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Manager, MCE Secretariat
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Dear Sir/Madam

SUBMISSION ON THE EXPOSURE DRAFT OF THE INITIAL NATIONAL GAS RULES

Key points:

In contrast to what Multinet and the energy industry expected, the exposure draft of the Initial National Gas Rules varies from the National Gas Code on numerous points of detail that represent material changes in the policy intent and operation of the regime. Also, the draft NGL contains many provisions that constitute important procedural matters and detail of industry regulation that should be in the Rules. The result is a set of Rules that are largely inappropriate and impractical.

Careful work needs to be done to bring the draft Rules into closer alignment with the current Code to at least preserve the certainty and benefits that the existing regime provides. The Rules should then be developed by an expert body, the Australian Energy Market Commission, to enable regulation to evolve or to facilitate new forms of regulation that seek to reduce the costs of regulation and better promote the achievement of economic efficiency and the gas market objective.

Multinet Gas Partnership (Multinet) is pleased to have the opportunity to comment upon the exposure draft of the Initial National Gas Rules (draft Rules) that the Ministerial Council on Energy (MCE) Standing Committee of Officials (SCO) published on 22 November 2006.

This submission should be read in conjunction with our previous submission of 19 December 2006 with United Energy Distribution on the exposure draft of the National Gas Law (draft NGL) because the National Gas Law and Rules are an inter-related package. In our previous submission we made the following points:

- Multinet Gas is one of three gas distribution businesses in Victoria and is the only urban distributor servicing some 630,000 gas connections in Melbourne's eastern suburbs.
- The draft NGL contains many provisions that constitute important procedural matters and detail of industry regulation that should be in the Rules. Consequently, these provisions would be outside the reach of the AEMC's valuable rule development process.
- The draft NGL establishes and fixes a very broad discretion for the Australian Energy Regulator (AER) in terms of regulatory power and decision-making and these powers could not be moderated by the Rules.

From the SCO's previous statements¹, Multinet had expected that the draft NGL would have been very similar to the current National Electricity Law with the addition of coverage provisions and elements introduced as a result of the MCE's acceptance of a limited form of merits review and of certain recommendations from the Expert Panel² and Productivity Commission³. That is, we had expected that the Gas Pipeline Access Law (GPAL) and limited parts of the National Gas Code⁴ would be 'uplifted' into the NGL with minimal change, except where COAG and the MCE had signalled that there would be changes. As we outlined in our previous submission, the draft NGL was substantially different to this and the outcome is problematic.

Multinet also expected that the draft Rules would be modelled closely on the current National Gas Code in the same way as the initial National Electricity Rules were based fully upon the then existing National Electricity Code. The current National Gas Code has formed the basis of a successful and well-understood access and pricing regime for several years. It has room for improvement, as did the National Electricity Code; however, we expected that material development would be left in the expert hands of the Australian Energy Market Commission (AEMC) and its analytical and transparent rule-making process. The AEMC has recently conducted a very good process to develop new electricity transmission rules, which contain many improvements.

Further and importantly, we suggested previously that the NGL be reframed in a manner that allows for, and in fact encourages, the development by the AEMC of the rules to enable regulation to evolve or to facilitate new forms of regulation that seek to reduce the costs of regulation and better promote the achievement of economic efficiency and the gas market objective.

In contrast to our expectation, the exposure draft of the initial National Gas Rules varies from the National Gas Code on numerous points of detail that represent material changes in the policy intent and operation of the regime. Also, as we mentioned earlier, the draft NGL contains many provisions that constitute important procedural matters and detail of industry regulation that should be in the Rules. The result is a set of Rules that are largely inappropriate and impractical. The Energy

¹ For example: Standing Committee of Officials, Statement of Approach – A New Legislative Framework for Gas, September 2005; and Standing Committee of Officials, Statement of Scope – A National Legislative Framework for Gas and Electricity, July 2006.

² Expert Panel on Energy Access Pricing, Report to the Ministerial Council on Energy, April 2006.

³ Productivity Commission, Inquiry Report No. 31, Review of the Gas Access Regime, 11 June 2004.

⁴ National Gas Code is the *National Third Party Access Code for Natural Gas Pipeline Systems*.

Networks Association will list the Code/Rules discrepancies in detail in its submission. In our view, more careful work needs to be done to bring the draft Rules into closer alignment with the current Code to produce a workable regime which at least preserves the certainty and benefits that the existing regime provides.

This situation reinforces our observation that the exposure draft NGL and Rules would have benefited from earlier consultation on the major changes to the current arrangements they represent. We encourage the SCO to engage more frequently and closely with the gas industry, through the industry associations and with individual businesses, from this point forward so that the industry is better able to contribute constructively during the energy reform process and assist with the early resolution of issues. If this requires more time, it would be time well spent to establish a quality NGL and Rules package. A consultative process will produce a far better product than one that is rushed simply to meet an arbitrary timetable.

Multinet stands ready to participate in whatever capacity it can to assist with further development of the NGL and the Rules to produce a quality product in the shortest time possible.

Yours sincerely

[signed]

Hugh Gleeson
Chief Executive