South Australian Chamber Of Mines & Energy

13 March 2024

Attn: Mr Michael Malavazos
Director, Energy Regulation
Department for Energy and Mining

Via email: DEM.Engineering@sa.gov.au

Dear Mr Malavazos

Re: Draft Energy Resources Act Regulations

The South Australian Chamber of Mines and Energy (SACOME) is the leading industry association representing the resources and energy sector in South Australia; the powerhouse of the State's economy.

Accordingly, decisions and regulations that impact our sector must be considered in this statewide context and with a view to prioritising its long-term economic viability.

To inform this submission, SACOME consulted widely among its members and worked in close collaboration with Australian Energy Producers (AEP). SACOME welcomes the opportunity to comment on the draft Energy Resources Act Regulations, which support the recently amended *Petroleum and Geothermal Energy Act 2000* and which is to become the *Energy Resources Act 2023*.

As stated in SACOME's original submission regarding the Petroleum and Geothermal Energy Amendment Bill, SACOME broadly supports the intent of the head amendments and welcomes DEM's collaborative approach with industry in regularly updating the regulatory framework. Our main concern then – and now – remains the CCS rent, in addition to new reporting obligations and some ancillary matters that require clarification.

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The formula for the rent

Without derogating from SACOME's policy position that a tax on CCS disincentivises this vital decarbonisation technology, SACOME is also concerned about the complexity of the formula used to determine the rent payable for a regulated substance (cl 8). We understand the payment has been deliberately designed as an annual rent, based on advice, to avoid constitutional issues that a one-off payment to the Crown might otherwise attract.

Given this advice, SACOME recommends the rental formula be simplified insofar as possible, including consideration for charging all projects based on an average temperature and pressure. SACOME has had the benefit of reading AEP's reasons for the same and endorses their recommendation, on the basis that it would minimise complexity and extreme cost variance between projects.

Cl 8(4) provides the Minister with the capacity to adjust the rent payable as calculated in accordance with cl 8 to *take into account variations of the storage conditions of the natural reservoir*. SACOME understands from DEM the intention of this Regulation was to allow for "bill smoothing" for want of a better term, rather than the Minister having a greater discretion to adjust the rate. Should the draft Bill be amended, this clause may be otiose; however, should cl 8(4) be retained in some form, SACOME recommends that DEM re-engage with industry to devise pre-set criteria for fee adjustments. It may be that the clause is reworded to make its intention clearer or the Minister retains the power to only revise down the rent payable.

Reporting obligations

SACOME queries the additional reporting obligations introduced by these Regulations. It is axiomatic that reporting obligations should be minimised as far as possible to avoid greater regulatory and administrative costs on industry, particularly for smaller operators.

Cl 24(6) has introduced new requirements in subclauses (da), (db), dc) and (de), under the auspices of Annual Reporting requirements. Cl 33(de) is of particular concern as it would require a report on *any reasonable concerns reported to the licensee by members of the public…including any details of any action that has been, or will be, taken to address these concerns*. In its current drafting, this would

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likely include activist activities and represents an unacceptable and significant burden on operators, and how they manage external pressures.

SACOME also requests clarification on cl 30, which is to be the new s 46(c), entitled *Reserve estimate report*. It is not currently the case that operators report reserve estimates on an annual basis at the field level and to provide a certified competent person's report on the same would be cost and time prohibitive. In the alternative, SACOME suggests that reserves – less productions – could be reported less frequently and as determined by the Regulations.

Ancillary matters

There are several instances where "operator" has been replaced by "licensee", ostensibly to align with s 74 of the Act and presumably on the basis to cover the situation whereby a licensee may employ a contractor operator. However, it remains unclear as to whether it is intended all Joint Venture parties would need to meet the requirements. SACOME draws attention to new ss 16A, 17, and 19 as circumstances that would benefit from clarification.

To be consistent with the head Act, specifically s 49(4), SACOME recommends that cl 31(b) be amended to finish with "…or within such longer period as the Minister may allow".

SACOME once again thanks DEM for their positive engagement in this consultation.

Yours sincerely

Rebecca Knol
Chief Executive Officer
South Australian Chamber of Mines and Energy