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**RE: APA Submission to the Wholesale Market Monitoring Guideline Consultation Paper July 2024**

Dear Mr Boardman,

Thank you for the opportunity to comment on the Consultation Paper seeking feedback on the Wholesale Market Monitoring and Reporting Draft Guideline (Consultation Paper). 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 infrastructure.

APA supports the AER moving forward with an incremental and collaborative approach to reporting by market participants. Our comments on the Consultation Paper focus on three key areas as outlined in our submission below.

**Information already being collected should be the starting point**

Recognising that the ACCC and the AER have been collecting contract-related information for many years, we support the AER obtaining information from other agencies or bodies where information sharing powers exist. We also support the AER collecting information that is publicly available, where appropriate.

Gas transportation agreements (and pipeline storage services) and other bilateral contracts are already collected through the ACCC Gas Inquiry process. Asset-specific bilateral contracts will also be captured by the AER's Form of Regulation reviews. However, we note that gas options and swaps, which are outlined in Appendix A of the Consultation Paper, are generally gas sale contracts, and not relevant to gas transportation agreements which are currently being reported under the ACCC Gas Inquiry.

APA has been providing the ACCC 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.<sup>1</sup> 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 2017-30. The ACCC has issued APA with 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.

At current rates, APA expects to spend over \$6 million over the term of the inquiry (2017-30) responding to ACCC information requests.

The key drivers of costs related to these notices are:

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

The fact that APA alone has spent \$4 million over five and a half years of the Gas Inquiry demonstrates the significant additional costs on the industry.

Therefore, we strongly encourage the AER to consider the following options when exercising its Wholesale Market Monitoring powers:

- Utilise the ACCC/AER Information Policy to receive the contracts directly from the ACCC
- Request information in a way market participants can utilise existing templates, processes and timelines (e.g. ACCC Gas Inquiry) for the AER's Wholesale Market Monitoring Reporting Guideline
- As a last resort, if the AER is seeking contract-related information or a specific reporting method not captured by existing processes, provide market participants ample time to set up the required processes, resources and reviews required – we recommend no shorter than 6 months for this exercise. Similarly, APA would suggest maintaining consistent templates to enable process automation and minimise costs for regular reporting.

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<sup>1</sup> ACCC, *Inquiry into the east coast gas market*, April 2016, p23

APA also supports the AER utilising existing avenues of information gathering provided under the NGR. A wide range of information is also already collected and analysed under the NGR – including but not limited to:

- actual prices paid for transportation, storage and compression
- key terms and tariffs
- contracted capacity
- gas capacity outlooks
- actual gas flows
- long term maintenance plans
- asset utilisation
- proposed gas and storage augmentations and investments.

This would include data as provided under:

- Part 10 and Part 18A information transparency
- Part 15 Gas Statement Of Opportunities (GSOO)
- Part 19 Victorian Gas Planning Review (VGPR)
- Part 18 Gas Bulletin Board
- Part 27 East Coast Gas System.

### **Factors affecting market outcomes should be clearly defined and limited**

With reference to Appendix A in the Consultation Paper, the AER is proposing to, in some cases, collect targeted information on factors affecting market outcomes.

Energy markets are complex, with many factors impacting wholesale markets – this includes external and global factors beyond the wholesale electricity and gas markets. It is therefore unclear how access to information relating to the factors outlined in Appendix A will provide additional benefits in terms of monitoring the defined two markets. This is due not only to the many factors that influence energy markets, but also due to the significant volume of information that may be provided to the AER under the new powers. This is in addition to the fact that the listed market outcomes are already being contemplated by the ACCC Gas Inquiry.

The level of information required for outcomes listed in Appendix A could involve wide ranging document searches and/or responses to questions that would require significant cost to acquire (e.g. forensic IT specialists, legal discovery and document review etc.). Market participants cannot prepare for this type of targeted information collection, particularly when the scope or threshold of information required is unknown.

We strongly encourage the AER to clearly define the threshold and/or specific circumstances in which this targeted information will be collected and provide transparency to market



participants on how the responses will be validated by the AER. Accordingly, it is 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.

### **Bilateral engagement with service providers about the information required**

In our experience, the process of requesting information from service providers is most effective when there is bilateral engagement between the AER and service provider *in advance* of an information notice being issued.

Clarity in reporting when it comes to method, scope and timeframes sets a reporting entity up for success. This is because the way information is requested can influence significantly what information is eventually provided. And if there is any ambiguity in the way information is requested, the information provided by the market participant may not actually answer the question the regulator is seeking to answer. For this reason, we suggest that the AER engage with reporting entities in advance of formally issuing a notice for consultation.

APA welcomes the opportunity to discuss our submission and our reporting processes in further detail with the AER. Please contact our Senior Manager Policy, John Skinner on 02 9693 0009 or [john.skinner2@apa.com.au](mailto:john.skinner2@apa.com.au), if the AER wishes to meet and discuss with APA.

Regards,

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

**Beth Griggs**  
**General Manager Economic Regulatory and External Policy**