Major Energy Users Inc.

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Consultation RIS – Gas Pipeline Regulation Reform

The Major Energy Users (MEU) welcomes the opportunity to provide its views to the Consultation RIS in relation to Gas Pipeline Regulation Reform

The MEU was established by very large energy using firms to represent their interests in the energy markets. As most of the members are located regionally and are the largest employers in these regions, the MEU is required by its members to ensure that its views also accommodate the needs of their suppliers and employees in those regional areas. It is on this basis the MEU and its regional affiliates have been advocating in the interests of energy consumer for over 20 years and it has a high recognition as providing informed comment on energy issues from a consumer viewpoint with various regulators (ACCC, AEMO, AEMC, AER and regional regulators) and with governments.

The MEU stresses that the views expressed by the MEU in this response are based on looking at the issues from the perspective of consumers of gas but it has not attempted to provide significant analysis on how the proposed changes might impact gas producers, gas pipeline owners/operators or retailers.

The MEU has been actively involved with the issue of gas pipeline regulation reform for a number of years, culminating with in-depth discussions and formal responses to the ACCC (as part of its review of the east coast gas markets), the AEMC (as part of its review of the east coast gas markets), Dr Vertigan's review of the of the test for pipeline coverage and the work undertaken by the Gas market Reform Group (GMRG). Throughout the MEU's responses to the various enquiries, it has provided firsthand accounts in regard to the total lack of ability for end users to obtain equitable conditions for access to those gas transmission pipelines which are not "covered" (ie are non-scheme pipelines) under the Gas Law. This outcome is despite the fact that some of these end users are amongst the largest firms in Australia

employing many thousands of workers across multiple sites and operate internationally.

The MEU points out that from the direct experience of its members and a number of smaller users of gas that MEU members have identified through direct relationships, negotiating with a monopoly service provider is challenging in the least. Some MEU members gave direct first hand experience to the ACCC during its review of the gas market about their experiences in dealing with gas monopoly service[1] providers. In those discussions, the members highlighted a number of major issues.

Over the years the MEU has brought to the attention of the various reviewers of the gas market, many aspects that end users are facing/have faced in their interactions with the gas transportation sector. For example, in a 6 February 2017 letter to the CoAG Energy Council Secretariat on the draft amendment to the National Gas Law on Pipeline Access Arbitration, the MEU observed:

> "[The MEU] has provided firsthand accounts in regard to the total lack of ability for end users to obtain equitable conditions for access to those gas transmission pipelines which are not covered under the Gas Law. This is, despite the fact that some of these end users represent some of the largest firms in Australia employing many thousands of workers across a multiple sites and experience international competition.
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> The MEU proposal for addressing this inequity was to make the coverage test reflect that, where a pipeline provided a monopoly service, it should become a covered pipeline. To a large extent, this is what the ACCC review identified; that the coverage test should be one which assessed the monopoly characteristics of the pipeline rather than an upstream/downstream market test that is designed for where service providers are vertically integrated). Dr Vertigan's approach is to force pipeline owners to be exposed to binding commercial arbitration.
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> The MEU has a view that monopoly services should be regulated as the monopoly service providers have demonstrated that they not only have power to set prices above the cost of providing the service and other access requirements, but are prepared to use this power to maximize their revenues. It is pointed out that electricity transport is fully regulated in both transmission and distribution services. While gas distribution is generally regulated (like electricity distribution), it is difficult to understand why gas transmission should be considered to be different to electricity transmission – so different that it is considered economic regulation of the gas transmission service is not required[2].

[1] Throughout this submission, the MEU makes reference to a "monopoly service". The MEU means by this term is that where a pipeline provides a service that cannot be directly provided by another pipeline, this is a monopoly service.
[2] The MEU points out that even in the United States of America, gas transmission pipelines are regulated

The MEU members report that their experiences with gas transmission service providers are not different to that of electricity transmission owners, in that both use their market power to get the best outcome for themselves. The only difference MEU members report is that as electricity transmission service providers are regulated they tend to be more circumspect in their dealings with end users.

As a core element, the MEU considers that the CoAG Energy Council needs to explain why gas transmission is so different that regulation (as seen for electricity transport) is not needed. In explaining this, the Council should reflect that economically efficient long-distance gas transportation is increasingly a vital segment of Australia's ongoing energy supply security, affordability and sustainability.

The Council should also acknowledge that pipeline coverage is no deterrence to investment. Firstly, the National Gas Law ensures that regulated pipeline owners can recover their efficient costs of efficient new investment and the AER's regulatory decisions reflect this. Secondly, gas pipeline investors will continue to enjoy the 15-year "honeymoon" period for new gas transmission pipeline investments, a privilege not afforded electricity transmission investors.

Is the threat of arbitration sufficient?

In light of Dr Vertigan's proposed approach and the draft amendment, the MEU questions the extent to which monopoly pipeline services providers will be influenced by the threat or outcomes of referral of disputes to commercial arbitration. The assumption at the core of the proposal is that, along with more disclosure, this will balance the asymmetry of knowledge and power inherent between a single end user and the provider of the monopoly service.

The Vertigan proposal specifically includes for greater disclosure and transparency of pipeline service pricing and contract terms and conditions as a way of addressing the information and knowledge asymmetry. However, the MEU is also aware that even the AER (which regulates monopoly energy transport services as its core business) has difficulty in addressing this asymmetry, even with its wide information gathering powers, experience and resources. That both the ACCC and the AER have, at times, experienced difficulty in extracting meaningful commercial information is further demonstration of the difficulty facing applicants in a commercial arbitration process, especially when the service providers have complex ownership structures.

The MEU considers that while the proposed greater disclosure and transparency might redress this asymmetry to some extent, there will still remain a considerable disparity between the resources and knowledge held by the monopoly service provider and an end user, leaving the end user at a significant disadvantage in any arbitration process.

The MEU questions how an end user will be able to provide sufficient countervailing pressure in the arbitration process to offset its lack of detailed knowledge and poorer ability to access critical information in order to provide a competent argument to an arbitrator[3].

Importantly, the arbitrator does not have the information gathering powers available to the AER and will be heavily reliant on information provided by the monopoly service provider.

The MEU points out that an arbitrator's role is not to access information independently (as does the AER in its role to regulate monopoly providers) but only to hear the arguments and assess whether the monopoly service provider has provided accurate information. As the arbitrator has little information of its own, it will rely on the end user to provide the countervailing argument based on its limited knowledge to dispute the arguments provided by the service provider. This then provides the service provider with a clear advantage in the arbitration process.

This asymmetry (even with the additional disclosure of information contemplated) implies that there will be a barrier to accessing commercial arbitration and that it might not appear to be sufficient of a threat to ensure equitable outcomes.

Based on feedback from Kimberly-Clark Australia (KCA) from its application for coverage of a pipeline, it would appear that the threat of coverage was not sufficient to provide an equitable outcome for it and this supports the view that the threat of commercial arbitration might have a similar impact (or lack thereof!)

It is clear that the concept of arbitration still significantly lacks an ability to address the information asymmetry and therefore is likely to deliver a less equitable outcome than might be expected. As the service provider will be aware of the continuing information asymmetry, the threat of arbitration will be quite limited and unlikely to lead to equitable outcomes; essentially, the threat of arbitration will not offset the concerns identified by the ACCC in its review.

Cost is a barrier too!

The MEU notes that the resources devoted by the AER to carrying out its role as a regulator of energy monopoly services are extensive. To carry out the identification and setting of reasonable access conditions through the arbitration process will be similarly resource intensive and result in significant costs for any end user seeking an arbitrated outcome. This means that for small end users (including residential

[3] The MEU points out that while the arbitration process might require a service provider to divulge identified information, this first requires the end user applicant to know that such information is necessary and is available. The adage "you don't know what you don't know" is quite apposite in this regard

consumers), the costs to get an equitable outcome will exceed any benefit they might individually gain for reduced pipeline tariffs. Essentially, this limits the use of arbitration to those end users that are significant users of gas and therefore seek considerable savings from an equitable outcome[4].

In an arbitration process, the service provider will be seeking to minimise any reduction to its overall revenue, fully aware that if the arbitrator awards a lower tariff for the end user initiating arbitration, it will be possible that other end users of the same service will also get the same price reduction as the initial end user applicant. As a result, the benefit gained by the initiating end user through the arbitration will be less than the reduction in revenue seen by the service provider[5].

This means that the service provider will be incentivized to challenge the end user applicant's arguments to the maximum extent, challenging the arbitrator with extensive information and legal argument to support its case. This will require the end user applicant to have to match this intensive investment by the service provider and at the same time, address the information asymmetry that still exists. This will result in an applicant incurring further costs (over and above the direct costs of the arbitration) for the process in order to provide the additional resources to access and use the information it needs to challenge the arguments of the service provider.

The MEU understands that KCA incurred considerable costs in just seeking coverage of one small pipeline and these costs did not involve any arguments before an arbitrator on what and why it considered were equitable costs for access to that pipeline. In a similar vein, consumer advocates providing input to the AER processes incur significant costs in an environment which is much less demanding than commercial arbitration. This firsthand experience of seeking an equitable outcome shows that the process facing an end user in taking a case to the arbitrator is potentially very expensive, supporting the view that the costs in entering into commercial arbitration will be a significant barrier to the proposed arbitral process.

[4]The MEU notes that, while it might be expected that retailers (as significant shippers for multiple end users) would act in the interests of the small end users they provide for, this does not seem to be the case. In the coverage application by Kimberly-Clark Australia (KCA), the MEU noted that retailers did not get significantly involved in the process even though their customers were exposed to the excessive prices asserted by KCA that were being charged by the pipeline owner. Similarly, in AER regulatory processes, retailers are usually not involved in the AER reviews. This implies that retailers tend not to get involved on issues where they all can just "pass through" the same costs faced by their competitors.

[5] For example, if there are 10 users of a pipeline, and each has similar capacity requirements, the service provider is defending 100% of any price reduction whereas the end user initiating the arbitration will only benefit from 10% of any reduction in revenue the service provider might incur. This issue of "free rider" provides the service provider a significant incentive which the initiating end user does not have.

While the costs to the service provider of an arbitral process will not be insignificant, they will be significantly lower than those of the end user applicant. This is because the end user applicant has to develop specific knowledge and identify key information to be able to develop and present the arguments to the arbitrator that there is inequity and what the value of that inequity is – essentially an end user will have to provide sufficient information and evidence to disprove the assertions the service provider will deliver to the arbitrator.

Further, the proposed Law change indicates that the cost of the arbitrator will be shared equally between the end user and the service provider, unless the arbitrator considers differently. This adds to the costs an end user will incur in the process. As clearly demonstrated in instances where the AER's decisions have been challenged by electricity and gas network owners, end users will be loath to take on such open ended financial risks, however compelling their case may be[6].

So, in addition to the information asymmetry, the exposure to costs to provide arguments will provide a significant barrier to end users using the arbitration process.

The "free rider" issue

As highlighted above, the implication of the increased disclosure of information to be provided to the market to assist in the arbitral process is that the outcomes of the first end user's arbitration process might be made available to subsequent end users also seeking equitable outcomes. Such an outcome introduces the issue of equity for the first end user as subsequent end users will benefit from "free riding" on the actions and expenditure incurred by the initial end user applicant. This is not equitable.

So not only will the initiating end user incur costs that result from the service provider acting to prevent an outcome that would flow onto other end users, but this will incentivize the initiating end user to accept a less than equitable outcome as the service provider will act to limit its risk exposure to much lower revenues from a flow on. Such an outcome is inefficient as not only does the initial end user applicant have a less equitable outcome but for smaller consumers, they will remain exposed to unnecessarily higher tariffs but without the incentive to seek arbitration as the costs could exceed their lower benefit from arbitration.

For example, if a large end user considers that an equitable outcome is a 20% fall in tariff, to avoid the costs of the arbitral process, it might accept a 10% reduction. This

[6]The MEU notes that the COAG Energy Council recognised this issue in the case of the AER/Tribunal decisions and has amended the National Electricity Law and National Gas Law to better facilitate users effective participation in the appeal process. The MEU questions why the COAG Energy Council does not appear to recognise this issue when it come to the economic regulation of gas transmission pipelines

outcome would not be made public as it would be a "commercial in confidence" agreement[7] between the two parties. This would allow the monopoly service provider to maintain or even increase the tariffs for other end users as it would be aware that the benefits the other end users might accrue through their own arbitration would not offset the costs those other end users might incur.

Further, even if there is disclosure of the basic access tariff that was negotiated between the pipeline owner and an individual end-user, there are many other charges that could be imposed on different users that sit outside the process and could require a specific arbitration to address them.

In contrast, under regulation, all consumers contribute to the costs of regulated outcomes and all benefit to the same extent.

Expeditious outcomes

The MEU and its associates have been involved in pipeline regulatory activities since the first energy network regulation process in the late 1990s. The MEU has seen the regulatory process grow immeasurably over the past two decades. Whereas in the early years of pricing for energy transport, proposals for new tariffs were relatively simple and comprised a single document, yet even so there was a considerable amount of work required to develop what were considered to be equitable pricing. The amount of work now involved reflects proposals running to many tens of documents (eg the current proposal from APA for the Victorian transmission network comprises 40 different documents). The MEU can see that even under a commercial arbitration process service providers would generate significant numbers of documents so as to demonstrate the reasonableness of their position to an arbitrator. This approach will lead to significant time demands and delay outcomes.

While not explained within the draft amendment, it would appear that the Gas Rules will be varied to provide the basis for an arbitrator to make assessments of the prices for access in the arbitration process. Under the current rules, prices are developed based on a cost build up using the building block approach coupled to an estimate of forecast usage to generate prices. This process has been used in gas pipeline regulation for over 20 years to identify appropriate pricing for tariffs and it would seem that this same approach is likely to be used for the arbitration process.

The MEU notes that it is not only actual data that is used in the development of transport pricing but there are extensive assumptions to provide forecasts for the

[7] Such an agreement would not be made public as it reflects a specific agreement between two parties and therefore would be confidential

different elements[8] used in the building block approach to assess the reasonableness of an assertion of price. Even aspects of the AER's decisions are debated between the AER and the service provider so it would be extremely challenging for an arbitrator to provide a binding decision when there are so many assumptions needed to demonstrate equity in the outcomes.

With this in mind, it is of considerable concern that the arbitration process would tend to emulate the AER regulatory process where decisions can require many months (even years) to reach a decision. Even AER decisions, while binding, can be appealed by the service provider and it is feasible that a service provider could well appeal an arbitrator's decision further extending the period to reach a final decision.

Conclusions

The theory underpinning the Vertigan report is that, with little or no information asymmetry, commercial arbitration would redress the problem identified by the ACCC[9].

However, commercial arbitration does not address the fundamental issues which are detailed above. But an overarching aspect of the proposed commercial arbitration approach is that effectively the onus of proof is on the end user as the end user has to prove to the arbitrator that the service provider is overcharging whereas the service provider only has to show that its prices are reflective of its costs.

The other aspects – that:

- The threat of commercial arbitration is overstated
- The cost of the process is a barrier to an equitable outcome
- There is a free rider issue that needs to be recognised
- Expeditious outcomes might not occur

still have to be addressed yet these critical issues do not appear to have been adequately considered.

The MEU is very concerned that the move to commercial arbitration to address the concerns raised by the ACCC is unlikely to deliver the equitable outcomes contemplated by the ACCC."

[8] These include the capital base, the rate of return, the operational expenditure, any new capital required, rates of future depreciation, depreciation already included, forecast inflation, forecast volumes of transport and the allocation of the total costs incurred by the service provider to provide for the specific transport arrangements sought by the end user

[9] And which was supported by the Vertigan review

What the MEU and its members have seen since the introduction of Part 23 of the Gas Rules and the changes to the Gas law supports its concerns it provided at that time and that pipelines are continuing to act like the monopolies they are.

While Part 23 has made it possible for end users to reach a more equitable negotiated position with the pipeline monopolies, there has still been a requirement for significant investigation and considerable investment in order to reach this "level playing field". So, to some extent, recent changes have led to a better outcome, but the changes have still required end users to expend considerable effort in order to achieve this outcome.

At the same time, MEU members report that they have been questioned by smaller end users about high pipeline tariffs and what might be done about this. This questioning by smaller end users highlights that these smaller end users are not necessarily even aware that there are potential remedies available under Part 23.

So it is clear that smaller end users are not only unaware of the opportunities available but when they do become aware, they see the cost to utilise the process is too high compared to the potential reward they might achieve through their efforts. As pointed out above, even large end users incur significant costs in order to get the outcomes they have, and that the costs they incur include, in addition to a share of the arbitrator's fees, the necessary investigation to prepare for such an arbitration. The MEU sees that these costs bear little relationship to the potential benefit lower prices might deliver, and so the costs are a barrier to those end users who use lesser amounts of gas.

What is also apparent is that the pipelines use time to their advantage. MEU members that have entered into dialogue with pipelines report that the pipelines seem to take considerably more time to "negotiate" in that they seek significant advice from the end users about aspects of the service to be provided and then delay responding to the end user while, at the same time, continue with the inflated tariff[10]. The smaller the end user, the greater the time used in the "negotiation" process.

The MEU also makes a number of other comments

Retailers are not surrogates for end users

> Retailers are by far shippers of the most gas and use the greatest amount of the inter-connected gas transmission network. Despite this, MEU members have not seen these retailers use their relationships with pipelines to reduce the costs of haulage.

[10] One MEU member reports that it took over 12 months to reach agreement with one pipeline, with most of this time taken by the pipeline in responding to the end user on the various matters

Most gas end users source their gas via retailers which means that the end user expects the retailer to ensure that the cost of transport of the gas is minimized. However, a retailer gets no benefit from hard negotiations with a pipeline operator as the retailer's competitor will get the same transport price which might be finally negotiated.

Because there is little value to a retailer in pursuing lower transport tariffs, those end users buying through a retailer do not see much benefit from the Part 23 changes to the rules.

The MEU also reports an observation made to one of its members by a pipeline operator. The operator commented that they did not have to discuss the issue with the end user because the gas rules do not require the operator to discuss issues with end users, but only with the party that contracts with them for haulage services[11]. Thus, the linear relationship between pipeline to retailer to end user[12] works against the end user, especially when the retailer does not work to ensure that transport costs are minimised.

There is little competition between pipelines

Across the east coast gas network there are few, if any, pipelines that provide the same service as another pipeline so there is almost no competition between any gas pipelines, implying that all are effective monopolies. For example, it is asserted that there is competition between the two pipelines serving a common usage point, eg at Sydney where MSP and EGP both deliver gas[13]. In fact both pipelines are monopolies in that MSP is the only pipeline to deliver gas to Sydney from the central Australian gas fields and beyond and EGP is the only pipeline delivering gas to Sydney from Bass Strait gas fields. So both provide a unique service and do not compete.

With the increasing price for gas as a commodity, an end user/shipper must source its gas from the lowest priced producer which then constrains the end user shipper to use the only pipeline delivering gas to the end user from that source.

The MEU therefore considers that it is essential that the ACCC recommended approach to determining the need for regulation is based on the characteristics of the services provided rather than on an assessment of apparent competition issues

[11] Fortunately this argument did not work with the end user because it was knowledgeable of the issues, but it would work where the end user did not have the requisite knowledge and so would be at the mercy of the retailer decision

[12] This is in contrast to the triangular relationship that applies in the electricity market where the network has an implied contractual relationship with the end user

[13] Similarly there is no competition between the two pipelines (SEAGas and MAPS) serving Adelaide, and similar observations can be made about a number of other pipelines

In contrast, if there are multiple pipelines carrying gas between the same two points and the pipelines are owned by different parties, and they notionally offer the same service, then that service would not be a monopoly service (but might be a duopoly service). The MEU is not aware of any pipelines in the eastern seaboard interconnected network that have direct competition like this.

Greenfields pipelines

The MEU is aware that when the firm pricing arrangement established for a greenfields pipeline expires, the operator has the ability to change prices. The MEU considers that as soon as this occurs, the pipeline needs to be subject to a review to test for its monopoly characteristics.

This does not always seem to occur and the rules need to be made very clear on this point

The MEU has attempted to complete the response template attached to the consultation RIS but points out that the answers to the various questions should be read in context with the foregoing commentary.

We appreciate the opportunity to have provided this input to the review process of the gas reform program. Should you wish for amplification of any of the comments provided in this response, please contact our Public Officer (David Headberry) on 03 5962 3225 or at davidheadberry@bigpond.com .

Yours faithfully

David Headberry
Public Officer

Pipeline Regulation Consultation Regulation Impact Statement – Stakeholder feedback template

Submission from Major Energy Users Inc

The MEU points out that the responses detailed in the template reflect the observations made in the body of this submission

This template is to assist you to provide feedback on the COAG Consultation RIS titled *Options to improve gas pipeline regulation*. The template focuses on the questions asked through the RIS, which seek your views on issues which are central to the identified problems and proposed options. You may not wish to answer each question and there is no obligation to do so. If you wish to provide additional feedback outside the template, wherever possible please reference the relevant question to which your feedback relates. Thank you for your feedback.

Chapter 5: Effectiveness of Part 23

No.	Questions	Feedback
1	If you are a shipper that has negotiated with the operator of a non-scheme pipeline since August 2017, or a service provider of a non-scheme pipeline, how effective do you think Part 23 has been in terms of:	
	(a) enabling shippers to make more informed decisions about whether to seek access and to assess the reasonableness of a service provider's offer?	For large shippers, Part 23 has assisted in getting better outcomes than before its introduction but there is a still a residual concern that even more balanced outcomes might have resulted with lower costs had improved regulation applied For small shippers, they first have to know that Part 23 exists but even if they do know, it has not provided much benefit at all, mainly due to cost barriers
	(b) reducing the information asymmetries and imbalance in bargaining power that shippers can face in negotiations?	There has been an improvement in reducing information asymmetry but still not to the extent needed to fully inform end users with sufficient data to debate issues on an equal footing
	(c) facilitating timely and effective commercial negotiations between shippers and service providers?	Pipelines still use delaying tactics because there is an incentive to do so

No.	Questions	Feedback
	(d) constraining the exercise of market power by service providers during negotiations by providing for a credible threat of intervention by an arbitrator?	The threat of arbitration has helped larger users in particular to reduce the asymmetry of power but not to the extent that full regulation would provide. What has also been seen, is that the pipeline will tend to offset the cost of arbitration by offering a price higher than might be equitable, but low enough to get acceptance. This means that there is still monopoly rent taking
	(e) enabling disputes that cannot be resolved through negotiations to be resolved in a cost-effective and efficient manner?	The MEU does not consider that the outcomes are cost effective from the view point of end users as they still face considerable costs just to get an equitable outcome and these costs reduce the value of any benefit that might eventuate for the end user
2	Do you agree with the observations and recommendations made by:	
	(a) respondents to the OGW shipper survey (see section 5.1)? If not, please explain why not.	The MEU generally supports the views expressed in the OGW survey as they express an improvement in the process. However, better outcomes could be achieved with all pipelines that are effective monopolies, if full regulation was applied
	(b) the Brattle Group in its review of the financial information (see section 5.2)? If not, please explain why not.	The MEU agrees with the Brattle conclusions about the need for the additional data and agrees that the additional data is needed if a more equitable negotiation is to occur. However it is important to note that even with access to sufficient data, the cost to the end user to utilise the data provided is considerable and this reduces the effectiveness of the regime and puts the pipeline in a stronger position in any negotiation
	(c) the ACCC in its review of the operation of Part 23 (see section 5.3)? If not, please explain why not.	The MEU agrees with the ACCC conclusions about the need for the additional data and agrees that the additional data is needed if a more equitable negotiation is to occur. However it is important to note that even with access to sufficient data, the cost to the end user to utilise the data provided is considerable and this reduces the effectiveness of the regime and puts the pipeline in a stronger position in any negotiation

No.	Questions	Feedback
3	Are there any changes that you think need to be made to Part 23 to make it more effective or efficient in terms of achieving its stated objective (i.e. to facilitate access at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market)?	The MEU considers that Part 23 is inappropriate for application when the pipeline provides a monopoly service and full regulation is considered to be more equitable and delivering better outcomes for end users

Chapter 6: Potential problems and objectives of action

No.	Questions	Feedback
4	Do you agree with the problems that have been identified and what effect do you think they could have on shippers, service providers, the relevant regulator, consumers and/or other gas market participants?	Yes. See also comments in the body of this submission
5	Are there any other problems that you think should be considered as part of the RIS (e.g. access to regional pipelines)? If so, please set out what they are, what effect you think they could have on shippers, service providers, the relevant regulator, consumers and/or other gas market participants, and how you think the problem should be addressed.	Hoarding of capacity is still a problem. It is possible that the auction process for spare capacity might alleviate some of the damage hoarding causes but for smaller users, there is a reliance on the retailer to ensure that the impacts of hoarding are minimised. [see comments re retailers in the body of the submission]
6	Are there any other objectives that you think the Energy Council should be pursuing? If so, please set out what they are.	See comments in the body of this submission

Chapter 7: When a pipeline should be subject to regulation and how decisions should be made

No.	Questions	Feedback
7	Do you think that the current threshold for regulation (i.e. all pipelines providing third party access are subject to regulation) is giving rise to over-regulation (see sections 7.2.1 and 7.3.1), or do you think the current threshold should be maintained?	The MEU considers that there is still under-regulation and that pipelines are still able to extract monopoly rents even in the current regime. As noted in the body of the submission, the MEU considers that the test for pipeline coverage is flawed and allows many pipelines that should be fully regulated to maximise their revenues by avoiding the proper pressures of full regulation, especially noting that Part 23 does little to assist small end users to get equitable prices The MEU points out that the price cap approach used by pipelines allows them to over recover the reasonable costs for the provision of the service [see the reasons for the AER decision to impose revenue caps in electricity network regulation]
	(A) If you think it is giving rise to over-regulation:	
	(a) How significant do you think this issue is and what are the consequences likely to be?	
	(b) Do you think the risk of over-regulation should be addressed by: (i) including an exemption mechanism in the regulatory framework to enable pipelines that do not have substantial market power to obtain an exemption from regulation? (ii) limiting the application of regulation to those cases where it is established that the pipeline has substantial market power? (iii) another means?	
	(B) If you think that (i) or (ii) should be implemented, do you think the test for establishing whether a pipeline has substantial market power should be based on the combined market power-NGO test proposed by the ACCC (see Box 7.6)?	The MEU supports the ACCC approach to address the market power a pipeline might have and to address the pipeline characteristics to assess its monopoly status

	(a) If so, do you think the onus of demonstrating this test is met (or not met) should sit with the decision-maker or the service provider?	With the decision maker. The service provider has a vested interest not to be regulated
	(b) If not, please explain why and what test you think should be employed.	
8	Do you think the application of Part 23 to pipelines providing third party access that have obtained a greenfield exemption is distorting investment incentives for greenfield pipelines (see sections 7.2.2 and 7.3.2), or do you think the current approach should be maintained?	No. Part 23, as a minimum, should apply to such pipelines
	If you think it is distorting investment incentives:	
	(a) How significant do you think this issue is and what are the consequences likely to be?	
	(b) Do you think this issue should be addressed by: (i) providing these pipelines with a full exemption from regulation? (ii) providing these pipelines with an exemption from the Part 23 arbitration mechanism, but not from the disclosure and negotiation elements of Part 23? (iii) another means?	
9	Why do you think:	
	(a) the greenfield exemptions in the NGL have not been used by a greater number of service providers?	
	(b) the CTP provisions in the NGR have not been used by a greater number of shippers or governments?	
10	Do you think the greenfield exemptions and CTP provisions should be retained in the regulatory framework, or do you think:	
	(a) changes to the greenfield exemptions and/or CTP provisions are required?	

	(b) the greenfield exemptions and/or CTP provisions should be replaced with another mechanism that would provide potential developers with greater certainty as to how new pipelines will be treated from a regulatory perspective, while also protecting potential users of these pipelines from exercises of market power?	
11	Do you think the current approach to seeking access to pipelines that are not providing third party access should be maintained (i.e. a decision must be made by the relevant Minister having regard to the NCC's recommendations and the coverage test), or do you think it should be mandatory for all pipelines to offer third party access on a non-discriminatory basis, as it is in the US and Canada (see sections 7.2.3 and 7.3.3)? Please explain your response to this question and set out what you think the costs, benefits and risks are likely to be of mandating third party access.	The current pipeline coverage test is inadequate and has caused harm to end users of gas [see comments in the body of this submission]. The ACCC identified that the coverage test as written in the Third party Gas Access Code and applied by the NCC is inappropriate and proposed an alternative based on pipeline characteristics rather than upstream/downstream market benefits. The MEU agrees with the ACCC on this essential element of pipeline regulation.
12	If the current threshold for economic regulation is maintained and a test for regulation is only required for third party access and greenfield exemption decisions, which of the following tests do you think should be employed (see section 7.3.4) and why: (a) the coverage test; (b) an equivalent test to the recently amended Part IIIA test; (c) an NGO-style test; or (d) a combined market power-NGO test?	See answer to Q11 for the preferred test (a) No (b) No (c) No (d) Possibly
	Do you think the onus of demonstrating the test is met (or not met) should sit with the decision-maker or service provider?	The decision must be made by an independent body experienced in assessing monopoly attributes (eg ACCC)
13	Do you think the governance arrangements associated with third party access and greenfield exemption decisions are giving rise to unnecessary costs and delays, or do you think the current arrangements should be maintained (see sections 7.2.4 and 7.3.5)?	There are costs involved in such decisions but the overall benefit is greater than the costs. The costs for seeking coverage or recoverage that as an end user Kimberly-Clark incurred in its unsuccessful attempt to get a monopoly pipeline regulated highlight that the current arrangements are flawed and biased against the interests of consumers An assessment along the lines proposed by the ACCC would be less costly than the current arrangements

	If you think the current arrangements could give rise to unnecessary costs and delays: (e) How significant do you think this issue is and what are the consequences likely to be?		The excessive costs to get coverage would mean that end users are unlikely to seek coverage even when coverage would be beneficial
	(f) Do you think this issue should be addressed by according a single organisation responsibility for making this decision? If not, please explain why not.		Yes
	If so:	(i) What expertise do you think this organisation should have?	A sound knowledge of how service providers use the market rules to avoid competition and/or regulation
		(ii) Which of the following organisations do you think should be responsible for making this decision: - the ACCC? - the relevant regulator (i.e. the AER or the ERA in Western Australia)? the NCC? - another organisation?	The ACCC
14	If a change is made to the governance arrangements, do you think the same organisation should also be responsible for making form of regulation decisions (see Chapter 8)?		yes
15	Are there any other problems with this aspect of the regulatory framework that have not been identified in this chapter? If so, please outline what they are and how you think they should be addressed.		

Chapter 8: Forms of regulation

No.	Questions		Feedback
16	Do you think the use of the coverage test as a gateway between Part 23 and full regulation is resulting in under-regulation? (A) If not, please explain why not.		Yes, see comments in the body of this submission
	(B) If so:	(a) How significant do you think this issue is?	Very

No.	Questions		Feedback
		(b) Do you think the coverage test should be removed and a single test used for moving between the alternative forms of regulation? If so, do you think the single test should be based on: (i) the form of regulation test in s. 122 of the NGL (see section 3.1.1)? (ii) another test?	Yes. The test should reflect the characteristics of the pipeline and not reflect the needs of other markets
		(c) Do you think: (i) the onus of demonstrating that a particular form of regulation should apply to a pipeline should sit with the applicant or decision making body; or (ii) the onus should be on the service provider to demonstrate why a heavier handed form of regulation is not required?	The decision should lie with the decision making body. An applicant and the service provider would have a biased view on the form of regulation
		(d) Do you think the relevant regulator should play a greater role in monitoring the behaviour of service providers and be able to refer pipelines for a form of regulation assessment if it suspects market power is being exercised?	Yes
17	Do you agree that the inconsistencies and overlap between the three forms of regulation that are currently available under the regulatory framework are increasing the complexity and administrative burden for regulators, shippers and service providers? (A) If not, please explain why not.		Yes. The MEU considers that all pipelines providing a monopoly service should be fully regulated. The MEU considers that the inclusion of "light regulation" is not in the interests of consumers [the MEU points to the concerns the ACCC sees with light regulation of airports]
	(B) If so:	(a) How significant do you think this issue is?	There is little need for light regulation and where this occurs, end users are not convinced this is to their benefit
		(b) If the number of forms of regulation was reduced to two, do you think:	

No.	Questions		Feedback
		(i) the heavier handed form of regulation should be based on: - full regulation (i.e. negotiate-arbitrate with reference tariffs)? - direct price (revenue) control? - another form of regulation?	Full regulation
		(ii) the lighter handed form of regulation should be based on: - the existing light regulation? - Part 23? - a strengthened Part 23 (i.e. the existing Part 23 plus the safeguards available under light regulation)? - another form of regulation?	The MEU considers there is no need for light regulation
18	Do you think there is a case for adopting a different lighter handed form of regulation for distribution pipelines? If so, do you think it should be based on: (a) the Default Price Path (DPP) approach used in New Zealand? (b) the negotiated settlements approach used in the US and Canada? (c) another form of regulation? Please explain your responses to these questions.		No
19	Do you think additional measures are required in the regulatory framework to deal with dynamic market power? (A) If not, please explain why not.		yes
	(B) If so:	(a) Do you think the NGR should be amended to include:	
		(i) an explicit right to interconnection to regulated pipelines?	Yes
		(ii) pricing principles for interconnections to regulated pipelines?	yes

No.	Questions		Feedback
		(b) Do you think the NGR should be amended to prohibit regulated pipelines from cross-subsidising new capacity by requiring incremental pricing to be used where the cost of an expansion or extension would otherwise result in the price of existing capacity increasing?	The MEU considers that new capacity should only be added to the regulatory asset base where it can be shown that the new capacity increases the utilisation of the existing pipelines (thereby reducing costs for existing consumers) can be provided so that existing customers are no worse off.
20	Are there any other problems with this aspect of the regulatory framework that have not been identified in this chapter? If so, please outline what they are and how you think they should be addressed.		

Chapter 9: Information disclosure requirements

No.	Questions		Feedback
21	Do you think the limited information available on full regulation pipelines is hindering the ability of shippers to negotiate access to non-reference services or having any other adverse effects (see section 9.2.1)? (A) If not, please explain why not:		yes
	(B) If	(a) How significant do you think this issue is?	Gathering the historical data from previous resets can be challenging but not impossible

No.	Questions		Feedback
	so:	(b) Do you think this issue should be addressed by requiring full regulation pipelines to publish the following information: (i) a description of all the reference and non-reference services offered by the pipeline (pipeline service information); (ii) the standing terms for non-reference services (i.e. the standard terms and conditions, the standing prices and methods used to calculate standing prices); (iii) information on the prices paid by shippers for each reference and non-reference service; (iv) historic demand information for each service offered by the pipeline; and (v) historic financial information for the pipeline on an annual basis in accordance with a financial reporting guideline published by the relevant regulator.	More information published annually would be useful
22	Do you think the deficiencies that have been identified with the pricing methodologies and financial information published by service providers are limiting the reliance that shippers can place on this information and making them more susceptible to exercises of market power (see section 9.2.2)? (A) If not, please explain why not:		yes
	(B) If so:	(a) How significant do you think this issue is?	

No.	Questions		Feedback
		(b) Do you think the deficiencies that have been identified with the pricing methodologies should be addressed by amending the NGR to require: (i) service providers to publish the inputs used to calculate standing prices? (iii) the relevant regulator to publish a guideline on what information should be contained in the pricing methodology?	yes
		(c) Do you think the deficiencies that have been identified with the financial information should be addressed by requiring service providers to report on the extent to which future costs are likely to be in line with historic costs, and historic information on contracted capacity and volumes transported?	yes
23	Do you think the deficiencies that have been identified with the weighted average prices are limiting the reliance that shippers can place on this information and making them more susceptible to exercises of market power (see section 9.2.2)? (A) If not, please explain why not.		yes
	(B) If so:	(a) How significant do you think this issue is?	
		(b) Do you think the deficiencies should be addressed by requiring service providers to report: (i) the individual prices (plus key terms and conditions) paid by each shipper rather than weighted average prices; or (ii) the minimum and maximum prices paid for each service in addition to the weighted average prices?	Individual prices could lead to information that is confidential to end users being made public. The MEU does not support this Weighted average prices can lead to over recovery of revenue unless carefully constructed Unidentified max and min prices with the weighted average would be preferable
		If you are a shipper, please explain what, if any effect, the disclosure of individual prices may have on competition in the markets in which you compete.	The MEU does not support any information specific to an end user to be made public as this information can impact the end user in its own markets

No.	Questions		Feedback
		If you are a service provider, please explain what effect the disclosure of individual prices or the price range may have on your incentive to offer prudent discounts to shippers.	
24	Do you think the quality and reliability issues identified by the ACCC are limiting the reliance shippers can place on the information reported by service providers and making them more susceptible to exercises of market power (see section 9.2.3)? (A) If not, please explain why not.		yes
	(B) If so:	(c) How significant do you think this issue is?	
		(d) Do you think this issue should be addressed by implementing one or more of the following measures: (i) amending the NGR to provide for greater regulatory oversight of the information reported by service providers? (ii) amending the access information standard in the NGR to require information to be updated as soon as practicable if the information is found to no longer be accurate? (iii) increasing the penalties for breaches of the information disclosure obligations and the access information standard? (iv) the changes to the Financial Reporting Guideline identified by the ACCC and the Brattle Group (see Appendix B) should be implemented?	All options should be applied

No.	Questions	Feedback
25	Do you think the current approach to reporting information should be maintained, or do you think: (a) the NGR should be amended to require the relevant regulator to prepare a guideline that sets out where and how the information is to be disclosed on a service provider's website and to inform the regulator whenever changes are made? (b) links to all the information reported by service providers should be published in a single location (e.g. the regulator's website, the Bulletin Board or AEMC register)? (c) all the information reported by service providers should be made available through a single repository? Please explain your response to this question and set out how significant you think the accessibility issue is for shippers.	A single source of data is preferred as this allows easier comparisons between different pipelines and service providers
26	Do you think, the current approach to reporting information should be maintained, or do you think the usability should be improved by requiring: (a) a summary tab to be included in the financial reporting template to provide a high level summary of the key financial and pricing information; and/or (b) a template to be developed to enable shippers to use the information published by service providers to calculate one or more the pricing benchmarks identified by the Brattle Group? Please explain your responses to these questions and set out how significant you think the usability issue is for shippers.	The MEU supports both approaches
27	Do you think the current exemptions from information disclosure under Part 23 should be retained, or do you think the scope should be amended to require exempt pipelines to publish a basic set of information?	The MEU considers that all pipelines should provide the necessary data to allow an end user to identify what should be the appropriate price for a service sought by the end user

No.	Questions	Feedback
	If you think a basic set of information should be reported by all pipelines, what do you think it should include (e.g. pipeline service information, standing terms, the prices paid by other shippers, service availability and pipeline information)?	
28	Do you think the size threshold used for exemptions under Part 23 should be retained, or do you think it should be aligned with the 10 TJ/day nameplate rating used for the purposes of full and light regulation, the Bulletin Board and the capacity trading reforms?	The MEU does not support any exemptions. Its experience with the smaller capacity pipelines is that the operators use the exemptions to the disadvantage of the end users. It needs to be remembered that from an end user viewpoint, the cost of the service provided by a small capacity pipeline to a small number of users can have a similar financial impact as a larger capacity pipeline. For example, Epic Energy cites a cost of $0.56/GJ to use its SEPS pipeline (<10 TJ/d capacity) for ~40 km of haulage but SEAGas quotes ~$0.90/GJ/d to haul gas from Port Campbell to Adelaide. So to an end user of SEPS the cost of haulage is a significant element of the overall haulage cost. The cost impact to an end user can be unrelated to the capacity of the pipeline
29	Are there any other problems with the information disclosure requirements or exemptions that have not been identified in this chapter, or changes you think should be made to address the information deficiencies, accessibility, usability, reliability and quality issues outlined in section 9.2? If so, please explain what they are.	See commentary in the body of the submission

Chapter 10: Negotiation frameworks and dispute resolution mechanisms

No.	Questions		Feedback
30	Do you think the differences in negotiation frameworks applying under Part 23 and full/light regulation is causing confusion, imposing unnecessary costs on negotiating parties or otherwise hindering the ability of shippers to negotiate access (see section 10.2.1)? (A) If not, please explain why not.		yes
	(B) If so:	(a) How significant do you think this issue is?	
		(b) Do you think this issue should be addressed by adopting a single negotiation framework that would apply under all negotiate-arbitrate models that is based on: (i) the approach currently applied under full and light regulation (see Table 10.1)? (ii) the approach currently applied under Part 23 (see Table 10.1)? (iii) a hybrid of the two frameworks as described in section 10.3.1?	The MEU considers that all pipelines providing a monopoly service should be fully regulated. Other pipelines could be regulated under Part 23
31	Do you agree with the ACCC that the preliminary enquiry process in Part 23 could delay a shipper's access to arbitration if negotiations fail and also allow service providers to avoid the rules relating to access requests (including response times)? (A) If not, please explain why not.		Yes
	(B) If so:	(e) How significant do you think this issue is?	From first hand experience, the issue is significant
		(f) Do you think the preliminary enquiry process should be removed from Part 23?	Yes, or a strict timetable be implemented

No.	Questions		Feedback
32	Do you agree that the credibility of the threat of arbitration is weaker for smaller shippers (see section 10.2.2)? (A) If not, please explain why not.		Yes
	(B) If so:	(a) How significant do you think this issue is?	Very
		(b) Do you think the position of smaller shippers would be improved by: (i) making it easier for pipelines to move from lighter to heavier handed forms of regulation as set out in Chapter 8? (ii) requiring individual prices or maximum and minimum prices to be reported by service providers rather than weighted average prices (see Table 9.2)? (iii) improving the usability and accessibility of information reported by service providers in the manner set out in Table 9.2?	Making all pipelines offering a monopoly service being fully regulated would be in the interests of smaller consumers
		(g) Do you think any of the following should occur to further strengthen the position of smaller shippers: (i) amend the cost provisions to prevent the dispute resolution body from awarding the service provider's costs against smaller shippers (relevant to full and light regulation only) and making smaller shippers pay more than half the dispute resolution body's costs? (ii) allow user groups to intervene in arbitral proceedings involving smaller shippers? (iii) give smaller shippers the option under Part 23 to have the dispute heard by the relevant regulatory dispute resolution body or a commercial arbitrator?	Apart from being aware there is an option, the main driver preventing smaller shippers from using Part 23 are the costs. These costs include more than the arbitration process and include the cost to prepare for any form of dispute resolution. While the options might assist the smaller shipper in getting a more expedited outcome, it is the cost that is the main driver. The MEU points out that even for large firms with large gas usage, they will still balance the cost to the benefit and would still measure the cost to benefit in terms of likely benefit measured over a short period of time.

No.	Questions		Feedback
		(h) If any of the measures outlined in (c) are implemented, how should 'smaller shipper' be defined? If you think it should be based on a size threshold, what threshold do you think should be adopted?	The MEU does not consider that defining a small shipper assists in the process at all. Even a large shipper still needs to minimise the costs even if the reward is greater
33	Do you think:	(a) there are any other groups of shippers for whom the threat of arbitration may not be considered credible by service providers?	
		(b) there any other factors that may discourage shippers from threatening the use of arbitration?	
34	Do you agree that the limited guidance provided in the NGL/NGR on the matters to be considered by the dispute resolution body under full and light regulation as set out in section 10.2.3 are adversely affecting the efficiency, effectiveness and credibility of the dispute resolution mechanism applying to full and light regulation pipelines? (A) If not, please explain why not.		
	(B) If so:	(a) How significant do you think this issue is?	

No.	Questions		Feedback
		(b) Do you think these deficiencies should be addressed by amending the NGL/NGR to: (i) require the dispute resolution body to have regard to the NGO, the revenue and pricing principles, an applicable AA (where relevant), previous AAs or access determinations, pre-existing contractual rights and the price and revenue regulation provisions in Part 9 of the NGR? (ii) require the existence of a dispute to be made public and to set out the process for joining parties? (iii) introduce a 50-day fast-track option for certain disputes under full regulation? (iv) specify the maximum period of time to be taken by the dispute resolution body to resolve a dispute (e.g. 8 months or 12 months)? (v) only require the access determination to be binding on a shipper if the shipper decides to enter into a contract that reflects the access determination and to prevent a shipper that decides not to enter into such a contract from seeking arbitration for the same or a substantially similar service for 12 months? (vi) require the dispute resolution body to publish the access determination, statement of reasons, relevant financial calculations and information provided in the course of the dispute (subject to the confidentiality provisions in the NGL)?	
35	Do you have any concerns with the Part 23 pricing principles (see Box 10.1?		

No.	Questions		Feedback
	If so:	(a) Please explain what your concerns are, how significant you think they are and what, if anything, you think could be done to address these concerns.	
		(b) Do you think these concerns will be addressed by making it easier for pipelines to move from lighter to heavier handed forms of regulation?	
		(c) Do you think there would be value in providing greater clarity in Part 23 about: (d) how prior regulatory decisions are to be accounted for by an arbitrator, in those cases where a pipeline has previously been subject to full regulation, particularly if it becomes easier to move between forms of regulation? (ii) shared costs are to be allocated between other assets that are operated by the service provider and between the services offered by the pipeline?	
36	Are there any other problems with the negotiation frameworks and dispute resolution mechanisms that have not been identified in this chapter, or changes you think should be made to address the issues identified in section 10.2? If so, please explain what they are.		

Chapter 11: Policy options

No.	Questions	Feedback
37	Of the four policy options that have been identified in Chapter 11, which option do you think should be implemented (i.e. Option 1, Option 2, Option 3 or Option 4) and why?	The MEU considers that all pipelines that provide a monopoly service should be regulated as this approach protects all consumers, and provides them with protection against the exercise of market power, whether this market power is in terms of access, pricing, timing, etc
38	If there are other policy options or refinements to these policy options that you think should be considered, please explain what they are, what they would involve and what the advantages, disadvantages, costs, benefits and risks are with these options.	
39	Do you agree with the advantages, disadvantages, costs, benefits and risks that have been identified for each option in sections 11.2-11.4? If not, please set out what other advantages, disadvantages, costs, benefits and/or risks that you think are associated with each option?	
40	If you think any of the policy options out in Chapter 11 could be implemented through alternative means (i.e. non-regulatory), please explain how you envisage this would work.	
41	If options 2, 3 or 4 were implemented and 'light regulation' removed, which of the following transitional arrangements do you think should be employed for the 5.5 pipelines that are currently subject to this form of regulation:	
	(a) grandfather the existing light regulation arrangements until an application is made for the form of regulation to change on the 5.5 pipelines?	No
	(b) deem all light regulation pipelines to be subject to full regulation?	Yes
	(b) deem all light regulation pipelines to be subject to the new lighter handed form of regulation (i.e. the strengthened Part 23)?	No
	(c) require the decision making body to carry out an assessment of	Possibly

	whether the pipelines should be subject to the heavier handed or lighter handed form of regulation using the form of regulation test?	
42	Are there any other transitional arrangements that need to be considered? If so, please outline what they are.	

Chapter 12: Regulatory impact assessment

No.	Questions		Feedback
43	Do you agree with the risks that have been identified for: (a) the status quo in Tables A.1 and A.2? (b) identified for Options 2-4 in Tables A.3 and A.4? If not, please explain why not. If you think there are other risks and treatments that should be accounted for, please explain what they are.		While generally agreeing with the assessment the MEU considers that) the consequence of some pipelines being unnecessarily regulated is minor) the consequences of exercise of dynamic market power are high) the consequences of unnecessary costs and delays on negotiating parties are major for end users
44	Do u:	(a) agree with the categories of costs and benefit categories set out in Table 12.1, or are there other categories that you think should be considered in the CBA?	Many large gas users are regionally located and are the major employers in those regions. High gas prices are making these regional employers less commercially viable putting employment at risk. The MEU considers that lower prices and less monopoly rent taking will enhance regional employment
		(b) have any information on the costs and benefits outlined in Table 12.1? If so, please elaborate on the source and quantum of those costs and benefits.	Kimberly-Clark provide the ACCC with the costs they incurred in their (unsuccessful) application of coverage of a monopoly pipeline during the ACCC review of the gas market and the total cost was measured in multiples of $100,000
		(c) agree with the proposed discount rate and appraisal periods to be used for the central case and sensitivity testing? If not, please explain why.	The MEU considers that the proposed real discount rate is too high in today's low interest environment and a rate similar to that used by the AER for network regulation is more appropriate
		(d) think there are other input variables that should be subject to a sensitivity analysis? If so, please explain what those inputs are.	
45	Do you have any information on the compliance costs associated with the policy options set out in Chapter 11 that could be used for the CRBM? If so, please elaborate on the source and quantum of the costs.		
46	What, if any effect, do you think the policy options summarised in Chapter 11 will have on competition in the gas market and, in particular on:		The MEU considers that the gas market is "highly concentrated" in both the supply of gas and in the provision of gas transport. This assessment is reinforced by the ACCC review of the east coast gas market. The MEU also considers that there are almost no gas pipelines that are in competition with another, in that each provides a unique service in gas haulage. With this in mind, to improve economic welfare of consumers will require increased regulation as it is unlikely that competition can increase to the level

No.	Questions	Feedback
		required
	(a) the relative bargaining power of shippers and service providers?	Options 2, 3 and 4 will move towards rebalancing bargaining power
	(b) the search and transaction costs associated with contracting pipeline services?	Options 2, 3 and 4 will tend to transfer search and transaction costs between the parties (most likely to those parties with the competence to maximise the value of the work done) and potentially decrease them
	(d) the potential for collusive behaviour in competitive segments of the market?	Options 2, 3 and 4 will tend to reduce collusion
	(e) changes to any barriers to entry that could promote or deter market entry?	Options 2, 3 and 4 will tend to reduce barriers to entry for end users and producers but have little impact on pipelines
	(f) the long-term outlook for investment in the sector?	It is important that overall investment is assessed, rather than investment in the sector. Removing monopoly rent taking will have minor impact on pipeline investment but will significantly enhance investment upstream and downstream.