Regulatory Impact Statement

Gas Access Regime - Greenfields Incentives

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BACKGROUND

In 2003-04, the gas industry contributed 0.2 per cent of Australia's GDP of more than $788 billion.

Australia's natural gas consumption grew from 733 Petajoules (PJ) in 1993-94 to 951 PJ in 2001-02. ABARE forecast that natural gas consumption will grow at about 3.7 per cent per annum to 1828 PJ in 2019-20. Over the same period natural gas is projected to increase its share of Australia's primary energy consumption from 18.7 per cent to 24.2 per cent.

Significant investment in gas infrastructure, including pipelines, will be required to meet this level of future demand. The Productivity Commission (PC) found that while there has been impressive growth in the gas sector, the design and application of the gas regulatory regime has the potential to deter investment in the future. The PC has recommended a number of changes to the gas regulatory regime to improve the certainty for investors in pipelines and minimise the costs of regulation, while protecting customers from the misuse of market power.

PROBLEM

The PC has found that the current regulatory regime has the potential to distort pipeline investment. In part, this is due to the uncertainty surrounding the coverage status of proposed pipelines as this uncertainty increases the riskiness of the project. In addition, the PC found that the regime has the potential to truncate investment returns above a certain threshold and may therefore be discouraging investment in pipelines.

It is inherently difficult to assess the degree to which the Gas Access Regime may be distorting investment. The Productivity Commission has acknowledged this difficulty given the absence of information about what would have occurred without the regime. ABARE has indicated that eastern Australia will face a shortage in supply of gas in the next decade so it is imperative that the potential for the regime to distort and constrain investment in new pipelines is minimised.

A strong, interconnected gas network will be essential to the reliable supply of gas in the future. Links with more remote gas fields will therefore become essential over the medium term as demand grows and supply from closer fields diminishes. Such links will involve significantly larger and longer pipelines than those built since the Gas Code commenced.

Such investments will also involve a commensurate increase in risk. The creation of an appropriate investment and regulatory regime which encourages new greenfield gas pipeline projects to proceed could address the potential supply shortfall and improve the reliability and security of gas supplies.

OBJECTIVE

To create an appropriate climate for maximising the potential for efficient investment in proposed gas pipeline projects, thereby increasing the interconnection of the gas transmission network and improving the security of supply of gas in the future.

OPTIONS

1) Status Quo – Continue to rely on existing mechanisms in the Gas Code.

2) A binding no-coverage ruling

3) A price regulation holiday

4) Provide pipeline proponents with the option to choose either the binding no-coverage ruling or the price regulation holiday.

IMPACT ANALYSIS

Option 1 - Status Quo

The ACCC highlighted mechanisms in the current Gas Code that limit investor uncertainty. These include:

- Scope for regulators to approve access arrangements of extended duration
- Fixed principles that lock in certain regulatory parameters over a long period
- Upfront approval of access conditions before construction (if the service provider volunteers to have its pipeline covered)

In addition, a service provider could seek a non-binding opinion from the NCC regarding the likelihood of coverage.

Benefits

- Taking no additional measures to increase incentives for greenfield investment results in no implementation costs. This option would result in no disruption to existing legislative, regulatory and commercial arrangements.

Costs

- The mechanisms outlined above under the status quo option only address the uncertainty about the regulatory parameters that will be applied if a pipeline is covered. Importantly, they do not address coverage risk, which arises from the uncertainty about whether a pipeline will be covered.

- The real economic cost of this option arises from the efficiency benefits foregone by not implementing an option that increases incentives for investment in greenfield gas pipelines.

- This option may not enable the potential for investment in proposed pipeline projects to be fully realised. This would have costs to the community in terms of delaying additional interconnection of the gas transmission network and a level of supply security lower than may otherwise be the case.

- The uncertainty about coverage may complicate the negotiation of foundation contract arrangements and possibly create incentives for pipelines to be undersized or deferred.

Option 2 - A binding no-coverage ruling

The proponent of a proposed gas pipeline will be able to apply to the National Competition Council (NCC) for an upfront coverage assessment. The NCC will be empowered to conduct such assessments and make a recommendation to the Relevant Minister in respect of proposed gas pipelines. Upon receiving a NCC recommendation that the proposed pipeline does not meet the coverage criteria, the designated Minister may provide a binding 15 year no-coverage ruling in respect of the pipeline.

The process for the NCC to arrive at its recommendation will be the same as the present coverage process. The binding ruling would preclude coverage of the pipeline over the initial 15 year period from the date on which gas commences to flow, irrespective of whether market conditions change, unless the information relied on by the Relevant Minister or NCC was intentionally misleading. After 15 years of operation, a pipeline that has been subject to a binding no-coverage ruling should continue to remain uncovered unless there is a successful coverage application.

Benefits

- This option increases regulatory certainty and therefore reduces regulatory risk for investors regarding the coverage status of a proposed pipeline. This may increase the likelihood that projects with significant spare capacity will proceed and reduce the likelihood of pipelines being built to meet only the requirements of foundation customers.

- Eastern Australia is facing a shortage in the supply of gas from early in the next decade. This option would encourage greater interconnection of the gas network which would meet the expected excess demand, improve the reliability and security of gas supplies and promote competition in markets already served by a gas pipeline.

- Network interconnection will increase the accessibility between gas suppliers and users which will increase competition. In the longer term contract periods are likely to become shorter and gas prices are likely to fall as economic rents are competed away.

- This option is consistent with the Ministerial Council on Energy (MCE) objective to encourage the penetration of natural gas and for new markets to become served by gas.

- Where pipelines are constructed to service new markets that would not have been constructed in the absence of a binding no coverage ruling, end users will benefit from having access to gas and a choice between energy sources.

- A binding no coverage ruling balances the competing objectives of providing investor certainty while not excluding the possibility of regulation in the future, should it be considered warranted.

Costs

- The coverage assessment process followed by a Ministerial decision on a binding ruling may take 12 months or longer, which may not be a sufficiently timely process to provide regulatory certainty for some greenfield pipelines. This may be due to their size and/or complexity or the needs of the market to be supplied or timing constraints on finalising contractual and financing arrangements.

- While there is potential for a pipeline owner to exercise market power during the 15 year period where it is the sole provider of gas to a new market, this is unlikely as the driver would be to maximise gas sales to pay off loans and capture market share from existing energy sources such as LPG. This may result in a slight price increase for some end users in the short term, but they are likely to benefit from lower prices in the longer term as explained in the benefits section.

- As not all the details of the project may be available when the NCC conducts its upfront assessment, the recommendation by the NCC may err on the side of caution in marginal cases and risks concluding that a pipeline meets the coverage criteria and is thus not eligible for a binding-no coverage ruling.

- Administrative costs associated with applying for an upfront coverage assessment.

- This option will require an amendment to the *Trade Practices Act 1974* (TPA) to ensure that pipelines granted a binding no-coverage ruling can not be declared under Part IIIA of the TPA.

- This option may require an amendment to the criteria for certification and the Competition Principles Agreement in order to make sure that the regime is certifiable.

Impact on stakeholders

Service Providers
This option increases regulatory certainty and therefore reduces regulatory risk for investors in a proposed pipeline. However, as this option could involve an assessment process taking up to 12 months or longer, it may not provide a sufficiently timely process to ensure regulatory certainty for some greenfield pipelines. There is also the risk of the NCC erring on the side of caution in the absence of all sufficient detail about the project and concluding that the coverage criteria would be met. Service providers would be subject to the administrative costs associated with applying for an upfront coverage assessment. However, if they did not meet the coverage criteria and were granted a binding no coverage ruling, they would avoid the ongoing costs of regulation.

Upstream gas producers
Increased pipeline investment, interconnection and penetration of gas are likely to enable producers to supply more markets in the longer term.

Major Gas Users and Consumers
This option may result in a slight price increase for some gas users in the short term. However, as this option is designed to encourage investment in greenfield gas pipelines, consumers should realise long term benefits from alternative supply sources of gas and lower prices. Large industrial consumers who consume gas as an input into the production process are likely to experience lower costs in the longer term which should be reflected in lower retail prices in these goods and services.

As new pipelines are constructed to service new markets, end users who did not previously have access to gas are likely to benefit – consumers will have a choice between energy sources they previously did not have.

Only pipelines that the NCC considers do not meet the coverage criteria will be able to receive a binding no-coverage ruling. However, since not all the details of the project may be available when the NCC conducts its assessment, there may be the potential for a pipeline owner to exercise market power during the 15 year period where it is the sole service provider of gas to a new market. However, it is likely that their ability to exercise market power will be limited by the ability of customers in that market to utilise alternative energy sources.

Community
Increased pipeline investment would increase network interconnection and facilitate greater competition in pipeline services which may place downward pressure on gas prices. This option may also increase the uptake of gas fired electricity generation. As gas fired electricity generation is a more environmentally friendly fuel to produce electricity, this option may result in net environmental benefits to the community.

Government
This option is consistent with the MCE's objective to increase the penetration of natural gas to achieve economic and environmental goals.

As this option is designed to encourage investment in greenfield gas pipelines, it would provide alternative sources of gas and for more effective management of gas supply shortfalls.

This option will require an amendment to the *Trade Practices Act 1974* (TPA) to ensure that pipelines granted a binding no-coverage ruling can not be declared under Part IIIA of the TPA. It may also require an amendment to the criteria for certification and the Competition Principles Agreement in order to make sure that the regime is certifiable.

Option 3 - Price Regulation Holiday

A pipeline qualifying for a price regulation holiday would not be subject to any upfront assessment as to whether it would meet the coverage criteria. It would be subject to the Gas Code requirements except in respect of price regulation. That is, the proposed pipeline would still be subject to regulation, but only in respect of the non-price access provisions. This would maintain the price regulation holiday within the framework of the gas access regime.

The proponent of a proposed gas pipeline would apply directly to the relevant Minister for a 15 year price regulation holiday. If granted, the price regulation holiday would also apply from the date on which gas commences to flow.

Consistent with the above, a pipeline granted a 15 year price regulation holiday would be required to make public a policy that the pipeline would offer non-discriminatory pricing for similar reference services and be required to comply with the non-price provisions of the current Gas Code (as converted into the National Gas Law and Rules), including:

- Content of an Access Arrangement (except Reference Tariffs and Reference Tariff Policy, and Determining Reference Tariffs through a Competitive Tender Process);
- Ring Fencing Arrangements;
- Information and Timelines for Negotiation;
- Dispute Resolution in relation to non-price matters;
- General Regulatory and Miscellaneous Provisions to the extent that they do not relate to pricing matters.

<u>Content of an Access Arrangement</u>
Pipeline owners would be required to set out in their access policy:

i) the procedures and any terms and conditions for gaining access;
ii) their policy for handling matters relating to queuing, capacity trading, and expansion;
iii) provision for dispute resolution in relation to non-price matters.

In addition, to assist in providing incentives for service providers to negotiate in good faith, the anticompetitive conduct provisions of the Gas Pipelines Access Law will apply. Therefore, there will be provision for action against the service provider or others where access is prevented or hindered.

<u>Ring Fencing Arrangements</u>
These arrangements will ensure the separation of pipeline operations from related businesses in upstream and downstream markets.

<u>Information provision</u>
Public disclosure of information by the service provider will be required. Service providers will also be required to establish and maintain a public register of capacity.

Once a price regulation holiday is granted, the service provider would be required to submit to the AER an access arrangement covering the above non-price access provisions. The AER would exercise its compliance powers and functions in respect of the non-price access provisions.

At any time during the 15 year price regulation holiday period, the service provider could apply for a coverage assessment and binding no coverage ruling from the Relevant Minister. If the assessment recommended no coverage and such a ruling were granted, it would apply for the balance of the 15 years from the date on which gas flow first commenced, and the non-price access obligations would cease to apply. If the assessment recommended coverage and such a ruling was therefore not granted, the 15 year price regulation holiday would continue.

At the end of the 15 year price regulation holiday period, the pipeline will continue to be uncovered, but be subject to potential coverage applications.

A key component of the new greenfields pipeline regulatory holiday regime will be the criteria for determining whether a particular project qualifies for the holiday, and the process under which an application for the holiday is assessed. The MCE’s detailed proposals in this regard are discussed for transmission and distribution in turn.

Greenfield Criteria for Transmission Pipelines

A proponent of a transmission pipeline project which has not yet commenced operations or an extension (but not a capacity expansion) of an existing transmission pipeline which has not yet commenced operations will be able to apply to the Relevant Minister in writing for a decision on whether the pipeline or part of the pipeline is a greenfield pipeline. The Relevant Minister will be the same Minister who would normally decide on the coverage of the pipeline.

The Relevant Minister would consider the application and make a decision within 28 days of receiving an application and may publish non-confidential parts of an application on the AEMC website. The Relevant Minister would be able to declare the pipeline to be a greenfield pipeline if:

a) it would not already be covered by an existing access arrangement; and
b) the pipeline is likely to be classified as a transmission pipeline; and
c) where the proposed pipeline directly supplies a market that is already served by natural gas, the pipeline must be owned by entities that are independent from at least one transmission pipeline serving that market.

For the purpose of deciding (c):

- the transmission pipeline would be considered to supply a market directly when it does not need to travel through another transmission pipeline to reach that market; and
- the market in question must be likely to contribute a significant proportion of the pipeline's revenue which would generally be greater than 30 percent of the projected revenue of the pipeline project; and
- the concept of independence would not include a pipeline owned by the same company, 'related body corporate' as understood by s. 50 of the *Corporations Act 2001* or an 'associated entity' as understood by s. 50AAA of the *Corporations Act 2001*.

If a pipeline was later classified as a distribution pipeline despite a decision that it was likely to be classified as transmission, it would remain a greenfield pipeline.

Greenfield Criteria for Distribution Pipelines

A proponent of a distribution pipeline project which has not yet commenced operations will be able to apply to the Relevant Minister in writing for a decision on whether the pipeline or part of the pipeline is a Greenfield Pipeline. The Relevant Minister will be the same Minister who would normally decide on the coverage of the pipeline.

The Relevant Minister would consider the application and make a decision within 28 days of receiving an application. The Relevant Minister may publish non-confidential parts of an application on the AEMC website. The Relevant Minister would be able to declare the pipeline to be a Greenfield Pipeline if:

a) it would not already be covered by an existing access arrangement; and
b) the pipeline is likely to be classified as a distribution pipeline; and
c) it will deliver gas to a new market for natural gas (such as a town or city that currently does not have access to natural gas); and
d) it is not an extension or capacity expansion of an existing distribution system (for the avoidance of doubt, the linking of new customers within an area where customers are

already connected to a distribution system would be considered an extension or capacity expansion); and

e) it is in an area of a jurisdiction which the relevant energy Minister has designated as open for greenfield pipelines.

If a pipeline was later classified as a transmission pipeline despite a decision that it was likely to be classified as distribution, it would remain a greenfield pipeline.

<u>The PC's consideration of regulation free periods</u>

The PC recommended against providing regulation free periods to all new pipelines on the basis that:

- other PC recommendations (including the availability of a binding no-coverage ruling and light-handed monitoring) provided sufficient measures to address the specific circumstances of 'greenfields' projects;
- the public interest would not be served by failing to regulate greenfields pipelines that may find themselves in a position to exercise market power; and
- a price regulation holiday for greenfields projects may distort investment patterns by encouraging investment in new gas pipelines when it may be more efficient to expand or augment existing pipelines.

Seeking a binding no-coverage ruling inevitably relies upon a process that is costly, may not result in regulatory certainty and thus has the potential to delay investment. The PC noted that the lack of complete information in relation to a proposed pipeline may cause an upfront coverage assessment to err on the side of caution. This is because of the influence that it might be preferable to cover a pipeline with no market power, rather than to risk the possibility of not covering a pipeline with market power.

The proponent of a proposed pipeline which meets the coverage criteria and does not receive a binding no-coverage ruling would have the following options:

- It could cover itself by submitting an access arrangement to the regulator and seek the monitoring form of regulation;
- It could operate in the market uncovered and risk a future coverage application; or
- It could decide not to proceed with the investment.

As the form of regulation under the PC light handed monitoring model is subject to the outcome of a net benefits test, there is no guarantee that a new pipeline which chooses to self cover would be subject to light handed monitoring at the end of the decision making process.

Benefits

All the benefits outlined above for the binding no coverage ruling option are also applicable to the price regulation holiday option.

Additional benefits that are particular to the price regulation holiday option are outlined below:

- The criteria to qualify for a price regulation holiday are clear and would be uniformly applied to all potential pipeline applicants.

- As a result this model is administratively simple and is likely to result in a timelier assessment process than option 2, therefore allowing projects to proceed in a timelier manner.

- This option potentially provides a greater opportunity for more greenfield projects to go ahead. This is because the binding no coverage ruling option may not be a sufficiently timely process to provide regulatory certainty for some greenfield pipelines or may not result in a binding ruling being granted.

- This option may encourage investment in pipelines that may otherwise be covered by avoiding the truncation of returns during the initial years of such pipelines.

Costs

- The pipeline would not be subject to upfront assessment as to whether it meets the coverage criteria, so this option provides less certainty that the pipeline could not exercise market power. Therefore, the improvement in investment outcomes may potentially be at the expense of competition in upstream or downstream markets. Leaving such pipelines free from price regulation may forego the efficiency benefits that may have been assessed to be achievable through regulation.

  However, the potential for market power to be exercised would be constrained by a number of factors:

  i) The ability to exercise market power in the early years would be limited by the need to attract customers away from alternative fuels, such as LPG, and maximise gas sales to pay off loans.

  ii) Pipelines would be regulated in respect of the non-price obligations under the gas access regime (as outlined above).

  iii) A price regulation holiday would be limited to 15 years, after which time the pipeline could become subject to regulation if there is a successful coverage application.

  iv) The market structure criteria requiring that where a market is already served by a natural gas, the greenfield pipeline must be owned by entities that are independent from at least one transmission pipeline serving that market.

- This option may distort investment patterns by creating an incentive to invest in greenfield pipelines when it may be more efficient to expand existing pipelines.

- Ongoing compliance costs associated with adhering to the non-price provisions of the Gas Code.

- An amendment to the TPA will be required to ensure that pipelines with a 15 year price regulation holiday can not be declared under the National Access Regime.

- This option may require an amendment to the criteria for certification and the Competition Principles Agreement in order to make sure that the regime is certifiable.

Impacts on Stakeholders

Service providers

This option would provide service providers with greater regulatory certainty and therefore encourage investment in greenfield pipelines.

Service providers that face tight project timeframes for their proposed greenfield pipelines will benefit from the timelier process that this option provides.

Since a pipeline would be deemed to be covered with non-price obligations applying to it, service providers would be subject to ongoing compliance costs associated with the provision of information and meeting their non-price obligations. However, service providers would save on upfront administrative costs since an upfront coverage assessment would not be required and they would avoid the significant part of the cost of regulation related to price determination.

Upstream gas producers
Increased pipeline investment, interconnection and penetration of gas are likely to enable producers to supply more markets in the longer term.

Major Gas Users and Consumers
As this option is designed to encourage investment in greenfield pipelines, consumers should realise long term benefits from alternate supply sources of gas and lower prices. Large industrial consumers who consume gas as an input into the production process would experience lower costs which should be reflected in lower retail prices in these goods and services.

As new pipelines are constructed to service new markets, end users who did not previously have access to gas are likely to benefit – consumers will have a choice between energy sources they previously did not have.

To the extent to which the service provider could potentially exercise its market power and restrict competition in dependant markets, end users may be faced with higher gas prices and reduced supply options in the shorter term.

However, the potential for market power to be exercised would be constrained since the price regulation holiday would operate within the framework of the Gas Access Regime and pipelines would be regulated in respect of the non-price obligations under the Gas Access Regime.

Community
Increased pipeline investment would increase network interconnection and facilitate greater competition in pipeline services which may place downward pressure on gas prices. This option may also increase the uptake of gas fired electricity generation. As gas fired electricity generation is a more environmentally friendly fuel to produce electricity, this option may result in net environmental benefits to the community.

Government
This option is consistent with the MCE's objective to increase the penetration of natural gas to achieve economic and environmental goals.

As this option is designed to encourage investment in greenfield pipelines, this would provide alternate sources of gas and provide for more effective management of gas supply shortfalls.

This option will require an amendment to the *Trade Practices Act 1974* (TPA) to ensure that pipelines granted a binding no-coverage ruling can not be declared under Part IIIA of the TPA. It may also require an amendment to the criteria for certification and the competition principles agreement in order to make sure that the regime is certifiable.

This option may encourage more greenfield projects to go ahead than the binding no-coverage option. This is because the binding no-coverage ruling option may not be a sufficiently timely process to provide regulatory certainty for some greenfield pipelines. The price regulatory holiday would therefore cater to the needs of such pipeline projects and may allow those projects which could otherwise be in jeopardy of going ahead to proceed. To the extent that this option encourages greater investment and gas pipeline interconnection to take place, the benefits outlined above for all stakeholders will be greater.

Option 4 - Provide pipeline proponents with the option to choose either the binding no-coverage ruling or the price regulation holiday.

The benefits and costs for each of the two options have been discussed above. The additional benefits and costs associated with providing both options for choice are outlined below:

Benefits

- This option would enable a new gas pipeline proponent to choose the approach to improved regulatory certainty that best meets its particular circumstances.

- Allowing greenfield pipeline proponents to choose between the two options may lead to efficiency gains. This is because pipeline projects that face tighter timeframes and consider that option 2 provides less regulatory certainty will be able to proceed in a timely manner via the price regulation holiday option. At the same time, those pipeline projects that are not constrained by timing issues and are confident of being granted a no-coverage ruling would still be able to apply for an upfront assessment and potentially derive the additional benefit of being free of all regulatory obligations.

- The greater flexibility offered to prospective pipeline projects may encourage greater investment in greenfield pipelines.

Costs

- No additional costs from the combined measures.

Impacts on Stakeholders

Service providers

Service providers would benefit from the ability to choose the option that best meets their particular circumstances.

Major Users, Upstream Gas Producers, Consumers, Government, Community

To the extent that the greater flexibility and potential efficiency gains offered by this option encourage greater investment in greenfield pipelines, the benefits outlined in the previous two models for all stakeholders would be greater.

CONSULTATION

- The Treasurer asked the Productivity Commission (PC) to examine current gas access arrangements on 13 June 2003. The Inquiry involved wide industry consultation with a variety of groups within, and related to, the gas industry, including pipeline owners and operators, gas users, industry associations, regulators and other government agencies. A total of 76 submissions were received in response to the issues paper that the PC released in July 2003. The Commission also held two rounds of public hearings in Perth, Adelaide, Melbourne, Brisbane and Sydney.

- The Draft Report was released for public comment on 15 December 2003. A total of 50 submissions were received in response to the draft report and a number of modifications were subsequently incorporated into the final report. The final report was presented to Government in June 2004.

- A Consultation Paper outlining options under consideration for MCE's response to the PC Review in relation to the key issues, including the concept of a price regulation holiday, was released on 15 August 2005. 22 submissions were received.

IMPLEMENTATION AND REVIEW

The Ministerial Council on Energy (MCE) decision would be incorporated into the National Gas Law (NGL), which is currently being developed as part of the gas legislative package. The MCE aims to release an exposure draft of this package by the end of February 2006 for stakeholder consultation.

It is expected that the new NGL will be introduced into the South Australian and Western Australian Parliaments in mid 2006. Application Acts will also be introduced into other jurisdictions' Parliaments.

Under the new gas legislative package it is proposed to give the Australian Energy Market Commission (AEMC) the same powers to conduct reviews in relation to gas on the direction of the MCE as it currently has in relation to electricity. If it chooses, the MCE would then be able to direct the AEMC to conduct a review which may include assessing the effectiveness of the change to the coverage criteria and the National Gas Law more broadly. The AEMC would report its findings and recommendations to the MCE, which would decide whether changes to the coverage criteria or the broader National Gas Law would be appropriate.

CONCLUSION

Maintaining the status quo and continuing to rely on mechanisms in the current Gas Code would fail to address the distortion to investment that may be occurring as a result of the current Gas Access Regime. In addition, it is likely that this option would not facilitate an environment that is conducive to maximising the potential for investment in proposed gas pipeline projects. This option therefore is contrary to the MCE's objective to facilitate the penetration of natural gas and does not address the Productivity Commission report's recommendations.

Option 2 of a binding no-coverage ruling is consistent with the MCE's objective to facilitate the penetration of natural gas as it increases regulatory certainty and reduces regulatory risk for investors in a proposed pipeline. However, because an upfront coverage assessment is required this option may not provide a sufficiently timely process for some greenfield pipelines.

Option 3 of a price regulation holiday provides similar benefits to option 2 in terms of increasing regulatory certainty and reducing regulatory risk for investors in a proposed pipeline. In addition, it provides the benefit of providing proposed pipeline proponents with a timelier process. It may therefore provide proposed pipeline projects with regulatory certainty that they may not have been able to access under option 2. Given that an upfront coverage assessment is not made, this option provides less certainty that the pipeline will not be able to exercise market power. However, the price-regulation holiday put forward in this RIS provides a number of provisions, including the non-price provisions of the Gas Code, to safeguard against the potential for a proposed pipeline proponent to exercise market power during the 15 year period.

Option 4 allows proponents of greenfield pipeline projects to choose between options 2 and 3, both of which are consistent with the MCE's objective. In addition to benefits and costs outlined in the impact analysis for options 2 and 3, this option provides proposed pipeline proponents the additional benefit of flexibility, allowing them to choose the option that best suits their particular circumstances without imposing additional costs on other parties.