

## GAS MARKET CODE | *PROPOSED DETERMINATIONS*

Australian Energy Producers | 6 December 2023

Australian Energy Producers welcomes the opportunity to provide input into the *Gas Market Code proposed determinations on supplier record keeping, reporting and publishing obligations*.

The implementation of the mandatory Gas Market Code (Code) must strike a balance between providing increased information to the market and increasing the administrative burden and cost of operation for gas suppliers. Market participants understandably are looking to maximise the information available to them to inform their day-to-day operations. However, the compilation and provision of information inevitably comes at an administrative cost to companies and increases the cost of doing business for gas suppliers. Costs that need to be recouped through the sale of gas. Therefore, when considering additional administrative actions by companies, including reporting and record keeping requirements, a balance must be sought.

While the recommendations below look to ensure the proposed determinations strike the necessary balance within the prevailing framework, an overarching effort is required from government to align reporting requirements and processes between instruments, departments, and agencies | Australian Energy Producers appreciate the efforts that have been made to streamline reporting requirements across the gas sector, and to remove administrative duplication. However, there is still significant opportunity to improve the gas reporting landscape to reduce the unnecessary administrative burden on gas suppliers. Administration and government compliance is a significant cost on companies, in particular the small suppliers who need to minimise administrative staff in order to remain competitive.

Australian Energy Producers has the following recommendations to inform the proposed determinations:

### [Record keeping by a supplier | Section 33 determinations](#)

The Gas Market Code Section 33 record keeping requirements should commence on 1 April 2024 to allow time to get systems in place and to align with other government and internal reporting periods | While the Code record keeping and reporting requirements have some alignment with existing reporting mechanisms, new systems and processes will be required to fully implement the determinations of the Code. Therefore, it is fair and reasonable to expect the provision of a transition period, once the final determinations are made, in order to put the required systems in place. Further, to minimise the administrative burden of the additional Code record keeping requirements, they should be aligned where possible with other pre-existing record keeping and reporting requirements, both those imposed by government under other gas market instruments as well as internal company processes and schedules. In practice, this means the record keeping requirements should align with a first of the month, quarterly calendar year schedule. Based on the above

requirements, 1 April 2024 would be the recommended commencement date for the record keeping provisions of Section 33, as 1 January 2024 would not allow sufficient time to get the necessary systems in place. Should a 1 April 2024 commencement result in a record reporting gap, this can be accommodated through appropriate section 95ZK requests.

**Gas suppliers should be permitted to keep the required records in the format and system of their choosing, provided they can produce the form prescribed when required and on reasonable request** | Central to the utility of the Code reporting requirements is the prompt production of the required information in the form prescribed. All gas suppliers have their own record keeping systems and processes in place, that can produce the required information in the prescribed form in line with the required reporting schedule and on reasonable request. Therefore, gas suppliers should not be required to maintain their records in the prescribed form at all times as it would represent a double handling of information and an increased administrative burden with no material benefit.

Further, the maintenance schedule for record keeping should reflect the value add of the information produced. For example, in the course of advancing an Initial Offer, new details may be resolved, or existing information undated on a daily, or even hourly, basis. Given the balance between the value of information and the administrative resources required to keep records up to date, it is recommended that the determination is explicit that record keeping requirements should only need to be accurate to within a month at any point in time and are not required contemporaneously. Further, any request to produce the required records (outside of the prescribed reporting schedule) should involve a ten-day notice period to ensure records are up-to-date and can be produced in the required format.

**The prescribed form must be free from errors and have the flexibility to accommodate varied and incomplete information, including when being uploaded into the portal** | The establishment of a form for record keeping under Section 33 of the Code means that the form becomes an integral part of the record keeping and compliance process. Therefore, the form itself needs to be extensively reviewed and tested to ensure it is fit-for-purpose and free from errors before becoming the responsibility of gas suppliers to complete. This also supports the proposed 1 April 2024 commencement date to allow sufficient time for testing and revision before becoming active.

Further, the form must have the flexibility to accommodate potentially varied and incomplete information. In the Initial Offer process, preliminary information may be limited in nature or detail, such as involving a potential range of volumes or delivery periods. This is particularly the case with Buyer Initiated Offers where the information is entirely outside the control of the gas supplier. To ensure the functionality of the form, it needs to incorporate sufficient flexibility to record a wide range of incomplete and varied information. This is particularly important for the integration of the form with the portal, as it would be very problematic if the portal did not allow incomplete forms or forms with unexpected inputs and/or data types to be uploaded.

### Information relating to available gas | Section 34 & 35 determinations

While adhering to the requirement to disclose available gas information, gas suppliers must retain the flexibility to align the volumes and nature of gas availability with the variable nature of facility and business operations | Gas suppliers will often earmark volumes of gas to for the contract market and the short-term, spot market. Allocating parcels of gas for these different commercial purposes allows gas suppliers to ensure their commitments align with the nature of their operations, including the need to accommodate the variability of production over time. When reporting uncontracted gas over a 24-month period, gas suppliers can make a good faith best estimate of how much gas will be allocated to which market over this period, however suppliers must retain the right to reallocate gas between these markets at a future date, should the need arise and without risk of penalty. This may include revising down the volumes of uncontracted gas available for a given period, relative to previous notifications. Should gas suppliers not be given the flexibility to revise gas availability estimates, it risks leading to suppliers reporting conservative, minimum volumes to avoid the risk of future downward revision, rather than the best estimates for any given period.

### Careful consideration is needed in finalising the granularity of gas availability disclosure |

A balance needs to be sought regarding the value of increased granularity of reporting of future gas availability, with the increased administrative burden, potentially decreasing accuracy, and increased risk of disclosure of commercially sensitive information. Increasing granularity of available gas reporting has a quickly diminishing value to the market. Reporting of available gas at a granular level greater than quarterly, and in many instances reporting data on a quarterly or any sub-annual basis, would see the value of reporting significantly outweighed by the increased administrative burden and decreasing accuracy of the volumes disclosed. Given many gas suppliers standard operational and contracting processes, the information reported for quarterly periods may not be any more informative or accurate than information reported for a 12-month period. Further, the greater the disaggregation of available gas reporting, the greater the risk that the information reported discloses commercially sensitive information. For many gas suppliers, disclosing even quarterly gas availability may give insights into sensitive commercial information and may raise competition concerns.

Australian Energy Producers welcomes the opportunity to provide input into the proposed Code determinations and would happily provide further information or elaboration of the above recommendations if required.

Yours sincerely,



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