21 June 2024

Submission: Australian National Audit Office – Audit of the Energy Price Relief Plan

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 contribute comments to the Australian National Audit Office's performance audit of the Energy Price Relief Plan. This Plan included the implementation of the Gas Market Code of Conduct, which has proven to be an influential policy instrument on the operation of the gas market in Australia, if not strictly in the way it was as intended.

APGA submits that the process of designing the measures of the Energy Price Relief Plan (EPRP) may not have adequately considered the history and effects of gas market interventions. The consistent advice of industry on seeking supply side solutions rather than demand side solutions like price caps appear not to have been considered in the development of the Plan. These demand side solutions, such as the Gas Code of Conduct and directions provisions, have acted to dampen investment and compound supply side issues.

Industry has consistently advocated for solutions which incentivises supply

The foundational Australian principles of market competition, as outlined in the 1993 *National Competition Policy Review* ('Hilmer Report')[1] have been gradually subverted in intervention in economic policy for the gas industry over the last few decades. While this competition policy recommended measures against anticompetitive conduct in markets, the approach legislators have taken to date in applying economic regulation to the gas infrastructure industry have instead worked to reduce the operation of a workably competitive market.

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[1] Hilmer, F, Raynor, M and Taperell, G, 1993, *National Competition Policy,* Report of the Independent Committee of Inquiry, p. 271, available at http://ncp.ncc.gov.au/docs/National%20Competition%20Policy%20Review%20report,%20The%20Hilmer%20Report,%20August%201993.pdf

Australia's domestic gas markets, bar Victoria, operate under the contract carriage form of market. Gas producers voluntarily enter into supply arrangements with their customers, and gas infrastructure is built on the basis of fulfilling those supply contracts. Historically, these contracts were long-term and able to provide the investment certainty needed to underwrite gas infrastructure development. Increasingly, interventions in the market have disrupted this relationship by dampening investment and compounding supply side issues.[2] These cascading interventions have ultimately influenced the market towards a short supply position.

APGA comments on the Gas Code of Conduct

APGA provided feedback to government on the development of the Gas Code of Conduct (GCOC) on two separate occasions – in February 2023[3] and in May 2023.[4] APGA highlighted that the truncated design and consultation process for the GCOC risked unintended consequences, and it did not address the fundamental issues affecting gas supply.

The GCOC was designed on the same principles as previous economic regulation interventions in the market. APGA noted that applying economic regulatory principles used for infrastructure regulation to gas commodity pricing, through setting a theoretical reasonable price, would be very likely to have immediate and enduring negative impacts on the Australian gas commodity market. In doing so the GCOC risked the same outcomes it was put forward to address: increased prices, through reduced incentives for investment in gas supply.

The specific risks to investment outlined in APGA's May submission included asymmetric truncation of returns, where new gas production investment will need to secure higher average prices in the long term to achieve the same rate of return; revenue uncertainty; exemption uncertainty; and the additional cost of reporting which is unlikely to achieve increasing liquidity in the market.

These concerns appear to have been borne out since the GCOC came into effect. While gas that is offered to the market is within the price of the cap, market experience is that less new gas is being offered into the market, to the detriment of customers.

APGA recommended that government should immediately allocate resources to develop policy that will deliver new supply, including renewable gas supply. APGA noted in its initial submission that east coast gas market is yet to see any real focus on improving gas supply

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[2] Such as APGA, 2021, *Submission: Improving gas pipeline regulation Draft Legislation Package Consultation*, https://apga.org.au/submissions/improving-gas-pipeline-regulation-draft-legislation-package-consultation; APGA, 2021, *Submission: Options to advance the east coast gas market – Consultation on the Wallumbilla Gas Supply Hub and pipeline capacity trading framework*, https://apga.org.au/submissions/options-to-advance-the-east-coast-gas-market-consultation-on-the-wallumbilla-gas-supply-hub-and-pipeline-capacity-trading-framework; APGA, 2023, *Submission: Reliability and supply adequacy framework for the east coast gas market - Stage 2 Framework Development*, https://apga.org.au/submissions/reliability-and-supply-adequacy-framework-for-the-east-coast-gas-market

[3] APGA, 2023, *Submission: Mandatory Gas Code of Conduct* (February), https://apga.org.au/submissions/mandatory-gas-code-of-conduct

[4] APGA, 2023, *Submission: Mandatory Gas Code of Conduct* (May), https://apga.org.au/submissions/submissions-mandatory-gas-code-of-conduct

despite more than a decade of reform to reduce gas prices, and this remains true 18 months later. As a result, gas supply investments are not being made in nearly enough speed or quantity to address the looming gas supply shortfalls forecast by AEMO.

APGA also recommended that the Greenfield Incentive be automatically granted for greenfield gas production investments to avert some of the negative impacts on investment. This was not included, and future pipeline investments remain at risk of being assigned stricter forms of regulation – which may now also be reviewed and amended at any time under a new process currently underway by the Australian Energy Regulator.[5]

The GCOC, unlike the price cap for coal implemented at a similar time, did not include a sunsetting date and is effective indefinitely. There appear to be no mechanisms for review of the policy, either to consider the effectiveness of its implementation nor to amend its operation. A Regulatory Impact Statement process was also not undertaken for the GCOC, which may have revealed many of the issues highlighted in APGA's submission.

Industry has consistently advised against such regulatory approaches like the GCOC, which affect the supply and demand balance of the market. While it is impossible to know what would have happened had the GCOC process followed industry advice, the resultant supply outcomes could not have been worse than what they are today.

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

Yours sincerely,

JORDAN MCCOLLUM
National Policy Manager
Australian Pipelines and Gas Association

[5] APGA, 2024, *Submission: Form of Regulation Review for the South West Queensland Pipeline*, https://apga.org.au/submissions/form-of-regulation-review-for-the-south-west-queensland-pipeline