20 October 2025

Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

submissions@aemc.gov.au

**Consultation paper: National Gas Rule Amendments 2026 (Gas networks in transition) (GRC0082)**

Alinta Energy is pleased to provide comment on the consultation paper released by the AEMC to assist in its review of the National Gas Rules (**NGR**) change requests proposed by Energy Consumers Australia (**ECA**) and the Justice and Equity Centre (**JEC**) to ensure the economic regulatory framework that applies to gas distribution networks supports the long-term interests of consumers in an outlook of uncertain gas demand. We consider that are well positioned to contribute to this discussion, having provided significant commentary on gas distribution access arrangement regulatory reviews nationally including, most recently, regarding proposals in NSW and WA to introduce accelerated depreciation to alleviate stranded asset risk in declining gas demand.

Alinta Energy sells gas to approximately 600,000 residential and business customers connected to gas distribution networks across the country, including in WA where we are that state's largest gas retailer. As such, we understand the jurisdictional nuances concerning gas demand that complicate a one-size-fits-all approach to making new rules; whilst some state governments have made announcements regarding the phasing out of natural gas (Victoria, ACT), others have confirmed that no bans will be imposed (WA).

We appreciate the challenges faced by the AEMC in considering the proposed rule changes, observing that a change to one element may have significant implications for other interrelated components, with all parts operating as a package to promote the National Gas Objectives (**NGO**). With this in mind, we agree with the AEMC's multifaceted approach of not only consolidating the ECA and JEC rule change requests, but considering whether other changes are required to ensure the framework will remain fit for purpose and continue to promote the interests of consumers through the energy transition.

In responding to this consultation, Alinta Energy's key recommendation is that the regulatory framework should re-balance the allocation of risk between customers and distributors. The current approach to accelerated depreciation places the burden of asset stranding primarily on consumers, even though the National Gas Law (**NGL**) provides distributors with only a reasonable opportunity, not a guarantee, to recover their efficient costs. We therefore recommend that the AEMC considers reforms that shift more of the risk associated with uncertain demand and stranded assets to distributors, in line with their role as long-term asset owners best placed to manage these risks.

More broadly, this review presents an opportunity to modernise the NGR to ensure that they remain fit for purpose in a decarbonising economy. This includes:

- Strengthening capital and operating expenditure criteria to prevent consumers from underwriting speculative or premature investments;
- Introducing clear rules around when accelerated depreciation and redundancy provisions may be used and ensuring they are applied only where risk is clearly demonstrated and equitably shared;
- Supporting efficient, case-by-case regulatory decisions that promote the long-term interests of consumers, particularly those who are vulnerable or difficult to electrify; and

- Providing regulators with greater discretion to set access arrangement periods and tariff variation mechanisms that reflect prevailing market conditions.

Together, these changes would help ensure that the framework continues to promote affordability, equity and efficient investment during the gas transition, while maintaining safe and reliable service for customers who remain connected to gas networks.

We would welcome the opportunity to discuss our comments further with the AEMC.

Yours sincerely

**Graeme Hamilton**
General Manager, Regulatory & Government Affairs
Alinta Energy

### Question 1: What are the issues impacting consumers and gas distributors under the energy transition?

Alinta Energy agrees with the AEMC's proposal to consider whether changes may be required to interrelated elements of the regulatory framework; contemplating the rule change requests proposed by ECA and JEC in isolation may have unintended consequences for the broader regulatory framework. We support the four workstreams proposed by the AEMC within which the rule change requests will be considered alongside the issues identified by the AEMC and, we expect, any additional matters raised by stakeholders as part of this consultation.

Government energy transition policies at both a state and national level will play a key role in influencing the continued use of gas distribution networks and, therefore, the underlying regulatory framework. Any revisions to the framework will need to be flexible enough to accommodate the differences in state energy transition policies, where we are already starting to see significant variances. As such, a one-size-fits-all approach to a revised framework is unlikely to be suitable and solutions outside the NGR may be required to compliment any proposed amendments to the NGR framework. However, as identified by the Australian Energy Regulator (**AER**), there are also pros and cons of considering options outside the NGR framework, for example when revaluing the asset base.[1] If done carefully, demand risk would be placed on network businesses while retaining stable prices for customers; however legislative change to the NGL and NGR would be required to allow for periodic revaluation and compensation for the regulatory risk of the revaluation.

The AER also notes that there are already several options available under the regulatory framework to manage price risk and stranded asset risk associated with declining gas demand.[2] Some options may be more appropriate than others at different points in time and for different reasons Selecting the right mechanism in each case will be critical to ensuring that costs and risks are efficiently allocated and that consumers are not exposed to unnecessary charges during the transition.

### Question 2: What changes, if any, should be made to the NGR capital expenditure criteria?

ECA raises a valid concern that stranded asset risk is being inappropriately shifted to consumers under the current regulatory framework because the framework is no longer fit for purpose in an environment of declining demand. We therefore support consideration by the AEMC of ECA's proposed solution that would impose stricter capital expenditure criteria.

With respect to ECA's proposal that reference tariffs should exclude capital expenditure on renewable gases, we note there is a current trend by distributors to justify proposed expenditure for enabling renewable gases by maintaining it aligns with the emissions reduction element recently incorporated in the NGO. However, the NGO continues to define the long-term interests of consumers along multiple dimensions, including the price, quality, safety, reliability and security of supply of gas. These dimensions need to be balanced against each other and considered together; the emissions reduction component is not elevated above the other components of the NGO. The current risk profile of renewable gases suggests there isn't a reasonably probable expectation of attaining suitably high benefits for consumers (i.e., benefits that would justify the risks incurred) in terms of price, quality, safety, reliability, security of supply or emissions reduction.

Noting AEMO's commentary that distributors' decisions on expenditure are likely to become more interrelated given replacement, maintenance and decommissioning needs, we consider there should, nevertheless, be strict criteria specifying what can and cannot be included in this component. We would support consideration of a decommissioning capital expenditure component in circumstances where significant declining gas demand can be proven.

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[1] AER, November 2021, *Regulating gas pipelines under uncertainty – Information paper*, p. 37

[2] AER, November 2021, *Regulating gas pipelines under uncertainty – Information paper*, p. ix

### Question 3: Are any changes required for operating expenditure?

We agree with ECA that the current definition of operating expenditure set out in NGR 69, which includes expenditure incurred in increasing long-term demand for pipeline services, is no longer fit for purpose and should be reviewed in the context of the energy transition.

The regulatory framework should motivate distributors to provide the most efficient options to address network requirements, regardless of whether these are capital intensive, or asset management/maintenance solutions supported by operating expenditure introduced in recognition of the key role that these types of solutions play in the energy transition.

### Question 4: Does the current framework effectively manage and allocate risk and costs between consumers and network service providers in the context of uncertain demand?

We agree with ECA and JEC that the current rules are unsatisfactory in the context of managing asset risk related to uncertain consumer demand. This has been demonstrated in recent access arrangement reviews undertaken nationally, where much discussion has been generated around the application of accelerated depreciation to manage this risk.

The key concern with accelerated depreciation, as raised by both ECA and JEC, is that in its current form consumers pay the costs of asset stranding, while no costs are imposed on the distributor. Consumers should not be required to hedge distributors from all and competing risks, including both increasing and decreasing demand risk. Rather than being compensated for several types of risk at once, network investors must be willing to accept the reasonable risks associated with owning regulated gas infrastructure, including inflation, changes in demand and stranded asset risk, even though these risks may not coincide. As highlighted by ECA, the NGL revenue and pricing principles (NGL 24) state that a service provider should be provided with 'a reasonable opportunity to recover at least the efficient costs' of its service provision, not with a guarantee or complete insulation from the risks of their business.

Accelerated depreciation is one of a range of mechanisms which could be applied to alleviate stranded asset risk, however it may not be the 'best' instrument and it may not be an appropriate mechanism to address other gas market risks. We would support a case-by-case approach to risk management, such as that applied by the AER where 'we will carefully consider the surrounding circumstances of a regulated business to determine the materiality of the demand risk it faces and assess the efficiency and prudency of the measures it proposes to mitigate pricing risks'.[3]

We consider:

- Accelerated depreciation has a specific outcome that should be attached to a specific risk that is best addressed by that outcome. That risk case needs to be firmly identified and established. Accelerated depreciation may have adverse consequences if it is applied to address a situation that does not eventuate or manifests itself differently;
- A range of alternative mechanisms to address a specific risk should be assessed, including disconnection fees, tariff structures and the capital investment framework; and
- Assessment should consider the best outcome for the consumer, where this may include objectives beyond levelised gas pricing. While accelerated depreciation may level out the burden of capital expenditure recovery such that the burden per customer per year across the asset life is the same, the price signals it sends to customers may conflict with energy transition objectives.

[3] AER, November 2021, *Regulating gas pipelines under uncertainty – Information paper*, p. x

### Question 5: How does ECA's proposal impact the recovery of capital costs for new and existing assets?

We support a review of NGR 89 to ensure it remains fit for purpose considering the uncertain outlook for gas demand. A depreciation schedule designed so that reference tariffs vary 'in a way that promotes efficient growth in the market for reference services' is unsuitable in the context of decreasing demand.

ECA's preferred option of 'contingent' accelerated depreciation allows for accelerated depreciation only if certain conditions are met, with the intent of these conditions being to encourage distributors to act in the interests of consumers in return for consumers paying to alleviate risk to distributors. Distributors would therefore be incentivised to advocate for certain policies, such as those that ensure sufficient government funding to support permanent customer disconnection and network decommissioning.

Despite ECA's contention that gas distributors have been aware of Australia's emissions reduction commitments for many years and should therefore bear the risks of investment decisions made over this period, the outlook for gas demand remains uncertain and varies significantly between jurisdictions. We would therefore not support ECA's alternative solution of prohibiting variation to depreciation schedules for existing assets, as this could result in significant price increases for customers remaining on the network.

### Question 6: How does JEC's proposal impact the recovery of capital costs?

The capital redundancy provisions in NGR 85(1) state that an access arrangement may include a mechanism to remove redundant assets i.e. 'assets that cease to contribute in any way' from the capital base. We agree with JEC that this definition may be too constrained and that a better definition may be where an asset is no longer economically efficient. It may, however, be premature to include *anticipated* redundant assets within this definition.

JEC's proposal to *prohibit* the use of accelerated depreciation for assets at risk of stranding unless the regulator has undertaken a redundancy assessment and determined how the costs should be shared, offers an alternative to ECA's proposal to *allow* for accelerated depreciation but only if certain conditions are met. However, ECA's proposal appears to provide the regulator with greater flexibility, which may, as noted by the AEMC, be needed by both the regulator and businesses to manage the impact to, and promote the long-term interests of, customers.

### Question 7: Are new planning requirements necessary?

While a new Gas Annual Planning Report (**GAPR**) as suggested by ECA could be useful, its value may be limited if it is "reporting for reporting's sake" rather being used to drive decisions; additional data will not serve any purpose if its relevance is not understood. Moreover, despite the consideration by ECA that the costs of a GAPR will be modest, these costs will invariably be passed on to consumers. We would therefore recommend a cost-benefit analysis before rolling out a GAPR or similar.

We agree with the AEMC's initial assessment that asset decommissioning may require a specific planning and consultation framework and would support the development of a framework which could feed into the access arrangement process, providing confidence to stakeholders that decommissioning costs have been equitably determined and thoroughly scrutinised. As network decommissioning is not constrained to scheme pipelines, the same or similar framework could be applied to non-scheme pipelines.

### Question 8: Would a longer-term outlook on the gas transition support better regulatory decision-making?

There could be benefit in introducing a longer-term outlook on demand and expenditure forecasts beyond the access arrangement period. Whilst a five-year access arrangement period has been universally adopted by distributors, without a regulated period it is difficult to nominate an appropriate longer-term outlook in years. However, an outlook that spans two regulatory periods, as adopted by

telecommunications regulators in New Zealand, sounds reasonable. Alternatively, we would support amendments to the NGR that would require forecasts over a period that aligns with net zero targets or jurisdictional decommissioning plans.

### Question 9: Are changes to reference tariff variation mechanisms necessary?

It would be beneficial for the NGR to provide more guidance to the regulator on when different reference tariff variation mechanisms should be used, as this decision is key to determining the cost to customers. Whilst sharing future expected decline in demand risk between distributors and customers appears equitable, some consideration should be given to historical access arrangement periods where, under a price cap tariff variation mechanism, a distributor has been the sole beneficiary of volume under-forecasting.

It may be too early in the access arrangement process to require the regulator to determine the applicable mechanism at the reference service proposal stage, when limited information is available to stakeholders.

### Question 10: Are changes to the tariff rules necessary?

We would support additional guidance in the NGR around the structure of tariffs in an outlook of uncertainty. As gas demand declines, it will become even more important to get the structure of reference tariffs right so that customers remaining on the network – who are likely to be vulnerable, renters, low income and 'hard to electrify' – are not cripplingly burdened because of their circumstances. These customers are at risk of being left on the network regardless of any changes to the NGR that provide for more efficient price signals.

### Question 11: Should the regulator be able to require shorter or longer access arrangement (AA) periods?

Given the uncertainty regarding future demand, we would support providing the regulator a greater role in determining the length of an access arrangement period, which is currently set by the service provider and is, for gas distribution networks, invariably set at five years.

Providing the regulator greater flexibility in setting access arrangement periods and thereby affording the alignment of gas and electricity reviews could facilitate greater understanding of the interactions between these two sectors. However, as access arrangement reviews are all-encompassing, such alignment could have a significant impact on the resources of both regulators and key stakeholders seeking to engage in these reviews.

### Question 12: Are changes required to the re-opener provisions?

NGR 65(1) applies an asymmetrical risk to service providers and consumers, whereby the service providers may seek a variation, but the regulator and other key stakeholders cannot. As such, we would support an amendment that allows others to apply for a reopener in certain circumstances.

Enabling the regulator to conduct a restricted, rather than all-inclusive, review of an access arrangement where a variation has been proposed could save significant time and costs for the regulator, service provider and other key stakeholders.

### Question 13: Should there be changes to the existing or additional incentive mechanisms?

We would support incentive mechanisms that encourage efficiencies and balance expenditure with service levels. The Spanish approach of incentivising the ongoing operation of fully depreciated assets to avoid new investment costs is worth exploring, provided these assets can be operated safely.

### Question 16: Assessment framework

We agree with the six criteria proposed by the AEMC to assess the rule change requests submitted by ECA and JEC. We also agree with the AEMC's methodology of not making a rule change, or making a different rule change, if it is likely to better contribute to the achievement of the NGO.

We urge the AEMC to put consumers front and centre in their assessment to ensure – especially for vulnerable and other hard to electrify customers – that solutions are equitable, adequately protect against unnecessary costs, and continue to provide safe and reliable supply until the gas transition is complete.