



5 April 2024

Submission: Pipeline Regulatory Determinations and Elections Guideline

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 proposed amendments to the Pipeline Regulatory Determinations and Elections Guideline.

Section 42 compulsory notices

The AER has been consistent in its approach to date in welcoming stakeholder consultation on its processes, including through regulatory determinations and elections. It is not clear therefore why the AER is proposing the use of information and document provision notices under Section 42 of the National Gas Law following or instead of a Section 16 notice.

These notices are unnecessarily punitive in compelling provision of information for a form of regulation review, and do not provide an opportunity for stakeholders to provide comment on whether the notice is warranted.

General regulatory information orders available under Division 4 of the National Gas Law, do provide an opportunity for stakeholders to comment:

50—AER must consult before publishing an order

The AER must, in accordance with the Rules, consult with the public on the general regulatory information order or the price information order it intends to make before it makes that order.

Orders under this Division further require the AER to consider matters relevant to a form of regulation review, including considering whether a contributing service is being supplied on a genuinely competitive basis.

APGA recommends that these orders should be pursued before issuing a Section 42 notice.

Written submission consultation period

The amendments appear to suggest the consultation period for stakeholders be shortened from “at least 15 business days” to “15 business days”.

3.3.2 Consultation process

We must follow the standard consultation procedures set out in the NGR when considering whether to make a form of regulation determination (as part of an AER-initiated review or following an application).³⁴ The following summarises the steps for a form of regulation review:³⁵

- We receive an application for a form of regulation determination or decide to commence an AER-initiated review.³⁶
- We provide the service provider with notice of the application or our decision to conduct an AER-initiated review).³⁷
- We will publish information about the application or AER-initiated review on our website, which describes the form of regulation determination being considered.³⁸ Stakeholders will be given **at least 15 business days** to make written submissions on whether or not we should make the determination.³⁹

The proposed amendment as drafted provides an unacceptably short timeframe for stakeholders to provide written responses to a complex regulatory processes. It is also inconsistent with the AER’s commitment to consultation with stakeholders.

Finally this amendment may also be inconsistent with the National Gas Rules Standard Consultative Procedure (Rule 8). APGA proposes that this amendment be rescinded.

- (d) the decision maker must then publish, on its website and in any other way the decision maker considers appropriate:
- (i) the draft *decision*; and
 - (ii) any modification of the proposal made in the light of the draft *decision*; and
 - (iii) a notice inviting written submissions and comments on the draft *decision*, and (if applicable) the modified proposal, within a period **(at least 15 business days)** stated in the notice;

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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