



03 February 2022

Submission: Improving consultation procedures in the Rules

The Australian Pipelines and Gas Association (APGA) represents the owners, operators, designers, constructors and service providers of Australia's pipeline infrastructure with a focus on high-pressure gas transmission. APGA's members build, own and operate the gas transmission and processing infrastructure connecting natural and renewable gas production around the country to demand centres in cities and elsewhere. Offering a wide range of services to gas users, retailers and producers, APGA members ensure the safe and reliable delivery of 28 per cent of the end-use energy consumed in Australia and are at the forefront of Australia's renewable gas industry, helping achieve net-zero as quickly and affordably as possible.

APGA welcomes the opportunity to contribute to the Australian Energy Market Commission (AEMC) consultation on Improving consultation procedures in the Rules (the **Consultation**). APGA agrees with the AEMC's original concerns with the Australian Energy Market Operator (AEMO) Rule Change Request and consider the supplementary proposal within the Supplementary rule change proposal put forward by AEMO may still not achieve an appropriate balance between flexibility and certainty for industry stakeholders about their opportunities to provide feedback on any given matter.

Ensuring an appropriate balance between flexibility and certainty for industry stakeholders regarding their opportunities to provide feedback on any given matter lies at the heart of the need for effective and robust consultation processes. Failing to do so may reduce regulatory transparency, be inconsistent with best practice regulation and negatively impact customer and investor confidence in the regulatory framework. While AEMO have adequately put forward the case for flexibility, APGA raises the below points which speak to the certainty side of the balance which needs to be struck.

APGA further recommends an alternate approach to improving consultation flexibility without risking consultation certainty. Noting that AEMO only raise specific concerns relative to the National Electricity Rules (NER), APGA propose that changes are allowed for within the NER where AEMO identify a need for change. However, as explained further below, APGA propose that equivalent changes in the National Gas Rules are unnecessary and should not occur.

Broad reaching provisions

AEMO's proposal suggests the option of replacing the standard consultative procedure in the NGR with the new flexible consultation procedure it has proposed be adopted into the NER. This change which AEMO proposes would impact more than their consultation

processes alone. Importantly to APGA, these provisions also apply to the consultation process which must be applied by the Australian Energy Regulator when making scheme pipeline determinations and greenfield incentive determinations per the proposed Pipeline Regulation RIS amendments currently being considered by Energy Ministers. These tests have significant long-term implications for a range of parties and warrant the application of the level of rigor afforded by the current standard consultative procedure.

Proposed approach

Certainty for industry stakeholders regarding their opportunities to provide feedback on any given matter must not be eroded, especially where little basis is identified. It is however also practically important for consultation to be flexible and expedient, and for changes to occur where genuine concerns are shared by those on both sides of the consultation process. To this end, APGA proposes the following:

National Electricity Rules

The NER's Rules consultation procedures (RCP) should maintain two consultation steps as the default requirement, but with the option for a shorter one step process in some circumstances, similar to the expedited rule change process used by the AEMC. The expedited rule change process is outlined in s.96 of the NEL and allows the AEMC to propose a one step process for urgent or non-controversial rule changes. However, if a stakeholder formally requests a two-step process (by objecting to the shorter process), and that request is not misconceived or lacking in substance, the AEMC must follow a standard two-step process.

National Gas Rules

APGA notes that the NGR already provides for a broader and more flexible range of consultation models applicable to various decisions and subordinate instruments – for example, the NGR already have an expedited consultation procedure, so there is no need to develop a new one-step consultation approach. There are only five AEMO instruments subject to the extended consultative procedure under the NGR, and APGA notes the similarities between the NGR's extended and standard consultative procedures. APGA are therefore happy for decisions currently subject to the extended consultative procedure to instead be subject to the standard consultative procedure (which has two steps). This would allow for the extended consultative procedure to be removed. However, the NGR's standard consultative procedure should not be amended, and as noted above, changing (lessening) the consultation requirements applicable to decisions which are currently subject to the standard consultative procedure would raise a number of significant risks and concerns for stakeholders.

APGA strongly believe in the need to achieve an appropriate balance between flexibility and certainty for industry stakeholders about their opportunities to provide feedback on any given matter. The original and supplementary rule change proposals by AEMO do not appear to achieve this balance, in particular where changes are proposed without consideration for existing alternate consultation options or alternate uses of specific rules by other regulators. APGA hope that a robust and appropriate basis will be required to change the NGR, and that the AEMC will implement APGA's proposed approach.

To discuss any of the above feedback further, please contact me on +61 422 057 856 or jmccollum@apga.org.au.

Yours Sincerely,

A handwritten signature in black ink, appearing to be 'JM', written in a cursive style.

JORDAN MCCOLLUM
National Policy Manager
Australian Pipelines and Gas Association