



Australian Government
**Department of Industry, Science,
Energy and Resources**

Ms Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
SYDNEY NSW 2001

Dear Ms Collyer

As you are aware, Energy Ministers have agreed to amend the national gas regulatory framework to accommodate hydrogen and renewable gas blends, such as biogas. These reforms have been identified as a priority in the context of the National Hydrogen Strategy.

Energy Ministers have agreed that it is appropriate for an independent review of potential gaps in the national gas regulatory framework arising out of amendments to cover hydrogen and renewable gas blends and for the AEMC to develop the initial rules required to accommodate these blends under an amended framework.

This review has been identified as a priority because a number of blending trials and larger blending projects are in development, with the first large projects expected to begin blending by early 2023. There is therefore a degree of 'catch up' that needs to occur to ensure that consumers, gas pipeline service providers and other market participants are not exposed to material risks and the application of the regulatory framework in the context of gas blends is clear. This review should have regard to a review that was conducted as an action of the National Hydrogen Strategy, which has identified potential gaps within the national gas regulatory framework.

Pursuant to section 79 of the National Gas Law and section 228 of the National Energy Retail Law, Energy Ministers request that the AEMC conduct a review of those elements of the national gas regulatory framework that may be affected by the supply of hydrogen and renewable gas blends and report back to Energy Ministers with the initial rules by November 2022. In conducting this review, the AEMC will be expected to work closely with the other market bodies, which are also being tasked to undertake reviews to support the proposed reforms, and officials who are progressing legislative reforms to bring these blends into the framework. The AEMC will also be expected to consult with industry and other stakeholders as appropriate on the draft initial rules. The attached Terms of Reference sets out the purpose, scope and timeframe for this review.

I thank you for undertaking the review at this time. If your staff wish to discuss the review further, please contact David Gourlay, the manager of the Renewable Gas section in my Department at david.gourlay@industry.gov.au or call (02) 6243 7485.

Sincerely

A handwritten signature in black ink that reads "Sean Sullivan".

Mr Sean Sullivan
Chair
Energy Senior Officials
24 August 2021



Review of the National Gas and Retail Regulatory Frameworks for the introduction of hydrogen and renewable gas

Terms of Reference

Background

Energy Ministers have agreed to reform the national gas and retail regulatory frameworks to accommodate hydrogen, biomethane and other renewable gas blends (“gas blends”). These reforms have been identified as a priority in the context of the National Hydrogen Strategy.

The purpose of these reforms is to bring renewable gases and gas blends within the national gas and retail regulatory frameworks. Energy Ministers have agreed that expedited reforms will focus on ‘low-level’ gas blends, such as those that can be safely supplied through existing gas networks. This will include low level hydrogen blends, biomethane and other renewable gases that can be substituted for natural gas (e.g. synthetic methane).

A desktop review of the national gas regulatory framework completed as an action of the National Hydrogen Strategy in 2020-21 found that if these blends were brought into the framework, most elements of the current framework could apply to these blends in the same way they apply to natural gas. The review did, however, find that a small number of gaps could potentially emerge that could affect some elements of:

- the economic regulatory framework applying to gas pipelines
- the facilitated and regulated retail gas markets
- the consumer protections provided for under the NERL and NERR
- the regulatory sandbox that is currently being implemented.

To address these gaps amendments to the National Gas Law (NGL), National Gas Rules (NGR), National Gas Regulations (Regulations), National Energy Retail Law (NERL), National Energy Retail Rules (NERR) and other subordinate instruments that form part of the national gas and retail regulatory frameworks will be required.

Energy Ministers therefore request that the Australian Energy Market Commission (AEMC) review matters falling within its area of responsibility, with a view to addressing these gaps for low level hydrogen blends, biomethane and other renewable gases that can be substituted for natural gas (e.g. synthetic methane).

Gaps in the national framework that could emerge as a result of the supply of higher level hydrogen blends and 100 per cent hydrogen will not be considered in this review process. These may be considered in a separate review at a later date, subject to a future request from Energy Ministers.



Energy Ministers' Directed Review

Pursuant to section 79 of the NGL and section 228 of the NERL, Energy Ministers¹ request the AEMC conduct a review of the proposed changes to the national gas and retail regulatory frameworks in accordance with these Terms of Reference.

These Terms of Reference, which have been developed in accordance with section 80 of the NGL and section 229 of the NERL, are intended to guide how the AEMC undertakes this review.

Purpose

The purpose of this review is to advise Energy Ministers on the initial rules required in the national gas and retail regulatory frameworks to accommodate low level hydrogen blends and renewable gases, and advise on any changes to the law required to enable these rules.

Scope

In undertaking the review, the AEMC is requested to:

- Have regard to the findings of the desktop review that was conducted for DISER as the starting point for the identification of potential gaps in the NGR and NERR that could emerge if low level hydrogen and renewable gas blends are permitted to be supplied through gas distribution networks
- Consult with market participants, industry, consumers, other market bodies and government officials, as appropriate, to identify any other material gaps in the NGR and NERR
- Develop the initial rules that are required to address the identified gaps in the NGR and NERR, and consult on the draft initial rules
- Advise officials working on the legislative reforms of any gaps in the NGL and NERL identified by the AEMC in its review of the rules.

The matters that the AEMC is asked to specifically consider are:

- The economic regulatory framework, including:
 - Connection and access by facilities for the production, injection and blending of hydrogen, biogas and other renewable gases into distribution networks (and other facilities as necessary) to ensure that:
 - access for these facilities is available on reasonable terms;
 - these facilities are covered by the dispute resolution provisions; and
 - hydrogen blending facilities only connect in parts of the network suitable for the injection of hydrogen; and
 - Ensure that any cap on the level of blending that may be set by a jurisdiction is implemented consistently in the regulatory framework.
- The facilitated markets and regulated retail markets, including:
 - address any matters that AEMO identifies in its review of the NGR, AEMO made Procedures and other AEMO made subordinate instruments that are required to ensure that settlement

¹ The Energy Ministers are those responsible for energy matters all of whom are members of the legally enduring Ministerial Council on Energy (MCE).



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and metering in the Short-Term Trading Markets (STTM), the Victorian Declared Wholesale Gas Market (DWGM) and regulated retail markets operate as intended

- registration categories for the STTM, the DWGM and/or regulated retail markets; and
- responsibility for creation of the blend (as between distributors and retailers) and whether and how that should be accounted for in the regulatory framework.
- The NERR and whether any additional consumer protections may be required, such as provision of information to customers and any minimum contract terms or bill content requirements.
- The regulatory sandbox provisions in the national gas and retail regulatory frameworks.
- Any other material aspects of the NGR and NERR necessary to support low-level gas blends under the regulatory framework.

Governance, consultation and timeframe

The Energy National Cabinet Reform Committee agreed on 11 June 2021 that these reforms should be expedited as a number of hydrogen and biomethane blending projects are proposed.

To expedite these reforms, Energy Ministers request that the AEMC conduct this review in parallel with the reviews that are to be conducted by AEMO, the AER, the ERA and legislative reforms led by officials to accommodate hydrogen and renewable gases into the national gas and retail regulatory frameworks.

Energy Ministers request that the AEMC work with AEMO, the AER, the ERA and officials to align these parallel processes and to share information, findings and resources as necessary. Energy Ministers also request that the AEMC participate in a project team that will comprise market bodies and officials working on these processes to facilitate collaboration and to report on progress to Senior Officials through its Gas Working Group.

The AEMC must conduct public consultation on this review that, where possible, should be conducted alongside public consultation for the other related processes.

The AEMC is requested to:

- Inform Senior Officials of its views on any required changes to the NGL and NERL and the prioritisation of any identified gaps, so that these can be reflected in the legislation to be prepared by Officials and legislative amendments can be provided to Energy Ministers for agreement by mid-2022.
- Publish a draft report that reflects public consultation and sets out the AEMC's draft recommendations on the initial rules and a first draft of the initial rules.
- Publish a final report that sets out the AEMC's final recommendations and its proposed draft initial rules that reflect the final recommendations.
- Consult on its proposed draft initial rules and report back to Energy Ministers by November 2022, with a final set of initial rules that can be made by the SA Minister once the required changes to the legislation are made.