

Productivity Commission Review of Gas Access Regime

AGL Presentation

19 September 2003



Australian for Gas and Electricity



Policy setting

- Recent announcement of Ministerial Council on Energy is welcomed.
- Reinforcement of policy direction from governments.
- Build upon review of National Access Regime, Energy Markets Review.
- Ensure Gas Access Regime delivers on policy objectives.
- Need predictable and appropriate regulatory outcomes which promote efficient investment in, and use of infrastructure.



Australian for Gas and Electricity



Current regime

- Reforms to date have delivered benefits.
- However, present access regime is flawed - creates unnecessary uncertainty for infrastructure owners and acts as disincentive to investment.
- Gas Code, through absence of clear and specific rules, results in investors having many degrees of regulatory risk at project proposal stage and during life of established project.
- Wholesale changes to legislation are not necessary but some key amendments are critical to deliver changes needed to the way the regime applies.



Australian for Gas and Electricity



Amendments – Five Key Themes

- 1 Improving access regulation:
 - (a) clear and appropriate policy objectives;
 - (b) pricing; and
 - (c) improve appeal rights.
- 2 Introduce/improve incentives for investment in new developments;
- 3 Only regulate pipelines where would lead to substantial increase in competition;
- 4 Governance of regime - improving the Code change process; and
- 5 Other issues - ring-fencing, associate contracts and provisions of the Gas Code which are inappropriate in the distribution context.



1 Improving Access Regulation

(a) Clear and appropriate objectives

- Lack of clear guidance about policy objectives in Gas Access Regime.
- Conflicting factors for regulators to take into account with no direction as to how the conflicts should be resolved.
- Effect - unnecessary uncertainties for investors
 - increased reluctance to invest in regulated assets.
- Recommend over-arching objectives referring to need to promote efficient use of, and investment in, essential infrastructure facilities.



Australian for Gas and Electricity



1 Improving Access Regulation

(b) Pricing

- Current regime unclear as to what regulated pricing is meant to achieve
 - ‘building blocks’ methodology but wide discretion on parameters.
- Effect of current regime - increased wariness of further investment in regulated assets and removal of incentives to seek out efficiencies.
- Recommended ways forward:
 - Similar principles to those suggested by PC in National Access Regime review;
 - Range of alternative pricing models including:
 - Earnings sharing model;
 - Price monitoring.



1 Improving Access Regulation

(c) Appeals

- Need for accountability and transparency.
- Limited rights under Gas Access Regime.
- Effect:
 - Can't seek merits review until conclusion of process;
 - Significant discretion to regulator limits value of rights;
 - Limit on what the appeal body can consider.
- Recommend amendment to Gas Pipelines Access Act to achieve better balance.



2 Incentives to Invest in New Developments

- Current regime presents unnecessary uncertainties to investors in new infrastructure
 - concern about adequacy of returns.
- Effect - chilling effect on new investment
 - inconsistent with policy direction agreed by all governments.
- Recommendation:
 - Long term exclusive franchises for pre-determined period
 - An NPV sharing model.



3 Coverage

- Regulation is a costly exercise
 - should only apply where the benefits clearly outweigh the costs.
- Coverage criterion: a “substantial increase” in competition.
- Mechanism to provide assurance that uncovered pipelines will operate so as to facilitate effective competition
 - Endorse development of industry code of conduct.
- Retain single test for coverage.



4 & 5 Governance & Other Issues

- Governance - Gas Code change process:
 - Smooth transition required to AER/AEMC regime.
- Ring fencing - provisions have been effective.
- Associate contract provisions - unnecessarily onerous.
- Provisions which are not appropriate in distribution context.



Australian for Gas and Electricity



Conclusion - Five Key Areas of Change

- 1 Improving access regulation:
 - (a) clear and appropriate policy objectives;
 - (b) pricing; and
 - (c) improve appeal rights.
- 2 Introduce/improve incentives for investment in new developments;
- 3 Only regulate pipelines where would lead to substantial increase in competition;
- 4 Governance of regime - improving the Code change process; and
- 5 Other issues - ring-fencing, associate contracts and provisions of the Gas Code which are inappropriate in the distribution context.

