



AGL Energy Limited
ABN: 74 115 061 375
Level 24, 200 George St
Sydney NSW 2000
Locked Bag 1837
St Leonards NSW 2065
t: 02 9921 2999
f: 02 9921 2552
agl.com.au

Ms Erin Murphy
Executive Officer
Gas Market Reform Group

Submitted via email: enquiries@gmrg.coagenergycouncil.gov.au

20 July 2017

Dear Ms Murphy,

Gas Pipeline Information Disclosure and Arbitration Framework

AGL welcomes the opportunity to comment on the Gas Market Reform Group's (GMRGs) release of the Gas Pipeline Information Disclosure and Arbitration Framework (Framework).

AGL is one of Australia's leading integrated energy companies and largest ASX listed owner, operator and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional generation fuel sources as well as renewable sources. AGL is also a significant energy retailer, providing energy solutions to over 3.7 million customers throughout eastern Australia.

AGL supports the introduction of the Framework as a flexible and transparent tool to assist in gas pipeline access negotiations with the overarching objective of delivering outcomes that 'would be expected in a workably competitive market'. AGL considers therefore, the introduction of this new Framework will add considerable value to the access negotiation process and may even actually encourage parties to the access agreement to negotiate a mutually acceptable outcome without actually having to resort to arbitration.

Although AGL is supportive of the framework, AGL wishes to draw the following specific issues to the GMRGs attention:

- The exclusion of matters from reference to arbitration include: a dispute about a pipeline service provided under an existing contract and a request to vary the terms and conditions of access applicable to a pipeline service provided under an existing access contract.
 - AGL strongly supports the exclusion of matters relating to existing contracts. The Framework is designed to assist new requests for access to services and existing contracts will already contain processes for any disputes around terms and conditions. AGL considers that applying the Framework retroactively to existing contracts would in effect be creating conflicting arbitration processes and create unnecessary confusion.



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- The Framework requires that financial information provided, including the weighted average price, must be audited and certified.
 - AGL notes however, that there is no comparable requirement for the physical information provided, such as pipeline capacity and compressor ratings. AGL proposes that an engineering report is also required to confirm the physical information provided, so that financial and non-financial data share the same assurance of accuracy.
 - Use of pricing principles to underpin the arbitration process.
 - AGL acknowledges that the framing of pricing principles to include an upper and lower bound based on the shipper/pipeline owner positions may have some merit. However, AGL notes that in framing any pricing principles, the possibility of perverse incentives being created must also be taken into account.
 - Specifically, AGL notes that, if the pricing principles are simply the identified price limits of the two parties, a perverse incentive may be created whereby prices may be inflated - or deflated - if the parties to the negotiation believe they are ultimately headed to arbitration and the prices under negotiation are to frame the arbitration. This may then result in more negotiations moving to arbitration than would occur if no upper and lower bounds were applied. Accordingly, AGL considers that pricing principles should guide the arbitration process but that ultimately the arbitrator should be given the flexibility, and allowed the necessary freedom of judgement, to apply pricing principles to each case without the prescribed limits of upper or lower bounds.
 - AGL also draws the GMRGs attention to a paper prepared by the Utility Regulators Forum (URF) on nationally consistent pricing principles for electricity distribution networks¹. In this paper, the URF articulates the importance of prices in delivering economic efficiency that “prices give correct signals for the use, operation and expansion of the [electricity distribution] network”. In identifying pricing principles used by different jurisdictional regulators, the URF, in line with AGLs argument above, state that principles “provide signposts for pricing, they do not provide simple rules. As a result, pricing decisions will involve a significant element of judgement and subjectivity. To be effective the regulatory approach must allow for these practical limitations.”
 - The Framework will make the following information public about any arbitration processes: the non-scheme pipelines involved, the parties to the arbitration (subject to the consent of the shipper), the name of the arbitrator and the time taken for arbitration.
 - AGL supports the requirement for shipper consent and the restriction of published information to these criteria. Specifically, AGL does not consider that details of the parties to the arbitration should be made public.
 - The AER would provide oversight and administration of the framework, including establishing the panel of arbitrators.

¹ Available at: https://www.ipart.nsw.gov.au/files/sharedassets/website/trimholdingbay/discussion_paper_-_utility_regulators_forum_-_review_of_nationally_consistent_pricing_principles_-_june_2005_-_websitepdf.pdf



- AGL supports the role of the AER in the oversight and administration of the arbitration framework, particularly its role in appointing the panel. AGL considers that adopting established structures, such as that used in the arbitration framework for gas scheduling, would work best as this arrangement has already proven to be acceptable for all parties.
- The arbitrator would have 50 business days to make a determination.
 - This arbitration framework is designed in part to expedite the process for seeking access to pipelines. AGL considers that allowing 50 days for the making of a determination elongates the process unnecessarily. A shorter timeframe, such as 30 business days for example, would be more likely to expedite the access-seeking process.

Finally, AGL questions the utility of a requirement for pipelines to publish an annual report in addition to an audited weighted average price. While AGL considers that the amount of transparent information provided should be maximised, the GMRG should also have regard to the efficiency of information requests for all parties and avoid duplication where possible.

If you have any queries about the submission or require further information, please contact Brigid Richmond at brichmond@agl.com.au or on 03 8633 6631.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Camroux'.

Simon Camroux

Senior Manager, Wholesale Markets