

**Submission to the Productivity Commission's
Review of the Gas Access Regime Draft Report (the Review)
Additional Comments**

The Review notes that the Ministerial Council on Energy (MCE) is considering the CoAG Energy Market Review (the Parer Review). The MCE issued a Communiqué on 11 December 2003. It would seem appropriate for the Review to comment on any matter contained in the Communiqué which would seem to run counter to the general findings of the Review. Indeed, the Communiqué foreshadows interaction between its model and Review recommendations (Communiqué p.6)

Apart from a stronger finding on the “separation” of access policy/rule change from regulation, I would like to see the Review address what could be the Achilles Heel of the further gas market reforms being considered by the MCE.

Both the Review and the Communiqué emphasise the importance of market responsiveness in the formation of market rules and their administration. The foundation assumption has been, since Hilmer, that a properly functioning, transparent market will deliver the optimum outcome for all stakeholders in terms of broad economic policy. I could not agree more, having observed and worked through the dismantling of the retail/commercial/industrial market price distortions of the former regime of gas pricing by state consumer pricing tribunals.

But, for all the good intentions of the MCE Communiqué in terms of economic outcomes, it has foreshadowed (p.12) the continuance of retail price capping by instrumentalities apparently removed from the rest of the access regime. Will these price cappers determine for themselves the “alignment with costs”? If the States want to exercise their perfectly legitimate consumer protection role would it not be better for them to set a “trigger price” beyond which they could intervene. This would avoid the market distortions introduced by a price cap and such intervention could be by way of subsidy, regional allowances etc. which would be “below the line” and hence not a distortion of the market. Even the best access regime can only promote and underpin fair market allocation available market determined margin. If it is proper for the access tariff to be transparent and market based, why remove the end price from this model. This seems to be an important blurring of the lines between economic and energy policy on the one hand, and social (consumer protection policy) on the other.

My concern is heightened by the (hopefully “draft”) “riding instructions” set out in Appendix 2 of the Communiqué (p17), where AEMC is required to take account of “long term interests of consumers”. Surely this would seriously complicate the role of AEMC – with its three appointed members. Perhaps the Review should comment on whether it considers that aspect of AEMC’s role to be practical and consistent with reform to the regime per se. It is noted the MCE carefully and quite properly reserves all policy matters to itself, to the exclusion of AEMC. This should also apply to consumer protection.