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LIGHT THE WAY

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Competition and Consumer (Gas Market Emergency Price) Order 2022

EnergyAustralia is one of Australia's largest energy companies with around 2.4 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. EnergyAustralia owns, contracts, and operates a diversified energy generation portfolio that includes coal, gas, battery storage, demand response, solar, and wind assets. Combined, these assets comprise 4,500MW of generation capacity.

We welcome the opportunity to provide a submission on the Consultation Paper as it relates to the Gas Price Cap, and the draft *Competition and Consumer (Gas Market Emergency Price) Order 2022* (Draft Price Order).

Overall, we have concerns that the prospect of the price cap is creating uncertainty and delay in contracting, with markets currently showing illiquidity. We also have concerns that the price cap could also incentivise gas producers to withhold supply further exacerbating supply and price issues. The Draft Price Order does not and cannot (under the Draft Bill) address these supply issues i.e. by directing supply. Having said that, we understand the urgency behind making the Pricing Order and its importance to the Energy Price Relief Plan, and so the rest of this submission focusses on responding to the Consultation Paper's questions below.

1. **Is $12 per gigajoule the appropriate level for a cap on wholesale contracts offered by producers, for supply from existing fields?**

No comment.

2. **Does this need to be expressed as an average to ensure producers are able to offer flexibility over the course of the contract?**

On balance, a flat price cap is our preference given the cap will only be in place for 12 months and is simpler to comply with and for the ACCC to enforce. Implementing the cap as an average would introduce complexity and require the ACCC to define how that average is calculated across the contract/year. However, we acknowledge that a flat price cap throughout the year does not reflect any seasonality, and could have the downside of not providing a high price in winter to incentivise the sale of additional gas needed during those winter months, relative to other times of the year.

3. **In relation to the scope of the price cap:**

   a. **What gas sales need to be covered to make the price cap effective?**

We agree with the price cap not applying to sales of gas on the spot markets to avoid any distortionary impacts on those markets, and to maintain focus on the gas producers and their "first sale of gas".

Our concern relates to transportation of the gas. The price cap will only be effective, if the gas the cap applies to, can actually be accessed where it is required. i.e. there is little value in low-cost gas, if we cannot secure physical supply of it in the southern states.

As per our previous submission, the Draft Bill fails to ensure that there is sufficient pipeline capacity contracts into southern markets to transport any uncontracted gas from Queensland. The problem is that there is not much uncontracted pipeline capacity available during periods of high demand. The issue of transport is not canvassed in the Draft Bill, as there is no ability for the Gas Market Code or Gas Market Emergency Price Order (Price Order) to compel capacity contracts to be offered. Nor is it clear that other reforms will resolve this transportation issue in a permanent way. AEMO's proposed new direction powers appear to only apply in limited circumstances and on an ad-hoc basis (discussed more below).

   b. **Does the draft instrument (at Appendix B) clearly and appropriately define the wholesale contracts which are subject to the price cap?**

No comment.

   c. **Is the draft 'application to gas' provision the most appropriate way to exclude undeveloped fields, which may have higher costs of production, from the scope of the price cap?**

Yes, the draft provision seems to work to differentiate undeveloped and developed fields so the price cap only applies to the latter. However, we would like further clarification either in the Price Order or supporting documents to define a field compared to a well (where a well is in a field). i.e. Are undeveloped wells in a developed field also excluded from the price cap? We do not have a strong view on the definition itself but providing certainty on the definition is important to help industry understand the extent of the price cap and its application, and to understand any flow on implications for gas production.

4. **How might the impacts of this policy differ across key segments of the gas market?**

We anticipate the following different impacts:

- In the southern states, the Price Cap would reduce any incentive for Producers to lock in contracts with customers for 2023, in favour of selling to the DWGM instead.

- Due to the unresolved transportation issue (discussed above), the southern states, including gas fired generation located there, might receive little to no benefit from the price cap.

- Regarding gas sellers that use storage, the price cap could advantage them, where they buy gas under bilateral contracts at a capped price, but then are able to resell that gas at uncapped prices in spot markets.

- For customers, the impact of the price cap on the cost of gas only (not including transport or storage) for mass market customers will be reduced (meaning lower capped prices won't flow through), depending on how much a retailer has hedged for their load already. It is possible that some retailers have fully hedged their mass market customer load for FY 2023 already, so the price cap will have no effect.

- For Commercial and Industrial (C&I) customers, those that self-contract and who can buy gas in Queensland may not be able to access it due to the transport issues above, negating any benefit of the price cap. For the C&I customers that have already contracted, they will not benefit from the price cap either. For C&I customers buying through a retailer, it depends on whether their retailer can gain access to the gas e.g. again transport barriers might apply. In the southern states, where producers divert gas that would have been supplied under contracts to the DWGM (to avoid the price cap), C&I customers will not be able to access that price capped gas.

5. Does the proposed model appropriately mitigate the risks associated with market intervention?

No. The risks of price regulation disincentivising investment in gas production are apparent and not mitigated by the proposed Draft Price Order and Gas Market Code. As noted above, the prospect of the price cap is creating uncertainty and delay in contracting now, and once in place, the price cap could also incentivise gas producers to withhold supply. With this in mind, we strongly recommend that the price cap only be in place for 12 months as proposed, and not be extended. We have concerns about longer term price regulation via the Reasonable Pricing Provision which we will expand on in our February submission.

6. Other matters

- **Affiliates** - The application of the price cap expands to Affiliates. We seek certainty, including the identification of which Affiliates are captured, or some worked examples of how the Affiliate provisions apply.

- **Interaction with other reform –** The Government and other regulatory bodies need to provide more clarity on how the price cap will interact with other measures that go to directing supply to domestic markets. In particular, if there is any interaction with:

    - the recent new Heads of Agreement which promotes the engagement of LNG Exporters with domestic customers via agreements to secure domestic supply, but those prices will be linked to international netback.

    - legislation being introduced to give AEMO a range of new powers to maintain or improve reliability and supply adequacy in east coast gas markets. This includes the power to direct market participants to fill gas storage, and inject gas into the network, and make transport capacity available. Powers also include AEMO having the ability to trade directly in the market.

If you have any questions in relation to this submission, please contact me (Selena.liu@energyaustralia.com.au or 03 9060 0761).

Yours sincerely,

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