. The cost recovery and charging principles are civil penalty provisions and conduct provisions, so the AER or affected shippers could take other enforcement action if the standardisation charges do not comply.¹⁶

Details on the capacity trading market framework can be found in the Gas Market Reform Group's (GMRG) Capacity Trading Reform Package Explanatory Note.¹⁷

¹⁵ NGR, rule 635.

¹⁶ *National Gas (South Australia) Regulations*, Schedule 3, rules 634(3)–(5).

¹⁷ Gas Market Reform Group, *Capacity Trading Reform Package: Final legal and regulatory framework (National Gas Law, National Gas Rules, Regulations and Operational Transportation Service Code)*, Explanatory Note, 22 November 2019. <http://gmrq.coagenergycouncil.gov.au/sites/prod.gmrq/files/publications/gmrq-capacity-trading-reforms-explanatory-note.pdf>

3 About the review

3.1 Impetus for OTSA review

During the development of the gas market reforms, shippers and user groups raised concerns about the potential for the cost recovery mechanism to result in transportation service providers 'gold plating' their systems or seeking to recover more than the incremental costs from shippers.

To address these concerns, the GMRG recommended that the new rules provide the AER with the capacity to review a published OTSA at any point in time and require changes to the OTSA.¹⁸ This recommendation is reflected in the new rule 635 of the NGR.

The GMRG also recommended that the AER be tasked to conduct a compliance review of the standard OTSAs and charges for recovery of standardisation costs within the first 12 months of the CTP and DAA being implemented. The recommendation included providing the AER with the power to require a transportation service provider to conduct an independent audit of the standardisation costs as part of the review and seek input from users and other interested parties when conducting the review. These recommendations were implemented in the transitional rules.¹⁹

In addition to this transitional review, the COAG Energy Council also agreed that the SCO would conduct a review of the capacity trading reforms two years following implementation.²⁰ This further review would also be informed by the AEMC's biennial review into the growth in liquidity in wholesale gas and pipeline trading markets, which is due to be completed in mid-2020.²¹

3.2 Scope of OTSA review

The review has been conducted in relation to standard OTSAs published - or required to be published - on or before 22 August 2019, the date specified by the NGR.²² The 24 facilities within this date range are set out in table 3.

¹⁸ Gas Market Reform Group, *Capacity Trading Reform Package: Final legal and regulatory framework (National Gas Law, National Gas Rules, Regulations and Operational Transportation Service Code), Explanatory Note*, 22 November 2019, p. 110.

¹⁹ NGR Schedule 5, Part 3, rule 7. See attachment 1 in this report.

²⁰ The GMRG's final recommendations were approved by the COAG Energy Council out of session on 29 June 2018.

²¹ Gas Market Reform Group, *Capacity Trading Reform Package: Final legal and regulatory framework (National Gas Law, National Gas Rules, Regulations and Operational Transportation Service Code), Explanatory Note*, 22 November 2019, p. 10. Also see: <https://www.aemc.gov.au/market-reviews-advice/2020-biennial-review-liquidity-wholesale-and-gas-pipeline-trading-markets>

²² The review must be conducted in relation to standard OTSAs published or required to be published within the period ending 9 months after the Part 24 commencement date: NGR Schedule 5, Part 3, rule 7(2)(a). The commencement date for NGR Part 24 was 22 November 2018: National Gas (Capacity Trading and Auctions) Amendment Rule 2018.

Table 3: Part 24 facilities and transportation service provider

Transportation service provider	Facilities
APA Group	Wallumbilla Compressor; Moomba Compressor; South West Queensland Pipeline; Roma to Brisbane Pipeline; Berwyndale Wallumbilla Pipeline; Wallumbilla Gladstone Pipeline; Carpentaria Gas Pipeline; Moomba to Sydney Pipeline; South East South Australia Pipeline; Amadeus Gas Pipeline ^(a)
Jemena	Eastern Gas Pipeline; VicHub; Queensland Gas Pipeline; Darling Downs Pipeline; Northern Gas Pipeline ^(b)
Epic	Moomba to Adelaide Pipeline; South East Pipeline System
SEA Gas	Port Campbell to Adelaide Pipeline; Port Campbell to Iona Pipeline
Lochard Energy	Iona Compressor
Palisade	Tasmanian Gas Pipeline
Santos	Ballera Compressor
Origin	Roma Pipeline

(a) Subject to the CTP from 26 June 2019 (120 business days after NGP was commissioned on 3 January 2019 but not the DAA (subject to derogation). Source: AEMO, *Transportation Service Point Register*, June 2019, p. 81.

(b) Subject to the CTP from 26 June 2019 (120 business days after it was commissioned on 3 January 2019 but not the DAA (subject to derogation). Source: AEMO, *Transportation Service Point Register*, June 2019, p. 85.

In reviewing compliance with NGR requirements relating to OTSAs, we have formulated four focus areas, which the balance of the report is structured around:

- standardisation costs and charges – are the claimed standardisation costs reasonable and incremental, as required by the NGR? Do the standardisation charges reflect the charging principles set out in the NGR?
- transparency – does the operator's published standardisation cost and charge information meet the NGR requirements?
- terms and conditions – Do these incorporate the standard terms set out in the Code? Do they include facility specific terms that are consistent with the NGR and Code?

3.3 OTSA review process

In February and March 2019 we held preliminary discussions with a number of transportation service providers and obtained details of all transportation service providers' standardisation costs and standardisation charging models.

We engaged consultants, McGrath Nicol to assist evaluating standardisation charges, and Johnson Winter & Slattery lawyers to assist our assessment of OTSA terms and conditions.

We published information about the OTSA review on our website²³ and approached a large range of stakeholders to seek input. This included contacting shipper representative bodies

²³ <https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/review-of-standard-otsas-and->

as well as all gas market participants registered by AEMO on facilities subject to the capacity trading reforms.

We received one submission on the review from AEMO.²⁴ AEMO was positive about the early level of participation in the DAA, though it noted no trades on the CTP had occurred at the date of its submission. However, AEMO submitted that a consistent charging structure between transportation service providers, with an appropriate split between fixed and variable fees, would better promote efficient and broad participation in the new markets than the variety of models adopted by transportation service providers.²⁵

We reviewed the published standard OTSAs against the requirements of the Code and identified areas of possible non-compliance and areas where an assessment of compliance required access to primary facility agreements.

We wrote to transportation service providers in September 2019 concerning compliance with their obligations. This is discussed further in the following chapters, but in broad terms we:

- requested two transportation service providers (Palisade and Lochard Energy) to revisit the structure of their standardisation charges
- indicated concern at the level of detail published by all transportation service providers on their standardisation costs and charges in purported compliance with NGR rule 634(4) of the NGR
- indicated concern about omissions from standard OTSAs and areas of possible non-compliance
- requested further information relating to selected facilities and issues to enable us to assess the terms and conditions of published OTSAs against the requirements of the NGR and the Code.

In September 2019 we also issued a notice to APA Group (under NGR Schedule 5, Part 3, clause 7(4)) requiring an independent audit of its standardisation costs.

Table 4: Key dates for OTSA review

Date	Description	Comment
22 November 2018	Commencement date for most of the capacity trading rules	
21 February 2019	AER letter to all operators of facilities subject to capacity trading reforms	Sought information about standardisation costs and charges.
1 March 2019	Commencement date for capacity trading platform and day ahead auction	
28 May 2019	AER letter to industry bodies	Sought submissions on OTSA review.

[standardisation-costs-and-charges](#)

²⁴ AEMO, *AER Review of Standard OTSAs and Standardisation Costs and Charges*, 25 July 2019.

²⁵ AEMO, *AER Review of Standard OTSAs and Standardisation Costs and Charges*, 25 July 2019, pp. 2–3.

June 2019	Initial desktop review of published standard OTSAs	
18 June 2019	AER letter to shippers	Sought submissions on OTSA review.
26 July 2019	Closing date for submissions	
22 August 2019	Last date of publication for standard OTSAs subject to review	The review must cover OTSA's published or required to be published by this date.
3 September 2019	AER letter and audit notice to APA Group	Required independent audit report of APA Group's standardisation costs. Sought responses regarding published information on standardisation charges and contractual terms and conditions.
5 September 2019	AER letter to Epic Energy, Jemena, Lochard Energy, Palisade and SEA Gas	Sought responses regarding published information on standardisation charges and contractual terms and conditions.
4 October 2019	Audit response received from APA Group	
4 - 7 October 2019	Responses received on standardisation charges and contractual terms and conditions	
December 2019	AER correspondence with transportation service providers	Acknowledged amendments proposed by transportation service providers and sought clarification in relation to contractual terms and conditions.
1 March 2020	Publication date for OTSA review	

We did not include Santos or Origin in our standardisation costs and charges compliance assessment following our preliminary investigations in February 2019. In response to our initial assessment information requests at the start of 2019, Santos confirmed that it does not anticipate any customers for its Part 24 facility, the Ballera compression facility, due to the commissioning of the Northern Gas Pipeline. Santos stated that it and its joint venture partners for Ballera will bear the material share of the standardisation costs and will not seek to recover all its costs through charges on customers. Instead Santos' standard OTSA includes a one-off OTSA charge of \$5000 payable upon execution of the agreement.²⁶ Origin are not proposing to recover a standardisation charge for the OTSA related services.²⁷

²⁶ Email from Santos in response to AER letter of 21 February 2019, dated 26 February 2019 and Letter from Santos to GMRG, *Capacity Trading Reform Package: Ballera Compression Facility - Standardisation costs and charges*, 30 October 2018. See: Operational Transportation Service - Facility Specific Terms - Ballera Compression Facility, clause 8(a)(i). <https://www.santos.com/media/4635/otsa-facility-specific-terms-ballera-compression-facility-v1.pdf>

²⁷ As at 1 January 2019 the Standardisation Cost Charge is zero. See Facility Specific Terms – Roma Power Station Pipeline, clause 9.2(a)(iii) and schedule 1. https://www.originenergy.com.au/content/dam/origin/about/who-we-are/docs/Roma%20Pipeline%20OTSA%20Agreement_Facility%20terms.pdf

4 Standardisation costs and charges

This section addresses compliance with the requirements of Subdivision 5.1 of Part 24 of the NGR relating to standardisation costs and charges.

4.1 Legal requirements

The NGR requirements relating to standardisation costs and charges are set out in rule 634, the relevant parts of which are set out below.

Rule 634 Recovery of Standardisation Costs

(1) The standardisation costs of a transportation service provider are the reasonable costs the transportation service provider incurs in establishing and maintaining the following arrangements:

(a) standard OTSAs for Part 24 facilities;

(b) operational transportation service agreements in the form of a standard OTSA for conditionally exempt facilities; and

(c) systems and processes to comply with obligations under this Part, Part 25, the Capacity Transfer and Auction Procedures and where applicable the conditions of an exemption,

to the extent that those costs are either incremental costs incurred exclusively in establishing and maintaining those arrangements or a proportionate share of any incremental costs reasonably attributable to establishing and maintaining those arrangements.

(2) Subject to subrule (3), a transportation service provider should have a reasonable opportunity to recover its standardisation costs from transportation facility users.

(3) A transportation service provider must:

(a) not seek to recover standardisation costs from transportation facility users more than once;

(b) treat amounts paid to a transportation service provider or a facility operator²⁸ for any of the transportation service provider's Part 24 facilities on account of the proceeds of the capacity auction as a contribution to the recovery of standardisation costs by transportation facility users, up to the amount of those costs; and

(c) in setting charges to recover standardisation costs from transportation facility users, set charges that:

(i) insofar as practicable, reflect the outcomes of a workably competitive market;

(ii) allocate the standardisation costs among transportation facility users in a reasonable manner (whether under operational transportation service agreements or otherwise); and

²⁸ In the NGR, the term 'facility operator' is used to refer to a transportation service provider registered with AEMO as the facility operator for a transportation facility.

(iii) recover the standardisation costs over time in a manner that promotes efficient trade in, and utilisation of, transportation capacity.

Rule 632(3) is also relevant. It provides:

A transportation service provider for a Part 24 facility must ensure that any charge specified by or determined in accordance with facility specific terms for the recovery of standardisation costs is separately identified and not included as an unidentifiable component of another charge.

4.2 Our approach

We have approached these requirements by considering the following questions in relation to each transportation service provider, based on the information published or otherwise provided to us by the transportation service providers:

- Do the **costs** which are sought to be recovered meet the description of 'standardisation costs' in rule 634(1) of the NGR - i.e. are they reasonable and incremental?
- Does the **recovery mechanism** prevent over-recovery of standardisation costs, and does it offset capacity auction proceeds against standardisation cost as required by NGR rule 634(3)(a) and (b)?
- Are the **charges** consistent with the principles in rule 634(1)(c) of the NGR – do they reflect the outcomes of a workably competitive market? Do they allocate costs among users in a reasonable manner? Do they recover costs over time in a manner that promotes efficient trade in and utilisation of capacity?

4.3 Analysis

In undertaking this analysis, we are mindful that the reforms are still in their early stages to promote a more liquid and efficient secondary gas capacity trading market. This market commenced in March 2019 and has only been in operation for a short period of time. While we have been closely monitoring this market, we observed that trading has been limited to the APA Group and Jemena pipelines. We have also been closely watching to see if there are any emerging user issues regarding the new standardisation charges. To date, we have not received any negative feedback. It may be too early to form any firm conclusions about the DAA and CTP. We encourage users to raise with us any specific issues about the new standardisation charges that might hinder them from participating in this market.

We engaged consultants McGrath Nicol to provide advice on whether the transportation service providers' standardisation charges were reasonable, incremental, not recovered more than once, are set out appropriately and substantiated by appropriate records. This included the audit notice issued to APA Group on 3 September 2019.

Stakeholders did not engage with our consultation process on the OTSA review. Having issued a communications notice and published material on our website, as well as contacting over 70 stakeholders, including shippers, users and other market participants (gas producers, electricity generators and retailers, industrial customers and user organisations), we only received one submission from AEMO.

The key issue raised was the OTSA charging structure rather than the actual costs incurred in facilitating the CTP and DAA.

4.3.1 Costs

Reasonable costs are the costs incurred by the transportation service provider in establishing and maintaining the standard OTSAs and systems and process to comply with the obligations under part 24 of the NGR, including the Code. Incremental costs are costs that would not otherwise have been incurred if not for the introduction of the standard OTSA regime under the NGR. Such costs include information technology, legal, operations, finance, commercial and administrative costs - primarily IT, legal and internal labour.

With the exception of APA Group, we have chosen not to apply universal independent audits on transportation service providers, the costs of which would be borne by users. This is further supported by the observation that the related activities and costs underpinning the new standardisation charges are relatively minor compared to the market as a whole. We have adopted a proportionate approach in response.

We issued an audit notice on the APA Group on 7 September 2019. This was done because APA Group's costs, totalling \$7.4 million, were much higher than those of any other transportation service providers. The audit was considered necessary to assist us in determining whether APA Group's costs are genuinely 'standardisation costs'. This provides an efficient basis to better understand the underlying incremental costs, examine how these costs are apportioned in setting the new standardisation charges and whether appropriate records are kept.

APA Group provided a response to the audit notice on 4 October 2019.²⁹

The audit did not identify any material errors in APA Groups standardisation costs or any non-compliance with the requirement of the NGR and met our information needs for assessing compliance with the standardisation cost recovery provisions of rule 634 of the NGR. We consider APA Group's standardisation costs are reasonable and incremental, and comply with the requirements of the NGR.

The costs incurred by the other transportation service providers are also considered reasonable and based on the information provided by the transportation service providers, appear to represent the incremental costs of establishing and maintaining standard OTSAs and systems and processes for the trading market. These costs are outlined in table 5 below. We consider the transportation service providers' costs of establishing and maintaining the OTSA's comply with rule 634(1) of the NGR.

Table 5: Standardisation costs (OTSA establishment and operating costs)

Transportation service providers	Costs
APA Group	Audited as above. ³⁰

²⁹ Deloitte, *Independent Practitioner's Assurance Report on the Standardisation Costs Forecast to the Directors of Australian Pipeline Limited (Responsible Entity for Australian Pipeline Trust And APT Investment Trust)*, 4 October 2019.

³⁰ <https://www.apa.com.au/our-services/gas-transmission/current-tariffs-and-terms/current-tariffs-and-terms/> (Other services).

Jemena	\$1.9 million in establishment costs made up of predominately operating expenditure related legal, consultant and internal staff costs, with a smaller proportion spend on IT capital expenditure. ³¹
Epic Energy	Establishment costs of \$773 000, which is made up of legal consultant costs for the OTSA, IT system costs and internal and external labour costs for project management of the OTSA. Epic Energy are also recovering maintenance costs of \$40 000 for legal and on-going IT and business costs of managing its OTSA obligations. ³²
SEA Gas	The largest component of SEA Gas's establishment and operating costs are staff costs in designing, developing and managing market transactions, respectively. This includes upfront costs of \$395 000 (labour, consultants, legal and IT costs) and annual costs of \$150 000 (staff, legal support and IT system maintenance). ³³
Lochard Energy	Establishment costs of \$139 000 (legal, IT and staff time) and on-going costs of \$28 000 per annum. ³⁴
Palisade	It was initially seeking to recover upfront establishment cost of \$180 000 based on estimates but these costs have been firmed up and Palisade are seeking to recover \$158 000. On-going operational costs of \$19 000 per annum. ³⁵
Santos	Santos' OTSA includes a one-off charge of \$5000 payable upon execution of the agreement. ³⁶
Origin	Origin are not proposing to recover a standardisation charge for the OTSA related services. ³⁷

4.3.2 Recovery mechanism

Transportation service providers have implemented three control mechanisms to comply with the requirement that standardisation costs are not recovered more than once:

- an annual reconciliation of estimated and actual standardisation costs (i.e. a 'true up'). This is the approach adopted by APA Group, Jemena, SEA Gas and Lochard Energy

³¹ <https://jemena.com.au/documents/pipeline/all-p24-pipelines-standardisation-cost-charges-met>

³² <https://www.epicenergy.com.au/maps-otsa/> and <https://www.epicenergy.com.au/seps-otsa/>

³³ <https://seagas.com.au/services/access-to-services/>

³⁴ <https://lochardenergy.com.au/wp-content/uploads/2019/10/OTSA-Standardisation-Costs-and-Charges-31-October-2019.pdf>

³⁵ <https://www.tasmaniangaspipeline.com.au/operational-transportation-service-code>

³⁶ Operational Transportation Service - Facility Specific Terms - Ballera Compression Facility, clause 8(a)(i). <https://www.santos.com/media/4635/otsa-facility-specific-terms-ballera-compression-facility-v1.pdf>

³⁷ As at 1 January 2019 the Standardisation Cost Charge is zero. See Facility Specific Terms – Roma Power Station Pipeline, clause 9.2(a)(iii) and schedule 1. https://www.originenergy.com.au/content/dam/origin/about/who-we-are/docs/Roma%20Pipeline%20OTSA%20Agreement_Facility%20terms.pdf

- a 'step down' of establishment standardisation costs as these costs are recovered. This is the approach adopted by Epic Energy. Under this approach, once Epic Energy has fully recovered its establishment standardisation costs it will only recover its on-going standardisation costs
- direct allocation of standardisation costs to OTSA customers. This is the approach adopted by Palisade, allocated equally amongst its four standard OTSA customers.

We consider Epic Energy's and Palisade's control mechanisms are essentially the same and may not be adequately sensitive to variance in the number of standard OTSA customers. When the number of standard OTSA customers vary throughout the recovery period, these transportation service providers should be required to make adjustments to prevent the over-recovery (or under-recovery) of their standardisation costs. Accordingly, we recommend Epic Energy and Palisade implement an annual reconciliation of estimated and actual standardisation costs. We consider this to be a more appropriate control mechanism to prevent over-recovery.

We accept the control mechanisms implemented by APA Group, Jemena, SEA Gas and Lochard Energy to ensure that standardisation costs are not being recovered more than once.

4.3.3 Charges

The OTSA standardisation charging structures vary between transportation service providers, with some opting for fixed charges and others with a combination of fixed and variable charges.

The NGR does not prescribe a particular charging model but rather sets out high-level principles on how the charges should be structured. The charges are required to, in so far as practical, reflect the outcomes of a competitive market, allocate costs in a reasonable manner and be recovered over time in a manner that promotes efficient trade in, and utilisation of, transportation capacity.

We have little scope to insist on any particular charging model or the power to determine the charges for participating in the CTP and DAA – we are not making a price determination on what is prudent and efficient but rather that the OTSA comply with the principles in the NGR. This is consistent with the flexible framework adopted under the GMRG's capacity trading reform package.³⁸

A comparison of the standardisation charges for each OTSA transportation service provider is set out in table 6 below.

³⁸ GMRG, *Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades)*, November 2017.

Table 6: Comparison of standardisation charges (as at 31 January 2020)

Transportation service provider	Facilities/Market	Fixed charge (\$)	Variable charge capacity procured in CTP (\$/GJ)	Variable charge capacity procured in DAA (\$/GJ)
transportation service providers' standardisation charges				
APA Group	SWQP, RBP, BWP, WGP, CGP, MSP, SESA, Wallumbilla & Moomba Compression	\$806.42 per month	\$0.024	\$0.048
Jemena	EGP, VicHub, QGP, DDP, NGP	\$500 per month ^(a)	n.a.	n.a.
Epic Energy	MAPS	\$2,917 per month	n.a.	n.a.
	SEPS	\$833 per month	n.a.	n.a.
SEA Gas	PCA and PCI	\$4,935 per month ^(b)	n.a.	n.a.
Palisade	TGP	Upfront charge: \$733.39 per month Ongoing fee: \$263.89 per month OTSA one off fee: \$3,000	n.a.	n.a.
Origin	Roma Pipeline ^(c)	\$0	\$0	\$0
Lochard Energy	Iona compression	\$750 per month	\$0.02	\$0.0461
Santos	Ballera compression	Upfront one-off charge: \$5,000	n.a.	n.a.

(a) Jemena's standardisation charge was varied in January 2020. The fixed charge decreased from \$1000 per month to \$500 per month for each OTSA contract and the variable charges payable for each of Jemena's facilities were removed (the 2019 variable charges were \$0.0003 for DDP, \$0.0018 for VicHub, \$0.0048 for EGP, \$0.0168 for NGP and \$0.0222 for QGP).

(b) SEA Gas' standardisation charge have increased from \$3 554 to \$4 935 per month per OTSA, effective on 1 June 2019. The main driver for this is that the costs are now recovered over 4 rather than 5 OTSA.

(c) As at 1 January 2019 the Standardisation Cost Charge is zero. See Facility Specific Terms – Roma Power Station Pipeline, clause 9.2(a)(iii) and schedule 1 - https://www.originenergy.com.au/content/dam/origin/about/who-we-are/docs/Roma%20Pipeline%20OTSA%20Agreement_Facility%20terms.pdf

We received one submission on the OTSA from AEMO, who were concerned with the fee structures of the OTSA adopted by the transportation service providers:

Facility operators have taken a range of different approaches to the fee structure of their standard OTSAs using substantially different ratios between fixed and variable fees. AEMO considers that an appropriate and consistent charging structure across facility operators would better promote efficient and broad participation in the new markets.

...

Ultimately, inefficient fee structures have the potential to undermine the policy objective of this reform to support the efficient allocation, utilisation and pricing of transportation facility capacity across the east coast.³⁹

AEMOs submission raises concerns with high fixed charges on the one hand and high variable charges on the other, particularly in relation to the CTP. We accept AEMOs submission that inefficient fee structures have the potential to undermine the policy objective of the market reform to support the efficient allocation, utilisation and pricing of transportation facility capacity. However the NGR provides for a principle based approach to the recovery of standardisation costs and charges, and we have found no strong evidence to suggest that the transportation service providers have not complied with the NGR.

The charging structure under the NGR is intended to allow the transportation service providers flexibility to recover its costs of providing the service.⁴⁰ The charging structure should reflect a causal relationship between the costs incurred by the transportation service provider and the manner in which these costs are recovered from customers. For example, costs of developing the OTSA, such as legal costs, should be reasonably recovered at the time of customers entering into a standard OTSA using a fixed or base charge. This fixed or base charge would then be recovered over a period of time (monthly fixed charge). This would be consistent with the NGR that costs over time are recovered in a manner that promotes efficient trade. Under a causal approach, the costs associated with auction and trade services (facilitating the auction or trade should reasonably be recovered through a variable charge (per gigajoule rate).

The transportation service providers standardisation cost charging structures will be reflective of each transportation service provider's assumptions, particularly its forecast auction and trading volumes. Where a transportation service provider has forecast low auction and trading volumes, it may be reasonable to recover the costs through a fixed charge. We consider that there are sound reasons why a fixed charge may be applied, and this is consistent with a workable competitive market in the circumstances as envisaged by the standardisation charging principles.⁴¹

All the transportation service providers have a fixed charge component but only APA Group, and Lochard Energy have included a variable component. Epic Energy, SEAGas, Jemena and Palisade's fixed charge structure is permitted under the NGR. We consider this to be reasonable in the circumstance, applying the causal approach, particularly in the case of Epic Energy and Palisade who have not forecast any trading volume in calculating its charges. The transportation service providers are expecting to review the charging structure over time as the underlining assumptions, in this case trade volumes, change. We expect charges will reduce overtime with greater uptake of the service as the volumes increase and proceeds of the auctions are taken into account through rebates.

We recognise that there have been no DAA activity in South Australia on the Epic Energy and SEA Gas pipelines, which have both taken the view that they will recover their standardisation costs through fixed monthly charges. We consider it premature to conclude

³⁹ AEMO, *AER Review of Standard OTSAs and Standardisation Costs and Charges*, 25 July 2019, pp. 2–3.

⁴⁰ See: GMRG, *Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades)*, November 2017, pp. 47–50. This discusses the GMRG's consideration of the cost recovery options for the provision of operational transfer services that are reflected in the NGR.

⁴¹ NGR, rule 634(3)(c)(i).

that such charges would lead to inefficient trade, or underutilisation of transportation capacity in contravention of rule 634(3)(c) of the NGR. Standardisation charges may not be the inhibiting factor for the use of the CTP and DAA markets for gas. Frequent volume fluctuations with limited capacity make it more difficult to participate – it's not just the price but also the volume that influences a user's decision to participate in these markets. The demand for capacity also changes over time and can be seasonally influenced by winter and summer demands. The market has only been in place for 12 months and it is too early to draw the conclusion that the standardisation charges are discouraging the uptake of the services and undermining the capacity trading reforms.

Epic Energy stated in discussions with us that it adopted a full fixed charge as the auction volumes at this point of time are uncertain with seasonal throughput a key determinant to the charging structure. They expect trade to increase in 2020 with a number of potential users likely to take up the service. Further, Epic Energy stated that its fixed charge for the OTSA is equivalent to the charges for 'non-firm' user services under its existing shipper contracts and if existing shippers were to switch to the standard OTSA for this service they may be equally or in some cases better off.

Although SEA Gas' monthly charge appears high in comparison with the other transportation service providers, we have examined the charge and consider this to be based on reasonable cost components and assumptions. There is no evidence to suggest that this fixed charge does not comply with the principles in the NGR.

We wrote to all transportation service providers in September 2019 seeking responses to a number of specific areas regarding compliance with the NGR relating to the standard OTSAs.⁴² We had concerns with Lochard Energy and Palisade's compliance with the standardisation charging principles in the NGR – it was not clear that Lochard Energy and Palisade's standardisation charges complied with rule 634(3)(c) of the NGR:

- Lochard Energy's variable rate was 5 to 10 times greater than the variable rates imposed for the comparator facilities and this may discourage shippers from using the CTP or DAA
- Palisade had an upfront charge of \$30 000 on the date of entry into an OTSA, and an annual charge of \$25 000. Palisade was the only Part 24 transportation service provider to have imposed an annual fixed charge, all other transportation service providers imposed the fixed component of their standardisation charges on a monthly basis
- Lochard Energy and Palisades upfront standardisation costs were only recovered over a period of 12 months, compared to 3-5 years for the other transportation service providers.

We requested Lochard Energy and Palisade to review its cost recovery model and charging structure in light of the need to ensure costs will be recovered over time in a manner that promotes efficient trade and utilisation of capacity of the Iona Compression Facility and Tasmanian Gas Pipeline, respectively.⁴³

⁴² We first wrote to all Part 24 transportation service providers in February 2019 as part of our preliminary review of the information on standardisation charges published by the transportation service providers. The three key areas were the standardisation charge principles, standardisation charge information and OTSA terms and conditions - each of which are covered in sections 4, 5 and 6 of this report, respectively.

⁴³ We requested that the review consider, at a minimum:

Lochard Energy and Palisade responded positively to our concerns and made changes to its standardisation charges, which shows a commitment to the development of standardisation charges which encourage prospective OTSA shippers to enter into the services.⁴⁴

Lochard Energy amended its initial methodology by introducing a fixed fee for CTP compression services of \$750 per month and substantially lowering the variable charge from 0.10 \$/GJ to 0.02 \$/GJ. Lochard Energy also lowered the DAA compression services fixed charge from \$1000 per month to \$750 per month and the variable charge from \$0.50 GJ to \$0.0461 GJ. This reduction is due to an increased number of OTSA users and an extended recovery timeline of 4 years.

Palisade is now seeking to recover \$158 000 in upfront costs on a monthly basis over a 3 year period (and is not seeking to apply a return on this period like some other transportation service providers). This represents an upfront cost recovery charge of \$733 per month, down from \$2500 per month. The longer recovery period for up-front costs now adopted by Palisade (and Lochard Energy) better aligns with the principle that the transportation services provider recover the costs over time in a manner that promotes efficient trade, and utilisation of transport capacity. In addition to the upfront cost recovery charge, Palisade has:

- an on-going monthly charge to recover commercial operations and administration costs, via a monthly amount of \$263 per shipper
- a 'new OTSA' \$3000 signup fee for the legal and commercial costs of executing a new agreement and adding the shipper into the system.

Palisade has not proposed an auction variable charge at this stage due to the uncertainty of auction volumes and incremental cost involved. Palisade's current assumption is that there will be no auction volumes as the TGP has excess capacity available to potential shippers. Palisade stated that it would adjust the charges if things change in the future.

We consider that Lochard Energy and Palisades' amended standardisation charges appear reasonable and better aligns with the standardisation charging principles of rule 634(3) of the NGR.

The other transportation service providers not discussed above are Jemena and APA Group. These transportation service providers have a greater number of facilities subject to the CTP and DAA than the other providers – APA Group has 10 facilities and Jemena has 5. This has allowed these transportation service providers to spread the standardisation costs, particularly the upfront costs, across a number of facilities. Both APA Group and Jemena have sought to recover these upfront costs over 5 years, which we consider aligns with the principle that the transportation service providers recover costs over time in a manner that promotes efficient trade, and utilisation of transport capacity. APA Group's charging structure is a combination of fixed and variable charges, which includes a monthly fixed charge of

(a) the length of the recovery period for up-front standardisation charges

(b) the impact on demand for traded or auction products of adjusting the charging mechanism, for example, altering the mix of fixed and variable charging components in the case of Lochard Energy or imposing a monthly fixed charge instead of an annual fixed charge and/or incorporating a variable charge component in the case of Palisade

(c) current estimates of trade or auction volumes and OTSA numbers, having regard to the potential effect of alternative charging models on demand.

⁴⁴ Letter from Lochard Energy, *Response to AER Review of Standard Operational Transportation Service Agreements*, 7 October 2019; Letter from Palisade Integrated Management Services, *Review of Standard Operational Transportation Service Agreements*, 7 October 2019.

\$806 per OTSA contract (based on an estimated 10 contracts), a variable auction rate of \$0.048/GJ and variable exchange rate of \$0.024/GJ. Jemena's charging structure was varied in January 2020, with the removal of the variable charge (primary shipper rate of \$0.00137/GJ and variable secondary shipper rate of \$0.00139/GJ) and a reduction in the monthly fixed charge from \$1000 to \$500 for each OTSA contract (based on an estimated 50 contracts). We consider that the standardisation charging structures for APA Group and Jemena appear reasonable and complies with the principles of rule 634(3) of the NGR.

Overall, we consider the transportation service providers have structured its charges in a manner consistent with the charging principles set out in rule 634 of the NGR and co-operated with our review of the OTSA arrangements for the newly created CTP and DAA markets. Although there may be some concerns with the way some transportation service providers have structured its charges, we have not identified any obvious measures that would constitute non-compliance. The NGR allows the transportation service providers a reasonable opportunity to recover its standardisation cost from transportation facility users and the flexibility to structure its charges to do this. We consider that the charges are unlikely to represent a barrier to secondary capacity trading. The CTP and DAA markets commenced in March 2019 and have only been in operation for a short period of time. During the review period, trading activity has been limited to the APA Group and Jemena, with flows predominately going into NSW.⁴⁵ There has been no activity in South Australia, Tasmania or the Iona compression facility in Victoria. Further observation as the market matures should be undertaken before considering changes to the way transportation service providers may structure its standardisation charges under the NGR.

4.4 Conclusion

Our review found that the transportation service providers have shown commitment to the development of the capacity trading reforms and a genuine desire to ensure its costs and charges comply with the NGR. Specifically:

- the costs incurred by the transportation service providers are considered reasonable and appear to represent the incremental costs of establishing and maintaining standard OTSAs
- the recovery mechanisms to ensure that costs are only recovered once are largely sound, however, we consider that all transportation service providers need to have an annual reconciliation of estimated and actual standardisation costs
- there is no evidence to suggest that the transportation service providers have not complied with the standardisation charging principles and that these charges are discouraging the uptake of the services.

We consider the transportation service providers have complied with the requirements for the recovery of standardisation costs set out in rule 634 of the NGR. However, we will continue to monitor operation of the CTP and DAA, including the OTSA standardisation charges being imposed by transportation service providers, as these markets progressively develop.

⁴⁵ All DDA trade largely flows into NSW from VIC, via the Eastern Gas Pipeline operated by Jemena; and QLD, via South Western Queensland Pipeline, Roma to Brisbane Pipeline and the Wallumbilla Compression Facilities A&B and the Moomba Supply Hub, via the Moomba to Sydney Pipeline, all operated by APA Group.

5 Transparency

This section addresses the transparency requirements in Subdivision 5.1 of Part 24 of the NGR relating to standardisation costs.

5.1 Legal requirements

The obligations relating to transparency of standardisation costs are set out in rule 634(4) and (5) of the NGR, reproduced below:

Rule 634 Recovery of standardisation costs

...

- (4) A transportation service provider required to publish a standard OTSA must also publish, at the same time it is required to publish the standard OTSA, and keep up to date:
 - (a) a schedule of the charges under which standardisation costs are sought to be recovered, including charges under standard OTSAs and other agreements; and
 - (b) information in reasonable detail to explain how the standardisation costs were incurred, how proceeds of the capacity auction have been taken into account and how the charges in the schedule of charges have been calculated.
- (5) A transportation service provider must make a record of its standardisation costs and how they were incurred, and the charges imposed by or on behalf of the transportation service provider to recover the standardisation costs from transportation facility users, and must maintain that record for a period of 5 years after the costs were incurred.

5.2 Our approach

We consider that to meet these requirements, transportation service providers should publish information at a level of detail sufficient to enable external parties to assess whether the claimed standardisation costs are of the recoverable kind and to understand precisely how the charges are calculated. The published information should also make clear what mechanism is in place to prevent over-recovery and ensure auction revenues would be offset against costs.

As part of our initial review, we assessed the information published on transportation service providers' websites, and found they fell short of these requirements. Most only provided a high level outline of cost items with little disaggregation, and a high level description of the recovery mechanism and the method for calculating charges.

In September 2019,⁴⁶ we wrote to each of the transportation service providers to advise that we consider that the then published information on its website was not likely to meet the requirements of rule 634(4) of the NGR. We requested the transportation service providers publish more detailed information, including:

⁴⁶ AER, Letters to Facility Operators – Review of Standard Transportation Service Agreements, 5 September 2019.

- a pricing model or mathematical representation of the calculations used to calculate standardisation charges
- details of each of the cost inputs required to calculate standardisation charges, including dollar amounts for each cost category and the basis upon which these costs are said to be incremental
- the basis or method used to apportion any shared costs between standardisation cost activities and other activities
- details of any assumptions as to trading volumes and the basis for its assumptions.

All of the transportation service providers responded to our request and commenced publishing details of their standardisation charges pricing model. This includes information on incremental cost inputs and their estimated expenditure used to calculate the standardisation charges. The transportation service providers have also explained the way they have apportioned incremental cost (in varying degrees of detail) and some have explicitly included trading volumes assumptions in the charging period. As the NGR also requires that a transportation service provider must not seek to recover standardisation costs from users 'more than once',⁴⁷ the operators have also made statements on their respective websites on the adjustment mechanisms (usually yearly) to return to shippers in the event of a transitional over-recovery. Transportation service providers' response to our concerns is a positive recognition of their intention to take reasonable endeavours to comply with the obligations imposed by rule 634 of the NGR.

The next section sets out what the transportation service providers have done and our analysis on their compliance with the requirements of the NGR on transparency of their standardisation charges.

5.3 Analysis

In undertaking this analysis, as is the case with the standardisation costs and charges discussed in section 4, we are mindful that the reforms are still in their early stages to promote a more liquid and efficient secondary gas capacity trading market. In our view, it is also too early to require prescriptive information and record keeping requirements by all transportation service providers until the market and its participants get a chance to make it work in line with the intended reforms.

Using the above approach, we have reviewed the information published by the transportation service providers and have summarised this below against the key requirements of section 634(4). For section 634(5) of the NGR, we did a desktop review on how each of the transportation service providers maintain its records on standardisation costs and charging. This is summarised in table 7 below.

⁴⁷ NGR, rule 634(3)(a).

Table 7: Summary of actions taken by transportation service providers to comply with NGR section 634(4)

Transportation service provider	Pricing Model	Cost inputs – Description & Incremental	Trading Assumptions	Mechanism to return any over-recovery
APA Group	Yes	High level descriptions Aggregated dollars Claims its capital costs are based on final project costs while ongoing costs are based on incremental labour	Yes	Cumulative NPV over 5 years monitored monthly to ensure no over recovery.
Jemena	Yes	Itemised Aggregated dollars Claims that its costs are incurred separately and if not, the apportionment is based on proportion of effort involved.	Yes	Maintains an “unrecovered costs account”. Charges are intended to be adjusted annually if there is over-recovery.
Epic Energy	Yes	Itemised Detailed dollars Claims its costs are incremental.	At present, no proceeds from auction is taken into account.	In future, credits will be applied if there are any proceeds from auctions and/or in event of over-recovery.
SEA Gas	Yes	Itemised Detailed dollars Claims its costs are incurred or expected to be incurred as a result of the gas reforms.	Yes	Intention to review periodically to ensure no over-recovery.
Palisade	Yes	Itemised Detailed dollars Claims its costs are incurred or expected to be incurred as a result of the gas reforms.	No	Monthly fixed charge will extend beyond 36 months in event of under-recovery Intention to refund in event of over recovery.
Lochard Energy	Yes	Itemised Detailed dollars Majority of costs claimed to be incremental. Minor apportionment from new Commercial headcount.	Yes	Refund after upfront costs are fully recovered. Variable cost recovery monitored monthly and any true-up is done yearly unless significant.
Santos	n.a.	n.a.	n.a.	n.a.

We have not required each of the transportation service providers to provide evidence or have their standardisation costs independently audited (with the exception of APA Group, for the reasons discussed in section 4.1 above). Based on the information provided by these transportation service providers, there is nothing to indicate that the transportation service providers are not keeping and maintaining appropriate records for their standardisation costs and charges. An independent auditor has determined that APA Group's standardisation costs are substantiated by appropriate records.⁴⁸

5.4 Conclusion

Based on the information provided by each of the transportation service providers on its respective website, and subsequent to our information requests, all transportation service providers now include a pricing model and an explanation on how the standardisation charges are derived. While the pricing models vary in the level of detail about the nature and magnitude of the incremental costs, they all provided a description of their standardisation costs. Generally, transportation service providers show their standardisation costs in high level cost categories (eg. technology, legal, operations, finance, commercial and administrative). We accept the reasonableness of these costs and that they are incremental for each transportation service provider at face value as outlined in table 7 above. However, as time progresses, we expect transportation service providers to provide a detailed schedule of standardisation costs at a transaction level to assist users with a greater understanding of the incremental nature of these costs.

Based on the auditors' opinion, APA Group's standardisation costs appear to be substantiated by appropriate records. Based on the information provided by the other transportation service providers, it appears that these service providers are keeping and maintaining appropriate records for their standardisation costs and charging.

⁴⁸ Deloitte, *Independent Practitioner's Assurance Report on the Standardisation Costs Forecast to the Directors of Australian Pipeline Limited (Responsible Entity for Australian Pipeline Trust And APT Investment Trust)*, 4 October 2019.

6 Standard terms and facility specific terms

This section addresses compliance with the requirements of Subdivision 5.1 of Part 24 of the NGR relating to standard OTSAs.

6.1 Legal requirements

Transportation service providers must publish standard form agreements (the standard OTSAs) for their transportation facilities allowing for operational transfers of transportation capacity.⁴⁹ A standard OTSA comprises three parts: a form of agreement for party names and related details, the standard terms and the facility specific terms. The form of a standard OTSA is governed the NGR and the Code.

Rule 632 of the NGR sets out the content requirements for standard OTSAs. The relevant parts are reproduced below:

632 Content of standard OTSAs

(1) A standard OTSA for a Part 24 facility must:

- (a) incorporate the standard terms in the Code with no alterations, other than permitted alterations or required alterations;
- (b) incorporate facility specific terms applicable to the Part 24 facility made in accordance with subrule (2); and
- (c) not incorporate any other terms or conditions except as permitted or required by the rules or the Code.

(2) A transportation service provider for a Part 24 facility must ensure that the facility specific terms for the Part 24 facility:

- (a) are consistent with the rules;
- (b) give effect to the description of, and the requirements for, facility specific terms in the Code;
- (c) give effect to the auction service priority principles; and
- (d) do not make alterations to the standard terms except to the extent:

(i) permitted by the rules or the Code; or

(ii) required to ensure the transportation service provider does not breach any Australian statutory obligation binding upon the transportation service provider.

As is evident from rule 632 of the NGR, the standard terms and detailed requirements for facility specific terms are contained in the Code. The standard terms are in Parts 3 and 4 of the Code and the requirements for facility specific terms are in Part 5.

⁴⁹ NGL, section 228B; NGR, rule 631. Exemptions are available under NGR Part 24, Division 3, Subdivision 3.1.

6.2 Our approach

To assess compliance, we first considered whether the standard terms incorporated in published standard OTSAs are in the same form as Parts 3 and 4 of the Code. No issues were identified in this part of the review.

For the facility specific terms, the review was undertaken in two stages. The aims of the first stage were to undertake an initial compliance assessment of the standard OTSAs and to determine the approach to the second-stage review. The aims of the second stage were to investigate areas of concern identified in the first stage and to assess whether, where required under the Code, standard OTSAs were consistent with primary facility agreements.

The two-stage approach was adopted due to the terms of Part 5 of the Code. Many of the requirements for facility specific terms are expressed in absolute terms, where it is possible to assess compliance simply by reviewing the standard OTSA. An example is clause 8(a) of Part 5 of the Code, which provides:

The Facility Specific Terms must set out the pressure, or a pressure range, at or within which Shipper must supply Gas at each separate Receipt Point and (if applicable) the Compression Receipt Point.

In some cases, information from the service provider or other sources is needed to assess compliance. An example is clause 20(a) of Part 5 of the Code, which provides:

The Facility Specific Terms may include provisions to deal with the specific circumstances of the Facility which circumstances are not adequately addressed by the provisions of the Operational Transportation Service Code but only to the extent that:

- (i) those provisions are required to protect the operational integrity of the Facility;
- (ii) those provisions reflect the technical limitations or characteristics of the Facility (or the Gas received into the Facility) and, given those limitations and characteristics, are reasonable;
- (iii) those provisions are required by any Laws; or
- (iv) those provisions are included in a Full Access Arrangement.

Some provisions in the Code impose a reasonableness standard, as illustrated by clause 20(a)(ii) set out above.

For a significant number of requirements, the Code requires the facility specific terms to be compared with the corresponding provisions found in primary facility agreements⁵⁰ or access arrangements.⁵¹ To illustrate, clause 4(b) of Part 5 of the Code provides:

The scheduling procedures nominated in the Facility Specific Terms must:

...

- (ii) be consistent with the scheduling procedures used by Service Provider generally under Primary Facility Agreements; and

⁵⁰ For its full definition, see rule 593 of the NGR. In short, primary facility agreements are executed service agreements with shippers and are commercially confidential. However for most facilities, standard service terms are published as required by Part 23 of the NGR and provide at least an indication of the transportation service provider's current preferred approach in primary facility agreements.

⁵¹ Full access arrangements are currently in effect for the RBP and the AGP.

- (iii) not discriminate against Secondary Shippers (as compared to the manner in which Primary Shippers are treated).

Taking these matters into account, for the first stage of the review we assessed compliance with Code requirements using information in the standard OTSAs, publicly available information referred to in the standard OTSAs and where applicable, access arrangements. Where the Code requires the facility specific terms to be consistent with primary facility agreements, we made a preliminary assessment using the service provider’s published standard terms. Where the Code requires a provision to be reasonable, we considered whether the relevant provision appeared to be unreasonable. For this purpose we took into account the test in section 24(1) of the Australian Consumer Law.⁵² Where the Code requires a provision not to discriminate against secondary shippers, we considered whether the provision discriminates expressly.

The first stage review found a high level of compliance with the requirements of the Code. We identified some omissions and areas of possible non-compliance. We also identified the provisions in each set of facility specific terms for which access to primary facility agreements is needed to assess compliance.

These results informed our approach to the second stage of the review. Where we identified omissions or possible non-compliance, we asked transportation service providers to explain why the standard OTSA complies or to propose steps to achieve compliance.

Where the compliance assessment requires access to primary facility agreements, we selected a limited number of requirements and facilities and asked transportation service providers to provide extracts from primary facility agreements. We consider that targeting the review like this enabled us to reduce the regulatory burden while providing a sufficient degree of oversight. The selected facilities have a good geographic spread across the south-east Australia gas market, while the requirements targeted have potential to adversely affect secondary trade if breached. The facilities and requirements we targeted are set out in table 8 below:

Table 8: Facilities and requirements selected for further review in stage 2

Facilities	Requirements
Eastern Gas Pipeline (Jemena)	Scheduling procedures
Iona Compression Facility (Lochard Energy)	Priority principles
Moomba to Adelaide Pipeline (Epic Energy)	Hourly limitations, charges for exceeding
Port Campbell to Adelaide Pipeline (SEA Gas)	Charges generally
South West Queensland Pipeline (APA Group)	Imbalance allowances and charges
Tasmanian Gas Pipeline (Palisade)	
Wallumbilla Hub (APA Group)	

⁵² Under this provision, the terms of a consumer contract or small business contract will be unfair if (subject to other provisions in the section) it would cause a significant imbalance in the parties’ rights and obligations arising under the contract, it is not reasonably necessary in order to protect the legitimate interests of the party who would be advantaged by the term and it would cause detriment (whether financial or otherwise) to a party if it were to be applied or relied on.

We took a broad approach when assessing consistency. In relation to non-price terms and conditions, primary facility agreements can be long-term instruments and we allowed for changes over time, including changes to drafting practice and commercial or operational arrangements. We also allowed for differences reflecting negotiated commercial outcomes. In relation to charges and escalation, we considered whether the charge (or rate used to calculate the charge) falls within the range applicable under primary facility agreements.

6.3 Analysis

Table 9 provides an overview of the issues and outcomes from our review of standard OTSAs, by service provider. Table 9 is followed by commentary on the issues identified in the first stage of the review and how these were addressed.

As indicated in Table 9, with two exceptions, transportation service providers provided the requested extracts from primary facility agreements. Two provided standard form agreements and commentary. Having reviewed this information, in general we were satisfied that the relevant Code requirements were met for the facilities and requirements covered by the request. We consider it is reasonable to assume a similar level of compliance has been achieved across all facilities and relevant requirements. That is, based on the sample, we assess the risk of material non-compliance with these Code requirements to be low.

Table 9: Overview of stage 2 outcomes by transportation service provider

Transportation service provider ⁵³	Outcomes of the review
APA Group	<p>APA Group was asked to provide information relating to the priority principles, foundation shippers, charges and provisions for the trading of other entitlements. APA has provided explanatory material and has indicated it intends to amend the facility specific terms to address other matters.</p> <p>We asked APA Group to provide information about primary facility agreements for the SWQP and WCFA. APA Group provided the information requested. Based on the information provided we are satisfied that the relevant provisions in the standard OTSAs for these facilities are consistent with the primary facility agreements.</p>
Jemena	<p>Jemena was asked to provide information relating to variations to the standard terms, the alternative gas specification, the priority principles and service classification, hourly limitations, gas pressure specification, charges, metering principles, service point information and the transfer of contractual entitlements. Jemena provided explanatory material and indicated it will amend its standard OTSA to address other matters.</p> <p>We asked Jemena to provide information about primary facility agreements for the EGP. Jemena declined to provide executed primary facility agreements due to confidentiality concerns. Instead, it provided its standard form agreements in four versions dating from 2010 to 2019. Jemena also provided commentary to address questions of consistency with primary facility agreements.</p>

⁵³ Stage 2 requests were not issued to Santos or Origin.

Subject to the limitations arising due to the way the information was provided, we are satisfied that the relevant provisions in the standard OTSAs for these facilities are consistent with the primary facility agreements.

Epic Energy

Epic Energy was asked for an explanation of the temperature requirements. Epic Energy indicated that it will amend the relevant provision.

We asked Epic Energy to provide information about primary facility agreements for the MAPS. Epic Energy provided the information requested together with commentary and explanatory material. Based on Epic Energy's response, we were satisfied that the relevant provisions in the standard OTSA were consistent with the primary facility agreements.

SEA Gas

SEA Gas was asked to provide information relating to the monitoring of hourly take of gas and compliance with metering principles for third parties. SEA Gas provided explanatory material in response.

We asked SEA Gas to provide information about primary facility agreements for the PCA. SEA Gas declined to provide executed primary facility agreements due to confidentiality concerns. Instead, it provided its standard terms and commentary to address questions of consistency with primary facility agreements

Subject to the limitation in the information provided, we are satisfied that the relevant provisions in the standard OTSAs for these facilities are consistent with the primary facility agreements.

Palisade

Palisade was asked to provide information relating to variations to the standard terms, service classification and the priority principles, hourly restrictions and provisions for the trading of other entitlements. Palisade provided explanatory material and indicated it will amend its standard OTSA to address other points.

We asked Palisade to provide information about primary facility agreements for the TGP. Palisade provided the information requested together with commentary and explanatory material. Based on Palisade's response, we were satisfied that the relevant provisions in the standard OTSA were consistent with the primary facility agreements.

Lochard Energy

Lochard Energy was asked to provide information relating to service classification, the priority principles, hourly limitations, metering principles, transfer of entitlements, amendments to the standard terms and additional provisions specific to the facility.

Lochard Energy provided the explanatory material requested and indicated it will amend its standard OTSA to address other points raised.

We asked Lochard Energy to provide information about primary facility agreements for the ICF. Lochard Energy provided the information requested and some explanatory material. Based on Lochard Energy's response, we were satisfied that the relevant provisions in the standard OTSA were consistent with the primary facility agreements.

This section discusses the areas in which the first stage of the review identified possible non-compliance and how those matters have been addressed by transportation service providers.

Variation and additions to the Standard Terms

Under the Code, facility specific terms must not vary the standard terms except where permitted or contemplated by the standard terms or to the extent required to ensure the transportation service provider does not breach any Australian statutory obligation or legally binding undertaking given by the transportation service provider to the ACCC, the AER or government.⁵⁴ In assessing this requirement we considered provisions expressly varying the standard terms, and those that do so indirectly by supplementing or limiting rights in the standard terms. We also took into account clause 20 of Part 5 of the Code which allows additional terms to be included for (in summary) operational or technical reasons that are not otherwise adequately addressed by provisions of the Code.⁵⁵

In the first stage review, we identified the following variations to the standard terms that we were not satisfied met the requirements of the Code:

- provisions varying the limitation of liability provisions by adding new limitations
- operational flow order clauses that varied substantive and procedural provisions in the standard terms dealing with the same subject matter as operational flow order clauses⁵⁶
- provisions varying payment terms, including variations to the time for payment of invoices to less than the minimum time allowed under the standard terms.⁵⁷

We asked the transportation service provider concerned to explain or remedy these provisions. The transportation service provider concerned indicated it would amend the facility specific terms to address our concerns.

Gas specification

Under the Code, if the facility specific terms nominate a different gas specification (to AS 4564),⁵⁸ the specification must clearly specify quality requirements with which gas must comply.⁵⁹ We consider this requires a standard OTSA to allow a shipper to know with a reasonable degree of certainty whether gas it delivers for transport is within the relevant specification.

⁵⁴ Code, Part 5, clause 1.2.

⁵⁵ Under clause 20 of the Code, facility specific terms may include provisions to deal with the specific circumstances of the facility which circumstances are not adequately addressed by the provisions of the Operational Transportation Service Code but only to the extent that the provisions are required to protect the operational integrity of the facility, they reflect the technical limitations or characteristics of the facility (or the gas received into the facility) and, given those limitations and characteristics, are reasonable, the provisions are required by any Laws or the provisions are included in a full access arrangement.

⁵⁶ The standard terms in Part 3 of the Code give service providers rights to give instructions in the nature of operational flow orders. A notice may be given under clause 7.6(c) requiring curtailment after the gas day has started. The circumstances in which curtailment may occur are in clauses 7.1 and 7.3 and cover, in summary, curtailment for operational or compliance reasons, to reflect nominations by other shippers with priority and where the shipper is in default of specified obligations. The notice period is 1 hour unless (to paraphrase) a shorter time is needed. In addition, a notice may be given under clause 12.4 requiring correction of an imbalance. The notice period is 4 hours unless a shorter time is needed.

⁵⁷ Clause 19.2(e) of Part 3 of the Code permits an extension of time, but not shortening.

⁵⁸ The facility specific terms may nominate a different gas specification if in accordance with clause 2 of Part 5 of the Code.

⁵⁹ Code, Part 5, clauses 2(d).

In the first stage review we identified alternative gas specifications that we considered did not satisfy the Code requirement to clearly specify quality requirements. The relevant transportation service provider has indicated it will amend the specification.

Priority Principles

The facility specific terms must set out the priority principles to be applied by a transportation service provider in determining priorities in scheduling and curtailment.⁶⁰ The priority principles must, among other things, give effect to the zonal model in Part 24 of the NGR and the auction service priority principles in Part 25.⁶¹

This aspect of the Code resulted in a number of requests to transportation service providers for clarification. While for the most part we were satisfied that the priority principles gave effect to the Code and NGR requirements, the provisions are complex and also rely on correct classification of transportation services offered under primary facility agreements. Given the importance of priority rules in the capacity trading reforms, we took a conservative approach when deciding whether clarification was needed. The matters on which we sought clarification included:

- the reason for inconsistencies between the priority principles in published standard primary transportation agreements and the priority principles in the standard OTSA
- services classified as firm or second tier where we had insufficient information to assess the classification
- the priority given to park (storage) services in relation to transportation services
- drafting that appeared to be intended to implement the zonal priority principles and the auction service priority principles but where we considered that differences between the detail in the NGR and the priority principles in the facility specific terms left some room for doubt
- provisions giving the highest priority to shippers designated as Foundation Shippers (as permitted by the Code) but where we had insufficient information to assess whether the shippers falling within the definitions in the facility specific terms satisfied the Code definition of Foundation Shippers
- the basis for allowing a transfer of Foundation Shipper priority rights to secondary buyers of that capacity
- provisions giving the transportation service provider rights to alter the order of priority where (to paraphrase) the result is to reduce overall levels of curtailment and no shipper is worse off.

We asked transportation service providers to provide more information, explain their approach or remedy the provisions to the extent not consistent with the NGR and Code. In

⁶⁰ Code, Part 5, clause 5.

⁶¹ The Code provides that the priority principles must be consistent with any requirements in Parts 24 and 25 of the NGR; Code, Part 5, clause 5(b)(i). The zonal model is in rule 597 and, in summary, allow primary shippers with firm capacity reserved at a service point to be given priority over firm shippers with secondary capacity bought on a zonal basis. The auction service priority principles are in rule 651 and specify the priority to be given to capacity purchased in the DAA as compared to other transportation services offered on the facility. Transportation service providers are responsible for classifying their primary transportation services so as to determine where each service fits in the order of priority.

some cases transportation service providers have indicated they will amend their standard OTSA to address our concern. In others cases, satisfactory explanations were provided.

For completeness, we note that the NGR require not only that the auction service priority principles be reflected in the standard OTSA but also that they be implemented in scheduling and curtailment. Our review did not extend to operational matters affecting the priority given to secondary capacity in practice.

Trading – Imbalance allowance, MHQ and other entitlements

The Code requires facility specific terms to include provisions for the transfer of hourly entitlements, imbalance entitlements and other contractual entitlements, to the extent such transfers may occur without adversely affecting the operational integrity of the relevant facility.⁶² We consider that the Code requires these provisions to be included in the facility specific terms and that operational integrity should be assessed on a case-by-case basis.

In the first stage review, we found that some standard OTSAs complied in part (for example, with terms for trading either or both imbalance and Maximum Hourly Quantity (MHQ) entitlements) and others not at all or subject to conditions that we considered were possibly non-compliant.

Following the second stage of our review, the transportation service providers concerned have indicated they will amend or add provisions to address our concerns.

Hourly limitations – access to information

Facility specific terms may set out hourly limitations (MHQ) but only where certain requirements are met and the shipper has ready access to data to monitor its hourly take.⁶³ In assessing compliance with this requirement, we took into account that the Code does not require the standard OTSA to set out how the information is provided.

Most standard OTSAs do not expressly deal with access to the data for monitoring MHQ compliance. We asked transportation service providers how the Code requirement is complied with. The responses indicate that the information is typically made available as an operational matter. We are satisfied with these responses.

Charges

The Code allows for charges relating to imbalances,⁶⁴ unauthorised imbalances,⁶⁵ unauthorised overrun⁶⁶ and standardisation costs,⁶⁷ subject to conditions in the Code. Other charges are also permitted subject to (in summary) the charge being payable under the

⁶² Code, Part 5, clause 17.

⁶³ Code, Part 5, clause 7.

⁶⁴ Code, Part 5, clauses 9(a)(ii) and 10(b).

⁶⁵ Code, Part 5, clauses 10(c) and (d).

⁶⁶ Code, Part 5, clause 9(a)(ii).

⁶⁷ Code, Part 5, clause 9(a)(iii).

majority of primary facility agreements or the charge representing an amount the service provider is required to rebate to other users.⁶⁸ Escalation is permitted.⁶⁹

For the first stage review, we identified the charges in each standard OTSA and escalation methods. We identified some apparent anomalies using standard charge information published by transportation service providers and that some CPI escalation methodologies appeared to contain errors. The service provider concerned has indicated it will amend these escalation provisions.

For the second stage of the review, we requested information about the rates and escalation methodologies used to determine relevant charges under the primary facility agreements for selected facilities. In one case, as a result of the preliminary assessment, the transportation service provider was asked to provide the current rates for the relevant charge on all facilities. With one exception, information about charges under primary facility agreements was provided (on a confidential basis). One service provider declined to provide actual figures but provided commentary to explain the approach taken in primary facility agreements and how that varies between agreements.

We found the categories of charge applicable under standard OTSAs were consistent with those in primary facility agreements or were those contemplated by the Code. As to the level of the charge, for each facility and category of charge, the primary facility agreements use a wide range. Charges for recovery of standardisation costs are discussed elsewhere in this report. For the charges that must be consistent with primary facility agreements, our approach was to consider whether the rates used to calculate the charge under the standard OTSA was within the range of rates used under the primary facility agreements. For charges where the transportation service provider has more discretion, we were provided with explanatory material by the transportation service provider.

Pressure and temperature

The Code requires pressure and temperature requirements to be set out and for these to be expressed as numbers.⁷⁰ Under the Code, shipper consent is required for these to be changed.⁷¹

In the first stage review, we identified:

- failure to express pressure requirements as a figure and instead providing for the figure to be as specified by the transportation service provider from time to time
- provisions that we considered enabled the transportation service provider to amend the requirements without shipper consent.

One transportation service provider indicated it would amend the standard OTSA to address our concern. A second indicated that strict implementation of the Code requirements would reduce available capacity and put secondary shippers in a better position than primary shippers. For the purposes of this review we have decided not to pursue this matter and

⁶⁸ Code, Part 5, clause 9(e).

⁶⁹ Code, Part 5, clause 9(d).

⁷⁰ Code, Part 5, clause 8.

⁷¹ Code, Part 5, clause 8(f).

accept the transportation service provider's approach on the basis of the explanation provided and taking into account the Code objective and clause 20 of Part 5 of the Code. We have identified the provisions relating to pressure and temperature as areas that might be considered for further Code development and our decision should not be read as precluding future consideration as the market develops and users make efforts to understand the framework or raise concerns with us.

Metering Principles

The Code requires the facility specific terms to set out the metering principles and the matters that they must deal with.⁷² Some standard OTSAs provide the information by referring to a separate, publicly accessible instrument. We have accepted that this meets the Code requirements.

In the first stage review, we identified that some standard OTSAs (or the separate instrument) omit details required by the Code, such as the procedures to apply where metering equipment fails.

The transportation service providers concerned indicated they would remedy these omissions.

6.4 Conclusion

Our review of standard OTSAs found a high level of compliance by transportation service providers in developing facility specific terms for their facilities. Omissions or incidents of non-compliance appeared to be inadvertent or arise from differences in interpretation and transportation service providers have indicated they would amend the standard OTSAs to address these matters or provided an interpretation of the Code or contract terms that we accepted.⁷³ In many cases our initial concerns about possible non-compliance reflected limitations in the publicly available information and transportation service providers were able to provide satisfactory explanatory material.

We are grateful to transportation service providers for providing detailed and considered responses to our questions and in many cases going to some lengths to collate information from primary facility agreements and provide context.

As indicated above, we confined some parts of our assessment to a subset of facilities and issues and relied on agreement extracts or other information provided by transportation service providers. While this limits the scope of our assessment, based on the sample assessed for the review, we are satisfied that there is a low risk of material non-compliance with the relevant Code requirements across the standard OTSAs as a whole.

We are satisfied that there is nothing at this time to indicate a need for further investigation or enforcement action. In reaching this conclusion, we have taken into account the results of this review and the absence of complaints from shippers. We have also taken into account the nature of the matters for which we have incomplete information at this time and our assessment of the likely impact of possible non-compliance given current trading activity.

⁷² Code, Part 5, clause 12.

⁷³ As at the date of this report, some transportation service providers have already published the revised facility specific terms.

We retain a power under the NGR to review standard OTSAs at any time.⁷⁴ Transportation service providers must also inform the AER about amendments to their standard OTSAs.⁷⁵

The review has provided some insight into areas that might be considered for further Code development. There may be scope for:

- further standardisation such as in relation to the circumstances in which transportation service providers may give an operational flow order or equivalent
- clarification of what information must be provided about the process to apply where metering equipment fails
- recognising the use of facility-wide scheduling systems and facility-wide pressure, temperature and metering arrangements
- more flexibility to change pressure and temperature requirements where there is a change in law.

For the SCO review scheduled for 2021, there may also be merit in considering a framework for the AER to access information about primary facility agreements when conducting a review of facility specific terms.

⁷⁴ NGR, rule 635.

⁷⁵ NGR, rule 631(3).

Attachment 1: Review provisions under the NGR

Rule 7: Review of Standard OTSAs and Standardisation Costs and Charges

- (1) The AER must review and report on compliance with new Subdivision 5.1 (excluding the new rule 635) and may consult as it considers appropriate in relation to the review.*
- (2) The report under subrule (1) must:*
 - a. be conducted in relation to standard OTSAs published or required to be published within the period ending 9 months after the Part 24 commencement date and may consider compliance in relation to operational transportation service agreements for conditionally exempt facilities made in that period; and*
 - b. be issued within 12 months of the capacity auction start date.*
- (3) The AER may, by publishing a notice, extend the time in subrule (2) if further time is required for the review having regard to the issues identified in the review.*
- (4) For the purposes of the review under subrule (1), the AER may by notice under this subrule require a transportation service provider to appoint an independent and suitably qualified auditor to:*
 - a. conduct an independent audit of the standardisation costs of the transportation service provider in accordance with any accounting or audit standards specified by the AER; and*
 - b. prepare and provide to the AER a report in which the results of the audit are set out.*
- (5) A transportation service provider given a notice under subrule (4) must comply with the notice.*
- (6) Nothing in this rule limits the powers of the AER under the NGL or the rules.*

Note: The *National Gas (South Australia) (Capacity Trading and Auctions) Amendment Act* was proclaimed on 22 November 2018. This is the Part 24 commencement date.

Attachment 2: Standard OTSAs reviewed

Reference	Facility ¹
APA Group	
SWQP	South West Queensland Pipeline
RBP	Roma to Brisbane Pipeline
BWP	Berwyndale to Wallumbilla Pipeline
WGP	Wallumbilla Gladstone Pipeline
CGP	Carpentaria Gas Pipeline
MSP	Moomba-Sydney Pipeline
AGP	Amadeus Gas Pipeline
SEPS	South East Pipeline System
WCFA	Wallumbilla Compression (Australian Standard gas specification)
WCFB	Wallumbilla Compression (restricted gas specification)
MCF	Moomba Compression Facility
Jemena	
EGP	Eastern Gas Pipeline
VicHub	VicHub Pipeline
QGP	Queensland Gas Pipeline
DDP	Darling Downs Pipeline
NGP	Northern Gas Pipeline
Epic Energy	
MAPS	Moomba Adelaide Pipeline System
SEPS	South East Pipeline System
Lochard Energy	
ICF	Iona Compression Facility
Origin	
RP	Roma Pipeline
Palisade	
TGP	Tasmanian Gas Pipeline
Santos	

BCF	Ballera Compression Facility
SEA Gas	
PCA	Port Campbell to Adelaide Pipeline
PCI	Port Campbell to Iona Pipeline

All transportation services providers to whom the reform package applies were required to register their facilities with AEMO no more than 20 business days from the commencement of the CTP and DAA (22 November 2018). AEMO has published a Transportation Service Point Register (version 3, dated 26 June 2019). See <https://www.aemo.com.au/-/media/Files/Gas/Pipeline-Capacity/2019/Transportation-Service-Point-Register.pdf>