



25 January 2024

Submission: Draft Compensation and Dispute Resolution Frameworks

The Australian Pipelines and Gas Association (APGA) represents the owners, operators, designers, constructors and service providers of Australia's pipeline infrastructure, connecting natural and renewable gas production to demand centres in cities and other locations across Australia. Offering a wide range of services to gas users, retailers and producers, APGA members ensure the safe and reliable delivery of 28 per cent of the end-use energy consumed in Australia and are at the forefront of Australia's renewable gas industry, helping achieve net-zero as quickly and affordably as possible.

APGA welcomes the opportunity to contribute to the AEMC's consultation on the *National Gas Amendment (Compensation and dispute resolution frameworks) Rule*. This work fulfils a request from the Energy and Climate Ministers Council to provide permanent dispute resolution and compensation frameworks following the Part 27 reforms.

APGA appreciates the engagement and consultation the AEMC has undertaken to date on this proposed amendment, and considers that this framework is a positive step forward from the current temporary arrangements. APGA does have concerns with the design of this framework, centred on exclusion of consequential costs for compensation.

Exclusion of consequential costs for compensation

The draft determination of the AEMC excludes consequential costs from eligibility for compensation. The consultation paper instead considers that "a pipeliner may be able to refuse [to comply with a direction] due to jurisdictional requirements, i.e. safety" [or quality]. AEMO notes that this would override AEMO directions under the East Coast Gas System (ECGS) framework and the National Gas Rules, and concerns around safety and quality can be resolved through communication between AEMO and the pipeline operator.

While jurisdictional requirements should override such directions without penalty, there is not sufficient certainty that this will occur in practice. The National Gas Rules do not require AEMO to take into account information or communications from pipeline operators around proposed directions, including that that direction may result in a safety or quality risk. Pipeline operators therefore have no way to be certain that their concerns around safety or quality issues as a result of a direction have been acknowledged.

There are also practical considerations, where a pipeline operator may only have a short period of time to assess whether compliance with a direction may result in safety or quality issues or noncompliance with jurisdictional law. Both these factors may result in pipeline

operators taking a more conservative approach to directions than otherwise to avoid consequential costs.

APGA therefore does not support the AEMC's decision to exclude consequential costs from eligibility from compensation.

Clarification of proposed rule 706

APGA also concurs with Jemena's proposal that rule 706 be modified to better clarify that such behaviour must be intentional or reckless to contravene the rule, as follows:

A relevant entity must not ~~by any act or omission, either~~ intentionally (or ~~being~~ recklessly, ~~as to the probability~~) exacerbate the direct costs incurred or likely to be incurred by the relevant entity or another person as a direct result of AEMO issuing an east coast gas system direction, without reasonable cause.

To discuss any of the above feedback further, please contact me on +61 422 057 856 or jmccollum@apga.org.au.

Yours sincerely,

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