

26 July 2023

Kris Funston

Executive General Manager Network Regulation | Network Regulation

Australian Energy Regulator

Dear Kris,

### **Draft Pipeline Regulatory Determinations and Elections Guide**

Australian Gas Infrastructure Group (AGIG) welcomes the opportunity to respond to the draft of the Regulatory Determinations and Elections Guide (the Draft Guide).

AGIG is the largest gas distribution business in Australia, serving more than two million customers through our networks in Victoria, Queensland, South Australia, and several regional networks in New South Wales and the Northern Territory. Our storage facility and transmission pipelines including the significant Dampier to Bunbury Pipeline in Western Australia serve a range of industrial, mining and power generation customers.

We welcome the introduction of the Draft Guide. Following recent changes to National Gas Law (NGL) and the National Gas Rules (NGR) having additional guidance on the processes the Australian Energy Regulator (AER) will undertake in conducting regulatory determinations and elections will be increasingly important.

Overall, the Draft Guide accurately reflects the powers and functions set out in the NGL (s 112 for the overarching requirements and s 16 for the form of regulation factors) and NGR (Part 4).

In addition, the Draft Guide appropriately sets out a range of examples as to the type of information the AER may require or make use of in making determinations. In addition to the examples included in the draft, prior decisions using relevant parts of the NGL and NGR – particularly the form of regulation factors – should also be explicitly raised as potential sources of precedent in the Guide.

The Form of Regulation Factors (NGL 16) formed part of previous versions of the NGL and were used by the National Competition Council (NCC) in making 'light regulation determinations' under section 122 of the old version of the NGL (that ended on 1 March 2023).

The form of regulation factors (a)-(f) are identical in the current and old versions of the NGL, with only factor (g) removed from the new version. While the use of the factors has changed (from a test deciding between full and light regulation to one deciding between scheme and non-scheme regulation), and the AER has replaced the NCC in making determinations, there remain many similarities. These similarities mean the determinations of the NCC serve as at least a useful precedent.

If you have any questions regarding this submission our Head of Regulation, Peter Bucki, can be contacted on [REDACTED]

Yours sincerely,



Peter Bucki  
Head of Regulation