

Comparison of Information Gathering Approaches Expert Panel Report and draft National Gas Law

| MCE Expert Panel finding or recommendation | National Gas Law approach | Consistent? |
|----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| A common framework across energy sector | National Gas Law provisions inconsistent with National Electricity Law and AEMC Chapter 6 final determination. For example, there are no equivalents to s.42 and s.43 of the NGL in the NEL, and there is substantive guidance in electricity transmission rules for the information that the AER may collect through guidelines. | x |
| Statutory powers for the AER to obtain information that is relevant for the performance of its economic regulatory function | Section 42 and 43 appears to allow information to be collected for virtually any purpose. Section 41 of the current <i>Gas Pipelines Access Law</i> limits information provision to that necessary for the regulator to carry out 'prescribed duties', including economic regulatory functions. | x |
| Statutory guidance to the AEMC concerning the scope and content of Rules prescribing regular reporting requirements | No statutory guidance in draft Law on regular reporting requirements, as the AER is fully empowered by Sections 41-50 to completely define its own information requirements. | x |
| Rules promulgated by the AEMC specifying the scope and contents of regular report requirements | Regular reporting requirements provided for under Sections 43-50 of the draft Law. Gas Rules do not contain any refinements to the scope and contents of information that may be required by the AER | x |
| Guidelines issued by the AER, in accordance with the Rules, specifying the format requirements and timelines for regular reports | AER power under the draft Gas Law to issue a 'general regulatory information order' <i>supersedes</i> the Expert Panel and AEMC's views on the role of guidelines under the Rules. In any case, the Gas Rules do not appear to provide for any guidelines. | x |
| AER statutory powers to be modelled on Section 28 of the NEL | Section 41 is modelled on Section 28 of the National Electricity Law. However, substantive <u>new</u> powers have been given to the AER beyond these, for example, by the ability to issue a general regulatory information order without reference to anything in the Rules or the AEMC. | ✓ - (Partial) |
| Statutory guidance to the AEMC in energy laws detailing what the scope of AER information powers should be. | Section 49 of NGL lists examples of information that 'may' be requested, but does not limit the scope of these powers. Proposed Gas Rules has the AEMC playing <u>no role</u> in defining areas of information gathering | x |

Sources:

1. Expert Panel Findings and Recommendation, Section 7.5 *MCE Expert Panel Final Report to the Ministerial Council on Energy*, April 2006, p.132-133
2. *Exposure Draft – National Gas Law*, November 2006 <www.mce.gov.au>