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2 December 2021

Ms Anna Collyer  
Chair  
Australian Energy Market Commission (AEMC)  
GPO Box 2603  
SYDNEY 2001

Dear Ms Collyer

## **Re: Review into Extending the Regulatory Frameworks to Hydrogen and Renewable Gases**

We thank you for the opportunity to comment on this important issue in relation to the incorporation of hydrogen and other renewable blends into the gas framework. We understand that this stage of the review is to develop initial rules that will extend the regulatory frameworks to low-level hydrogen-natural gas blends and other renewable gas blends.

We have provided some feedback and comments under the headings below for your consideration.

### **Regulatory Sandboxing**

Regulatory sandboxing is a tool which is designed to provide a structured framework for trialling innovative technologies approaches, business models, products and services in a real-world environment. Sandboxing is meant to complement, not substitute, existing processes. This is why under the proposed legislation and rules for sandboxing the AER and AEMC only have a role in trials where there is a need for a waiver or trial rule.

As the AEMC paper identifies, it is not necessarily practical for an individual customer to opt out of a blended gas trial. In cases such as this, the AEMC notes that the National Gas Rules (NGR) and National Energy Retail Rules (NERR) may need to be amended to reflect that a customer cannot opt out of the trial. Where the opt out requirement is removed consumer protection requirements should be strengthened. These protections would need ensure that consumers were not made worse off by participating in the trial. These protections could include:

- a requirement for consumers to be made aware of possible changes to their service

- an assurance of no price increases during the trial compared with being served by natural gas<sup>1</sup>; and
- protections to mitigate any loss associated with the impact of the trial on customers (i.e. impact on/damage to appliances).

These are particularly important because, as flagged by the AEMC, a retailer may wish to increase the prices it charges to customers receiving a natural gas equivalent because this has a higher cost than natural gas.

Prior to a sandboxing trial waiver application being lodged with the AER, we would expect that sufficient community consultation has been undertaken, there is broad support of the trial and that a consumer will not be made worse off before prior to a trial occurring. The AER agrees with the AEMC paper that this consultation could be supplemented with a requirement that approval (for example, in relation to safety requirements) from the relevant jurisdictional technical regulator is a pre-condition to the lodgement of a trial waiver.

### **Regulatory complexities associated with billing**

We note the proposal flags potential consequential changes to the national consumer protection framework that relates to energy bills, including:

- a new requirement for retailers to notify existing customers prior to the transition from the supply of natural gas to a natural gas equivalent (*or on the first bill after the transition*) that:
  - the customer is now being supplied with the natural gas equivalent
  - the changes the customer may see in relation to the quantity of gas metered at their premises following the transition (and the reason for that change).
- a new requirement for retailers who receive requests for historical billing data from a customer, to state in the billing information provided if there was a transition from natural gas to a natural gas equivalent during the billing history period for which information is requested, and the date at which the transition occurred.
- if the natural gas equivalent to be supplied has a different heating value from natural gas, a requirement for retailers to issue a bill based on an actual meter read for customers with accumulation (non-interval meters) before supply is transitioned to a natural gas equivalent.

We note that the AER is currently developing the first enforceable Better Bills Guideline under the National Energy Retail Rules, which aims to simplify bills and make them easier for consumers to understand. We are currently developing the Guideline under a new *Bill contents and billing requirements rule* made by the AEMC in March 2021. We are being guided by significant consumer and behavioural insights research which confirms the consumer and market benefit from clear, simple energy bills (more information is available on our website [here](#)).

In addition to simplifying energy bills, we are also prioritising simplifying the retail market regulatory framework to encourage effective competition and reduce cost to serve: [AER Strategic Plan 2020-2025](#). We note there are likely to be significant benefits for consumers and the market when the regulatory framework is less complex, including the potential for further improving energy affordability for consumers.

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<sup>1</sup> Note, participation in a trial is different from future options where customers may opt in to pay a higher price for “green gas” as has occurred in electricity.

We are conscious that adding requirements to energy bills is likely to make energy bills and the market more complex and harder for consumers to use, understand and engage with. It also limits the ability to achieve the goals of the recent billing rule change and makes the regulatory framework for billing more complex. There are also possibilities to provide consumers with important information other than as part of the bill. We encourage consideration of options that are consistent with the recent billing rule, informed by consumer research and which contribute to simplification of energy bills and the regulatory framework. We also encourage the AEMC to consider a principles-based (rather than prescriptive) approach to achieving the consumer and market outcomes.

## **Retail Law and customer impacts**

It is suggested in the AEMC Review that one of the likely outcomes from the transition to the supply of natural gas equivalents/blends will be higher prices for customers. The key principle this raises is one of customer transparency as if the distributor is using blended fuels, customers will not be able to opt out of being supplied with blended gas and the resultant higher prices. Although all retailers serviced by the distributor will be offering the same blended product, there is still retail contestability and customers will still be able to switch retailers.

Under the NECF, customers are required to be notified in advance of billing changes if there is a change in tariff.

- A retailer may only vary standing offer prices in a 6 month period and must publish variations in a newspaper and on its website at least 10 business days before the new prices apply: Section 23 of the NERL
- A retailer must give notice to the customer of any variation to the tariffs and charges that affects the customer under a market retail contract at least five business days before the variation applies: Rule 46 of the NERR

Although the transition to the supply of blended gas proposed by the AEMC of itself will not result in a change the tariff faced by the customer, it may lead to a change (and higher) price.

We consider that the policy objective of transparency should extend to informing customers as early as possible on the implications of the gas transition which may include prices, and not be triggered by a change in the tariff. In advising customers of these changes, it would be helpful to note that there is still retail contestability and by including a reference/ link to the [Energy Made Easy website](#) in any communication. This would encourage customers to investigate whether the tariff structure of their existing gas retailer best meets their needs and reduces the risk of customer harm should the transition result in higher prices.

## **Gas Regulation**

As you are aware, full regulation gas pipelines are subject to revenue and price approval by the AER. Among other things, the AER considers whether new capital expenditure (capex) and operating expenditure (opex) proposed by a pipeline owner meets the expenditure criteria set in the NGR. Under the expenditure criteria, the AER is required to consider renewable gas-related expenditures based on economic efficiency in the long-term interests of consumers with respect to price, quality, safety, reliability and security of supply of gas services.

Where the proposed capex and opex satisfies these criteria, their cost is included in the allowed revenue and prices for access to the pipeline. Consequently, new expenditure

proposed for the purpose of transporting blends of hydrogen and methane must meet these criteria before it can be included in a pipeline's allowed revenue. If this expenditure is at a higher cost than a non-blended alternative, and there are not sufficient benefits, customer support or other mitigating factors to offset that cost, it may not meet the expenditure criteria.

The regulatory framework may not be as conducive as possible to renewable gas expenditures made by network service providers, unless the expenditure criteria are amended to allow for some consideration of the environmental benefits or optionality provided by renewable-gas related expenditures.

Expanding the regulatory framework to include natural gas blends and renewable gases has the potential to place upward pressure on gas access prices. This arises as network service providers would seek to recover renewable gas-related expenditures from consumers and transfer the risk of such expenditures to consumers.

We note that the AER will be providing separate advice to the AEMC on the implications of these gas reforms on the ring-fencing framework in February 2022.

If you have any questions please contact Mark Feather, General Manager, Strategic Policy and Energy Systems Innovation on 03 9290 6958 or Rachel Thomas, Acting Director, New Markets and Innovation on 02 9102 4059.

Yours sincerely

A handwritten signature in blue ink that reads "Jim Cox". The signature is written in a cursive style with a large, stylized initial 'J'.

Jim Cox  
Deputy Chair  
Australian Energy Regulator

Sent electronically via AEMC portal