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3 January 2006

Dear Sir / Madam

**VENCorp Response to MCE Consultation on National Framework for Energy Distribution and Retail Regulation**

VENCorp appreciates the opportunity offered by the Ministerial Council on Energy (MCE) to provide comment on its consultation on the National Framework for Energy Distribution and Retail Regulation, November 2005.

VENCorp is a statutory body established with responsibilities for operating the Victorian Principal Transmission System (PTS), the Victorian Wholesale Gas Market since 1999 and the Victorian Retail Gas Market since 2002.

VENCorp supports the objectives of the MCE to streamline the regulatory regimes and promote consistency across the Australian energy industry. There are however, some issues VENCorp wishes to raise regarding this matter, which are included in the attached submission.

Should you require any clarification or expansion of VENCorp's comments please do not hesitate to contact Mr John Savage on (03) 8664 6568.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Zema'.

**Matt Zema**  
**Chief Executive Officer**

Attach.

## **VENCorp Response to MCE Consultation on National Framework for Energy Distribution and Retail Regulation**

Under Section 62 of the Victorian Gas Industry Act 2001, VENCorp is responsible for the development, administration and operation of the Victorian Gas Retail Market Systems and Retail Market Rules. These rules govern retail market operations and define the obligations of Market Participants operating in a fully contestable retail market in Victoria since October 2002.

VENCorp also plays a significant role in the facilitation of effective retail competition in Victoria through the provision of customer transfer and business to business (B2B) information exchange services.

VENCorp supports the objectives of the MCE to streamline the regulatory regimes and promote consistency across the Australian energy industry. There are however some issues VENCorp wishes to raise regarding this matter:

### **Part D – Other Distribution and Non-Price Retail Regulation**

#### **Section 2 – Business Authorisation**

The recommended approach is that obligations should be set out in the relevant Law or Rules, covering commercial areas such as: consumer protection, metering rules, retailer failure and compliance with retail rules. VENCorp supports the approach of imposing obligations through the relevant Law or Rules, but believes that this should also include compliance with any relevant wholesale market rules, such as the Victorian MSO Rules.

The approach also recommends that Distributors have obligations placed on them to demonstrate and maintain their ability to comply with technical and safety requirements, but that there are no similar obligations placed on Retailers. VENCorp is concerned that the approach recommends that Retailers should 'not be required to satisfy technical entry criteria' (p66).

In combination with the Gas Industry Act (GIA), Gas Safety Act (GSA) and the wholesale Market Rules, the current licensing regime in Victoria for gas Retailers requires adherence to and capability in technical areas including:

- Quality of gas injected into the transmission or distribution system;
- Communications with customers during curtailment processes;
- Taking customer's emergency calls and forwarding them to the appropriate network business; and
- Emergency response protocols and obligations to other industry participants and government authorities during these events.

VENCorp believes that the regulatory regimes should ensure that Retailers can adequately meet their responsibilities in non-commercial areas to ensure the safe and secure operation of the gas system.

### **Section 3 – Distributor Interface with Retailers**

The consultation paper notes that Distributors may not have a strong incentive to negotiate Use of System (UoS) agreements with Retailers (Section 3.2(a) - p 69). Market Customers are at an even greater disadvantage than Retailers in being able to negotiate a fair and reasonable agreement with Distributors, and therefore VENCORP suggests that the requirements regarding provisions for Distributors negotiating UoS agreements be extended to cover all Market Participants (Retailers, Market Customers and Traders) not just Retailers.<sup>1</sup>

### **Section 5 –Balancing Regime and Settlements**

The consultation paper discusses the arrangements for balancing and settlements systems in terms of jurisdictional approaches (p 74), with the consultation paper suggesting that Retailers should be required to comply with the Retail Rules that apply within the jurisdiction in which they are operating (Item 5.2 (c) – p 78).

In order for retailers to conduct their business it is necessary for them to comply with balancing and settlement regimes operated on the pipeline system from which they are withdrawing gas.

Many gas pipelines cross jurisdictional boundaries and therefore some retailers are required to participate in the pipeline balancing schemes in one jurisdiction in order to retail gas to customers within another jurisdiction. For example, Country Energy participates in the Victorian Wholesale Market and many elements of the Victorian Retail Market in order to retail gas to its customers in NSW.

As the aim of this framework is to develop a national approach, VENCORP suggests that the proposed legislation should recognise that retailers may be required to comply with the market rules associated with the relevant pipeline from which they are withdrawing gas, as well as jurisdictional regimes for customer contestability.

On another matter, the recommendation of item 5.2(d) (p 78) is that Independent Market Administrators (IMAs) should be required to consult with interested parties in developing proposals for changes to Gas Retail Market Rules. In combination with item 5.2(f), which seems to limit the requirement of the AEMC to conduct public consultation, this implies that IMAs will be required to conduct public consultation as part of their rule change process.

In Victoria, the process undertaken by VENCORP is to develop Rule changes in consultation with industry and representatives of customer groups. VENCORP generally does not conduct public consultations on rule changes, as its responsibility is to develop rule changes in consultation with industry. These rule changes are then submitted to the VENCORP Board for approval before being presented to the Regulator, which undertakes public consultation on these rule changes as part of its approval process.

VENCORP seeks clarity on the responsibilities of the IMAs and the AEMC in this regard, including whether IMAs would be required to undertake public consultation as part of its rule change processes.

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<sup>1</sup> Market Customers are those who are registered with the market operator and who purchase energy directly from producers / generators / pool and arrange the shipping of that energy for their own consumption – Currently there are two distribution connected gas market customers in the Victorian Market.

## **Section 6 – Metering**

The paper indicates that IMAs should develop Metering Rules (Part (a)(i) - p 82) that provide for the types of permitted meters and metering standards. In the current arrangements, VENCorp is responsible for specifying that meters must be 'pattern approved' below a certain flow, rather than approving various makes and models of meters.<sup>2</sup>

VENCorp believes that the 'metering standards' referred to in this section should be performance based standards, such as currently exist in the Market and System Operations Rules (and the Victorian Gas Distribution Code) rather than approval of specific makes of meters. VENCorp seeks further clarity of this requirement.

## **Section 7 – Load Shedding and Curtailment**

VENCorp is participating in the National Gas Emergency Response Advisory Committee (NGERAC) process and supports the development of a consistent approach to gas curtailment, while allowing jurisdictions to establish their curtailment tables within the national framework.

The recommended approach also includes imposing obligations on Retailers to comply with Curtailment Rules and Tables (section 7.3 (f)). In establishing these obligations on Retailers, VENCorp suggests that consideration be given to the technical requirements (as previously discussed in section 2) that should be placed on a Retailer in order to ensure the effective implementation of these obligations.

VENCorp also notes that in the operation of the Victorian Principal Transmission System (PTS) the responsibilities for curtailment reside within the wholesale market rules, not the retail rules. Load shedding and curtailment is undertaken to preserve network integrity and directly impacts on the outcomes of the wholesale market. Consequently, further development of these principals should be undertaken through the NGERAC processes and the national wholesale gas market development.

## **Section 8 - Retailer Failure Arrangements**

In reviewing the approach to 'Step-In Retailers' recommended by the consultation paper, VENCorp believes that some issues have not been fully addressed.

Many Retailers operate in both gas and electricity, and a failure in one market is likely to impact the Retailer's ability to effectively operate within the other market. Further, there needs to be a consistent and co-ordinated approach to communication between the various market operators (eg VENCorp and NEMMCO), regulators, government and the public in such an event, as well as clear roles and responsibilities on all parties to mitigate the impact on the market and the public should such an event occur.

The Approach (section 8.3(d), p 89) suggests that Step-In Retailers should be required to submit plans to the AEMC in relation to its management of activities as a Step-In Retailer. In its submission to the Victorian Essential Services Commission (VESC) on this matter (August

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<sup>2</sup> Pattern Approval is the responsibility of the National Measurement Institute

2005), VENCORP indicated that it was important that an energy industry approach to a failed retailer event be developed, which would provide a common framework for Retailers, market operators, regulators and government to develop their own plans.

VENCORP previously indicated to the VESC that regulatory requirements, such as bulk transfer of customers, limiting customer transfers during a Step-In Retailer period or providing information to a Step-In Retailer, might require system and process changes to provide the capability, and enable regulatory compliance, should such an event occur. It is for these reasons that VENCORP suggested that all parties need to have a clear understanding of their roles and responsibilities during such an event in order to minimise disruption and manage the security of supply should a failed retailer event occur.

VENCORP believes that the recommended approach (section 8.3 – p 89) put forward for a Failed Retailer scheme is inconsistent and unclear. Given that the various processes, roles and obligations on all parties are not yet clearly established, VENCORP believes that these recommendations are too detailed and prescriptive and seeks further clarity on this issue.

VENCORP suggests that consideration be given to establishing a broad policy position (eg for customer protection, market and system security) within the legislation and refer the details to a set of energy industry rules or protocols to be developed governing a Failed Retailer scenario. These rules could clarify the roles and responsibilities for the various participants who will be affected in a Failed Retailer scenario including market operators, Retailers, network operators, government and regulators.