



APA submission

Enhanced Wholesale Market Monitoring and Reporting Guideline: Issues Paper

April 2024





Karen Krist
A/g General Manager, Market Surveillance
Australian Energy Regulator
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CANBERRA ACT 2601

Lodged via email: ContractMarketMonitoring@aer.gov.au

30 April 2024

RE: APA Submission to the AER Wholesale Market Monitoring Issues Paper

Dear Ms Krist,

Thank you for the opportunity to comment on the Issues Paper seeking feedback on the AER's approach to wholesale market monitoring and reporting. We appreciate the opportunity to comment on these important issues.

APA is an ASX listed owner, operator, and developer of energy infrastructure assets across Australia. Through a diverse portfolio of assets, we provide energy to customers in every state and territory. As well as an extensive network of natural gas pipelines, we own or have interests in gas storage and generation facilities, electricity transmission networks, and 692 MW of renewable generation and battery storage.

The *National Energy Laws Amendment (Wholesale Market Monitoring) Bill* significantly expands the AER's information gathering powers in relation to electricity and gas contract markets. Through the ACCC's gas inquiries and the AER's ongoing Form of Regulation Review for the South-West Queensland Pipeline (SWQP), APA has significant, first-hand experience providing information to the ACCC and AER.

The AER and ACCC already have extensive information gathering powers that they use regularly. Since the East Coast Gas Inquiry in 2015, we have responded to multiple ACCC and AER notices requiring the production of information and documents. APA, and we assume many other energy companies, have provided the AER and ACCC with vast amounts of information over this period.

APA has expended significant resources in complying with these notices, and we understand other energy companies have also incurred significant cost and effort in complying with similar notices. Exercising the AER's new powers is likely to impose tens of millions of dollars of additional costs on the industry.

For this reason, we support a gradual, incremental approach to the exercise of the new powers. An approach that 'starts small' minimises the risk of collecting unnecessary information from industry, thereby keeping information gathering costs as low as possible. In this context, the ACCC/AER Information Policy states that regulators should draw on existing information sources to avoid unnecessary duplication and minimise the burden placed on wholesale market participants. We support this approach.

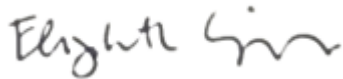
In our view, it is also very important that there is transparency around how the AER is exercising its new powers. This means that the AER should publish information about:

- what information it has collected, and from who
- how much information it has collected, including the number of documents
- what it has learned from the information collected, and what advice it has provided to governments based on that information.

This transparency is important to build trust and provide stakeholders with confidence that the AER is using its new powers judiciously.

If you wish to discuss our submission in further detail, please contact John Skinner on 02 9693 0009 or john.skinner2@apa.com.au.

Regards,

A handwritten signature in black ink, appearing to read 'Beth Griggs'.

Beth Griggs
General Manager
Economic Regulation & External Policy

1 Submission

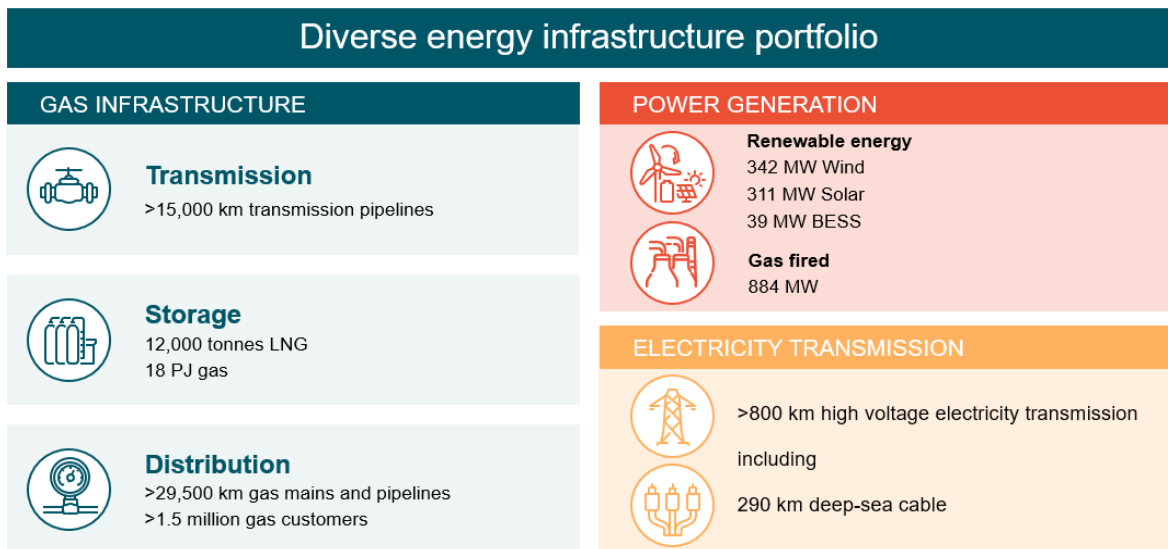
Key points

- Across the ACCC gas inquiries and AER Form of Regulation review for the SWQP, APA has spent over \$6 million responding to ACCC and AER requests for information.
- We support a gradual, incremental approach to the exercise of the AER’s new powers, and transparency around how the AER is exercising them.
- Given APA’s experience, exercise of the new powers is likely to impose tens of millions of dollars of additional costs on the industry.
- It is essential that service providers are only required to provide information once, as any duplication will unnecessarily increase costs for customers.

1.1 Introduction

APA is a leading Australian Securities Exchange (ASX) listed energy infrastructure business. Consistent with our purpose to strengthen communities through responsible energy, our diverse portfolio of energy infrastructure delivers energy to customers in every Australian state and territory.

Figure 1: APA’s portfolio



Our 15,000 kilometres of natural gas pipelines connect sources of supply and markets across mainland Australia. We operate and maintain networks connecting 1.5 million Australian homes and businesses to the benefits of natural gas. And we own or have interests in gas storage facilities and gas-fired generation.

We also operate and have interests in 692 MW of renewable generation and battery storage infrastructure, while our high voltage electricity transmission assets connect Victoria with South Australia, New South Wales with Queensland and Tasmania with Victoria.

APA actively supports the transition to a lower carbon future. In August 2022, we published our inaugural Climate Transition Plan which outlines our commitments to support Australia's energy transition and pathway to achieve net zero operations emissions by 2050. In September 2023 we released our first Climate Report disclosing our progress against our Climate Transition Plan.

In early 2023, APA established an Electricity Transmission business unit with a focus on electricity transmission infrastructure across Australia. We have recruited a team of established industry professionals to lead APA in playing a pivotal role in the energy transition. In line with our strategic focus, we have also announced a partnership with leading global infrastructure organisation EDF Group. This partnership synergises EDF's global experience in electricity transmission delivery and operations, with APA's strong local experience in the construction and operation of linear energy infrastructure.¹

As outlined in our submission below, providing information to the ACCC through the gas inquiries and AER Form of Regulation Review for the SWQP has imposed a significant cost burden on APA, and these processes will continue to do so.

Given the broad expansion of AER information gathering powers, this cost burden is likely to be replicated across the electricity and gas industries, resulting in tens of millions of dollars of additional costs being passed on to customers.

Our submission below provides some insights from APA's experience providing information to the ACCC and AER, and some suggestions for how the additional costs for customers can be minimised.

1.2 **APA's experience responding to information requests**

APA has been providing the ACCC and AER with significant volumes of contractual information since 2015:

- The ACCC issued notices to obtain information and documents as part of the East Coast Gas Inquiry in 2015 and 2016.² APA spent approximately \$1.3 million responding to the East Coast Gas Inquiry.
- Following the East Coast Gas Inquiry, the Commonwealth Government directed the ACCC to conduct a further inquiry into the supply of and demand for natural gas in Australia. This inquiry is referred to as the Gas Inquiry 2017–25. The ACCC has issued APA with two or three formal requests for information each year as part of the inquiry. Ongoing data production, validation and legal review costs are necessary in response to each notice. APA has spent in excess of \$4 million responding to these requests since the gas inquiry started in 2017. These costs comprise mainly of APA staff costs, as well as external legal support.

¹ APA, 'APA Group and EDF Group to pursue electricity transmission projects' (Media Release, 31 October 2023).

² ACCC, *Inquiry into the east coast gas market*, April 2016, p23

- The AER has issued APA with an information notice as part of the SWQP Form of Regulation Review. This information request sought a wide range of information relating to the SWQP. This process is ongoing, and APA expects to spend over \$1 million responding to this information request.

The key drivers of costs related to these notices are:

- explaining and responding to follow-up queries, including validation of data presented prior to publication and confidentiality checks; and
- summarising the information being provided into 'one size fits all' data tables which accompany the contractual information.

This additional effort is very likely to be repeated when the AER exercises its new wholesale market monitoring powers. Under those powers, the AER can request a very broad range of information, including:

- contracts or arrangements
- derivatives
- futures contracts, swaps and options, and
- electricity generator insurance relating to weather and outages.³

The fact that APA alone has spent over \$6 million responding to ACCC and AER notices demonstrates that extending the power of the AER in the way proposed could impose tens of millions of dollars of additional costs on the industry, costs that will ultimately be borne by customers. The current cost of living crisis demonstrates the importance of ensuring that the benefit of any information sought by the AER outweighs the significant cost of providing it.

1.3 Reporting of what information has been requested and how it has been used

One of the rationales for the expansion of the AER's information gathering powers is that the AER will be able to proactively anticipate issues before they arise.⁴ Energy markets are very complex, with many factors impacting wholesale markets. Similar to the markets for other goods, energy markets have been impacted by a wide range of events over the past couple of years, including:

- Unseasonally wet weather, leading to reduced output from coal, solar and hydro generation
- Unplanned outages at aging coal generators
- Unexpected events associated with, and vulnerability to, cyber security incidents
- Changes in legal and regulatory frameworks governing energy markets
- The Russian invasion of Ukraine in early 2022

³ Energy Ministers Consultation Paper, August 2022, p14

⁴ Energy Ministers Consultation Paper, August 2022, p3

It is clearly impossible to foresee the wide range of factors that can impact energy markets and therefore it is not clear that access to significant volume of additional information will provide additional benefits in terms of monitoring wholesale markets. This is due not only to the many factors that influence energy markets, but due to the significant volume of information that may be provided to the AER under the new powers.

For this reason, we support a gradual, incremental approach to the exercise of the new powers. An approach that ‘starts small’ minimises the risk of collecting unnecessary information from industry, thereby keeping information gathering costs as low as possible.

In our view, it is also very important that there is transparency around how the AER is exercising its new powers. This means that the AER should publish information about:

- what information it has collected, and from who
- how much information it has collected, including the number of documents
- what it has learned from the information collected, and what advice it has provided to governments based on that information.

This transparency is important to build trust and provide stakeholders with confidence that the AER is using its new powers judiciously.

Using its new powers, the AER has the ability to request a wide range of very complex information from industry. It is important that market participants have the opportunity to comment on any conclusions and recommendations that the AER provides to governments based on information provided under the new powers. In the absence of an opportunity to comment, there is a risk that the AER may draw incorrect conclusions from the information collected and provide advice to government that doesn’t accurately tell the story about what is happening in energy markets.

1.4 Providing information more than once

Market participants in both electricity and gas markets already provide regulators with significant amounts of information through various reporting obligations. Expanding the AER’s powers in the way proposed increases the likelihood that the same or similar information will be provided more than once.

It is essential that service providers are only required to provide information once, as any duplication will unnecessarily increase costs for customers.

The ‘ACCC/AER Information Policy’ (‘Policy’) sets out the general policy of the two bodies relating to the collection, use and disclosure of information. Our recommendation resonates with the Policy, particularly that “where practical, the ACCC/AER will endeavour to draw

upon existing information sources to avoid unnecessary duplication of effort and to minimise the burden placed on those from whom information is requested...”⁵

As outlined above, APA has first-hand experience working with the regulators to respond to requests/notices for information under their relevant statutory powers. Considerable work and expense go into providing a complete response to such requests.

As an example, ~26,000 rows of manual data entry were required across more than three business units in APA to respond to a question in a notice issued under a regulator’s information gathering powers. This accounted for one out of approximately 50 questions seeking information about an APA asset. APA’s response comprising of this manual data entry was then required to be reconciled, cross-referenced and reviewed by external legal advisers.

We recommend that if information sought by the AER is materially the same as information already being produced to the ACCC, the format in which this information is provided should align. This also supports businesses capitalise on existing internal processes, and provide the regulators with a timely, and if necessary periodic, response.

⁵ ACCC, ‘ACCC/AER information policy’ (Guideline) 4.



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