

Submission on the Consultation Paper on the Draft Gas Market Principles by the Ministerial Council on Energy Standing Committee of Officials

Introduction

The Consultation Paper titled "Draft Gas Market Principles" proposes the following principles for consideration by the Ministerial Council on Energy and other policy makers when making decisions related to the future shape of the Australian gas markets:

- Information on market and system operations and capabilities at all stages of the gas supply chain (subject to recognition of existing contractual confidentiality) should be publicly available and frequently updated.
- Gas market structure to facilitate a competitive market in all sectors.
- Gas market participants should be able to freely trade between pipelines, regions and basins.
- The gas market should be able to respond effectively to price signals in the electricity market.
- There should be regulatory certainty and consistency across all jurisdictions.
- Market design and institutional requirements responsive to the needs of the market.

As the Gas Market Operators of the NSW/ACT and SA/WA retail gas markets respectively, the Gas Market Company Limited (GMC) and Retail Energy Market Company Limited (REMCo) have prepared this joint submission. The representations made in this submission represent the views and opinions of the management of GMC and REMCo collectively. Whilst these views may be consistent with the views and opinions of our members, the members were not involved in the preparation of this paper, although the comments made reflect discussions and feedback from members on the general issues in question.

GMC and REMCo have invested in systems and capabilities as retail gas market operators and must ensure that our investments are appropriately valued and accounted for in any future development of the gas markets in Australia. These investments have been made on behalf of our members and in response to jurisdictional policies at the time. Some of our investments are underwritten by our members, whose financial interests we must protect. In the end, any investment by GMC or REMCo that is

stranded as a result of market changes may adversely impact competition because of the financial consequences on our members and/or gas consumers.

Furthermore, we believe that our systems and capabilities should be leveraged to the maximum extent possible to deliver efficiencies to market participants and consumers alike.

Before dealing with the individual principles proposed by the Standing Committee of Officials, we note that at present there are jurisdictional retail gas markets operating which have some interaction with the wholesale markets on the connected pipelines. There is no integrated national retail gas market and arguably no national wholesale market in existence. GMC and REMCo consider that the thrust of this paper is towards the establishment of a national wholesale market, not retail and that this should be more clearly identifiable from the principles.

Review of Principles

Information on market and system operations and capabilities at all stages of the gas supply chain (subject to existing confidentiality) should be publicly available and frequently updated.

GMC and REMCo support transparency of markets as a general principle. Indeed, transparency is a key feature of the retail gas markets administered by both GMC and REMCo. This should be noted in terms of the inclusion in this principle of the point that transparency "all stages of the gas supply chain" is required. .

GMC and REMCo are therefore generally supportive of this principle but request further detail on the application of this principle as it relates to the operation of retail gas markets.

Gas market structure to facilitate a competitive market in all sectors

GMC and REMCo administer retail gas markets designed to facilitate competition and our corporate constitutions require the ongoing facilitation of competitive retail gas markets. Therefore, we support the principle of market structures which promote competition within defined policy outcomes. We strongly support the development of markets adopting the structure of industry delivering market reform within the policy constraints defined by governments, as has been done by our companies.

For the purpose of consistency GMC and REMCo suggest that the principle be restated as follows:

The gas market structure should facilitate competition in all sectors.

Gas market participants should be able to freely trade between pipelines, regions and basins

GMC and REMCo understand that this principle is the key focus of this consultation paper, that being to establish a national wholesale gas market which provides economic drivers for trading capacity between jurisdictions to ensure that no jurisdictional economy is disadvantaged by gas supply shortfalls.

We fully support this principle on the premise that the delivery of the outcome does not undermine the operation of the retail gas markets in the NSW, ACT, SA or WA jurisdictions, or cause our companies to incur unrecoverable/unnecessary/unfair costs to redevelop our systems and capabilities in order to remain able to operate in a new environment. Of course GMC and REMCo remain flexible to meet the needs of our members should they support redefinition of our scope of activity in order to leverage from our existing systems and operations for the benefit this principle.

The gas market should be able to respond effectively to price signals in the electricity market

GMC and REMCo accept that this is an appropriate principle for the operation of a national wholesale gas market. However we again are concerned about any costs for our businesses that may arise from the implementation of market structures that deliver this principle. REMCo in particular is concerned with the potential impact that this may have on the operation of the swing service arrangements that have been instituted in the SA and WA gas retail markets related to the settlement of shipper - pipeline operator and shipper – user contracts.

There should be regulatory certainty and consistency across all jurisdictions

GMC and REMCo recognise this principle as being highly desirable. We consider that regulatory certainty is essential and consistency is desirable.

Market design and institutional requirements responsive to the needs of the market

GMC and REMCo strongly support the principle that reform should be driven by market participants. The market participants in NSW, ACT, SA and WA have expressed overwhelming support for the industry led governance model represented by GMC and REMCo, and we commend that co-regulatory model to the Ministerial Council on Energy to be adopted generally in the gas market.

The Co-Regulatory model is a model in which Government establishes policy directives and required outcomes, and makes participation in a scheme to give effect to those policy decisions compulsory, but allows the

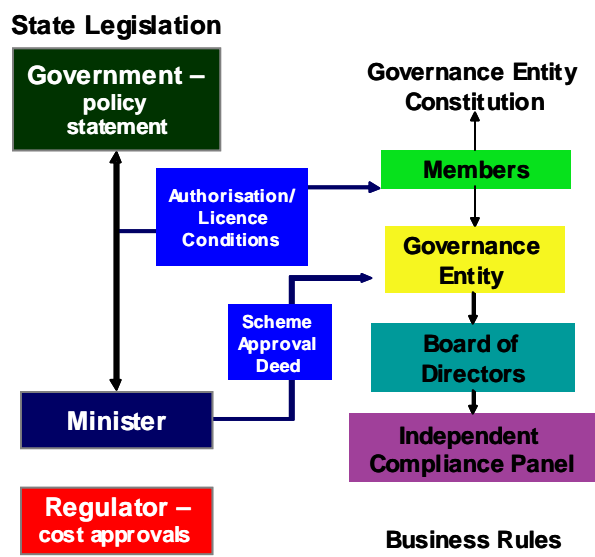
industry to determine the structure of the scheme, the rules and the enforcement mechanisms.

The requirement for participation in a scheme secures agreed policy outcomes, through regulation and/or licence conditions. The Government may choose to retain some controls over the scheme through regulation or agreement between the entity which is the scheme and the Minister.

The scheme itself is industry owned and operated. It is established through a corporate entity, of which the market participants become members. Members elect the Board of Directors, who are then required at law to act in the best interests of the members as a whole and toward the company objectives, which reflect Government policy requirements. For example, the objectives of GMC and REMCo include convergence; the removal of potential barriers to entry to new market participants; the development of retail arrangements that are neutral to different types of participant; the delivery of net benefits to gas consumers; transparency of operation; the provision of services necessary to meet the needs of the gas retail market; the review and enhancement of these services; and cost minimisation. Any market development must be assessed against these objectives.

The mechanisms of the scheme, such as rules determining conduct and any necessary technology support structures, are binding on members and can be changed readily to meet the developing needs of the market place. Enforcement of the rules is generally provided for through independent compliance panels. Following is a diagrammatic representation of the co-regulatory model:

Co-Regulatory Model



This co-regulatory model has been successfully implemented in NSW, ACT, SA and WA for the introduction of full retail contestability in the retail gas markets. The performance of GMC and REMCo has provided

satisfactory outcomes for government and industry, and demonstrates the benefits of this model for the gas industry generally.

Accordingly, GMC and REMCo commend this model to the Ministerial Council on Energy for adoption generally in the governance of the gas industry. It can be used to not only implement rules for conduct in any sector of industry, or across industry sectors, but can also be used for the collection and collation of information for provision to Government.

For the purpose of consistency GMC and REMCo suggest that the principle be restated as follows:

The gas market design and institutional arrangements should be responsive to the needs of the market.