

5 August 2021

Nicola Cusworth
Chair
Economic Regulation Authority
Submitted via online submission form

Dear Ms Cusworth

ERA Position Paper – Engagement process for the 2022 gas rate of return instrument

Energy Networks Australia (ENA) appreciates the opportunity to provide a response to the Economic Regulation Authority's (ERA) Position Paper on the Engagement process for the 2022 Rate of Return Instrument.

ENA is the national industry body representing Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia.

ENA strongly supports the ERA's approach of consulting on its intended process in developing the 2022 Rate of Return Instrument under the National Gas Law (Gas Instrument). ENA places a high value on the process consultation as it is an important step in developing the gas instrument by providing clarity on the intended process and fostering stakeholder confidence in development of the gas instrument.

Indicative milestones for the 2022 gas instrument

ENA recognises that the ERA is intending to accept public submissions on the Independent Panel Report as well as the Draft Gas Instrument. The approach to accept submissions on the Independent Panel Report is consistent with good regulatory practice in that it allows stakeholders to comment on all available material that the ERA will be basing its final assessment on. ENA commends the ERA for this consultative approach.

The indicative milestones schedule an ERA position paper on technical issues as well as concurrent evidence released in February 2022, with submissions due in March 2022. ENA's experience with previous rate of return processes leads it to consider that there may be insufficient time between the February publications and the submission deadline to fully assess the relevant material and submit rigorous, evidence-based analysis. It may be worth considering adjustments to the timing of these milestones.

Ensuring that adequate time is available for stakeholders to consider and respond to key areas of the Gas Instrument is likely to result in the highest quality decision possible. Noting this, it would be useful for stakeholders to be able to submit initial views on suggested key areas of focus early in the process to allow adequate time for discussion in the development of the Draft Gas Instrument.

Learnings from the AER Rate of Return Instrument process

One of the key learnings from involvement in the AER's 2018 Rate of Return Instrument process is that the AER's expert panel could have benefitted from additional guidance on the relevant issues that it

should consider. The Independent Panel Report considered issues that no stakeholder raised as material, while there was minimal commentary on several contentious issues subject to significant debate and differing evidence throughout the review.

It is ENA's view that the Independent Panel would likely have made more valuable contributions to the development of the Rate of Return Instrument if major stakeholder groups were given an opportunity to make a short submission to the Independent Panel highlighting key issues of contention and relevant material for the Panel in prior submissions on these topics.

ENA encourages the ERA to consider allowing short submissions from major stakeholder groups, to focus Independent Panel efforts on key issues. Such short submissions would be enhanced by discussion with the ERA regarding WACC estimation issues particularly where the method used by the ERA varies to that used by the AER and so evidence from the AER process may not be relevant.

Reliance on AER concurrent evidence sessions

ENA notes that the ERA intends to gather expert evidence from the AER's concurrent evidence sessions and may supplement evidence from the AER's concurrent evidence sessions on issues relevant to the ERA's 2022 gas instrument review.

While there are methodological similarities between some areas of the AER and ERA's approach to setting rate of return, it is also important to recognise that there are some material differences in the methodology to calculate the rate of return used by the ERA and AER. For example, the ERA approach to the estimation of debt costs has significant differences to that employed by the AERs. ENA agrees that the ERA may draw on relevant evidence from the AER process, but only where similarities in approach make it appropriate to do so.

ENA believes it is preferable for the ERA to use its own experts to assess relevant evidence to better inform its gas instrument process rather than leaning heavily on AER assessments. ENA is open to additional costs to gas pipeline businesses to support the ERA's own experts, noting that consultation with regulated businesses is recommended prior to additional costs being incurred. Thorough expert assessment of evidence wholly relevant to the ERA's methodology is more likely to result in a gas instrument that best promotes the long-term interests of consumers.

If you would like to discuss any of the material within this submission, please contact Garth Crawford, General Manager, Economic Regulation at g Crawford@energynetworks.com.au.

Yours sincerely,



Garth Crawford
General Manager, Economic Regulation