

Attachment 1: Officials' Consultation Paper – Stakeholder feedback template

Submission from ENGIE Australia & New Zealand (ENGIE)

The template below has been developed to enable stakeholders to provide feedback on how the NGL, NERL and, where relevant, the Regulations made under the NGL and NERL, could be amended to:

- extend the application of the national gas regulatory framework to NG equivalents; and
- where it is appropriate to do so, provide for OG products to be accommodated by the national gas regulatory framework over time

Officials strongly encourage stakeholders to use this template, so that it can have due regard to the views expressed by stakeholders on each issue. If you wish to provide additional feedback outside the template, wherever possible please reference the relevant question to which your feedback relates.

Chapter 4: Extending the NGL and NERL to natural gas equivalents

No.	Questions	Feedback
Section 4.3: Potential approach to extending the NGL		
Section 4.2.1: Extension to NG equivalents and related facilities and activities		
1	What are your views on the potential approach to extending the application of the NGL to NG equivalents and related facilities and activities? Are there any other approaches that you think would better achieve the objectives of Energy Ministers (see section E.3)?	The approach appears appropriate. Given where Australia is in terms of trials of hydrogen blending and the potential introduction of jurisdictional hydrogen targets, this review is timely.
2	What are your views on the policy intention to enable all elements of the national gas regulatory framework to apply to NG equivalents and their related facilities and activities in the same way that they do to natural gas?	The policy intention appears sensible. Since the NG equivalent definition is predicated on not requiring users to change their appliances, there should be little to no impact on end users of substitution of natural gas with an NG equivalent. Accordingly, it seems sensible to apply the same regulatory framework. Creating a different framework could, in certain circumstances create a perverse incentive (or disincentive) to switch to an NG equivalent that is driven by regulatory arbitrage rather than genuine commercial agreement.

No.	Questions	Feedback
3	What are your views on the NGL requiring jurisdictions to make a local regulation to confirm when a gas or gas blend authorised for supply through a pipeline (or part of a pipeline) is an NG equivalent?	In general, it is preferable to have a nationally consistent approach (and potentially allow for jurisdictions to derogate away if they have a specific concern). At a minimum, the enabling legislation should be designed to drive a conformed approach (e.g., that blends should be specified in terms of percentage of composition of gases). Care should be taken to ensure that jurisdictional differences do not inhibit the use of NG equivalents in cross-border pipelines or pipeline networks.
4	Who is likely to operate the blending facilities involved in the creation of NG equivalent blends?	It's unclear at this stage what will become the industry norm. Specific pilots and trials may not provide a good guide to future commercial outcomes.
5	Do you think blending facilities should be subject to the same economic regulatory framework that applies to pipelines? Please explain your response to this question.	The framework could follow ownership - if a regulated pipeline or network owner also owns and operates blending facilities then may be simplest to treat as part of that network and subject to same regulatory framework. But if suppliers own and operate their own blending facilities, then monopoly-style regulation is not necessary.
6	Are there any specific physical characteristics of NG equivalents or the supply chain for these products that you consider should be taken into account when extending the natural gas regulatory framework to NG equivalents?	The framework will need to consider energy values of different gases in a blend and implications for market settlement, etc. but the detail of this is more likely an issue for the parallel AEMC/AEMO processes.
7	Are there any other observations you would like to make about the potential approach to extending the application of the NGL to NG equivalents and related facilities and activities?	No
8	Are there any other changes that you think need to be made to the NGL to accommodate NG equivalents and related facilities and activities?	No

No.	Questions	Feedback
Section 4.2.2: Extension to constituent gases and related facilities and activities		
9	What are your views on the proposal to amend the NGL to enable the national gas regulatory framework to apply to the constituent gases and related facilities and activities involved in the supply of NG equivalents (where appropriate to do so) set out in section 4.2.2?	<p>Low/zero emissions hydrogen (and potentially other constituent gases) is an emerging industry. National and jurisdictional hydrogen strategies envisage a rapid ramp up in production and consumption, including new production methods, new end use cases and the creation of an export market. Accordingly, it's important to:</p> <ul style="list-style-type: none"> a) not stifle innovation and effective market development with excess or inflexible regulations b) not assume that concerns relating to the natural gas market must be relevant to hydrogen. Hydrogen production is likely to be more competitive than natural gas production, given latter is dependent on access to underground resource and typically controlled by small number of large companies. Hydrogen can be produced by multiple methods, and green hydrogen from electrolysis is open to anyone with access to electricity and water.
10	What are your views on the proposal that pipelines involved in the transportation of a constituent gas (e.g., a hydrogen pipeline) be subject to economic regulation under the NGL and NGR?	ENGIE's preferred starting point would be that constituent gas pipelines are subject to the general Part 3 A access regime rather than the natural gas pipeline specific framework.
11	Are there any other observations you would like to make about the potential approach to extending the application of the NGL to constituent gases and related facilities and activities?	Related facilities should not include the hydrogen production process itself. It may be worth making this explicit in the enabling legislation or regulations.
12	Are there any other approaches that you think would better achieve the objectives of Energy Ministers (see section E.3)?	See responses to Qs 9,10 above.
13	Are there any other changes that you think need to be made to the NGL to accommodate constituent gases and related facilities and activities?	No

No.	Questions	Feedback
Section 4.2.2: Extension of market bodies' functions and powers		
14	<p>What are your views on the potential approach to extending market body functions and powers set out in section 4.2.3 to:</p> <p>(a) NG equivalents and related facilities and activities?</p> <p>(b) constituent gases and related facilities and activities?</p>	<p>a) This approach seems appropriate. It avoids duplication of regulatory bodies, especially if NG equivalents are largely subject to the same regulatory framework as natural gas.</p> <p>b) As noted above, we should not start from a presumption that constituent gases should be regulated in exactly the same way as natural gas. Accordingly, the enabling legislation should include a clause to ensure any proposed application of rules/regulations to Constituent gases is considered afresh – For example if AEMC has carriage of a rule change proposal then it should be open to a range of options, including each of do nothing/apply the natural gas rules/apply different rules more appropriate to the situation.</p>
15	<p>Do you think arrangements are needed for distribution pipelines attached to the DWGM and STTM to provide for independent management of blending limits (or gas specification requirement) imposed by a jurisdiction? If you think AEMO or another third party should be responsible for this function, please explain what costs and benefits you think would be associated with it doing so.</p>	<p>Gas network asset operators are likely to be best placed to monitor and manage blending limits at different parts of their network. But it will require effective ringfencing to ensure that they do so in a way that is fair to all parties.</p>
16	<p>Are there any other changes to market body functions and powers required to accommodate NG equivalents, their constituent gases, or related facilities and activities?</p>	<p>No</p>
17	<p>Are there any other approaches that you think would better achieve the objectives of Energy Ministers?</p>	<p>No</p>
Section 4.3: Potential approach to extending the NERL		
18	<p>What are your views on the potential approach to extending the application of the NERL to NG equivalents set out in section 4.3?</p>	<p>This approach appears appropriate. See answer to Q2 above.</p>
19	<p>What are your views on the potential approach to extending the AER's and AEMC's functions and powers under the NERL to NG equivalents set out in section 4.3?</p>	<p>This approach appears appropriate.</p>
20	<p>Are any other changes to the NERL or the market bodies' functions and powers under the NERL required to accommodate NG equivalents?</p>	<p>There may be a need to consider with existing functions and powers are adequate with respect to blending ratios and ensuring customers are appropriately charged for the energy they receive but retailers are not left out of pocket if they are not responsible for the blended mix their customers receive. This is a situation that could arise if a hydrogen blend was injected into a part of the distribution network. In practice, all customers downstream of the injection point would get their share of the blended product. But some (or all) of those customers' retailers would have no involvement in the hydrogen injection. However, these matters may be more relevant to the AEMC/AEMO reviews.</p>

No.	Questions	Feedback
21	Are there any other approaches that you think would better achieve the objectives of Energy Ministers (see section E.3)?	No

Chapter 5: Accommodating other gas products in the NGL and NERL over time

No.	Questions	Feedback
Section 5.1: Potential approach to accommodating other gas products in the NGL		
22	What are your views on the potential approach to allowing the NGL to accommodate OG products over time, as described in section 5.1?	OG products should be considered a new industry and as such there should be no presumption that the regulatory framework for natural gas is the best option for OG products. To the extent that a different framework is adopted, then it may not be appropriate for the NGL to be the enabling legislation.
23	Could amending the NGL in the manner described in section 5.1 lead to any unintended consequences? If so, please explain what those unintended consequences may be.	As noted in the response to Q9, a blanket application of the NGL and subsidiary regulations to OGs could stifle the development of new industries. The market dynamics of OGs may be quite different from that of natural gas and protections considered appropriate for the natural gas sector may not be warranted for OGs. For example, the market transparency mechanisms and facilitated markets evolved in response to particular developments in the natural gas market and concerns that arose from those developments relating to market power. These provisions are not standard across commodity markets, and so they shouldn't be considered the default approach for OGs.
24	What are your views on the proposal to apply the economic regulatory provisions to pipelines involved in the haulage of OG products and their constituent gases?	ENGIE's preferred starting point would be that they are subject to general Part 3 A access regime rather than natural gas pipeline specific framework.
25	Are any other changes to the NGL required to accommodate OG products?	No
26	Are there any other approaches that you think would better achieve the objectives of Energy Ministers (see section E.3)?	See responses to Qs 22-24 above.

Section 5.2: Potential approaches to accommodating other gas products in the NERL

27		What are your views on the potential approach to allowing the NERL to accommodate OG products, as described in section 5.2?	OG products should be considered a new industry and as such there should be no presumption that the regulatory framework for natural gas is the best option for OG products. The discipline of competition and the need to attract customers, along with application of Australian Consumer Law should provide sufficient customer protection as industry is developing.
28		What are your views on the second potential approach to allowing the NERL to accommodate OG products, as described in section 5.2?	See response to Q28 above
29		Could amending the NERL in the manner described in section 5.2 lead to any unintended consequences? If so, please explain what those unintended consequences may be.	As noted in the response to Q9, a blanket application of the NERL and subsidiary regulations to OGs could stifle the development of new industries.
30		Are any other changes to the NERL required to accommodate OG products?	Not if the alternative approach outlined above is taken.
31		Are there any other approaches that you think would better achieve the objectives of Energy Ministers (see section E.3)?	See response to Q27 above.