



Draft rule on the regulation of covered pipelines

The Australian Energy Market Commission today made a draft rule that amends the National Gas Rules to improve the economic regulatory framework that applies to covered transmission and distribution natural gas pipelines across Australia.

Background

This draft rule responds to a rule change request submitted by the COAG Energy Council on 5 October 2018. The request adopted many of the recommendations made by the AEMC in its final report for the review into the scope of economic regulation applied to covered pipelines which was published on 3 July 2018. As a result, and on the basis of the stakeholder consultation carried out during that review, the Commission has employed a fast-track assessment process allowing for the draft rule determination and draft rule to be made two months after receipt of the request.

Draft rule

The draft rule, if made, is expected to improve market information, support effective negotiations and improve access to covered transmission and distribution natural gas pipelines. These are pipelines that are regulated under Parts 8 to 12 of the National Gas Rules by the Australian Energy Regulator or the Economic Regulation Authority of Western Australia.

The amendments included in the draft rule aim at assisting the regulators to make better informed decisions on reference services, access arrangements and the efficient allocation of costs. While the draft rule is largely consistent with the proposed rule submitted by the COAG Energy Council, there are differences. However, they do not change the policy intent of the proponent's rule change request.

The draft rule determination addresses five key issues and are summarised below.

Extensions and expansions

The draft rule is expected to reduce the ability for service providers to exercise market power over pipeline expansions. The draft rule treats all future pipeline expansions as part of the relevant covered pipeline, and so applying either light or full regulation (as relevant to the original pipeline) to the expansion. These changes will reduce the regulatory burden and support improved decision-making by regulators.

Reference services

The draft rule introduces a new approach to determine which pipeline services should be specified as reference services in a full access arrangement, which may result in additional services being specified as reference services. The new approach includes setting new criteria for determining appropriate reference services. This should also provide users with greater opportunity for meaningful input during the reference service determination process.

Access arrangements

A number of related amendments are expected to improve the access arrangement process by facilitating greater stakeholder engagement. Adjustments to the access arrangement assessment process will provide more time for stakeholder engagement, in order to enable the regulator to make more informed decisions in the long-term interest of consumers. The draft rule will remove limitations on regulatory discretion applied to certain

elements of an access arrangement so the regulator has clear power to make decisions that best contribute to the national gas objective on all aspects of an access arrangement.

Determining efficient costs

The draft rule will clarify the assessment criteria for capital expenditure, cost allocation requirements and non-tariff terms and conditions. These changes are aimed at enabling the regulators to determine more efficient tariffs as well as non-tariff terms and conditions set in access arrangements so that costs and risks can be appropriately allocated.

Negotiation and information

The draft rule is expected to strengthen information reporting obligations on full and light regulation pipelines. The amendments extend Bulletin Board reporting to all covered transmission pipelines. They also require certain capacity and usage information to be disclosed on covered distribution pipelines and require financial information, similar to that for non-scheme pipelines under Part 23 of the NGR, to be disclosed on light regulation pipelines. The amendments will provide users and prospective users with more relevant, timely and accessible information, to better inform their negotiations with service providers. These changes will also support the amended negotiation process that is included in the draft rules.

Transitional arrangements

The draft rule provides draft transitional arrangements for effected pipelines. The majority of the draft rule is anticipated to come into effect in March 2019, shortly after the publication of the final determination. Specific transitional arrangements have been drafted for those full regulation pipelines that will be subject to an access arrangement revision process at that time. Other transitional arrangements have been drafted in relation to the new information obligations included in the draft rule.

Consultation

The AEMC invites submission on the draft rule determination, including the draft rule and transitional arrangements by Thursday, 31 January 2019.

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