



26 March 2014

The Research Director
State Development, Infrastructure and Industry Committee
Parliament House
George Street
Brisbane Qld 4000

Email: sdiic@parliament.qld.gov.au

Dear Sir/Madam

Re: Electricity and Other Legislation Amendment Bill 2014

I refer to the State Development, Infrastructure and Industry Committee's inquiry into the Electricity and Other Legislation and Amendment Bill 2014 (the Bill), and welcome the opportunity to provide a submission to this inquiry.

APA is a major ASX-listed energy infrastructure business, owning and/or operating over \$12 billion of assets, including significant gas transmission and distribution assets. In Queensland, APA owns and operates four gas transmission pipelines, comprising the Roma to Brisbane Pipeline, the South West Queensland Pipeline, the Carpentaria Gas Pipeline and the Berwyndale Wallumbilla Pipeline which deliver gas to power stations, industrial users and residential customers. APA also has an ownership interest in, and operates, the Envestra and GDI Allgas transmission pipelines and gas distribution networks, which have approximately 25,000 kilometres of gas mains and approximately 180,000 gas consumer connections in Queensland.

As a result of its pipeline ownership interests, APA would be directly impacted by the enactment of the Bill, specifically in respect of Part 3, Amendment of Petroleum and Gas (Production and Safety) Act 2004.

APA understands that the purpose of the Bill is to recover from some industry participants the Queensland Government's funding commitments to the Australian Energy Market Commission (AEMC). In the case of the gas component of the State's funding commitment, of particular concern to APA is that the levy will only be applied to covered pipelines and therefore only two out of the many transmission pipelines in Queensland will be subject to the new levy.

As you may be aware, the AEMC performs rule making and market development functions under the National Gas Law (NGL). While this responsibility encompasses rule making for *covered* gas pipelines, it also includes rule making and market development responsibilities for an extensive range of other aspects of the gas market, including the operation of the Short Term Trading Markets, the Wallumbilla Gas Supply Hub, Bulletin Board and Gas Statement of Opportunities, which apply to all pipelines (covered and uncovered).

However, if enacted un-amended, the levy will only be applied to operators of 'covered pipelines' under the National Gas Law (NGL). In a letter received by APA from the Department of Energy and Water Supply in respect of this matter, it states that the Government's decision to levy transmission companies reflects its views that the AEMC has the function of making Rules under the National Gas Law. The letter further states that:

"Operators of gas pipelines are subject to application of the National Gas Law (NGL) and National Gas Rules if they operate a pipeline that is a 'covered pipeline'".

In light of the broad application of the NGL across the downstream gas sector (all licensed pipelines within Australia, and in this case, in Queensland, are subject to the application of the NGL) we consider that any funding contribution sought from the market should come from all pipelines that are subject to the NGL and not just covered pipelines.

There is approximately 10,500km¹ of transmission pipelines within Queensland, the vast majority of which are within the legislative reach of the access provisions in the NGL such that they are potentially subject to access

¹ APIA Directory 2014



regulation. Further, all of these pipelines are either currently, or potentially, subject to the Short Term Trading Market provisions, the Bulletin Board provisions, the Gas Statement of Opportunities provisions or any future trading hub provisions. All of these policy areas are under the rule-making remit of the AEMC.

Despite the broad reach of the NGL, the proposed amendments would see the AEMC's costs in respect of market development and rule making borne by the owners of just two pipelines comprising less than 1,300km of pipeline. That is, 100% of the gas industry costs to be borne by one company owning just 12% of the relevant pipelines. We find it difficult to understand how this is an equitable outcome, and therefore how such a decision can be justified by the government.

We also note that the LNG developments, which will result in a tripling in demand for gas on the east coast are excluded from this requirement, despite having availed themselves of opportunities available under the NGL to gain greenfield exemptions from access regulation. A broader funding contribution from the industry would also reflect the fact that, over the last 12 months, and we anticipate over the next two or so years, AEMC activities in the gas market area will be focussing primarily on non-access regulation matters, such as the design of facilitated markets throughout Australia.

It is understood that it was the policy intent in levying AEMC costs on covered pipelines that:

1. ultimately the cost of the levy be passed through to end use customers;
2. it was government's expectation that transmission pipelines would have "change in law" or "new government impost" type provisions which would enable the flow through of the cost to end users; and
3. one consideration in deciding to place the levy on transmission pipelines was that because all gas the flows throughout Queensland must at some stage flow through a transmission pipeline, it would therefore be possible to pass the cost on to all gas customers within Queensland.

I can advise that, generally speaking, cost pass through provisions as contemplated above are contained in APA's gas transportation agreements, and that APA would be able to recover most, but not all of the cost of the levy. It is important to note, however, that these are *contractual* arrangements, and in this respect are no different in terms of scope for cost recovery for this type of impost than contracts struck for services on uncovered pipelines.

I can further advise that our previous experience in utilising these contractual clauses is both very time consuming and is certainly not without acrimony.

In respect of (3) above, this is only going to be satisfied to the extent all transmission pipelines are subject to the levy, not just covered pipelines. Given the vast majority of transmission pipelines would not be subject to this levy, not all gas users would all ultimately be contributing to the levy.

For the reasons outlined above, we believe that to the extent a levy is going to be placed on pipeline operators, it should be levied on all pipelines operating in Queensland, not just covered transmission pipelines.

We would be more than happy to attend a Committee Hearing session should the Committee so request.

Please contact Stephen Livens in the first instance on (03) 8626 8407 should you have any questions in respect of this matter.

Yours faithfully

Rob Wheals
Group Executive Transmission