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Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

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By email: aemc@aemc.gov.au

APA Group welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC's) draft Rule Determination regarding the definition of Reference and Rebateable services.

APA Group lodged a submission in relation to the Australian Energy Regulator's (AER's) Rule change proposal in November 2011. APA Group's submission did not support the AER's proposed Rule changes, stating that:

- the current Rules were well aligned to the characteristics of the industry being regulated and did not require amendment; and
- AER's proposed Rule changes had considerable scope for unintended consequences, which would impinge on the ability of service providers to earn the efficient costs of providing services, and distort the risk/reward relationships in existing bilateral contracts.

The AEMC's draft Rule determination accepts the AER's proposed Rule change in part. The AEMC accepted the AER's proposal that it should have increased discretion to determine whether a service sought by a significant part of the market be classified as a reference service, while rejecting the AER's proposal to remove the limitation on rebateable services being in a substantially different market from any reference service.

Changes to Reference Service definition

APA Group supports the AEMC's draft determination to amend the definition of Reference Services by making a 'more preferable' Rule to that proposed by the AER.

APA Group considers that the AEMC's changes to the AER's proposed Rule change, principally to provide some guidance to the AER's discretion by reference to the Revenue and Pricing Principles, are appropriate and address the AER's concerns, while also still providing some guidance on the scope of the AER's discretion. The AEMC's changes address concerns raised by APA Group in respect of the AER's Rule change proposal that the AER's discretion under its proposal would be unbounded.

Retention of current definition of Rebateable Services

APA Group supports the AEMC's draft determination not to amend the definition of Rebateable Services.

The AER's Rule change proposal focused on the unique arrangements in Victoria, and did not address the potentially significant unintended consequences for other pipelines. Retaining the current definition of rebateable services maintains current risk/reward arrangements in relation to triggering most favoured nation clauses, which the gas industry have managed through bilaterally negotiated contracts to date.

Further, APA Group agrees with the AEMC's analysis that the AER have not demonstrated that the impact of alleged 'over-recovery' in relation to AMDQ credit certificates is significant in relation to the risks associated with changing the definition of rebateable services.

As discussed below, potential additional revenues associated with the 'volume effect' are already returned to customers through the price control model. Additional revenue associated with the allocation of AMDQ credit certificates at a higher price than the reference tariff is a feature of the Victorian Declared Wholesale Gas Market and is critical in providing a form of leading capacity signal under the market carriage model. The removal of this mechanism from the market (by effectively taking away APA GasNet's incentive to allocate AMDQ credit certificates on an efficient basis through the application of rebateable service provisions) has the potential to undermine the efficient operation of the Victorian Declared Wholesale Gas Market.

Arrangements under Victorian Declared Wholesale Gas Market

APA Group confirms the AEMC's description of arrangements under the Victorian Transmission System (VTS) access arrangement in relation to rebating to users additional revenue associated with the 'volume effect' arising from unused AMDQ credit certificate contract capacity, although we note that these rebates are applied across all tariffs not just injection tariffs. This rebate is applied in accordance with the approved price control model under the current access arrangement, and which the AER reviews and confirms at each annual tariff variation in respect of the VTS. As such, APA Group does not consider that this approach is 'voluntary' as suggested by the AER in its communications with the AEMC subsequent to making its rule change proposal.¹

Further, APA GasNet (the service provider for the VTS) has now submitted to the AER its proposed revisions to the VTS access arrangement to apply for the 2013-2017 access arrangement period. This aspect of the price control model (the rebate of revenue arising from unused AMDQ credit certificate contract capacity to users) has been retained in the proposal.

APA Group would be pleased to discuss any aspect of this submission with the AEMC at its convenience. Please contact Peter Bolding on (02) 9693 0053.

Yours faithfully



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¹ AEMC 2012, *Draft Rule Determination: National Gas Amendment (Reference service and rebateable service definitions) Rule 2012*, 15 March, p 22