



12 January 2015

Our Ref: 05-042-02-0001/PS

Mr Tyson Self
Assistant Director, Gas Access
Economic Regulation Authority
PO Box 8469
Perth BC WA 6849

Dear Mr Self

WALGA INTERIM SUBMISSION: ERA ACCESS ARRANGEMENT DRAFT DECISION

Thank you for the opportunity to make a submission in response to the 'Draft Decision on Proposed Revisions to the Access Arrangement for the Mid-West and South-West Gas Distribution System' (the Draft Decision). Please note that due to meeting schedules, this submission has not yet been endorsed by the Western Australian Local Government Association's State Council. The Economic Regulation Authority (ERA) will be informed of any changes to this submission following consideration by the State Council in March 2015.

The Western Australian Local Government Association (the Association) is the representative organisation for Local Government in Western Australia. The Association is an independent, membership-based group representing and supporting the work and interests of 138 mainland Local Governments in Western Australia, plus the Indian Ocean territories of Christmas Island and Cocos (Keeling) Islands.

The Association's main interest in this Access Arrangement concerns the ERA's determination regarding tax recovery on capital contributions. Generally, the Association supports the use of upfront charges for the costs of infrastructure built specifically for new developments. This ensures the application of the user pays principle and the achievement of efficient outcomes since development proponents will choose the most cost-effective areas for development.

However, the Association does not support the ERA's decision that tax costs resulting from capital contributions should be recovered from the entities that make such contributions to ATCO Gas. In doing so, the ERA is attempting to make the entire incidence of the tax apply to these entities and their customers. This is not necessarily an efficient outcome and is not what would occur in a commercial business that operated in a competitive market. This is because customers in new development areas are likely to be more sensitive to price.

Instead, recovering the tax liability as a cost of business from all customers should have minimal distortionary impacts on the economy. Existing customers would be affected less by

price changes, because: (1) demand for existing services will be more inelastic than demand for new services and (2) the price change for these customers will be relatively small since ATCO Gas's tax costs can be recovered from a larger group of customers. The Association therefore disagrees with the ERA's ruling on capital contributions because it is inefficient to restrict the infrastructure provider's ability to determine who it recovers tax from.

The Association understands the Draft Decision's treatment of capital contributions is not consistent with what occurs in other jurisdictions. For example, the Australian Energy Regulator (AER) makes an allowance for tax costs in the infrastructure provider's overall revenue requirement, which potentially enables these costs to be recovered from all users.

Nonetheless, the Draft Decision's treatment of capital contributions is consistent with the ERA's previous determination in the Third Western Power Access Arrangement (AA3). As a result of the ERA's determination in AA3, Western Power will commence recovering tax equivalent costs arising from capital contributions on the value of some gifted assets from 5 January 2015. The Draft Decision is also consistent with Horizon Power's current capital contribution tax recovery policy.

The Association believes the application of such policies to electricity infrastructure will have a detrimental effect on the WA community. This is because a number of projects with significant public benefits, such as streetlighting upgrades and asset relocations (particularly those that are initiated as a result of road safety upgrades), will not proceed due to the inclusion of tax recovery costs. In the case of gas infrastructure, asset relocations are also sometimes required to accommodate road upgrades.

These asset relocations are most commonly required by Local Governments seeking to improve the safety or efficiency of the road network through installation of roundabouts, traffic signals, turning lanes or road widening. The Association is particularly concerned about tax recovery charges applying to such projects, since they do not increase the revenue earning capacity of the infrastructure provider; they simply replace an (old) asset with a new one in a different location.

In summary, the Association is concerned that the imposition of tax recovery charges on capital contributions leads to inefficient outcomes and is inconsistent with the approach taken in other Australian jurisdictions. Furthermore, because of the increasing application of tax recovery charges on infrastructure contributions, a number of projects with substantial community benefits will no longer be viable.

Thank you again for the opportunity to make a submission. For enquiries please contact Paul Schollum, Economic Policy Manager, on 9213 2096 or pschollum@walga.asn.au.

Yours sincerely

Wayne Scheggia
Deputy Chief Executive Officer