

Our Ref: 63927- D19/91250
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8 July 2019

John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney NSW 1235

Dear Mr Pierce

Re: submission to AEMC draft determination – National Gas Amendment (NT Emergency Gas Supply Arrangements) – Rule 2019

The AER appreciates the opportunity to provide a submission to the draft determination stage of the Australian Energy Market Commission’s (AEMC) Northern Territory Emergency Gas Supply Arrangements rule change process.

In our 22 March 2019 submission to the consultation stage of the rule change process, we emphasised the importance of transparency for informing investment decisions and trade in the domestic gas sector. We noted the potential value in extending information reporting obligations, under Part 18 (Bulletin Board) of the National Gas Rules (Gas Rules), to gas facilities associated with LNG export operations in the Northern Territory (NT). We also acknowledged NT Government concerns that this could prompt LNG exporters to withdraw from emergency arrangements, thereby removing back-up supply to the NT gas market during supply outages.

The AEMC’s draft determination appears to balance these concerns. It provides transparency through the introduction of a trigger that captures LNG gas facilities, under Part 18, if they conduct trade in the domestic market beyond the terms of their agreement to provide emergency back-up supply, while exempting the NT LNG gas facilities from Part 18 under all other conditions.

Tranche 1 Bulletin Board reform

The current Part 18 Gas Rules were enacted on 30 September 2018 in association with the first tranche of a two-staged Bulletin Board reform process. This reform (‘tranche 1’) captured new gas facilities under Part 18 and introduced more detailed reporting. NT gas facilities were captured by Part 18—from 3 April 2019—following the commissioning of the first interconnector linking the NT to the east coast gas grid.

It is not clear, however, if Part 18 of the NGR was drafted with a view to the particular circumstances of the NT LNG gas facilities. This includes, with respect to:

- the emergency arrangements through which NT LNG facilities are contracted to supply gas to the domestic market;
- the potential for NT LNG exporters to trade in the domestic market via their lateral pipeline connections; and
- the applicability of the current Part 18 Gas Rules to the lateral pipeline connections and any interconnected gas facilities associated with the LNG export operations.

During 2018, the Northern Territory engaged with the AER on this matter. We provided our view that, under the current Gas Rules, the lateral pipeline connections (and potentially other interconnected gas facilities associated with LNG export operations) were captured by the requirements of Part 18. We highlighted that, if there were concerns that the current Gas Rules were not fit-for-purpose in this circumstance, then it was open to the proponent to seek a rule change.

Our views pertained to the current Part 18 Gas Rules, enacted on 30 September 2018 as part of tranche 1 of a two-staged Bulletin Board reform process. The second stage of Bulletin Board reform (tranche 2) is currently under development, in accordance with proposed reforms endorsed by the Council of Australian Governments (CoAG) Energy Council.

Tranche 2 Bulletin Board reform

In December 2018, the CoAG Energy Council tasked its Senior Committee of Officials with developing a legislative package to address recommendations made in the ACCC and GMRG joint paper: *Measures to improve the transparency of the gas market*.¹ Amongst the proposals are recommendations to extend Bulletin Board reporting to capture:

- LNG export information;
- gas field operators; and
- large users

Whilst the AEMC's 23 May 2019 draft determination (*NT Emergency Gas Supply Arrangements*) addresses the uncertainty around how to treat these facilities under the current Gas Rules, a question remains as to whether this should be an interim arrangement given the pending tranche 2 reforms.

In our 22 March 2019 staff submission to the AEMC's consultation stage (*NT Emergency Gas Supply Arrangements*) we stated:

Interlinkages between Australia's east coast market and international gas markets have enhanced the importance of transparency in informing investment decisions and bringing clarity to the long-term consequences of these decisions on the domestic gas market. It has become increasingly

¹ <http://coagenergycouncil.gov.au/publications/energy-council-web-text-%E2%80%93-accg-gmrg-recommendations-east-coast-gas-market-transparency>

difficult to see Australia's domestic gas sector and gas export sector as mutually exclusive and gas fields located within Australian territory (whether on-shore or off-shore) should be regarded as part of the one national resource. This will be an important consideration toward future development of the Bulletin Board, including through the proposed 'tranche 2' reforms endorsed by the Council of Australian Governments (CoAG) at its December 2018 meeting.

We regard this statement as consistent with the views and recommendations provided in the ACCC and GMRG joint paper.

To date, compliance with Part 18 of the Gas Rules has had a basis in interconnectedness—capturing gas facilities that are part of the east coast gas network. Proposals to extend Part 18 reporting obligations to gas field information indicate that the direction of reform is to expand Bulletin Board reporting beyond the scope of just flows across an interconnected domestic network.

As a result, the AEMC's proposed rule should explore temporary or transitional provisions to accommodate further consideration of this NT LNG matter through the tranche 2 reform process.

New AER responsibilities

The proposed rule change imposes new responsibilities on the AER following an 'application event'. However, it is unclear which gas facilities are captured by the new Part 18 reporting requirements. It would be useful if the AEMC could clarify this, including:

- whether NT Power and Water Corporation's WPP Inpex lateral pipeline is captured by Part 18 when an application event occurs; and
- whether operators of NT LNG infrastructure should provide gas facility details in advance of any application event (e.g. the gas facilities to which Part 18 would apply).

The AER will need an understanding of the specific NT LNG facilities to exercise its responsibilities under the proposed rule change. Some prior understanding of the infrastructure and its operation may be important if the AER is to identify the facilities captured following a Part 18 exemption removal (e.g. the existence of production/storage facilities used to process/store gas for domestic consumption, during emergency events or otherwise).

Finally, the proposed rule empowers the AER to remove the Part 18 exemption applying to NT LNG facilities. The AEMC may wish to consider the relevance in enabling the AER to place an expiry date on such decisions. This entertains the possibility that one of the exporters could seek to trade in the domestic market for a short period, before returning to having a wholly export focus.

Further to this last point, the AEMC may also wish to consider the relevance of a commercial interest test when a Part 18 exemption is to be removed. This, for example, would be an assessment of the impact of information disclosure on the commercial position of the LNG export business. It could provide a basis for exempting the business from a component of

Bulletin Board reporting, such as the requirement to submit Medium Term Capacity Outlooks. Any such measure would need to be fully justified in terms of why LNG export facilities in the NT are treated differently under Part 18 of the NGR.

In conclusion, we support the AEMC's draft rule, noting that it addresses the immediate concerns of affected parties. This includes the concern, previously expressed by AER staff, that any trade between the domestic market and NT LNG businesses should be transparent through Bulletin Board reporting.

It would, however, be prudent for the AEMC to consider that the proposed rule may proceed as an interim arrangement, subject to the policy decisions and legislative drafting associated with tranche 2 reform. The AEMC may wish to further consider the direction of tranche 2 reform as part of its drafting of the final rule associated with this rule change request.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Peter Adams', with a stylized flourish at the end.

Peter Adams
General Manager
Markets Performance