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Manager – EMR Projects
National Energy Market Branch
Department of Industry, Tourism and Resources
GPO Box 9839
Canberra ACT 2601

Dear Manager – EMR Projects

This letter on the Ministerial Council on Energy Discussion Paper (MCE Paper) is from Multinet Gas (Vic) and AlintaGas Networks (WA) ('the companies' hereafter). Multinet Gas is an urban distributor servicing some 626,000 gas connections in Melbourne's Eastern suburbs and AlintaGas Networks is a gas distributor and retailer which serves more than 440,000 gas customers in Western Australia.

Ministerial Council on Energy (MCE) Consultation Processes

The MCE Paper on the national framework for electricity and gas distribution has been released for comment in the context of a number of reviews by the Productivity Commission and others and decision by governments. The companies are concerned that a best practice approach to national regulation is being lost in light of the proposals in the MCE Paper.

The companies are also concerned about the poor level of consultation in the development of the national approach to regulation. There are a vast number of issues to be determined in a move to a national approach. The MCE appears to assume that these will be determined over some time in the future while the effort goes into the establishment of the national regulators. The companies do not support such an approach, as the issue of national uniformity is wider than the national regulators and these issues need appropriate levels of consultation and analysis.

The companies support a much greater level of consultation and industry involvement in the move to a national regulator given the extensive amount of work required to develop a national best practice approach to energy regulation.

The Productivity Commission Report on the Gas Access Regime should be implemented

The companies do not consider it appropriate for the development of the distribution regulatory framework program to pre-empt outcomes from the current separate process of Australian governments finalising a joint response to the recent Productivity Commission Review of the Gas Access Regime.

The companies had understood, on the basis of previous MCE statements, that these issues would be addressed through the development of an intergovernmental response to the Productivity Commission's Review of the Gas Access Regime. The companies support the quick implementation of the Productivity Commission's report on the Gas Access Code as it represents a best practice outcome for gas regulation.

Other issues with governance arrangements

Whilst it is easy to envisage a net benefit from a national regulator (from regulatory consistency across jurisdictions) it is not so easy to see such a benefit in national regulatory instruments. The companies consider that there should be a move to a national framework of regulatory instruments only if there is a clear net benefit in doing so.

The MCE Paper recognises this point on page 62 but applies it only to industry codes and rules. The companies consider that it must be generally applied to all regulatory instruments in the proposed new national framework. The MCE Paper seems to assume a net benefit from national licences, a national Consumer Protection Code and a national Use of System/Co-ordination Agreement but this seems to be simply assumed because of the benefit to retailers. The companies consider that the net benefit test must be established for each of the codes, licenses etc having regard to the costs and benefits to distributors from such uniformity.

In this light, it is not sufficient to defer examination of whether instruments other than licences and the Consumer Protection Code can be nationally uniform – from legislation to guidelines – to later stage as the MCE Paper suggests. Understanding the extent to which these instruments can be harmonised is critical to assessing whether a national framework delivers net benefits. If the licences, codes, guidelines etc can only be partly national, leaving much regulation and enforcement to jurisdictional regulators, the reforms may simply add yet another regulator to the mix.

This detailed cost benefit approach must be performed for distributors and transmission companies. In this context the companies also call for a greater level of consultation and the use of industry based working parties to be involved in the development of a national approach to regulation.

Conclusion

The companies support:

- the quick implementation of reforms to the National Gas Code;
- the use of a net benefit approach to the assessment of all national regulatory instruments; and
- a much greater level of consultation going forward than has existed to date in the development of the national model.

The companies also support the submission by the Energy Networks Association (ENA) on the MCE Paper.

If you require further information please contact either myself or Geoff Towns, Manager Economic Regulation on 03 9265 7731.

Yours sincerely

Julie Buckland-Bull

Manager Regulation and Government Relations Group