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Consultation RIS – Gas Pipeline Regulation Reform

AGL Energy Limited (**AGL**) welcomes the opportunity to comment on the COAG Consultation Regulation Impact Statement on options to improve gas pipeline regulation (**Consultation RIS**).

AGL is one of Australia's leading integrated energy companies. Our diverse power generation portfolio includes base, peaking and intermediate generation plants spread across traditional thermal generation as well as renewable sources. AGL's gas assets include the Torrens Island and Barkers Inlet Power Stations in South Australia, the Kwinana Swift plant in Western Australia, Somerton power station in Victoria, as well as gas storage in central Queensland and Newcastle, New South Wales. We own and operate several gas pipelines that connect our gas facilities to the wider gas pipeline network. We are also developing, in close consultation with the community, a proposed LNG import terminal in Victoria to provide additional sources of gas supply to south-eastern Australia.

AGL is also a significant retailer of gas services with 1.4 million customers in New South Wales, Victoria, Queensland, Western Australia and South Australia. In FY19 this involved 167 PJ of gas sales across AGL's small customer, large business customer and wholesale customer base.

The regulatory arrangements for gas pipelines have developed in a piecemeal way and has resulted in several duplications and inconsistencies. In principle, AGL is supportive of reviewing these arrangements with the objective of streamlining and simplifying, while ensuring an appropriate or cost-effective level of regulation.

Specifically, we note that there are many pipelines that either do not provide third party access or have unique arrangements with a single shipper. The regulatory framework should be flexible enough to consider the individual circumstances and to impose regulation only where the benefits outweigh the costs.

We also note that the regulatory framework is designed to support bilateral negotiations between parties by providing an optional process for negotiation and arbitration. We consider the framework should continue to support negotiation of bespoke contracting arrangements. We would be concerned if this flexibility was disincentivised or prohibited, and mandatory standard products introduced, which may occur under some options in the Consultation RIS.

Attachment A of this submission provides feedback on the issues raised in the Consultation RIS. Pipeline regulation is complex. Our comments relate to our experience primarily as a shipper and owner of pipelines with no third-party access. While we are unable to provide a comprehensive response to all the issues raised and identify AGL's preferred options, we trust our comments on specific issues will be useful for consideration by COAG Energy Council.



If you have any queries about this submission, please contact Jenessa Rabone on (02) 9921 2323 or JRabone@agl.com.au.

Yours sincerely,

Meng Goh

Senior Manager Regulatory Strategy



Attachment A

1 When to regulate

The risks of both over-regulation and under-regulation of gas pipeline assets may result in increased costs for shippers and ultimately consumers. Prima facie, the test for regulation should be the existence of substantial market power and whether there is third-party access. AGL recognises that this is not a simple test and it will require the regulator to consider a range of factors to define and evaluate the existence and extent of market power, and to meet the NGO.

We would like to highlight several circumstances where any form of regulation is unnecessary. In particular, the increased regulatory costs for pipelines that do not provide third party access or have unique arrangements with a single shipper will likely outweigh the benefits of regulation.

AGL currently owns five pipelines that hold exemptions from Part 23 of the NGR on the basis that there is no third-party access. These pipelines are used exclusively by AGL to transport gas from the relevant gas facility to the wider gas pipeline network.

There are practical reasons a third party might be limited from accessing a pipeline:

- Access may not be possible if the third-party gas does not meet the required specifications.
- There may be inadequate physical capacity available to accommodate the third party, either because of the pipeline capacity or due to a downstream flow constraint.

If a pipeline owner is not in the business of operating pipelines for multiple users, imposing third party access would come at a significant cost. The pipeline owner would need to develop expertise, systems and processes to accommodate multiple users, conduct capacity trading and auctions, and meet the information reporting requirements. The costs and impacts must be taken into consideration in deciding whether third party access should be imposed.

While there are significant costs involved, we acknowledge that there may be instances where third party access is economically efficient and in the best interest of the market. For example, a pipeline that is constructed to deliver new upstream gas production should be incentivised to service multiple users in the area instead of each company building their own pipeline.

We therefore suggest that third party access should not be automatic upon any request. If access is sought, the decision-maker should assess the costs and benefits of requiring the pipeline owner to provide third-party access. This would take into account all the circumstances of the pipeline in question.

2 How to regulate

AGL is supportive of simplifying and streamlining the different types of economic regulation. This could be beneficial for both pipeline operators and shippers, as there would be fewer processes to understand and use. We would support simplifying the regulatory framework to include one form of heavy regulation and one form of light regulation, noting that there should also be pipelines not subject to any form of regulation.

Option 4 in the Consultation RIS would impose direct price or revenue control on fully covered pipelines, to address concerns with the exercise of market power. AGL does not consider this to be necessary, noting that under the recent rule change on gas pipeline regulation, fully covered pipelines will be required to



provide more reference services. This rule change may help to alleviate concerns with the number of standard services that are assessed by the regulator during the access arrangement process. We would also be concerned that direct control would necessarily result in standardised services. This may impact innovation in the types of services offered, and the ability or incentives for pipeline operators to flexibly negotiate bespoke contracts.

3 Information disclosure

AGL considers it important to get the balance right between reporting of pipeline information and the administrative burden of doing so. As noted above, increased costs may be passed on to shippers and consumers. Information should only be published if it is useful for shippers in the negotiation process, but without unintended consequences. An important consideration is whether the publication of information will be sufficient to overcome the substantial market power which the asset owner may have.

We note that the publication of certain individual pricing information may breach commercial confidentiality. In a relatively small market such as Australia, the publication of individual prices and terms of GTA's may make it possible to identify the shipper and customer involved.

As discussed above, AGL considers that pipelines that do not provide third party access should be able to access exemptions from economic regulation.

4 Negotiation and arbitration

AGL is in-principle supportive of developing a single negotiation and arbitration framework. This could minimise the administrative costs of using and complying with the regulatory framework.

However, it is also appropriate that parties can mutually agree to follow a different process (eg to undertake negotiations with faster timeframes) and are not bound to follow the negotiation and arbitration process. As a shipper, we have found it useful to undertake negotiations outside the regulated framework, but have it as an alternative should negotiations fail.