



7 November 2024

Submission: Draft Decision – South West Queensland Pipeline

APGA appreciates the opportunity to provide further comment to the AER on the Form of Regulation Review (FoRR) process. **APGA welcomes the draft decision of the Australian Energy Regulator (AER) to not make a scheme pipeline determination for the South West Queensland Pipeline (SWQP).**

In light of this draft decision, APGA reiterates comments made on the FoRR in March 2024:¹

- The threat of increasing regulation of pipeline infrastructure acts as an ongoing disincentive to infrastructure investment, including the brownfield capacity expansions.
- The AER should reconsider the process of AER-initiated FoRRs, including developing a transparent framework on the conditions that would prompt a FoRR.

This decision is an opportunity for the AER to reconsider how it addresses the direct and indirect consequences of economic regulation. The AER should also take the opportunity to reflect on the process and provide transparent guidance to industry.

APGA also reiterates previous comments that the key issue impacting prices and services available to pipeline customers is the lack of secure, long term gas supplies, not insufficient regulatory intervention. Governments and regulators should focus on activities that improve *supply* to reduce costs for residential, commercial and industrial users – not stifle investment in future capacity.

The risk to investment is not transitory

APGA has raised in multiple forums that the AER's self-initiated FoRR process represents a risk to future gas infrastructure development. These investments involve significant commercial risk, and future investments to expand capacity before it is needed – such as APA Group's planned expansions of the SWQP – may no longer be feasible.

In the draft decision the AER "*consider that much of this risk is transitory, associated with the process of determining an initial RAB and approving an access arrangement.*" APGA strongly disagrees with this statement. The risk lies well beyond the determination of the initial RAB as the enduring risk is the *outcome* of that RAB – at a time in the energy transition where the demand risk is high.

While this is likely less relevant to gas producers and greenfield gas infrastructure developments, it is especially relevant for brownfield developments. Proponents for these

¹ 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>

projects cannot access the Greenfield Incentive and Price Protection mechanisms, and may face the prospect of potentially undergoing a FoRR immediately after commissioning. This will materially impact the investment case for brownfield developments.²

APGA recommends the AER review how it considers investment risks in the FoRR process.

A transparent framework is needed to provide certainty

The amendments to the National Gas Laws and Rules which gave the AER regulatory review powers did not specify how the AER would enact those powers. The AER has itself decided it will examine all of Australia's transmission pipelines at a rate of approximately two per year. The process for shortlisting pipelines for and the order of review is not transparent.

This means that all transmission pipeline operators face the threat of a FoRR, at any time, with no documented evidence of exercise of market power. This is not to the benefit of any pipeline service providers, users and prospective users, or end-users.

Responding to these Reviews and providing the information required under a s42 information request is not a cost-free exercise. Operators will now need to account for the possibility in their ongoing budgets – potentially diverting resources from activities that would improve energy security.

APGA recommends the AER immediately discontinue its planned program of FoRRs, and not initiate any further reviews until it has developed a transparent FoRR framework.

This framework should provide guidance on the conditions that would prompt an AER-initiated FoRR. In the absence of a third-party request for a FoRR, the AER should have documented evidence of exercise of market power, using information already available to it.

The guideline should also provide certainty to industry over when repeat FoRRs may be initiated. Once the AER has completed a FoRR of a pipeline, the AER should not undertake another FoRR on the same asset within a specified time period. An appropriate time period would be 15 years – the same period provided by the Greenfield Incentive.

To discuss any of the above feedback further, please contact me on +61 409 489 814 or crafael@apga.org.au.

Yours sincerely,



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² Williams P, 2024, 'Pipeline review puts APA Queensland gas expansion on hold', *The Australian*, <https://www.theaustralian.com.au/business/mining-energy/pipeline-review-puts-apa-queensland-gas-expansion-on-hold/news-story/89df761e57df23a4d6bbadf50bc82d1c>