APA submission

Options to ensure the domestic wholesale gas market delivers for Australians: Draft Bill

December 2022



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Ms Sam Reinhardt
Deputy Secretary
Fiscal Group
Treasury

Lodged via email: gasmarketconsultation@treasury.gov.au

13 December 2022

RE: APA Submission to Exposure Draft – Competition and Consumer Amendment (Gas Market) Bill 2022

Dear Ms Reinhardt,

Thank you for the opportunity to comment on the *Exposure Draft – Competition and Consumer Amendment (Gas Market) Bill 2022* (draft legislation) and Consultation Paper. Whilst we appreciate the urgency with which Energy Ministers wish to act, the limited consultation process means our comments are focused only on the key issues.

Gas plays a critical role in securing our energy system and is essential to fast-track renewables and deliver the most secure, reliable, and affordable pathway to the decarbonisation of Australia's energy system. We therefore support measures that will improve the reliability and affordability of supply. Price caps of the type facilitated by the draft legislation, however, risk undermining incentives to invest in gas infrastructure.

Governments must urgently review the planning, approvals and regulatory regimes to develop upstream gas resources and bring new gas supplies on-line. This work should be prioritised to ensure that any emergency intervention can be limited in both scope and duration.

It is critically important that we maintain incentives for the gas industry to invest in gas infrastructure and new gas supplies. The draft legislation grants the relevant Minister a broad range of powers that appear to go beyond the purpose outlined in the Consultation Paper.

For this reason, we recommend that the draft legislation be amended to make it clear that the Minister's powers to make a *gas market instrument* do not apply to services provided by regulated gas pipelines. To address this concern, we have suggested an amended definition of *gas commodity* in our submission below.

If you wish to discuss our submission in further detail, please contact John Skinner on 02 9693 0009 or john.skinner2@apa.com.au.

Regards,



Darren Rogers
Group Executive
Strategy & Commercial

1 Submission

Key points

- The draft legislation should be amended to make it clear that the Minister's power to make a *gas market instrument* does not apply to services provided by regulated gas pipelines.
- To support reliable and affordable gas in the long term, governments must urgently review measures that can help develop upstream gas resources, along with associated production and transport infrastructure. This work should be prioritised to ensure that any emergency intervention can be limited in both scope and duration.
- Natural gas is an integral part of the Australian economy and is relied upon by millions of Australian households and businesses every day. In the years ahead, gas is expected to play an increasingly important role in Australia's energy system.

1.1 Introduction

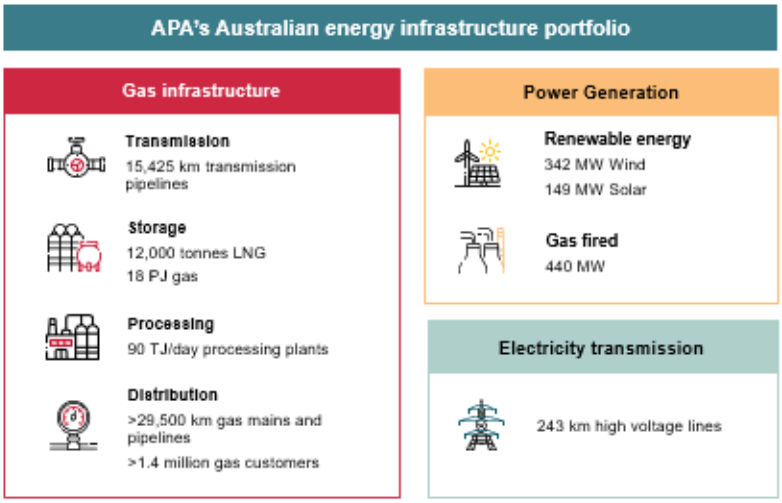
APA is a leading Australian Securities Exchange (ASX) listed energy infrastructure business. Consistent with our purpose to strengthen communities through responsible energy, our diverse portfolio of energy infrastructure delivers energy to customers in every state and territory.

Our 15,000 kilometres of natural gas pipelines connect sources of supply and markets across mainland Australia and our high voltage electricity transmission assets connect Victoria with South Australia, New South Wales with Queensland and Tasmania with Victoria.

We operate and maintain gas networks connecting 1.4 million Australian homes and businesses to the benefits of natural gas. And we own or have interests in gas storage facilities and gas-fired and renewable generation power stations.

In August 2022, APA published its inaugural Climate Transition Plan which outlines our commitments to support Australia's energy transition and pathway to achieve net zero operations emissions by 2050.

Figure 1



We also operate 359 MW of renewable generation infrastructure with a further 88 MW under construction, while our high voltage electricity transmission assets connect Victoria with South Australia, New South Wales with Queensland and Tasmania with Victoria.

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Australia is blessed with significant natural gas reserves. These reserves sustain the energy needs of millions of Australian households and businesses, while also supplying our export partners with a reliable source of liquefied natural gas (LNG). The east coast of Australia now produces more than three times more gas each year than it needs domestically, with the majority of the gas produced exported as LNG.[1]

In the years ahead, gas is expected to play an increasingly important role in Australia's energy system. As coal power stations retire, dispatchable gas powered generation (GPG) will help unlock many multiples of low-cost renewable generation capacity by providing the firm generation needed when wind and solar aren't producing and other storage can't fill the gap.

Gas shortfalls and extreme price events will have ramifications for the domestic gas industry. We support measures that will improve the reliability and affordability of supply for residential and commercial customers. Price caps of the type facilitated by the draft legislation, however, risk undermining incentives to invest in new gas infrastructure and new gas supplies.

To support reliable and affordable gas in the long term, governments must urgently review measures that can help develop upstream gas resources, associated production and transport infrastructure. This work should be prioritised to ensure that any emergency intervention can be limited in both scope and duration.

The measures outlined in the Consultation Paper are aimed at delivering affordable gas supplies through a mandatory code of conduct and a cap on wholesale prices. To ensure that these measures do not inadvertently create uncertainty for pipeline infrastructure providers and users, we recommend that the draft legislation be amended to clarify that it does not apply to services provided by regulated gas pipelines (see next section).

1.2 Applicability of the draft legislation to pipelines subject to the national gas framework

- The draft legislation potentially subjects natural gas pipelines to two regulatory frameworks. This must be addressed in the final legislation.

The draft legislation grants the relevant Minister a broad range of powers that appear to go beyond the purpose outlined in the Consultation Paper; that is, to deliver adequate supply at reasonable prices and on reasonable terms. This is because under the proposed definition of *gas commodity,* a *gas market instrument* can be made to apply to the gas molecules themselves, or to **goods or services** relating to supplying or acquiring natural gas.[2]

The power to make a *gas market instrument,* as outlined in the draft legislation, is a very wide power. A gas market instrument can deal with topics ranging from the content of agreements, including terms and prices, through to dispute resolution, including arbitration.

Transportation services provided by natural gas pipelines are already subject to an extensive regulatory framework set out in the *National Gas Law* (NGL) and *National Gas Rules* (NGR).

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1 ACCC, *Gas Inquiry 2017-25 Interim Report*, July 2022, p11

2 Draft legislation, cl. 53B

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The NGL and NGR contain a comprehensive third party access regime, including full price regulation for some pipelines, and a negotiate/arbitrate regime for others. This regulatory framework has recently undergone a significant period of reform, and changes to strengthen the regulatory framework have recently been passed by the SA Parliament.

It is not clear that Energy Ministers intend to have services provided by natural gas pipelines subject to two regulatory frameworks. This would create significant uncertainty and unnecessary cost for pipeline service providers and users. There is the real possibility of inconsistency across the two frameworks.

To avoid the risk of inconsistency, we suggest that the definition of *gas commodity* in the draft legislation be amended to clarify that the power to make a *gas market instrument* does not extend to services already regulated under the NGL and NGR. We propose that the definition of *gas commodity* be amended as shown below:

> ***gas commodity*** means:
> (a) gas; or
> (b) goods or services relating to supplying or acquiring gas
> **but does not include: goods or services associated with gas storage services, or gas transportation and storage services provided by pipelines regulated under the *National Gas Law* or *National Gas Rules*.**

1.3 Improving Australia's domestic gas security

- To improve the reliability and affordability of domestic gas supplies, any emergency intervention should be limited in both scope and duration.

We appreciate that the draft legislation and Consultation Paper form part of the Commonwealth Government's broader body of work aimed at improving the reliability and affordability of domestic gas supplies for all Australians.

APA supports measures that help achieve these aims and deliver more gas to the domestic market. To support future investment in gas infrastructure, businesses and households need confidence that there will be sufficient gas to meet current and future needs.

We considered these issues in our recent submission to the August 2022 Australian Domestic Gas Safeguard Mechanism Issues Paper.

Mechanisms which are reactive or respond to anticipated shortfalls don't provide the market with confidence. To achieve the most efficient economic outcome for Australians, the market should be allowed to solve for how best to achieve a set target or end goal, as opposed to applying interventionalist direction-based mechanisms. Any emergency intervention should therefore be limited in both scope and duration.

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1.4 Regulatory settings must support continued investment in gas and gas infrastructure

- To support reliable and affordable gas in the long term, we need continued investment in new gas supply and in the infrastructure transporting the gas to where it is needed.

Given its importance to the security and reliability of the energy system, we must continue to invest in our gas system. This includes both investing in new supply, as well as the infrastructure to transport gas to where it is needed.

To support reliable and affordable gas in the long term, governments must urgently review measures that can help develop upstream gas resources, along with associated production and transport infrastructure. By removing impediments and streamlining approvals, new gas supplies will be brought to market as quickly as possible.

To date, the incremental expansion of existing infrastructure has been the most efficient and lowest cost solution to ensure that gas is delivered when and where it is needed. On 25 May 2022 APA announced that it will commence the second stage of its expansion of the East Coast Gas Grid, which, together with stage one, will add around 25 percent of capacity for southern states ahead of peak winter demand in 2024. The commencement of the second stage recognises the critical importance of natural gas to southern markets.

As a nation with an extensive, interconnected grid that can move gas between supply fields and demand locations, we should not be exporting gas and re-importing LNG through gas import terminals.

Not only would this option be more costly and increase the exposure of domestic customers to export pricing, it would also be inconsistent with governments' net zero policy targets. This is because the carbon emissions of LNG import terminals are around 20 percent higher than pipelined gas. Any LNG imports that displace domestic gas would add to, and not reduce, Australia's domestic carbon emissions. Should carbon pricing become mandated, LNG's higher intensity will also mean that LNG imports will become incrementally more expensive.


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