

Merits review of AER gas access arrangement decision for the Victorian gas transmission network owned by APA GasNet Australia (Operations) Pty Limited

The access arrangement decision made by the AER in March 2013 for the Victorian gas transmission network owned by APA GasNet Australia (Operations) Pty Limited (APA GasNet), is the subject of an application for review in the Australian Competition Tribunal (Tribunal).

APA GasNet has sought review of the decision made by the AER on the following matters:

- a) The adjustment to reference tariffs for the 2013–17 access arrangement period to account for the delay, between the beginning of the period on 1 January 2013 and the date on which the new tariffs take effect, on 1 July 2013.
- b) The opening capital base as at 1 January 2013, specifically, the adjustment to the opening capital base to remove the return on capital earned on the difference between the actual and estimated capital expenditure for 2007.
- c) The calculation of depreciation based on indexed values for the capital base.
- d) The estimate of the Rate of Return, specifically, the cost of equity.

The National Gas Law requires an applicant to apply to the Tribunal for leave to apply for review. On 24 May 2013, the Tribunal made Directions Orders requiring the AER by 5 June to give notice of its intention to oppose leave on any of the issues raised by APA GasNet. APA GasNet is to file and serve any submissions in support of the grant of leave by 12 June 2013. The issue of leave for APA GasNet to apply for merits review is to be determined on the papers unless either the AER, by 5 June, or APA GasNet, by 12 June, requests an oral hearing, and in that event the leave application will be listed for hearing via videolink at 9.30am EST on **5 July 2013**.

Notice to potential interveners

The National Gas Law allows certain individuals or bodies, with the leave of the Tribunal, to intervene in the application for review. If this approval is granted an intervener is permitted to provide written submissions and, at the final hearing, may be permitted to orally address the Tribunal on specific points.

The Tribunal has ordered that the AER provide notice to interested parties about APA GasNet's application for review. Specifically, if you are interested in seeking the leave of the Tribunal to intervene in the application for review:

- any application for leave to intervene is to be filed with the Tribunal by **12 June 2013** and returnable for hearing via videolink at 9.30am EST on 5 July 2013;
- any such application is to specify the matters sought to be addressed, including reasons in support of the matters you seek to advance, together with written submissions as to why leave should be granted and any affidavit material on which you may seek to rely in relation to the issue of leave.

APA GasNet and the AER are to give any third parties seeking leave to intervene notice of whether they intend to oppose leave to intervene being granted and the basis for any objection by 19 June 2013.

If you are interested in seeking the leave of the Tribunal to intervene in the application for review, we refer you to the requirements in sections 254, 255 and 244 of the National Gas Law and suggest you contact the Tribunal to notify it of your interest and to find out more about the procedure.

The Principal Office of the Tribunal is located within the Federal Court Registry in Melbourne:

Australian Competition Tribunal
Commonwealth Law Courts
305 William Street
Melbourne 3000 VIC

Tel: (03) 8600 3643
Fax: (03) 8600 3645

In the event that leave is granted to APA GasNet and the merits review proceeds,

- APA GasNet is to file and serve on the AER and any intervener a written outline of submissions by 17 July 2013, together with a list of the review related material that the Applicant will seek to rely on at the hearing.
- The AER and any intervener are to file and serve on the Applicant a written outline of its submissions by 2 August 2013, together with a list of additional review related material that the party will seek to rely on at the hearing.
- The proceedings are to be listed for hearing in Melbourne for 4 days from 13 August 2013.