



Submitted by email to: gas@industry.gov.au

GAS PIPELINE REGULATION REFORMS – DRAFT LEGAL PACKAGE

Alinta Energy appreciates the opportunity to provide feedback on the gas pipeline reforms draft legal package¹.

Alinta Energy is an active investor in gas markets across Australia and is well placed to provide comment:

- Alinta Energy's gas-fired generation portfolio includes its Braemar Power Station facility in the Queensland region; Bairnsdale Power Station in Victoria; Pinjarra Power Station and Wagerup Power Station in the south-west of Western Australia; and Port Hedland Power Station and Newman Power Station in the north-west of Western Australia.
- Alinta Energy is a participant in all east-coast gas trading markets - the Short Term Trading Market, Pipeline Capacity Trading and Day Ahead Auction, the Victorian Declared Wholesale Gas Market, and the Wallumbilla Gas Supply Hub.
- Alinta Energy is a part owner of the Goldfields Gas Transmission Pipeline and owns an approximately 150km gas pipeline in Queensland serving the Braemar Power Station.

The regulatory arrangements for gas pipelines have developed in a piecemeal way which has resulted in a complex regulatory environment with several duplications and inconsistencies. Given this, Alinta Energy is supportive of streamlining and simplifying the arrangements. However, any reform needs to be balanced with ensuring an appropriate or cost-effective level of regulation.

While Alinta Energy is supportive of a simpler regulatory framework to support the safe, reliable and efficient use of and investment in pipelines, we are concerned that option 3B could, in some instances, lead to costly over-regulation (particularly for smaller operators) which has the potential to exacerbate market concentration concerns.

Given this, care needs to be taken to ensure that:

- The transitional arrangements for current exemptions are broadened to ensure that any qualifying Part 24 and 25 exemptions are grandfathered to avoid unintended consequences;
- The ring fencing exemption regime is fit-for-purpose and recognises the unique characteristics of smaller pipeline operations as part of integrated business operations;

¹ The views expressed in in this submission are provided expressly in the context of Eastern (NEM) state jurisdictions only, and not within other Australian jurisdictions, such as Western Australia. In Alinta Energy's view the non-NEM jurisdictions have fundamentally unique gas markets, and as such these reforms cannot be applied on a like for like basis.

- Regulatory burden is balanced with the increased information disclosure requirements; and
- The implementation timetable recognises the substantial uplift in obligations for some participants.

Treatment of current exemptions

In 2018, Part 24 and Part 25 of the National Gas Rules (NGR) relating to capacity trading and the day-ahead auction came into effect. As part of the transitional arrangements, facilities that were subject to certain exemptions under Part 23 of the NGR were granted a conditional exemption in relation to the new obligations under Parts 24 and 25.

While this automatic exemption had a sunset date, Alinta Energy understands that it would endure if the facility continued to hold a relevant Part 23 exemption.

Alinta Energy notes that the draft legal package sets out that service providers that have an existing:

- Category 1 exemption under Part 23 of the NGR because they are not a third party access pipeline will be taken to have a Category 1 exemption under the new information disclosure obligations in Part 10 of the NGR.
- Category 2 exemption under Part 23 of the NGR because they are a single user pipeline will be taken to have a Category 2 exemption under the new information disclosure obligations in Part 10 of the NGR.
- Category 3 exemption under Part 23 of the NGR and have a nameplate rating less than 10 TJ/day will be taken to have a Category 2 exemption under the new information disclosure obligations in Part 10 of the NGR.

The draft legal package is silent on the treatment of the automatic conditional exemptions for part 24 and 25.

Given this, Alinta Energy requests confirmation that if a facility holds a new category 2 exemption, that facility's Part 24 and 25 exemption will be grandfathered. This is on the basis that it still meets the requirements of rule 611(3)(a), (b) or (c) of the NGR².

Minimum ring fencing requirements for all pipelines

Alinta Energy notes that, going forward, the proposal for all pipelines to be regulated means that, unless granted an exemption under the NGR, those pipelines will be subject to the Minimum Ring Fencing Requirements set out in the NGL.

While exemptions are available, Alinta Energy is concerned that the exemption criteria for the prohibition on carrying on a related business (as set out in clause 34(3)(c) of the NGR) requires a service provider to establish overly rigorous controls. We note that clause 34(3)(c) specifically requires "*internal controls within the service provider's business that substantially replicate, in the AER's opinion, the effect that would be achieved if the related business were divested to a separate entity and dealings between the service provider and the entity were subject to*

² The facility is not a third party access facility; is a single user facility, or it is a facility with a nameplate rating less than 10 TJ per day.

the controls applicable to associate contracts". However, giving effect to this clause would essentially require full ringfencing.

Alinta Energy holds significant concerns about the contradictory nature of this obligation, which would not work when viewed in conjunction with clause 34(3)(b) of the NGR. This clause allows an exemption on the basis that the *"cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance"*.

Alinta Energy is the single owner and operator of an approximately 150KM gas pipeline in Queensland between Condamine and Braemar, which is being used for the supply of the Braemar 1 power station (of which Alinta is also the owner and operator). The requirement to meet clause 34(3)(c) of the NGR in order to achieve an exemption to the Minimum Ring fencing requirements will be onerous, costly and is unlikely to provide any public benefit.

Alinta Energy considers that any pipeline holding a category 2 exemption under the new information disclosure obligations (i.e. a single user pipeline) should not be required to meet the requirements under clause 34(3)(c) of the NGR. This is on the basis that doing so would not adequately balance the cost of compliance against the net public benefits derived from compliance with the requirement.

Provision should be made for information disclosure only in response to a legitimate access request for pipelines that meet certain characteristics

While Alinta Energy is supportive of information transparency measures which improve the ability of participants to contract effectively, care must be taken to ensure that reforms are not unduly burdensome or costly to comply with. The cost of compliance should always be balanced against the value these reforms would provide to the market.

Notwithstanding the commentary above, Alinta Energy does not consider that there are material benefits in imposing wide ranging and potentially onerous continuous information disclosure requirements across the lighter form of regulation pipelines unless there are, or are likely to be, bona-fide access requests.

Provision should be made in the rules to remove broad-based ongoing reporting requirements for the lighter form of regulation pipelines that are not experiencing bona-fide access inquiries from shippers and only require information disclosure in response to legitimate access queries. This information could be made public (but would not necessarily need to be updated following the resolution of a specific access query).

Implementation

The consultation paper notes that, subject to the completion of the South Australian regulatory amendment process, the new measures are expected to take effect in 2022 – with compliance due in as little as 20 Business Days after the commencement day.

Alinta Energy is strongly concerned with the lack of clarity around the commencement day, and therefore the date(s) a service provider is required to be compliant.

As there is a significant increase in obligations associated with these reforms for all Service Providers, Alinta Energy considers that a more detailed implementation plan should be set out and consulted on.

Given the significant reform occurring in all energy markets on the east and west coast, coupled with COVID related impacts, Alinta Energy considers that a late 2022/early 2023 commencement date is required at a minimum. This will ensure Service Providers have sufficient time and understanding of their additional obligations and take the necessary steps to comply.

Please contact me on jacinda.papps@alintaenergy.com.au or 0417 065 955 if you have any queries in relation to this submission.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'jacinda.papps', written in a cursive style.

Jacinda Papps

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Alinta Energy