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Via online submission

PIPELINE ACCESS DISCUSSION PAPER

Dear Mr Pierce *John*

The Australian Pipelines and Gas Association welcomes the opportunity to comment on the Commission's Pipeline Access Discussion Paper that forms a key component of the East Coast Wholesale Gas Markets and Pipeline Frameworks Review.

The gas transmission industry is proposing an industry-led implementation of the Commission's recommendations regarding pipeline access. Such an implementation avoids the need for extensive, and extended, regulatory processes. An approach utilising industry-led processes and supported by appropriate regulatory change can implement capacity auctions and trading platforms rapidly and at lower cost than a regulatory process. APGA considers that the level of standardisation necessary to support trade can also be delivered with minimal regulatory intervention.

To oversee this implementation, APGA proposes a balanced Industry Council overseen by an independent chair and drawing representatives from the gas transmission industry, market participants and government. The Industry Council will be responsible for establishing the industry standards required to achieve consistent implementation and would recommend any legislative or regulatory changes that are required to support implementation.

For more information on any aspects of this submission, please contact APGA's National Policy Manager, Steve Davies, on (02) 6273 0577 or sdavies@apga.org.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Cheryl Cartwright".

Cheryl Cartwright
Chief Executive

Submission to the AEMC Pipeline Access Discussion Paper

AEMC Reference: GPR0003

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Introduction

The Australian Pipelines and Gas Association (APGA) welcomes the opportunity to comment on the Australian Energy Market Commission's (the Commission) Pipeline Access Discussion Paper. The Discussion Paper considers further detail on the recommendations regarding pipeline access in the Commission's Stage 2 Draft Report. In particular, the Discussion Paper recognises implementation of the pipeline access recommendations will need ongoing governance and considers options for that governance.

APGA considers that an industry process to develop and implement the Commission's recommendations on pipeline access will deliver the optimal outcome. Such a process should bring together pipeline operators, market participants and independent experts to oversee the implementation of capacity auctions and capacity trading platforms by pipeline operators.

APGA reaches the conclusion that an industry process will deliver the optimal outcome based on long experience of participating in gas market development processes. By way of example, the CoAG Energy Council committed at its December 2012 meeting to its process to consider policy options for capacity trading. The recommendations regarding enhanced information arising from that process will be implemented in October 2016. These recommendations, whilst imposing new information provision obligations on pipeline operators and market participants, are less interventionist than a regulatory-led process to implement the Commission's recommendations on pipeline access would be.

The regulatory implementation of the recommendations flagged by the Commission to date would be more interventionist and would presumably require, at a minimum, an equally protracted process for implementation. As the CoAG Energy Council will consider the Commission's recommendations for the first time at its mid-2016 meeting, it is unlikely that regulatory implementation of the Commission's recommendations could occur before 2019.

In contrast, APGA considers that an industry-led implementation process, whereby the gas transmission industry accepts the Commission's recommendations and works to implement them economically and efficiently with minimal regulatory intervention, is superior. Such a process could deliver enhanced secondary capacity trading platforms and capacity auctions by October 2017.

Key to this delivery timeframe is the ability of pipeline operators to implement the Commission's recommendations. There are no other implementation options that can be conducted with reduced regulatory intervention. The involvement of third parties in determining the allocation of pipeline capacity will require highly intrusive regulatory implementation of the Commission's recommendations.

In addition to being able to implement the Commission's recommendations with minimal regulation, pipeline operators are the appropriate party to manage access to their assets. Pipeline operators can ensure effective optimisation of access by conducting capacity auctions. This requires extensive knowledge of each pipeline's capabilities and operations to ensure that bids can be optimised in a combinatorial process to ensure that the greatest value to the market is delivered from a capacity auction. Full detail on APGA's view with regard to auction processes is provided in response to the Commission's questions on the subject below.

A system that allows pipeline operators to assume responsibility for capacity auctions and enhanced secondary trading platforms further reduces complexity by minimising the number of parties (with associated communication failure points) that access seekers would transact with to acquire capacity.

Access seekers would have relationships in place with pipeline operators to manage nominations, notifications, obligations and responsibilities for capacity acquired either through auction or trade. Adding a third-party to the commercial transactions of auction and trade increases complexity for no apparent gain. The system will be transparent and market participants and regulatory agencies will be able to monitor activity.

APGA envisages an eight-member Industry Council, comprising three pipeline operators, three market participants of differing perspective (such as a producer, retailer and user) and an independent expert to chair the council and a representative drawn from energy governance institutions (CoAG Energy Council, SCO, AEMC, AER, AEMO). Such a Council would deliver a balanced decision making process and oversight of the implementation of the Commission's recommendations. Where matters require decision, a requirement that six of eight Council members be in agreement will ensure that options focused on market outcomes, rather than outcomes for a particular group prevail. Full detail on APGA's view of governance arrangements is provided at Attachment A.

An important element of the Commission's recommendations for pipeline access that has not been explicitly addressed in the Discussion Paper is the scope of implementation. APGA considers it is appropriate that initial deployment of these recommendations is confined to those pipelines that provide market participants access to facilitated markets. The contract paths identified by the Commission in Table 4.1 provide a useful starting point for discussion. A focus on these routes will deliver the greatest benefits to market participants at least cost. APGA anticipates that elements of the reforms will extend to other pipelines over time if market participants identify a need.

Given that the Commission has posed some highly detailed questions, with particular regard to capacity auctions, APGA considers it will be beneficial for the implementation process if the Commission provides clear guidance regarding its view of the appropriate answer to these questions.

Response to the Discussion Paper

Implementing the initiatives

- Has the Commission accurately and comprehensively outlined the benefits and disadvantages of the regulatory- and industry-led approaches?
- How might the Commission weigh the relative benefits and disadvantages of the two approaches into an appropriately balanced implementation approach?
- Are there any other implementation options which the Commission has not considered which may be appropriate?
- Do you believe an industry-led approach could be effective at delivering this key suite of reforms? If not, what approach should be taken?
- Should the implementation approach differ between the proposed reforms, and why?
- Should any enduring governance arrangements differ from the governance arrangements for the initial implementation of the reforms?

APGA considers that the Commission has provided an accurate analysis of the benefits and disadvantages of regulatory- and industry-led approaches of implementing the proposed reforms.

It is immaterial that industry-led processes have not delivered equivalent outcomes to date. APGA is not aware of any competitive infrastructure service markets that provide services through an auction with a floor price of the short run marginal cost without a regulatory mandate. It should not be expected that industry-led processes should deliver such an outcome without explicit guidance from policy makers.

Given the Commission is has indicated it has a preference for such an outcome, the pipeline industry is prepared to implement the Commission's recommendations. This would make the most of the efficiencies of an industry-led system. These advantages include:

- Commercial incentives and complete integration with existing pipeline systems which would minimise costs.
- The ability to minimise regulatory intervention, reducing the need for extensive processes to develop regulation impact statements and detailed cost-benefit analyses, both of which are required by the Commonwealth Office of Best Practice Regulation. Clearly this would reduce costs, an advantage that would be passed through to participants.
- The detailed knowledge required to rapidly develop, integrate and optimise new systems into existing pipeline operations.
- Increased flexibility and responsiveness compared to regulatory led approaches. This advantage also provides ongoing benefits; it is apparent that NGR rule change processes are rarely completed within six months. By reducing the requirement for changes to the NGR, the more rapidly industry can develop improvements as use of the new mechanisms to access pipeline capacity evolves.

From APGA's perspective, policy makers are presented with an option that leverages the advantages of both government and industry-led processes. The Government-led process to date is delivering clear guidance on the developments considered necessary to enhance whole-of-market outcomes. It has done so in a transparent and consultative manner that balances the competing interests of market participants, something that an industry-led process would have found very challenging. Government now has the option of regulating to achieve the implementation of its desired developments, but clearly industry-led processes can deliver these developments more quickly and efficiently than government processes generally do.

The incentive pipeline operators have to implement these recommendations efficiently and effectively cannot be understated. Regulated outcomes create significant, ongoing burdens for industry and can limit industry's ability to innovate and respond rapidly to developments. APGA is particularly concerned about outcomes that introduce a third-party into the transactions for pipeline access

acquisition. APGA expects that any reasonable market participant would be similarly concerned about such outcomes in their own commercial arrangements.

APGA envisages a governance approach that embodies elements of options 2, 3 and 4 as articulated by the Commission on page 8. Option 2 - the threat of regulation - is sufficient to ensure pipeline operators have the incentive to achieve the desired outcomes in the desired timeframe. Option 3 - industry standards formulated by an Industry Council - can ensure that recommendations are implemented consistently across industry and that pipeline operators must be equally mindful of both their own requirements and the requirements of market participants. Option 4 - law and rule changes made by governments and the AEMC of the advice of Industry Council can be used to establish a regulatory requirement for the Commission's recommendations, set out thresholds for application and provide any necessary mandate to oblige regulatory authorities to undertake supporting roles.

APGA's proposal for the governance of an Industry Council is detailed at Attachment A.

The Industry Council will oversee three work streams, each requiring its own working group:

- Standardisation
- Auction design
- Trading platform design

Each working group will be responsible for developing an industry standard to set out the parameters that pipeline operators will need to approach consistently in regard to its specific initiative.

A detailed work plan and implementation timeframe will have to be developed as a matter of priority. Each working group will need to rapidly identify any legislative or regulatory changes required to facilitate the implementation of its initiative, the time industry will require to implement its standard and other matters on the critical path to implementation.

As identified in APGA's submission to the Stage 2 Draft Report, industry-led implementation with minimal regulatory mandate should be achievable by October 2017. Each decision made that increase the role of regulation in implantation will likely add to the delivery timeline.

Standardisation of primary capacity contracts

- Is the list of operational, prudential and other contractual provisions that could be standardised appropriate? Or are there others that could be added, or should some be removed? What may not be suitable for standardisation?
- To what extent will changes need to be made to allocation agreements between shippers at delivery points to facilitate more trade?
- Is there value in also developing standard terms and conditions for hub services at the same time the terms and conditions are developed for transportation services?
- Is it feasible to develop a single standard for each term and condition or is a range of standards more appropriate for some provisions?
- Would it be possible to implement the standardised terms and conditions in GTAs that are already on foot?
- Should shippers and pipelines be able to negotiate alternatives to any of the standardised provisions? If so, in what cases would this be relevant?
- How long is it likely to take to develop standardised provisions?
- What are likely to be the key benefits, risks and costs to your business of implementing and using standardised primary capacity products? Estimates on the magnitude of these benefits and costs are welcomed.

It would require a highly intrusive regulatory process to standardise all existing primary capacity contracts. It is possible to develop and implement solutions that ensure the appropriate level of standardisation to achieve increased trading without forcing the change of all existing contracts. APGA considers such an outcome highly desirable; it will facilitate increased trade whilst maintaining the ability of pipeline operators to meet the specific needs of each shipper.

Standardisation of primary capacity contracts restricts the ability of pipeline operators to innovate (and differentiate) in the services offered to market participants. It is apparent that the needs of market participants change over time. Existing services needed to be modified and new services developed to account for this. This is particularly true under current circumstances. Changes in requirements are already being observed as market participants adjust to new realities brought about by the commencement of LNG export in Queensland. The implementation of capacity auctions and enhanced capacity trading platforms will further change the behavior of market participants and it is highly likely that the increase in flexibility and secondary activity will necessitate changes to primary capacity arrangements and individually tailored services.

There are steps that can be taken to increase standardisation and harmonisation in primary contracts over time that will benefit the market through greater consistency in primary capacity contracts.

Many pipelines, covered and uncovered, already publish a standard contract. Whether or not it is published, this standard contract would typically be used as a starting point for negotiation between a pipeline operator and prospective shipper, the clear preference of shippers is to negotiate and tailor specific terms and conditions to their own requirements..

The clear preference of market participants is to negotiate specific terms and conditions tailored to their own requirements. This should not be surprising, shippers are not standardised. There are different categories of shipper that have differing requirements. Groups such as power generators, retailers, producers, exporters and industrial users each have a different set of requirements. Within categories, individual shippers have individual requirements.

There are also differences between pipelines. A primary area of difference in pipelines is the method of operation. There are two ways to operate a pipeline - pressure control and flow control. Basically, there are multiple physical characteristics that are unique to each method of operation. These characteristics are reflected in many clauses of a contract. It would be difficult to develop a standardised contract that would apply to both pressure control and flow control pipelines.

Pipeline operators propose to extend the practice of publishing standard contracts to all pipelines and to engage in a process, under the auspices of the Industry Council outlined above, to develop a common structure for all standard contracts. Under such a structure, terms and conditions will be listed in the same order in each pipeline's standard contract. This will allow both common and pipeline specific terms and conditions to be readily identified. With improved insight into commonalities and differences, it is expected that harmonisation across contracts will increase over time as new and renewed contracts adopting the common structure are taken up.

The standard contract for each pipeline will also set out the standard terms and conditions associated with capacity acquired through auction and trade for that pipeline.

The Commission has put forward a detailed list of terms and conditions that could be standardised to facilitate secondary capacity trading. Some of these, such as start of gas day and nomination cutoff times and service definitions are appropriate to consider during the proposed contract standardisation process. It must be noted that there is already a rule change process underway for the start of gas day. Whilst this does not automatically change the standardise start of gas day in GTAs, it is likely to lead to a process to do so.

The focus of standardisation efforts should not be to consider what can be standardised, rather what needs to be standardised to support liquidity. When considering the fungibility of capacity products and the ability of primary capacity holders to trade it is important to conceptualise that a unit of capacity is (largely) independent of the terms and conditions governing its sale. This is the concept that underpins the operational capacity transfer service. Under the operational capacity transfer service, when a unit of capacity is traded between shippers, it is subject to the terms and conditions in the primary contract of the party acquiring the capacity. This reduces the need to standardise substantially. For capacity acquirers that are not existing shippers, the terms and conditions of the standard contract apply.

With regard to allocation agreements, APGA understands that the agreements themselves are relatively standardised. Shippers acquiring pipeline capacity through trade or auction may have to negotiate to be included in an allocation agreement at a particular point, but there should be little issue arising from standardisation.

Receipt and delivery point flexibility

- Would it be feasible to implement the approaches that have been used in either the US or New Zealand, or is there a better alternative?
- If greater receipt and delivery point flexibility can be achieved, will allocation agreements need to change? If so, how significant are these changes likely to be?
- Should a pipeline operator's ability to reject a change be restricted to technical reasons only? If so, how should the criteria for rejection be developed?
- Should pipeline operators be required to respond to requests for receipt or delivery point changes within a specified period? If so, how long should they have?

Given that there are many differences between the pipeline frameworks and gas markets in the US, New Zealand and Australia there is little reason to consider approaches in any particular jurisdiction as optimal.

APGA considers that the best approach for Australia pipelines is to develop a defined set of receipt and delivery zones for each pipeline. These zones will group receipt and delivery points on each pipeline. Zones will need to be unique to each pipeline but can be developed in accordance with principles embodied in an industry standard. Transfer of capacity within a zone should be very simple. Transfer of capacity across zones should be conducted to a set of defined rules for each pipeline. Such rules will be unique to each pipeline but should be developed in accordance with an industry standard.

When a capacity holder is offering the capacity for trade, they will be able to indicate the specific receipt zone and delivery zone defining the contract path for the capacity. Capacity acquirers will have clear understanding of the receipt and delivery points embodied in the zones and the potential to modify these zones.

This proposal for zones differs from the US approach of segments as it removes the need to string together segments to achieve delivery.

APGA considers the zoning model is superior as it increases flexibility to support trade whilst maintaining point-to-point contract paths for operational efficiency.

The introduction of zones effectively provides an indication of the complexity of a particular trade. Trades within the same zone should be relatively simple, providing they do not lead to congestion at a particular delivery point. Trades across zones will be more complex and are likely to require consideration of technical and commercial issues before approval.

APGA considers that the industry standard should also set out appropriate response times for requests to change zones. Given that each pipeline will also develop rules/guidelines for transfer across zones, it seems reasonable that this timeframe should not be particularly long. However, an increase in requests will lead to additional costs incurred by pipeline operators in undertaking more capacity modelling exercises and administering more changes to delivery points. This could flow through to transmission tariffs or trading charges to shippers.

APGA considers it fundamental to the commercial underpinning of Australia's gas markets that pipeline operators be able to reject a change request for both technical and commercial reasons. Shippers enter into long-term contracts that underpin a pipeline's commercial arrangements. They should not be able to transfer capacity in such a way that allows them to avoid contractual commitments or results in a reduction of the revenue of a pipeline operator.. As such, requests for transfer of delivery and receipt points must be assessed on commercial and technical grounds.

Standardisation of secondary capacity contracts

- To what extent should the operational, prudential and other contractual provisions in secondary capacity contracts (ie CTAs and, where relevant, Operational GTAs) mirror the standardised provisions developed for primary capacity trades?
- Are there any provisions in secondary capacity contracts that could not be standardised across pipelines?
- Are operational transfers the most effective way of dealing with trades executed through the capacity trading platform and the day-ahead auction, or are there other limitations with these transfers that the Commission should consider?
- If all capacity trades were to be given effect through an operational transfer, would standardising the operational, prudential and other contractual provisions in Operational GTAs obviate the need to standardise these terms in the primary capacity contracts?
- Is it feasible to develop a single standard for each term and condition or is a range of standards more appropriate for some provisions?
- If a deadline was to be established for an industry led process to deliver standardised provisions, how long should this timeline be?
- Is there value in also developing standard terms and conditions for secondary trades of hub services at the same time the terms and conditions are developed for transportation services?
- What are likely to be the key benefits, risks and costs to your business of implementing and using standardised secondary capacity products? Estimates on the magnitude of these benefits and costs are welcomed.

As outlined above, APGA envisages the development of a standardised contract for each pipeline, presented in a consistent structure across pipelines, that sets out the standard terms and conditions for primary and secondary capacity. Most matters can be consistent across these types of capacity.

It is important that capacity acquired through auction is a consistent product across pipelines. As it is a new product, this should be relatively simple to achieve. While most terms and conditions will be consistent, clearly there will be some that are not consistent. As with primary capacity, there are terms and conditions that will be specific to each pipeline. As this capacity is being acquired directly from pipeline operators, it is not an operational transfer between shippers.

The operational capacity transfer is an effective means of simplifying capacity trades and should be used for trades conducted through the trading platforms.

Services that could be sold through the capacity trading platform(s)

- Should the capacity trading platform(s) be developed to enable:
 - transportation, hub and pipeline storage services to be sold, or should it only provide for a sub-set of these services?
 - services to be sold on a firm, as available and interruptible basis, or should it only provide for firm services to be sold?
 - primary capacity holders and pipeline operators to sell these services, or should it only provide for primary capacity holders to sell on the platform(s)?
- Is there likely to be any value in limiting:
 - the services that can be sold through the capacity trading platform(s) in the initial stages of its development?
 - who can sell services through the capacity trading platform(s) in the initial stages of its development?
- If so, what limitations should apply and how long should they apply for?

It seems appropriate to develop trading platforms to enable the trade of as many services as possible by as many parties as possible. Nevertheless, it should only facilitate trade in services to which parties have transferrable rights. This would limit services to those that a party has a firm right to. This is appropriate, as available services are essentially pre-arranged flexible arrangements that are provided if possible. Costs are only incurred if the services are used. There are no rights to non-firm services that can be transferred across parties.

This position ties in with the purpose of the reforms proposed. The reforms identified by the Commission are focused on improving liquidity by increasing trading in the contracted but unutilised capacity (or other service) on a pipeline (or hub). To be contracted but unutilised, a service must be firm.

Exchange based trading

- Is there likely to be sufficient demand to introduce exchange based trading from day one, or should a staged approach be implemented as suggested in some submissions? If a staged approach is considered more appropriate, please explain why and outline how the staged approach could work in practice.
- Apart from the factors outlined in Table 4.1 are there any other aspects of the capacity products that would need to be standardised to attract sufficient interest in the products?
 - Are the contract paths identified in Table 4.1 likely to be appropriate in the initial stages of the life of the platform(s), or should it be more limited or expansive?
 - Is there any value in establishing a minimum parcel size for capacity trades?
 - Should the standard product be assumed to have no renomination rights?
- How long is it likely to take to develop standardised services and should industry take the lead on this?
- Are there any other contractual or settlement and prudential issues that the Commission should consider, or any other matters more generally that the Commission should take into account when forming its view on whether to recommend exchange based trading?
- What are likely to be the key benefits, risks and costs to your business of implementing and using an exchange based capacity trading platform? Estimates on the magnitude of these benefits and costs are welcomed.

APGA considers that the level of unmet demand for capacity trading is still to be established. It is apparent that the Commission's recommendations will address many identified barriers to trade. It is not yet clear there will be high levels of trading activity. It is unlikely there will be a high level of demand initially – shippers have arrangements in place for current requirements. In particular, it does not seem likely there will be an initial sufficient level of bids to drive an exchange based trading

mechanism. Over time, this is likely change as shippers and market participants adopt new strategies to make use of enhanced secondary capacity access mechanisms.

As such, the initial roll out of fully-automated exchange based trading platforms across all pipelines is likely to be unnecessary. It is important that trading platforms are consistent across pipelines, both in user interface, settlement processes and in the level of transparency. Such a measure will ensure that the service is the same across pipelines. If the primary focus of an industry standard is on the level of consistency across platforms, pipeline operators can focus on ensuring systems are developed rapidly with a level of sophistication (and associated costs) suitable to expected demand and existing systems on each pipeline.

Table 4.1 covers the factors that need to be standardised to facilitate trade. It does not appear to be a significant task for industry to develop standardised services, particularly as services should align with those already available through the GSH.

Single or multiple trading platform

- Is a single trading platform likely to be the most effective and efficient way for shippers to trade capacity, or should further consideration be given to the multiple trading platforms option?
- Are there any other factors that the Commission should consider when deciding between the single and multiple trading platform options that have not been discussed?

APGA considers that the benefits and apparent simplicity of a single platform have been overstated. A single platform would require a separate page for each pipeline. A shipper posting capacity for multiple pipelines would still need to post separate parcels for each pipeline. Market participants seeking to transport across multiple pipelines would still need to monitor multiple pages. The Commission's example setting out increased competition between MAPS and the SEA Gas pipeline is not affected materially by the presence of a single trading platform nor multiple trading platforms.

APGA considers that the low number of transmission pipeline operators mean it should be relatively easy for market participants to monitor the pages of interest to them across multiple trading platforms. If considered beneficial, it should be a simple undertaking to provide links to other trading platforms (both for facilitated markets and pipelines) on each platform.

In addition, pipeline operators still need to be involved in the transaction for each trade, facilitating the operational transfer of capacity. The operation of trading platforms by pipeline operators for each asset allows the pipeline operators to closely monitor trading activity and to ensure trades that are being offered are in line with shippers' rights and a pipeline's capabilities.

Where flexibility is sought to facilitate the capacity trade, pipeline operators will need to confirm the transaction. If the zone model is adopted, pipeline operators will have to confirm the ability of a transfer across zones.

Pipeline operators will have to facilitate any changes to allocation procedures at a particular delivery point that are required for a trade.

Pipeline operators are also best placed to monitor activity regarding bilateral trades outside trading platforms.

These factors all suggest the pipeline operators will have to be closely involved in the trading transactions that occur for each pipeline. This is best achieved by having pipeline operators run trading platforms for each pipeline.

A single trading platform moves the development of secondary markets into a ‘one size fits all’ approach. This does not align well market participants’ preference for bespoke arrangements on pipelines, the ability of pipeline operators to innovate in service delivery or the individual operational characteristics of each pipeline.

It is clear to APGA that pipeline operators are best placed to run capacity auctions. Capacity auctions, capacity trading platforms and pipeline operational requirements will have a high level of interoperability. Overall, transactions for market participants are minimised if nominations, auctions and capacity trades are conducted on a pipeline-by-pipeline basis. Costs are likely to be lower if the number of transactions and communication paths are minimised.

Operational responsibility for trading platform(s)

- If a single trading platform was to be adopted, should the platform form part of the GSH, or should the pipeline operators be required to jointly develop a platform?
- If pipeline operators were to be accorded responsibility for jointly developing a platform:
 - are there likely to be any conflicts of interest with the pipeline operators taking on this role?
 - what costs are likely to be incurred in developing the platform and getting the relevant IT systems and protocols in place to give effect to trades?
 - how would the costs of using the platform be determined?
 - should the AER have a role in approving the fees charged by pipelines to recover the costs of operating the platform, as suggested in one submission?
- If the GSH option was to be adopted:
 - are the participation fees likely to deter shippers from using this service?
 - are there any other costs or factors that would need to be considered under this option (eg additional IT arrangements to communicate with pipelines)?

As set out above, APGA considers that, as pipeline operators must be closely involved in the flexibility of trade facilitation and in efficient operational transfers, it is clear that pipeline operators should have operational responsibility for trading platforms.

In a fully transparent trading environment, APGA considers there is no potential for pipeline operators to have a material conflict of interest arising from this role.

It is envisaged that all bids and offers on a trading platform are to be published. There are few shippers on any pipeline. Through an understanding of successful trades, the delivery zones of interest being offered and bidden on and the behavior of existing shippers and gas users, it is to be expected that pipeline operators, and all sophisticated market participants will be able to establish an accurate understanding of which parties are actively seeking and trading capacity.

The additional information available to pipeline operators that may enhance their ability to determine bidders is the knowledge of successful counter-parties to trades. This information must be available to the operator of the pipeline on which the trade is occurring regardless of operational responsibility for the trading platform.

It is expected an administrative charge will be required to cover the costs of providing this enhanced service. APGA considers this an appropriate matter to be resolved through the industry council.

Bilateral trades outside of the platform(s)

- Is the issue of discriminatory access to secondary capacity likely to be problematic if bilateral trades continue to occur?
- Should prospective bilateral trades arranged outside of the capacity trading platform be required to publish information on the prospective terms and conditions of that trade, to enable other prospective buyers or sellers to compete for that capacity?

The mandatory cessation of bilateral trades outside the platform is not supported by APGA. It would require the regulatory removal of an existing right of shippers.

Discriminatory access to secondary capacity is largely addressed through the implementation of a capacity auction. If market participants or regulators are concerned that shippers are discriminating against potential trading partners for competition reasons then appropriate mechanisms in competition law should be utilised.

APGA considers that an equivalent level of information for completed bilateral trades should be made available to market participants.

Bare transfers

- How frequently would counter-parties be discouraged from undertaking a trade because it required that commercially sensitive information to be revealed through a bare transfer?
- How might this issue be addressed?

APGA does not support the prohibiting of bare transfers and considers that the regulation required to achieve this would amount to the removal of a property right.

APGA expects that the use of bare transfers will be diminished as a result of the implementation of these reforms as capacity acquirers will consider operational transfers to be superior. The capacity auctions and enhanced trading platforms will increase the optionality for capacity acquirers that will limit the ability of incumbents to require bare transfers.

Type of information to be published

- Should the terms and conditions that have the greatest bearing on price be published alongside the prices specified in the trades, or should the entire contract be published?
- If only those terms that have the greatest bearing on price are to be published, is the list of terms and conditions set out in this section appropriate, or are there others that should be considered?
- From a price discovery process, is there value in having information on more bespoke arrangements or would it be appropriate to limit the reporting requirement, at least for secondary trades, to standardised products?
- Should the reporting obligation extend to the identities of the contracting parties?
 - If so, please explain what value you think this will provide.
 - If not, what level of aggregation would be required to prevent the identities of trading parties being revealed? For example, would it be as simple as reporting the delivery or receipt point at a zonal level, or are there other elements of the reported information that would need to be elevated or aggregated?
- Apart from the identities of the trading parties, are there any other terms and conditions that have been identified that are considered confidential?
- Do the reporting obligations in the NGR need to prescribe the type of information that shippers are required to report, or could this be left to the Bulletin Board Procedures with some guidance provided in the NGR?
- What costs are counter parties to secondary capacity trades likely to incur in reporting this information?
- How might confidential information be protected even if published on an anonymous basis (eg, agglomerated information)?
- What are likely to be the key benefits, risks and costs to your business of providing information on secondary capacity trades? Estimates on the magnitude of these benefits and costs are welcomed.

APGA considers the list of terms and conditions set out on page 35 and 36 to be appropriate for market participants to judge the value of any trade.

With regard to the publishing of identity of the contracting parties, APGA considers that it is important to address any confidentiality concerns. In the interest of promoting increased trading activity, it appears appropriate to allow trading parties to remain confidential. APGA considers that the reporting of trades at a zonal level, in line with the advertising of trades, is sufficient to provide some protection.

When should the information be reported

- Should the information on secondary capacity trades be reported at the time of the trade, or with a lag? If a lag is to be allowed:
 - Should the lag apply to all the information, or just to those aspects that are considered confidential?
 - How long should the lag be?
 - Should a different lag apply for short term capacity compared to long term capacity trades?
- Are there any other practical considerations or matters that the Commission should take into account when assessing the two options?

APGA considers information should be reported at the time of trade. Trading information will be useful to inform bidding strategies for the capacity auction, which will be conducted on a daily basis.

Services that the reporting obligations should apply to

- Should the reporting obligations be expanded to include secondary sales of:
 - hub services?
 - storage services?
 - any other services provided by pipelines?
- What terms and conditions would need to be reported alongside the prices of these services?

Reporting obligations should be extended to secondary sales of services of all BB facilities.

The terms and conditions to be reported are those equivalent to the transportation service terms and conditions set out by the Commission.

Auctioning multiple segments of capacity

- How frequently do shippers require capacity for the entire length of a pipeline?
- How frequently do shippers require capacity for subdivided segments of a pipeline?
- Does this vary between pipelines?

Clearly, the frequency of these requirements will vary between pipelines. APGA considers that it is likely the most frequent occurrence will be shippers requiring capacity for the entire length of a pipeline. The majority of pipelines on the East Coast are built to transport gas to major demand centres, such as capital cities and industrial zones. There tend to be relatively few demand centres enroute for most pipelines.

The concentration of the Australian population in a small number of coastal cities is one of the major points of difference between Australia and international comparator markets. It has major implications for the role and utilisation of transmission pipelines which should be taken into account.

APGA proposes that an auction of multiple segments of capacity is unnecessary and adds complexity. A day-ahead capacity auction can be conducted by capacity seekers nominating (in a single bid or series of bids):

- the receipt and delivery point they seek capacity for;
- the unit price of capacity they are willing to pay; and
- the volume of capacity they are seeking.

The provision of this information would also be necessary for auction of multiple segments of a pipeline.

This allows capacity seekers to bid, and be awarded capacity, as if an individual auction was being conducted whilst allowing pipeline operators to maximise efficiency by conducting an auction settlement that is effectively a combinatorial process. Pipelines can use the proposed information to optimise the auction for the desirable characteristic (discussed below).

It also allows for a consistent approach to a capacity auction across pipelines regardless of the need for shippers to access the entire length or segments of a pipeline.

To enable comparison of capacity acquired through auction to that offered for trade, and to provide a level of anonymity for successful bidders, it is appropriate to publish the results of the auction by receipt and delivery zone.

APGA considers this auction approach is suitable, as any auction will require capacity seekers to nominate receipt and delivery points so that pipeline operators have full insight into their intention for their capacity. As this is the case, pipeline operators can, and should, optimise the auction at this level of specificity.

Individual or combinatorial allocation

- How strong are the complementarities between different segments of pipeline? How often do they arise?
- How strong are the complementarities between different pipelines? How often do they arise?
- How important do stakeholders think the 'exposure' problem is?

APGA considers the above proposed approach to the capacity auction addresses complementarities within a pipeline.

It is unclear how strong the complementarities between different pipelines are. The level of interconnect currently available in the market is a relatively recent development. It is likely that, at this time, there is not a very high level of multi-pipeline transport in the market. The current reforms are likely to change this.

APGA considers that the introduction of a trading hub at Moomba reduces the likelihood of an exposure problem arising across multiple pipelines. Most users would be able to access at least one hub through a single pipeline. Many users would be connected to more than one hub.

Attempting to address the 'exposure' problem across multiple pipelines would introduce substantial complexity. The extent and frequency of the issue is unclear. While a new process is being established and companies become accustomed to operating under the process, APGA considers that market participants should be encouraged to minimise their risk by bidding at a sufficient value across multiple pipelines to avoid stranding.

What is the appropriate pricing rule for the day-ahead capacity auction?

- Is there a real risk of bidders underbidding or otherwise failing to submit their true values in a first-price auction?
- How often are significant and unexpected fluctuations in demand for capacity likely to occur?
- Will there be efficiency gains from a second price rule? If so, how significant are these gains likely to be?
- Are there feasible methods of incorporating a second price rule into a combinatorial auction?
- If there needs to be a choice between a combinatorial auction and a second price rule, which of these aspects is more important for allocative efficiency?

A first-price rule simplifies the auction process and allows a combinatorial auction to be conducted. A guiding principle of these access reforms has been that capacity should be allocated to those companies that value it most highly; the first-price rule addresses this.

A first-price rule also allows more sophisticated optimisation algorithms to be used to solve the auction. If a second-price rule is used, the deciding factor is likely to become the volume of capacity sought by each bid. This would be likely to lead to high unit price, low volume bids to be unsuccessful.

It is also necessary to consider the likely volume of bidding. Liquidity improvements will always be limited where there is a low number of participants. The number of market participants seeking access through auction on any given pipeline on any given day is likely to be low, especially at the commencement of the new auction process as the majority of established players would have current arrangements in place to manage current capacity requirements. A low number of bids is likely to create unrepresentative and inefficient outcomes in a second-price auction environment.

A first-price auction could also be used to address the 'firmness' of the capacity awarded through auction. The unit price paid for capacity can be used to establish the curtailment order, with the lowest successful bid being the first to be curtailed in the event it is necessary.

Number of rounds

- Is a single round appropriate for the auction of contracted but un-nominated capacity?

APGA considers that the short time frame required to complete the auction lends itself to a single round of bidding. The daily occurrence of the auction will provide suitable opportunity for price discovery over time.

The appropriate scope of the auction

- If the auction is conducted on a per pipeline basis, how can complementarities between different pipelines and hub services be managed?
- If the auction is conducted on a network basis, how can the harmonisation of rights between different pipelines be achieved?
- How frequently do shippers require capacity on multiple pipelines?
- How frequently do shippers require capacity owned by multiple owners?

APGA considers that the implementation of an auction on a network basis will be attractive to many market participants. However, the complexity and associated cost of such an implementation must be considered.

If liquidity is to increase, it is to be expected that the frequency of shippers requiring capacity across multiple pipelines, owner by multiple owners, would increase. However, this would be mitigated by the presence of multiple trading hubs. The presence of the GSH at Wallumbilla, one at Moomba, the Southern Hub across Victoria and STTMs at Brisbane, Adelaide and Sydney provides the majority of market participants with ample opportunity to be exposed to more than one facilitated market through a single pipeline.

Harmonisation of rights across multiple pipelines to allow an auction to be conducted on a network basis cannot be achieved in the short-term without major regulatory intervention. Such intervention would substantially delay the implementation of these reforms.

APGA considers that market participants should be encouraged to develop strategies to manage complementarities between different pipelines and hub services. When market participants need to utilise multiple services, they should bid accordingly. Should a market participant fail to access a required service due to a low bid or a lack of available capacity, it would be a signal that a bid should have been higher or that additional capacity may be needed.

Increased liquidity and flexibility does not come without risk, and market participants will need to have portfolios, strategies and contingencies in place to manage these risks through existing and new arrangements with pipeline operators, other service providers and relationships with market participants.

There is potential for new service providers to emerge, offering services that manage such risks. It is apparent that service providers are already assisting smaller gas users acquire gas through facilitated markets and APGA considers it likely they would see opportunities to further assist gas users to access new facilitated markets and pipeline capacity through new measures such as capacity auctions. A feature of encouraging service providers to emerge is that it appropriately allocates cost to cause. Those market participants that seek to undertake more complicated transactions can pay directly for services that manage the risks associated with them.

The magnitude of the risks must also be considered, if capacity seekers are acquiring capacity at prices reflective of the short run marginal cost, there is not a lot at stake if they are stranded from time to time

Pipeline operators are also willing to consider enhanced functionality if sufficient demand presents itself. Until such a time, it is appropriate to concentrate on low-cost solutions that can be deployed rapidly. Such solutions are achieved for capacity auctions if they are conducted on a pipeline basis.

Institutional setting for the auction

- What is the appropriate body to operate the auction?
- Are there any inter-linkages in with the institutional settings for the auction and the other recommendations?

Pipeline operators are the only entity with sufficient understanding of the operational capabilities of each pipeline to run an auction that delivers optimal outcomes with regard to maximising surplus.

Pipeline operators are also best placed to achieve the most reliable settlement of the auction. The introduction of a third party to conduct auctions will require pipeline to communicate with the middleman, bidders to communicate with the middleman, the middleman to communicate results to both and then successful bidders to communicate with pipeline operators. Each of these communication paths is a potential failure point for the auction process. Some of the information would need to be confirmed, increasing the number of communication paths required.

Having pipeline operators conduct the auction minimises the number of communication paths, which reduces the number of potential failure points as well as the time required to settle the auction.

Finally, pipeline operators can integrate auction systems within existing nomination systems, minimising the number of interfaces a bidder must use and allowing more effective communication with pipeline scheduling systems.

Capacity auctions will be a new mechanism for pipeline access that must carefully align with existing mechanisms. Access is best managed by each pipeline operator for each asset.

How should auction residue be allocated?

- How should residue be allocated?
- Are there any allocations that have the potential to distort efficiency?

Capacity auctions are a direct substitute for ‘as available’ capacity. Currently, pipeline operators are the only partly able to sell capacity after nomination cut-off and this ability is dramatically improved by the introduction of auctions.

The implementation of the auction process has material implications for primary capacity markets. The impacts on capacity markets are unknown, but it must be considered likely that some participants will seek to reduce their contracting arrangements to gain exposure to secondary markets and auctions. This will directly affect pipeline revenue.

Residue from capacity auctions should be allocated to pipeline operators.

Shippers already have and will soon have an enhanced ability to sell their firm capacity rights in the months, weeks, days and hours leading up to the nominate cut-off for any given gas day. They have every opportunity to monetise this right and should not have their incentive to do so reduced through exposure to auction residue.

Costs and benefits of the proposed auction

- Recognising that the detailed design of the auction is still to be determined, what are likely to be the key benefits, risks and costs to your business of its implementation? Estimates on the magnitude of these benefits and costs are welcomed.

As an industry association, APGA has no direct benefits, risks or costs to estimate.

It is important to maintain investment signals. The National Gas Objective is equally concerned with efficiency of operation and investment. The Commission has dismissed as theoretical free-rider concerns arising from the auction. It should be noted that even the *perception* that competitors would be able to free-ride on contracted but unutilised capacity could lead to future foundation shippers minimising their primary capacity purchase. This would decrease the size of future investments and lead to less capability as a whole being available to the market.

Service and pipeline participation in the auction

- Is the auction necessary on a pipeline when capacity has not been fully contracted?
- If not, what criteria should determine exemption if a pipeline is not fully contracted? What is the appropriate governance of this decision?
- Are there any other circumstances where pipeline owners should be exempt from undertaking the auction?
- Are there any practical difficulties or differences in applying the auction for contracted but un-nominated capacity to hub services? For example:
 - Is determining the quantity of hub services to be auctioned (ie, the amount of contracted but un-nominated hub services) different (see section 6.2.2)?
 - Would setting the reserve price be different (see section 6.2.1)?
 - How should existing (re)nomination rights for hub services be accommodated in the auction design (see section 6.3)?

Given the intent of the auction is to address contractual congestion and undermine market power held by pipelines in the market for day-ahead capacity, APGA agrees with the Commission's view that these two rationales do not appear to apply in the case of pipelines which are less than fully contracted.

APGA supports a case-by-case exemption of pipelines that are less than fully contracted. The proposal that the AER assess whether such a pipeline's capacity is being actively marketed for an exemption to be granted is reasonable. APGA expects that enhanced capacity trading platforms would facilitate the active marketing of such capacity.

It is important such a safeguard is present in order to reduce the risk that capacity auctions would materially impact pipeline contracting levels.

It is apparent that the ability to exclude a pipeline from the capacity auction would also limit the ability of a capacity auction to be conducted on a network wide basis.

Determining the reserve price

- Are there any other constituents of SRMC other than compressor fuel?
- Is it sensible for compressor fuel to be paid in kind by the shipper, with a reserve price for the auction of zero?
- How might compressor fuel usage be calculated in the Australian context?
- How should the cost of running the auction be recovered?

Pipeline operators have proposed auctions be conducted with a reserve price of zero and compressor fuel be paid for in-kind by shippers. This is a low cost, low intervention solution that is sensible.

It is appropriate that compressor fuel usage be calculated in line with existing arrangements on each pipeline. Typically, this is achieved by prorating throughput with compressor fuel usage on a daily basis. Existing shippers have the capability to manage this. Parties acquiring capacity through auction will have to have sufficient sophistication to manage this and other requirements to provide gas at a later date to manage any imbalances or overruns.

It is not appropriate to force pipelines to acquire gas. The pipeline operators' business models do not typically allow for the purchase of gas and there is no reason to do so.

It is expected an administrative charge will be required to cover the costs of providing this enhanced service. The capacity auction has the potential to enhance liquidity a meaningful way for market participants and there should be a willingness to pay for the service. APGA considers this an appropriate matter to be resolved through the industry council.

Determining the amount of capacity to be auctioned

- Is the Commission correct in suggesting that determining the amount of contracted but un-nominated capacity is relatively straightforward?
- Do you agree with the proposed approach to determining the amount of capacity to be auctioned?
- How should this process be governed?

APGA considers that the Commission is correct to suggest that determining the amount of capacity to be auctioned is relatively straightforward.

The process should be governed through transparency. Pipeline companies already provide nameplate and nominated capacity to the BB. Contract capacity will soon be published. Maintenance impacts on capacity will be known through the publishing of the short-term capacity outlook. The amount of capacity available at each auction will be published. The amount of capacity allocated through auction will be published.

It will be a very straightforward process to determine if these numbers do not align.

Interaction between the auction and existing rights

- How material is the issue of re-nomination rights, and has the Commission accurately characterised the issue?
- Has the Commission identified all possible solutions to this issue?
- What is your preferred solution to this issue, and why?
- How complex and costly would holding more frequent auctions be?
- Where should capacity bought in the auction be placed in the curtailment order?
- Should contracted as-available rights be permitted in light of the introduction of the auction? If not, how should existing as-available rights be phased out?
- Are the MSVs appropriate mechanisms through which shippers should renominate additional gas into the STTM in light of additional capacity secured through the auction? What possible advantages and disadvantages might this approach have?

APGA considers the issue of re-nomination rights is not highly material. As correctly characterised by the Commission, renominations are typically accommodated but are rarely a contracted right.

Nevertheless, APGA anticipates that there would be very few occasions where a capacity auction would lead to a pipeline being physically congested, making this issue an interesting theoretical exercise but of little consequence.

The primacy of primary firm capacity as a superior product should be maintained. Indeed, there is little prospect of auctioned capacity being able to supplant a firm capacity nomination without changes to the priority of services in all contracts.

APGA considers that all capacity acquired through auction should be considered less firm than primary firm capacity. A first-price auction settlement should be used to establish the curtailment order, with those parties valuing the capacity least being the first to be curtailed in the unlikely event it is necessary. This will encourage bidding at true value.

Contracted as-available rights should continue to be allowed. Capacity that is nominated through contracted as-available rights at nomination cut-off should be considered more firm than capacity acquired through auction. APGA anticipates that most shippers will seek to avail themselves of auctioned capacity before purchasing ‘as available’ rights. However, ‘as available’ rights introduce a level of flexibility into primary capacity contracts that is necessary and highly desirable for some shippers and should therefore continue to be offered for sale.

Retail competition on lateral pipelines

- Is the issue of insufficient retailer competition on pipelines a significant problem? Please provide specific evidence in this regard.
- Is the auction likely to provide a sufficient remedy to the issue?
- How might this issue otherwise be addressed?

The auction is unlikely to provide sufficient remedy to this issue. It is unlikely that market participants would be willing to enter supply arrangements that rely entirely on capacity acquired through auction.

Information provision for primary capacity trades

- Should the reporting requirements apply equally to all primary capacity trades?
- Are the terms and conditions that should be reported the same for primary capacity trades and secondary capacity trades? If not, which should differ and why?
- How might bespoke arrangements in primary capacity trades be accommodated in the reporting requirements?
- How might the protection on anonymity be achieved for primary capacity trades, to the extent this differs compared to secondary capacity trades? For example, can aggregation be used to protect anonymity in the case of primary capacity trades, and how?
- What are the likely cost of primary capacity information provision?
- Should the timing of primary capacity information publication differ compared to secondary capacity trades? How might a lag apply to primary capacity trades given that capacity traded is typically long-term (unlike secondary capacity which can typically be short- or long-term)?
- Should the reporting obligations for primary trades of hub services, storage services and any other services provided by pipelines differ compared to the obligations for secondary trades?
- What are likely to be the key benefits, risks and costs to your business of the proposed primary capacity transaction information provision requirements? Estimates on the magnitude of these benefits and costs are welcomed.

Any perception of price discrimination in primary capacity contracts should be addressed through the publishing of indicative tariffs on pipelines.

This is already undertaken by most pipelines, although it is a relatively recent development on many. APGA member companies indicate that they are willing to publish indicative tariffs and associated terms and conditions, guided by an industry standard developed through an Industry Council process.

This will address perceptions of price discrimination whilst avoiding market participant confidentiality issues.

ATTACHMENT A

Capacity Trading Industry Council – Governance Proposal

Introduction

APGA is proposing an industry-led process for the development of industry standards that effectively meet the reform objectives, but in a shorter timeframe and more efficiently than would be achieved through a regulatory-led process.

Fundamental to such an industry-led process is the governance structure. It is critical that any governance model provides trusted and credible leadership and decision-making for the implementation of the capacity trading related reforms. APGA recognizes that any industry developed proposals prepared under a governance structure that does not have widespread support may not receive the backing that is required for effective adoption. This risks a failed industry-led process and ultimately an alternate regulatory-led process is likely to emerge. Therefore, APGA understands the critical importance of a credible governance model and has framed its governance proposal around this requirement.

APGA has prepared this proposal with the support of independent consultant Peter Carruthers of Jarosite Consulting. Peter is the current independent chair (since April 2011) of the Information Exchange Committee (IEC). The IEC is an industry committee defined under the National Electricity Rules responsible for defining standards to support business-to-business communications between distributors and retailers in the National Electricity Market. The IEC was established in 2004 and represents an industry-led governance model. It has been the subject of recent AEMC review as part of the Power of Choice reforms, and the principles emerging from this review combined with the practical experiences gained over years of IEC operation has been leveraged as a key input to APGA's industry-led governance proposal.

Governance Model Characteristics and Objective

For an industry-led governance model to be credible, it must exhibit the following characteristics:

- Representative – participants with a stake in the outcomes must have a means by which they are represented.
- Clear decision-making – a mechanism for making decisions is required, that is clear, as objective as possible, reflects the representation and is balanced.
- Decision-making principles – principles that reflect the over-arching objectives must be established to guide decision-making.
- Open & Transparent – individual participants must have the opportunity to present their views, and proceedings must be available to all interested participants.
- Strategic – operates at a senior level and is able to provide strategic guidance and decision-making.
- Co-operative and co-ordinated – an industry led process is predicated on a co-operative approach to achieve consistent, standardized outcomes.

APGA believes a properly convened Industry Council best meets these objectives.

A key objective of the Industry Council is to maximise the take-up of the standards and minimise the need for regulatory or legislative change. APGA notes the strong incentives on industry participants to adopt standards developed through an industry-led process, including customer demand, lowering the cost of operation, competitive pressure and the threat of regulation. The Industry Council will only be successful if the standards are adopted by industry participants, and this is best achieved by developing standards that meet the reform objectives, are practical and are fit for purpose.

Alternative for Governance Models

There are alternate models that may be considered in establishing an Industry Council. One model involves establishing a forum where senior leaders from each participant with a legitimate interest in capacity trading is invited to attend. This forum is managed by a senior, ideally independent, chairperson who commands respect through their industry achievements and is skilled in chairing such forums.

Such a forum provides for wide representation, is open and enables a diversity of views to be expressed. However, a key weakness of this structure is the absence of a clear and disciplined decision-making framework. If consensus does not emerge through the forum, there is no clearly defined mechanism to make decisions that take account of the differences in views. It is not practical for such a forum to vote, as the representative numbers are likely not balanced. Therefore decisions end up being made through some other – undefined – mechanism. APGA considers there are risks to decision credibility under such a model.

The APGA therefore considers an Industry Council that comprises a representative structure and voting rights is a preferred governance model. This will better achieve the objectives of providing credible industry-led decision-making and leadership. This proposal is outlined below.

Proposed Industry Council Composition and Decision-Making

The APGA proposes an 8 member Capacity Trading Industry Council¹ (“CTIC”) with a representative structure as follows:

- 1 x independent chair
- 3 x pipeline operator representatives
- 3 x pipeline user representatives
 - 1 x producer representative
 - 1 x shipper (eg gas retailer) representative
 - 1 x end-user or consumer representative
- 1 x Energy Governance Institutions (EGI) representative (eg COAG EC, SCO, AEMC, AER or AEMO).

Decision-making would be according to a vote using defined decision-making principles. 6 votes would be required to carry a decision. Each member has one equal vote.

¹ Working name, adopted here for convenience only

The rationale for requiring 6 votes to carry a decision is as follows:

- Consensus decision making is not required, therefore progress cannot be held up by the need to obtain unanimous decisions.
- Decisions require a cross-section of stakeholder support.
- No single group can carry a decision.

For example, a decision that may be perceived as favouring pipeline operators will require support not only from all pipeline operator members, but also some combination of the pipeline users, the independent chair and/or the EGI representative. Equally, the reverse is true. A decision that may be perceived as favouring pipeline users will require support not only from all pipeline user members, but also some combination of the pipeline operators, the independent chair and/or the EGI representative.

APGA believes a Council with the composition and voting structure proposed above offers balance and diversity of representation.

Council Members

The Independent Chair has a crucial role in providing leadership and guidance to the operations of the Council. This person needs to be respected throughout industry, and skilled in the operation of such forums. To be effective, the Independent Chair will need to be strategic, but equally have sufficient detailed experience in the gas and pipelines industry that they are able to provide effective guidance to the Council. A former CEO or Director of an industry gas business, a senior bureaucrat or former politician with gas industry experience provides the optimal profile for such a role.

APGA believes it is appropriate for three pipeline users to be members of the Council. This provides the opportunity for a diversity of views across producers, shippers and users. Equally, APGA believes it is appropriate to have 3 pipeline operators as members of the Council. This ensures that a diversity of pipeline views is available to the Council with no single pipeline view prevailing, and that the Industry Standards set by the Council will be credible amongst the pipeline operator community. This is a crucial aspect of ensuring the adoption by pipeline operators of industry standards proposed by the Council.

Equal number of pipeline users and operators provides for a balanced Council and balance in the voting arrangements. Any more than three members each and the Council becomes more difficult to manage, in particular the Council discussions likely required to achieve compromises that balance different perspectives.

APGA suggests the nomination and appointment process be managed by the respective industry associations. The industry associations provide an effective conduit to sector participants, managing an inclusive and representative process with their stakeholder group. Further, industry associations typically have well developed mechanisms that can offer substantial value in supporting the role of the Council member. These include mechanisms for disseminating relevant information/issues to sector constituents as well as forums for development of policy positions that reflect overall sector views.

Membership on the Council of an energy governance institution representative is seen as valuable. Energy governance institutions will have significant interest in the development of industry standards

by the Council, and a contribution in providing guidance on alignment with overall reform objectives. Such representation provides the Council with direct links to the energy governance framework and facilitates additional reporting through to energy governance institutions whilst not diluting the industry-led nature of the proposal.

Decision Making Principles

Well defined decision making principles are essential to underpin the decision making process. Members are not on the Council to represent the interests of their own organization, but are required to make decisions according to defined decision-making principles. Members are entitled to take account of the views of the participants in their sector, and should actively seek those sector views, but must make decisions impartially and according to the decision making principles.

APGA proposes that the NGO is used for overall guidance in decision-making, and that the AEMC's statement in relation to reform objectives is leveraged. APGA suggests framing a statement of decision-making principles as follows:

"In making its decisions or recommendations, the Council must have regard to the NGO and must take into account the following principles:

- Principle 1: Facilitate more dynamic trading of capacity by:
 - Reducing search and transaction costs involved in trades;
 - Enabling shippers to obtain competitively priced un-nominated capacity;
 - Improving the incentives for shippers to trade capacity;
 - Reducing actual or perceived discriminatory access to capacity; and
 - Improving the information on which decisions in the sector are made
- Principle 2: Define industry standards that are fit for purpose, that:
 - Take into account the reasonable costs of compliance and implementation compared with the likely benefits;
 - Promote solutions that may be implemented efficiently in a timely manner; and
 - Take into account any likely impacts to innovation or barriers to entry arising as a consequence of the proposed industry standards."

Objectivity and transparency of decision-making is improved under such an arrangement.

Role and Scope of the Council

The role of the Council is proposed as:

- To define industry standards for Capacity Trading;
- To make recommendations to regulators or policy-makers where rule changes or policy guidance is required for the development of these industry standards;
- To provide overall leadership, guidance and management of the development process;
- To ensure the development process delivers outcomes that meet the AEMC's reform objectives and are fit for purpose, through a process that is open, transparent and has appropriate subject matter expert input.

APGA recognises that not all required elements of the reform can necessarily be implemented as industry standards. Whilst an objective of the Council will be to minimise the need for legal or regulatory change, regulatory or legislative support may be necessary in some cases to support the industry standards. In these instances, the role of the Council is to identify this requirement and make considered recommendations to the appropriate policy-makers and/or regulatory authorities.

APGA recommends aligning the scope of the Council's responsibilities with the subject areas raised in the AEMC's Pipeline Access Discussion Paper (released 3 March 2016). Under such a proposal, scope would include:

- Capacity standardisation – to facilitate secondary capacity trade.
- Auction design – for contracted but un-nominated capacity.
- Capacity trading platform and secondary trading information provision.
- Information provision for primary capacity purchases – noting it is likely this would be subsumed into the capacity standardisation scope item.

Equally as important is to understand out of scope items. The APGA notes that successful industry-led reform processes have a clear understanding of scope boundaries and an absolute focus on their core outcomes. In principle then, matters that have activities, implications and/or stakeholders beyond capacity trading related initiatives are excluded from scope. For example, a different set of stakeholders would be necessary to consider and implement gas day harmonisation and as such this matter would be excluded from the Council's scope.

APGA recommends the scope of the Council's activities be limited to establishment activities initially. However a checkpoint should be established to review and develop a preferred long term approach. APGA recognises there is likely to be an ongoing need for management/maintenance of industry standards and this should continue to be through an industry-led process, but the nature of this requirement is not well understood at this stage. Instituting a long-term/permanent structure raises complexities that will be difficult to resolve now. Some of the issues that will require consideration include:

- The nature of the requirement for ongoing management and how active the further development process needs to be.
- The effectiveness and efficiency of the Council in the establishment phase.
- Whether a stand-alone committee structure is necessary, or whether other more efficient options exist.
- Ongoing funding and cost recovery.

Therefore, in order to ensure establishment is not delayed, and to avoid the need for positions to be developed on issues that are not currently well understood, APGA recommends the Council's tenure be limited in the first instance to the industry standards establishment phase. A checkpoint near the time when the establishment phase is complete will enable a more informed view of the long term requirements and preferred approach to be developed.

In conclusion, the role and scope of the Council may be summarised into the following statement of objective: "To provide leadership and governance for the industry-led development of Capacity Trading industry standards that are fit for purpose and meet the AEMC's reform objectives in capacity standardisation, capacity auction design and capacity trading platform."

Working Groups, Secretariat and Funding

The APGA anticipates that work will be required both on policy matters to support the reform objectives, and progressively detailed standards development that provides a basis for implementation. Such work is best carried out through working group structures supported by a Secretariat function.

APGA recommends working groups are open, and attended by appropriate subject matter experts from industry participants and stakeholders. The role of the working groups is to develop recommendations and proposals for Council consideration and approval.

Industry working groups function most effectively when supported by an independent Secretariat with strong and respected project management and facilitation skills. The Secretariat supports the operation of the working groups by preparing draft deliverables, discussion papers, consultation packs etc., and facilitates input and review from the industry experts through the working groups. An effective Secretariat will possess the following characteristics:

- Strong project management skills to drive the necessary work.
- Strategically oriented, to understand where decisions need to be referred to the Council.
- Experienced in reform conducted through industry processes.
- Free from conflict and able to be accountable to the Council.
- Independent of working group members.
- Available and capable of commencing work in line with Council timing requirements.

Funding of a Secretariat function is often a road-block while cost recovery mechanisms are determined. Accordingly, APGA, on behalf of the pipeline industry, is prepared to fund the Secretariat function. This removes one of the key impediments to immediate progress, and reflects the pipeline industry's commitment to an industry-led process.

Alternate funding mechanisms potentially exist but are seen as difficult. APGA is aware that "pay to play" funding structures have been utilised on occasions, where stakeholders that fund the process are entitled to participate in the process. APGA does not recommend this approach as it creates potential barriers to participation, requires considerable negotiation to establish funding rules and is complex to administer. Equally, APGA is conscious that AEMO is often asked to provide a funding mechanism as the potential exists for cost recovery across a broad range of participants through AEMO regulated charges. However, APGA is aware that AEMO is under as much pressure as any participant to manage its cost base and expects AEMO would require authorization to fund such a function, with cost recovery rules defined and authorized, and may find it difficult to fund an independent Secretariat function even if these funding/cost recovery matters are quickly resolved.

APGA's funding commitment includes funding the independent chair.

Reporting and Accountability

Good quality regular reporting from the Council will be necessary to ensure key stakeholders are briefed on status and to fulfill the Council's transparency objectives. Inclusion of an Energy Governance Institution representative on the Council will assist to ensure that energy governance institutions are fully briefed, supplemented by regular reports from the Council.

These measures will support the accountable operations of the Council. Ultimately, the Council is accountable to its stakeholders and this accountability is under-pinned by proper transparent operations and reporting.

Assessment Against Governance Model Characteristics

APGA considers the proposed Industry Council structure has the requisite characteristics for a credible industry-led governance process. The following assesses the Council against the characteristics set out earlier in the paper:

Representative	Comprises broad representation from pipeline operators, pipeline users, supported by an independent chair and representation from an energy governance institution.
Clear decision-making	Clear and balanced voting arrangements.
Decision-making principles	Defined principles that support objectivity in decision making.
Open & transparent	Open arrangements for the Council and Working Groups, with reporting to support transparency and accountability.
Strategic	Leadership from a senior, independent chair to provide appropriate strategic guidance to the Council.
Co-operative & co-ordinated	Co-ordinated process using industry subject matter experts to define industry standards that are capable of being adopted to enhance capacity trading in east coast gas markets.

The following section provides a summary of the proposals.

Capacity Trading Industry Council – Governance Proposal – Summary

The objective is to define a governance model that can provide trusted and credible industry leadership and decision-making for the implementation of capacity trading reforms.

Term	Principle	Proposal
Overview		
Name	<ul style="list-style-type: none"> Identifies the Council 	Working name: Capacity Trading Industry Council (CTIC)
Purpose	<ul style="list-style-type: none"> Short statement of purpose Encapsulates a high level statement of success for the Council 	To provide leadership and governance for the industry-led development of Capacity Trading industry standards that are fit for purpose and meet the AEMC's reform objectives in capacity standardisation, capacity auction design and capacity trading platform.
Scope	<ul style="list-style-type: none"> Clear statement of scope Sets the boundaries for the Council 	<p>Scope Inclusions:</p> <ul style="list-style-type: none"> Capacity standardisation – to facilitate secondary capacity trade Auction design – for contracted but un-nominated capacity Capacity trading platform and secondary trading information provision Information provision for primary capacity purchases. <p>Scope Exclusions:</p> <ul style="list-style-type: none"> Matters that have activities, implications and stakeholders beyond capacity trading related initiatives eg gas day harmonisation <p>Tenure</p> <ul style="list-style-type: none"> Responsibility for the establishment phase initially. Checkpoint once establishment is complete to determine ongoing requirements and preferred approach for overseeing and maintaining the industry standards through an industry-led process.
Duties	<ul style="list-style-type: none"> Defines the responsibilities of the Council 	<ul style="list-style-type: none"> To define industry standards for Capacity Trading To make recommendations to regulators or policy-makers where rule changes or policy guidance is required for the development of these industry standards To provide overall leadership, guidance and management of the

		<p>development process</p> <ul style="list-style-type: none"> To ensure the development process delivers outcomes that meet the AEMC's reform objectives and are fit for purpose, through a process that is open, transparent and has appropriate subject matter expert input.
Council Composition		
Membership	<ul style="list-style-type: none"> Representative of stakeholders with a commercial stake Diversity of views Manageable number of committee members for committee effectiveness 	<p>8 members:</p> <ul style="list-style-type: none"> 1 x independent chair 3 x pipeline owner representatives 3 x pipeline user representatives <ul style="list-style-type: none"> 1 x producer representative 1 x shipper representative 1 x end-user/consumer representative 1 x energy governance institution representative
Independent Chair	<ul style="list-style-type: none"> Independent Experienced and respected Knowledgeable in the gas industry Strategic 	<ul style="list-style-type: none"> Ideal candidate profile: former CEO of a Gas Industry Business, senior bureaucrat or politician with relevant gas sector experience. Not currently aligned at a management or director level with any of the pipeline owners, users or participants. Appointed by the body/parties funding the committee, following consultation with stakeholders.
Appointment Process for Members	<ul style="list-style-type: none"> Voted in by representatives of that constituent group 	<ul style="list-style-type: none"> Industry associations run their own process to appoint a member eg. APGA, APPEA, AEC, EUAA/MEU/other user associations
Role of members	<ul style="list-style-type: none"> Required to act in the best interests of the Council and the overall reform objectives Similar to a Nominee Director on a Board: entitled to take account of represented stakeholder (shareholder) interests but must act in the best overall interests of all stakeholders (shareholders) 	<ol style="list-style-type: none"> Contribute to the effective and efficient operations of the CTIC, Support the integrity of the committee by acting honestly and ethically, Understand their role as defined by the [CTIC Charter/Terms of Reference] and any other supporting materials, Exercise due care and diligence, Support diversity of committee membership and deliberations, Not use CTIC membership or information available to the CTIC for personal or individual participant benefit either directly or indirectly,

		<p>7. Have sought and considered the views of their respective sector,</p> <p>8. Ensure decisions made by the CTIC are soundly based, consistent with the <i>Capacity Trading Decision Principles</i> and will contribute to the National Gas Objective.</p>
Decision Making		
Voting	<ul style="list-style-type: none"> • Clear decision-making • No single group may carry a vote • Cannot be impeded by the need for unanimous decision-making • Decisions require a cross section of stakeholder support 	<ul style="list-style-type: none"> • 6 votes required to approve a motion <ul style="list-style-type: none"> ◦ The Pipeline operators as a group require support from 3 additional members (eg 2 pipeline users plus the independent chair or energy governance institution representative) ◦ The Pipeline users as a group require support from 3 additional members (eg. 2 pipeline operators plus the independent chair or energy governance institution representative). • Decisions are to be made in accordance with the decision-making principles.
Capacity Trading Decision Principles	<ul style="list-style-type: none"> • Clearly defined principles against which decisions are to be made • Principles must align with the purpose of the Council • Improves objectivity and transparency of decision-making 	<ul style="list-style-type: none"> • In making its decisions or recommendations, the Council must have regard to the NGO and must take into account the following principles: • Principle 1: Facilitate more dynamic trading of capacity by: <ul style="list-style-type: none"> ◦ reducing search and transaction costs involved in trades; ◦ enabling shippers to obtain competitively priced un-nominated capacity; ◦ improving the incentives for shippers to trade capacity; ◦ reducing actual or perceived discriminatory access to capacity; and ◦ improving the information on which decisions in the sector are made. • Principle 2: Define industry standards that are fit for purpose, that: <ul style="list-style-type: none"> ◦ Take into account the reasonable costs of compliance and implementation compared with the likely benefits; ◦ Promote solutions that may be implemented efficiently in a timely manner; and

		<ul style="list-style-type: none"> ○ Take into account any likely impacts to innovation or barriers to entry arising as a consequence of the proposed industry standards.
Practical Operations		
Secretariat	<ul style="list-style-type: none"> ● Required to facilitate and drive the necessary work ● Experienced in reform conducted through industry processes ● Free from conflict and able to be accountable to the CTIC ● Independent of working group members ● Available and capable of commencing work in line with CTIC requirements 	<ul style="list-style-type: none"> ● 3 key roles: <ul style="list-style-type: none"> ○ Meeting management ○ Project management ○ Preparation of deliverables in conjunction with industry subject matter experts through working group arrangements ● Appointed by the body/parties providing the funding ● Accountable to the CTIC and takes direction and work instructions from CTIC.
Working Groups	<ul style="list-style-type: none"> ● Provide the subject matter expertise for the development of proposals to be submitted to the CTIC for approval. ● Key means through which consultation is managed. 	<ul style="list-style-type: none"> ● CTIC responsible for defining and establishing working group(s) to provide advice and proposals in relation to capacity trading reform work streams. ● Working groups expected to provide subject matter expertise as input and in reviewing deliverables and recommendations. ● Deliverables generally to be prepared by the Secretariat for review and endorsement by the working group, rather than for working group members to have deliverable preparation responsibilities. ● Working groups to be open forums. ● Working group participants to be responsive, balanced, considered and pragmatic in their contributions. ● Continuity required from working group members.
Funding		
Funding Requirement	<ul style="list-style-type: none"> ● Funding required for Independent Chair, Secretariat, meeting support. 	<ul style="list-style-type: none"> ● Funding provided by the pipeline industry through APGA.
Meetings		
Meeting outcomes	<ul style="list-style-type: none"> ● Transparent and documented. 	<ul style="list-style-type: none"> ● Papers and minutes published in a manner available to all stakeholders with a legitimate interest in the deliberations of the Council.

Quorum	<ul style="list-style-type: none"> Minimum number of members in attendance for the Council to transact its business. 	<ul style="list-style-type: none"> Minimum 6 members required, including at least 2 pipeline operator members and at least 2 pipeline user members.
Frequency	<ul style="list-style-type: none"> Sufficient to maintain progress/momentum and make decisions at key milestones. 	<ul style="list-style-type: none"> Recommend monthly, varied at the discretion of the Council as required.
Other Matters		
Meeting Participants	<ul style="list-style-type: none"> Open and inclusive forum. 	<ul style="list-style-type: none"> Meetings are to be open. Stakeholders with an interest in proceedings may attend and may contribute. Chair will manage the effectiveness of the meeting. Stakeholders who disagree with a working group recommendation or proposal have the opportunity to address the Council directly at the time of the decision.
Alternates for Members	<ul style="list-style-type: none"> Recognises that members are not always available for all meetings and ensures quorums/decisions momentum may be maintained. 	<ul style="list-style-type: none"> Permitted, by nomination of the Member.
Related Entities	<ul style="list-style-type: none"> Related entities not permitted, to maintain integrity of voting and decision-making. 	<ul style="list-style-type: none"> No two Council Members may be related entities.
Tenure	<ul style="list-style-type: none"> Single purpose, focused, Industry Council. 	<ul style="list-style-type: none"> Initial tenure set by delivery timeframes for establishment of Industry Standards that meet the reform objectives. Industry-led mechanism to manage the Industry Standards on an ongoing basis to be considered at this time. Issues to take into account include: <ul style="list-style-type: none"> the requirement for ongoing management, the effectiveness of the existing Council, whether a stand-alone committee structure is necessary or other more efficient structure exist, and ongoing funding and cost recovery.
Adoption of Capacity Trading Industry Standards		
Industry Standards Adoption	<ul style="list-style-type: none"> Objective is to maximise the take-up of the standards and accordingly minimise the need for regulatory or legislative change. 	<ul style="list-style-type: none"> Adoption of standards by industry participants will be achieved if the Council is successful in developing standards that meet the reform objectives, are practical and are fit for purpose.

	<ul style="list-style-type: none">• Incentives to take-up industry standards include customer demand, competitive pressure, lowering the cost of operation and threat of regulation.	
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