HSBC Building
Level 19
580 George Street
Sydney NSW 2000
PO Box R41
Royal Exchange NSW 1225

Phone 61 2 9693 0000
Fax 61 2 9693 0093
www.apa.com.au

APA Group

Australian Pipeline Ltd
ACN 091 344 704

Australian Pipeline Trust
ARSN 091 678 778

APT Investment Trust
ARSN 115 585 441

23 October 2015

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

Reference: GPR0003

Dear Mr Pierce

APA Group submission to the AEMC Discussion Paper: Pipeline regulation and capacity trading

APA Group (APA) welcomes the opportunity to comment on the Australian Energy Market Commission (AEMC) Discussion Paper on Pipeline Regulation and Capacity Trading.

Pipeline businesses have invested over $2.2 billion of new capital into pipelines over the last decade or so. APA alone has invested over $850 million in growth capital expenditure on the east coast since 2010, with almost half of that in the last two years. APA believes that more investment is required to meet market needs. Changes to the market for pipeline capacity that remove or dull incentives for investment would have a serious detrimental impact on the gas industry, and to the Australian economy as a whole.

APA believes that industry-led reform initiatives should be the preferred mechanism for the development of pipeline capacity markets. The gas industry has a strong track record of private investment and the development of innovative arrangements and services to support market growth and flexibility. APA believes that market led initiatives can be relied upon to deliver timely and cost effective market solutions in the currently changing market environment.

APA is currently working on a number of initiatives to facilitate pipeline capacity trading, building on its recent work in developing its facilitated capacity trading service and website.

APA is looking at options to offer a brokerage or trading platform for the trade of secondary pipeline capacity. This would include anonymous matching of trades, prudential management and the publication of a market price for traded capacity. This would be an industry-led initiative, potentially extending to include all east coast pipeline owners.

To complement a trading platform, APA considers that there could be further standardisation of secondary market capacity rights. This could be achieved through cooperative industry measures that create standard secondary trading products and terms and conditions that can be offered through the trading platform, accompanied by enhanced gas market transparency through current reforms to the National Gas Bulletin Board.

APA also supports the further development of the Wallumbilla gas supply hub as a physical market hub through the integration of the current three trading locations into a single location. APA has committed to developing an effective hub service product to support that market and ensure access to necessary hub capacity to underpin trades. APA is also extending its current capacity trading service to include trade of compression capacity at Wallumbilla, as well as looking at investment options at Wallumbilla to improve the flexibility of gas deliveries and potentially offer more capacity to the market to support short term trades.

APA believes that these initiatives are preferable to the regulation-based options that are raised in the AEMC Discussion Paper, which APA believes will significantly and permanently undermine incentives to invest in pipeline capacity.

APA would welcome further engagement on the initiatives described above, and our comments on the AEMC's Discussion Paper in the accompanying submission. Please call Alexandra Curran on 02 9275 0020, if you would like any further information.

Yours sincerely

Ross Gersbach
Chief Executive Strategy & Development

APA Group

Submission to AEMC Discussion Paper

Pipeline regulation and capacity trading

23 October 2015

Contents

1 Summary

APA Group (APA) welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC's) Discussion Paper on pipeline regulation and capacity trading.

Pipeline businesses have invested over $2.2 billion of new capital in pipelines over the last decade or so. APA alone has invested over $850 million in growth capital expenditure on the east coast since 2010, with almost half of that in the last two years. APA believes that more investment is required to meet market needs.

APA is concerned that options canvassed in the AEMC Discussion Paper have not adequately recognised the need to continue to provide an environment that supports investment, and in many cases, options discussed, both in the AEMC's Capacity Trading Discussion Paper discussed in this submission, and its earlier Wholesale Markets Discussion Paper, would have the effect of eliminating incentives for market based investment in place of reliance on stifling regulation and central planning models.

Industry-led reform

APA believes that industry-led reform can be relied upon for the further development of the gas market. The pipeline sector has a strong track record of private investment and the development of innovative arrangements to support market growth and flexibility.

In addition to supporting the market with investments in new capacity, APA has developed new and innovative products and services for its customers, including services to support the Wallumbilla Gas Supply Hub and pipeline capacity trading.

It is this type of market development that is likely to be able to readily adapt and evolve as the market changes – certainly far more quickly and effectively than regulatory approaches can.

APA agrees that one of the best ways to stimulate capacity trading is to make it easier for shippers to conduct trades by reducing search and matching costs. APA considers that this is best achieved by clear, low cost mechanisms through which capacity can be offered to the market and traded.

APA believes that there may be value in further standardisation of secondary capacity rights. This can be achieved through cooperative industry measures that create standard secondary trading products and terms and conditions that can be offered on current capacity listing services.

Standard product terms and conditions are a critical step towards the development of a brokerage or trading platform for secondary trading. In this respect, APA is also looking at options to offer a brokerage or trading platform for the trading of secondary pipeline capacity, including prudential management and anonymous trading, with appropriate transparency on traded capacity prices. This would be an industry-led initiative, potentially involving all east coast pipeline owners.

APA also supports the further development of the Wallumbilla gas supply hub as a physical market hub through the integration of the current three trading locations into a single location. APA has committed to developing an effective hub service product to support that market and ensure access to necessary hub capacity to underpin trades. APA is also extending its current capacity trading service to include trade of compression capacity at Wallumbilla, as well as looking at investment options at Wallumbilla to improve the flexibility of gas deliveries and potentially offer more capacity to the market to support short term trades.

APA believes that these initiatives are preferable to some of the regulation-based options that are raised in the AEMC Discussion Paper.

Potential reforms for eastern Australia – AEMC approaches

APA does not believe that the AEMC has established a case for regulatory intervention in pipeline capacity markets, as it has not firmly identified the problem it is trying to solve, and the sources of that problem. This makes it difficult to assess the efficacy and proportionality of the AEMC's potential options to support capacity trading.

AEMC Approach A – Search and transaction costs

This option is presented as one to reduce search and transaction costs to stimulate capacity trading, as well as one that could be delivered through industry-led reform.

While APA is supportive of industry-led initiatives to stimulate capacity trading (and has highlighted a number of areas of current work in this regard), APA considers that further work on the potential interventions discussed by the AEMC is required.

APA believes that the standardisation of capacity rights is best effected in the secondary trading market. This approach protects existing property rights and incentives for investment (which may be reliant on specific or bespoke terms in foundation contracts), while delivering standardised arrangements for the trade of capacity that will improve liquidity.

APA has a clear incentive to maximise the utilisation of its pipelines and to make capacity available to all comers. Therefore, the AEMC's proposal to require pipeline owners to offer spare capacity to the market through a transparent open process does not appear to offer benefits beyond the status quo.

Recent and pending changes to the Gas Market Bulletin Board are expected to increase information available to the market on available capacity. APA's capacity trading website also includes details of contracted firm capacity, and pipeline utilisation, for key east coast pipelines. APA also publishes tariffs for firm capacity for all of its pipelines, regardless of regulatory status, and has also posted its standard form Gas Transportation Agreement on its website to improve transparency over the terms and conditions of pipeline service.

APA does not believe that a voluntary surrender of pipeline capacity provision, as suggested by the AEMC, provides a materially different right to shippers than their current ability to undertake a bare transfer, or to assign or novate a contract. The design of an alternate mechanism, where the pipeline owner acts as an agent to

resell a shipper's capacity, has the potential to undermine incentives to invest if sufficient care is not taken.

AEMC Approach B – Incentives for holders of spare capacity to trade

The AEMC states that its Approach B is targeted at improving incentives for holders of spare capacity to trade their capacity.

APA is concerned that all options presented involve a very high level of regulatory intervention and risk, do not recognise options under current commercial and regulatory arrangements, and would have the effect of shutting down, rather than stimulating, the secondary capacity trading market as they all return allocation of capacity to the primary market. This would adversely impact incentives in the primary market for investment for both pipeline owners and shippers in a way that focusing on the secondary market alone would not. These options are not supported by APA.

APA notes that it already has the ability and incentive to offer unutilised capacity on a firm daily basis. APA does this through As Available and Interruptible services. In this respect, it is not clear what a firm day ahead use it or lose it requirement would deliver for the market. The other options discussed involve a considerable transfer of risk and regulatory overlay (oversell/buyback) or confiscation of property rights (long term use it or lose it), with associated negative impacts on investment incentives.

The AEMC highlights provisions in GTAs that it believes may inhibit trades or the sale of capacity to third parties by pipeline owners. APA does not believe that the provisions highlighted by the AEMC, where they do exist (and some do not) actually operate in the way the AEMC describes. Further work on the prevalence and importance of these provisions would be needed before regulatory intervention is contemplated.

APA does not believe that the reservation of capacity for short term trades is a realistic option. This option would increase the 'at risk' portion of any investment, effectively increasing financing costs and causing these costs to be borne by the pipeline owner and foundation shippers. In effect, foundation shippers would be subsidising the availability of capacity for other shippers, creating clear free-rider problems in respect of new investment.

AEMC Approach C – Incentives for pipeline owners to facilitate access to capacity

The AEMC states that its Approach C seeks to address the issue of pipeline owners having insufficient incentive to facilitate access to capacity.

APA does not believe that the AEMC has adequately shown that access to pipelines, including terms and conditions and tariffs, is an enduring problem in the gas market such as would necessitate increased regulation, or that current arrangements are materially impacting the efficiency of the market through underutilisation of capacity. As recognised by the AEMC, pipeline owners have a strong incentive to maximise the utilisation of their pipelines.

Similar to Approach B, the AEMC highlights provisions in GTAs that it believes may inhibit trades or the sale of capacity to third parties by pipeline owners. Further work on the prevalence and importance of these provisions would be needed before regulatory intervention is contemplated, as APA considers that many of the highlighted provisions do not operate as the AEMC describes.

Gas Transportation Arrangements

Capacity prices

The AEMC discusses prices offered by pipeline owners for unutilised contracted capacity as an issue. The paper suggests that these prices, being for non-firm capacity, are higher than they would be in a workably competitive market, and may be contributing to inefficient under-utilisation of pipeline capacity.

APA is concerned that, on this important issue, the AEMC nowhere elaborates on how a workably competitive market for gas transportation service might be structured, about how transactions would be effected in that market, or about the way in which prices might be set in such a market. In particular, the AEMC does not appear to understand the relationship between firm, As Available and Interruptible services, and how pricing for these services impact investment incentives.

APA provides shippers with arrangements for the management of load variability and other short term requirements, while pricing these to provide incentives towards firm arrangements where a shipper's load factor trends towards daily capacity needs. In effect, shippers that share demand risk through firm services receive a price discount to reflect the lower financing costs associated with such arrangements.

Further development of the secondary trading market would complement this approach where the pipeline operator would continue to provide firm service under long term transportation agreements in the primary market, and arrangements for the management of load variability and other short term requirements could primarily occur in the secondary market in which:

- shippers were free to trade unused contracted capacity; and
- the pipeline operator may choose to sell spare capacity.

In APA's view there are strong policy reasons to prefer stimulation of secondary capacity trading over the forced selling of short term or contracted capacity by pipeline owners. Shippers will have options to buy and sell capacity, in a competitive market, without the need for "heavy handed" regulatory interventions of doubtful efficacy.

Hoarding

The AEMC Discussion Paper highlights the potential for shipper hoarding of capacity. APA considers that the AEMC has devoted very limited discussion to this issue, and commensurately limited analysis.

APA considers that it is critical for the AEMC to set out what it considers to be capacity "hoarding", and to also form a view as to whether this is happening. This

analysis is fundamental to the choice of regulatory intervention (if any), in order to target the source of a problem with the least impact on other markets, and regulatory and investment incentives.

APA is concerned that the AEMC is focusing on regulation of the pipeline sector to address a problem that it has not established, and that, if it does exist, rests with shipper behaviour. The AEMC must also recognise that the availability of As Available and Interruptible services from the pipeline owner does provide shippers with access to unutilised contracted capacity, so a shipper's failure to offer capacity for secondary trade does not deny access to that capacity. Further, options to address hoarding raised in the Discussion Paper are likely to have significant negative impacts on incentives for investment that need to be considered as part of the AEMC's consideration of this issue.

Stimulation of the secondary market is also likely to offer additional benefits by providing more choice to shippers in how they manage their capacity. APA notes that in many cases shippers can offer a superior product in the secondary market compared to pipeline owners as shippers have more information about their demand needs. They can, for instance, offer products over a longer term (weekly or monthly) compared to a pipeline owner's day-ahead capacity offering.

Application of current regulatory regime

The AEMC has raised certain concerns in respect of the application of the coverage criteria, and in particular, criterion (a). The question that the AEMC seems to have raised is whether the coverage criteria, and criterion (a) in particular which requires that coverage results in an increase in competition in a dependent market, provide an appropriate "gateway" for economic regulation, or whether the gateway hurdle is too high in the case of gas transmission pipelines.

It is a bedrock principle of the National Competition Principles that regulation should only be imposed and private property rights only interfered with by the imposition of regulation, if it will result in an economically meaningful benefit. The need to establish that coverage will be economically beneficial by resulting in increased competition is consistent with the general third party access regime in Part IIIA and also with the general competition law in Part IV of the *Competition and Consumer Act*. Improved competition is also the AEMC's stated primary aim in respect of its discussion of the regulation of pipelines, and APA believes that this is consistent with the intended operation and application of the current coverage criteria.

It is well accepted that regulation has a cost - both direct and in terms of inefficiencies associated with regulatory outcomes being wrong. Regulation should not be imposed absent clear and established benefits associated with addressing economic "harm". An amendment to criterion (a) as proposed by the AEMC which removes the need to establish that coverage would enhance competition in a dependent market, would open the prospect of regulating pipelines where there is no benefit but only regulatory cost. This would be inconsistent with well-established National Competition Principles.

2 Introduction

APA Group (APA) welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC's) Discussion Paper on pipeline regulation and capacity trading.

This submission follows the structure of the AEMC's Discussion Paper as follows:

- Part 3 – Assessment of existing gas transmission arrangements
- Part 4 – Overseas approaches
- Part 5 – Discussion of AEMC Approaches

2.1 Inappropriate reliance on theoretical basis for regulatory intervention

The AEMC Discussion Paper includes a discussion of various adverse market factors and behaviours that may lead to inefficient transmission capacity allocation. These factors and behaviours relate to the potential or hypothesised conduct of both pipeline owners and shippers through their contracting approaches and willingness to offer capacity to the market.

APA notes that the first principle of the COAG guide for best practice regulation is to establish a case for action before addressing a problem. This involves examining closely whether there is a problem, and to make an initial decision as to whether action is required.[1]

APA is disappointed that the AEMC's paper appears entirely centred on theoretical discussions of potential factors and behaviours, without the weight of evidence or findings that these factors or problems are actually operating in the market. Confirming these facts is critical to successful market and regulatory interventions.

But it is not enough simply to identify a problem or factor in the market. It is important to also confirm that the problem is detracting from market efficiency, and that addressing it will improve the operation of the market. As a further step, the solution or proposed regulatory action must be proportionate and should actually address the identified problem. These are all key elements of the COAG guide for best practice regulation.[2]

It is not clear to APA that the AEMC has yet undertaken this work or analysis, as it appears to still be in the process of determining whether a problem in fact exists. In this context, detailed discussions of options to address the 'problem' are unlikely to be productive.

[1] Council of Australian Governments 2007, *Best Practice Regulation: A guide for Ministerial Councils and National standard setting bodies*, October

[2] COAG 2007, *Best Practice Regulation Guide*, principle 8

3 Assessment of existing gas transmission arrangements

The following sections discuss some of the key areas set out in the AEMC Discussion paper as having potential to reduce the efficiency of pipeline capacity allocation.

3.1 Gas Transportation Arrangements

The AEMC Discussion Paper sets out some provisions that it considers may exist in pipeline Gas Transportation Agreements (GTAs) that may impede pipeline capacity trading. APA discusses each of these below.

3.1.1 Point-to-point capacity rights

Gas Transportation Agreements (GTAs) for firm capacity bestow a contractual right on the shipper to use capacity in line with the terms and conditions of that GTA. The degree of flexibility included in the contract directly affects the relevant tariffs.

For example, a GTA that includes a high level of flexibility in respect of delivery points (for example through a global delivery MDQ that can be allocated at a number of delivery points as allocated/nominated by the shipper) will generally involve higher capacity costs for the shipper than a contract that is more specific as to delivery points. This is because the flexible GTA effectively requires more capacity to provide that flexibility than the more specific contract.

A shipper could enter into more flexible delivery point arrangements with APA where its circumstances warranted it, noting that where this arrangement involved firm transportation rights this would involve the reservation of more capacity on the pipeline. APA has in place with shippers both types of contracts, including on the Roma to Brisbane Pipeline. [3]

There is some suggestion in the AEMC Discussion Paper that specificity in relation to delivery points wholly benefits the pipeline owner. This is not the case.

Assuming that the pipeline service provider is compensated for the level of effective reserved capacity, the pipeline service provider is at least neutral to this matter. In fact, this flexibility may lead to more throughput to the advantage of the pipeline owner. The choice between contracting approach and flexibility rests with the shipper – the shipper decides whether it needs delivery point flexibility and the relative cost trade-off related to that decision.

In addition, APA's standard GTA includes provisions to allow shippers to request to change their contractual receipt or delivery point, which APA can only reject (in whole or in part) on the basis of reasonable commercial or technical grounds. Such

[3] Delivery point flexibility has been a particular issue on the Roma Brisbane Pipeline, which has historically been constrained for deliveries at the Brisbane metro section of the pipeline, making flexibility in relation to delivery points on this pipeline an important operational consideration and one in the efficient allocation of available capacity.

grounds may relate to there being insufficient available capacity to satisfy the request to change the receipt or delivery point (technical ground), or that the substitution of the delivery point effectively 'reserves' more capacity on the pipeline than the contracted amount (commercial ground). Substitution of a proportionally lesser amount of capacity to the new delivery point to reflect the corresponding contracted capacity is the most likely result of the latter circumstance. Some older agreements may be less flexible but these reflect the shipper specific circumstances of a decade or more ago, and these restrictions are not a feature of APA's current standard contracting approach.[4]

For most APA pipelines, long distances and limited delivery points along those pipelines mean that contracts are effectively point to point and this does not affect the viability of trades.

3.1.2 GTA provisions that may limit capacity trading

The AEMC Discussion Paper describes some arrangements that have been raised by stakeholders as potentially restricting the trade of pipeline capacity. APA discusses each of these in the following table.

Arrangement	APA response
Nomination cut-off times favour capacity sales by pipeline owners	Nomination cut off times are generally 4pm before the gas day, which in Queensland starts at 8am. APA notes that this nomination time is significantly after the confirmation time of the various day ahead markets (such as the STTM and the Wallumbilla GSH), and therefore facilitates nominations in line with those markets where relevant. Shippers are also able to renominate gas flows throughout the day, until 2 hours before the end of the gas day. Primary capacity holders have a much better understanding of their own requirements and as such are positioned to trade firm capacity in a secondary market well ahead of this nomination cut-off time. APA is only able to offer services accessing unutilised contracted capacity after the nomination cut-off time, which if anything gives the primary capacity holder an advantage to sell this capacity. APA notes that the AEMC has recommended, and the COAG Energy Council has accepted, that gas day start times be aligned across the east coast gas markets. APA supports this decision and notes that it is likely to have implications for the nomination cut off times. APA would welcome a discussion of appropriate nomination times that may support the market, as well as ensure that APA has time to prepare for the physical delivery of gas, as part of this process.

[4] In many cases, APA has not enforced restrictions in historic contracts in this area.

Restrictions of the ability of shippers to change receipt and delivery points	As noted above, APA's standard GTA includes the ability to change receipt and delivery points subject to commercial and technical considerations. Some historic contracts may not include this flexibility[5], however all recent contracts include this facility. This flexibility allows more gas to be transported, which is in APA's commercial interest, as well as being in the interest of shippers.
Requirement to negotiate allocation agreements at delivery and receipt points	There is only one flow of gas through a receipt point, or through a delivery point, and one set of measurements pertaining to that gas flow. If a shipper wishes to use contractual flexibility to nominate at a point at which it does not usually deliver or receive gas, it should be prepared to negotiate an allocation agreement with other shippers using that point. The allocation agreement is about entitlements to gas, and not about entitlements to pipeline capacity – it is not a matter for the pipeline operator. APA applies a default allocation methodology under its standard GTA (pro rata allocation) if shippers cannot agree to an alternative methodology amongst themselves. Shippers are therefore not forced to negotiate and agree allocation agreements, in which case the default arrangements apply. APA notes that the ability of shippers to agree alternative allocation arrangements is intended to provide flexibility and not impose pipeline owner preferred arrangements on shippers where they wish to enact alternative arrangements.
Fees and charges levied by pipeline operators that limit capacity trading	APA levies fees and charges for services provided in addition to the firm or contracted service. This includes charges for in pipe trades and use of APA's capacity trading facility. APA notes that in respect of the above services, shippers are not obliged to use these services, and can choose to conduct gas and capacity trades entirely bilaterally and avoid these charges. These services facilitate trades by removing administrative complexity for shippers, and have involved legal and system development costs for APA, as well as ongoing effort to ensure arrangements are given effect through APA's systems, for which APA reasonably expects to be compensated. APA further notes that it offered a 12 month 'holiday' for in pipe trade service charges when it was introduced to seek to stimulate the market. APA also notes that its renomination charges only apply to some pipelines (others are without cost for renomination), and that these charges have recently been waived for a 12 month period in order to review how shippers respond to ensure that open renominations do not introduce an incentive to

[5] In many cases, APA has not enforced restrictions in historic contracts in this area

	game the market through high initial capacity nominations.
Direct prohibition on the pipeline owner selling capacity to another party	APA does not hold any active contracts with this type of prohibition.
Most favoured nation (MFN) clauses	MFN clauses are typically features of foundation contracts. The majority of APA's contracts are not of this nature and do not contain MFN clauses. MFNs are usually resisted by the pipeline owner. It should be noted that these provisions allow for the provision of capacity to another shipper (albeit with flow on price reductions to the foundation shipper if capacity is sold at a lower tariff), and do not stop expansion of the pipeline. APA further notes that these clauses generally relate to the provision of like services, and therefore would not apply to non-firm or short term capacity. They are therefore very unlikely to apply to pipeline owner provision of As Available or Interruptible services.
Rebate provisions for sale of capacity to third parties	Rebate provisions are only found in foundation contracts. They are not common, and are generally only in contracts where a sole shipper is supporting an investment. It is worth noting that these provisions do not remove all incentives for the pipeline owner to resell capacity, and in effect can stimulate the foundation shipper to undertake secondary trades to gain access to all, rather than just a portion, of third party revenues.

APA is concerned that some of the potential provisions discussed above that the AEMC, in response to stakeholder submissions, has raised as evidence of pipeline owner or shipper market power that either do not exist, or do not operate in the way suggested by the AEMC in its Discussion Paper. APA would be very concerned if these factors were raised as evidence of the need for regulatory intervention.

3.1.3 Capacity prices

The AEMC's Discussion Paper raises, as an issue, prices offered by pipeline owners for unutilised contracted capacity. The paper suggests that pricing for non-firm capacity is higher than it would be in a workably competitive market, and may be contributing to inefficient under-utilisation of pipeline capacity.

APA is concerned that, on this important issue, the AEMC paper does not elaborate on how a workably competitive market for gas transportation services might be structured and how transactions would be effected in that market, or the way in which prices might be set in such a market. The AEMC appears unclear about rights to capacity and the ways in which those rights might be priced.

Investment incentives inherent in relationship between Firm, As Available and Interruptible service pricing

The starting point for any consideration of capacity and capacity pricing is the fact that, at present, long term agreements, which provide shippers with access to pipeline capacity, are necessary for the financing and development of transmission pipelines. Pipelines have physical operating lives often exceeding 50 years, while their economic lives may be less. Depending on the economic opportunities available to customers, shippers may seek transportation agreements with terms anywhere from one year to 20 years.

Firm everyday capacity rights bestow on the shipper the right to use capacity as they see fit over the term of their firm contract. In contracting for firm everyday capacity, shippers are taking on demand risk[6] for the pipeline owner. In many cases this is appropriate as the shipper is in the best position to understand its demand risk and price it accordingly, where the pipeline owner may price that risk higher without that knowledge.

Investors, in particular providers of debt, look to see that longer term contracts are in place with prospective shippers when making financing decisions. By the shipper sharing in demand risk through firm contracting arrangements, the pipeline owner's costs, in particular financing costs, are reduced. This allows long term firm capacity to be offered at a discount to shorter term arrangements where this risk sharing arrangement is not in place.

Very few shippers have completely flat loads. To manage load variability, APA also offers two main types of shorter term capacity services: As Available[7] and Interruptible. For both of these services, tariffs are only paid when the shipper uses the service.

For APA pipelines, As Available and Interruptible services differ in respect of their scheduling and curtailment priority. As Available services (previously called authorised overrun services) are scheduled before Interruptible services, and therefore have priority access to capacity not scheduled under firm arrangements. Conversely, interruptible services are the first curtailed in an event that reduces the capacity of the pipeline. Importantly though, neither As Available nor Interruptible services can be curtailed simply to give priority to a Firm shipper's renomination. That is, once scheduled, they are firm unless the capacity of the pipeline itself is reduced and not all scheduled nominations can be delivered. This means that in effect, Interruptible services have very similar curtailment priority to other services, and are identical to other services unless there is an event on the pipeline.

Although As Available and Interruptible services can displace Firm service once scheduled, those transportation services can be provided only when capacity (spare

[6] Demand risk is the risk that the shipper's capacity needs will change over time

[7] A type of As Available service is an Authorised Overrun. Historic and existing access arrangements have included Authorised Overruns as a part of the Firm Reference Service, and approved a rate higher than the Reference Tariff for this facility. As an example, the current Roma Brisbane Access Arrangement includes an Authorised Overrun Rate of 120% of the Firm tariff.

capacity or unused contracted capacity) is available. They are not “reserved” by the shipper in the same way that the shipper “reserves” an entitlement to firm MDQ and they are paid for only on actual delivered volumes.

Firm shippers can use As Available capacity under their firm contracts as a way to manage variable loads. As Available tariffs are higher than the firm tariff to reflect a load factor. In this respect, they offer the shipper lower cost access to capacity to meet their peak needs (compared to every day firm), but also provide a signal to the shipper that once that shipper reaches a certain level of utilisation of As Available services, it is better off contracting for firm services.

By providing an incentive to contract for firm services, the pipeline owner can maintain lower costs, in particular financing costs, through lower demand risk, ensuring that all tariffs are commensurately lower for all shippers than if the pipeline owner bore that demand risk alone.

Interruptible services are offered as part of a Firm service, or as a stand-alone service – a shipper does not need to have a firm capacity contract to access Interruptible services. Interruptible services are offered at a premium to As Available. This service is appropriate for shippers with short term or intermittent capacity needs, and the tariff reflects that load factor. For example, Interruptible services offered at a 150 per cent of the firm tariff equates to a load factor of 66 per cent.

As both As Available and Interruptible services can be contracted on pipelines where there may also be spare firm capacity available (and a previously fully contracted pipeline can have spare firm capacity come available while offering these ‘daily’ services), the pipeline owner faces the real risk that shippers will contract only interruptible services instead of committing to longer term firm arrangements. This would directly impact the risks faced by the pipeline owner, and therefore the pipeline owner’s financing costs, with related implications for investment incentives.

APA understands that this has occurred in European markets, where declining demand has released available firm capacity, which has meant that shippers have flocked to short term arrangements, as they do not face a realistic scheduling risk that may warrant preferring firm arrangements.

APA notes that a potential strategy for a pipeline owner in these circumstances would be to prefer capacity scarcity, to drive incentives for shippers to prefer firm arrangements to ensure their own access to available capacity. APA does not believe that a market and pricing regime that leads the pipeline owner to withdraw capacity from the market, or not to invest in new capacity when shippers need it, would be an efficient outcome, and therefore one that would be preferred by policy makers. Indeed, the European markets appear to show the implications of these types of perverse incentives through the need for ever increasing layers of regulatory intervention to ensure the pipeline owners offer capacity to the market (for example oversell/buyback schemes) and exceptions and derogations to the regulatory regime to support investment, as the regime itself does not encourage that investment.

APA is aware that some have argued that pipeline operators recover the full costs of pipeline investment through their charges for firm service, and therefore the 'resale' of unused contracted capacity should be at prices based on short run marginal costs.[8] These arguments assume that long term agreements for all of the firm service which can be provided are in place throughout the life of a pipeline. This is not the case.

As noted earlier, the durations of these agreements range from one year to around 20 years. Moreover, in recent times, the average duration appears to have shortened, with long term agreements now commonly for durations of around five years. Pipeline operators can therefore expect periods when there will be spare capacity. The pricing of a transportation service which is effectively firm (in APA's case, As Available or Interruptible service provided from unused contracted capacity) at less than the firm service price reduces the incentive for shippers to contract for firm capacity, making the continued financing of pipeline assets more difficult and more expensive to the detriment of all shippers.

APA has, to date, resolved the incentive problem inherent in providing shippers with arrangements for the management of load variability and other short term requirements by pricing longer term services at a discount to shorter term services.

Advantages of further developing secondary capacity trading market

Another way in which the incentive problem might be resolved is to separate the provision of firm services from the provision of arrangements for the management of load variability and other short term requirements through the clear separation of primary and secondary markets for capacity, and the stimulation of secondary market trading. The pipeline operator would continue to provide firm service under long term transportation agreements in the primary market. The arrangements for the management of load variability and other short term requirements would be left to the secondary market in which:

- shippers were free to trade unused contracted capacity; and
- the pipeline operator may choose to sell spare capacity.

Further promoting the development of a secondary market in which unused contracted capacity could be freely traded would provide shippers with greater certainty around their longer term commitments to firm capacity. The market would provide a means for managing variability in shipper demand, reducing, in particular, the risk of carrying excess firm capacity, and giving shippers greater confidence to contract for quantities of service which best meet their requirements. This will provide greater certainty in the primary capacity market, assisting the pipeline operator's ability to conclude long term transportation agreements for firm service, and strengthening its ability to finance the provision of pipeline infrastructure.

Stimulation of the secondary market is also likely to offer additional benefits by providing more choice to shippers in how they manage their capacity. APA notes

[8] For transmission pipelines, short run marginal costs are likely to be low, comprising mainly incremental compressor fuel costs.

that in many cases shippers can offer a superior product in the secondary market compared to pipeline owners as shippers have more information about their demand needs. They can, for instance, offer products over a longer term (weekly or monthly) compared to a pipeline owner's day-ahead capacity offering.

With a strong secondary market, the pipeline operator would not be the sole provider of arrangements for the management of load variability and other short term requirements. Those requirements would be met by shippers themselves in a market which is likely to become increasingly competitive. The pipeline operator may choose to sell spare capacity in that market, while also maintaining the incentive and ability to sell firm services under long term transportation agreements. With the risk for shippers associated with entering into long term arrangements reduced by the existence of the secondary market as they can sell unutilised capacity, prospective shippers would be more inclined to enter into the long term transportation agreements.

There are then, in APA's view, strong policy reasons to prefer stimulation of secondary capacity trading over the forced selling of short term or contracted capacity by pipeline owners. Shippers will have options to buy and sell capacity, in a competitive market, without the need for "heavy handed" regulatory interventions of doubtful efficacy.

In Europe, with reliance on regulation to facilitate capacity allocation, a liquid gas market has been slow to emerge, as governments and regulators have reworked increasingly complex regulatory interventions to ensure that capacity is offered and investment continues. An open and competitive secondary market for the short term allocation pipeline capacity in the United States has supported the emergence of a highly liquid gas market.

3.1.4 Low levels of service

The AEMC Discussion Paper raises low levels of service and lack of innovation as hallmarks of market power.

APA notes that it has been at the forefront of development of new and innovative service offerings to the gas market, including seamless multi-asset multi-service contracts, the development of the facilitated capacity trading service, the in pipe trade service, and hub services.

APA notes that in respect of the facilitated capacity trading service and the in pipe trade service, once the facility is included in a shipper's contract, trades of gas and capacity using these services can be enacted without any further negotiation or arrangements with APA – they are in fact enacted by the shipper in APA's systems through nominations. APA does not believe that these types of services are available to shippers in overseas markets, and they represent real innovation in pipeline services. Similarly, APA believes that the range of firm, as available, interruptible and storage services available on APA pipelines through integrated multi-asset contracts are unique, and provide a streamlined service offering to shippers, and one that is particularly valuable to those shippers that are seeking to transport gas over very long distances.

Where a shipper is seeking to trade a service that it currently does not have access to under contract, these negotiations can take longer, however this reflects that the shipper is seeking to change its arrangements, not just merely transfer them, and this can be reasonably expected to involve negotiations in relation to rights and service levels.

3.1.5 Hoarding

The AEMC Discussion Paper highlights the potential for shipper hoarding of capacity. APA considers that the AEMC has devoted very limited discussion to this issue, and commensurately limited analysis.

When a holder of firm capacity does not fully utilise the pipeline capacity to which they have committed, and appear to be unwilling to make it available to facilitate trading by others, the issue of "hoarding" is raised. It is typically raised by those who have not been prepared to make commitments to support pipeline investment, or investment in downstream industries. Those claiming "hoarding" do not seem to be concerned that the measures which they, and others, then propose often amount to little more than the expropriation of the rights of market participants who have paid for investment in pipeline capacity.

Currently, new capacity on the South West Queensland Pipeline has been in place for less than 12 months for shippers whose demand for that capacity is still in the 'ramp up' stage. It is difficult to see how any analysis of shipper behaviour could conclude that hoarding exists in this context. Currently, those shippers making claims of capacity hoarding are those that have not adequately executed a risk management strategy in respect of access to capacity and are looking for regulatory intervention to resolve these shortcomings.

APA further notes that there have been few, if any, offers to buy capacity posted on trading notice boards. This suggests that those claiming that they cannot access capacity may not have sought to test the market, or are in fact looking to secure the ability (through regulation) to access capacity at a later date, most likely at a time when a shipper that has underwritten that capacity also wants to use it.

APA does not consider that "hoarding" is an issue about the inefficiency which might result from some market participants holding pipeline capacity and not using it, while others cannot gain access to capacity for which they have immediate uses. Indeed, it is unclear that there is such an issue. Little analysis appears to have been undertaken of market participants – of their drivers and their actual behaviours – and much of the discussion on "hoarding" remains hypothetical.

Rather, the issue is one of prematurely addressing a hypothetical problem of "hoarding", which will carry the risk that those who have supported capacity development in the past find that their property rights in that capacity are to be taken from them. If this risk is realised, it will act to deter further pipeline investment to support a more active trading market.

APA considers that it is critical for the AEMC to set out what it considers to be capacity "hoarding", and to also form a view as to whether this is happening. This analysis is fundamental to the choice of regulatory intervention (if any), in order to

target the source of a problem with the least impact on other markets, and regulatory and investment incentives.

The Productivity Commission noted in its recent review of gas markets that it is not clear that shippers are "hoarding" capacity, and that holders of firm capacity rights may be retaining spare capacity as a risk management tool in an environment of market uncertainty.[9]

A shipper that has firm capacity available but no counterparty to sell that capacity is not "hoarding" capacity if that capacity ultimately stays idle. If that same shipper then uses that capacity on a day of high demand to move gas for its own purposes, even where other shippers may also want to use that capacity, it is similarly not "hoarding" that capacity. Indeed, the firm shipper has paid for that capacity for 365 days every year, and can therefore be assumed to value that capacity at that level. The price that another shipper may need to pay the firm shipper to access that capacity would need to compensate the firm shipper for the lost opportunity for it to ship gas on the high demand day. This is likely to be high – potentially higher than the single day equivalent of that shipper's yearlong commitment. It is very unclear that those seeking to use the firm shipper's capacity are willing to pay such amounts, and, as noted above, many are seeking regulatory remedies to gain access to the firm shipper's capacity at lower rates precisely because they do not value it as highly as the firm shipper.

APA is concerned that the AEMC is focusing on regulation of the pipeline sector to address a problem that it has not established, and that, if it does exist, rests with shipper behaviour. The AEMC must also recognise that the availability of As Available and Interruptible services from the pipeline owner does provide access to unutilised contracted capacity, so a shipper's failure to offer capacity for secondary trade does not deny access to that capacity.

The risks of regulatory intervention in the primary capacity market to address perceptions of shipper "hoarding" are many, but are concentrated in areas of investment incentives for pipeline owners and shippers. APA notes that the AEMC Stage 1 report identified that pipeline owners have made considerable investments to support changing market conditions, as well as developed new services and arrangements.[10] This is an area of success in the current market arrangements, and new and increasing regulation of this sector should not be considered lightly.

3.1.6 Search and transaction costs

Recent initiatives

APA considers that some important changes have been made recently in relation to reducing search and transaction costs to support capacity trading. There are also a number of processes underway that will also contribute to reducing these costs.

[9] Productivity Commission 2015, *Examining Barriers to More Efficient Gas Markets: Productivity Commission Research Paper*, March, pp19-20

[10] Australian Energy Market Commission 2015, *East Coast Wholesale Gas Market and Pipeline Frameworks Review: Stage 1 Final Report*, July pp 62-63

Recent actions by APA include:

- Development of APA's capacity trading website, which includes contracting and utilisation information for key east coast pipelines, as well as a capacity listing service
- Launch of APA's facilitated capacity trading service
- Launch of APA's In Pipe Trade service
- Listing of short term stand-alone firm capacity offers on APA's capacity trading website, including listing of multi-asset services linking the Wallumbilla and Victorian markets, and the Wallumbilla and Sydney markets in a single capacity service offering (with posted tariff)
- Publication of firm capacity tariffs for all APA east coast pipeline on APA's website
- Publication of APA's standard Gas Transportation Agreement on APA's website

These APA actions have all been implemented in the last 18 months, and therefore their impact on the market may not yet be fully realised.

Further recent actions across the market include:

- Launch of the Wallumbilla gas supply hub
- Development of the AEMO capacity listing service
- Parallel facilitated capacity trading and listing services offered by other pipeline owners
- Redesign of the gas market bulletin board
- Inclusion of LNG pipelines on the gas market bulletin board
- Development of a firm proposal for additional information that can be published on the gas market bulletin board to support capacity trading, which is the subject of a current rule change process

Many of these interventions show promise, in particular the growing importance of the Wallumbilla gas supply hub, and it should be noted that these development are also very new.

APA considers that as many of these actions are either very new or yet to be fully implemented, they have not had a chance to positively impact the market. As these represent relatively low cost and low regulatory intervention options, they should be allowed to operate before more costly and more highly intrusive options are considered. This would be in line with the COAG best practice regulation guidelines that advocate low cost and non-regulatory options where possible.

Possible further options

APA considers there is scope for the pipeline industry to do more, and APA is either in the process of developing, or investigating the scope for:

- Offering stand-alone day-ahead firm hub services to support the optional hub services model at Wallumbilla
- Extending its existing capacity trading service to include trade of compression capacity at Wallumbilla
- Investigating options for establishing a market-led brokerage or trading platform for pipeline capacity to facilitate matching of trades and anonymous trades
- Developing a boilerplate capacity trading contract to support shipper bare transfers that would be compatible with all APA pipeline contracts
- Expanding its current capacity trading website to include an interactive map of pipelines and gas flows, with near real time updating of pipeline nominations.

Standardisation of capacity rights

APA agrees that clearly defined capacity rights are easier to trade, and there is a case for further standardising capacity rights in the Australian gas market. APA considers, however, that this standardisation is best delivered in the secondary capacity market, rather than through forced standardisation of primary capacity contracts that can only be achieved by individual renegotiation of many of the existing agreements.

As noted in the AEMC Discussion Paper, customisation of terms and conditions must benefit one or other contracting party. It is APA's experience that shippers seek to vary standard terms to meet their particular business needs, in particular through a mix of different service offerings and arrangements to meet their gas portfolio arrangements and flexibility. In addition, contracts that support new investment are often tailored to meet the financing or other risk management needs of the contracting shippers – it is these foundation contracts that are more likely to be customised. Forcing these arrangements into standardised terms and products is unlikely to support investment in pipeline capacity, and may mean that some shippers with specific service or risk management needs are locked out of the market.

As an example, APA has currently in place, and has over the last several years, struck, firm contracts with micro retailers for volumes of less than 1TJ per day. To facilitate those shippers gaining access to downstream markets, APA has agreed to arrangements whereby those shippers inject their full weekly requirement on a single day, and draw down on their 'bank' over the week. One current contract involves gas volumes of less than 50GJ/day with receipt point flexibility.

A standardised product of even a 1TJ unit of firm capacity would not meet the needs of such shippers – and standard market balancing and MHQ requirements would see those shippers further penalised.

APA has developed standard contractual terms that are available on all of its pipelines. These standard terms and conditions reduce the costs of contract negotiation for both parties, and create a set of familiar arrangements on which parties can trade capacity. Those shippers particularly interested in future capacity trading may seek to retain standardised arrangements in their primary contracts to facilitate those trades, though APA does not believe that this standardisation should be required.

APA further notes that, while individual terms of a contract may vary, the description and allocation of the capacity right is very standard. This is because the level of the capacity right determines the order of priority in scheduling and curtailment. It is not feasible to create sub-rights within the service priority order as this would impact on the contractual rights of other parties. It is this reason that APA has been able to create a facilitated capacity trading service that is able to apply to any and all firm capacity rights held by shippers on any APA pipeline. It does this by creating a sub-right related to the operational elements of that capacity (unit, nominations, scheduling and curtailment), that are already highly standardised, and allowing those rights to be traded between parties operationally. Elements that can vary between shippers (volumes, prices and risk sharing elements) are the domain of the bilateral agreement between shippers undertaking the trade.

It is APA's experience that shippers that seek primary capacity generally have long lead times before the capacity is actually needed, as the capacity requirements are linked to contract renegotiation or to support growth or investment in new facilities. By contrast, pipeline capacity trades appear to be more opportunistic, and therefore need to be completed more quickly.

APA believes that this temporal element means that there is a stronger case for standardising the secondary trading product to facilitate trades and reduce transaction costs for shippers. APA notes that AEMO has developed a standard contract for bilateral trades which supports capacity trading at Wallumbilla and is intended to reduce negotiation times and costs. APA is not aware if or how often this standard contract has been used by shippers to support trades.

The development of a brokerage or trading platform for secondary trading of capacity would effectively standardise the secondary trading product for trades that use the exchange. APA believes that the development of such a platform is one of the next logical steps in developing the secondary capacity trading market and is investigating options for a market led platform to facilitate those trades.

3.2 Assessment of the current regulatory regime

The AEMC has raised certain concerns in respect of the application of the coverage criteria, and in particular, criterion (a).

The coverage criteria are applied to determine which pipelines should be the subject of economic regulation under the National Gas Law. The coverage criteria, in and of themselves, are not intended to regulate issues such as the exercise of market power. That function is left for the comprehensive regulatory framework set out in the NGL and NGR. In other words, once it is established by the application of the

coverage criteria that regulation of a pipeline is justified, it is for the NGL and NGR regulatory frameworks to address issues such as monopoly pricing and the appropriateness of terms of access.

The question that the AEMC seems to have raised is whether the coverage criteria, and criterion (a) in particular which requires that coverage results in an increase in competition in a dependent market, provide an appropriate "gateway" for economic regulation, or whether the gateway hurdle is too high in the case of gas transmission pipelines.

It is a bedrock principle of the National Competition Principles that regulation should only be imposed and private property rights only interfered with by the imposition of regulation, if it will result in an economically meaningful benefit.

Whether regulation of a natural monopoly asset would be economically beneficial, is the work of criterion (a) and in particular, consideration of whether coverage would increase competition in a dependent market. Absent this outcome, there is no economic benefit to regulation. In the case of pricing, it is only in circumstances where a change in pricing impacts competition in a dependent market that there is an economic "harm" that may warrant regulation. Criterion (a) and consideration of the effect of coverage on dependent markets are critical in considering whether regulation would be appropriate.

In referring to the potential impact of unconstrained pricing, the AEMC notes) that "*[A]mong other things, this could have a detrimental effect on competition in the wholesale market …*".[11] This falls squarely within the ambit of criterion (a) – if unconstrained pricing does adversely affect competition in the wholesale market, criterion (a) would likely be satisfied and regulation justifiable.

The need to establish that coverage will be economically beneficial by resulting in increased competition is consistent with the general third party access regime in Part IIIA and also with general competition law in Part IV of the *Competition and Consumer Act*. The Act does not prohibit the use of market power but instead, is focused on whether conduct adversely affects competition. A change to the coverage criteria to remove the nexus between regulation and improved outcomes for competition, would be inconsistent with National Competition Policy principles and the generally applicable access regime.

The AEMC notes that "*Approach C presents ways to improve the incentives of pipeline owners to facilitate access to capacity …*".[12] A change to the coverage criteria as suggested by the AEMC would in no way impact the pipeline owners' incentive to provide access, nor will it in any way improve incentives for the secondary trade of contracted but unutilised capacity. In particular:

- Pipeline owners sell "primary" capacity – that is, firm capacity in the pipeline that has not already been sold to another shipper, and non-firm as available capacity. Pipeline owners have every incentive to sell as much primary

[11] Australian Energy Market Commission 2015, *Pipeline Regulation And Capacity Trading Discussion Paper*, 18 September, pp 21-2

[12] AEMC 2015, *Pipeline Regulation And Capacity Trading Discussion Paper*, p iv

capacity as they can to cover high fixed costs and to maximise revenues. This is a well-established economic principle that is reflected in commercial reality.

- To the extent the intention is to increase incentives for shippers holding firm capacity rights to trade those rights in the “secondary” capacity market, a change to the coverage criteria will have no effect. Coverage applies to the asset, and the regulatory outcomes that arise from the subsequent application of the economic regulatory regime apply to the asset owner/operator and not, to the shipper that holds the firm s capacity rights.

It is well accepted that regulation has a cost - both direct and in terms of inefficiencies associated with regulatory outcomes being wrong. Regulation should not be imposed absent clear and established benefits associated with addressing economic “harm”. An amendment to criterion (a) as proposed by the AEMC which removes the need to establish that coverage would enhance competition in a dependent market, would open the prospect of regulating pipelines where there is no benefit but only regulatory cost. This would be inconsistent with well-established National Competition Principles.

4 Overseas approaches

4.1 Defining the capacity right

As noted above, APA considers that clearly defined capacity rights for secondary market trades are important to support the secondary pipeline capacity trading market. Ideally, these secondary capacity products would match those for the trade of commodity, allowing shippers to readily match gas and capacity in market transactions.

APA does not believe there is strong case to force further standardisation of the primary capacity product, noting that there is already significant commonality between shippers and pipelines as to how these rights are defined.

Efforts to standardise capacity rights in overseas markets may have been more important as there was greater differentiation between those rights across jurisdictions from the outset. Australia has the advantage of a mature national regulatory regime which has driven standardisation to a point where there is already a strong degree of commonality across pipelines. National pipeline service providers, as well as shippers, have also driven this standardisation as it delivers benefits to both parties, and it may be reasonable to assume that these combined drivers have already pushed capacity rights to a level of standardisation that is efficient for the market. APA further notes that if, with the development of a secondary trading market, further standardisation is desirable, the same mechanisms are likely to operate to achieve appropriate outcomes.

4.1.1 Locational characteristics of the capacity right

A key element of the AEMC Wholesale Markets Discussion Paper was the description of virtual hubs to facilitate gas trades. A key positive feature of such hubs, according to the AEMC paper, is that they bring together more potential trading partners, and improve flexibility, compared to physical hubs. They do this by effectively removing the need for shippers to 'worry about' the physical delivery of gas within the hub, transferring the risks (and costs) of managing demand within the virtual hub to the hub operator (pipeline owner).

APA is very concerned as to impact that such an approach would have on the efficiency of the east coast gas market. While a virtual hub may have the potential to contractually bring together more parties for the trade of gas (an assumption that the AEMC have not demonstrated to be true for the Australian market), they also have profound effects on the efficiency of the operation of the transmission system, the allocation of risk between the pipeline owner and the shipper, as well as between shippers, adversely impact incentives for investment within the virtual hub location, and bring with them the need for highly intrusive and costly economic regulatory interventions that are necessitated solely because of the perverse incentives virtual markets create for pipeline investment and risk.

The AEMC notes that virtual hubs are more suited to meshed transmission networks. However, there is no evidence that this is the case. The gas transmission

network in North America is highly interconnected, and appears to be, in places (particular along the coast of the United States) at least as interconnected as Western European pipeline systems, but the North American market relies on physical hubs. Australian pipeline systems, in contrast, are not interconnected. Even in Victoria, the extent of interconnection is very small in comparison to that in North America.

In Australia, the east coast pipeline network is long and stringy and subject to multiple constraints. Ignoring these factors by removing the locational characteristics of capacity rights within a hub definition is likely to lead to two simultaneous outcomes:

- A significant reduction of available pipeline capacity within the hub definition; and
- The transfer of the costs of demand variability from volatile demand customers (such as the LNG providers and potentially national retailers) to customers with more stable load characteristics (such as industrial customers).

The reduction in available capacity and creation of cross subsidies between shippers with different demand profiles within the hub would appear to be highly inefficient outcomes and would be inconsistent with the National Gas Objective.

Virtual hubs also transfer the risk of managing demand variability and physical gas delivery to the hub operator. It is unclear how this risk could be managed without also imposing revenue-type regulation on the pipeline business largely to ensure that the pipeline operator was able to recover its costs. The loss of investment signals within the hub also suggests the need for some form of central planning and investment direction, a model which is demonstrated to greatly reduce the efficiency of the operation of a market.

Put simply, in the Australian context, the contractual standardisation of locational elements of pipeline networks through virtual hubs is far more likely to create market distortions than to solve them. Were virtual hubs to be adopted, this would sterilise capacity (withdrawing it from the market) in order to manage demand variability within the hub, while simultaneously decimating investment signals within the hub to address constraints. APA understands that the 'virtual hub' solution to the removal of investment incentives within a hub is to 'redraw' hub boundaries at points of constraint. This approach, however would lead to so many virtual markets created at the boundaries of pipeline constraints as to make any benefits from shipper consolidation to increase liquidity void.

4.2 Capacity provision mechanisms

APA notes primary capacity provision in the US is via long term contract. Shippers can then trade in a secondary market which is facilitated by pipeline bulletin boards. As described by the AEMC, capacity provision mechanisms in the US are largely confined to information provisions, including the publication of available spare and unutilised capacity, as well as tariffs, including the outcomes of contractual negotiations between parties for secondary capacity.

In contrast, the European arrangements appear entirely focused on the allocation of primary capacity, requiring the auction of such capacity, including the reservation of some capacity for short term contracts.

As APA has stated above and in earlier submissions to the AEMC, the provision of primary capacity to the market, in particular investment in new capacity, is a clear strength of the current Australian regulatory environment. APA believes that regulatory interventions that will disrupt these processes will undermine investment incentives, and reduce the future flexibility of the market and its ability to adapt to change. APA considers that facilitating the secondary market for capacity will be far more effective in improving the efficiency of gas trading and the allocation of pipeline capacity, and will be far less disruptive to incentives to invest, than mechanisms that focus on the primary market (such as in Europe).

The shear breadth, depth and weight of regulatory interventions required in the European market, compared with the US market, as well as the more limited outcomes in respect of gas prices and investment in Europe, bring to bear the differences between these approaches, and the overall impact on the efficiency of the markets to which they relate.

4.3 Capacity reallocation mechanisms

It is instructive that widespread regulatory interventions are required in the European market to address capacity hoarding, and that similar arrangements are not required in the US. It would appear that there are clear differences between the structure of the European and US markets, that drive these differences, in particular in Europe, vertical integration, the prevalence of government ownership leading to incentives to hold back capacity for domestic supply, as well as market frameworks (such as virtual hub designs) that create incentives for pipeline owners to withhold capacity from the market. These factors are not relevant to the US market, and are similarly not currently relevant in Australia.

The key difference between the markets, however appears to be that there is effective secondary trading of capacity in the US. The secondary market provides the signals which allow shippers to decide whether they can benefit from offering capacity to the market. The same outcome could be expected to be achieved in Australia by facilitating the secondary trade of capacity, and such as approach would require far less intrusive regulation, and adverse outcomes, than further regulating the provision of primary capacity.

4.4 Price regulation

The AEMC notes that different regimes for price regulation apply in overseas markets. In particular, the AEMC notes that price regulation of pipelines is more widely applied in the US and UK markets, though APA understands that exemptions and market based prices are also permitted, sometimes through exclusions or derogations from the prevailing regulatory pricing regime.

That these markets have different frameworks for access regulation of pipelines to those that apply in Australia is not surprising; their genesis is quite different. In

Australia, regulation of natural monopoly infrastructure is executed through National Competition Policy, as opposed to industry based regulation in the US, or regulatory regimes required because of particular trading market structures and vertical integration as is the case throughout much of Europe.

As noted above, a key principle of Australia's National Competition Principles is that regulation should only be imposed and private property rights only interfered with by the imposition of regulation, if it will result in an economically meaningful benefit. This principle, amongst others, has been credited with Australia's enviable productivity growth throughout the 1990s, and any move away from this principle ought not be considered lightly.

5 Potential reforms for eastern Australia

As stated in the introductory comments, APA does not believe that the AEMC has established a case for regulatory intervention, as it has not firmly identified the problem it is trying to solve, and the sources of that problem. This is demonstrated through the diversity of regulatory interventions and 'reforms' canvassed in the AEMC Discussion Paper, which range across interventions to address gas transmission contracting arrangements that may be impacting incentives to trade, potential monopoly pricing, as well as possible shipper hoarding.

What APA does observe is a number of existing market participants using the AEMC's framework review as an opportunity to gain commercially at the expense of rivals, and to attempt to use arguments of market inadequacies to justify past poor investment decisions.

In this context, it is impossible to determine whether any of the AEMC's list of potential interventions will improve market liquidity, as it is not even clear that transmission arrangements are principally to blame for the current perceived low levels of market liquidity. For example, APA has previously questioned whether the structure of the market in Australia, with a small number of very large participants, is conducive to developing a liquid gas commodity trading market, regardless of other arrangements in place in respect of pipeline capacity.

5.1 Importance of industry led reform

APA believes that industry led reform, facilitated by regulatory changes where necessary, can be relied upon for the development of the market. The gas industry has a strong track record of private investment and the development of innovative arrangements to support market growth and flexibility. It is this type of market development that is likely to be able to readily adapt and evolve to market changes – certainly far more quickly and effectively than regulatory approaches can.

Less than 10 years ago it was assumed that the gas market would grow through demand for gas fired generation in response to a carbon price. Similarly, the prodigious growth of coal seam methane as a major supplier to the domestic market, and one to underpin multibillion dollar investments in LNG export facilities, was unheralded just 10 years ago, where new supply was assumed to be needed through an international pipeline link to Papua New Guinea. The market can and has changed very quickly, and market based approaches are best placed to manage risks associated with those changes, in particular in relation to investment in long lived infrastructure.

In light of the above comments, as well as the discussion in earlier parts of this submission, APA considers that options that seek to further facilitate the trade of pipeline capacity between parties should be investigated further. This does not necessarily involve the suite of options presented in AEMC Approach A.

5.1.1 Reducing transaction costs

APA considers that one of the best ways to stimulate capacity trading is to make it easier for shippers to conduct trades by reducing search costs.

APA considers that this is best achieved by clear, low cost mechanisms through which capacity can be offered to the market and traded among participants.

APA believes that there may be value in further standardisation of secondary capacity rights. This could be achieved through cooperative industry measures that create standard secondary trading products and terms and conditions that can be offered on current capacity listing services. Success in the development of such products is a critical step towards the development of a brokerage or trading platform for secondary trading. In this respect, APA is looking at options to offer a brokerage or trading platform for the trading of secondary pipeline capacity including prudential management and anonymous trading. This would be an industry-led initiative, potentially involving all east coast pipeline owners.

Significant work has already been undertaken on options to improve information transparency on the Gas Market Bulletin Board. APA supports further transparency where the benefits to the market outweigh the costs. Currently agreed options should be implemented and given time to work, as they represent relatively low cost options with low levels of regulatory intrusion.

5.1.2 Further development of Wallumbilla Gas Supply Hub

APA believes that the pending increase in LNG demand will increase trading through the Wallumbilla gas supply hub. APA has given its full support to the development of the Wallumbilla gas supply hub, and has worked very closely with shippers and AEMO to develop products and services to facilitate that market, such as the in-pipe trade service and the facilitated capacity trading service.

APA also supports the further development of the Wallumbilla gas supply hub through the integration of the current three trading locations into a single location through the development of the optional hub services model. APA has committed to developing an effective hub service product to support that market and ensure access to necessary capacity to underpin trades. APA is also extending its current capacity trading service to include trade of compression capacity at Wallumbilla, as well as looking at investment options at Wallumbilla to improve the flexibility of gas deliveries and potentially offer more capacity to support short term trades through the market.

5.2 AEMC Approach A

The AEMC states that its Approach A is targeted at facilitating trading between parties and includes the following measures:

- Standardisation of capacity rights;
- Pipeline owners required to offer spare firm capacity in a transparent, open process;

- Information about available capacity and trades to be published through a bulletin board; and
- Voluntary surrender of capacity mechanism

Each of these is briefly discussed below.

5.2.1 Standardisation of capacity rights

As discussed above, APA supports further standardisation of secondary capacity trading products, and believes that industry can work together to achieve this outcome. By focusing on secondary trading, many of the questions raised in the AEMC Discussion Paper in relation changing risk relationships between pipeline owners and shippers, as well as the treatment of existing property rights and impacts on incentives to invest do not arise. For this reason, focusing on the secondary market for standardisation has little risk of undermining important existing market incentives.

APA considers that secondary market capacity should be aligned to units offered in the gas supply market, in this case within-day, day-ahead, weekly and monthly products. By providing set packages within which existing capacity holders can segment their existing capacity for sale, on standard terms, this approach will decrease transaction costs and times, and improve the commodity elements of pipeline capacity.

5.2.2 Pipeline owners required to offer spare firm capacity in a transparent open process

This mechanism is targeted at allocating spare firm capacity in an open and transparent process.

APA has a clear incentive to maximise the utilisation of its pipelines and to make capacity available to all comers. In this context, it is not clear what this mechanism will achieve above the current status quo.

APA notes that it has investigated options to introduce a spare capacity auction process on the Roma Brisbane Pipeline, in place of the existing capacity queue operating under the access arrangement. APA was disappointed to have its proposal rejected by the AER, in preference to a 'first come first serve' process that APA considers does not have strong efficiency or equity characteristics, and can discriminate against new market entrants.

APA's auction proposal set a reserve for firm capacity at the reference tariff (a feature that APA understands is common across all such auctions of spare primary capacity), and allowed shippers to bid for their capacity needs in an auction window. There was no requirement to standardise bids (units, direction or terms and conditions), however proposed deviations from the standard form terms and conditions (consistent with the reference service terms and conditions) were expected to be clearly stated so that APA (and the regulator) could assess these proposals. APA would then rank bids in terms of NPV (such that longer term, but lower tariff bids could be compared to shorter term, higher tariff bids) and allocate

available capacity accordingly. The process was proposed to be overseen by the AER to ensure that the auction rules and allocation processes were followed.

APA considers that further investigation of this approach may have merit, particularly for regulated pipelines. Importantly, this approach does not force standardisation of primary contracts (which may disadvantage some participants) and allows shippers to bid a mix of long and short term options for capacity.

Additional options/actions

APA's proposed auction process described above did not involve the publication of the successful shippers and tariff outcomes. This type of information is currently protected under the National Gas Law and cannot be disclosed without the permission of the shipper so any change to these arrangements would require legislative change. APA notes that its reference tariffs (and indicative tariffs for light regulation pipelines) are published, and APA has recently moved to publish firm tariffs for all of its pipelines, regardless of regulatory status, on its website.[13]

APA has committed to undertake periodic open seasons for developable capacity on all of its pipelines where it is feasible to do so. APA has already conducted such a process for the South West Queensland Pipeline, and intends to undertake further processes in the near future. APA believes these processes improve transparency in the market, and provide opportunities for small shippers to gain access to additional capacity by 'tagging on' to larger shippers to deliver efficient expansion projects. As frequently noted by the AEMC and other stakeholders, increased transmission capacity is important to efficient market operation and policy makers must ensure that regulatory options do not undermine incentives to invest in new capacity in preference to reallocating existing capacity between shippers on a short term basis in ways that are perceived to be optimal.

APA notes that the recently released draft decision on the rule change to improve information transparency to support capacity trading will require pipeliners to publish a list of shippers contracted on each pipeline. APA recommended this approach, and considers, if implemented, it will improve market transparency.

5.2.3 Publication of information on available capacity

This proposal involves the publication by the pipeline owner of details of all available capacity (firm and non-firm) including price.

APA's capacity trading website currently includes details of contracted firm capacity, and pipeline utilisation, for key east coast pipelines. The recently released draft decision on the rule change to improve information transparency to support capacity trading will, if implemented, require pipeliners to publish available (spare) firm capacity on the gas market bulletin board with a 12 month outlook, to complement information already published on the bulletin board in relation to pipeline utilisation. APA supports these new information requirements. In this respect, APA considers that key elements of this suggestion are already in train.

[13] See http://www.apa.com.au/our-business/gas-transmission-services.aspx

As noted above, APA publishes its reference tariffs (and indicative tariffs for light regulation pipelines) on its website, and APA has recently moved to also publish indicative firm tariffs for all of its pipelines, regardless of regulatory status. This provides the market with a clear indication of the purchase price for firm capacity. APA's standard form terms and conditions, which also apply to non-firm capacity, are also published on its website.

As part of the rule change process on options to improve information transparency to support capacity trading, APA recommended that all capacity trades, not just those using pipeliners' facilitated capacity services, were notified to the bulletin board operator and published in an aggregated form. Further consideration needs to be given as to whether further details of those trades, including parties and agreed tariffs, should also be published. APA notes that this transparency may impede market development by making some participants less willing to trade as it may expose to the market that participant's contracting position (in particular whether they are long or short). Indeed, a key positive feature of exchange based trading is anonymity, and proceeding to this model for pipeline capacity trading may be preferable to one that may exposes individual shippers to increased risks and which discloses commercially sensitive information. APA considers that a further important feature of any exchange based trading platform is some form of publication of prices for the trade of secondary capacity.

Additional options/actions

APA notes that it already publishes short term capacity offers on its capacity trading website, with tariffs, where it has available capacity. APA is willing to investigate options for publishing tariffs for non-firm capacity on its website, to complement details already published on firm tariffs, terms and conditions and available capacity. As noted in section 5.1 above, APA is also looking at options to establish an industry led exchange based capacity trading platform across its pipelines (with the potential of other pipeline owners also participating in developing this platform).

5.2.4 Voluntary surrender of capacity mechanism

APA notes that this option, as described in the AEMC Discussion Paper, is very similar to the novation of existing capacity contracts, however it would require the pipeline owner to facilitate this process and effectively act as a selling agent for the shipper.

APA notes that shippers already have the right to novate contracts under APA's standard GTA. APA must not withhold consent unreasonably in the case of an assignee that is technically and financially capable of performing the assigned rights and obligations. Therefore, shippers already have the ability to transfer contractual rights to another party, and APA notes that this type of transaction has occurred on a number of occasions in the past.

A key difference from novation in the AEMC proposal is that the pipeline owner acts as an agent, such that the shipper has access (theoretically) to more counterparties as the pipeline owner has better knowledge of which parties may be seeking additional capacity and therefore may be willing to enter into such a transaction. As

noted by the AEMC, this type of requirement on the pipeline owner can give rise to perverse incentives for both the shipper and the pipeline owner and, if implemented, there would need to be clear rules as to how and when the pipeline owner should be obliged to offer the resale of this capacity, and the compensation it would receive in acting as an agent for the shipper in this regard (particularly since the shipper could undertake this function itself). At a minimum (and as noted in the AEMC Discussion Paper) the pipeline owner should be paid a margin for its role as an agent for the contracted shipper, and not be obliged to resell a shipper's firm capacity unless there was no spare capacity available on the pipeline.

5.3 AEMC Approach B

The AEMC states that its Approach B is targeted at improving incentives for holders of spare capacity to trade that capacity and includes the following measures:

- The compulsory acquisition of capacity and its resale through a contrived commercial process using one or more regulatory processes;
- Reserving firm capacity to be traded in the short term; and
- Removing identified contractual provisions in GTAs that may be impeding capacity trade.

Each of these is briefly discussed below.

5.3.1 Compulsory acquisition and resale of capacity rights

AEMC suggests a number of congestion management mechanisms required in European markets to provide access to unutilised contracted capacity. APA is concerned that all options presented involve a very high level of regulatory intervention and risk, do not recognise options under current commercial and regulatory arrangements, and would have the effect of shutting down, rather than stimulating, the secondary capacity trading market as they all return allocation of capacity to the primary market. As noted above, this would adversely impact incentives in the primary market for investment for both pipeliners and shippers in a way that focusing on the secondary market alone would not.

While the AEMC Discussion Paper touches on some of these issues, APA does not believe that the AEMC has recognised the degree of regulatory intervention and sovereign risk that these options would create, and the virtual impossibility to wind back regulation in the future because these options require a certain type of regulatory and market framework that entrench these outcomes and stymie the development of market based solutions. APA discusses each of the proposed options in this light below.

Oversell and buyback

The oversell and buyback mechanism is intended to free up primary pipeline capacity that is either withheld from the market by the pipeline operator to manage potential diversity of demand, or withheld from the market by shippers as a form of hoarding.

Under current contract-carriage arrangements and physical markets, pipeline owners have no incentive to hold back capacity from the market. They have a full incentive to offer all available capacity to the market every day. The diversity of demand problem is one effectively created by the virtual hub model in place in Europe. As the virtual hub model ignores the physical characteristics of the pipeline system within the hub, trades can occur that cannot be physically delivered, forcing the pipeline operator to be highly conservative with pipeline capacity. This perverse outcome is addressed through regulatory interventions that force the pipeliners to offer additional capacity to the market and create a buyback mechanism that shifts the risk of non-delivery of trades from the shipper to the pipeline owner. APA considers that this is a perverse outcome that leads to the inappropriate transfer of risks from the party best positioned to manage it (the shipper, who knows where it wants to deliver gas) to the pipeliner, which cannot manage that risk and is forced into the capacity market to 'make good' another party's trades.

Because of the transfer of this unmanageable risk, pipeline owners are regulated under revenue caps that are intended to keep them 'whole' and ensure that a minimum revenue amount is recovered. This is a different approach to Australia where regulated pipeline businesses are subject to price caps, and therefore bear the regulatory risk of demand variability within a period. Revenue caps are recognised as offering poor incentives on infrastructure providers to grow their market and innovate, leading to further perverse outcomes where capacity and service offerings can drop, and investment falter, without further regulatory interventions. APA does not believe that this is an appropriate path for the Australian gas market to take, and the recent experience of regulator-facilitated over investment and poor service delivery in the regulated electricity sector surely provides evidence of the poor incentives this type of regulatory environment creates.

The oversell buyback mechanism appears to be a solution to a problem that the Australian market does not have – the withholding of capacity by pipeline owners. The fact that market models discussed by the AEMC in other fora would effectively create this problem seems to be a key argument against their efficiency and suitability to the Australian gas market, and they should not be considered further.

The other problem that the oversell buyback mechanism is seeking to address is shippers withholding capacity. APA considers that there are better mechanisms available to support the development of a secondary trading market than creating a regulatory and market arrangement such as that described above with perverse incentives that only serve to invite further regulatory interventions.

Firm day-ahead use it or lose it

This mechanism involves the resale of day-ahead capacity.

As described above in section 3.1.3, APA already has the ability and incentive to resell unutilised capacity on a firm daily basis. APA does this through is As Available and Interruptible services. In this respect, it is not clear what this mechanism would achieve as far as making more contracted but unutilised capacity available to the market.

APA has significant concerns over how prices for this capacity would be set, and when this capacity would be made available to the market. Experience in the UK suggests that where demand for capacity is less than available capacity, shippers move to short term arrangements, including daily contracting, and prices for capacity are low. Where the pipeline owner is forced to sell short term capacity at low or forced clearing prices, the incentives and ability for shippers holding existing firm capacity to sell that capacity is significantly reduced. This makes the pipeline operator the only effective provider of short term capacity to the market, while at the same time undermining the financing structures that underpin pipeline investment.

For these reasons, as well as those discussed earlier in this submission, APA believes that short term firm capacity from the pipeline owner should only be made available at a premium to firm capacity to signal the benefits of longer term commitments for the pipeline operator, which are passed on to the firm shipper through lower tariffs. These arrangements maintain the incentives and the ability for shippers to sell capacity on the secondary market, including for periods of longer than a day, providing more choice for shippers in how they manage their capacity needs.

Long term use it or lose it

APA is concerned that this model involves very significant undermining of existing property and contractual rights and requires a detailed and highly interventionist regulatory framework to operate. APA considers that this mechanism would have significant implications for incentives to invest and introduce a level of sovereign risk into the Australian market that would have a generally chilling effect on economic activity in the gas sector and potentially beyond.

Further, APA is concerned that the AEMC does not appear to have recognised that forcing reallocation of this capacity to those who are no more than free-riders, or requiring the pipeline owner to resell the capacity, is similar to the earlier discussed voluntary surrender mechanism, and similar protections, such as not requiring capacity to be reoffered to the market unless all available capacity was already contracted, would be similarly relevant under this option.

5.3.2 Prohibiting contractual provisions that inhibit trades

APA is concerned that this option has been presented without clear evidence that contractual provisions that inhibit trade are prevalent, or are a current feature of the contract market.

As noted above, there are no provisions under APA's standard form contract that limits a shipper's ability to sell capacity to another party. The structure of most favoured nation clauses, where they exist, mean that they would be unlikely to apply to short term trades of capacity or non-firm offerings. Similarly, revenue sharing arrangements may reduce (but not eliminate) the value of reselling capacity for the pipeline owner, but fully maintain the incentives for the shipper to sell capacity. It is therefore not clear that these types of provisions are prevalent or inhibiting trade.

5.3.3 Reserve capacity for short term trades

APA is surprised to see this option presented by the AEMC. This option is akin to a domestic reservation scheme for gas reserves, and would have identical negative impacts on incentives to invest. This option would increase the 'at risk' portion of any investment, effectively increasing financing costs and causing these costs to be borne by the pipeliners and the foundation shipper. In effect, the foundation shipper would be subsidising the availability of capacity for other shippers, creating clear free-rider problems. This option cannot be considered seriously in this market and should be dismissed in similar terms as domestic reservation schemes have been by a broad cross section of policy makers, including the COAG Energy Council.[14]

5.4 AEMC Approach C

The AEMC states that its Approach C seeks to address the issue of pipeline owners having insufficient incentive to facilitate access to capacity and includes the following measures:

- Changes to the economic regulation of pipelines; and
- Prohibitions on contractual provisions in GTAs which limit capacity trading by shippers

Each of these is briefly discussed below.

5.4.1 Economic regulation of pipelines

As discussed above, APA does not believe that the AEMC has adequately shown that access to pipelines, including terms and conditions and tariffs, is an enduring problem in the gas market such as would necessitate increased regulation, or that current arrangements are materially impacting the efficiency of the market through underutilisation of capacity.

Australia's competition policy has been in place for more than 20 years, and has driven economic growth and productivity improvements that are the envy of other countries. Abandoning these principles with the aim of marginally improving short term gas market liquidity – itself uncertain to succeed due to market structure issues and other factors not within the AEMC's control – would be a risky proposition. Indeed, APA questions whether this approach would be consistent with COAG best practice principles which state that legislation should not restrict competition unless it can be demonstrated that:

[14] Council of Australian Governments Energy Council Meeting Communique Adelaide 11 December 2014, "The Council rejects the need for national interventions such as national gas reservation as solutions to pressures in the eastern gas market, and considers there are opportunities to improve the function of the gas market and remove impediments to supply. " and COAG Energy Council, Australian Gas Market Vision, December 2014: "A competitive supply response depends on market-based policy approaches. While noting different existing jurisdictional approaches, market interventions on a national scale, such as a national domestic gas reservation policy or export controls are not supported."

- the benefits of the restrictions to the community as a whole outweigh the costs; and
- the objectives of the regulation can only be achieved by restricting competition.

APA does not consider that the AEMC has adequately established the case for increased economic regulation, or that economic regulation is the only, much less preferred, option to deal with the current market dynamics.

APA is concerned that the AEMC, in discussing this option, is contemplating not just increasing the scope of current regulation to apply to more pipelines, but also the breadth of that regulation so that it is more prescriptive, applies to more services, and imposes more constraints on business activity. The impacts of such change should not be underestimated, in particular in relation to investment, choice, service delivery and innovation.

Coupled with the virtual hub market concept 3 set out by the AEMC in its earlier markets paper, this approach would see the universal application of revenue type regulation across all Australian pipelines, including the establishment of revenue and market sharing agreements between previously competing pipelines (such as the VTS/MSP, MAPs and EGP), within a single hub definition. APA believes that implementation of these arrangements would only operate to constrain services available to the market and lead to a significant efficiency loss to the economy, and would be unlikely to satisfy the National Gas Objective.

5.4.2 Prohibitions on contractual provisions in GTAs which limit capacity trading by shippers

Similar to the above discussion, it is not clear that the factors or provisions discussed by the AEMC in this section are actually in place, or that they impact capacity trading.

APA notes that nomination cut off times need to be consistent for all shippers on a pipeline, and are set out in contracts. The AEMC's recommendation as part of stage 1 of this process to align gas days may be an opportunity to change nomination times, however there is a minimum lead time required for pipeliners to ensure physical gas delivery through compressor settings and similar. APA notes that the current standard nomination time of 4pm before the 8am gas day is after the close of nominations and allocations under associated gas markets such as the Wallumbilla GSH and the STTMs, allowing trades in those markets to be executed through nominations.

The ability to change receipt and delivery points is a feature of APA's standard GTA. This ability must be subject to technical and commercial considerations, but otherwise APA is obliged to consent to such a request.

APA further notes that default allocation arrangements apply where shippers cannot or do not wish to establish their own arrangements, so it is not accurate to suggest that shippers are forced to negotiate these agreements.

Fees and charges for the provision of services should also not be surprising where the provision of services involve the use of systems that have had significant development costs, or where those services require the pipeline owner to take on risk for undertaking a role or function that the shipper could do itself (for example to facilitate a bare capacity transfer). APA does not consider that the AEMC has adequately analysed the market and existing provisions in GTAs (including those in APA's standard form GTA which is readily available on APA's website), before accepting that these claims warrant regulatory intervention.