

14 January 2021

Ms Lesley Dowling
Gas & Governance Branch
Energy Division
Department of Industry, Science, Energy and Resources
GPO Box 787
CANBERRA ACT 2601

(via e-mail to: gas@industry.gov.au)

Dear Ms Dowling

RE: CONSULTATION ON DRAFT REGULATORY AMENDMENTS TO INCREASE TRANSPARENCY IN THE GAS MARKET

The Australian Petroleum Production & Exploration Association (APPEA) is the peak national body representing upstream oil and gas explorers and producers active in Australia. APPEA's member companies account for more than 90 per cent of Australia's petroleum production. Further information about APPEA can be found on our website, at www.appea.com.au.

The Australian oil and gas industry has invested over \$350 billion in natural gas production¹, transport, liquefaction and export facilities over the last decade. The industry supports over 80,000 jobs directly and indirectly in Australia and hundreds of thousands more in the manufacturing industry. The industry's investment will deliver returns for Australia for decades to come, through increased gas supply for Australian customers, export revenue, jobs, royalties and taxes.

APPEA welcomes the opportunity to comment on the *Consultation on draft regulatory amendments to increase transparency in the gas market (the amendments)*. APPEA's comments should be read in conjunction with comments from our member companies.

APPEA strongly recommends that sufficient time be given for all these changes to be implemented properly and allowed to show results before any further regulatory intervention or reporting burden is considered. The natural gas industry has been facing regulatory scrutiny for many years now and significant reporting and regulatory burden has been placed on to the industry. APPEA and its members would be happy to consult and plug any further gaps that may be identified post the proper implementation and reporting can occur.

The proposed amendments make an enormous amount of information available publicly. While this will increase transparency in the domestic gas market, it is critically important that any information made available publicly does not impede the competitiveness of Australia's LNG exports industry in the global market. The regulatory agencies that will collect commercial-in-confidence information from domestic participants will need to ensure that the information is made available in an aggregated manner with sufficient background, clarification and context to ensure no participant is identifiable and the information is not misrepresented or misused.

¹ Data derived from Department of Industry, Science, Energy and Resources, [Resources and Energy Major Projects List](#) publication series and [APPEA Financial Survey](#).



APPEA also notes that all the measures contained in the amendment seem to only be regarding the natural gas producers, exporters of LNG or midstream participants. There is no emphasis placed on improved transparency around the activities domestic consumers of natural gas. Transparency and reporting of information from all market participants is vital to the efficient operation of markets, including the east coast domestic gas market and we would therefore expect that such reporting arrangements apply consistently across the entire industry.

APPEA supports the government's objective of more transparency in the east coast gas market and supports many of the measures that the regulatory amendments implement. APPEA and its members have engaged constructively throughout the exhaustive consultation process and will continue to do so. APPEA's comments on the amendments are set out in the in the provided Response Template following some points for consideration.

Please feel free to contact Mr Damian Dwyer, Deputy Chief Executive
you have any queries.

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Yours sincerely

Andrew McConville
Chief Executive

POINTS FOR CONSIDERATION:**Short term LNG supply agreements**

The requirement for LNG exporters to report the average free on board price received under short term LNG supply agreements is problematic from a reporting standpoint. The deadline of within 1 days seems unnecessarily tight as well. AEMO is only required to publish that information 20 days after the transaction date, therefore, there is the opportunity for proponents to be given more time to report. This will also allow the reporter entities to get a better idea of the final price for the shipment as sometimes the prices can change based on conditions. It will minimize regulatory burden of having to correct information for AEMO as well.

Compression and Storage Facilities not connected to the natural gas market

As per the draft amendments all compression and storage facilities are required to report. There are many facilities that are not in anyway connected to the natural gas market and aren't used by any third party entities except the owners. APPEA recommends that there be a regulatory process that those facilities that do not impact the market in anyway can seek exemption from the regulatory requirements. This regulatory burden on the reporter and the regulators is unnecessary and will not improve the outcome in the market. The reporting would not assist any market participant in anyway either because of the isolated nature of these facilities.

APPEA also recommends that current pathways for exemptions for certain facilities from reporting measures that the reporting entity can demonstrate add no additional value to any market participants be retained and be established where possible. This will lead to more efficient outcomes for the industry and for the regulatory agencies.

Proposed civil penalty provisions

Section 12 of the Consultation Paper sets out the proposed tiers for the list provisions in the Law and Rules that are proposed to be classified as civil penalty provisions. These are based on the proposed classification of tiers for the reform of the Australian Energy Regulator Civil Penalty Regime, which was released for public consultation in July 2020. Energy Ministers' approval of the final classification of tiers, Decision Matrix and Concepts Table is anticipated in late 2020 or early 2021. If you would like to provide feedback on the proposed tiers, please do so in the table below.

Section or rule	Feedback on proposed tiers
Rule 153 (1)	The rule includes a note that it is proposed the subrule is classified as a civil penalty provision. However, it does not indicate whether the intention is for it to be a Tier 1 or Tier 2 penalty. It is equivalent to the existing Rule 158A which has a Tier 2 classification. It would be good to clarify the classification in this case too.
Rule 156 (2)	<p>The new proposed rule 156 (2) – is an obligation on the “person no longer required to be registered”. This change does not impact on the security and safety of supply in the natural gas market in any manner and therefore should not be classified as a Tier 1.</p> <p>In the current rule, only subrule 156 (1) has a classification of Tier 1 – but it is for the obligation of the new facility owner to register within 5 days, which can impact the security and adequacy of supply in the system.</p> <p>The equivalent in the new proposed rules is Rule 150 which has a draft classification of Tier 1.</p>
Rule 158 (2)	The proposed rule has a draft Tier 1 classification, while the equivalent existing Rule 157 has a Tier 2 obligation. Therefore, APPEA recommends that the classification be aligned with the current framework, particularly, as the nature of this rule is of record keeping or administrative process obligation
Rule 165 (1)	The proposed rule has a draft Tier 1 classification, while the equivalent existing Rule 165 (1) has a Tier 2 obligation. Therefore, APPEA recommends that the classification be aligned with the current framework, particularly, as the nature of this rule is of record keeping or administrative process obligation
Rule 165 (4)	The proposed rule has a draft Tier 1 classification, while the equivalent existing Rule 165 (4) has a Tier 2 obligation. Therefore, APPEA recommends that the classification be aligned with the current framework, particularly, as the nature of this rule is of record keeping or administrative process obligation
Rule 171 (2)	This obligation is in the nature of a record keeping or administrative process obligation and is more appropriately classified as Tier 2. This is consistent with the draft classification of the requirement to submit data in accordance with the BB standard in r 165(1) and (4) as Tier 2
Rule 171 (6)	This obligation is in the nature of a record keeping or administrative process obligation and is more appropriately classified as Tier 2. This is consistent with the draft classification of the requirement to submit data in accordance with the BB standard in r 165(4) (which is described as analogous) as Tier 2

