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Gas Market Reform Group (GMRG)
c/o Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

By email: katherine.lowe@gmrg.coagenergycouncil.gov.au

Energy Consumers Australia submission on transparency measures in gas markets

Dear Katherine,

Energy Consumers Australia understands that, at the request of the Prime Minister, the GMRG and the Australian Competition and Consumer Commission (ACCC) are currently collaborating to identify information gaps in the gas market as well as steps that could be taken to improve transparency and reduce information asymmetries faced by some market participants. In that context, a range of possible transparency measures have been identified by GMRG and the ACCC along the supply chain and are currently the subject of consultation (“the transparency measures”).

We appreciate the opportunity to comment on the transparency measures. Energy Consumers Australia is the national voice for residential and small business energy consumers. Established by the Council of Australian Governments Energy Council (the Energy Council) in 2015, our objective is to promote the long-term interests of energy consumers with respect to price, quality, reliability, safety and security of supply.

Set out below are our general comments on the transparency measures followed by specific comments regarding the design and implementation of the particular transparency measures that have been proposed.

1. ECA’s general comments on the transparency measures

A well-functioning market hinges on transparency – specifically, the availability of relevant information to enable market participants to make informed, efficient decisions. However, lack of transparency is a characteristic of the gas market.

Specifically, most gas sales occur under long-term bilateral contracts, which are confidential.¹ In comparison, the volume of gas that is openly traded is a relatively small proportion of total gas sales. There is also a disparity between the type of information available to large participants such as gas producers and retailers, compared to customers that participate less frequently in the market.²

This pronounced lack of transparency needs to be viewed in the context of broader issues associated with the level of competition in the gas market. Specifically, the market is dominated by a limited number of producers and retailers,³ who have the capacity to exercise considerable market power. There is also evidence of gas pipeline businesses engaging in monopoly pricing, resulting in higher

¹ AER, *State of the Energy Market Report*, May 2017, p. 74. AEMC, *East Coast Wholesale Gas Markets and Pipeline Frameworks Review - Stage 2 Final Report*, 23 May 2016, p. i.

² AER, *State of the Energy Market Report*, May 2017, p. 74.

³ AER, *State of the Energy Market Report*, May 2017, pp. 68 - 69.

gas prices for users.⁴ While competition in the market for transportation of gas has somewhat improved following the introduction of an arbitration regime to help resolve disputes between pipeline operators and users, this mechanism is most accessible for larger gas users, but less so for smaller users. In the meantime, many details regarding transportation arrangements and, importantly, transportation prices remain confidential. As a general principle, Energy Consumers Australia believes that the long-term interests of energy consumers are best served through arrangements which promote effective competition in energy markets, including by increasing transparency and rectifying information asymmetry. However, measures that are designed to enhance transparency may not deliver real, tangible benefits for consumers unless consumers are a primary focus when designing and implementing such measures.

More specifically, we make the following comments.

- **Purpose of transparency measures:** The transparency measures should be specifically designed to facilitate competition and aid price discovery at each stage of the supply chain so as to maximise the chance that the collective impact of such measures results in tangible benefits for consumers, particularly in the form of lower gas prices.
- **Pass through of benefits to consumers:** The transparency measures should be assessed in the context of the broader regulatory and commercial context in which they will be employed to determine whether they are likely to generate benefits for consumers at the end of the supply chain. Unless this can be assured, the transparency measures may result in increased burden and costs for regulated entities that could be passed through to consumers, without conferring any real benefit.
- **Usefulness of information:** To enhance the capacity of the transparency measures to deliver benefits for consumers, the measures should generate information that is useful, accessible and digestible by relevant market participants. Practical issues associated with implementation of the transparency measures – including location, format and volume of information that is produced as a result of the transparency measures – are likely to affect how effective the transparency measures are in facilitating competition and, ultimately, generating benefits for consumers.
- **Integrity of information:** Compliance and enforcement mechanisms to ensure the accuracy and integrity of the information generated through the transparency measures are essential. These mechanisms will help to build consumers' trust and confidence that the market mechanisms will work in their favour. For all the transparency measures, the Australian Energy Regulator (AER) should be empowered and adequately resourced to proactively monitor compliance and take appropriate compliance and enforcement action in the event that transparency obligations are not complied with.

⁴ AER, *State of the Energy Market Report*, May 2017, p. 13. ACCC, *Inquiry into east coast gas market*, April 2016, pp. 99 -106.

2. ECA's responses to specific transparency measures

2.1 *Publication of reserves and resources by producers*

The GMRG/ACCC proposal is that all producers will publish information on the Bulletin Board regarding their 2P reserves and resources, so that market participants have a better understanding of the supply outlook and can make more informed consumption, contracting and investment decisions.

In our view this proposal is justified in light of observations by both the ACCC and the AER that there is no clear, consistent and accurate reporting on gas reserves in eastern Australia because relevant data is collected through a range of disconnected mechanisms and bodies. Moreover, data standards and aggregation across sources is inconsistent and assumptions underlying the data are often not transparent. Accordingly, Energy consumers Australia supports this proposal.

In relation to design issues, Energy Consumers Australia recommends consideration of the following issues when designing this transparency measure.

- **Trigger and frequency:** To be useful, information about reserves and resources should be as current as possible. It will be necessary to determine when the obligation to publish information by producers is triggered and how often the information needs to be revised and updated.
- **Statement of assumptions:** A statement of relevant assumptions should accompany published information about reserves to ensure that the basis and context for such information is clear. Guidance may be required to ensure that the assumptions are consistently identified and articulated by producers.
- **Standardisation and aggregation of information:** To facilitate analysis and assessment by market participants, information about resources and reserves should be standardised and, where possible, aggregated across sources.

2.2 *Publication of information on storage*

The GMRG/ACCC proposal is that more information on storage will be publicly available on the Bulletin Board. This measure is intended to address gaps in existing transparency measures for storage facilities.

Energy Consumers Australia's view is that information on gas storage is clearly critical for the well-functioning of the gas market and, on this basis. We therefore support this transparency measure. The Productivity Commission has noted that gas storage enhances system security by allowing for system injections at short notice to manage peak demand and emergencies. It also provides retailers with a hedging mechanism if actual gas demand varies significantly from forecast demand. Demand for storage is expected to increase, particularly to manage supply and demand fluctuations on the east coast. There is evidence that storage capacity is being secured by large buyers, particularly retailers.

In relation to design issues, in light of the above, Energy Consumers Australia recommends consideration of the following issues when designing this transparency measure.

- **Monopolisation of storage capacity:** The likely effectiveness of this transparency measure to address monopolisation of storage capacity by large buyers will be determined, at least in part, by the specific information that is required to be disclosed. Information on storage capacity on its own is unlikely to be effective. Ideally, the transparency measure should include a requirement to publish information about the proportion of capacity secured by individual buyers (on an anonymous basis) over particular time periods and the extent to which that storage capacity is actually being utilised.

- **Planned storage capacity:** When possible, information about future, planned storage capacity should be published to help ensure appropriate investment in storage capacity occurs and to enable downstream buyers to make efficient, long-term decisions based on likely available storage capacity.

2.3 *Bilateral contract pricing information*

The GMRG/ACCC proposal is that prices struck in the following types of bilateral contracts are to be published:

- short-term gas supply agreements and swaps entered into outside the Gas Supply Hub;
- gas transportation agreements entered into between shippers and pipeline operators; and
- gas storage agreements entered into between shippers and storage providers.

Energy Consumers Australia's view is that this proposal helps to address the lack of indicative price information for gas – including the price of the resource itself and the services associated with storage, transportation and delivery of the resource – which greatly hinders the market's ability to deliver competitive, efficient outcomes. Information asymmetry in favour of producers, pipeline operators and large retailers that are typically party to more trades disadvantages other gas users and, ultimately, consumers. Therefore, Energy Consumers Australia supports this proposal.

In relation to design and implementation issues, Energy Consumers Australia recommends consideration of the following issues when designing and implementing this transparency measure.

- **Trigger:** Pricing information should be as current as possible. It will be necessary to determine when the obligation to publish pricing information is triggered and mechanisms will be needed to identify, in a timely manner, when non-compliance with the obligation has occurred.
- **Contextualisation of pricing information:** In order to maximise the usefulness of the pricing information, it should be contextualised (that is, the basis for the prices should be disclosed) and, if possible, such information should be standardised to facilitate comparison.
- **Compliance priority:** Ensuring compliance with this transparency measure should be a treated as a high priority by the AER.

2.4 *Standing prices offered by pipeline operators*

The GMRG/ACCC proposal is that service providers will be required to publish standing prices (i.e. the prices at which service providers will offer to enter into contracts) for:

- all gas pipelines providing third party access, irrespective of size;
- compression services; and
- storage services.

In our view, this proposal is clearly justified in light of evidence that a large number of existing pipeline operators have been engaging in monopoly pricing, which leads to higher delivered gas prices for users and, ultimately for consumers. Enhanced transparency will help to constrain the market power of pipeline operators. Accordingly, Energy Consumers Australia supports this proposal.

In relation to design and implementation issues, the issues for this transparency measure are similar to those applicable to bilateral contract pricing.

- **Trigger:** Pricing information should be as current as possible. It will be necessary to determine when the obligation to publish pricing information is triggered and mechanisms will be needed to identify when non-compliance with the obligation has occurred.
- **Contextualisation of pricing information:** In order to maximise the usefulness of the pricing information, it should be contextualised and, if possible, standardised to facilitate comparison.
- **Mechanisms to ensure offers are honoured:** The transparency measures should be complemented by appropriate mechanisms to ensure that pipeline operators honour the published standing prices when third party access is sought.
- **Compliance priority:** Ensuring compliance with this transparency measure should also be a treated as a high priority by the AER.

Please do not hesitate to contact me on lynne.gallagher@energyconsumersaustralia.com.au if you would like to discuss or require clarification in relation to Energy Consumers Australia's response to the proposed gas transparency measures.

Yours sincerely

Lynne Gallagher

Acting Chief Executive Officer