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Manager – Energy Market Reform Team  
National Energy Market Branch  
Department of Industry, Tourism and Resources

By email to: [MCETMarketReform@industry.gov.au](mailto:MCETMarketReform@industry.gov.au)

Dear Sir/Madam

### **Consultation on the MCE Response to the Review of the National Gas Access Regime**

AGL is pleased to provide comment on the consultation paper. The AGL group is a leading owner and operator of gas and electricity infrastructure throughout Australia. It owns and operates natural gas distribution networks in New South Wales, electricity networks in Victoria and power generation interests across Australia, has interests in gas transmission and provides services to infrastructure owners. AGL has actively participated in recent reviews of infrastructure regulation, including the Productivity Commission (PC) Review of the Gas Access Regime. Accordingly, AGL is well placed to comment on this consultation paper.

AGL does not believe that the approach taken in the consultation paper provides a useful contribution to the MCE reform process; it does not even represent a settled or final view of the either the Standing Committee of Officials (SCO) or the MCE.

The approach taken does not represent a comprehensive response to the PC's recommendations thereby missing an opportunity to build on the results of the extensive consultations and analysis. Rather, it unnecessarily presents its own review of key aspects of the Gas Access Regime, effectively bypassing one and a half years of transparent and comprehensive consultation, analysis and evaluation by the PC aimed at improving the operation of the Gas Access Regime and removing the potential to deter investment.

Only 9 out of the 54 PC recommendations have been accepted. Most of the other recommendations have either been replaced with quite different recommendations or it is proposed that they should be the subject of a further, separate and unnecessary review. Moreover, neither the process for further review nor a timetable for such review, which will take considerable time and further consultation, is defined. Even more disappointing, on the few occasions where the paper does propose alternatives, these alternatives effectively reverse the direction of the PC review, and would result in more rather than less regulation.

This approach creates a real risk that the MCE would not deliver on its and CoAG's policy objective of improving the climate for investment and enhancing regulatory certainty. Indeed, it could have the opposite effect.

Further, the approach is based on incorrect assumptions and reasoning about the impact of the MCE reform process and how an integrated approach to regulation of energy access relates to the PC's review of the Gas Access Regime.

AGL agrees that it is important to ensure that the MCE response in the specific context of the Gas Access Regime is integrated with the broader reforms being undertaken in the energy sector. The consultation paper appears to link this need for integration to a need for a "clean slate" approach, but no rationale for a "clean slate" approach is provided and there is a worrying lack of recognition of the policy direction set by previous reviews and Government responses, particularly in relation to the National Access Regime. The PC's review of the Gas Access Regime sought to align the Gas Access Regime with the reforms which had been agreed by Governments to the National Access Regime. Accordingly, AGL believes that there are compelling policy reasons for using the Gas Access Regime as the basis for the broader reforms.

While the Gas Access Regime is in need of some improvement, it is the most workable model of nationally applied economic regulation in Australia and the response to the PC review provides Governments with an opportunity to make the first practical steps towards the achievement of a consistent set of energy access rules. The PC has acknowledged that the Gas Access Regime has delivered benefits but needs some improvements. The PC recommendations provide a firm foundation for improving its operation, delivering certainty to industry and encouraging the continued investment required. It also provides a clear foundation and reference point for delivering consistency in the electricity regime.

While AGL accepts that there are matters that would apply equally to electricity, AGL does not accept that the most appropriate approach is to defer consideration of these matters and consider them jointly.

AGL considers that a more meaningful contribution to the MCE reform process would be for the SCO/MCE to provide a direct response to the PC's recommendations. AGL submits that this should comprise the following:

- The PC's recommendations should be adopted except where the MCE has clear objections, in which case it should set them out and offer clear alternatives for consultation.
- Where an element of the PC's recommendations has not been fully detailed (eg the monitoring regime) a joint government and industry working group should be tasked with developing the detail necessary for implementation; and
- Following implementation of changes to the Gas Access Regime, the MCE should undertake similar reviews for electricity distribution and for electricity transmission (including revenue and pricing matters which should be deferred from the AEMC review of chapter 6 of the National Electricity Rules).

AGL's detailed response is contained in the attachment to this letter.

If you have any queries, please contact my office on (02) 9921 2585.

Yours sincerely,

Dr Robert Wiles