



Economic Regulation Authority

Your Ref: ERC0134
Our Ref: D96732
Contact: Richard Begley

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Mr Pierce

Submission on the price and revenue regulation of gas services: Consultation Paper on Savings and Transitional Arrangements

Thank you for providing the opportunity for the Economic Regulation Authority (ERA) to make a submission on the Australian Energy Market Commission's (AEMC) Consultation Paper on Savings and Transitional Arrangements of 14 September 2012 relating to the Draft National Gas Amendment (Price and Revenue Regulation of Gas Services) Rule 2012.

The proposed transitional arrangements would affect the timing of the process to determine the rate of return under the National Gas Rules (NGR), for those service providers submitting proposed revised access arrangements in 2013 and 2014. Two service providers that are regulated by the ERA are in this category, namely ATCO Gas Australia Pty Ltd (ATCO Gas) and Goldfields Gas Transmission Pty Ltd (GGT).

The ERA has comments on aspects of the proposed transitional arrangements, namely:

- the proposal to delay by one month the requirement for ATCO Gas to submit its access arrangement by 1 July 2013;
- the proposal to allow ATCO Gas and GGT to revise their amended revised access arrangements, to incorporate any changes that might arise from their consideration of the final guidelines on the rate of return, which are due to be released in November 2013.

Delay of one month for ATCO Gas

The ERA considers that the AEMC's concern – that service providers may be disadvantaged if they are unable to respond to the rate of return guidelines prior to any access arrangement proposal – is misplaced. The ERA considers that the ATCO Gas access arrangement review process can proceed in parallel with the process to develop the rate of return guidelines. This is because it is likely that ATCO Gas would submit similar information to the ERA for the purpose of having its rate of return determined for the next access arrangement as it would for the purpose of responding to the draft rate of return guidelines.

The ERA notes that stakeholders other than ATCO Gas would also not be disadvantaged by having the access arrangement and guidelines processes proceed in parallel. These stakeholders are also likely to submit similar information to the ERA for both processes.

Thus the processes should be viewed as complimentary, not as mutually exclusive or sequential.

The main issue would be that the NGR needs to be amended sufficiently in advance to allow service providers to consider and respond to the proposed changes in advance of submitting to the regulator revisions to their access arrangements. As the proposed NGR changes are due by late 2012, the ERA considers that ATCO Gas and GGT would have ample time prior to lodging their proposals to formulate views on the proposed rule changes, and to incorporate these views in their proposals. With this in mind, there could even be scope for a service provider to lodge a proposal early.

Most importantly, the ERA considers that both service providers would have opportunity to respond to the final rate of return guidelines when submitting their 'amended proposed access arrangements', following the ERA's draft decisions on the respective 'proposed revised access arrangements'. The following illustrates the timeline and sequencing that would apply:

- Late 2012 – AEMC finalises its changes to the NGR;
- 1 July 2013 – ATCO Gas submits its proposed revised access arrangement;
- Late 2013 – ERA first releases its final rate of return guidelines;
- Late 2013 – ERA then releases its draft decision on the ATCO Gas proposed revised access arrangement;
 - the ERA draft decision on the rate of return would reflect the final rate of return guidelines, or would explain any variation – *at this point the two parallel processes have converged*;
- January 2014 – GGT submits its proposed revised access arrangement;
 - GGT would have had opportunity to respond to the draft and final rate of return guidelines in developing its proposed revised access arrangement;
- Early 2014 – ATCO Gas submits its amended proposed access arrangement;
 - ATCO Gas would have had time to respond to the final rate of return guidelines and to the draft decision on its proposed revised access arrangement, including any variation to the rate of return guidelines;
- Around the end of quarter one 2014 – the ERA releases its final decision on ATCO Gas amended proposed access arrangement;
- Mid 2014 to late 2014 – the ERA releases its draft decision on GGT's proposed revised access arrangement and GGT submits its amended proposed access arrangement;
 - GGT would have further opportunity to account for the final rate of return guidelines.

On this basis, the ERA considers that the proposed delay of one month for ATCO Gas is unnecessary. It would not make any difference to the sequencing or timing of the finalisation of the rate of return guidelines or of the subsequent draft determination on the ATCO Gas proposed revised access arrangement, which would occur by late 2013. It would also not make any difference to ATCO Gas' ability to respond, through its amended proposed access arrangement to either the final rate of return guidelines or the ERA's draft decision on its proposed revised access arrangement.

Proposal to allow ATCO Gas and GGT to revise their proposed access arrangement

The ERA does not consider that there is a need for special provision to be made for ATCO Gas or GGT to revise their proposed access arrangement after the ERA has handed down its respective draft decisions on the proposed access arrangement revisions. This is because – as indicated in the timeline above – both parties would have ample time to consider the final rate of return guidelines. It is the ERA's intention that the final rate of return guidelines precede the draft decisions on the proposed revised access arrangements, and be reflected in those draft decisions.

As a consequence, there would be no new information relating to the guidelines which was not contained in the draft decisions on the respective proposed revised access arrangements. The service providers would be able to respond to the draft decisions within the usual timeframe, having been aware of the content of the final guidelines on the rate of return for a period of time prior to the release of the draft decisions on the proposed revised access arrangements. This timeframe for response would be no different to the arrangements that were in place prior to the requirement for the guidelines on the rate of return, where decisions were made on a case by case basis.

In conclusion, the ERA recommends that the AEMC recognise that the rate of return guidelines development and the existing processes to evaluate the ATCO Gas and GGT proposed revisions to the access arrangements are complementary. It is difficult to see how either the service provider, or other stakeholders, would be disadvantaged by such an approach.

On the other hand, any delay in existing access arrangement revisions timelines for the ERA could create significant pressures on its constrained resources. The ERA is a relatively small organisation and it is important that the current sequencing of access arrangement proposals is maintained. Any delay in the process for ATCO Gas and GGT could lead to a significant cost for the ERA. There may also be significant costs for service providers if processes are delayed.

Yours sincerely



**LYNDON ROWE
CHAIRMAN**

18/10/2012