

Review into the scope of economic regulation applied to covered gas pipelines

Stakeholder workshop discussion

AEMC

Today's agenda

Time	Agenda Item
9.30 am	Morning tea on arrival
10.00 am	Welcome and introduction <i>Richard Owens</i>
10.15 am	Framework for pipeline regulation <i>Tom Walker, Tim Kuypers</i>
11.30 am	Determining reference services <i>Tom Walker, Leah Ross</i>
12.00 pm	Lunch
12.45 pm	Access arrangements: other issues <i>Leah Ross</i>
1.30 pm	Determining efficient costs <i>Tim Kuypers</i>
2.30 pm	Afternoon tea
3.00 pm	Negotiation and information <i>John Mackay</i>
4.00 pm	Arbitration <i>Sherine Al Shallah</i>
4.45 pm	Closing remarks <i>Richard Owens</i>

Key messages

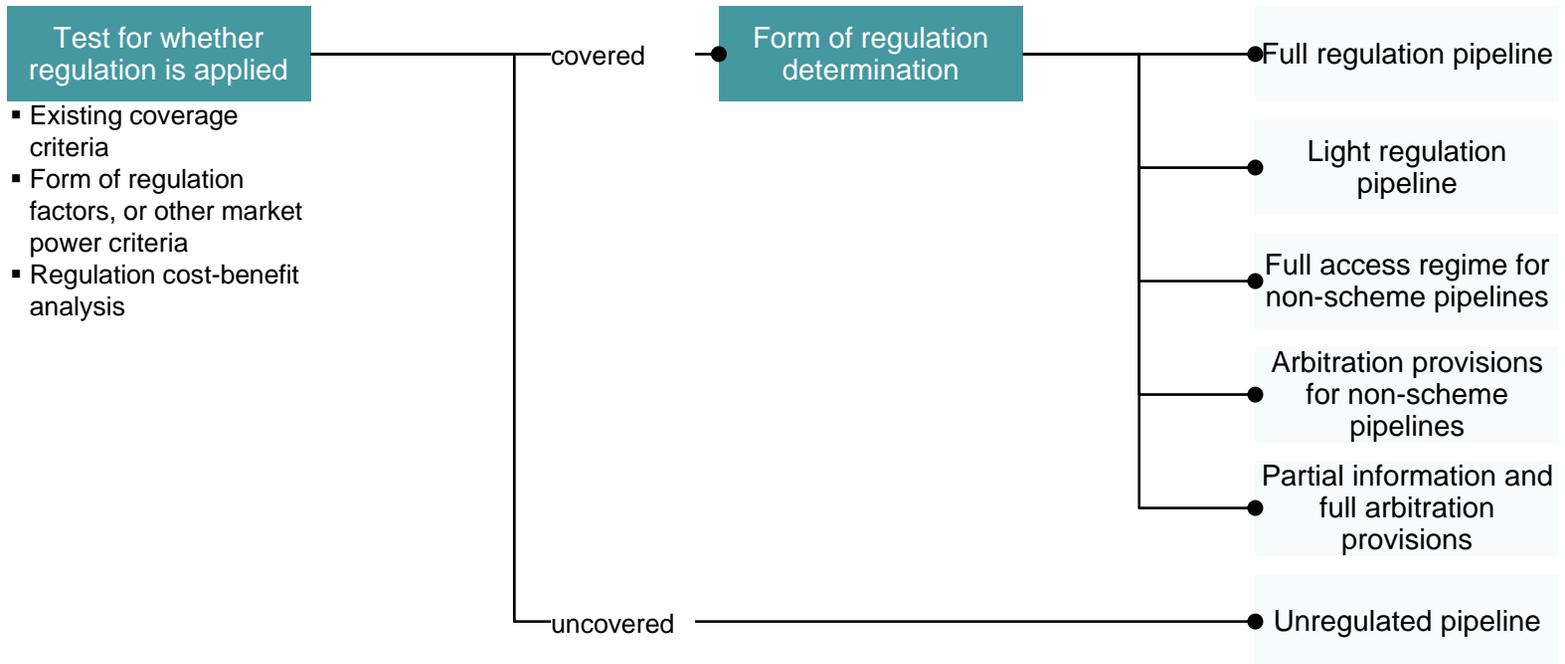
- Purpose of the workshop is to discuss potential solutions to address issues identified in interim report
- The workshop will not cover all the issues and recommendations that will form part of the draft report, but will focus on the key ones
- We will consult on the draft report
- We encourage everyone to be forthcoming in expressing ideas to enrich today's discussion
- We can also engage with stakeholders after today

General considerations

- Do the rules provide for an efficient and effective regulatory framework that is consistent with the NGO?
- Do the rules support efficient investment in gas transmission and distribution pipelines?
- How do the requirements under the rules affect the efficient operation and use of gas transmission and distribution pipelines?
- Do the rules provide appropriate incentives to service providers to provide access to pipeline services for upstream and downstream users?
- Do the requirements under the rules influence the tariff and non-tariff terms and conditions of access to pipeline services for the long term interests of gas consumers?

Determining the form of regulation

Potential solution



Questions

- *Do you agree with the characterisation of the issues in the current framework? How material do you think these issues are in practice?*
- *Would the illustrated changes to the framework address the issues?*
- *Are there any shortcomings of the proposed framework? How might these be addressed?*

Light regulation pipelines

	Light regulation	Access regime for non-scheme pipelines (Part 23)
Information disclosure	Non-prescriptive information disclosure provisions	Prescriptive information disclosure provisions on usage and financial information
Arbitration	AER is dispute resolution body and can appoint an external expert in relation to safety issues	AER is scheme administrator and appoints arbitrator from a pool
	Pricing and revenue principles refer to efficient costs	Pricing principles refer to actual costs
	Asset valuation method is not prescribed	Asset valuation allows the arbitrator to discount excess returns
	Arbitration hearing may be public, joint hearings may be held, confidentiality of material must be claimed, and parties to a dispute must comply with the arbitrator's access determination	Arbitrator's rulings and access determination are confidential

Questions

- *Are both forms of regulation required or appropriate?*
- *Should light regulation be removed?*
- *If both forms are appropriate, is there a case for greater alignment of the two regimes? That is, taking the “best bits” of Part 23 and applying it to light regulation, while retaining some differences.*

Coverage of pipeline expansions

Potential solution			
Form of regulation	Existing expansion		New expansion
	Expansion included in Part 8-12 access regime	Expansion excluded from Part 8-12 access regime	
Full regulation	Remain within access arrangement	Include in access arrangement at next review	Include in access arrangement
Light regulation with limited access arrangement	Remain within access arrangement	Include in access arrangement at next review	Include in access arrangement
Light regulation without access arrangement	Remain regulated	NA (under NGL all expansions must be included as part of the pipeline)	Regulated
Part 23 access regime	Applies to uncovered pipelines, expansions and extensions		

- ## Questions
- *Would the proposal address the issues?*
 - *Are there alternatives?*
 - *What are your views on the workability of transitional arrangements?*

Coverage of pipeline extensions

Potential solution			
Form of regulation	Existing extension		New extension
	Extension included in Part 8-12 access regime	Extension excluded from Part 8-12 access regime	
Full regulation	Remain within access arrangement	(a) Allow service provider to propose to include extension in covered pipeline	
Light regulation with limited access arrangement	Remain within access arrangement	(b) If extension not included, third party can apply through coverage tests to have the extension covered	
Light regulation without access arrangement	Remain regulated	NA	Regulated
Part 23 access regime	Applies to uncovered pipelines, expansions and extensions		

- ## Questions
- *Would the proposal address the issues?*
 - *Do you consider that extensions would often also require an expansion? Should these be treated differently?*
 - *Are there alternatives?*
 - *What are your views on the workability of transitional arrangements?*

Determining reference services: definition and test

Potential solution

- *Set out parameters in pipeline service and reference service statements*
- *Service provider to provide list of pipeline services, and identify proposed reference services from list*
- *Regulator to assess proposed reference services based on set of criteria (demand, substitutability, cost allocation, relevance)*

Questions

- *Do you agree with the policy intent of reference services?*
- *Will the suggested changes to the definitions better meet the policy intent?*
- *Is it feasible to set out all pipeline services ahead of the access arrangement period?*
- *Which parameters distinguish a pipeline service?*
- *What criteria should guide regulator in determining reference services?*

Determining reference services: process

Potential solution

- *Introduce an upfront process for setting reference services*
 - ❑ *Process to identify and determine the reference service(s) ahead of the access arrangement proposal*
 - ❑ *Optional (at regulator's discretion) and involve one round of consultation*
 - ❑ *Upfront process could be similar to NER framework and approach*

- *Extend overall timeframe*
 - ❑ *For example, 18 months prior to revision commencement date*

Questions

- *Workability of upfront process:*
 - ❑ *When should it start? How long should it take?*
 - ❑ *Should it be initiated at regulator's discretion? Or applied to all pipelines at next review? Or be at request of service providers, or users? Or on the occurrence of defined trigger events?*
 - ❑ *Should evidence of pipeline services be provided?*

- *Or an extended timeframe?*
 - ❑ *How long would the extension need to be?*

Access arrangements: consistent financial models

Potential solution

- *Require all full access arrangement proposals to be developed using standardised, regulator developed financial models*
 - ❑ *For example, post-tax revenue model and roll forward model*
 - ❑ *Models can be periodically updated through a consultative process*

Questions

- *What are your views on mandating the use of consistent financial models?*
- *What would be an adequate timeframe for building and consulting on the models?*
- *How often should the models be reviewed?*

Access arrangements: regulatory discretion

Potential solution

- *Remove the regulatory discretion framework set out in rule 40 of the NGR*

Questions

- *What are your views on removing the regulatory discretion framework?*
- *Are consequential changes required to provide decision making guidance on:*
 - capital expenditure*
 - operating expenditure*
 - depreciation schedules*
 - tariff classes*
 - reference tariffs*
 - review date and revision commencement date*

Access arrangements: other proposed changes

Revision period

- *Extending the revision period to 30 business days*

Non-tariff terms and conditions

- *Including guidance in the NGR that the regulator should consider the allowed rate of return in the assessment of non-tariff terms and conditions and the tariff variation mechanism*

Determining efficient costs: capital base

Potential solution

- *Replace “depreciation” with “return of capital” in the calculation of the initial opening capital base*
- *Allow previously uncovered expansions, and extensions that are to be covered, to be:*
 - calculated using the initial opening capital base provision*
 - included in the next opening capital base*

Questions

- *Would the proposals address the issues?*
- *Are there alternatives?*
- *Are there any barriers to implementation?*

Determining efficient costs: cost allocation

Potential solution

- *Clarify that proposed capital and operating expenditure refers to expenditure **after** allocation of expenditure between covered and uncovered assets*
- *Require service providers to provide cost allocation methodologies for approval by the regulator*

Questions

- *Would the proposal address the issue?*
- *Are there alternatives?*
- *Are there any barriers to implementation?*

Determining efficient costs: rebateable services

Potential solution

- *Remove requirement that rebateable services must be in a different market to reference services*
- *Rebates from rebateable services to occur through the reference tariff variation mechanism*

Questions

- *Would the proposal address the issue?*
- *Are there alternatives?*
- *Are there any barriers to implementation?*

Negotiation and information: spare capacity

Potential solution

- *Require scheme pipelines to publish capacity and usage information as published by non-scheme pipelines*
- *Exempt bulletin board pipelines from information disclosure in cases where information is duplicated*

Questions

- *How material is the benefit to users?*
- *What additional costs will flow through to users?*
- *Is there any missing capacity and usage information that should be published?*

Negotiation and information: light regulation financial and offer information

Potential solution

- *Adopt non-scheme pipeline information disclosures*

Questions

- *How material is the benefit to users?*
- *What additional costs will flow through to users?*
- *Is there any missing information that should be published?*

Negotiation and information: full regulation financial and offer information

Potential solution

- *No change to current requirements*

Questions

- *Is available information sufficient for non-reference services?*
- *If not, what is missing?*
- *Is missing information best sought through information requests, or should it be published?*

Arbitration

- *What are the goals or the outcomes that the dispute resolution framework should achieve, for example:*
 - ❑ *Credible threat of arbitration*
 - ❑ *Enhanced negotiation process to avoid going to arbitration*
 - ❑ *Improved certainty and predictability of arbitration outcomes.*
- *What are the key characteristics of an ideal dispute resolution framework?*
- *For arbitration outcomes, do you consider that an arbitrator's decision should be appealable and under what circumstances?*
- *How important is it that information regarding the existence of a dispute be made public, as well as the outcome of the arbitration?*
- *What criteria should guide the arbitrator in making decisions?*
- *What are the factors to consider in deciding which body should be the dispute resolution body?*

Next steps

- Develop draft recommendations
- Publish draft report

