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***APIA response to A National Framework for Regulating Electricity and Gas
(Energy) Distribution and Retail Services to Customers***

The Australian Pipeline Industry Association (APIA) is the peak national body representing the interests of Australia's high-pressure transmission pipeline sector. APIA's membership is predominantly involved in the high-pressure transmission of natural gas; however, the Association membership also includes companies and individuals involved in the transmission via pipelines of other products, including water, slurry and oil.

APIA appreciates the opportunity to comment on the policy paper *A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers*. It should be noted that APIA was only recently (18 July 08) made aware of the potential for the proposed new enforcement regime being applied more broadly than the retailer and distributor functions, which are the main focus of the package, particularly in relation to matters such as enforceable undertakings

APIA is aware that the development of the framework has been underway since 2006, with no indication until now that the framework would attempt to impose obligations on industry sectors outside the retail and distribution sectors that would ordinarily be affected by a single national framework for regulating the supply of electricity and gas to retail customers.

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The policy objective quoted below indicates an intention to broaden regulations across the energy sector, including to gas transmission, which would appear to be well outside the scope of the National Energy Customer Framework's original intention.

The existing national compliance and enforcement frameworks in the NEL and NGL will be applied where distributors and retailers are carrying out regulated functions under the national customer framework.

However, there will be some enhancements to the enforcement regime generally to allow greater flexibility of enforcement options and a robust compliance reporting regime for the customer framework, including enforceable undertakings and compliance monitoring systems.

The new enforcement mechanisms adopted for distribution and retail regulation will also apply more broadly across national energy regulation. (p. ix)

APIA is concerned at the prospect of such "enhancements" to the enforcement and compliance regime, particularly if they are intended to apply to gas transmission pipelines.

The gas transmission industry has participated in an exhaustive consultation process to ensure that the new National Gas Law and Rules would provide an appropriate framework for the industry to operate while meeting the Government's policy objectives.

Throughout this consultative process, there was never a suggestion that the policy objectives were intended to be strengthened for transmission pipelines in the manner proposed in this policy paper.

To move to change the new gas law at this very early stage of its implementation, without proper consultation is clearly inappropriate and not necessarily reflective of the Government's policies. It should also be noted that the new gas law already includes expanded enforcement powers that have yet to be tested. To this end, in late July, the AER released consultation documentation relating to compliance with the new gas law. Processes under the new gas law should be developed and implemented prior to developing a further series of what could be conflicting or duplicative processes.

It is highly inappropriate to introduce new regulatory powers in the National Gas Law that are tailored to primarily to protect consumers and smaller customers and do not reflect the realities of the gas transmission sector. The new law was intended,



to some extent, to allow lighter regulation in some instances. Any move to arbitrarily impose more heavy-handed obligations may run counter to the intent of the current law.

It should be noted that:

- Gas transmission is facilitated by contracts between parties, (with the exception of some pipelines in Victoria where a market carriage system applies);
- Gas transmission businesses solely contract with large and sophisticated counterparties (such as AGL, Origin and large mining companies). These large users are already afforded legal, regulatory and contractual protections in their dealings with pipeline companies. A further layer of protection for such large companies seems at best redundant and at worst punitive.
- It has never been suggested that the relevant enforcement regimes under the Gas Code nor under the new gas law were ineffective.

The types of enforcement regimes suggested by the policy paper are, therefore, unnecessary.

Yours sincerely

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Chief Executive