



SETTING THE OPENING CAPITAL BASE

Response to Draft Rule Determination – GRC0025

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OVERVIEW

The Energy Networks Association (ENA) welcomes the Australian Energy Market Commission's (AEMC) Draft Rule Determination on the *National Gas Amendment (Setting the Opening Capital Base)* rule change request (Draft Determination).

The rule change request seeks to modify the *National Gas Rules* to require a regulator to remove any benefit or penalty associated with the difference between estimated and actual capital expenditure in the final year of the regulatory period when setting the opening capital base for a subsequent access arrangement period.

The ENA supports the basis of the rule change proposal as providing improved clarity and predictability over the legal basis of decision-making under the National Gas Rules. In principle, ENA continues to support the potential alternative amendment applying across both electricity and gas raised by the AEMC as a means of providing added clarity to the capital base roll-forward process, but now understands that this option will not be pursued.

BACKGROUND

The Energy Networks Association is the national industry association representing the businesses operating Australia's electricity transmission and distribution and gas distribution networks. Member businesses provide energy to virtually every household and business in Australia. ENA members own assets valued at over \$100 billion in energy network infrastructure.

This submission provides the perspectives of network businesses on the rule change proposal ahead of the AEMC draft rule determination.

BENEFITS OF RULE CLARIFICATION

The ENA considers that the rule change proposal has the potential to materially improve predictability in the operation of the capital base provisions of the *National Gas Rules*. This is because the proposed change clarifies the powers of the AER and WA Economic Regulation Authority to make adjustments to remove benefits and penalties associated with variations between forecast and actual expenditure in the final year of an access arrangement.

This clarification follows two Australian Competition Tribunal rulings which made materially different findings on

the power of the AER to make such adjustments. These adjustments are explicitly provided for under the existing *National Electricity Rules* for both electricity transmission and distribution businesses.

In ENA's view improved transparency and predictability would benefit consumers through avoiding unnecessary ambiguity over the future power to make such adjustments in respect of gas distribution networks. This has the potential to reduce the potential for costly disputes, and ensure that the regulatory regime operates in a predictable manner. ENA concurs with the Commission's analysis that the rule change would strengthen the incentive framework of the regulatory regime, and improve regulatory certainty and clarity.

SCOPE OF RULE CHANGE - NATIONAL GAS RULES

The AEMC Consultation Paper previously raised the potential for an alternative amendment to be made to both the *National Electricity Rules* and *National Gas Rules* to the same effect, but with greater specification around defining the 'benefit or penalty'.

The option raised to extend the rule change to clarifying under both the National Electricity and Gas Rules that the adjustments should be confined to the return on capital component would also represent a modest but desirable increase in the predictability of the regulatory regime. ENA understands that the AEMC is currently not proposing to pursue this option further in this current process, but ENA continues to support such clarification in principle.