29 March 2016

Mr John Pierce
Chair, Australian Energy Market Commission
Level 6, 201 Elizabeth Street
Sydney NSW 2000

Submitted online via the AEMC website

Dear Mr Pierce

RE: Pipeline Access Discussion Paper - East Coast Wholesale Gas Market and Pipelines Frameworks Review (GPR0003)

ERM Power Limited (ERM Power) appreciates the opportunity to provide comments to the Australian Energy Market Commission (AEMC) on its Pipeline Access Discussion Paper issued in relation to the East Coast Wholesale Gas Market and Pipeline Frameworks Review.

About ERM Power Limited

ERM Power is an Australian energy company that operates electricity generation and electricity sales businesses. Trading as ERM Business Energy and founded in 1980, we have grown to become the 4th largest electricity retailer in Australia, with operations in every state and the Australian Capital Territory. We are also licensed to sell electricity in several markets in the United States. In addition, in 2015 we commenced gas retailing to industrial and commercial customers in Victoria. We have equity interests in 497 megawatts of low emission, gas-fired peaking power stations in Western Australia and Queensland, both of which we operate.

ERM Power is a gas retailer in the Declared Wholesale Gas Market (DWGM) of Victoria, a shipper in the Brisbane Short Term Trading Market and a trading participant at the Wallumbilla Gas Supply Hub.

Comments on the AEMC's Pipeline Access Discussion Paper

ERM Power acknowledges the extensive work undertaken by the AEMC to date to investigate and identify a range of possible reforms to enhance access to pipeline capacity to help achieve the COAG Energy Council's vision for Australia's future gas market. We welcome the release of the further details contained in the Pipeline Access Discussion Paper and are pleased to provide feedback in this submission.

ERM Power highlights that it does not support all components of the AEMC's proposed package of reforms and in particular has significant concerns with the AEMC's proposed changes to the Victorian DWGM. ERM Power's view is that the proposed changes to the DWGM will increase barriers to entry, reduce retail competition and impose increased costs on gas consumers in the longer term. We refer to the issues raised in our submission dated 12/02/16 lodged in response to the AEMC's Review of the Victorian DWGM Draft Report and Stage 2 Draft Report (East Coast Wholesale Gas Market and Pipeline

Frameworks Review), and our submission dated 29/03/16 lodged in response to the AEMC's 3/03/16 DWGM Discussion Paper.

The rest of this submission provides our feedback on the proposals contained in the Pipeline Access Discussion Paper.

1. Standardisation of contract terms

Subject to there being no restriction on the ability of shippers to negotiate special conditions in primary capacity contracts with the pipeline operator, ERM Power supports the concept of standardising boiler plate conditions across pipelines (to the extent feasible, recognizing that there may be practical or technical issues why conditions may need to differ). Standardisation should help to facilitate secondary capacity trading by making the products more fungible and reducing the number of provisions that would need to be negotiated. However shippers should retain the ability to negotiate specific terms with the pipeline operator to tailor provisions to meet individual shipper requirements.

2. Capacity trading platforms

We support the development of capacity trading platforms on all major pipelines and have a preference for an electronic exchange administered by AEMO. For instance, the existing Gas Supply Hub exchange could be expanded to include capacity trading. A single platform is preferred to minimise transaction costs for shippers, and enable a single set of prudential arrangements to cover capacity and commodity trades. That said, we acknowledge that costs of such a platform are not yet defined and would need to be taken into consideration when determining the preferred approach. We do not believe that listing services are likely to be useful, given that there are already such services in place, provided by the pipeline operators and the Gas Bulletin Board, which have rarely been used.

ERM Power is comfortable with requiring all secondary trades to be effected via operational transfer, subject to the pipeline operator relaxing the current deadline for submission of operational transfer details. Shippers should be able to submit operational transfer details to the pipeline operator on the Gas Day (rather than in the morning on the day prior to the Gas Day, which we understand to be the current process) to facilitate intraday capacity trades. Allowing intraday capacity trades will help to encourage secondary capacity trading by making participation more feasible for shippers with variable loads that are uncertain prior to the Gas Day.

We also think that the platform should provide for the trade of other products such as park and loan services, and any kind of transportation capacity, whether firm, as available or interruptible. Renomination rights should be included if the primary capacity right has such flexibility.

As stated in our submission to the AEMC dated 12/2/16 to the East Coast Gas Market Review, we do not agree that it should be compulsory for all secondary trades to occur through the platform. Our view is also that there should be no restriction on bare transfers, to ensure that shippers continue to have flexibility to enter into tailored or bespoke commercial arrangements, including transactions which comprise multiple products/services such as commodity or a financial product. We note that the electricity market has had a successful history with an OTC and an exchange based market operating alongside each other for many years. The same flexibility should apply to the gas market.

3. Disclosure of capacity trade details

ERM Power supports the disclosure of information where -

- Disclosure does not reveal commercially sensitive information;
- There is a legitimate reason why publishing the information would be in the interests of the market; and
- Reporting obligations do not impair the ability of shippers to trade efficiently.

The costs of information provision should also be considered alongside the benefits.

Secondary capacity trades undertaken via trading platform

ERM Power accepts the proposal to require the disclosure of the details of trades conducted on the platform with the exception of the identity of the shippers or information that could reveal the identity of the shippers. With respect to timing of publication, it seems reasonable to report trades as they are transacted (similar to how trades on the Wallumbilla Gas Supply Hub are displayed and reported), given that transactions will be visible on the trading screens as they occur. However as trades will cover a period in the future, it is important to ensure that commercially sensitive information about forward positions is not disclosed. As such, specific details such as receipt and delivery points and shipper identity should not be disclosed or able to be deduced from the information published. For example, in ERM Power's case, Oakey Power Station is located on the Roma to Brisbane Pipeline and connects at the Oakey Power Station Delivery Point. In this example, disclosure of this Delivery Point would reveal to the market that ERM Power is party to the particular transaction. We consider that disclosure of the pipeline, flow direction as well as quantity and price, would be sufficient. Receipt and delivery zones (to be defined), which would cover multiple receipt and delivery points, could also be published however care would need to be taken to ensure that such zonal information does not allow shipper identities to be deduced.

Secondary capacity trades undertaken outside the platform

We would support the publication of details pertaining to secondary trades conducted outside the platform, but subject to –

- The obligation to report to be at the end of each month (or other defined period, but not more than once a month); and
- Reporting to cover secondary trades only where the delivery obligations pertaining to those trades have ended during that month.

Reporting once a month will minimise administrative costs on shippers. We would not support the publication of secondary trades where the delivery period has not yet ended, as such information would be highly commercially sensitive. Even if shipper identities are not revealed, we are still concerned that identities could be deduced. Disclosure of such information would be particularly damaging for gas fired generators in the NEM, where public disclosure of forward trade details specific to a generator would reveal to its competitors sensitive information about the generator's commercial strategies.

We recommend that the same information reported for secondary capacity trades undertaken on the platform be reported for secondary capacity trades undertaken outside the platform. Such consistency would minimise complexity and administrative costs. The only difference would be the timing of publication, where trades undertaken outside the platform would be reported by shippers at the end of the month covering completed trades only. Information to be reported would include the pipeline, flow direction, receipt and delivery zones (which would need to be defined), quantity and price.

We emphasize to the AEMC that if the information reporting requirements do not adequately protect commercial sensitive information, the incentive to undertake any secondary capacity trades will be diminished.

Prospective capacity trades

We strongly disagree with the concept of requiring details of prospective trades to be published for the following reasons –

- Traders need the ability to undertake transactions expeditiously and reasonably instantaneously. It would not be efficient to have to wait for a period of time to allow others to compete for the capacity, before executing the trade. Trading opportunities could be lost.
- Shippers may be deterred from offering secondary capacity, and choose to wait out of the market, in anticipation of an opportunity to secure a trade at a later point in time.
- Shippers may be deterred from undertaking secondary trades due to the uncertainty about whether or not the trade will eventuate, if there is the possibility that another shipper might beat its offer or bid price.
- It would be administratively costly and a distraction to traders (who are managing real time positions) to have report prospective trades.
- Secondary capacity trades may be part of a more sophisticated or complex arrangement comprising multiple products (e.g. a capacity trade bundled with commodity, or a financial product, or an electricity product). Such an arrangement may be conditional on all the components being included in the transaction.

Primary capacity trades

ERM Power is not convinced that there is significant value in publishing details of primary capacity trades, particularly in relation to price. There could be price differentials that are justified (for instance, prices under long term contracts negotiated many years ago or foundation contracts that are lower than prices struck in more recent contracts). Such price differentials, if disclosed, could create confusion and cause undue perceptions of inequity or discrimination.

ERM Power suggests that it may be sufficient to require the pipeline to publish current tariffs for standard services and the quantities contracted for each type of service.

4. Auction of un-nominated but contracted firm capacity on fully contracted pipelines

In our recent submission to the AEMC's Stage 2 Draft Report, ERM Power indicated its support for further developing the auction concept. After considering the further details provided in the AEMC's Discussion Paper, ERM Power continues to support the concept, but subject to consideration being given to the points outlined below.

Auction timing

The auction should be held at a later time on the Gas Day, rather than on the day prior to the Gas Day. We propose the auction be held at 4 pm on the Gas Day, in respect of firm capacity that has not been nominated for that Gas Day. This timing would have the following benefits –

- It would provide an opportunity for firm shippers to make any necessary renominations. This would go some way to address concerns raised by firm shippers regarding the potential loss of firmness of their renomination rights. While not addressing these concerns completely (since some firm shippers may currently be able to renominate at a time much later than 4 pm on the Gas Day, in respect of that Gas Day), it would provide more flexibility than if the auction were to be held on the day prior to the Gas Day.
- It would enhance the usefulness of the auction to participants whose gas usage is variable and/or not firmed up until much closer to, or on, the Gas Day, such as gas fired generators. The auction's usefulness is likely to be limited to gas fired generators if the auction were to be held on the day prior to the Gas Day, at a time when expected gas use on the Gas Day would still be uncertain.
- It would provide more time for shippers to firm up their likely capacity requirements and enter into secondary trades, prior to the auction.

Under such an approach, it would seem reasonable for capacity sold on the auction to be categorised as firm.

Firm capacity holders should be required to make nominations that are reflective of their anticipated usage

Holders of firm capacity should be required to make nominations (or renominations) in good faith that are reasonably reflective of their expected transportation requirements. There should be a rule to prevent a holder of firm capacity from deliberately over-nominating capacity prior to the auction in order to withhold that quantity from the auction, and then renominating their capacity downwards after the auction. This obligation could be imposed under the market rules with compliance monitored by the Australian Energy Regulatory (AER). A materiality threshold could be established where underutilisation of nominated capacity by a certain percentage, would trigger investigation, and/or an obligation on the participant to provide a valid reason for the underutilisation of capacity. (For instance, a participant may have suffered an outage on the day, causing it to be unable to receive any gas, or perhaps there has been a significant unexpected change in weather that has driven temperature-sensitive load down, or for a gas fired generator, perhaps NEM conditions have unexpectedly changed).

Bids in the auction should reflect a genuine intention to use the capacity

ERM Power recommends that there should be a requirement for participants bidding in the auction to make bids in good faith that are reflective of their anticipated capacity needs, as well as a rule to prevent participants with no load connected to the pipeline from participating in the auction. This is necessary to address gaming risks. For example, if there was no such restriction, any party, including any generator in the NEM, could attempt to purchase all the spare firm capacity on a pipeline on which its competitors were located, to prevent its competitors from accessing that capacity. Depending on NEM conditions on the day, the potential profit to be made in the NEM from restricting the ability of competing generators to operate, could outweigh the costs of purchasing the spare capacity from the auction. The AER should have a role in monitoring and ensuring compliance. Similar to the proposal above in respect of firm shipper nominations, a materiality threshold could be established whereby underutilisation of capacity by a certain percentage would trigger investigation or an obligation on the participant to provide a valid reason for the underutilisation of capacity.

Combinatorial auction should include Victoria entry/exit capacity rights

ERM Power would support a combinatorial approach where a shipper can specify a transportation route that spans across multiple pipelines, and where the shipper would only be allocated capacity via the auction if it secured all pipeline segments. If the AEMC's proposed changes to the Victorian DWGM were to proceed, ERM Power recommends that Victoria exit/entry capacity rights must be included in the auction. Shippers should be able to include such exit/entry capacity rights in its bid combination. For instance, a shipper might specify "Culcairn to Moomba to Wallumbilla, plus Victoria exit rights", if its intention was to move gas out of the Victorian gas market to Wallumbilla, via the Moomba to Sydney Pipeline and the South West Queensland Pipeline.

Auction reserve price

We agree with the proposed approach to set the auction reserve price as $0/GJ with an obligation for shippers to provide compressor fuel to the pipeline.

Thank you for the opportunity to provide our comments. Please feel free to contact me if you wish to discuss our submission.

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