



**Review of the Gas Access Regime
Response to Issues Paper**

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A submission by Origin Energy Ltd.

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1. Introduction

Origin Energy Limited (Origin) welcomes this opportunity to comment on the Productivity Commission's (the Commission's) issues paper on the review of the gas access regime.

Origin is a leading Australian energy company engaged in-

- Oil and natural gas exploration and production
- Natural gas transmission
- Electricity generation and cogeneration (including natural gas and renewable sources of electricity)
- Natural gas and electricity trading
- Natural gas, electricity and LPG retailing
- Asset management
- Appliance retailing

As a major participant in the Australian gas market, Origin has a strong interest in the outcomes of the Commission's review. Origin supports the review from the perspective of the Commission's previous work on the National Access Regime and also with respect to the Energy Market Review undertaken by the Council of Australian Governments (COAG).

The structure of the remainder of this submission is as follows. The next section (section 2) contains general comment on the gas access regime from Origin's perspective, and includes views put forward in the Energy Market Review undertaken by the Parer Panel. Section 3 details specific comment on questions and matters raised by the Commission in the issues paper. Section 4 offers comment on some additional matters of concern to Origin. Section 5 contains concluding remarks and summarises comments made in this submission.

2. General Comment

In addition to the specific comments offered in Section 3 of this submission below, Origin would raise some general comments on the gas access regime.

In response to the Issues Paper released by the Parer Panel's Energy Market Review (2002), Origin made the following remarks in relation to gas infrastructure and the development of the Australian gas market-

- Gas market reforms over the past ten years have been successful, with significant additions to pipeline infrastructure (Eastern Gas Pipeline, Tasmanian Gas Pipeline and Sea Gas) and an increase in competition.
- This has occurred, despite the perception that uncertainty triggered by access regulation has deterred investors.
- It is however Origin's view that the *National Third Party Access Code for Natural Gas Pipelines* (the Code) could be improved. A key amendment to the Code would include the enhancement of certainty for investors in new pipeline infrastructure (a common theme posited by industry). This includes the implementation of binding regulatory rulings and the inclusion of economic regulation free periods of 15 to 20 years).
- Such rulings are required prior to the construction phase of a pipeline asset.
- Origin supports a review of the effectiveness of access principles for upstream facilities in the gas market; however, it is strongly believed that coverage of such facilities is not supported by economic considerations. Existing guidelines for third party access (such as those developed by the Australian Petroleum Production and Exploration Association, APPEA) are

considered appropriate instruments to facilitate third party access to upstream assets.

- Origin believes that non-covered pipelines should be encouraged to introduce market-supporting mechanisms, but does not believe this should be interpreted as legislating a minimum standard or template enforced through regulation. Uncovered asset owners have a strong motivation to avoid coverage and thus observe practices that facilitate competition. In this regard, adherence by such uncovered pipelines to the Australian Pipeline Industry Association's (APIA's) voluntary Code of Practice is a more practical and less costly means of ensuring uncovered pipelines are committed to efficient outcomes develop for their shippers and customers.
- The gas access regime should reflect the principles of any objects clause inserted into Part IIIA of the Trade Practices Act 1974, and relevant regulator be bound to such principles.
- Comments regarding acreage management and joint marketing are dealt with in section 4 of this submission.

Origin's view is that reform to date has resulted in improvements in the efficiency of markets for natural gas, and this has been borne out through investment in new transmission pipelines that have allowed interconnection between jurisdictions, diversification of supply and the development of inter-basin competition. The degree to which the gas access regime has been a key instrument in this outcome is a fundamentally difficult question to assess, as discussed in section 3.1 below.

3. Specific Comment on Issues Paper

3.1 Benefits and costs of the existing regime

How has the gas access regime affected upstream and downstream industries? To what extent has the Regime promoted competition in these markets?

A general comment regarding the gas access regime has been the absence of a counterfactual scenario to the situation the gas industry finds itself in today; that there is an access regime and the Code is in place. It is difficult to measure costs and benefits against the alternative (a less comprehensive access regime or no access regime). It is noted that there has been (significant) investment in gas pipeline infrastructure since 1997- whether or not there would have been substantially more investment without the access regime is difficult to assess.

Positive outcomes

Regarding positive outcomes, the regime has provided for the development of access arrangements for covered pipelines generally understood by all interested participants. To the extent that a pipeline qualifies as a covered asset, the Code has provided for an improvement in information flows to users and producers, such that the basis of haulage tariffs are understood. This has assisted users in assessing whether a contractual arrangement for haulage services compares positively to an alternative (which may also include a separate supply source).

In regard to the practical limits of access regulation, Origin believes coverage criteria within the Code [section 1.9(a)-(d)] have functioned well, particularly with respect to small distribution networks. The revocation of the Roma, Dalby Town Council and Mildura gas distribution systems is consistent with the net social cost-benefit assessment contained within the coverage criteria.

Negative outcomes

Whilst regulators have generally explained the basis for reference tariffs in some detail in finalising access arrangements, there have been two important down side impacts (from Origin's perspective) that have affected the downstream industry.

The first is the interpretation and application of the Code by state regulators for distribution networks. Whilst often referring to other jurisdictions in reaching their decisions, there has been concern that the decentralisation of decision-making (in contrast to access arrangements being prepared by a single body) has led to inconsistent and possibly inefficient outcomes. Origin, as a national retailer of natural gas, has had to contend with no less than six different regulatory bodies developing access arrangements for natural gas distribution. This has resulted in the need to compare across jurisdictions the approach each regulator has adopted in applying the principles of the Code.

In light of this, Origin supports the concept of the Australian Energy Regulator (AER) raised in the Energy Market Review. It is believed that costly duplication of regulatory decision making bodies can be avoided if the AER had carriage of distribution network access decisions, rather than the current myriad of state-based regulation currently faced by industry. This would also address the regulatory costs imposed by the regime.

The second area of concern has been the disconnection between the application of the Code by regulators, and the constraint of price capping faced by retailers in all jurisdictions. In theory, distribution and transmission tariffs are a "pass through" to end-use customers. In Origin's experience, it is not possible to pass through all distribution charges to end use customers due to state-imposed price ceilings on natural gas prices (for example- Victoria, Queensland, South Australia). In the case of distribution pricing (which is a large component of delivered gas prices to smaller customers), regulators have applied the Code without regard, or have been constrained by the Code to ignore the regime currently applied to retail pricing. Regulators apply the Code therefore in apparent isolation from other components of the gas supply chain, including the final price allowed by the retailer.

Origin acknowledges that regulators have little influence over pricing policies implemented by state governments to end-users of gas. However, ignoring this deficiency and interpreting the Code in isolation of other segments of the gas supply chain has led to-

- distortion of signals passed through to consumers
- a lowering of retail margins and incentive to innovate
- a reduction in the sustainability of some gas distribution supply areas in direct contrast to the policy positions of most state jurisdictions to increase the penetration of natural gas

Whilst Origin supports the general principle embodied in the Code-

8.1 A Reference Tariff and Reference Tariff Policy should be designed with a view to achieving the following objectives:

(d) not distorting investment decisions in Pipeline transportation systems or in upstream or downstream industries;¹

it would argue that the return allowed under some access arrangements and their design has not met the criteria of avoiding distortions in investment in downstream

¹ Council of Australian Governments (November 1997), National Third Party Access Code for Natural Gas Pipelines, (Sixth Amending Agreement), page 50.

industries. This is particularly so for regions where gas is a marginal fuel because of climatic conditions and historic network development (e.g. Queensland).

Therefore, it is contended that either regulators accord more weight to the impact of their decisions on upstream and downstream markets (through the access regime and in the design of access arrangements for covered distribution networks), or COAG energy ministers allow full pass through of gas haulage charges, in addition to commodity and retail costs, originally envisioned in the fully contestable market.

To what extent does the Regime facilitate the development of a national market for natural gas and energy in general?

The implementation of instruments such as the Code has increased opportunities and incentives for gas market participants to innovate by offering a framework of access for third parties to infrastructure. There can be little doubt that trading has been enhanced by increased interconnection between jurisdictions. Origin believes that some measure of this positive activity has been a result of the Code.

Before the Code's introduction, each jurisdiction was characterised largely by vertically integrated supply structures with the Sydney, Adelaide and Brisbane markets supplied by a single pipeline (and in the case of Sydney and Adelaide, a single basin). Since 1997, there has been investment in transmission pipelines that have altered these traditional arrangements, such that the market for gas, whilst not as developed as the National Electricity Market, is far more flexible, efficient and diversified than it has been in the past.

The role the Code has played in this development is not easily assessed or quantified. However, a prima facie case might be made for the Code's role in encouraging gas suppliers to examine various alternatives from which to source and haul their gas to a range of markets; a scenario that would be unlikely without some form of access regulation. This is particularly the case with regard to monopoly pipeline systems (basin to market) and distribution systems.

What has been the impact of the Regime on end-user gas customers? What is the evidence that the Regime leads to lower prices and/or improved quality and range of service for gas and energy consumers?

There is some evidence that the impact of the gas access regime has had different effects on transmission networks relative to distribution. For example, variable haulage rates on the Moomba-Sydney Pipeline (MSP) published by the ACCC in the draft access arrangement appear significantly lower than variable (\$/GJ) rates published by the service provider at present. The obvious conclusion to draw from this is that coverage will bring lower transmission haulage charges to users (shippers, retailers and ultimately customers), however, it is critical that such tariffs recognise the need for the owner's of the MSP to earn adequate returns and continue to invest in transmission pipeline infrastructure. Origin is not able to comment on the basis for the ACCC's recommended reference tariff policies relative to historic practices however.

In other words, is the reduction in tariffs implied by the draft access arrangement evidence that there was an exertion of monopoly power in the past, or has the application of Code principles (particularly the criteria of reference tariff policies "replicating the outcome of a competitive market" [Section 8.1(b)]) resulted in insufficient returns for the investor, resulting in transfers to upstream and downstream participants?

Origin agrees with the contention that an access regime for gas should target dynamic efficiency rather than attempting to replicate a perfectly competitive market. Adherence to competitive principles in imperfect markets and indeed

regulating monopoly infrastructure as though a highly competitive market structure were in place may result in some reduction in incentives to invest and decrease market efficiency.

3.2 Coverage

Is the coverage test applicable and appropriate? If not, why and how could the coverage test be improved?

In general, Origin believes the criteria in section 44G of Part IIIA of the Trade Practices Act 1974 and section 1.9 of the Code adequately test the principle for natural monopoly, though a tightening of 1.9(a) in the Code would be a desired outcome of any review of the Code.

Origin notes that the application of coverage criteria has been controversial on occasion; the circumstances surrounding the coverage of the Eastern Gas Pipeline (EGP) the principal example. Origin believes that Duke Energy International's (DEI) successful appeal to the Australian Competition Tribunal regarding this matter was the correct outcome given the criteria of section 1.9 of the Code. To illustrate, Origin would agree that it would be uneconomic to duplicate the EGP along the same route, but does not agree that an access arrangement over a declared EGP would increase upstream or downstream competition over the uncovered alternative. Given the existence of spare capacity in the EGP shortly following its completion, DEI had strong incentives to promote haulage services to Sydney, and in doing so has promoted competition between the Gippsland and Cooper/Eromanga basins.

Therefore, whilst Origin acknowledges the difficult task the National Competition Council faces in applying section 1.9, it is argued that a consistent definitional context be provided for its criteria, particularly in regard to 1.9(a).

Origin expects in the future that asset owners will also argue that extensions and expansions (particularly for distribution networks) not be subject to coverage under the Code. This expectation is based on the opinions expressed by infrastructure owners in the recent past (including the Energy Market Review) and it is assumed these views will be borne out in responses to the Commission's current review. The application of the test in these circumstances will require careful consideration, particularly in considering the interests of and consequences for users who may need to haul gas through covered and uncovered segments of a network.

What are the advantages and disadvantages of allowing regulators to apply for coverage of pipelines which they will regulate?

Origin does not consider it appropriate that regulators seek coverage of pipeline assets. It is Origin's view that user's (producers, retailers and customers) of pipelines are best placed to judge whether a pipeline should be covered. Regulators do not face the commercial realities and pressures experienced by those participating in the market place. Further, it would seem a conflict of interest that regulators are able to initiate a process that will result in increased regulatory activity that is funded by suppliers and consumers of gas (particularly in regard to distribution, whose regulation is duplicated in each jurisdiction).

Do you have any views on the Commission's recommendation on the National Access Regime (and the Government's interim response), particularly where they are relevant to the industry-specific access arrangements for gas pipelines?

Notwithstanding Origin's views outlined above, Origin concurs with the Commission's views on 44G(2)(a) of Part IIIA of the Trade Practices Act 1974 (put

forward in its Review of National Access Arrangements, 2001), though notes that the boundary of the meaning of 'substantial' or indeed, the Federal Government's response that 44G(2)(a) promote a 'material' increase in competition would seem imprecise.

A qualifying statement regarding the relative improvement in competitive outcomes that would be promoted by access or increased access to a service would improve the effectiveness of the coverage test. For example, whilst coverage of a pipeline might promote competition, its net benefit is likely to be negative if access is not utilised by new participants (to compete with an incumbent for example). Whilst the Code already contains provisions in section 1.26(a) to reject vexatious applications for revocation², a realistic assessment and testing of likely improvements to the competitive environment for natural gas supply is necessary in order to give effect to the proposal to qualify the promotion of competition criteria with a specific property (substantial/material), as put forward by the Commission and the Federal government. A commitment from prospective users of an uncovered asset indicating their willingness to utilise covered services would signal the materiality of improvements in competition that would result in the event of coverage.

In conclusion, Origin agrees with the Federal Government's statement that 44G(2)(a) of Part IIIA should provide for a "material" promotion of competition from access or increased access, inasmuch this facilitates the entry of new participants.

3.3 Access regulation and the development of a competitive market for energy services

3.3.1 Effective retail contestability

To what extent does the gas access regime promote retail contestability on a consistent and timely basis?

The timeliness of access arrangement reviews and the delays involved in reaching final decisions has been of significant concern to Origin. Retail gas sales to small consumers (whether contestable or franchised) are without exception subject to economic price regulation by either a state-based regulator or the appropriate Minister's office directly.

In Victoria for example, retailers are expected to gazette proposed gas pricing for the following calendar year by the November preceding that year. The access arrangement for the GasNet Principal Transmission System (PTS) had not been finalised (by the ACCC) by November 2002, causing uncertainty in the development of prices to the state government for approval for 2003. Retailers must justify tariffs put forward for small gas consumers and transmission haulage prices added to Origin's cost build up were not those approved for 2003 as no final decision had been made at the time of tariff gazettal.

It is acknowledged that regulators should facilitate a proper and comprehensive consultation process with interested stakeholders in the drafting of an access arrangement that allows views to be formally put to regulators. However, Origin would note that few if any access arrangements have been developed or revised in a timely manner, in most cases the development (or review) process taking more than 9 months. Such delays can multiply uncertainty into upstream and downstream markets; which clearly constitutes a cost of the Code and the gas access regime.

² Council of Australian Governments (November 1997), National Third Party Access Code for Natural Gas Pipelines, (Sixth Amending Agreement), page 6.

Owners of covered pipelines might be rightly concerned regarding the length of time taken to finalise an access arrangement, but they are not the only gas market participants affected by such delays. Origin would ask that any amendments to the gas access regime, and in particular the Code, ensure that delays are minimised to the extent possible.

3.4 Access regulation and new investment

General Comment

Origin acknowledges the ACCC's efforts to reassure investors in new gas pipelines, in particular, the *Draft Greenfields Guideline for Natural Gas Transmission Pipelines*, however, it is Origin's position that regulation or access holidays for greenfield transmission pipelines or binding coverage decisions handed down by the National Competition Council would be preferable to existing Code 'flexibilities', that have not been utilised by industry participants to date, according to the ACCC.³

What would be the advantages and disadvantages of amending the Code to enable binding rulings on the coverage of pipelines prior to their construction?

As raised on page 1 (in section 2) of this submission, uncertainty surrounding the application of the access regime may deter investors from either extending an existing network or constructing a greenfield pipeline.

Advantages of binding rulings

A binding ruling would provide a strong indication to investors as to the regulatory environment that will face a greenfield pipeline or an augmentation of an existing system. Blue-sky rent that might be justifiably earned by investors would be guaranteed if a binding ruling were made (in contrast to an access arrangement that may reduce the pipeline's income if access is sought by third parties and trigger most-favoured nation clauses for foundation shippers, further reducing income). Such certainty should ensure that the project is developed at least cost and in a timely manner.

In addition, the certainty provided by such rulings would, over time, offer an indication as to the degree of discouragement to investment that is manifested within the Code and the gas access regime in general. If projects consistently do not go ahead in the presence of a binding coverage ruling, it would be a clear indication that investors remain of the opinion that the access regime retains strong disincentives to develop new pipelines.

Origin would agree with comments in the COAG EMR Draft Report of November 2002:

*"The introduction of a power to revoke a binding ruling, should there be a material change in circumstances, will lessen the certainty sought to be provided by the creation of the binding ruling **in the first place** (Origin emphasis)..."*

The Gas Code should be amended to enable the granting of binding coverage rulings for fixed periods of time, but with no ability to revoke that ruling

³ ACCC, *Draft Greenfields Guideline for Natural Gas Transmission Pipelines*, June 2002, page 3.

within the period unless information relied upon proves to be false or misleading.”⁴

Given the evolving nature of the Australian gas market, and that of gas access regulation, a binding ruling on coverage would greatly enhance certainty for new investors, insulating their investment from regulatory changes and allowing them flexibility to contend with altering market conditions.

Disadvantages of binding rulings

One possible disadvantage of a binding ruling would be a significant change in upstream or downstream market conditions that might result in additional pipeline haulage services being sought, but no mechanism to establish those services or uneconomic prices being asked of the access seeker. However, it is thought that a dramatic change in conditions is unlikely to occur during the period for which the binding ruling applies.

What would be the advantages and disadvantages of providing investors in a proposed transmission pipeline with the option of a 15-year (or some other fixed term) access holiday? What are the pros and cons of limiting access holidays to transmission pipelines?

As indicated in Section 2 of this submission, Origin supported the implementation of twenty-year access holidays for new pipeline developments, rather than fifteen years, based on its experience of project-financed pipeline development in Australia.

Advantages

As with binding rulings, commitments to access holidays (economic regulation free periods) or the locking-in of some regulatory parameters, will clearly have the effect of substantially increasing investor certainty and encouraging investment. As such, Origin would approve of any change to the Code that accommodated the granting of economic regulation-free periods for greenfield developments.

Disadvantages

Refer to comments on the disadvantages of binding rulings above.

In regard to the limiting of access holidays/economic regulation free periods to transmission pipelines only, it is envisioned that some disadvantages may result from excluding all distribution network activities. Origin would suggest the assessment of whether a project would be defined as an augmentation or a genuine greenfield development would require case-by-case consideration. It might be envisaged that some distribution projects are indeed greenfield in nature and in some respects would be considered smaller transmission system expansions. Origin would therefore recommend that distribution pipelines should not be automatically excluded from access holiday assessments without proper scrutiny as to the nature of a particular project.

3.5 Other improvements

Are special measures required to encourage the extension of gas distribution to regional areas?

Whilst Origin supports the development of gas reticulation services to regional areas, it is critical to consider the viability of such investments. Whilst distributors

⁴ Council of Australian Governments, Toward a Truly National and Efficient Energy Market, November 2002, page 124.

may face the risk of stranding a network in the face of inter-fuel competition and substitution, retailers are prevented from passing through the costs of distribution to users in the presence of retail price caps. It is not believed that the access regime should contain specific encouragement for distributors to develop regional reticulation networks, as the viability of each proposal is dependent on a wide range of factors. Origin is not certain as to the meaning of "special measures" or the basis for "encouraging" reticulation. It is Origin's view that any new extension of gas distribution produce a positive net social benefit, and this would necessarily include the ability for gas retailers to recover costs of supply, including distribution charges.

4. Other matters

4.1 The upstream gas industry: Access, joint marketing and acreage management

Consistent with views put forward in its response to the Parer Panel's Energy Market Review, Origin does not believe that a Code for third-party access is necessary for upstream gas industry assets. To this end, Origin does not agree with the Panel's findings in its draft report of November 2002 that-

"Our key findings are that:

- there is limited upstream competition, particularly in the South East market, and that steps should be taken to encourage greater competition through separate marketing and acreage management practices."*⁵

In Origin's response to the COAG EMR Draft Report, it was stated that coverage of upstream gas processing facilities was not warranted. This view was presented, as it is believed that APPEA guidelines for third party access to facilities were functioning well, given the amount of activity around commercial negotiations currently underway. Origin did however support a review of the effectiveness of principles contained within APPEA guidelines to the extent that market participants were concerned that commercial negotiation was not yielding efficient outcomes.

Furthermore, Origin articulated the view that potential anti-competitive outcomes resulting from joint marketing arrangements were adequately addressed presently through the Trade Practices Act and the ACCC as the regulator responsible for reviewing marketing arrangements.

There is also a strongly held view that mandating separate marketing will significantly increase risks of developing gas resources, especially for smaller parties involved in a joint-marketing arrangement (who may have inadequate resources including a marketable parcel). Origin did note that some producers are voluntarily marketing output separately and that this activity would continue as the gas market matured.

Finally, Origin has previously suggested that amending acreage management regimes to include criteria to promote competition in the awarding of exploration permits was not in the interests of consumers or the industry, as measures have already been introduced to improve intra-basin competition, including limited life exploration permits. The focus of acreage management and the awarding of permits should be on the ability to undertake and structure of a producer's work program.

⁵ Council of Australian Governments, Toward a Truly National and Efficient Energy Market, November 2002, page 111.

4.2 The objects clause

Origin supports the inclusion of an objects clause in Part IIIA of the TPA and by association; carry such a clause through in the Code as the chief instrument of the gas access regime. The proposed objects clause put forward by the Commission in Proposal 5.1 (tier 1) for Part IIIA captures the essential elements of an access regime for natural gas.⁶ Origin would recommend that the Commission's proposed objective stated as:

*(a) enhance overall economic efficiency by promoting the efficient use of, and investment in, essential infrastructure services;*⁷

be reflected in the objectives of the Code and jurisdictional Gas Pipelines Access legislation.

The objectives stated in section 2.1 of the *National Gas Pipelines Access Agreement*⁸ (NGPAA) and in the introduction to the Code may have been appropriate at the time they were drafted, but should be amended to reflect any objects clause in the contained in Part IIIA of the TPA. That there are conflicting objectives amongst those listed in the introduction to the Code (and the NGPAA), or that such objectives introduce ambiguity into the regulatory process would indicate a need to better define such objectives. Origin does not propose a specific set of objectives here, but broadly supports those mooted by the Australian Gas Association⁹, including the need for Code objectives to guide regulatory decisions by providing over-arching principles from which to refer. Further, objectives associated with specific areas of the gas access regime (for example those pertaining to section 8.1) would be subordinate in interpretation to the guiding principles of the Code, reflected in jurisdiction Gas Pipeline Access legislation and Part IIIA.

Origin also agrees with the conclusion the Commission arrived regarding objects and distributional outcomes in its national access regime review.¹⁰ Origin believes that the access regime is not the appropriate instrument for pursuing distributional goals and an objects clause for the regime should not reflect such goals.

5. Conclusions

In summary, Origin considers that the gas access regime has facilitated the development of a more efficient gas market, has allowed new entrants into the market at all levels of the gas supply chain and has increased the scope of competitive outcomes and fostered a degree of innovation in products and services offered by gas producers, pipeliners and retailers.

However, it is not clear what the nature of development would have been in the absence of the regime or the Code. Origin believes that a review of the Code is timely given the substantial changes in the Australian gas industry since the inception of the gas access regime. It is not thought that elements of the gas access regime (such as the Code or Part IIIA) have greatly discouraged investment in gas pipeline infrastructure, though it is believed that the Code's interpretation and

⁶ Productivity Commission (2001), Review of the National Access Regime- Position Paper, page 102.

⁷ Ibid.

⁸ Council of Australian Governments (1997), Natural Gas Pipelines Access Agreement, Section 2, Access Objectives.

⁹ Australian Gas Association (2003), Submission to the Productivity Commission, Review of the Gas Access Regime, page 25.

¹⁰ Productivity Commission (2001), page 103.

models of regulation offered could be made more flexible and the case for the need for regulation be articulated clearly, particularly in the face of markets maturing and growing more competitive. Despite views that gas pipeline infrastructure is bottleneck in nature, regulatory oversight is a second-best option relative to commercially negotiated outcomes.

The role of the gas access regime should focus on the enhancement of diversity of gas supply and encourage infrastructure owners to maximise throughput (the inverse of monopolistic behaviour) and utilisation of spare capacity. Origin would concur with the Commission's earlier comments in the Review of the National Access Regime (April 2001) that such regulatory frameworks should place more emphasis on efficient market outcomes rather than merely the rubric of 'promoting competition'. It is not Origin's view that the Code requires 'radical surgery'; however additions allowing improved certainty for infrastructure investors, definitional clarity for section 1.9(a) of the coverage test and the way in which the regime facilitates gas market deregulation and development requires the attention of all stakeholders.

A final observation made here is the alignment between Code implementation and objectives (put in place to define access to pipeline networks) and outcomes in deregulated, contestable gas markets in eastern and south eastern Australia has not always resulted in optimal market efficiency. Recognising the scope of the review, Origin would contend that the efficiency of the gas access regime has been negatively influenced by continued regulation of downstream markets by government (following full retail contestability). There is concern that the distortion of such signals through price regulation or other means (including distribution charges) has negatively impacted on both contestable (upstream and gas retailing) and non-contestable (distribution, some transmission) elements of the gas industry.