



1 August 2005

Mr Peter Hallahan  
Secretary  
Senate Economics Legislation Committee  
Suite SG.64  
Parliament House  
Canberra ACT 2600

Dear Mr Hallahan

**Inquiry into Trade Practices Amendment (National Access Regime) Bill 2005**

I refer to the current inquiry by the Senate Economics Committee into the provisions of the *Trade Practices Amendment (National Access Regime) Bill*.

Last week the Western Australian Economic Regulation Authority lodged a public submission to the Committee comprising of a letter and several attachments which the Authority has previously provided to the Ministerial Council on Energy and the Prime Minister's Export Infrastructure Taskforce.

These attachments include a paper recently prepared by the Utility Regulators Forum (URF) on the review of the gas access regime – an industry-specific access regime established under the national access regime.

Australia's energy network businesses, which own and operate approximately \$35 billion of gas and electricity distribution infrastructure, have significant concerns that the views presented by the URF in this recent paper do not provide a sound or empirical basis for policy decisions on the future of either the national or the gas access regime.

The ENA has prepared a formal response to the URF paper which is attached for the information of Committee members ([Attachment 1](#)). This response provides the views of direct industry participants in the existing gas access regime on the issues raised by the URF paper. In particular, the response identifies areas of the URF paper which are unsupported by empirical evidence or the findings of the independent and comprehensive review of the gas access regime itself.

The ENA believes that supplying this response to the Committee will assist in providing a balanced insight into the issues facing energy infrastructure assets including regulatory shortfalls; long-term reliability; and the current state of infrastructure investments. The ENA invites the Committee to consider the report in the context of its inquiry.

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The WA Economic Regulation Authority makes a number of unsubstantiated generalisations and offers its own perspectives on third party access regulation based on anecdotal evidence from ‘private discussions with key stakeholders’. It is notable, however, that neither the Authority or its immediate forerunner (the WA Office of Gas Access Regulation) appear to have contributed to the public submission process leading up to the final report of the *Review of the National Access Regime*. Similarly, the Utility Regulators Forum failed to make any submissions to the Productivity Commission review of the national access regime, or the industry-specific gas access regime.

Over 120 public submissions by dozens of parties were made to the *Review of the National Access Regime*. These assisted the Productivity Commission to develop a robust set of findings and recommendations to make significant improvements to infrastructure regulation following a decade of experience with third party access regimes. The review of the gas access regime was similarly informed by year-long public consultation processes, and over 3500 pages of written submissions.

Following the public consultation processes surrounding the *Review of the National Access Regime* Commonwealth, State and Territory governments collectively developed an agreed Australian Government response to the final report. This response accepted the broad thrust of Productivity Commission’s findings and recommendations. Importantly, this agreed government response did not consider the arguments of those parties opposed to the insertion of the agreed pricing principles into Part IIIA of the *Trade Practices Act* or other key recommendations made by the Commission to be persuasive.

The ENA would be disappointed if unsupported claims of a regulatory body which had not sought to offer its highly contested views to the original Commission inquiry were to be accepted at the stage of legislative implementation without appropriate scrutiny and scepticism.

Please feel free to contact me on (02) 6272 1519 if you have any queries relating to this letter, or wish to discuss any aspect of this matter further.

Yours sincerely

Garth Crawford  
**National Director – Government and Regulatory Affairs**  
Energy Networks Association