



# Public Consultation: Review of the Gas Advisory Board Constitution

26 November 2021

Under clause 14(1) of the Gas Services Information (**GSI**) Rules, the Coordinator of Energy (the Coordinator) is required to develop and publish a constitution for the Gas Advisory Board (**GAB**), in accordance with the GSI Consultation Procedure.

The current GAB constitution was developed by the former Rule Change Panel and requires amendment to reflect the changes to the GSI governance arrangements contained in Schedule B of the Gas services Information Amendment (Governance) Rules 2021, which commenced on 1 July 2021.

The Coordinator has conducted an initial review of the GAB constitution in consultation with the GAB and proposes to amend the GAB constitution to reflect the current GSI Rules.

The GAB discussed the proposed changes to the GAB constitution at its meeting on 23 September 2021. The papers and minutes of the meeting are published on the GAB web page. The proposed changes in the attached draft of the GAB constitution are consistent with the changes previously presented to the GAB, except for the following additional changes:

- clause 3.8 has been further amended to clarify that the Chair cannot unreasonably withhold approval of a request to a proxy;
- clause 3.13. has been amended to reflect that the expenses of small end use customers are covered by the Coordinator of Energy;
- clause 6.2 is further amended to avoid repetition with clause 2.4 which already outlines how the MAC determines its view;
- clause 6.7 is moved to clause 7.4 to improve the structure of the document;
- clauses 8.1, and 8.2 are amended to specify the email address for the GAB secretariat; and
- several clauses are amended to increase the inclusiveness of the language.

The proposed amendments to the GAB constitution are presented in the attached document and are annotated with ~~deleted text~~ and **added text**.

The Coordinator is seeking submissions regarding the proposed amendments to the GAB constitution.

The submission period is 20 Business Days from the publication date of this notice.

Stakeholders are invited to make submissions before 5.00pm (WST) on 24 December 2021 by email to [energymarkets@energy.wa.gov.au](mailto:energymarkets@energy.wa.gov.au).

# Constitution of the Gas Advisory Board

~~July 2019~~ January 2022

## 1. Introduction

- 1.1. The Gas Services Information Rules (**GSI Rules**) are made under the *Gas Services Information Regulations 2012* and in accordance with section 8 of the *Gas Services Information Act 2012* (**GSI Act**).
- 1.2. The GSI Objectives are specified in section 6 of the GSI Act and subrule 2(1) of the GSI Rules, and are repeated in Appendix 1 of this Constitution.
- 1.3. For the purpose of the GSI Objectives:
  - (a) the primary purpose of the Gas Bulletin Board (GGB) is to include information relating to ~~short- and near-term~~ short and near term natural gas supply and demand and natural gas transmission and storage capacity in the State, and
  - (b) the primary purpose of the Gas Statement of Opportunities (GSOO) is to include information and assessments relating to ~~medium- and long-term~~ medium and long term natural gas supply and demand and natural gas transmission and storage capacity in the State.
- 1.4. In accordance with subrule 125(1), the ~~Rule Change Panel~~ Coordinator of Energy (**Coordinator**):
  - (a) is responsible for maintaining the GSI Rules;
  - (b) is responsible for ensuring the development of amendments of, and replacements for, the GSI Rules; and
  - (c) may make Amending Rules in accordance with ~~its~~ her or his rule making powers under Part 8 of the GSI Rules.
- 1.5. The ~~Coordinator~~ Rule Change Panel, Australian Energy Market Operator (**AEMO**) and the Economic Regulation Authority (**ERA**) may make GSI Procedures to the extent to which the GSI Procedures relate to their respective functions under the GSI Rules.
- 1.6. In accordance with subrule 11(1) of the GSI Rules, the ~~Rule Change Panel~~ Coordinator must establish a non-voting Gas Advisory Board.
- 1.7. This document sets out the Constitution of the Gas Advisory Board in accordance with subrule 14(2) of the GSI Rules.
- 1.8. Terms used in this Constitution have the same meaning as defined in the GSI Rules.
- 1.9. This Constitution has been issued under the GSI Rules, and as such, if a provision of this Constitution is inconsistent with a provision of the GSI Rules, the provision in the GSI Rules prevails to the extent of the inconsistency.

## 2. Terms of Reference

- 2.1. The Gas Advisory Board is a committee comprised of representatives of gas market stakeholders, convened by the ~~Rule Change Panel through the RCP Secretariat~~ Coordinator, to advise:
  - (a) the ~~Rule Change Panel~~ Coordinator in relation to Rule Change Proposals;
  - (b) the ~~Coordinator~~ Rule Change Panel, AEMO and the ERA in relation to Procedure Change Proposals;
  - (c) the ~~Rule Change Panel~~ Coordinator in relation to matters concerning the development of the GSI Rules; and

- (d) the ~~Rule Change Panel Coordinator~~, AEMO and the ERA in relation to matters concerning the development of GSI Procedures.
- 2.2. In carrying out its functions, the Gas Advisory Board must have regard to the GSI Objectives as set out in subrule 2(1) of the GSI Rules, and any recommendations made by the Gas Advisory Board must be consistent with the GSI Objectives.
- 2.3. Gas Advisory Board members or their proxies are required to act in the best interests of the gas industry as a whole.
- 2.4. Gas Advisory Board members do not vote on issues and must endeavour to reach a consensus on any issue before the board. If, after allowing a reasonable time for discussion, the independent Chair of the Gas Advisory Board determines that a consensus position either will not be achieved, or is unlikely to be achieved within a time which is reasonable in the circumstances, then the independent Chair must provide advice to the Coordinator which reflects any majority view and which includes or is accompanied by the dissenting views. Any recommendations of the Gas Advisory Board are based on a consensus of the views expressed by the members, excluding the observers.
- 2.5. The Gas Advisory Board may establish working groups comprised of representatives of gas market stakeholders to assist the Gas Advisory Board in advising the ~~Rule Change Panel Coordinator~~, AEMO or the ERA on any of the matters arising in the performance of their respective roles under the GSI Rules.

### 3. Membership Rules

- 3.1. The Gas Advisory Board will comprise:
- (a) ~~a Chairperson~~ an independent Chair, who must be a person appointed by the ~~chairperson of the Rule Change Panel~~ Minister in accordance with subrule 12(3) of the GSI Rules;
- (b) one person from AEMO;
- (c) up to two independent persons nominated by the Minister representing small end use customers;
- (d) a representative of the Coordinator in the capacity of Hazard Management Agency under the Emergency Management Regulations 2006; and
- (e) persons appointed by the Coordinator, including:
- (i) two persons representing pipeline operators and owners;
- (ii) two persons representing gas producers;
- (iii) two persons representing gas shippers; and
- (iv) two persons representing gas users.
- ~~(b) two members representing gas producers;~~
- ~~(c) two members representing pipeline operators and owners;~~
- ~~(d) two members representing gas shippers;~~
- ~~(e) two members representing gas users;~~
- ~~(f) the Coordinator of Energy in the capacity of Hazard Management Agency under the Emergency Management Regulations 2006;~~
- ~~(g) one member representing small end use customers, appointed by the Minister; and~~
- ~~(h) one member from AEMO.~~
- 3.2. The Minister may appoint a representative to attend Gas Advisory Board meetings as an observer.

3.3. The ERA may appoint a representative to attend Gas Advisory Board meetings as an observer.

~~3.4. Observers are entitled to speak at meetings of the Gas Advisory Board but are not members and do not formally participate in making any recommendations.~~

~~3.4. The Coordinator or the independent Chair may invite a person to attend Gas Advisory Board meetings as an observer, either for a specified meeting or meetings or until further notice.~~

### **Classes of Members**

~~3.5. Members who are unable to attend meetings can request that a proxy attend in their place. The proxy must come from an organisation that belongs to the same class as the member, and must have similar skills and experience as the member. Members cannot send a proxy by right. Permission to attend is at the Chairperson's discretion.~~

3.65. Compulsory class members are the members appointed under clauses 3.1(a) to 3.1(d) of this Constitution, being the independent Chair, the AEMO representative, the Coordinator of Energy, the GAB Chairperson and the member(s) nominated by the Minister to represent small end use consumers, customers, and the representative of the Coordinator.

3.6. Discretionary class members are members appointed under clause 3.1(e) of this Constitution, being persons representing pipeline owners and operators, gas producers, gas shippers and gas users.

### **Proxies**

~~3.7. Discretionary class members are members who are not compulsory class members (i.e. Gas Producers, Pipeline Operators and Owners, Gas Shippers and Gas Users).~~

~~3.7. Compulsory class members who are unable to attend a meeting can send an appropriate proxy with similar skills and experience to attend meetings in their place.~~

~~3.8. Discretionary class members who are unable to attend meetings can request that a proxy attend in their place. The proxy must come from an organisation that belongs to the same class as the member, and must have similar skills and experience as the member. Discretionary class members cannot send a proxy by right. Permission for proxies to attend Gas Advisory Board meetings is at the independent Chair's discretion and must not be withheld unreasonably.~~

3.98. Observers appointed by the Minister or the ERA can send proxies to attend meetings in their place.

### **Meeting Attendance**

3.910. The Gas Advisory Board may continue to perform its functions despite any vacancy, provided that the quorum noted in clause 6.3 of this Constitution is met.

3.101. Each member is required to attend all meetings. Members who have not attended all meetings may be removed by the ~~Rule Change Panel Coordinator~~ under clause ~~4.9-4.11~~ of this Constitution. Attendance by a proxy is considered to be attendance by the member.

3.142. Each member or observer is required to:

- (a) be prepared for all Gas Advisory Board meetings, to read the papers and to actively contribute to the discussions; and
- (b) not use their position or information gained as a member or observer improperly to gain an advantage for themselves or anyone else, or cause detriment to the ~~Rule Change Panel Coordinator~~, AEMO or the gas industry.

3.123. Each member, other than small end use customer representatives under clause 3.1(c) of this Constitution, and observer must pay their own expenses associated with participating in the Gas Advisory Board.

~~3.13. At the discretion of the Chairperson, other persons may be allowed to attend Gas Advisory Board meetings as observers from time to time.~~

## 4. Appointing and removing members

- 4.1. The ~~Rule Change Panel Coordinator~~ may appoint and terminate membership of the Gas Advisory Board; ~~other than members appointed under clauses 3.1(a), (f), (g) or (h);~~ in accordance with the GSI Rules, this section 4 of this Constitution, and ~~the any applicable Gas Advisory Board Appointment Guidelines (if guidelines are published by the Rule Change Panel Coordinator).~~
- 4.2. Compulsory class members who represent AEMO must be nominated to the Coordinator by AEMO.
- 4.23. The ~~Rule Change Panel Coordinator~~ will advertise for nominations ~~to the Gas Advisory Board on its public website for discretionary members on the Coordinator's Website,~~ by email ~~via the gas advisory distribution list to recipients of Energy Policy WA's weekly RulesWatch newsletter,~~ and via direct contact with appropriate industry groups ~~and by any other means the Coordinator considers appropriate.~~ Any company or individual can make nominations.
- 4.34. An individual may be nominated as a member of the Gas Advisory Board in more than one category, but may only be appointed to one category of membership.
- 4.45. Each member is typically appointed for a ~~two-year~~ four-year term, subject to any earlier termination or resignation.
- 4.6. The Coordinator may appoint members following a composition review for a term shorter or longer than four years to ensure that the terms of half of the members in each class of discretionary members expire concurrently with each composition review.
- 4.57. ~~There are no restrictions on the number of times a member can be reappointed to the Gas Advisory Board~~ A member may be reappointed to the Gas Advisory Board, but from 1 January 2022 may not serve more than two four-year terms consecutively.
- 4.68. ~~With the exception of the employing organisation of the Coordinator of Energy, n~~ Not more than one individual from the same employing organisation can hold membership of the Gas Advisory Board at any one time.
- 4.79. When appointing members of the Gas Advisory Board, the ~~Rule Change Panel Coordinator~~ must consult with the independent Chair, and take nominations from Gas Market Participants and gas industry groups that ~~it the Coordinator~~ considers to have an interest in the GBB and the GSOO. If practicable, the ~~Rule Change Panel Coordinator~~ must choose members from the persons nominated, taking into account the requirements of the GSI Rules regarding the Gas Advisory Board composition. ~~Further details of the nomination process are provided in the Gas Advisory Board Appointment Guidelines, published on the Rule Change Panel's website.~~
- 4.810. The Each year the Rule Change Panel Coordinator will review the performance and attendance of all Gas Advisory Board members every two years in consultation with the independent Chair. Following the review, the ~~Rule Change Panel Coordinator~~ may terminate membership of, or decide to not reappoint, members that ~~it they~~ considers have not met the requirements of members as set out in ~~the this~~ Constitution or the Gas Advisory Board Appointment Guidelines ~~(if guidelines are published by the Coordinator),~~ and may appoint replacement members.
- 4.911. The ~~Rule Change Panel Coordinator~~ may remove a member of the Gas Advisory Board; ~~other than those appointed under clause 3.1(f), (g) or (h);~~ at any time in the circumstances described in subrule 13(4) of the GSI Rules; ~~or if:.~~ The Coordinator may also remove a discretionary class member if:
- (a) in the ~~Rule Change Panel Coordinator's~~ reasonable opinion, the person is not actively participating in the Gas Advisory Board;
  - (b) the person acts in a manner inconsistent with this Constitution ~~of the Gas Advisory Board;~~ or
  - (c) the member is absent from, and has not provided a proxy for, three consecutive meetings.

- 4.102. A member of the Gas Advisory Board may resign by giving notice to the ~~Rule Change Panel Coordinator~~ in writing ~~or by email~~.
- 4.143. If a position on the Gas Advisory Board becomes vacant, the ~~Rule Change Panel Coordinator~~ will attempt to appoint a suitably qualified person to fill the vacancy. The ~~Rule Change Panel Coordinator~~ will appoint a replacement member for the duration of the previous member's remaining length of tenure. The Gas Advisory Board will continue to perform its functions under the GSI Rules despite any vacancy.

## 5. Convening the Gas Advisory Board

- 5.1. The ~~RCP Secretariat (as the secretariat of the Gas Advisory Board)~~ independent Chair must convene the Gas Advisory Board ~~on behalf of the Rule Change Panel~~:
- (a) in relation to a Rule Change Proposal or a Procedure Change Proposal, where the GSI Rules require a meeting to be held or the ~~Rule Change Panel Coordinator~~ considers that advice is required from the Gas Advisory Board, in which case the ~~Rule Change Panel, through the RCP Secretariat, Coordinator~~ will use reasonable endeavours to convene the meeting before the due date for submissions on the proposed changes;
  - (b) at the request of AEMO or the ERA, in relation to a Procedure Change Proposal relating to their respective functions under the GSI Rules;
  - (c) on any occasion when two or more members of the Gas Advisory Board inform the ~~RCP Secretariat~~ independent Chair in writing that they wish to bring a matter before the Gas Advisory Board for discussion, including consulting on a Rule Change Proposal, Procedure Change Proposal, the development of the GSI Rules or the development of the GSI Procedures; ~~and~~
  - (d) on any occasion when the independent Chair or the Coordinator wishes to bring a matter regarding the evolution or the development of the GSI Rules before the Gas Advisory Board for discussion; and
  - (ed) where ~~practicable possible~~, consistent with the provisional schedule of ~~the~~ Gas Advisory Board meetings, issued annually by the ~~Rule Change Panel GAB Secretariat~~.

## 6. Conduct of Meetings

- 6.1. The ~~Chairperson~~ independent Chair may determine procedures for meetings of the Gas Advisory Board.
- 6.2. The Gas Advisory Board may provide advice or make recommendations to the Coordinator on an issue ~~if consensus is achieved~~. Any advice or recommendations made by the Gas Advisory Board must be based on the consensus achieved by members in accordance with clause 2.4 of this Constitution excluding the opinion of observers.
- 6.3. The Gas Advisory Board can only make recommendations if a quorum of members is present at the ~~time~~ relevant discussion. A quorum requires:
- (a) at least ~~fifty percent~~ 50% of total current members ~~to be present at the meeting~~; and
  - (b) at least one gas user, gas shipper, pipeline owner and operator, ~~and~~ gas producer and small end use customer representative ~~to be present at the meeting~~.
- ~~6.4. The Chairperson may, in relation to any matter under consideration by the Gas Advisory Board, require all members and observers to treat a matter as confidential until advised otherwise. All members and observers must comply with that requirement.~~
- 6.54. Meetings of the Gas Advisory Board may be called or held using any technology determined by the ~~Chairperson~~ independent Chair and at a location nominated by the ~~Chairperson~~ independent Chair.

6.65. Meetings of the Gas Advisory Board are recorded for the purpose of ensuring the accuracy of meeting minutes. These recordings are considered temporary and will be periodically deleted ~~by the RCP Secretariat~~ once the minutes of a meeting are confirmed.

~~6.76. The Chairperson independent Chair may approve late papers for discussion at a Gas Advisory Board meeting at her or his discretion.~~

## 7. **Role of the ~~Gas Advisory Board~~ GAB Secretariat and independent Chair**

7.1. ~~RCP Support, which includes the RCP Secretariat, The GAB Secretariat~~ will provide secretariat and other services to the Gas Advisory Board and support the independent Chair, including in performing the functions in clauses 7.2 and 7.3 of this Constitution.

7.2. ~~RCP Support~~ The GAB Secretariat will:

- (a) schedule meetings (under the direction of the independent Chair) and maintain the diary of the Gas Advisory Board;
- (b) compile the meeting papers, send them by email to all members and observers of the Gas Advisory Board and publish the papers on the ~~Rule Change Panel's website~~ Coordinator's Website. ~~RCP Support~~ The GAB Secretariat will endeavour to send papers to all members and observers at least five Business Days before each meeting, and publish all papers on the Coordinator's Website, at least ~~five~~ four ~~business days~~ Business Days before each meeting ~~(subject to any approved late papers in accordance with clause 6.7), except for any late papers approved by the independent Chair;~~
- (c) prepare the minutes of each Gas Advisory Board meeting and send them by email to all members and observers of the Gas Advisory Board as soon as practicable, after the meeting; and
- (d) ~~subject to the confidentiality of the matters in meeting minutes,~~ publish the minutes on the ~~Rule Change Panel's website~~ Coordinator's Website.

7.3. The independent Chair may develop and submit Rule Change Proposals based on advice received from the Gas Advisory Board regarding the evolution or development of the GSI Rules.

6.6. The independent Chair may approve late papers for discussion at a Gas Advisory Board meeting at their discretion.

## 8. **Interaction between the Gas Advisory Board ~~and the Rule Change Panel and RCP Secretariat,~~ the Coordinator and the independent Chair**

8.1. All written communications related to the activities of the Gas Advisory Board from the members and observers of the Gas Advisory Board to the ~~Rule Change Panel Coordinator~~ will be sent ~~via RCP Support~~ to the GAB Secretariat via e-mail to: [energymarkets@energy.wa.gov.au](mailto:energymarkets@energy.wa.gov.au).

8.2. Communications between the members and observers of the Gas Advisory Board and ~~RCP Support~~ the GAB Secretariat will be via email to: [energymarkets@energy.wa.gov.au](mailto:energymarkets@energy.wa.gov.au) wherever practical, to the email address published on the Rule Change Panel's website.

8.3. The ~~Rule Change Panel Coordinator~~ will provide the independent Chair, members and observers of the Gas Advisory Board with information in ~~its~~ their possession that is directly relevant to the issues being addressed by the Gas Advisory Board (subject to rule 10 of the GSI Rules).

8.4. In accordance with subrule 135(1) of the GSI Rules, within one Business Day after the publication of a notice of a Rule Change Proposal, the ~~Rule Change Panel Coordinator~~ will notify the independent Chair and members and observers of the Gas Advisory Board, via email, as to whether the ~~Rule Change Panel Coordinator~~ considers that the Rule Change Proposal requires convening of a meeting of the Gas Advisory Board and the reasons why.

8.5. The ~~Rule Change Panel Coordinator~~ will include in ~~its~~ her or his Rule Change Reports a summary of the views expressed by the members of the Gas Advisory Board (or working

group), where the Gas Advisory Board (or working group) has met to consider a Rule Change Proposal.

- 8.6. The ~~Rule Change Panel Coordinator~~, AEMO and the ERA will include in their Procedure Change Reports a summary of the views expressed by the members of the Gas Advisory Board (or working group), where the Gas Advisory Board (or working group) has met to consider a Procedure Change Proposal.

## 9. Governance Arrangements between the Gas Advisory Board and working groups

- 9.1. The Gas Advisory Board, as per rule 16 of the GSI Rules, may establish working groups made up of representatives from member groups to assist the Gas Advisory Board in dealing with any matter arising in the performance of their respective roles under the GSI Rules. The Gas Advisory Board may establish or disband any working group at any time.
- 9.2. The Gas Advisory Board must determine the scope of work and Terms of Reference for each working group. The Gas Advisory Board may amend the Terms of Reference or membership of any working group at any time.
- 9.3. The Terms of Reference for a working group, will be tailored to the specific requirements of each working group and would typically include the:
- (a) background (reason for the establishment of the working group);
  - (b) purpose and scope of the working group;
  - (c) roles and responsibilities of members of the working group;
  - (d) membership of the working group;
  - (e) administration, ~~Secretariat secretariat~~ and meeting arrangements for the working group; and
  - (f) arrangements for reporting to the Gas Advisory Board.
- 9.4. Working groups must report back to the Gas Advisory Board at least once every two months, or as specified in the Terms of Reference for the working group. Reporting will be via the working group secretariat. The working group will report to the Gas Advisory Board at other times requested by the Gas Advisory Board. Day-to-day interaction between the Gas Advisory Board and the working group will be via ~~RCP Support~~ the GAB Secretariat.
- 9.5. Working groups must refer issues outside the scope of the working group's Terms of Reference back to the Gas Advisory Board for consideration.
- 9.6. Once a ~~Working Group working group~~ has been established, the Gas Advisory Board delegates to the ~~Working Group working group~~ the ability to discuss the matters within the scope of the ~~Working Group's working group's~~ Terms of Reference. The ~~Working Group working group~~ must report its recommendations to the Gas Advisory Board.
- 9.7. The ~~Gas Advisory Board independent Chair~~ must inform the ~~Rule Change Panel Coordinator~~ if ~~it~~ the Gas Advisory Board establishes a ~~Working Group working group~~, and must provide the ~~Rule Change Panel Coordinator~~ with a copy of the Terms of Reference for each ~~Working Group working group~~ and any recommendations from each ~~Working Group working group~~.



## Appendix 1: GSI Objectives

In accordance with section 6 of the GSI Act, the GSI Objectives are to promote the long-term interests of consumers of natural gas in relation to:

- (a) the security, reliability and availability of supply of natural gas in the State;
- (b) the efficient operation and use of natural gas services in the State;
- (c) the efficient investment in natural gas services in the State; and
- (d) the facilitation of competition in the use of natural gas services in the State.