

## ATTACHMENT A

### PAYMENTS TO STATES AND TERRITORIES UNDER THE NATIONAL COMPETITION POLICY FOR 1997-98

Under the Agreement to Implement the National Competition Policy and Related Reforms, the Commonwealth is to provide payments to States and Territories that make satisfactory progress with the implementation of National Competition Policy and the related reforms in electricity, gas, water and road transport.

There are two components to the payments. The per capita growth in the Financial Assistance Grants (FAGs) pool available to each State and Territory is an indexed amount based on weighted population shares as determined by the per capita relativities recommended by the Commonwealth Grants Commission. The other component is the Competition Payment. This is to be paid annually in three tranches, commencing in 1997-98, 1999-2000 and 2001-02. The annual Competition Payment under each tranche will be \$200 million, \$400 million and \$600 million (in 1994-95 prices) respectively. The Competition Payment will be indexed annually to maintain its real value over time.

Total payments available to States and Territories in 1997-98 for satisfactorily progressing competition reform obligations are estimated to be around \$406 million, comprising a per capita growth in FAGs element of some \$191 million and Competition Payments of almost \$215 million. The estimated maximum amount which could be received by each State and Territory is shown below.

<b>MAXIMUM PAYMENTS TO STATES AND TERRITORIES UNDER THE NATIONAL COMPETITION POLICY, 1997-98 (\$ MILLION)</b>			
	Per capita growth in FAGs pool	Competition payment	Total
New South Wales	56.7	72.6	129.4
Victoria	41.6	53.2	94.8
Queensland	36.6	39.6	76.2
Western Australia	18.5	20.9	39.4
South Australia	18.1	17.1	35.2
Tasmania	7.5	5.5	13.0
ACT	2.8	3.6	6.4
Northern Territory	9.5	2.2	11.6
Total	191.3	214.7	406.0

Source: Commonwealth Treasury

## **ATTACHMENT B**

### **INTER-GOVERNMENTAL AGREEMENTS ON ELECTRICITY REFORM RELEVANT TO THE FIRST TRANCHE ASSESSMENT**

The inter-governmental agreements which the Council considers are relevant to the first tranche assessment are reproduced in this Attachment.

#### **Heads of Government, Canberra, May 1992**

‘It was agreed to develop an interstate transmission network across the eastern and southern States and that the National Grid Management Council would report on the precise nature and operating guidelines of the structure by the end of 1992. To achieve this, Heads of Government agreed to the principles of separate generation and transmission elements in the electricity sector.

Western Australia, while not a part of the national grid, supports the above. South Australia wishes to look further at the implications for its system. Tasmania’s participation in a national grid will be dependent on the development of a Basslink proposal.’

#### **Council of Australian Governments, Perth, December 1992**

‘The Prime Minister, the Premiers of New South Wales, Victoria, Queensland, South Australia and Tasmania and the Chief Minister of the Australian Capital Territory noted the content of a report they had received from the Chairman of the National Grid Management Council (NGMC) on the Council’s work over the past 12 months. In particular, they noted the work the NGMC has been overseeing on the development of an interstate transmission network and the NGMC’s intention to meet the timetable set by the Heads of Government last May for a report on the precise nature and operating guidelines for the structure by the end of 1992. The relevant Heads of Government reaffirmed their commitment to the principle of separate generation and transmission elements in the electricity sector and agreed to give early consideration to the report.’

#### **COAG, Melbourne, June 1993**

‘The Prime Minister, the Premiers of New South Wales, Victoria, Queensland and South Australia and the Chief Minister of the Australian Capital Territory agreed to have the necessary structural changes put in place to allow a competitive electricity market to commence as recommended by the NGMC from 1 July 1995.

These structural changes will include the establishment of an interstate electricity transmission network with those States which are already inter-connected, together with Queensland, working towards implementation by 1 July 1995 of the Multiple Network Corporation (MNC) structural option outlined in the NGMC’s report. Under this proposal, the transmission elements of the relevant existing electricity utilities are to be separated out from generation and placed in separate corporations. South Australia is considering the use of a subsidiary structure pending the resolution of cost issues associated with separating transmission from its vertically integrated authority. Resolution of those issues would enable the adoption of the NGMC model.

Tasmania reserves its position pending the outcome of its current electricity industry review.’

## ATTACHMENT A

‘In relation to reform of the electricity industry relevant Heads of Government:

1. Announced a firm commitment to have the necessary structural changes in place to allow implementation of a competitive electricity market from 1 July 1995.
2. Confirmed their commitment to the establishment of an interstate transmission network, separate from generation and distribution interests, noting that the achievement of this will require the settling of important and sensitive issues, including:
  - market trading, grid pricing and regulatory arrangements;
  - the budgetary impact on the States;
  - the resolution of tax compensation issues; and
  - resolution of reform arrangements for the Snowy Mountains Scheme.
3. Agreed that establishment of the interstate transmission network be through adoption of the Multiple Network Corporation model outlined in the NGMC report.
4. Agreed that jurisdictions in southern and eastern Australia will work to have the Multiple Network Corporation structure in place by 1 July 1995, consistent with the NGMC timetable for the introduction of a competitive electricity market
 

(in relation to 1, 3 and 4 Tasmania indicated that it is reviewing the appropriate structure of its electricity supply industry and will report to COAG once a decision has been made)

(in relation to 3 and 4, South Australia indicated it is considering the use of a subsidiary structure pending the resolution of cost issues associated with separating transmission from its vertically integrated authority. Resolution of those issues would enable the adoption of the Multiple Network Corporation model.)’

**COAG, Darwin, August 1994**

‘Relevant Heads of Government noted the progress that had been made since the Council’s February 1994 meeting, and agreed to the need for further work to fulfil their commitment to have the necessary changes in place to allow the implementation of a competitive electricity market from 1 July 1995. The Council’s detailed decision in relation to the electricity supply industry are attached.’

‘In relation to the reform of the electricity industry, relevant Heads of Government:

...

2. Agreed in response to an NGMC Report on progress in the development of market arrangements that:-
  - (a) the interim market trading and pool arrangements from 1 July 1995 within and between States should be consistent and standardised to the extent necessary to ensure that retailers and eligible customers can freely trade with generators throughout the interconnected system, but recognising the different stages of reform which may exist in each jurisdiction at that time,
  - (b) the main objectives of the fully competitive national market operating from 1 July 1999 are:-
    - (i) the ability for customers to choose which supplier, including generators, retailers and traders, they will trade with,

- (ii) non-discriminatory access to the interconnected transmission and distribution network,
  - (iii) no discriminatory legislative or regulatory barriers to entry for new participants in generation or retail supply, and
  - (iv) no discriminatory legislative or regulatory barriers to interstate and/or intrastate trade;
- (c) transition arrangements are to be developed on the basis of the earliest practicable achievement of each of the objectives of the fully competitive market
- ...
3. Consistent with the agreement at Council's February 1994 meeting that the principles relating to recovery of the fixed cost component of network pricing would encompass common asset valuation methodologies and rates of return as well as cost reflective and uniform pricing methodologies, agreed:-
- (a) in relation to the fixed cost component of network pricing that:
    - ...
    - (vi) within distribution, the retail and network functions should be ring-fenced and separately accounted for'
- ...

### **National Electricity Reform: Prime Minister's Letter to Premiers and Chief Ministers, 10 December 1996**

The Prime Minister wrote to all Premiers and Chief Ministers on 10 December 1996 proposing a phased implementation timetable for national electricity reform and noted that the transfer of national electricity market implementation functions from the National Grid Management Council to the National Electricity Market Management Company will be completed in February 1997.

The implementation timetable is reproduced below.

**October 1996** The New South Wales electricity market opened up to retail competition on 1 October for customers who consume more than 40 Gwh per annum. In Victoria, approximately 2 000 customers (750 Mwh) became contestable on 1 July 1996.

New South Wales and Victoria are currently reviewing the electricity market in each State to harmonise the retail and wholesale arrangements. This harmonised market, designated NEM, will be implemented in two phases.

**February 1997** NEM (Phase 1) — Harmonisation of the Victorian and New South Wales (including ACT) wholesale electricity markets which will involve:

- progressive introduction of interstate trade in electricity;
- system security under the control of Transgrid in New South Wales (and the ACT) and VPX in Victoria;
- trading of existing Snowy entitlements through a single New South Wales/Victorian energy trader; and

- enhancing interstate retail competition.

**April/May 1997** ACCC authorisation of the National Electricity Code for the purposes of Part IV of the *Trade Practices Act* and acceptance of the Code as an industry access code for the purposes of Part IIIA of the *Trade Practices Act 1974*.

**July 1997** NEM (Phase 2) — Further harmonisation of Victorian and New South Wales market arrangements involving:

- full interstate trade in electricity (including provision of inter-regional hedges);
- system security jointly administered by Transgrid and VPX; and
- trading of energy from the Snowy Scheme as a single corporatised entity.

Implementation of these arrangements will provide a framework for accommodating most of the matters dealt with in the National Electricity Code and will simplify transition to the Code.

**By Autumn 1997** Participating jurisdictions have passed legislation to give effect to the National Electricity Law.

**Early 1998** Full implementation of the market arrangements specified in the National Electricity Code. This will require:

- NEMMCO to have successfully installed and tested the information technology systems currently under development by the Transgrid/VPX joint venture;
- promulgation of the National Electricity Law and its application in each jurisdiction; and
- NEMMCO and NECA assuming full operational responsibilities for the national market.

## ATTACHMENT C

### INTER-GOVERNMENTAL AGREEMENTS ON GAS REFORM RELEVANT TO THE FIRST TRANCHE ASSESSMENT

The inter-governmental agreements on gas reform which the Council considers are relevant to the first tranche assessment are as follows.

#### **COAG, Hobart, 25 February 1994**

COAG received a report from the Working Group on Gas Reform on Progress Toward a Pro-Competitive Framework for the Natural Gas Industry, Within and Between Jurisdictions. The report noted that the benefits of free and fair trade in gas would be facilitated by further developments aimed at stimulating a more competitive framework for the gas industry.

Such an approach would allow gas consumers and producers in any State or Territory to buy or sell in any other State or Territory on normal commercial terms. The report concludes that the arrangements would lead to the best possible use of Australia's gas resources and the lowest possible prices for gas consumers. The report also concludes that a consistent, national approach characterised by free trade will also stimulate the gas industry by increasing the market area into which gas can be sold, facilitate exploration and facilitate the development of production, transmission and distribution facilities.

COAG noted that the main features of a national framework characterised by free and fair trade would be:

- no legislative or regulatory barrier to both inter- and intra- jurisdictional trade in gas;
- third-party access rights to both inter- and intra- jurisdictional supply networks;
- uniform national pipeline construction standards;
- increased commercialisation of the operations of publicly-owned gas utilities;
- no restrictions on the uses of natural gas (eg. for electricity generation); and
- gas franchise arrangements consistent with free and fair competition in gas markets and third-party access.

It was accepted that there may be a need for some government oversight of retail gas prices in the absence of fully competitive markets in gas. The need for transitional arrangements in some States was also acknowledged.

COAG noted that existing contractual and regulatory regimes in the gas industry arose from past industry, regional development and market objectives. COAG also noted that many of these contracts will expire within the next 10 years and, given the nature of the industry, negotiations will begin shortly for the next round of contracts. COAG noted that contracts entered into prior to the enactment of any complementary gas industry legislation would, for the duration of those contracts, not be subject to that legislation. COAG considered, however, that it was necessary to define the competitive and regulatory environment in which future contracts would operate, so that participants in the gas industry could ensure that all future contracts between producers and

consumers for the supply of gas were consistent with the framework agreed for free and fair trade in gas.

COAG agreed that future arrangements for the gas industry, while not necessarily taking full effect for several years, need to be settled within the next two years. Such a timetable is compatible with the scheduled introduction of the national competitive electricity market from 1 July 1995.

COAG agreed on a broad set of principles to ensure third-party access to pipelines and asked the Working Group on Gas Reform to report, by the next Council meeting, on the implementation of these principles in order to achieve free and fair trade in natural gas by 1 July 1996.

COAG's detailed decisions in relation to free and fair trade in natural gas are contained in the following attachment.

## **Attachment**

### **Free and fair trade in gas**

In relation to free and fair trade in gas COAG:

1. agreed to remove all remaining legislative and regulatory barriers to the free trade of gas both within and across their boundaries by 1 July 1996 (Heads of Government noted that Victoria's ability to commit to this timetable is contingent upon satisfactory and timely resolution of the PRRT issue);
2. agreed to implement complementary legislation so that a uniform national framework applies to third-party access to all gas transmission pipelines both between and within jurisdictions, by 1 July 1996 (Heads of Government noted that Victoria's ability to commit to this timetable is contingent upon satisfactory and timely resolution of the PRRT issue);
3. noted that legislation to promote free and fair trade in gas, through third-party access to pipelines, should be developed co-operatively between jurisdictions and be based on the following principles:
  - pipeline owners and/or operators should provide access to spare pipeline capacity for all market participants on individually negotiated non-discriminatory terms and conditions;
  - information on haulage charges, and underlying terms and conditions, to be available to all prospective market participants on demand;
  - if negotiations for pipeline access fail, provision be made for the owner/operator to participate in compulsory arbitration with the arbitration based upon a clear and agreed set of principles;
  - pipeline owners and/or operators maintain separate accounting and management control of transmission of gas;
  - provision be made for access by a relevant authority to financial statements and other information necessary to monitor gas haulage charges; and
  - access to pipelines would be provided either by Commonwealth or State/Territory legislation based on these principles by 1 July 1996;
4. noted that Heads of Government were addressing the question of access to essential facilities in the context of their consideration of the Hilmer Report on National Competition Policy and that any legislation arising from decisions in this context would be able to cover gas pipelines;

5. agreed to adopt AS 2885 to achieve uniform national pipeline construction standards by the end of 1994 or earlier;
6. noted that open-ended exclusive franchises are inconsistent with the principles of open access expounded in points 1, 2 and 3 above:
  - agreed not to issue any further open-ended exclusive franchises; and
  - agreed to develop plans by 1 July 1996 to implement more competitive franchise arrangements;
7. agreed that approaches to price control and maintenance in the gas industry be considered in the context of agreed national competition policy;
8. agreed to place their gas utilities on a commercial footing, through corporatisation, by 1 July 1996;
9. noted that contracts, between producers and consumers for the supply of gas, entered into prior to the enactment of gas reform legislation would not be overturned by that legislation;
10. agreed that where publicly-owned transmission and distribution activities are at present vertically integrated, they be separated, and legislation introduced to ring-fence transmission and distribution activities in the private sector by 1 July 1996 (Heads of Government noted that Victoria's ability to commit to this timetable is contingent upon satisfactory and timely resolution of the PRRT issue.);
11. agreed that reforms to the gas industry to promote free and fair trade be viewed as a package, that each government would move to implement the reforms by 1 July 1996; and
12. noted that Victoria has commissioned an independent study of the impact of PRRT on the Bass Strait gas industry.

In addition, COAG asked the Working Group on Gas Reform to report, by its meeting, on the implementation details necessary to achieve free and fair trade in natural gas by 1 July 1996.

### **COAG, Canberra, 14 June 1996**

COAG noted a progress report on gas reform from the Chairman of the Gas Reform Task Force. Jurisdictions and the Gas Reform Task Force have made significant progress towards meeting the commitments for gas reform set at COAG's February 1994 meeting, although there are several outstanding issues. Full legislative implementation of the framework for free and fair trade in gas is unlikely to be completed before December 1996.

The report noted:

1. substantial progress towards agreement of a uniform national access framework. The framework will apply Australia-wide and take the form of a Code extrinsic to legislation. It will be supported in legislation by each jurisdiction in line with an Inter-Governmental Agreement to deal with the implementation and maintenance of the Code;
2. agreement had been reached on some of the main access principles to underpin the Code with further consideration being given to others such as asset valuation and other pricing principles, ring-fencing requirements, information requirements, secondary trade arrangements and the role of franchise agreements; and



3. the Task Force had agreed that the State regulator should be the regulatory institution for distribution systems.

COAG agreed that the national access framework would be finalised as follows:

20 June 1996	Finalisation of the principles in the draft Access Code.
30 June 1996	Release of the draft Access Code for a two month stakeholder consultation period.
30 September 1996	Access Code and associated draft Inter-Governmental Agreement to be finalised and submitted to Heads of Government for endorsement.

**COAG also agreed that:**

- (a) the Access Code should apply to distribution systems as well as transmission pipelines;<sup>32</sup> and
- (b) the Commonwealth Minister for Resources and Energy would convene a meeting of State and Territory Energy Ministers to settle on a mode of regulation that would maximise competition and facilitate investment in the gas industry.

**PRIME MINISTER'S LETTER OF 10 DECEMBER 1996**

Further to these agreements, the Prime Minister wrote to all jurisdictions on 10 December 1996 outlining a number of proposed amendments to the previous agreements and seeking all jurisdictions' agreement to the proposals he outlined. At the time of writing, the Council is aware that not all jurisdictions have agreed to the Prime Minister's proposals. The Council is of the view that the proposals will not amend the earlier agreements until there is unanimous agreement. The relevant extracts of the letter appear below:

“We are at an important point in the development of a national regulatory framework for the natural gas industry. As you are aware, the Gas Reform Task Force has provided jurisdictions with a substantially complete access Code for pipelines and the makings of an associated Inter-Governmental Agreement (IGA), the formal under-pinnings for free and fair trade in gas. Given the importance of avoiding further delay in the start of the competitive gas market - a reform of very considerable economic and environmental benefit - I propose that jurisdictions satisfied with the substance of the recommendations of the Task Force agree now to the regulatory framework and implementation arrangements detailed at Attachment A. I also seek your agreement to public release of the draft Code.

**Attachment A**

In relation to free and fair trade in natural gas, agree:

1. to the substance of the National Third Party Access Code for Natural Gas Pipelines as prepared by the Gas Reform Task Force (noting that further refinements are to be made), and to apply the final Code uniformly to natural gas transmission and distribution systems in all jurisdictions;

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<sup>32</sup> See Footnotes 7.

2. that the Code would be an extrinsic document and given consistent legislative effect by jurisdictions by 1 July 1997, in accordance with arrangements detailed in an Inter-governmental Agreement;
3. that any derogations from the Code and transitional arrangements would be identified in the Code, and that these would be fully transparent and have firm end dates;
4. that access will be provided to transmission and distribution pipelines for all industrial and commercial users with loads greater than 100 terajoules by 1 July 1997, and to all remaining industrial and commercial users by 1 July 1999; for residential users the phase in of access to take account of cross-subsidy and related issues would be completed by 1 July 2001;
5. that the Code will be given effect through legislation and jurisdictions will work towards common core clauses where that is necessary to provide uniform application and effect of the Code, with other mandatory clauses individually drafted by jurisdictions in a single Part of the legislation;
6. that the Australian Competition and Consumer Commission (ACCC) would be the single national regulator for transmission pipelines, subject to the ACCC having a business plan acceptable to participating jurisdictions to enable it effectively to carry out this work;
7. that the National Competition Council would assess which future pipelines would be covered by the Code;
8. that the Australian Competition Tribunal would be the single national appeals body for Determinations made under the Code by the national regulator, and a jurisdiction-based-appeals body would be the appeals body for Determinations made under the Code by a jurisdiction-based regulator for distribution pipeline networks;
9. that gas distribution pipelines will be regulated by independent regulators;
10. that the Gas Reform Task Force would finalise its activities by 15 December 1996, with an implementation group to be established by participating jurisdictions to finalise the Inter-Governmental Agreement and any outstanding issues on the Code for signature by Heads of Government, and to develop appropriate arrangements for administering the Code;
11. in-principle to an obligation on gas producers to provide unbundled gas prices ex-plant when requested;
12. that jurisdictions would not seek to make windfall gains from taxes and charges arising upon the transfer of assets by a pipeline owner or operator in complying with 'ring fencing' arrangements in the Code; and
13. that the Commonwealth would report to the COAG meeting in 1997 on whether the provisions for access to services in Part IIIA of the *Trade Practices Act 1974* fully reflect the principles and intent of the national competition policy as they affect gas processing and related facilities.

COAG agreed in February 1994 to the sanctity of contractual rights in pre-existing contracts between the producers and consumers for the supply of natural gas. In this respect, agree that, as provided for under Part IIIA of the *Trade Practices Act 1974*, contractual rights in contracts between producers, transporters and consumers existing prior to 30 March 1995 would be protected and not overturned by the enactment of gas reform legislation.

Note that Victoria is in the process of considering the restructuring of its natural gas distribution and retail sector, to further enhance competition in the sector, Victoria agrees to the above time lines for access, but notes its ability to introduce access for large industrial and commercial users by 1 July 1997 will depend on whether it proceeds to restructure its distribution and retail sector, and the timing of the restructuring.”

## ATTACHMENT D

### MINISTERIAL COUNCIL FOR ROAD TRANSPORT: ROAD TRANSPORT REFORM PROGRAM AND TIMETABLE

Transport Ministers from the Commonwealth, State and Territory Governments met on 14 February 1997. The Ministers endorsed a strategy for implementing the current national transport reform program and approved a second heavy vehicle reform package.

The endorsed reforms and completion dates for the national road transport implementation strategy are detailed in Table D1 below.

<b>REFORM</b>	<b>TIMING</b>
Uniform arrangements for dangerous goods transport	1 January 1998
National heavy vehicle registration scheme	1 July 1998
National driver licensing scheme	1 September 1998
Vehicle operations reforms covering: <ul style="list-style-type: none"> <li>• restricted access vehicles</li> <li>• mass and loading laws, and</li> <li>• oversize and overmass vehicles</li> </ul>	1 October 1997
National vehicle standards	1 October 1997
National truck driving hours laws (excluding WA and NT)	1 July 1997
National bus driving hours laws (may not apply in WA or NT)	1 July 1997
Consistent compliance and enforcement	To be determined
Second charges determination including fixing anomalies in current charges	Not before July 1998
Australian Road Rules	Phase 1 by September 1998

Ministers also approved a second heavy vehicle reform package comprising 10 key national reforms to road safety, industry productivity, administration and enforcement. The endorsed reforms and their implementation dates are outlined in Table D2 below.

<b>TABLE D2: SECOND HEAVY VEHICLE REFORM PACKAGE</b>	
<b>REFORM</b>	<b>TIMING</b>
Fatigue management for truck drivers	November 1997
Management of speeding vehicles policy	August 1998
Information on driver offences and licence status	September 1997
NEVDIS (first stage)	May 1998
Mass limits review	To be determined
Truck/trailer mass ratios	September 1997
Axle mass spacing for vehicles above 42.5 tonne	November 1997
Short term registration	December 1997
Consistent on-road enforcement for roadworthiness	October 1997
Reduction in truck noise	December 1997