24 May 2022

Ms Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
SYDNEY 2001
Lodged via submission page

Dear Ms Collyer

Re: Hydrogen blends and renewable gases reforms

Thank you for the opportunity to provide feedback on the draft report to review of the National Gas Rules (NGR) to accommodate low level hydrogen and renewable gases blends with natural gas published on 31 March 2022.

The changes to the NGR are an important enabler for networks to transition to supply lower emission fuels through natural gas equivalents and meet net zero targets. Since 2019, ATCO have been producing green hydrogen from our Clean Energy Innovation Hub and using it within our operations depot in Jandakot. By the end of this year, ATCO will also blend hydrogen into a section of the gas distribution network, with approximately 2500 residential customers receiving a hydrogen blend.

Our feedback to the report and recommendations are focussed on ensuring the:

- Ability of networks to produce small quantities of primary gases for trial use
- Information provision and notification obligations provide flexibility and are limited to areas that will improve an identified potential market imbalance
- Treatment of concession finance is not equivalent to government grants

Furthermore, transitional provisions are required to capture past network expenditure to accept hydrogen blends and renewable gases.

Renewable gas production

The inclusion in the covered gas framework of renewable gases provides investment certainty for investments in hydrogen, biomethane and synthetic methane. However, with very few participants leading the use of these renewable gases it also creates restrictions for an emerging industry.

In the current framework, ATCO Gas has had the ability to produce hydrogen as it does not constitute a ‘related business’ for the purposes of s 139 of the NGL. Under the proposed changes to the ring fencing rules (particularly the changes to the NGL definition of ‘related business’), ATCO Gas will be prohibited from engaging in blend processing and the production, purchase or sale of hydrogen (as well as other primary or processable gases).

ATCO is at the forefront of demonstrating the use of renewable gases in distribution networks and removing the ability for networks to produce renewable gas will present challenges to industry development. The availability of renewable gases has not progressed to the level of natural gas. There is a need for networks to produce renewable gases in order to test and trial their use prior to wide spread introduction. ATCO notes that no changes to the draft regulatory sandbox rules are proposed, as change of product trials will not be required to supply a covered gas instead of natural gas.

In regard to Question 1 in the paper, ATCO considers that an exemption should exist for pipeline service providers from minimum ring fencing requirements to permit the production of small quantities of renewable gases to a threshold level. Small production quantities will allow the continuation of industry development and will not impact competition in the markets for the supply of renewable gases. The exemption criteria should be set in the NGR to provide certainty for pipeline service providers in making decisions to invest in demonstration projects. There are a number of current demonstration projects around Australia that will be impacted by restrictions, should no exemption be provided.

Information provision and notifications

Information disclosure in regulated markets is primarily aimed at reducing market imbalances when one participant may have an unfair advantage over another.

There are a number of recommendations (Draft Recommendation 2 and 5) which will require pipeline service providers to publish information on connection and type of gases transported. Given the rules are aimed at enabling a transition to natural gas equivalents, ie those that can be used in existing appliances, the value of this information may be negligible.

ATCO supports measures to provide access to information that will enable the efficient use of pipelines to transport covered gases. Some of the information identified to be reported is dynamic and may be influenced by seasonality, volume and flow at different locations within the pipeline and will be subject to change. Negotiations between parties are the best approach for the most current information to be made available to the market. Specifying the information across user access guides, access arrangements and the gas pipeline register, seems like an unnecessary duplication of information that may not be the most accurate. With Access Arrangements undertaken usually every five years, there is the likelihood that information published on trials could be outdated by industry progress and technology developments. It would be more effective if publication of trial information was driven by raising customer awareness and not directed by Rules on when and where the information should be made available.

ATCO considers that any amendments to the NGR requiring service providers to publish information be limited to approvals to transition a pipeline by a jurisdictional technical regulator. Overly prescriptive rules in the NGR will have limited value as information will change over time.

Concessional finance treatment

ATCO does not support the treatment of concessional finance as a capital contribution (Draft Recommendation 7) and equivalent to the treatment of government grants.

The paper justifies support for amending rule 82 to provide the regulator with discretion to treat concessional finance as capital contributions by users as a need to provide clarity to “prevent service providers from deriving a windfall gain from government grants and concessional finance”. This view goes against the intent of concessional finance being provided to incentivise investment where it would not normally occur.

Treating concessional finance different to any other form of debt financing goes against the principles embedded in setting the cost of debt in the Rate of Return Instrument by the regulator and the incentive base regulatory framework. The regulatory practice in Australia is to set the cost of debt for a benchmark entity rather than set for the specific circumstances of the individual firm – this recommendation is a notable step away from this and fundamentally changes the regulatory framework in Australia.

ATCO considers that rule 82 should only be amended to clarify its application to government grants, and no discretion provided to the regulator on concessional finance.

Transitional provisions

Transition provisions will be necessary to enable recognition and recovery of investment that has occurred prior to the introduction of these changes to be incorporated into the economic regulation framework. Transitional provisions could be modelled on the speculative investment provisions in the NGR subject to the regulator satisfying itself that the investment is prudent and efficient in the usual way.

ATCO will continue to work with the WA Government to progress the necessary reforms in the local market to ensure investment certainty for hydrogen projects in Western Australia.

If you have any questions or would like to discuss any of the comments made in this submission, please contact myself or Hugh Smith, General Manager Regulation and AA6 Lead on 0459 894 397.

Yours sincerely

J.D. Patrick Creaghan
Country Chair
ATCO Australia