

Our ref: GIR/0291
Enquiries: Stephen Eliot
9420 5646

Mr Lyndon Rowe
Chairman
Economic Regulation Authority
Level 6, Governor Stirling Tower
197 St Georges Terrace
PERTH WA 6000

Dear Lyndon

ALINTAGAS NETWORKS PTY LTD – DRAFT DECISION

I submit the following comments on behalf of the Office of Energy regarding the Economic Regulation Authority's (the "Authority") draft decision regarding AlintaGas Networks Pty Ltd's ("AGN") proposed revisions to the Access Arrangement for the Mid-West and South-West Gas Distribution System (the "Access Arrangement").

The issue in the draft decision on which I would like to comment is the cross-referencing of the Retail Energy Market Company Limited ("REMCo") retail market rules (the "Rules").

AGN proposed cross-referencing several specific Rules in its Access Arrangement. It is understood that the purpose of the cross-references was to alleviate potential inconsistencies that could arise due to the overlapping nature of the Rules and Access Arrangement as they relate to the AGN-User relationship.

I understand that the Authority is of the view that it is only be able to approve a reference to the Rules as in place at the time the Access Arrangement is approved. This would effectively lock in the Rules referenced in the Access Arrangement for a period of five years, although the Rules may be modified during that period. This could lead to AGN facing inconsistent obligations under the Access Arrangement and the Rules. As a consequence, the Authority has stated that it will not approve the Access Arrangement unless the cross-references to the Rules are removed [Amendment 53].

While I appreciate the issue raised, I believe it is important that there is scope for the Rules to change and still be consistent with the Access Arrangement. I note that regulations are commonly cross-referenced in instruments such as access arrangements in a way that allows for subsequent changes to the regulations. It would be helpful if the Authority were to explore this matter further, and to consider the options available that would allow AGN certainty in the AGN-User relationship without impacting the dynamic nature of the Rules.

This would also facilitate the Authority ensuring that the Access Arrangement and the Rules can achieve their shared propose and overall objectives, noting that the Authority is responsible for both of these instruments.

I am aware that the Authority considers one option would be to amend the *Gas Pipelines Access (Western Australia) Act 1998* to specifically allow for cross-references to the Rules in the Reference Service in the Access Arrangement. While this avenue can be explored, any resolution would not be available in time for this Access Arrangement.

You may publish this submission on the Economic Regulation Authority's web site.

If you have any questions or require further information in relation to this submission, please contact Mr Charles Crouch on 9420 5654 or Mr Stephen Eliot on 9420 5646.

Yours sincerely

ANNE NOLAN
COORDINATOR OF ENERGY

23 March 2005