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Dear Mr Pierce

ERA submission to the AEMC's review into the scope of economic regulation applied to covered pipelines

The Economic Regulation Authority (ERA) welcomes the opportunity to provide comment on the AEMC's draft report of its review into the scope of economic regulation applied to covered pipelines.

As the economic regulator responsible for administering the *National Gas Access (WA) Act* and *National Gas Rules* (Rules) as applied in Western Australia, the ERA has an interest in ensuring that economic regulation applied to covered pipelines is enhanced in a manner that will promote the National Gas Objective.

The AEMC's report addresses substantive issues with the current Rules which must be resolved quickly. The ERA supports most of the AEMC's recommendations, which will enhance the economic regulation of gas pipelines. The ERA has provided high-level comments on all 33 recommendations (see attachment). The ERA's main concerns are discussed below.

The ERA strongly supports a default approach to the inclusion of expansions in an access arrangement, and considers that this approach should also apply to extensions of a covered pipeline. The Goldfields Gas Pipeline, which is regulated by the ERA, is to our knowledge the only covered pipeline in Australia where expansions were excluded from coverage by the access arrangement. This occurred for a number of historic reasons. The last expansion was excluded following a decision by the ERA. The ERA felt constrained to the coverage criteria and attempted to make a decision normally in the realm of the National Competition Council. In hindsight, this is not appropriate. The regulator should not determine whether regulation applies or not. The National Competition Council is best placed to make coverage assessments. Also, there should be clear separation between the body that determines the form of regulation to apply to a pipeline, and the regulator who applies this regulation. This is a well-accepted separation of powers in Australia.

Furthermore, the coverage criteria cannot be sensibly applied to expansions. Expansions do not extend the geographic reach of the pipeline into different markets. If there are reasons why a pipeline should remain covered, then expansions of that pipeline should be automatically covered.

Uncovered expansion services use regulated assets that have been covered because they are natural monopolies, so the ERA considers that it is reasonable to expect that the service provider will exercise some market power and charge tariffs as close as possible to each user's opportunity cost. As a result, there would be an economic incentive for the service

provider to expand the capacity of their pipeline for providing uncovered services. That is, if the service provider can set tariffs for uncovered services above incremental cost, then it can earn above normal economic profit on its investment to expand the capacity of the pipeline. Unlike similar investments in covered services, such expansions will have no effect on the reference tariff determination in the next access arrangement.

The default inclusion of expansions alone would resolve a significant risk that the current reference tariff determination for the Goldfields Gas Pipeline exacerbates the economic inefficiency of all services provided by the Goldfields Gas Pipeline from unexploited economies of scale over the longer term. The ERA considers that the reference tariff determined at the last access arrangement review for the Goldfields Gas Pipeline could discourage use of covered services.

Automatic coverage should apply to extensions of the covered pipeline. This seems the best approach to reduce the administrative complexity and burden on the National Competition Council. As noted above, the ERA considers that the regulator should not be responsible for making coverage decisions. There are many small extensions to a distribution network each year, and it appears that an automatic coverage framework would work for these extensions. This would reduce the administrative burden of making a decision each year to keep pace with network growth. Transmission extensions are usually more *ad hoc*, and it should be up to the service provider to present a case as to why coverage of an extension should be revoked.

In clarifying the operation of revenue caps (draft recommendation 9) it is unclear how under or over recovery of revenue should be dealt with in practice for the subsequent regulatory period. The ERA considers the practicality of implementing and assessing a proposed adjustment mechanism to be an important and relevant factor that should be considered under National Gas Rule 97.

However, it is unclear how the AEMC's proposal (draft recommendation 9) would work with the time lag of actual information. The tariffs in the first year of the following access arrangement would be set before the completion of the final year of the previous period, hence actual revenue would be unknown. The tariff variation could only occur from year two of the following access arrangement period.

The ERA supports the AEMC's draft recommendation 12 clarifying the process for equalising revenue during the interval of delay. The ERA's final decision of the Goldfields Gas Pipeline is currently subject to judicial review on this issue and this is being considered by the Supreme Court of Western Australia.

The ERA supports the removal of the limited and no-discretion regulatory framework to ensure the rules reflect the NGO. Removing the limited and no discretion framework should ensure there is no question that the regulator can and should make a decision that will, or is likely to, contribute to achieving the NGO to the greatest degree. The current regulatory discretion framework can impede this.

The AEMC should reconsider removing the requirement to provide Key Performance Indicators (KPIs) as part of an access arrangement, and should consider strengthening the link between forecast expenditure and the KPIs used. KPIs should be agreed with the regulator. This could be achieved if the requirement was in Rule 48 (contents of an Access Arrangement) rather than the Access Arrangement Information (AAI). A prudent service provider would be expected to set itself KPI targets and base its expenditure/investment decisions on meeting its KPI expectations.

Please contact Robert Pullella or Tyson Self if you wish to discuss our submission further. The ERA looks forward to working with the AEMC on enhancing the rules to address the issues identified by the AEMC.

Yours sincerely



NICOLA CUSWORTH

CHAIR

03 / 04 / 2018

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Response to all AEMC recommendations

AEMC Draft Recommendations	ERA Comment
Framework for Pipeline Regulation (Chapter 3)	
<p>Draft recommendation 1: Include all expansions in an access arrangement</p> <p>That the NGR be amended such that:</p> <ul style="list-style-type: none"> • all future expansions be included in access arrangements • an existing expansion that is not included in the existing access arrangement must be included in the access arrangement at the next access arrangement revision. 	<p>Support</p> <p>The ERA supports a default approach to include all expansions into the access arrangement. It also supports of the proposal that excluded prior expansions be included in the next access arrangement revision.</p> <p>The ERA has provided its reasoning in the letter.</p>
<p>Draft recommendation 2: Remove regulator’s discretion to exclude an expansion from light regulation</p> <p>That the framework be amended such that:</p> <ul style="list-style-type: none"> • the regulator’s discretion to exclude an expansion from a light regulation pipeline under s. 19 of the NGL be removed • expansions that have been excluded from a light regulation pipeline without a limited access arrangement are to be treated as part of that pipeline. 	<p>Support</p> <p>The ERA supports a default approach to include all expansions as part of the light regulation pipeline.</p>
<p>Draft recommendation 3: Enable existing extensions to be included in access arrangements</p> <p>That the NGR be amended to permit a service provider to seek an existing extension to a scheme pipeline be included in the relevant access arrangement. This option is to be available at the next access arrangement revision.</p>	<p>Do not support</p> <p>The ERA does not support this change to extensions.</p> <p>The automatic coverage approach should also be applied to extensions of the covered pipeline. This seems like the best approach to reduce the administrative complexity and burden on the National Competition Council. As noted above, the ERA considers that the regulator should not be responsible for making coverage decisions. There are many small extensions to a distribution network each year and it appears that an automatic coverage framework would work for these extensions. This would reduce the</p>

AEMC Draft Recommendations	ERA Comment
	<p>administrative burden to make a decision each year. Transmission extensions are usually more ad-hoc and it should be up to the service provider to present its case as to why an extension should be revoked.</p>
Reference Services	
<p>Draft recommendation 4: Clarify the requirements for defining pipeline services</p> <p>To amend the definition of pipeline service in the NGL and the requirement to describe pipeline services in an access arrangement under the NGR. Specifically, amendments should require that:</p> <ul style="list-style-type: none"> • a pipeline service is to be stated or identified in terms of parameters such as type, location and priority (firmness of service), consistent with the provisions for the distinction between pipeline services under rule 549(3) of the NGR for non-scheme pipelines • the service provider of a covered pipeline is to provide, as part of an access arrangement proposal, a full list of available and potential pipeline services. This list of pipeline services can be referenced to existing gas transportation agreements for that pipeline. 	<p>Support</p> <p>The ERA supports the amendments to the definition of pipeline services which will assist with determining reference services.</p>
<p>Draft recommendation 5: Clarify the requirements for defining reference services</p> <p>To amend the NGL and NGR in order to:</p> <ul style="list-style-type: none"> • clarify the purpose of the reference service • set out the parameters that must be included in a statement of a reference service, which may include: <ul style="list-style-type: none"> – clarifying what the statement of reference service required by rule 101 of the NGR should contain, considering the amendments to the definition of pipeline service – moving rule 101 to Division 4 of the NGR in order to clarify the interaction between rules 48 and 101 and create a clear, chronological process for the specification of reference services. 	<p>Support</p> <p>The ERA supports the amendments to clarify the purpose of reference services and the parameters that must be included in a statement of a reference service.</p>
<p>Draft recommendation 6: Update the test for determining a reference service</p> <p>To amend the NGR in order to require the regulator to determine one or more pipeline services to be reference services, having regard to the following criteria:</p> <ul style="list-style-type: none"> • historical and forecast demand for the service and the number of prospective users 	<p>Support</p> <p>The ERA supports the regulator having regard to those criteria for determining a reference service.</p>

AEMC Draft Recommendations	ERA Comment
<ul style="list-style-type: none"> the extent to which the service is substitutable with other pipeline services the feasibility of allocating costs to the service the usefulness of the service in supporting access negotiations. 	
<p>Draft recommendation 7: Introduce a reference service setting process</p> <p>To amend the NGR in order to:</p> <ul style="list-style-type: none"> introduce a fit for purpose process to determine the reference services to be provided by the service provider with the following key design elements: <ul style="list-style-type: none"> the service provider submits to the regulator its full list of pipeline services and proposed reference services, based on the reference service criteria to be specified in the NGR the process is four to six calendar months, with at least one round of consultation the regulator's final decision on the reference services is guided by the reference service criteria and is binding on the access arrangement process, unless there is a material change in circumstances enable service providers to set a review submission date and revision commencement date, with the approval of the regulator (rule 50 of the NGR) remove the pre-submission conference (rule 57 of the NGR). 	<p>Support</p> <p>The ERA supports this new process which, as provided for by the, AEMC, must be binding unless there is a material change in circumstances. Otherwise the benefits of this new process will be lost.</p> <p>The ERA experience is that pre-submission conferences have not been requested by the service providers in Western Australia. However, the ERA and service providers usually hold informal discussions prior the lodgement of the Access Arrangement if needed/requested.</p>
<p>Access Arrangements (Chapter 5)</p>	
<p>Draft recommendation 8: Develop financial models to be used by service providers</p> <p>To include in the NGR a rule allowing the regulators to develop and publish financial models. If the models are developed and published, service providers will be required to use them to construct the capital base, and the total expected revenue from the building block approach. These models should be developed (and in future, modified or replaced) and published in line with:</p> <ul style="list-style-type: none"> a consultation period of no less than 30 business days from publication of the proposed models the publication of issues, consultation and discussion papers, and the holding of conferences and information sessions, as appropriate the publication of a final decision within 80 business days. <p>The models should be available on the regulators' websites within six calendar months of the commencement of the rule and reviewed (at least) every five years.</p>	<p>Support</p> <p>This sounds reasonable, as long as it is optional for the regulator to develop these models. The administrative cost of establishing these financial models may be prohibitive for the ERA. The end user ultimately pays the cost.</p> <p>On points of clarification with the recommendation:</p> <ul style="list-style-type: none"> Why does there need to be a time constraint on the final decision, and when does the clock start for the 80 business day for final decision? Why is there a requirement to make the models available within six calendar months of the

AEMC Draft Recommendations	ERA Comment
	commencement of the rule if it is optional on the regulator?
<p>Draft recommendation 9: Clarify the operation of revenue caps</p> <p>To amend the NGR to clarify that the use of a variable revenue cap or a revenue yield control tariff variation mechanism is to allow for any over or under recovery of the revenue cap or yield in the last year of one access arrangement period to be included in the tariff variation for the first year of the following access arrangement period.</p>	<p>Do not support</p> <p>It is unclear how a mechanism for over and under recovery of revenue would work in practise.</p> <p>It is unclear how the AEMC's proposal would work with the time lag of actual information. The tariffs in the first year of the following access arrangement would be set before the completion of the final year of the previous period, hence actual revenue would be unknown. The tariff variation should occur in year two of the following access arrangement period.</p>
<p>Draft recommendation 10: Clarify that the regulator is to have regard to risk sharing arrangements</p> <p>To amend rules 97 and 100 of the NGR to clarify that the regulator is to have regard to the risk sharing arrangements implicit in the economic elements of the access arrangements when determining:</p> <ul style="list-style-type: none"> • the non-tariff terms and conditions • the reference tariff variation mechanism. 	<p>Support</p> <p>This should ensure that the price and terms and conditions are reflective of the same risk sharing arrangements.</p>
<p>Draft recommendation 11: Extend the revision period</p> <p>To amend rule 59(3) of the NGR to extend the revision period from at least 15 business days to at least 30 business days.</p>	<p>Support</p> <p>The ERA has given service providers at least 30 business days for the revision period in the past.</p>
<p>Draft recommendation 12: Clarify the process for equalising revenue during the interval of delay</p> <p>To amend the NGR in order to clarify that:</p> <ul style="list-style-type: none"> • the process for equalising revenue during an interval of delay is to result in a service provider being no better or worse off as a result of the interval of delay • the definition of the access arrangement period includes the period known as the interval of delay. <p>To achieve this draft recommendation, the Commission expects that amendments to rules 3 and 92 of the NGR will be required.</p>	<p>Support</p> <p>The ERA supports the direct specification that the regulator should equalise (in present value terms) revenue during an interval of delay to ensure the service provider (and customers) are no better or worse off as a result of the delay.</p> <p>It is important that the definition of access arrangement period incorporate the period known as the interval of delay.</p>

AEMC Draft Recommendations	ERA Comment
<p>Draft recommendation 13: Remove the limited and no discretion regulatory framework To remove the limited discretion and no discretion framework contained in rule 40 from the NGR.</p>	<p>Support The ERA supports ensuring the rules reflect the NGO. Removing the limited and no discretion framework should ensure there is no question that the regulator can and should make a decision that will or is likely to contribute to the achievement of the NGO to the greatest degree. The current regulatory discretion framework can impede the making of regulatory decisions that promote the NGO to the greatest degree.</p>
<p>Determining efficient costs (Chapter 6)</p>	
<p>Draft recommendation 14: Clarify the application of the new capital expenditure criteria To insert the word “and” in rule 79 between subrules 79(1)(a) and 79(1)(b) to make it clear that regardless of which subrule (2) criteria are relevant for the purposes of subrule 79(1)(b), the expenditure in question must also meet the prudency criterion under rule 79(1)(a).</p>	<p>Support The ERA supports the addition of further clarity for the rule. It agrees with the AEMC that this requirement should always have been read as cumulative: that is, conforming capital expenditure must meet both rule 79(1)(a) and 79(1)(b).</p>
<p>Draft recommendation 15: Provide guidance on the allowed return for speculative capital expenditure To clarify that the rate of return to be applied to speculative capital expenditure under rule 84 of the NGR is, at a minimum, the return implicit in the reference tariff but that this could be adjusted upwards if the regulator deemed it was appropriate having regard to the circumstances of the particular investment.</p>	<p>Support with amendment The wording of rule 84 could be amended but it should clarify that the rate of return applied to speculative capital expenditure is the return implicit in the reference tariff unless adjusted upwards if the regulator determined it was appropriate having regard to the circumstances of the particular investment.</p>
<p>Draft recommendation 16: Clarify the term depreciation when used in capital base valuations To amend the NGR to clarify that the term “depreciation” when applied in calculating an opening capital base in rule 77 refers to economic depreciation. This gives the regulator or dispute resolution body the discretion to take previous returns into account when setting an opening capital base for a scheme pipeline.</p>	<p>Support The ERA supports the change to the term “depreciation” applying to rule 77. The term “depreciation” is applied to Part 9 of the NGR through rule 69. The AEMC’s change will make it clear that the term “depreciation” refers to economic depreciation and not accounting or</p>

AEMC Draft Recommendations	ERA Comment
	tax depreciation. This is appropriate as the ERA is calculating an economic return of the capital base.
<p>Draft recommendation 17: Require an initial capital base valuation for light regulation pipelines</p> <p>That the NGR be amended such that:</p> <ul style="list-style-type: none"> • for those light regulation pipelines without an initial capital base, the regulator must calculate an initial capital base within six calendar months of the commencement of the amendments • a light regulation pipeline service provider must comply with a request from the regulator for information required to calculate the initial capital base within 20 business days of the request • an initial capital base determination will be carried out in accordance with the relevant provisions in rule 77 of the NGR • the dispute resolution body, in a dispute regarding a light regulation pipeline, will apply the relevant initial capital base determination • the roll forward of an existing capital base valuation for subsequent dispute resolution proceedings will be carried out in accordance with rule 77 of the NGR. 	<p>Support with amendment</p> <p>The ERA supports a new requirement to establish an initial capital base valuation for light regulation pipelines. The ERA currently regulates one pipeline (Kalgoorlie to Kambalda Pipeline) in this situation. However, it is only useful to determine an initial capital base value if regulatory accounts are maintained on an annual basis to update the value and have this value ready to be applied in any access negotiation or dispute. If not, the valuation of the pipeline is likely to be out of date for any dispute resolution proceedings and could delay those proceedings.</p>
<p>Draft recommendation 18: Enable the addition of existing extensions and expansions to the opening capital base</p> <p>To amend the NGR to apply the capital base methodologies to:</p> <ul style="list-style-type: none"> • calculate the initial capital base that is associated with existing extensions and expansions • include the existing extensions and expansions in the capital base of the pipeline. 	<p>Support</p> <p>The ERA supports the change to enable the addition of existing extensions and expansions to the opening capital base of the covered pipeline. The wording of rule 77 needs to make it clear how the initial capital base will be determined for expansions.</p> <p>Expansions occurred on the Goldfields Gas Pipeline in 2006, 2008 and 2012. Without a change to rule 77, it could be interpreted that each expansion is a pipeline and that the Goldfields Gas Pipeline expansions in 2006 and 2008 would be covered by provisions under the Gas Code. While the expansion in 2012 is covered by rule 77(1)(b). It would be preferable for administrative simplicity and regulatory cost if there was a consistent treatment of valuation. The best option is rule 77(1)(b), as it more closely resembles the approach that would have applied if the 2006 and 2008 expansions had been</p>

AEMC Draft Recommendations	ERA Comment
	included in the rolled-forward capital base under the Gas Code.
<p>Draft recommendation 19: Require allocation of expenditure between covered and uncovered parts of a pipeline</p> <p>To amend the NGR in order to:</p> <ul style="list-style-type: none"> • require an access arrangement revision proposal to include proposed forecast capital and operating expenditures that refer to costs after an allocation of expenditure between the covered and uncovered parts of a covered pipeline • require a service provider to provide to the regulator details of the basis and methodology used to calculate the proposed forecast capital expenditure and operating expenditure and the allocation of the expenditure • clarify the regulator's discretion in assessing the total expenditure and cost allocation. 	<p>Support</p> <p>The ERA supports this change which would allow more transparency of the allocation of expenditure between covered and uncovered parts of a pipeline. The service provider should be required to provide the regulator with the total of any shared costs between the covered and uncovered parts of a pipeline and the methodology used to allocate costs to the covered part of the pipeline.</p> <p>As expansions will now be considered to be part of the covered pipeline, some of the more difficult shared cost allocations will be avoided. For example, in the last Goldfields Gas Pipeline access arrangement review, despite the physical pipeline being used to service both covered and uncovered services, the cost of that asset was only attributed to the covered pipeline due to the NGR. There will still be a shared cost issue with the possibility of extensions to a pipeline being treated as uncovered and so the AEMC's changes are still necessary. It is more likely that these will relate to operating expenditure.</p>
<p>Draft recommendation 20: Amend definition of rebateable services and rebate methodology</p> <p>To amend the NGR to:</p> <ul style="list-style-type: none"> • add a requirement that if an access arrangement includes rebateable services then it must also allow for the rebate of revenues from the rebateable services in the reference tariff variation mechanism • remove the requirement that rebateable services must be in a different market to reference services. 	<p>Support</p> <p>The ERA supports the change to remove the requirement that rebateable services must be in a 'different market'.</p>

AEMC Draft Recommendations	ERA Comment
Negotiation and information (Chapter 7)	
<p>Draft recommendation 21: Require transmission pipeline service providers to disclose Bulletin Board information</p> <p>To require all full and light regulation transmission pipeline service providers to disclose the same capacity and usage information that would be disclosed if they were Bulletin Board pipelines.</p>	<p>Support</p> <p>The ERA supports this change while noting that if the AEMC wanted to adopt this in Western Australia it would need to reference Western Australia's <i>Gas Services Information Rules</i>.</p>
<p>Draft recommendation 22: Require distribution pipeline service providers to disclose capacity and usage information</p> <p>That full and light regulation distribution pipeline service providers publish the same set of capacity and usage information as non-scheme distribution pipeline service providers.</p>	<p>Support</p> <p>The ERA supports further information becoming available to users/customers.</p>
<p>Draft recommendation 23: Clarify the role of the regulator in passing on information requests to service providers</p> <p>To improve rule 107(2) of the NGR to make it clear that the regulator may decline to issue a notice to the scheme pipeline service provider for all or part of the prospective user's requested information if, in the regulator's reasonable opinion:</p> <ul style="list-style-type: none"> • the prospective user has not previously requested the information from the pipeline service provider • the information is otherwise already available to the prospective user • the pipeline service provider has not had sufficient time to provide the information requested to the prospective user, or • the information is not reasonably required by the prospective user in order to decide whether to seek access to a service provided by the service provider, or to apply for access. 	<p>Support</p> <p>The ERA supports this change and the criteria for not passing on information requests to service providers appears reasonable.</p>
<p>Draft recommendation 24: Introduce a financial and offer information disclosure regime for light regulation pipelines</p> <p>That light regulation pipeline service providers publish the same set of financial and offer information as non-scheme pipeline service providers.</p>	<p>Support</p> <p>It is reasonable that light regulation pipeline service providers publish the same set of financial and offer information as non-scheme pipeline service providers. Currently, light regulation pipeline service providers are required to publish minimal financial and offer information. They are obliged to publish much less information than non-scheme pipeline service providers. The ERA considers that there is a gap in the level of information provided to prospective users of light</p>

AEMC Draft Recommendations	ERA Comment
	<p>regulated pipelines. Increasing the provision of information to the level required for non-scheme pipeline service providers is a minimum step to alleviate this gap and would do so with minimum cost to the light regulated pipeline. The increased information will assist prospective users in negotiations and arbitrations.</p>
<p>Draft recommendation 25: Remove the requirement to provide KPIs as part of the access arrangement</p> <p>That the requirements in the NGR on service providers to include key performance indicators (KPIs) in an access arrangement be removed. Regulators should instead set and collect KPIs through regulatory information notices (RINs) and regulatory information orders (RIOs).</p>	<p>Do not support</p> <p>Rather than remove the requirement to provide KPIs, the AEMC should consider strengthening the link between forecast expenditure and the KPIs used. The KPIs should be agreed with the regulator. One way this could be done is if there was a requirement in rule 48 (contents of an Access Arrangement) rather than the Access Arrangement Information. A prudent service provider would be expected to set itself KPI targets and base its expenditure/investment decisions on meeting its KPI expectations.</p> <p>The RIN/RIO is best used to collect the information so the regulator can understand the service provider's performance against these KPIs.</p> <p>Without changes to the KPI requirement specified above then there is no link between expenditure forecasts and service delivery/efficiency of network.</p> <p>Ideally it would be good if indicators were standardised as much as possible where appropriate, but with regulatory approval and full discretion the regulator could achieve this, although rules should specify that standardisation is a goal.</p>
<p>Draft recommendation 26: Improve the Scheme Register</p> <p>That the NGR be amended such that:</p>	<p>Support</p>

AEMC Draft Recommendations	ERA Comment
<ul style="list-style-type: none"> • service providers for non-scheme pipelines be required to provide the AEMC with a description of the pipeline upon commencement of the relevant rule. Subsequently, both scheme and non-scheme pipeline service providers should be required to provide a description of the pipeline for inclusion in the register whenever a new pipeline is built or when it is affected by an extension or expansion • the Scheme Register's contents be expanded to include published information about access determinations made under Division 4 of Part 23 of the NGR and exemption decisions made under Division 6 of Part 23 of the NGR • the name Scheme Register be changed to Pipeline Register • the current requirement for the Scheme Register to be made available for inspection at the AEMC's public offices during business hours be removed from the NGR. 	<p>These changes would allow for the Scheme Register to include all regulated pipelines in Australia which should assist users and potential users of these pipelines.</p>
<p>Arbitration (Chapter 8)</p>	
<p>Draft recommendation 27: Amend trigger for dispute resolution process</p> <p>To expand the negotiation process in the NGR to set out the steps that are to be followed by each party, and assign timeframes for each step. These steps include:</p> <ul style="list-style-type: none"> • upon receiving an access request from a prospective user, the pipeline service provider will acknowledge receipt within five business days • the pipeline service provider will investigate whether access can be provided, and inform the prospective user with evidence if it cannot within 10 business days of receiving the access request • if the pipeline service provider can provide access, then it will provide the prospective user with an access proposal within 20 business days of receiving the access request • if the prospective user wishes to seek access based on the access proposal, it must notify the service provider within 15 business days of receiving the access proposal • if the prospective user wishes to request modifications to the access proposal, it must notify the service provider within 15 business days of receiving the access proposal and the service provider should respond within 15 business days of receiving the access proposal • if the prospective user does not agree with the service provider's response, then it may trigger dispute resolution. <p>The Commission's draft recommendation is to redefine the trigger for the dispute resolution process as failure of the parties to agree within the negotiation timeframes (45 business days) in the NGL and NGR. The dispute resolution body will be able to terminate an access dispute if it</p>	<p>No comment. The Western Australian Energy Disputes Arbitrator is the dispute resolution body for Western Australian scheme pipelines.</p>

AEMC Draft Recommendations	ERA Comment
<p>considers that the notifying party had, but did not avail itself of, an opportunity to engage in negotiations in good faith.</p>	
<p>Draft recommendation 28: Clarify the role of the dispute resolution expert To clarify the role of the dispute resolution expert. The dispute resolution framework for scheme pipelines should provide additional guidance on the role of the dispute resolution expert in providing advice on dispute resolution, energy industry, gas industry and matters relevant to the particular dispute. The framework should also set out the process for appointing the dispute resolution expert and using the evidence or reports that the expert provides.</p>	<p>No comment. The Western Australian Energy Disputes Arbitrator is the dispute resolution body for Western Australian scheme pipelines.</p>
<p>Draft recommendation 29: Establish a reference framework for the dispute resolution body That the dispute resolution framework for scheme pipelines include a decision framework for dispute resolution on scheme pipelines that access determinations would be made in reference to. This framework would be in line with that under Part 15C of the NGR and include the following:</p> <ul style="list-style-type: none"> • national gas objective • revenue and pricing principles • access arrangements for full and light regulation pipelines • regulatory determinations for full regulation and light regulation pipelines • building block approach to calculate total revenue for light regulation pipelines (where applicable) • other criteria such as efficiency of process, and preservation of relationship between the parties. 	<p>No comment. The Western Australian Energy Disputes Arbitrator is the dispute resolution body for Western Australian scheme pipelines.</p>
<p>Draft recommendation 30: Introduce a fast-tracked dispute resolution process That the dispute resolution framework for scheme pipelines set out that a dispute can be resolved under a fast-tracked dispute resolution process if it meets a set of factors that are assessed by the dispute resolution body. The Commission's draft recommendation is for the fast-tracked dispute resolution process is to resolve a dispute within 50 business days. The dispute resolution framework for scheme pipelines would set out the steps and timeframes for the fast-tracked dispute resolution process.</p>	<p>No comment. The Western Australian Energy Disputes Arbitrator is the dispute resolution body for Western Australian scheme pipelines.</p>

AEMC Draft Recommendations	ERA Comment
<p>Draft recommendation 31: Publish dispute resolution commencement, outcome and other information</p> <p>That the dispute resolution framework for scheme pipelines require the dispute resolution body to publish, as soon as practicable:</p> <ul style="list-style-type: none"> • a notice outlining parties to the dispute, and subject of the dispute • the arbitration determination and relevant financial calculations (if applicable, for example the capital base valuation) • the information provided to the dispute resolution body during the course of the dispute. <p>The above should be subject to the publication requirements should be subject to the confidentiality provisions under s. 329 of the NGL.</p>	<p>No comment. The Western Australian Energy Disputes Arbitrator is the dispute resolution body for Western Australian scheme pipelines.</p>
<p>Draft recommendation 32: Enable joint dispute resolution hearings</p> <p>That Part 7 of Chapter 6 of the NGL be amended to enable parties to request that the dispute resolution body join them to an existing dispute. The NGL should also include the criteria for the dispute resolution body to accept or reject such a request, in addition to the process for parties to request to be joined to an existing dispute.</p>	<p>No comment. The Western Australian Energy Disputes Arbitrator is the dispute resolution body for Western Australian scheme pipelines.</p>
<p>Draft recommendation 33: Clarify the definition of rule disputes under the NGL</p> <p>To clarify in the NGL that the term 'rule dispute' does not include a dispute under the dispute resolution framework for scheme pipelines or the dispute resolution framework for non-scheme pipelines. Therefore, the jurisdictional commercial arbitration acts do not apply to disputes under the dispute resolution framework for scheme pipelines or the dispute resolution framework for non-scheme pipelines.</p>	<p>No comment. The Western Australian Energy Disputes Arbitrator is the dispute resolution body for Western Australian scheme pipelines.</p>