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Independent Chair  
Gas Market Reform Group  
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Dear Dr Vertigan

### **Gas Pipeline Information Disclosure and Arbitration Framework: Initial National Gas Rules**

On 30 June 2017, the GMRG released the Initial Draft National Gas Rules (Draft Rules) and an accompanying Explanatory Note for public comment. The Draft Rules seek comment on whether the asset valuation methodology used by the arbitrator should be specified in the rules, and if so, what methodology should be specified.

The draft rules provide two alternatives for rule 569(2)(a) on the methodology to be used. Option 1 provides that the asset value should be determined with reference to the outcome in a workably competitive market. Option 2 provides that the arbitrator should be required to use the asset valuation principles that would apply to scheme pipelines, as outlined in rule 77 of the NGR. The Explanatory Note seeks comment on these two options and whether an alternative is preferable.

In our submission of April 2017, we suggested that the implementation of the framework should detail the appropriate asset valuation methodologies.<sup>1</sup> We also noted our strong support of the adoption of an actual costs-based approach to pricing.

As noted in the Explanatory Note, other stakeholders were concerned about the limited guidance to be provided to the arbitrator in determining the asset value, specifically that:

- the resources that negotiating parties and the arbitrator will have to spend on considering a range of alternative asset valuation techniques, which stakeholders have noted may affect the cost-effectiveness, timeliness and efficiency of the negotiation and arbitration process;

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<sup>1</sup> ACCC, *Submission on Gas Pipeline Information Disclosure and Arbitration Framework Implementation Options Paper*, April 2017, pp. 9 -10. Access here: <https://www.accc.gov.au/system/files/ACCC%20submission%20on%20Gas%20Pipeline%20Information%20Disclosure%20and%20Arbitration%20Framework%20Implementation%20Options%20Paper.pdf>

- the uncertainty that it would create for service providers and their financiers, which one pipeline operator noted could affect future investment in non-scheme pipelines; and
- the uncertainty that it would create for shippers, which could affect their investment in upstream and downstream facilities and the efficient utilisation of gas.

As a result of these concerns the GMRG has included the two options for asset valuation.

Option 2 gives more direction to an arbitrator on asset evaluation and provides consistency on asset valuation between scheme and non-scheme pipelines. While this does alleviate these concerns for pipelines that were commissioned after 1997, linking to rule 77 does not address these concerns for pre 1997 pipelines. Under option 2 the asset values for those pipelines will be determined by reference to 11 factors in section 8.10 of the Gas Code which each suggests different methods of asset valuation. The ACCC considers that adopting Option 2 will maintain uncertainty for stakeholders on how asset will be valued for pipelines commissioned before 1997 and would not address the concerns outlined above.

To provide certainty for all stakeholders, the ACCC strongly recommends that rule 569(2)(a) instead specifies that asset valuation by the arbitrator is to be based on construction costs plus any capital expenditure, less depreciation and asset disposals (depreciated actual costs) for all pipelines, regardless of commissioning date. The ACCC considers that adopting this approach will address the market power and imbalance in bargaining power concerns identified in its inquiry into the east coast gas market and should lead to more economically efficient outcomes.<sup>2</sup>

Please consider this letter a public submission. Should you wish to discuss further please do not hesitate to contact Kathryn Wood on (02) 9230 3846.

Yours sincerely



Rod Sims  
Chairman

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<sup>2</sup> ACCC, *Inquiry into the east coast gas market*, April 2016, Chapter 6.