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File Ref: TRM No.18:D19:12098

Dear Mr Pendlebury

The Department of Treasury and Finance (DTF), as the rule change proponent, welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) Consultation Paper on the National Gas Amendment (NT Emergency Gas Supply Arrangements) Rule 2019.

DTF proposes a rule change be made to preserve the commercial incentives for the Northern Territory liquefied natural gas (LNG) projects to maintain their connections to the Territory gas market and to continue with the emergency back-up gas supply arrangements which underpin security of gas and electricity supply in the Territory.

DTF agrees with the AEMC's description of the rule change request and the relevant issues outlined in the Consultation Paper, including the scope to exempt the Territory LNG project from the Bulletin Board reporting requirements on the basis of a new exemption.

Scope to exempt the Territory LNG producers on the basis of a new exemption

The AEMC's suggestion in the consultation paper that a new exemption specific to the Territory LNG projects and their particular circumstances could specify that facilities upstream of the connection points with the emergency lateral pipelines are remote facilities is supported.

An exemption of this nature would be a practical solution to the issues identified in the rule change request and should be adequate to preserve the commercial incentives for the Territory LNG projects to maintain their connections to the Territory gas market and to continue with the emergency back-up gas supply arrangements.

Importantly, the granting of an exemption of this nature could be made conditional on information relevant to the Territory gas market being reported by another facility operator. As suggested in the AEMC's consultation paper, this information would be required to be reported by the Power and Water Corporation (PWC) as the operator of the lateral pipelines connecting the Territory LNG projects to the Territory gas market. The information required to be reported by PWC would include:

- daily flow data
- the nominations for injections and withdrawals from the pipelines for the gas day
- the forecast injections and withdrawals from the pipelines for gas day D+1 to gas day D+6.

DTF does not consider that information related to shutdowns of facilities upstream of the Territory LNG projects would be relevant to the Territory gas market because PWC's agreements with the Territory LNG producers to provide emergency gas supplies are on a 'best endeavours' basis and do not impose a firm obligation. In addition, in the event of an emergency, PWC as the operator of the emergency laterals would be required to provide forecast nominations up to gas day D+6 providing adequate information to the market about the operation of the backup gas supply arrangements. DTF is also concerned that the reporting and publication of information related to upstream facility shutdowns may also undermine commercial incentives for Territory LNG projects to continue with the emergency backup gas supply arrangements.

The impact of any rule made on the application of the Tranche 2 Bulletin Board reforms

As identified in the consultation paper, the AEMC in its 2016 East Coast Wholesale Gas Market and Pipeline Frameworks Review recommended a number of changes to the Gas Bulletin Board registration and reporting requirements, some of which required the amendment of legislation before they could be implemented. Consequently, the AEMC recommended the reforms be implemented in two tranches and this approach was endorsed by the Council of Australian Governments Energy Council in August 2016.

The Tranche 1 Bulletin Board reforms did not require that legislative changes be made before they could be implemented through a rule change process and they took effect in the east coast gas market on 30 September 2018 (and will take effect in the Territory on 3 April 2019 – 90 days after commissioning of the Northern Gas Pipeline). The Australian Energy Regulator has interpreted the Tranche 1 reforms as extending the Bulletin Board reporting requirements to the interconnected upstream pipeline and production facilities of the Territory LNG projects. This interpretation is the basis of the Territory Government's rule change request.

The Tranche 2 Bulletin Board reforms required the amendment of the National Gas Law before they could be implemented through a rule change process. The Tranche 2 reforms would extend the Bulletin Board reporting requirements to the operators of a broader range of facility types, including large user facilities, LNG facilities and operators of gas fields with proved and probable (2P) reserves. If implemented as recommended by the AEMC in the East Coast Review, the Tranche 2 reforms may require Territory LNG projects to report information to the Bulletin Board, including:

- as large user facilities – actual gas consumption (daily)
- as LNG facilities – short and medium term capacity outlooks, material intra-day changes in capacity (as required), and actual gas consumption (daily)
- as gas field operators – the 2P reserves of natural gas in each field.

Notwithstanding Energy Council endorsement of the Tranche 2 reforms in August 2017, the legislative amendments necessary to implement the Tranche 2 reforms have not been made.

In addition to the proposed Tranche 2 reforms, on 21 December 2018 the Australian Competition and Consumer Commission (ACCC) and Gas Market Reform Group (GMRG) released a joint paper on measures to improve the transparency of the east coast gas market, many of which are proposed to be implemented through Bulletin Board reporting obligations. Of relevance to the rule change request, the AEMC and GMRG have recommended that LNG facilities be required to report export shipping information and export prices to the Bulletin Board for publication.

As noted in the Consultation Paper, Energy Council has requested the Senior Committee of Officials develop a package of measures to progress the Tranche 2 reforms and the ACCC and GMRG joint recommendations.

DTF considers that some of the proposed Tranche 2 reforms and the AEMC and GMRG joint recommendations related to large user and LNG facility reporting requirements raise identical issues to those identified in the rule change request. Specifically, DTF is concerned that the proposed Bulletin Board reporting requirements for large user and LNG facilities may undermine the commercial incentives for Territory LNG projects to maintain their connections to the Territory gas market and continue with the emergency backup gas arrangements. This is because:

- publication of proposed large user and LNG facility data (short to medium term capacity outlooks, material intra-day changes in capacity, actual gas consumption, export shipping information and export prices) may adversely affect the competitive position of Territory LNG projects in the international LNG market consistent with the adverse effects identified from the publication of upstream pipeline and production facility data
- connection to the Territory gas market is incidental to the Territory LNG projects' core business and the commercial benefits they enjoy from connection are small relative to the potential commercial detriments they may experience if they are required to report upstream pipeline and production facility data for publication on the Bulletin Board.

Consistent with its position on the reporting of information to the Bulletin Board put forward in its rule change request, there would be negligible benefit from the publication of large user and LNG facility information as may be required under the proposed Tranche 2 reforms and ACCC and GMRG joint recommendations. This is because, due to the limited interconnection with the Territory LNG projects with the Territory gas market, the Bulletin Board information would relate to the primarily closed production systems of the Territory LNG projects and would be completely independent of, and uninformative of, gas flows affecting the Northern Territory gas market.

Under the draft National Gas Rules published with and reflecting the final recommendations made in the East Coast Review, large user and gas pipeline facilities are proposed to be included under the definition of a 'BB facility'. If the final Rules for the Tranche 2 reforms reflect this outcome, then the suggested remote facility exemption would exempt the Territory LNG facilities from the large user and LNG facility reporting requirements. This is likely to be sufficient to address the Territory's concerns with the application of the Tranche 2 reforms and ACCC and GMRG joint recommendations.

In relation to the proposed Bulletin Board reporting requirements for gas field operators, the draft Rules published with the East Coast Review did not define gas fields as a type of BB facility and instead defined them under a new term 'BB field'. Under the draft Rules, application of the Bulletin Board reporting requirements to a BB field is not linked to physical connection with another BB facility but instead through the general application of the Rules in a jurisdiction. As a consequence, if this arrangement is reflected in the final Rules, the suggested remote facility exemption would not exempt the Territory LNG projects from the gas field Bulletin Board reporting requirements.

DTF has not reconsidered the benefits and detriments of the application of the proposed Tranche 2 reforms and ACCC and GMRG joint recommendations for the Territory LNG projects as gas field operators. However, given the application of the requirements is unlikely to be linked to physical connection with BB facilities, the proposed gas field operator Bulletin Board requirements should not affect the commercial incentives of the Territory LNG projects to remain connected and to continue with the emergency backup gas supply arrangements. Any issues the gas field operator Bulletin Board requirements do pose for the Territory LNG projects would be best addressed through the rule change process for the Tranche 2 reforms and ACCC and GMRG joint recommendations.

The majority of the other issues raised by the AEMC in its consultation paper are addressed in the rule change request of November 2018 or are best addressed by Territory gas market stakeholders.

If you would like to discuss these matters further, please contact Ms Samantha Byrne, Senior Director Utilities Reform, on (08) 8999 7487 or at samantha.byrne@nt.gov.au.

Yours sincerely



CRAIG GRAHAM
Under Treasurer

18 March 2019