

Our Ref: 43372
Your Ref:
Contact Officer: Adam Petersen
Contact Phone: (08) 8213 2458

28 September 2012

Mr Chris Spangaro
Senior Director
Australia Energy Market Commission
PO Box A2449
SYDNEY NSW 1235


Dear Mr Spangaro

AER submission in response to the AEMC consultation paper – reference and rebateable service definitions

I am writing to you regarding the AEMC's consultation paper on the National Gas Rule Amendment (Reference service and rebateable service definitions) Rule 2012.

The AER maintains that the rebateable service definition should be broader than the AEMC's proposal to include a pipeline service provided by the Victorian declared transmission system (DTS). However, the AER supports the AEMC's proposal to include a pipeline service that is provided by the Victorian DTS in the definition of a rebateable service and the AER relies on its initial rule change proposal and previous submissions in support of this position.

In the consultation paper the AEMC proposed a specific amendment to the definition of rebateable service for the Victoria declared transmission system. The AEMC also indicated that the final rule change determination is expected to be released on the 1 November 2012.

The AER considers that it is important to the AEMC's final determination on the rule change that the AEMC clarifies whether a rule change is to apply to the current Victorian access arrangement review. This is because the AER's proposed rule change was partly premised on how the current definitions of a reference service and rebateable service would be applied in the current Victorian review, in the absence of a rule change that would allow Authorised Maximum Daily Quantity Credit Certificates to be classified as a rebateable service.

It was on this basis that the AER originally proposed that its rule change include a transitional provision. The AER notes that since it made that submission, the original date for the rule change final determination has been extended to 1 November 2012 and the AER has now

issued, on 11 September 2012, its draft determinations in the Victorian access arrangement review.

In light of the AEMC's new timeframe for publishing its final rule determination, the AER is of the view that the AEMC will need to give careful consideration to the effect of clause 43 of Schedule 2 of the National Gas Law (NGL). Clause 43 concerns the effect of the repeal, amendment or expiry of a provision of the NGL, the National Gas Regulations, and the NGR. Of relevance also is clause 1 of Schedule 2 of the NGL.

If the AEMC considers that a rule change should apply to the current Victorian review, a transitional provision should be included to this effect.

The AER has informed the Victorian gas service providers (APA GasNet as well as the gas distribution businesses) that the AEMC is presently considering whether a rule change should apply to the current review. If the rule change were to apply and the AEMC intended for service providers to address the rule change in their revised proposals, it may be appropriate as part of any transitional provision to allow additional time for service providers to submit those elements of their revised proposals that are affected by the rule change. Currently, revised proposals are due on 9 November 2012. Any extension would need to take into account the time limits that apply to the decision-making process.

The AER also requests that the AEMC in its final rule determination indicate when the rule change would be given effect by publication in the South Australian Government Gazette in accordance with section 314 of the NGL.

If you have any queries in relation to this matter please contact Adam Petersen on (08) 8213 3458.

Yours sincerely



Chris Pattas
General Manager
Network Operations & Development