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### **Elements of an effective access holiday regime**

As discussed, here is a very brief outline of an investor's view of the elements which make for an effective access holiday scheme.

#### **1. Scope**

- should apply only to assets that are 'covered';
- would apply to 'greenfield' investments; ie investments which primarily serve new markets outside capital and major industrial cities;

#### **2. Certainty**

- the regulation which is to apply after the holiday is over must be known pre-investment - while a 'holiday' is beneficial in that it gives an investor the flexibility to respond to market circumstances during the holiday period, uncertainty regarding regulatory treatment after the holiday will be a deterrent to 'greenfield' investment;

#### **3. Length of the holiday**

- no one size fits all;
- should be related to the economics of the specific project in the following manner;

#### **4. Proposal**

- the length of the holiday should be determined as the time required for the project to 'wash its face'; ie when the NPV of the project (based on pre-investment regulator determination of key WACC parameters) is zero;
- if the project does not wash its face, the access holiday never ends, and the investor never covers costs;
- if the project achieves NPV zero, the holiday ceases, and the ongoing benefits are shared in a pre-determined way between investors and users (eg 60:40 in PRRT);

#### **5. Precedent**

- the Petroleum Resource Rent Tax (PRRT) provides a useful precedent for this model;

- PRRT was introduced to overcome similar issues; ie to overcome investment disincentives in relation to high risk projects;
- the administrative arrangements for tracking project NPV are well established for PRRT purposes ( refer [http://www.isr.gov.au/resources/petr\\_taxation/Taxes/SecondaryTaxationRegimes/PetroleumResourceRentTax/index.html](http://www.isr.gov.au/resources/petr_taxation/Taxes/SecondaryTaxationRegimes/PetroleumResourceRentTax/index.html) )

As you are aware, regulatory uncertainty is an issue for all investment, not only greenfield investment. The key elements of the uncertainty in relation to investments generally include:

1. the risk of ex post stranding of investments deemed prudent at time they were made;
2. the risk that legitimate operating costs will be disallowed (because they exceed the regulator's assessment of efficient costs ? an assessment which is unreliable because of informational uncertainties);
3. the risk that arises because the regulatory WACC is unknown pre-investment;
4. the likelihood that the risk component of the ex ante regulatory WACC will be reduced at subsequent resets;

Three and four can be resolved through disclosure; one can be resolved by removing stranding as an option; and two can be resolved by adopting an incentive scheme which operates to reveal 'efficient' costs, and shares realised (rather than forecast) efficiency gains (see section 4.6 of NECG's June industry submission which outlines alternative non-intrusive cost based and TFP based approaches).

I hope the above is of some value.

Regards

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