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The Australian Energy Market Commission
Online submission: https://www.aemc.gov.au/contact-us/lodge-submission

To whom it may concern,

Extending the national gas regulatory framework to hydrogen blends and renewable gases - Changes to the NGR and NERL

Australian Gas Infrastructure Group (AGIG) welcomes the opportunity to provide feedback on the Australian Energy Market Commission (AEMC) review into extending the regulatory frameworks to hydrogen and renewable gases – Draft Report (the Draft Report).

This reform package is an important step forward in developing the foundations for a renewable gas industry in Australia. We are strongly supportive of the reform as it will enable investment in innovative projects that will not only reduce emissions for users of natural gas including in our gas networks, but also assist in increasing scale and driving down the costs of hydrogen and other renewable gas projects.

After providing an overview of AGIG, we have provided comments on specific draft Recommendations of the AEMC. Attachment A details our response to the ring fencing questions asked by the AEMC.

About AGIG

AGIG is the largest gas distribution business in Australia, serving more than two million customers through our networks in Victoria, Queensland, South Australia, and several regional networks in New South Wales and the Northern Territory. Our transmission pipelines and storage facility serve a range of industrial, mining and power generation customers.

At AGIG, we are committed to sustainable gas delivery today, and tomorrow. Our Low Carbon Strategy, targets 10% renewable gas in networks by no later than 2030, with full decarbonisation of our networks by 2040 as a stretch target and by no later than 2050.

We are now delivering on our strategy by deploying low carbon gas projects. Our projects include:

- Hydrogen Park South Australia – A 1.25MW electrolyser to demonstrate the production of renewable hydrogen for blending with natural gas (up to 5%) and supply to more than 700 existing homes in metropolitan Adelaide. HyP SA is now operational.
- Hydrogen Park Gladstone – A 175kW electrolyser to demonstrate the production of renewable hydrogen for blending with natural gas (up to 10%) and supply to the entire network of Gladstone, including industry.
- Hydrogen Park Murray Valley (HyP Murray Valley) proposal – A 10MW electrolyser to produce renewable hydrogen for blending with natural gas (up to 10%) and supply the twin cities of Albury (New South Wales) and Wodonga (Victoria), with the potential to supply industry and transport sectors.

Access to pipelines by suppliers of covered gases

Draft Recommendation 1 – Clarify the right to connect to a pipeline and connection cost recovery for service providers

We support the proposed amendments to the interconnection principles. In addition to clarifying that service providers can recover the costs associated with metering and monitoring the quality of the gas, we note that service provider's ability to recover the directly attributable costs of constructing, operating and maintaining the interconnection should also include pressure regulation (installation and maintenance) and potentially other items of equipment, for turn metering and monitoring.

Draft Recommendation 2 – Introduce a register of covered gas supplier pipeline connections

We consider for the below reporting requirement, the obligation should operate once a pipeline is licenced to transport renewable gas and that any supplier curtailment reporting should be limited to blended gas. Further, at the initial stages of market development where there may be very few projects connected, we consider quarterly reporting to be more appropriate than monthly reporting.

> *2. information on the level of blending that has occurred in the pipeline (if any) and any supplier curtailment that has occurred in the last month, which would be published on the Gas Bulletin Board.*

Economic regulation of pipelines

Draft Recommendations 3 and 4: Require service providers to publish a supplier related curtailment methodology; Require scheme pipeline service providers to include a supplier related curtailment methodology in their access arrangement

While we agree that there are likely to be benefits from more transparency on the curtailment methodology that service providers intend to employ, we consider that the requirement should only commence once a pipeline is licensed to transport covered gas (other than natural gas). This recognises that the risk only arises when a service provider has an affiliate that transports covered gases (other than natural gas), which not every provider has the intention of doing so.

Draft Recommendation 5 – Introduce reporting obligations on the gas a pipeline can transport and any proposed changes to this

While we consider that requiring service providers to publish the information identified by the AEMC will benefit the market in terms of increased transparency, we question the need to have this information published across a number of different channels.

The Access Arrangement (AA) and Access Arrangement information is relatively static document that is revised and mostly updated every AA period (5 years). We envisage information on trial projects may change relatively frequently and may be outdated if included in the AA. We suggest that the information be centrally housed in one place (for example only be included in the AEMC gas pipeline register), which is easily accessible by industry and can be updated relatively frequently.

Draft Recommendation 7 – Require Government grants and concessional finance to be treated as capital contribution

We consider it inappropriate to amend rule 82 to provide the regulator with some discretion to treat concessional finance (provided by governments and agencies, such as the Clean Energy Finance Corporation) in the same manner as user capital contributions and government grants. Ultimately any capital financed through a concessional finance stream would still result in the capital needing to be repaid and therefore is fundamentally in nature different to a contribution or grant, where such amount is not expected to be repaid.

Ring fencing framework

We support amendment to the ring fencing exemptions to provide the regulator with greater discretion to respond to market developments in a targeted and proportionate way. The current criteria is prescriptive and gives the regulator little discretion to grant exemptions to service providers from the prohibition against carrying on a related business.

Also, the current approach of approving associate contracts should be retained. Requiring regulator approval prior to entering into all associate contracts will impose an administrative and cost burden on service providers that is not justified, particularly where contracts and variations do not give rise to anti-competitive effect or raise the competitive parity issue.

Refer to Attachment A for our detailed response to the ring fencing questions.

Market transparency mechanisms

Draft recommendation 12: Extend the bulletin board to other covered gases

While we support pipeline service providers publishing basic information to help facilitate connections by facilities injecting gas other than natural gas, we question the need to have this information reported on the Gas Bulletin Board. This will have system implications and costs burdens, which we consider outweighs the benefits of having the information published on the Gas Bulletin Board, particularly at the outset of market development.

As outlined above, the requirement to report on the number of times any covered gas supplier has been curtailed in the last month should be limited to blended gas. Further, at the initial stages of market development where there may be very few projects connected, we consider quarterly reporting to be more appropriate than monthly reporting on information on the highest, lowest and average blend level achieved on the pipeline (or part of the pipeline) and information on the number of times any injecting facility has been curtailed in the last month to maintain blending limits and the extent of the curtailment.

Draft recommendation 15: Extend the non-pipeline infrastructure access reporting obligations to blend processing facilities

We note the exemptions available for stand-alone compression and storage facility reporting include non-third party access and also recently flagged in the *Information Paper Improving gas pipeline regulation information paper*[1]:

> '*Service providers only have to report prices where a user's total capacity right (under one or more contracts with the service provider by means of the same pipeline) is greater than or equal to 10 TJ per annum.'*

We expect these exemptions to also apply to blend processing facilities.

Regulated retail markets

Draft recommendation 23: require distributors and retailers to provide notices of a transition to a NGE

We consider that transition notices requirement will provide a consistent framework across networks in notifying customers and industry on a transition to a natural gas equivalent (NGE). However more consideration should be given to the content and frequency of issuing transparency notices to ensure it strikes an appropriate balance of providing useful information to customers while also minimising cost and administration burdens on the parties.

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[1] See: https://www.energy.gov.au/sites/default/files/2022-04/Information%20Paper%20Improving%20gas%20pipeline%20regulation.pdf

We observe that the transition from blended gas (of varying percentages) to 100% renewable gas may be different for customers in different locations and the percentage blend may increase in various increments before it reaches 100%. Would customers need to receive transition notices every time a blending % changes? If so, this would increase the administrative and regulatory burden on all parties involved and would not achieve good outcomes for consumers. If the Australian Energy Regulator (AER) were to make transition notice guidelines, we strongly recommend the AER consult with distributors in the consultation process to provide feedback on the form and content of the notices.

Once again, I would like to thank you for the opportunity to provide feedback on the AEMC review. Should you have any queries about the information provided in this submission please contact Jenny Thai, Senior Policy Advisor (jenny.thai@agig.com.au or 0419 428 348).

Yours sincerely,

Kristin Raman
Acting Executive General Manager People and Strategy

Attachment A

Questions			AGIG Response
Exemption criteria for minimum ring fencing requirements	1	Should the NGR continue to set out the limited circumstances in which exemptions from the minimum ring fencing requirements can be granted, or be amended to provide the regulator with greater discretion under high level criteria?	We support amendment to provide the regulator with greater discretion under the high level criteria which will increase the ability of the regulator to respond to market developments in a targeted and proportionate way. The current criteria are prescriptive and give the regulator little discretion to grant exemptions to service providers from the prohibition against carrying on a related business.
	2	If the current approach is to be maintained, are the exemption criteria in rules 31(3)-(4) fit for purpose, or can they be improved? Please set out the changes you think need to be made and why.	No comment.
	3	If changes are to be made to the exemption framework, what are the likely costs, benefits and risks?	There will be likely benefits as it will provide the regulator much greater flexibility to grant exemptions to enable the development of a renewable gas market.
	4	If changes are to be made to the exemption framework should they apply generally (for all covered gases including natural gas), or be limited to trials of hydrogen and renewable gases?	We consider that a single exemption framework should apply generally (for all covered gases including natural gas).
Class exemptions for minimum ring fencing requirements	1	Should the regulator continue to assess exemptions from the minimum ring fencing requirements on a case-by-case basis, or should it be able to issue class exemptions?	We consider that the regulator should be able to issue both exemptions on a case-by-case basis and class exemptions to respond to the dynamic nature of the emerging renewable gas market.
	2	If class exemptions are permitted, a what are the likely costs, benefits and risks?	Class exemptions could be granted for renewable gas pilot projects and also commercial projects in the early stages of industry development.

	b in what circumstances could class exemptions be relevant? c how do you think the risks with class exemptions should be addressed?	
Conditions on exemptions from minimum ring fencing requirements	1 Should the regulator have the ability to impose conditions on an exemption from the minimum ring fencing requirements and also be able to vary the conditions?	This proposal seems reasonable.
	Should the ring fencing exemption arrangements be amended to: require the regulator to specify an expiration date or a review date for a ring fencing exemption decision? require the service provider to notify the regulator without delay if conditions change such that it no longer qualifies for an exemption? clarify the ability of the regulator to revoke an exemption from the minimum ring fencing requirements?	This proposal seems reasonable.
Consultation process for varying or revoking minimum ring fencing exemptions	Should the regulator be required to employ the expedited consultative procedure for variations to, or revocations from, a minimum ring fencing exemption, or have greater discretion in the consultation it carries out?	We consider it reasonable for the regulator to have greater discretion in the consultation it carries out. In types of situations outlined in NGR 68, it seems reasonable that the regulator should have the ability to vary or revoke a ring-fencing determination without public consultation. In situations where the regulator is considering whether to vary or revoke a ring fencing exemption given to a service provider, it is appropriate for the regulator to consult only with the service provider, making the process more efficient.
	If more flexibility is to be provided, should the regulator have a high or limited degree of discretion to determine the appropriate level of consultation?	A limited degree of discretion to determine the appropriate level of consultation would be appropriate to provide certainty to service providers.
Class decisions on additional ring fencing requirements	Should the NGR specify any additional matters (in addition to those set out in the draft Bill) that the regulator would be required to consider when making a ring fencing order? If so, what are those matters and why are they required?	No comment.

		What matters do you think the regulator should consider when deciding whether to grant individual service providers or associates an exemption from a ring fencing order?	No comment.
	2	What consultative procedure do you think the regulator should employ when: a making a ring fencing order? b granting individual exemptions from the ring fencing order?	a For making a ring fencing order, the standard consultation procedure may be appropriate. b For granting individual exemptions from the ring fencing order, the expedited consultative procedure may be appropriate.
Approval of associate contracts	1	Should the current approach of approving associate contracts be retained or amended to require approval prior to (ex ante) entering into a contract? Why?	The current approach of approving associate contracts should be retained as requiring regulator approval prior to entering into all associate contract will impose an administrative and cost burden on service providers that is not justified particularly where no types of contracts and variations have been identified to give rise to anti-competitive effect or raises competitive parity issue.
	2	If an ex ante approval framework is introduced, should service providers be required to obtain approval of: a all associate contracts and variations b only those associate contracts and variations that do not involve the supply of a reference service at the reference tariff, or c only those associate contracts and variations identified by the regulator?	If an ex ante approval framework is introduced, service providers should only be required to obtain approval of those associate contracts and variations identified by the regulator as a cause for concern.
	3	If the regulator is given the ability to identify the associate contracts that will or will not be subject to an ex ante approval process: a what types of contracts or variations are more likely to contravene the associate contract provisions in the NGL and should therefore be subject to the process? b should the rules guide the regulator in exercising that discretion?	a We have not identified any kinds of contracts or variations that are more likely to contravene the associate contract provisions in the NGL. b If the regulator is allowed to exercise that discretion either the rules or a separate ring fencing guideline to be developed (with stakeholder consultation) should provide guidance.

Onus of demonstrating an associate contract complies with the NGL	1	Should the current onus on the regulator be maintained or should service providers be required to demonstrate, to the regulator's reasonable satisfaction, that an associate contract or variation does not contravene the anti-competitive effect and competitive parity rule provisions in the NGL? Why?	Our interpretation of the Rules is that the current onus is on the service provider to provide the regulator with sufficient information to satisfy the regulator that it should grant the approval. The Rules requires the regulator to approve that associate contract if the regulator is satisfied that contract is not anti-competitive and is consistent with the competitive parity rule. The rule does not place the onus on the regulator to satisfy itself. Further, if the regulator felt it did not have sufficient information to be satisfied, the regulator would be entitled to ask for that information.
	2	If the change is made, should service providers be required to include any information that it seeks to rely on in its application, including material that demonstrates that the contract or variation does not contravene the anti-competitive effect and competitive parity rules?	If the change is made, it is reasonable that service providers be required to include any information that it seeks to rely on in its application, including material that demonstrates that the contract or variation does not contravene the anti-competitive effect and competitive parity rules.
	3	If the change is made, should the regulator be able to seek additional information from the service provider if required?	If a change is made, then it is reasonable for the regulator be able to seek additional information from the service provider if required.
Time and consultation process for associate contract decisions	1	Should the 20 business day time limit for decisions on associate contracts be extended? If so, what should it be?	We do not consider it necessary to amend the current provisions. Under rule 32(2), the regulator does not have to approve a contract unless the regulator is satisfied. If 20 business days has not given the regulator adequate time to reach a definite decision, then the regulator is not satisfied and, prior to the end of the 20 business day period, the regulator can make a decision to not approve. Rule 32(5) does not apply in this case. We consider that the purpose of rule 32(5) is not to force a definite decision within 20 business days. Rather, rule 32(5) ensures that the regulator acts quickly to consider whether a service provider's application and, if necessary, to request further information from the service provider.
	2	Should a 'stop-the-clock' provision be available to the regulator in this process? If so, should there be any	If a stop-the-clock provision is made available to the regulator then there should be a limit on the extent to which the decision-making time limit can be extended.

		limit on the extent to which the decision-making time limit can be extended?	
	3	Should the decision-making process include public consultation? If so, what would be appropriate?	We do not thinking introducing a public consultation component in the decision-making process is necessary.
Clarify the competitive parity rule	1	Should greater guidance on the competitive parity rule be included in the NGR, or is the current definition sufficient? Why?	We consider the current definition to be sufficient as the competitive parity rule stated in section 148(2) of the NGL is already clear and does not require further clarity.
	2	If the change is made, should the new rule be based on the obligation to not discriminate provisions in the Ring-fencing guideline (electricity distribution) 2021, or is there an alternative approach to provide greater guidance?	As outlined above, the current competitive parity rule definition does not require further clarity. The principles stated in the Electricity Ring-fencing Guideline do not provide any greater clarity to the competitive parity rule. They simply provide examples of what it means to provide services to an associate as if the associate were an unrelated entity.