27 March 2024

Submission: Form of Regulation Review for the South West Queensland Pipeline

The Australian Pipelines and Gas Association (APGA) represents the owners, operators, designers, constructors and service providers of Australia's pipeline infrastructure, connecting natural and renewable gas production to demand centres in cities and other locations across Australia. 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 comment on the AER's consultation on the Form of Regulation Review for the South West Queensland Pipeline (SWQP). APGA's comments will be limited to the process of Form of Regulation Reviews rather than the SWQP specifically.

Process of Form of Regulation Reviews

APGA understands that the Form of Regulation Review for SWQP is the first in a series of reviews that will progressively examine all of Australia's transmission pipelines, at a rate of approximately two per year. The process and timelines shortlisting pipelines to undergo review and the order of those reviews have not been made transparent.

Importantly, this process does not require the AER to have documented suspicion of exercise of market power, or a third party to have requested a review.

The AER is required to monitor service provider behaviour (under s63A of the NGL) and provide reports on this behaviour every two years (under s63B of the NGL). Despite this the AER does not intend to use this monitoring, or its new Part 10 or Part 28 information gathering powers, to determine use of market power and does not consider a need to undertake separate monitoring to determine use of market power.

There are several reasons why this approach is problematic. Firstly, this review process may be imposed on pipelines where there is no documented evidence of or suspicion of use of market power, potentially multiple times a year. Responding to these Reviews and providing the information required under a s42 information request is not a cost-free exercise.

Secondly, the threat of a change in regulation may be a disincentive to investment. By examining all pipelines, any new transmission asset will necessarily need to account for its form of regulation to be subject to change at any time. This may have material impacts on final investment decisions of other assets which rely on pipeline connections, such as new supply in the Beetaloo Basin. This is considered in further detail below.

Increasing regulation of gas pipelines

In 2021, APGA has provided feedback[1] on the specific gas pipeline regulation reforms which have resulted in the commencement of this Form of Regulation Review.

As APGA noted at the time:

> *The ACCC's 2016 finding of pipeline service provider market power dates to the time of the East Coast Gas Inquiry. Gas supply and gas infrastructure services now experience much greater competition from alternative energy sources including Australian LNG import terminals. The term of contracts has become much shorter, presenting greater risk to infrastructure investors, and, as traditional gas supply basins decline, there is a new requirement for pipeline expansions and greenfield infrastructure to maintain crucial gas supply to limit price shocks.*

In addition to these competitive pressures recognised as far back as 8 years ago, gas supply and gas infrastructure services are also now subject to jurisdictional policies, targets and subsidies which encourage the transition away from gas use. This includes the Safeguard Mechanism, national 2035 and 2050 emissions reduction targets, the introduction of the Day Ahead Auctions in 2019, and other mechanisms.

APGA has commented extensively on increasing intervention in the gas supply market over the last two decades and its impacts on gas cost, which also has impacts on the costs of gas haulage and transport contracts.[2] The introduction of Day Ahead Auctions, for example, provided opportunistic gas customers access to contracted – paid for – but unnominated pipeline capacity from $0 starting price, reducing incentives for investing in firm transport. Effectively, this allows competitors of firm shippers to benefit from the investment firm haulage investments by their competitors.

Ultimately the key issue that impacts prices and services available to pipeline customers lack of secure, long term gas supplies, not insufficient regulatory intervention. This will have even greater impact in the near term with growing disincentives to investment in new gas supply and gas infrastructure, such as increased competition offered by a Capacity Investment Scheme which excludes gas. At time when investment in gas is critical, this puts GPG – and the gas pipelines that supply them – at a distinct investment disadvantage relative to their renewable electricity alternatives.

The market needs more gas

AEMO's Draft 2024 Integrated Systems Plan (ISP) forecasts that by 2050, the National Energy Market (NEM) will need a total of 16.2 GW of flexible GPG (gas powered generation), with 8 GW existing capacity needing to be replaced and 5 GW added.[3]

The Draft ISP projects that GPG will continue to provide its critical backstop function until approximately 2033, and then reliance on GPG capacity will grow substantially as brown and

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[1] APGA, 2021, *Submission: Improving gas pipeline regulation – Draft Legislation Package consultation*,
[2] APGA stage 2 sub
[3] AEMO, 2023, *Draft 2024 Integrated System Plan,* p. 65, https://aemo.com.au/-/media/files/stakeholder_consultation/consultations/nem-consultations/2023/draft-2024-isp-consultation/draft-2024-isp.pdf

black coal generation ceases. The ISP also projects that offtake for GPG will grow drastically in 2039-40, to over 2500 TJ/day – well in excess of current generation capacity.[4]

The 2024 Gas Statement of Opportunities underlines the real risks of shortfalls on extreme peak demand days from 2025, and the potential for small seasonal supply gaps from 2026. Investment in new gas supply, new GPG capacity, and new gas infrastructure including pipelines will all be necessary to meet the projections of the ISP. Infrastructure which contributes to moving gas from north to south – like the SWQP – will be a critical part of addressing supply gaps.[5]

To support the transition to a net zero economy and greater reliance on renewable electricity, Australia's energy systems need more gas, not less. Absent GPG peak capacity support for variable renewable electricity, it will be impossible to retire coal in a meaningful time frame.

Increasing regulation will impact investment

Despite this critical contribution to the NEM over the next decade, the nature of peaking plants can make them unattractive for private investment. Because the plants are only dispatched a few times a year, it can be challenging to recover the investment and fixed costs of power generation.

The uncertainty of gas supply and demand volumes – exacerbated by poor demand forecasting – and additional costs imposed by emissions reduction policies introduces additional investment risk. For these reasons, it may be difficult to maintain investment in existing GPG or bring GPG projects to Final Investment Decision in the market.[6]

The challenges of investment extend beyond GPG. Future investments in pipeline infrastructure will also need to account for the possibility of the regulation that applies to them changed at any time. This means that proponents would need to make investment decisions on the basis of having to use the regulated tariff of a scheme pipeline, with resultant impacts on the economics of that investment.

The case for Form of Regulation Reviews

Stronger forms of regulation have not always been an impediment to investment in new gas infrastructure. Australia's newest transmission pipeline, the Western Outer Ring Main, operates in in the fully regulated Victorian Transmission System. However with the increasing challenges to investment in gas, this may no longer be the case.

These investments involve significant commercial risk, and future investments to expand capacity "ahead of the market" may no longer be feasible in a full regulation environment. Operators may now need to transfer this risk to their customers as necessary.

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[4] AEMO, 2023, *Draft 2024 Integrated System Plan,* Figure 22, p. 65
[5] AEMO, 2024, *2024 Gas Statement of Opportunities*, p. 79, https://aemo.com.au/-/media/files/gas/national_planning_and_forecasting/gsoo/2024/aemo-2024-gas-statement-of-opportunities-gsoo-report.pdf?la=en
[6] APGA, 2024, *Submission: Expanded Capacity Investment Scheme Design*, https://apga.org.au/submissions/expanded-capacity-investment-scheme-design

APGA acknowledges that the Greenfield Incentive and Price Protection provisions were introduced to help remove revenue uncertainty and support investment of gas infrastructure where they might not otherwise be viable. These protections are not guaranteed, however, and nor do they apply to brownfield investments such as pipeline extensions or expansions which will be critical to providing the necessary uplift in capacity.[7]

In light of all these factors, it is unclear why the AER is choosing to intervene in forms of regulation where it has not specifically documented exercise of market power, and when entities are currently agreeing to enter into commercial agreements without regulatory intervention. This new process of Form of Regulation Reviews will ultimately asymmetrically truncate returns of gas infrastructure at a time when that investment in gas is needed, potentially undermining incentives for such investment.

The AER is not required to justify the initiation a Form of Regulation Review. APGA understands that these self-initiated reviews are part of the AER's ordinary business under funding provided by the Federal Government and directions from the Energy Ministers.

Nevertheless the AER does provide two reasons for initiating the Review – the outcomes of the ACCC 2016 Gas Inquiry, and the importance of the SWQP to the operation of the east coast gas market. There is no suggestion that the AER has any documented suspicion of exercise of market power in the case of the SWQP or, indeed, any other pipeline that may be subject to a future Form of Regulation Review. In APGA's view these are not sufficient causes to initiate a Form of Regulation Review.

APGA recommends that the AER develop a transparent framework to provide guidance to on the conditions that would prompt an AER-initiated Form of Regulation Review.

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

Yours sincerely,

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[7] AEMO, 2023, *Draft 2024 Integrated System Plan,* p.66: "AEMO forecasts that if gas and electricity demands peak simultaneously, particularly during extreme conditions in winter affecting both electricity and gas demand, then there is a risk that gas supply to gas-powered generation may be curtailed by pipeline infrastructure constraints."