



EnergyAustralia

10 July 2013

Wagga Wagga Gas Distribution Network
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Dear Sir/Madam

Re: Draft Recommendation – Application under the National Gas Law for a revocation of coverage determination for the Wagga Wagga Gas Distribution Network

1. Introduction

EnergyAustralia appreciates the opportunity to provide a submission on the National Competition Council's (NCC) Draft Recommendation – Application under the National Gas Law for a revocation of coverage determination for the Wagga Wagga Gas Distribution Network.

We are one of Australia's largest energy companies providing gas and electricity to over 2.7 million households and businesses across most jurisdictions. In particular we are also one of only two retailers supplying customers in the Wagga Wagga gas distribution network.

2. Support for Draft Recommendation

EnergyAustralia supports the NCC's Draft Recommendation to not revoke coverage of the Wagga Wagga Gas Distribution Network. We agree that the coverage criteria are met for this distribution network and that customers are much more likely to achieve increased efficiencies and competition benefits when supplied via a regulated gas distribution network.

3. Light Regulation Unsuitable

In this submission we would also like to confirm our view on light regulation for the Wagga Wagga Gas distribution network. Light regulation is a less intrusive form of regulation for the asset owner and focuses on non-price terms of access. It is also intended to be used where the asset owner does not possess significant market power and where negotiated outcomes would possibly occur. Light regulation is also intended to be less expensive avoiding access arrangement preparations and submissions.

However, EnergyAustralia does not believe that light regulation is suited for this monopoly distribution network as the pipeline owner holds considerable market power over retailers and consumers that have no economic alternative for the delivery of natural gas. Moreover the lack of transparency and oversight on future distribution pricing does not provide existing users with long term confidence that opportunity pricing will not occur. The prospect of managing failed term negotiations, under light regulation, by raising disputes with the Australian Energy Regulator is awkward and most likely expensive for existing retailers. It is also something that would likely dissuade new retailers from participating in this gas distribution network.

4. General NCC Findings

We concur with the findings of the NCC that the opportunities to attract additional load will not be sufficient to constrain access prices if this distribution network was uncovered. Even if this was not the case the ability to negotiate fair and equitable non-price access terms is questionable. There is a real threat that the pipeline owner will transfer risk to pipeline users in an attempt to maintain returns as gas loads and revenues fall¹.

The pipeline owner and the NCC have made mention of the countervailing power that retailers possess in distribution network negotiations. While EnergyAustralia believes it has a reasonable relationship with the pipeline owner our ability in the past to negotiate anything different to that put forward by this pipeline owner has been negligible. A retailer's ability to obtain a reasonable outcome must not be over stated.

The threat of re-coverage to offset unreasonable outcomes should coverage be revoked is not viewed as a viable prospect for a retailer following entry to a non covered market. The expense and time involved with mounting a successful case for coverage is unlikely to be cost effective for a retailer to undertake. Competition law and contract commercial confidentiality would also limit the ability for joint retailer coverage applications.

Once a retailer enters and wins customers in a market they assume obligations to supply as the responsible party for supply points and withdrawal is problematic without incurring brand damage. Therefore if unreasonable distribution access terms or pricing are proposed by the distributor, then the only option is for a retailer to limit their exposure in this market and seek better opportunities elsewhere. This is not good for consumers and can limit their choices in a competitive market.

We agree with the proposition made by the NCC that negotiating the full set of access terms and conditions for an unregulated distribution network can cause considerable expense that could erode much of the purported savings of being unregulated. Past experiences in these discussions have involved several rounds of review and discussions with the pipeline owners or their representatives which often result in deadlocks causing delays and or failures in market participation.

5. Summary

As mentioned in our previous submission Energy Australia is very concerned with the prospect of a significant gas distribution system being considered for revocation of coverage and, if successful, the flow on prospects for other distribution systems.

We are also of the view that light regulation is not a suitable alternative to full regulation for the Wagga Wagga Distribution network. Therefore we completely support the NCC's draft recommendation to not revoke coverage.

Should you require further information regarding this submission please call me on 03 8628 1437.

Yours sincerely

[Signed]

Randall Brown
Regulatory Manager

¹ Gas prices are forecast to increase over the next few years with the development of LNG export capability in Australia. Increased competition from renewable fuels and new technologies will challenge existing gas loads.