



**EnergyAustralia**

LIGHT THE WAY

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Mr John Pierce  
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Australian Energy Market Commission

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Dear Commissioners

Lodged electronically: [www.aemc.gov.au](http://www.aemc.gov.au) (GPR0004)

### **AEMC, Review into the scope of economic regulation applied to covered pipelines, 27 June 2017**

EnergyAustralia is one of Australia's largest energy companies with over 2.6 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own and operate a multi-billion dollar energy generation portfolio across Australia, including coal, gas, and wind assets with control of over 4,500MW of generation in the National Electricity Market and an annual gas portfolio of over 100PJ.

We appreciate the opportunity to provide some comments on the issues raised in the Issues Paper. EnergyAustralia provided extensive confidential information to the Australian Competition and Consumer Commission (ACCC) as part of their *Inquiry into the East Coast Gas Market*. In addition, we have been an active participant in the Gas Market Reform Group (GMRG) review of the gas pipeline coverage test and development of the information disclosure and arbitration framework (GMRG framework), now implemented in Part 23 of the National Gas Rules (NGR). EnergyAustralia supports the ongoing exploration of mechanisms to ensure that end use customers' long term interests are met through efficient pricing of pipeline assets.

#### **Light regulation and GMRG framework**

Through the processes above, we have sought a balance between appropriate incentives for investment in ongoing maintenance, augmentation and expansion of pipelines and ensuring shippers are exposed to costs reflecting a reasonable rate of return on those investments. There has historically been a lack of transparency around what this appropriate rate of return is under current arrangements for pipelines not covered by full regulation. This is of particular importance when many of these assets are of an age where they are likely to be fully depreciated and this is not reflected in the proposed return on capital.

As a major shipper on multiple pipelines, EnergyAustralia confronts the issues identified in the above reviews around negotiating access to pipelines on a regular basis. While we

are confident that we have the ability to negotiate a tariff that is consistent with our competitors, we have no means to calculate whether that reflects a reasonable rate of return to the pipeline owners.

The information disclosure requirements under the GMRG framework provide a good balance between avoiding high regulatory obligations on pipelines, while ensuring a sufficient level of information is available for prospective shippers to negotiate from a more effective position. Additionally, having recourse to arbitration under a clear framework with appropriate pricing principles laid out for the arbitrator also provides an incentive on both parties to negotiate in good faith. The possibility of arbitration presents a degree of credible threat of a less favourable outcome for either party and should drive a more effective negotiation process.

The information disclosure requirements under the GMRG framework do not go so far as to require publication of information relating to the asset valuation of a pipeline. Arguably, this information would allow for shippers to have a clearer understanding of tariff levels that would provide a reasonable rate of return. However, we note that the inclusion of this information as part of the pricing principles for arbitration under the GMRG framework places a level of discipline on the pipeline owner to have a stronger regard to this aspect when negotiating on pricing. Also, the provision of weighted average pricing information gives a higher level of confidence to all prospective shippers that the pricing outcomes they are negotiating are competitive.

We believe the existing light regulation arrangements for those scheme pipelines not subject to full regulation, do not compare favourably to the GMRG framework. We support the removal of this form of regulation in favour of the GMRG framework being extended to cover those pipelines currently subject to light regulation under the NGR.

### **Full regulation**

As noted above, there is a high level of uncertainty relating to whether tariffs set on non-scheme pipelines are representative of a reasonable rate of return on a given asset. There is much more transparency relating to this aspect under the full regulation regime, however there are concerns that in many cases this rate is set too high. Ensuring that there is a greater degree of consistency to the terms, conditions and prices across pipelines subject to all forms of regulation, and that applicable tariffs are highly reflective of reasonable costs and return on capital should form part of the Commission's review.

We do have concerns with some of the outcomes under full regulation, particularly given the ex-ante framework may not provide the appropriate requirements on the regulated party to follow through with the construction of specific projects that form part of a regulatory proposal. We understand that this is a deliberate design feature of the regulatory regime that theoretically allows for a lower cost solution to predicted network issues to be completed instead. Further, there is mechanism for ex-post review of projects undertaken during a regulatory proposal at the end of the five-year period. However, we note that there are examples of projects forming part of a regulatory proposal, and widely supported by shippers, that are deferred from being undertaken. We suggest consideration of the efficacy of these arrangements to ensure that beneficial projects are not deferred without a more rigorous review of their necessity being undertaken.

EnergyAustralia is keen to continue engaging on these issues, to ensure the best outcomes for customers and the market. If there are further specific questions or details that EnergyAustralia can assist with, then please contact Chris Streets on 8628 1393, or at [chris.streets@energyaustralia.com.au](mailto:chris.streets@energyaustralia.com.au).

Regards

**Melinda Green**

Industry Regulation Leader