

5 February 2019



Meredith Mayes
Director
Australian Energy Market Commission
Submitted via email

Dear Ms Mayes,

Regulation of covered gas pipelines draft determination

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to the AEMC draft determination on the regulation of covered pipelines. PIAC is broadly supportive of the recommendations contained in the draft determination, and agree that they are likely to represent an improvement to the transparency and efficiency in the operation of the economic regulatory framework for transmission and distribution pipelines.

PIAC reiterates our contention that all networks serving small customers should be subject to price regulation that ensures efficiently priced services. We note that the draft determination does not address ongoing issues with the National Gas Law's test for the application of regulation to pipelines. Accordingly, PIAC requests that the AEMC support and recommend strengthening the test for applying regulation to pipelines. PIAC highlights two alternative approaches that would lead to more appropriate application of regulation.

The AEMC could promote the recommendation of the ACCC in its inquiry into the east coast gas market, a recommendation supported by other stakeholder submissions,¹ to amend the coverage criteria to explicitly address market power. By making this change, the AEMC would align the criteria with the fundamental market failure that economic regulation of pipelines should aim to address and ensure that full regulation could be applied to all pipelines with market power.

Alternately, PIAC considers that the potential reforms outlined on pages 43-45 of the Draft Report² may be an appropriate means of addressing this risk. This option reduces the risk of under-regulation by applying the coverage criteria only to pipelines that do not provide third-party access. All other pipelines would bypass the Section 15 criteria and instead go to the

¹ ACCC, *Inquiry into the east coast gas market, Final Report*, 11; PIAC, *Submission to the AEMC Review into the scope of economic regulation applied to covered pipelines Issues Paper*, 8; EUAA, *EUAA Submission to AEMC Review into the scope of economic regulation applied to covered pipelines*, 3; MEU, *Examination of the current coverage test for the regulation of gas pipelines*, October 2016.

² AEMC, *Review into the scope of economic regulation applied to covered pipelines, Draft Report*, 3.

'forms of regulation' criteria associated with the current light regulation test. This option allows the National Competition Council (NCC) to decide the appropriate form of regulation independently of the Section 15 criteria.

Continued engagement

PIAC would welcome the opportunity to meet further with the AEMC and other stakeholders. Please contact Miyuru Ediriweera or Craig Memery to discuss these issues in more depth.

Yours sincerely,

Miyuru Ediriweera

Senior Policy Officer, Energy and Water
Public Interest Advocacy Centre

Direct phone: +61 2 8898 6525

E-mail: mediriweera@piac.asn.au

Craig Memery

Policy Team Leader, Energy and Water
Public Interest Advocacy Centre

Direct phone: +61 2 8898 6522

E-mail: cmemory@piac.asn.au