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LIGHT THE WAY

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Gas Market Reform Group
c/o Australian Energy Market Commission
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Dear Dr Vertigan

Lodged electronically: mailto:gas@environment.gov.au

GMRG, Gas Pipeline Information Disclosure and Arbitration Framework, 21 March 2017

EnergyAustralia is one of Australia's largest energy companies with over 2.5 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 options proposed in the Implementation Options Paper (Paper). We provided extensive confidential information to the Australian Competition and Consumer Commission (ACCC) as part of their *Inquiry into the East Coast Gas Market*, including through a private submission and hearing. In addition, we provided a confidential submission to the Gas Marker Reform Group (GMRG) review of the gas pipeline coverage test.

Information Disclosure

Of the options proposed in the Paper, we consider that options 2 and 3 provide the most useful information to prospective shippers, without imposing excessive compliance costs on the pipeline owners.

We believe that forward looking information is essential in assisting shippers with an understanding of not only the range of services available, but also the available pipeline capacity and the pipelines contracted position. The forward timeframes for information made available through the Gas Bulletin Board only extends out to 12 months. This information would be much more useful if projections closer to 10 years forward were provided.

It was raised by the GMRG whether the obligations would apply onto to pipelines based on their capacity. This included discussion of a potential exemption for pipelines with a capacity less than 10TJ per day. We would oppose this exemption, as exposure to negotiations on pipelines of this lower capacity raises the same issues of information asymmetry as for larger pipelines.

Arbitration Option

Option 3, as proposed by the GMRG, is our preferred mechanism for any arbitration process. While we consider that arbitration should only be viewed as a last resort, the chosen methodology should be robust and provide a strong incentive for pipelines to negotiate in good faith. The level of prescription under the chosen arbitration methodology must balance the need for a reasonable level of predictability in outcome while ensuring that the inherent risk in having some uncertainty acts as a disincentive to proceed to arbitration. A higher level of prescription would be likely to result in a more efficient arbitration process, reducing the timelines and increasing the consistency of the process. This would assist smaller shippers who are unlikely to seek arbitration likely to take an extended period of time.

Any arbitration mechanism should cover not only negotiations of new services, but also negotiations for addition of services to existing arrangements. This could include the addition of short term capacity.

In respect of potential disclosure of any arbitration, we support confidentiality being maintained throughout the arbitration process. However, limited disclosure could be useful following the completion of this stage. This should be limited to details such as the pipeline that the arbitration relates to and which arbitrator was used.

Pricing Principles

The pricing principles to be used in any arbitration are important and EnergyAustralia generally supports the view of the GMRG. However, we also consider that in many cases the terms and conditions are as important as the pricing information for the purposes of any arbitration. The risks of liability and indemnity provisions can be far greater than the impacts of small variations in pricing positions.

Implementation

Our understanding is that under the proposed GMRG work program, implementation of this new framework into law could occur around mid-2017. This timeframe would then see information disclosure requirements imposed from 2018, while arbitration would be feasible from mid-2017. This transitional arrangement would mean that for the latter half of 2017 a new arbitration process would be available without the benefit of the information disclosure obligations. Given the number of renegotiations that may occur during that window we consider that some thought needs to be given to ensuring that the benefits of the framework are available from the start date.

To do this, it may be an option to require that in the case of any failed negotiations, the previous pricing regime would apply as an interim arrangement until such time as an arbitration process based on the full information disclosure obligations could occur. In essence there would be a 6 month period that an existing arrangement would apply until the full implementation of the new information and arbitration mechanism was in place.

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

Regards

Chris Streets
Industry Regulation Lead