

3 November 2017

COAG Energy Council Secretariat
GPO Box 9839
CANBERRA ACT 2601

Via email: energycouncil@environment.gov.au

Re: Consumer participation in revenue determinations and associated regulatory processes

To Whom It May Concern:

Australian Gas Infrastructure Group (AGIG) is one of Australia's largest gas infrastructure businesses. AGIG owns approximately 34,000 kilometres of natural gas distribution networks and 3,500 kilometres of transmission pipelines, serving around 1.9 million consumers in Victoria, South Australia, Western Australia, Queensland, New South Wales and the Northern Territory.

We welcome the opportunity to provide input into the COAG Energy Council's (the Council's) consultation paper on consumer resourcing (the paper). We understand the purpose of the paper is to consult on options to improve resourcing available to consumer groups to support more effective engagement in the Australian Energy Regulator's (AER's) revenue determinations and Access Arrangement (AA) decisions under the national electricity and gas laws and rules.¹

AGIG places a high degree of emphasis on the role that effective stakeholder engagement has on improving customer outcomes and we agree with the Council that it is challenging for consumer bodies to provide meaningful input into detailed regulatory processes that are often being undertaken concurrently.

That said, we consider that there are opportunities for network businesses and the AER to work together to assist consumer bodies overcome these challenges.

For example, our recent engagement program regarding our Victorian/Albury AA review process tried to address the challenges associated with time constraints on consumer bodies by reducing the time needed by stakeholders to respond to our plan. Key to achieving this was:

¹ COAG Energy Council, *Consumer participation in revenue determinations and associated regulatory processes*, <http://www.coagenergycouncil.gov.au/publications/consumer-participation-revenue-determinations-and-associated-regulatory-processes>, October 2017, page 4.

- undertaking detailed early engagement activities prior to the submission of our Final Plan (such as releasing a Draft Plan);
- ensuring that stakeholders had a clear understanding of the key issues by clearly identifying these issues in our proposal documentation (including our Draft Plan); and
- clearly demonstrating how we had considered and incorporated stakeholder feedback through the use of a 'traffic light system' that was adopted consistently across our proposal documentation.

We have received positive feedback from stakeholders and the AER alike regarding these initiatives, however we will continue to refine and improve our engagement approach with respect to future AA review processes.

The remainder of our submission (Appendix A) provides more detailed responses to particular questions posed in the paper.

We have also provided a copy of our submission provided to the AER in relation to its recent Stakeholder Engagement Framework review, as Appendix B.

Please contact either Kristin Raman (08 8418 1117) or myself (08 8418 1129) if you would like to discuss the matters raised in this submission further.

Yours sincerely,



Craig de Laine

General Manager – Strategy and Regulation

Appendix A – Response to Consultation Questions

The adequacy of current resourcing for facilitating effective consumer participation

6. What are the barriers to effective consumer engagement in revenue determinations and access arrangement processes?

Based on feedback we have received from our stakeholders, we consider the two key barriers to effective consumer engagement are:

- limits on the knowledge that consumer advocates have with respect to some of the more technical components of regulatory processes; and
- time constraints placed on consumer advocates, when there are multiple regulatory processes being undertaken concurrently.

We have provided further information regarding steps to address these barriers in response to the questions below.

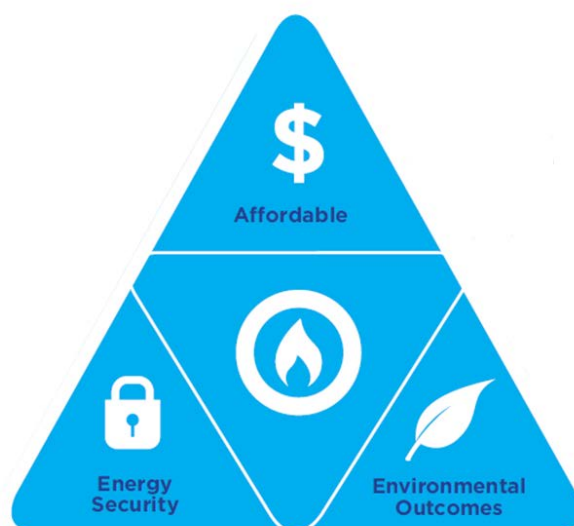
7. What are the priority energy issues on which consumer engagement is required across the sector?

As the paper states:

“The Australian energy market is undergoing extensive transformation and consumer participation is being encouraged by both market bodies and networks.”²

We consider it is important to ensure that consumer engagement is proactively undertaken with respect to the transforming energy sector and in particular, balancing the objectives of the energy trilemma (as shown in Figure 1 below).

Figure 1: The Energy Trilemma



² *Ibid.*, page 7.

Australia has made significant achievements in relation to climate change mitigation through emissions reductions and encouraging the uptake and installation of renewable energies. However, we consider that there remains a challenge in ensuring that Australia's transition to a low-carbon energy mix is managed in a manner that is consistent with the long-term interests of Australians.

This includes ensuring that emissions reductions are achieved in a cost-effective manner, whilst ensuring the ongoing reliability of energy supply as renewable energies (with relatively intermittent supply) are increasingly installed in Australia's energy landscape.

It will be important to ensure that adequate engagement is undertaken with consumers to manage the transition to a low carbon economy consistent with their long term interests.

9. Is it feasible to build/maintain the complex technical knowledge required for effective participation in the revenue/access arrangement processes within consumer group staffing, or is it likely to be more cost-effective and more practical to outsource this expertise as required?

Although it is challenging, we consider it is important to continue to build the knowledge of stakeholders and consumer advocates to ensure that they can meaningfully engage on all matters relevant to a regulatory determination process (rather than wholly outsourcing technical components of the review).

This is particularly relevant given the importance of ensuring that a regulatory determination process is focused on delivering an overall outcome to customers. For example, in our recent Victorian/Albury AA review, our overarching objective was to submit a plan to the AER that:

- delivered for our customers;
- was underpinned by effective stakeholder engagement; and
- was capable of being accepted by the AER.

We consider that the emphasis of the review process should be focused on whether the plan delivers for customers as a whole, rather than relying on a detailed technical review of each of the proposal's components.

That said, we do consider that there will still be an important role for consumer advocates to rely on technical experts to review and provide comment on certain aspects of regulatory determinations. This may be through engaging a technical expert to undergo a detailed review of key projects (similar to the approach taken by regulated businesses in the preparation of their regulatory submissions), or it may be through referral to an independent body.

An example of the latter is provided in our Victorian/Albury AA review when stakeholders agreed that detailed engagement with the ESV on our mains replacement program was appropriate, rather than seeking approval from stakeholder/industry bodies. In response we engaged with the ESV on our risk assessment and proposed volume of mains to be replaced, and the ESV endorsed our program.³

³ AGN, 'Victoria and Albury Final Plan', December 2016, page 79.

Consumer engagement by the Australian Energy Regulator

11. How can the AER facilitate improved consumer engagement in regulatory processes?

In its recent review of its Stakeholder Engagement Framework, the AER has identified two key activities that it can undertake in order to facilitate improved consumer engagement. These activities are summarised below:

- *Improved communication* – “We agree that we need to use a range of tools to help us to engage effectively. Over the next few months we will be investing in additional communications resources and developing new communications strategies, and we will consider these points as we do so.”⁴
- *Provide feedback on how stakeholder feedback influenced their Decisions* – “We will continue to provide guidance to stakeholders about how they can make a contribution to our regulatory processes. We will be clear about those aspects where we are looking for stakeholder input and the timeframes available.”⁵

We support the AER’s comments in relation to these two key activities and will also consider how we can incorporate these activities into our own engagement programs going forward.

We also note that we provided feedback to the AER as part of its Stakeholder Engagement Framework review (which we have provided as Appendix B to our submission).

12. How can the AER help build consumers’ knowledge, skills and capacity to better participate in regulatory processes?

In its Stakeholder Engagement Framework review, the AER demonstrated its ongoing commitment to build the knowledge and capacity of stakeholders where required.

We support the AER in this commitment and consider that capacity building and education of stakeholders will certainly contribute to aiding engagement processes undertaken by businesses and the AER alike, as well as ultimately ensuring better outcomes for energy consumers.⁶

To this end, we consider there is an opportunity for businesses and the AER to work together to provide helpful and relevant information to stakeholders in order to continue to build their knowledge base of the regulatory regime and energy industry more broadly.

A couple of practical ways of assisting stakeholders would be for businesses and the AER:

- to clearly identify the key issues of AA reviews; and
- to ensure documentation uses customer-friendly language to describe complex, technical concepts in an easy to understand manner.

As demonstrated in our response to Question 11, we consider that the AER is already seeking to improve its clarity around specific issues it is seeking feedback on and we will also continue to consider this in our own documentation going forward.

⁴ Australian Energy Regulator, ‘Final Revised Stakeholder Engagement Framework Explanatory Statement’, September 2017, page 10.

⁵ *Ibid.*, page 11.

⁶ Note: We also consider that stakeholders will benefit over time, as businesses continue to undertake business-as-usual engagement processes, which will enable stakeholders to become more familiar with business processes and how the regulatory framework operates, for example.

14. How successful has the AER's CCP been in contributing to improved outcomes for consumers?

We consider a good example of effective stakeholder engagement is in relation to our recent Victorian/Albury AA review.

Although the CCP for our Victorian/Albury AA review was formed only three months prior to submission of our Final Plan to the AER in December 2016, we consider their involvement in our review process was effective in supporting improved outcomes for consumers.

In particular:

- the CCP was receptive to listening to the engagement activities undertaken prior to submission of our Final Plan (and prior to its formation);
- the CCP was supportive of our approach to engagement (which was consistent with the feedback we had received from the stakeholders we had engaged with);

The CCP also provided a range of meaningful feedback in relation to our South Australian AA review, such as recommending that we use anonymous voting methods in our stakeholder workshops. We have since adopted this approach in our workshops and will continue to do so going forward, based on the feedback we received from the CCP.

We consider that the AER's CCP continues to be an effective tool that contributes to improved outcomes for consumers however we also encourage:

- the AER to continue considering the feedback from network businesses' engagement programs as well as feedback received from the CCP; and
- the AER to form the CCP Sub-Panels within an appropriate timeframe to ensure that they are able to participate in all pre-submission engagement activities.

Consumer engagement by energy network businesses

16. What support do network businesses currently provide to assist consumer participation in revenue determination and access arrangement processes?

AGIG provides support to consumers who participate in our engagement programs in three key ways.

Firstly, we provide financial assistance to:

- members of our Reference Groups (in order to ensure their ability to review meeting materials and facilitate good discussion at our Reference Group meetings); and
- participants of our workshops to ensure good levels of attendance and participation.

Secondly, we also ensure that we are available to provide support for our stakeholders, whether it be through:

- our CEO attending Reference Group meetings;
- participation of key staff at workshops; or
- responding to ad hoc stakeholder queries with respect to specific components of our proposals.

We consider this second "in kind" support to be particularly valuable for our stakeholders and encourage other network businesses to provide similar support.

Thirdly, we ensure our engagement processes are sufficiently flexible in order to give stakeholders a range of methods through which to provide feedback. This is explained further in response to Question 17 below.

We recognise that this is a dynamic industry and stakeholder (and customer) needs are continuously changing. As such, we are keen to continue to evolve our engagement processes to ensure that we meet the needs of our stakeholders. To this extent we review our Stakeholder Engagement Strategy and Reference Group Charter on an annual basis and also track our performance using online surveys.

We will also track the outcomes of this consultation to ensure we remain in touch with feedback and can factor this in to our own processes.

17. How can network businesses facilitate improved consumer engagement in revenue determinations and access arrangement decisions processes?

Consistent with the Council and the AER, we also consider that it is challenging for consumer bodies to provide meaningful input into detailed regulatory processes that are often being undertaken concurrently.

However, we think there are a number of opportunities for network businesses to assist in overcoming these challenges.

Firstly, ensuring effective early engagement with stakeholders prior to the submission of regulatory proposals to the AER will assist in providing stakeholders with multiple opportunities to understand and provide feedback on the key issues relating to the proposal.

For example, in our recent Victorian/Albury AA review, we developed and released a Draft Plan for consultation which clearly identified the key topics we were seeking feedback from stakeholders on. Feedback we received on this initiative indicated that stakeholders supported this opportunity for early engagement and we will continue to consider this in our planning for future AA reviews. We also think there is a role for network businesses to play in order to ensure a certain level of flexibility in terms of how feedback is elicited from stakeholders.

During our ongoing engagement activities which formed part of our recent South Australian and Victorian/Albury AA reviews, stakeholders indicated to us that they were constrained in their ability to participate fully in multiple concurrent engagement processes, due to a lack of time. Instead, they were having to choose which engagement process to participate in, as they knew they couldn't commit to participating in each engagement process they were invited to.

For example, in Victoria:

- the three gas distribution businesses deliver their regulatory submissions at the same time; and
- the five electricity distribution businesses deliver their regulatory submissions at the same time.

Understandably, this causes a considerable resource constraint if the same key stakeholders are asked to participate in each business' individual engagement processes. Businesses and the AER alike need to continue to consider alternative and innovative methods of eliciting feedback from stakeholders in a less resource-intensive manner.

We had this experience in our recent Victorian/Albury AA review, following the release of our Draft Plan in July 2016. Some stakeholders indicated to us that although they supported the initiative and wanted to provide feedback on our Draft Plan, they may not have sufficient resources to develop written submissions.

Instead, we worked with our stakeholders to come up with an alternative method of receiving their feedback, by holding two workshops focused on what we considered to be the key issues in our Draft Plan. We engaged an independent facilitator to record the feedback received at these workshops and then verified this feedback with the relevant stakeholders that attended, which was considered and incorporated into our Final Plan.

Network businesses (and the AER) also need to consider more collaborative and innovative ways of working together, as well as with stakeholders. For example:

- the AER and businesses could work collaboratively to clearly identify key issues for stakeholders;
- businesses could consider working collaboratively to undertake joint engagement, where relevant, in order to make the most of stakeholders' time; or
- industry could seek to resolve issues collaboratively, guided by input provided by an expert panel or roundtable, jointly engaged and appointed by stakeholders.

We also consider that there's a role for businesses and the AER to play in educating stakeholders on the role and expertise of other relevant organisations who may be best placed to advise on specific components of AA reviews.

For example, in our Victorian/Albury AA review, our stakeholders encouraged us to engage directly with Energy Safe Victoria (ESV) in relation to our proposed mains replacement program, given part of the ESV's role is to ensure the safe operation of the gas network in Victoria.

By ensuring awareness of the expertise of other relevant bodies (such as technical regulators or safety authorities), we consider that stakeholders can leverage off of these skills and seek to rely on the views of these organisations to inform their review of AA proposals.

18. How can network businesses help build consumers' knowledge, skills and capacity to better participate in revenue determination and access arrangement processes?

Please see our response to Question 12.

19. How can networks demonstrate that consumer engagement they undertake is incorporated into the regulatory determination and access arrangement decision processes?

We consider that effective stakeholder engagement involves the following:

- ensuring early engagement opportunities for stakeholders;
- providing stakeholders with multiple opportunities for feedback (or an opportunity for repeat engagement);
- ensuring feedback is received from a broad range of stakeholders; and
- transparently reporting on how we have responded to the feedback we received.

In relation to our Victorian/Albury AA review, we made a specific effort to ensure that stakeholder views are clearly summarised and presented in our Final Plan documentation. Pleasingly, this was well-received from stakeholders with positive comments received on the 'traffic light' system we adopted.⁷

We also adopted this format in our Revised Final Plan (submitted to the AER in mid-August), which showed how we considered and, where relevant, incorporated stakeholder feedback in our Revised Final Plan.

We consider that ensuring outcomes of engagement processes are clearly documented as part of regulatory reviews helps:

- stakeholders to understand what good engagement processes look like;
- stakeholders to understand the impact that engagement processes can have on the outcomes of regulatory review processes; and
- provide emphasis on achieving ongoing improvement (as discussed earlier in this submission).

We have received positive feedback from stakeholders regarding our 'traffic light' system to date however will continue refining our approach to clearly identifying how stakeholder feedback has been incorporated into our plans in the future.

20. Under the existing framework, are there sufficient incentives for network businesses to invest in consumer engagement?

Yes, we consider that there is sufficient incentive for network businesses to invest in and undertake effective, fit-for-purpose consumer engagement activities.

Particularly, we consider that the engagement we undertook in relation to our Victorian/Albury AA review led to the development of a Final Plan that was largely accepted by the AER in its Draft Decision, which we in turn accepted in our Revised Final Plan.

This process demonstrates how effective stakeholder engagement can result in a "no surprises", non-adversarial AA review process that is attractive to businesses, regulators and consumers alike.

⁷ Consumer Challenge Panel Sub-Panel 11, *Victorian Gas Networks (AGN), AusNet Services and Multinet: Supplementary Advice on the proposed Return on Equity by Victorian Gas Distribution Network Service Providers*, March 2017.