



Major Energy Users Inc.

24 October 2019

The Commissioners
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Sent by: online lodgement

Dear Commissioners

**DWGM simpler wholesale price GRC 0049
DWGM improvement to AMDQ regime GRC 0051**

Major Energy Users Inc (MEU) is pleased to provide its thoughts on the AEMC draft decision on the rule changes proposed by the Victorian Government for the Declared Wholesale Gas Market (DWGM) for a simpler wholesale price and improvement to the AMDQ regime. The MEU notes that the AEMC has made a final rule in respect to the third proposed rule change associated with these two proposed rule changes in that the AEMC does not consider there needs to be a forward trading market for the DWGM.

The MEU was established by very large energy using firms to represent their interests in the energy markets. As most of the members are located regionally and are the largest employers in these regions, the MEU is required by its members to ensure that its views also accommodate the needs of their suppliers and employees in those regional areas. It is on this basis the MEU and its regional affiliates have been advocating in the interests of energy consumers for over 20 years and it has a high recognition as providing informed comment on energy issues from a consumer viewpoint with various regulators (GMRG, ACCC, AEMO, AEMC, AER and regional regulators) and with governments.

The MEU was a significant contributor to the AEMC review of the DWGM that the AEMC undertook in 2015 and 2016 at the behest of the Victorian Government. While the MEU did not support the changes proposed by the AEMC for the DWGM at that time, it did recognise that some improvements could and should be made to the DWGM. The MEU sees these two draft decisions lead to some of the incremental improvements that the MEU considered were needed for the DWGM.

The MEU stresses that the views expressed by it in this response are based on looking at the issues from the perspective of consumers of gas but it has not attempted to provide significant analysis on how the proposed changes might impact other stakeholders, including AEMO, producers, generators, TNSPs and retailers.

Reflecting the above, the comments and observations included in this response are made from the viewpoint of end users of gas in Victoria. As some MEU members are active participants in the Victorian gas market, the MEU response is informed by their observations and the experiences they have had in operating in the DWGM.

As an overarching observation, the MEU generally supports the intention to improve the DWGM through

- _) Simplifying the gas price by addressing uplift caused by congestion
- _) Clarifying and modifying aspects of AMDQ

While supportive in general of the proposed changes, the MEU has a number of fundamental observations that it considers need to be accommodated within the changes to the rules.

A “cleaner” gas price

The MEU notes that the draft decision removes the MEU major concern that socialising some of the uplift charges would not be in the long term interests of consumers, especially Victorian consumers. The MEU had noted that socialising any of the uplift charges would reduce the incentive on Market Participants to better manage the risks of congestion.

The MEU does recognise that the changes in the draft decision will not deliver a “clean” price as such, but it might result in a “cleaner” gas price. Despite this, the MEU accepts that the draft decision provides a better outcome for consumers of gas.

Tradeable AMDQ

In the rule change proposal, AMDQ was to become tradable so that shippers could operate with multiple entry points and, by association, modify the flow path of the gas to each gas end user. The concept of AMDQ was to remain. The draft decision steps away from this concept by extinguishing existing AMDQ rights as such and now imposes a cost on all end users by requiring them to purchase AMDQ entry and exit rights to minimise the risks of costs from congestion.

In its submission to the consultation paper, the MEU was very concerned about tariff D end users needing to retain their rights to AMDQ as a tool for risk management and the risks they face should they either lose their exit rights (and so reduce the value of the investments they made prior to the establishment of the DWGM) and/or increasing the risks and costs they face through any uplift charges for congestion caused by their or others use of gas.

The MEU accepts that under the market carriage model applying to the DWGM, all end users can use the capacity of the DTS and that the AMDQ right is effectively a risk management tool to address the costs resulting from congestion. AMDQ is therefore a critical element that end users have to minimise the risks they face and maintain the ongoing viability of their investments.

In its draft decision, the AEMC comments (page iii)

“The Commission has decided not to grant entry or exit capacity certificates under the new regime to current holders of authorised MDQ, including tariff D customers, for a number of reasons:

- Authorised MDQ is a statutory bundle of rights that was conferred on customers in order to facilitate the working of the regulated DWGM market mechanism, and therefore, has always been susceptible to modification or extinguishment by amendment of the NGR.
- Current holders of authorised MDQ have benefited from these holdings for over 20 years, and by the time the new capacity certificates regime commences in 2023, they would have benefited for 24 years, which is a considerably long transition period.
- Analysis showed that the current allocations of authorised MDQ to tariff D customers are inefficient (where some tariff D customers hold authorised MDQ far in excess of their withdrawals on peak days, while others are not able to obtain it easily) and therefore should not be the starting point for the new regime.”

The MEU considers that these reasons are not sufficient to obviate the continuation of the AMDQ process. Removing AMDQ puts at risk the viability of the larger (tariff D) gas users that made significant investments prior to the advent of the DWGM. The MEU points out that at the time of establishing the DWGM, there was considerable concern amongst end users about the impacts of the DWGM on them and to alleviate these concerns, it was decided that the AMDQ concept was needed to protect these investments. Further, it was also recognised that the established end users had provided the underwriting for the development of the gas infrastructure and that the end user investment that needed protection was not only the assets owned by the end user but also the gas infrastructure assets they had caused (and effectively paid for) to be developed¹. The concerns of end users have not changed and the draft decision increases these concerns.

The AEMC asserts that the AMDQ rights were conferred to facilitate the operation of the DWGM. This is not correct. The AMDQ rights were developed to ensure the ongoing viability of the end users that were using gas in Victoria at the time of the decision to create a gas market. As the DWGM was initially proposed, there were no AMDQ rights (just as there are no AMDQ rights in the distribution networks) and the DWGM was expected to operate satisfactorily without these AMDQ rights. It

¹ The MEU points out that, just like gas infrastructure developments across Australia, without these large gas users committing to use gas, the DTS and the DWGM would not even exist

was the arguments provided by end users about the ongoing viability of their investments that resulted in the decision to included AMDQ rights in the DWGM. So to assert that AMDQ rights were established to make the DWGM operable and are no longer required for this purpose, is not only fallacious but not a reason to dispense with them; the DWGM will still continue to operate satisfactorily as it has for over 20 years with retention of AMDQ rights.

The AEMC asserts that, as end users have had these rights for over twenty years – considered by the AEMC to be a long transition period – this does not recognise that these rights are still needed to protect the investments made by the end users holding these rights, just as was recognised at the start of the DWGM.

The MEU points out that the rule change proposed by the Victorian government does not seek to extinguish these AMDQ rights but to establish a market for the trading of these rights. There is no doubt that a market for trading AMDQ and AMDQcc can be operated without extinguishing the AMDQ rights of those end users that still require them to protect their investments. Equally, the MEU does not consider that the holders of these AMDQ rights should be able to profit from the sale of them so it does not consider that the rights holders should be able to trade them for profit on the capacity market to be established. Equally, the MEU does not consider that AMDQ rights holders should be required to pay for limiting their exposure to the costs of congestion² through having to purchase the needed AMDQ.

Of the arguments provided in the draft decision to extinguish these AMDQ rights, the MEU accepts that there are AMDQ rights that are no longer used and that this notionally unused capacity of the DTS should be available for the use of others to protect their investments. The AEMC states that having unused AMDQ rights sitting idle is inefficient and the MEU agrees. What is needed is a mechanism to ensure that these unused rights are made available to the market and below the MEU proposes a process for achieving this.

An aspect that was not addressed by the AEMC in its draft decision, is that having AMDQ allocated to an end user provides the end user with some protection against the exercise of market power. The MEU considers that if all capacity rights were made tradeable through an auction process available to Market Participants, there exists the potential that a retailer/shipper might acquire some exit rights and use this ownership to limit the avenues available to an end user to pay the lowest possible price for its gas. This concern has a direct corollary in the ability of a gas shipper to acquire all of the firm capacity³ on a pipeline operating under contract carriage and so limiting the ability of an end user to get competitive offers for its gas. The allocation of AMDQ to end users minimises the ability to exercise market power.

² The MEU points out that end users in the electricity markets do not pay for having former rights to access and, in fact, electricity networks offer to pay end users for limiting their usage at times of congestion.

³ To overcome this concept of “capacity hoarding” pipelines under contract carriage operation now are subject to a complex arrangement where spare capacity has to be notified and made available for trading

With these thoughts in mind, the MEU considers that the AEMC should modify its approach on this issue. The DWGM will operate just as well if the following changes were made to the draft decision:

- The AMDQ holders should retain their right to the capacity at the entry (Longford) and exit point(s)
- If an AMDQ holder does not use some of its AMDQ over (say) the previous 5 year period, then the right to the unused capacity is extinguished (ie use it or lose it)⁴ and the capacity becomes available for the auction process
- An AMDQ holder cannot trade its AMDQ right through the auction process, preventing the AMDQ holder from profiting from its ownership. If an end user does not require its exit AMDQ (or part thereof) when it makes its daily gas nomination, then this exit AMDQ should be surrendered to AEMO for the time it is not required and made available for auction
- The existing AMDQ provides rights for carriage from Longford to the exit point, yet since the establishment of the DWGM new entry points to the DTS have been built⁵. This means that entry rights for existing AMDQ holders need to be transferable in whole or in part, subject to capacity constraints and AMDQ holders would make the entry rights available to their selected shipper to use as needed.

The MEU considers that this approach is not only consistent with the aims of the proposed rule change, it also prevents AMDQ holders from profiting from the sale of the right and releases unused capacity while maintaining appropriate protection of the end user's already sunk investments. New end users would be able to implement appropriate risk protection measures before they invest, something that the AMDQ holders were not able to do when the DWGM was established

The MEU is happy to discuss the issues further with you if needed or if you feel that any expansion on the above comments is necessary. If so, please contact the undersigned at davidheadberry@bigpond.com or (03) 5962 3225

Yours faithfully



David Headberry
Public Officer

⁴ The MEU considers that a 5 five period is reasonable as it is consistent with proposals for "use it or lose it" provisions for allocation of prospective gas field acreage

⁵ At Port Campbell and Culcairn but others also might arise in the future.