

**Submission to the Productivity Commission
Inquiry into the National Access Regime**

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Australian Petroleum Production and Exploration Association Ltd

Central Office
GPO Box 2201
Canberra ACT 2601
Telephone – 02 6247 0960
Facsimile – 02 6247 0548

Perth Office
PO Box 7039
Cloisters Square WA 6850
Telephone – 08 9321 9775
Facsimile – 08 9321 9778

Executive Summary

The Australian Petroleum Production and Exploration Association (APPEA) is the national body that represents the upstream gas and oil industry, that is companies engaged in gas and oil exploration, development and production in Australia. APPEA membership includes essentially all companies involved in exploration for and production of natural gas in Australia.

The gas market in Australia is developing strongly. The Australian Bureau of Agricultural and Resource Economics (ABARE) is predicting an average growth in gas demand of 4.3% per year, with the fastest growth evident in Queensland and Western Australia. To support this demand growth, new gas infrastructure is underway or proposed, including new pipelines and the development of new fields. The eastern States and South Australia have a single energy market where gas and electricity are in active competition. This energy market includes a strengthening, integrated pipeline grid which will soon also tie in Tasmania and the Northern Territory. Australia is finally witnessing the development of a more national approach to the use of all forms of energy including natural gas.

Fair access to transmission and distribution facilities to commercialise gas discoveries and get gas to markets at competitive prices is fundamental to gas continuing to play a role in energy market development. Expansion of the gas market, development of new gas reserves and development of the pipeline grid will also enhance security of supply for all States. These factors act equally in the interests of gas consumers.

APPEA believes that economic outcomes are normally best achieved through commercial negotiations, subject to general competition law such as the as the provisions of the Trade Practices Act 1974 relating to anti-competitive practices. If there is a need for regulation, self-regulation is preferred. Government regulation is only warranted where there has been a demonstrated market failure and in such circumstances it should be 'light handed' regulation.

In producing, gathering and processing gas ready for transmission to markets, this is the approach adopted by APPEA member companies. There is co-operation between upstream facilities' owners when that cooperation is commercially advantageous in the process of getting gas to market.

In 1998, the Upstream Issues Working Group (UIWG) established by the Australian and New Zealand Minerals and Energy Council (ANZMEC) reported on third party access to upstream facilities and concluded that a mandatory access regime was not necessary. In response, APPEA has adopted a statement of best practice principles for the commercial negotiation of third party access to upstream facilities. This statement has been noted by ANZMEC Ministers. An earlier survey of APPEA companies revealed no difficulties with access to upstream facilities and APPEA is not aware of any current expressions of dissatisfaction from gas companies with a bona fide interest in negotiating access to upstream services.

APPEA therefore believes that the present coverage of facilities under Part IIIA is appropriate and should not be extended to cover any part of the gas production process such as feeder pipelines, gathering systems or gas processing plants.

For delivery of gas to markets, prior to introduction of the present access regime, there were a number of instances where access to gas pipelines on economic terms was unable to be agreed. More recently, Duke Energy had difficulty in securing economic access to AGL Gas Networks' (AGLGN's) trunk network as part of its Eastern Gas Pipeline (EGP) project, costing an additional \$28 million to effectively duplicate an entire segment of AGLGN's trunk network.

APPEA believes that there is no evidence that the present National Access Regime provided for in Part IIIA of the Trade Practices Act or the industry specific National Third Party Access Code for Natural Gas Pipeline Systems has to date been the cause of a cessation of investment in economic pipelines. Indeed, additional transmission pipelines have been constructed during the time these arrangements have been in place.

In view of this history, APPEA believes there has been market failure and supports the need for a regulatory regime applicable to natural gas transmission and distribution pipelines which has objectives of ensuring access on terms which are economically and commercially viable for service providers and users.

INTRODUCTION

The Australian Petroleum Production and Exploration Association (APPEA) is the national body that represents companies engaged in the petroleum exploration, development and production industry in Australia. APPEA membership comprises around 50 companies that are actively engaged in exploration and production activities and around 80 associate member companies that provide support and services to the explorers and producers. This membership includes essentially all companies involved in exploration for and production of natural gas in Australia.

An Expanding National Gas Market

The natural gas market in Australia is developing strongly. The Australian Bureau of Agricultural and Resource Economics (ABARE) is predicting an average annual growth in gas demand of almost 4.3 per cent to 2014-15, compared with a growth in total energy demand of 1.4 per cent per year. Strong growth in gas consumption is expected in the electricity generation, mining, manufacturing and commercial sectors, with the fastest growth evident in Queensland and Western Australia.

Energy market reforms instituted through the 1990s have given impetus to this growth. In the gas industry, these reforms have focused on promoting and enhancing access to competitive gas supplies for all customers, while addressing the natural monopoly aspects of transporting gas. The continued implementation of reforms at the retail level through the introduction of customer contestability and choice of supplier will promote further expansion of the gas market.

This growth has been supported by the integration of regional gas markets through the construction of new gas pipelines and the removal of regulatory barriers to interstate trade in gas. Similar reforms and infrastructure development in the electricity industry have brought about a single energy market in the eastern States and South Australia, where gas and electricity are in active competition. Proposals for further major pipeline interconnections are under consideration, notably: one connecting the Timor Sea gas fields to the Northern Territory and to the Eastern States and one connecting Papua New Guinea's Kutubu fields with the Eastern States via north and central Queensland. Realising these proposals will create a single pipeline grid connecting the eastern States with South Australia and the Northern Territory and possibly soon Tasmania.

Australia is now witnessing the development of a more national approach to the use of all forms of energy including natural gas, in which expansion of the market and development of the pipeline network promises to enhance security of supply for all States and allow the benefits of a competitive marketplace to be realised.

Existing Access Regulation

The recommendations of the Independent Committee of Inquiry into National Competition Policy (Hilmer Committee, 1993) gave rise to a national access regime. The regime is given effect by Clause 6 of the Competition Principles Agreement between the Commonwealth and

the States and Part IIIA of the Trade Practices Act 1974. The Part IIIA framework governs access to nationally significant infrastructure facilities, including natural gas transmission and distribution pipelines.

In addition to the national regime, there is an industry-specific access regime for gas transmission and distribution pipelines. Under the Natural Gas Pipelines Agreement of November 1997, the Commonwealth and the States agreed an access regime and a National Third Party Access Code for Natural Gas Pipelines (the Code).

The Code itself is not the subject of review at this time, although the Commonwealth Government has proposed that it be reviewed after the Productivity Commission reaches its conclusions on the present review of the national access regime.

RATIONALE FOR AND SCOPE OF A NATIONAL ACCESS REGIME

APPEA believes that economic outcomes are normally best achieved through commercial negotiations, subject to general competition law such as the provisions of the Trade Practices Act 1974 relating to anti-competitive practices. If there is a need for regulation, self-regulation is preferred. Government regulation is only warranted where there has been a demonstrated market failure and in such circumstances it should be 'light handed' regulation.

Upstream Production Facilities

Access regimes are not necessary for production or processing facilities where those facilities are available on a competitive basis. If a competitor is free to duplicate plant in circumstances where competition is not wasteful, there is no need for access provisions. Almost invariably, production or processing facilities are reproducible in larger or smaller versions and do not exhibit natural monopoly characteristics. This is demonstrated by the economic duplication that occurs in the upstream facilities. For example, there are nine gas processing plants in WA and five pipelines to shore, but there is only one Dampier to Bunbury pipeline.

APPEA member companies cover the whole spectrum of exploration and production activities, usually working in joint ventures to share the high costs and high capital risks associated with these activities. Companies can at times be operators of upstream facilities and at times be seekers of access to such facilities and may also be competitors. They are accustomed to negotiating commercial cooperation and have successfully concluded numerous third party access arrangements, for example:

A number of toll processing arrangements have been entered into at the Moomba processing facility. The Moomba facilities (Santos operated) are owned by the SA Unit Producers. In 1989 gas sales and gas processing arrangements were negotiated for gas and gas-liquids owned by the Patchawarra South West Parties (Santos operated). At the time, two parties in the Patchawarra South West block (Australian Petroleum Development P/L and Hartogen Energy Limited) were not in the SA Unit, and three Unit producers (Crusader, Parker and Parsley, and Basin Oil) were not in the Patchawarra South West block.

In 1991 gas sales and gas processing agreements were negotiated for the sale and processing of gas and gas-liquids by the SW Queensland parties (Santos operated) through the Moomba

facilities. Four SW Queensland parties were not in the Unit (Australian Hydrocarbons, Claremont Petroleum, Ampolex, and Oil Company of Australia), and two Unit parties did not participate in SW Queensland (Basin Oil and Parker and Parsley).

The Esso/BHP Joint Venture has entered negotiations for third party access to their Gippsland production facilities with several unrelated parties holding interests in adjacent fields. However, none of the third parties have to date decided to develop their prospects.

In Queensland, the Taylor gas field, discovered in 1986, has an oil leg with a gas cap. The Joint Venture comprising Parker and Parsley (30%), Petroz (30%), Santos (20%), Minora (10%) and OGMD (10%) negotiated with the Wungoona Joint Venture (Parker and Parsley and International Oil Proprietary (Petroz) each with 50%) to transport and process its gas for delivery to the Roma to Brisbane pipeline. The two Joint Ventures compete in the Brisbane market with gas from a number of different fields in the Surat Basin.

In 1993/94 the Wungoona Joint Venture negotiated a toll to transport and process gas from the Major field. The parties in the Major field were Oil company of Australia (69%), Mosaic (16%) and Parker and Parsley (15%). Oil Company of Australia sold its own and mosaics gas and LPG under its contracts and Parker and Parsley sold its gas and LPG separately.

At Tubridgi in Western Australia, arrangements have been negotiated variously between Boral Energy, BHP Petroleum and WAPET for the use and sharing of facilities. At Tubridgi two gas processing plants (Boral and BHPP) are located side by side, processing gas of markedly different quality.

At Dongara in Western Australia, ARC Energy produce gas from the Dongara field which is processed through the CMS Gas Transmission of Australia processing plant and pipeline. An agreement was negotiated between ARC and CMS where ARC supplies the quantity of gas to CMS at the exit of the processing plant which CMS is obliged to deliver to its existing customers. CMS provides gas gathering and processing services for an agreed tariff.

The East Spar Joint Venture and Harriet Joint Ventures negotiated an access agreement covering facilities and other infrastructure on Varanus Island, initiating discussions in November 1994, agreeing in principle in March 1995 and concluding the agreement in late 1996. The two separate joint ventures carry on producing operations in proximity, each with gas and liquids production feeding into facilities on Varanus Island. Each joint venture has its own processing handling and some transportation infrastructure. Some of the facilities are onshore, some are offshore in State waters and some facilities are offshore in Commonwealth waters. They share some facilities, paying each other set tariffs for the use of those facilities. Load out and ship loading facilities are shared. Processing, compression and storage are duplicated on the island as different product streams are involved. Agreement also exists for access to some duplicated facilities but there are technical difficulties in implementing these arrangements. The agreement also contemplates other third parties seeking access. In March 1998 the two joint ventures agreed to jointly fund a second pipeline to shore.

In December 2000, Shell and Woodside signed an in-principle agreement with Phillips Petroleum to develop as a single gas province Shell and Woodside's Sunrise-Troubador reserves and Phillips' Bayu-Undan reserves in the Timor Sea. The in-principle agreement includes developing a single offshore pipeline transporting the gas onshore in the Northern Territory.

An earlier survey of APPEA companies revealed no difficulties with access to upstream facilities and APPEA is not aware of any current expressions of dissatisfaction from gas companies with a bona fide interest in negotiating access to upstream services. There have also been no interventions in jurisdictions which have power to mandate access to upstream facilities, which indicates that normal, commercially negotiated arrangements are working satisfactorily:

- Under the Petroleum (Submerged Lands) Act 1967, an offshore pipeline licensee (usually the producer or operator) may be directed to be a common carrier of petroleum, including gas. There has never been an exercise of this power.
- In Queensland, there is a power under the Petroleum Act 1923 to compel access to upstream facilities which has never been exercised.

In 1998, the Gas Reform Implementation Group (GRIG) and its Upstream Issues Working Group (UIWG) reported to the Australian and New Zealand Minerals and Energy Council (ANZMEC) on third party access to upstream facilities and concluded that a mandatory access regime was not necessary. In response, in June 1999 APPEA adopted a statement of best practice principles for the commercial negotiation of third party access to upstream facilities – APPEA Guidance for Member Companies on Third Party Access to Upstream Facilities (Appendix 1). On 17 August 1999, ANZMEC Ministers noted APPEA’s statement of principles and agreed that there be a review of their effectiveness in two years time.

APPEA therefore believes that the present coverage of facilities under Part IIIA is appropriate and should not be extended to any part of the gas production process such as feeder pipelines, gathering systems or gas processing plants. There is no theoretical case for access regimes to be extended to production and processing facilities and, in practice, there is cooperation between upstream facilities’ owners where that cooperation is commercially advantageous in getting gas to markets. In addition, APPEA has taken action to ensure that appropriate principles are followed in negotiating third party access to upstream facilities.

Gas Transmission and Distribution

Generally, access provisions are only considered for natural monopolies, principally network utilities including gas transmission and distribution. Whether access provisions should be adopted, depends on whether in practice there have been difficulties in obtaining access. Prior to the introduction of the present access regime, there were instances in several States where facility owners offered uneconomic terms and conditions or delayed negotiations for access to transmission pipelines and distribution systems, such that economic access could not be agreed. Even after introduction of the present regime, in NSW Duke Energy had difficulty in securing access rights on economic terms to the trunk network of AGL Gas Networks (AGLGN) as part of its Eastern Gas Pipeline (EGP) project. Duke had to spend an additional \$28 million duplicating a 50 kilometre section to Horsley Park.

While it might be argued that duplication of pipelines can enhance security of supply, this will come at a significant cost unless the gas supply and the market conditions are such that the duplication is economic. In the EGP case, AGLGN’s line will remain significantly underutilised and the cost of this will ultimately be loaded on to other users and passed on to consumers.

APPEA believes that there is no evidence that the National Access Regime or the Code has been the cause of any cessation of investment in economic pipelines. Indeed, additional transmission pipelines have been constructed while these regulatory arrangements have been in place. For example, the EGP was only feasible when it became clear that access to the NSW distribution system would be available on reasonable terms.

In view of this history, APPEA supports the need for an access regime applicable to natural gas transmission pipelines which has as its objectives (as does the present Code):

- to facilitate the development and operation of a national market for natural gas;
- to prevent abuse of monopoly power;
- to promote a competitive market for natural gas in which customers may choose suppliers, including producers, retailers and traders;
- to provide rights of access to natural gas pipelines on conditions that are fair and reasonable for both service providers and users; and
- to provide for resolution of disputes.

The regime should provide for regulator intervention only in circumstances consistent with these objectives and against clearly stated criteria. Decision making processes should be transparent and timely. To date, several draft and final decisions on access arrangements have taken well in excess of the six months provided for under the Code. Such delays create considerable uncertainty for all stakeholders in the gas chain and could affect investment decisions.

CONCLUSION

APPEA believes there is no case for upstream production facilities to be covered by a National Access Regime. Not only is there no economic justification but, in practice, present commercially negotiated arrangements and self regulation are working effectively.

Fair access to transmission and distribution facilities to commercialise gas discoveries and get gas to markets at reasonable cost is fundamental to the success of gas market development. Expansion of the gas market, development of new gas reserves to meet growing demand and development of the pipeline grid also enhance security of supply for all States. These factors act equally in the interests of gas consumers in realising the benefits of policies to bring about a competitive marketplace. In circumstances of market failure, APPEA therefore supports a regulatory regime applicable to natural gas pipelines which has objectives of ensuring access on terms which are economically viable for service providers and users.

APPENDIX 1

GUIDANCE FOR ACCESS SEEKERS AND FACILITY OWNERS

17 JUNE 1999 - APPEA Guidance for Member Companies on Third Party Access to Upstream Facilities

Preamble

The Australian Petroleum Production and Exploration Association (APPEA) is the representative organisation of the Australian upstream oil and gas industry. APPEA's membership encompasses exploration and production companies and associated service, construction and supply companies.

APPEA's mission is to promote a legislative, administrative, economic and social framework which efficiently and effectively facilitates safe, environmentally responsible and profitable oil and gas exploration, development and production. In keeping with this mission, APPEA's key objectives are designed to work to provide:

- a stable, competitive fiscal regime to encourage increasing investment in exploration, development and production;
- continued access to areas for exploration under multiple and sequential use principles;
- self-regulation through the formulation and acceptance of codes of practice in key areas of business activity; and
- an efficient and competitive Australian petroleum resource industry which operates to the highest safety and environmental standards.

In order to achieve the above objectives APPEA is committed to working with Federal and State governments in a proactive, consultative and constructive manner to influence policy and generate understanding and awareness of the importance of the petroleum resources industry within the overall Australian economy. APPEA recognises the importance of educating and informing the community about the industry's activities and the benefits that can be derived. APPEA also recognises the need to maintain close working relationships with member companies and their employees and other business and industry associations.

In February 1994 the Council of Australian Governments (CoAG) agreed to introduce the necessary reforms for "free and fair trade in natural gas" in Australia as a further application of competition policy principles. CoAG's decision has led to joint reviews with the Australian and New Zealand Minerals and Energy Council (ANZMEC), particularly under the auspices of the Gas Reform Implementation Group (GRIG) and its Upstream Issues Working Group (UIWG). APPEA has been active in the gas reform process and has welcomed the opportunity to contribute to the debate on issues which are highly relevant to the oil and gas industry.

In December 1998, UIWG presented its report to the Prime Minister and to ANZMEC Ministers. Among other things it recommended that a statement of best practice principles for third party access to upstream facilities be developed and that in the first instance APPEA should undertake this task. APPEA has welcomed this opportunity.

APPEA has prepared the following guidelines not only to serve as a guidance for its member companies but also to illustrate the way in which freely negotiated third party access facilitates the joint utilisation of upstream facilities to the mutual advantage of both access seekers and providers.

APPEA member companies cover the whole spectrum of exploration and production activities, usually working in joint ventures to share the high costs and high capital risks associated with these activities. Given this range of activities, APPEA member companies, whether large or small, can at times be operators of upstream facilities and at times be seekers of access to such facilities. There are clear benefits for operators and access seekers in having guiding principles for the commercial negotiation of access arrangements to create a clearer understanding on both sides of the issues requiring consideration.

Recognising that operators of upstream facilities are seeking expressions of interest in third party access to facilities, that a number of third party access arrangements have been commercially negotiated and successfully concluded and that there is a wider interest in third party access issues, APPEA promotes the following guiding principles for commercial negotiations on third party access to upstream facilities:

- respond in a timely manner to bona fide applications for access consistent with the information and service sought
- grant access on fair and reasonable terms to capacity in excess of that committed for security of supply and reasonably anticipated future requirements
- negotiate in good faith
- existing contractual commitments including security and reliability of supply to be honoured
- provide for continuing safety, efficiency and integrity of the facility
- maintain environmental standards and obligations
- recognise the legitimate business interests and investments of facility owners and access seekers
- recognise that parties are at liberty to inform relevant authorities that access negotiations are in progress

APPEA strongly endorses commercial negotiation as the mechanism for establishing access to upstream services. APPEA notes that failure to agree on the terms and conditions, including price, does not in itself indicate the failure of commercial negotiations.

APPEA encourages member companies to use these principles as a guide in the commercial negotiation of third party access arrangements. Market participants may choose to build on these principles by developing more comprehensive and structured arrangements to guide and inform interested access seekers.

APPEA Guidance for Member Companies on Third Party Access to Upstream Facilities

1 Foreword

1.1 Third party access to upstream facilities relates to the ability to gain access to spare capacity of upstream natural gas facilities, such as gathering lines, platforms, processing plants, and storage facilities.

1.2 Upstream facilities are designed for specific purposes, which may differ markedly from facility to facility, particularly with respect to the processing of liquids and the removal of contaminants. Considerable redundancy can be built into these facilities to provide for continuity of supply of gas while some processing units are shut-in for maintenance. APPEA notes that spare capacity as a concept is not directly translatable from pipeline transportation systems.

1.3 Commercial negotiation provides the least cost and most effective method for achieving third party access to upstream facilities and has led already to a number of access arrangements being successfully negotiated. Examination of competition pressures and outcomes in the upstream industry has not revealed evidence of a failure of market forces to operate efficiently with respect to processing of third party gas streams. The upstream industry therefore has a very clear preference for commercial negotiation to arrive at mutually agreed arrangements for such third party access.

1.4 Accordingly, APPEA has developed key principles to guide how commercial negotiations for third party access should be conducted.

2 Elaboration of the key principles

- **Respond in a timely manner to bona fide applications for access consistent with the information and service sought**

2.1 The principle of timeliness is important, and fundamental to good faith negotiations. Timeliness of a response from a facility operator will depend on the extent, quantity and quality of the information and the service(s) sought by the third party. Bona fide applications for access should be given early consideration and it is recommended that the facility owner use reasonable endeavours to contact the access seeker within 21 days to discuss a process for commercial negotiations.

2.2 The timeframe for negotiations is likely to be highly dependent on the nature of the request, the quality of the information provided by the access seeker about the gas to be processed, the anticipated product(s) and the market to be serviced. Technical studies may be necessary to provide an accurate estimate of capacity, conditions, price and/or cost of additional investment required to accommodate the request. If the owner considers that investigations are required to be undertaken prior to responding to an upstream access request, it should advise the third party of the nature of the investigations, the time schedule for completing those investigations, and an estimate of the costs that the third party may be required to meet in respect of those investigations.

2.3 The owner and the access seeker should enter into confidentiality undertakings prior to exchange of any commercially sensitive information.

- **Grant access on fair and reasonable terms to capacity in excess of that committed for security of supply and reasonably anticipated future requirements**

2.4 Negotiations must set out to determine whether or not a mutually beneficial arrangement can be agreed. Fundamental to this is the establishment of fair and reasonable terms and conditions, including price, that are satisfactory to each party. Commercial behaviour is largely, but not solely, mediated through price signals.

2.5 The existence of one facility does not prevent the establishment of another such facility, although the economics of developing a second facility may differ significantly. A new plant may be able to process gas more efficiently and cost-effectively than an existing plant. On the other hand, there may be spare capacity in an existing plant that creates the conditions for a mutually beneficial arrangement to be reached between a potential service provider and an access seeker.

2.6 Processing requirements can be complex and vary over time, even from one field, and very significant assets may be involved. Therefore, the processing of third party gas and its implications need to be carefully evaluated by both the proponent, the operator, and the joint venture participants who own the facility.

2.7 Upstream petroleum production is subject to varying primary (income) and secondary (resource) taxation treatments. The tax complexities associated with the joint use of upstream facilities are likely to be significant, particularly as the current provisions are based on the concept of sole purpose use. The complexities extend to revenue, cost and depreciation issues. Addressing the implications of upstream access on taxation is important and will require very careful consideration. These issues should be worked through on a case by case basis. The determination of a commercial price for an upstream service, given these issues, may be extremely complex.

2.8 Security of supply considerations often require a substantial investment in additional capacity to ensure that downtime in part of a processing operation, for example for maintenance, does not jeopardise the reliability of supply.

2.9 While there may be valid reasons to distinguish between access seekers on the basis of 'technical fit' — where the proposed new input stream matches either available capacity or processing capability on the basis of volume, gas quality or other logistical or operational parameters - access seekers

should generally be treated on a first come-first served basis.

2.10 Any final agreement negotiated for access to facilities should, in keeping with normal commercial practice, include provisions to settle any disputes that may arise during the life of the agreement.

- **Negotiate in good faith**

2.11 Negotiations with bona fide access seekers should be conducted in good faith. Certain technical and safety matters may be non-negotiable for facility operators. These matters should be made clear to access seekers at a suitably early stage in negotiations. Good faith negotiations do not guarantee, nor should parties expect, that they will always result in agreement. Agreement will only arise if both parties benefit, and sometimes this may not be possible.

- **Existing contractual commitments including security and reliability of supply to be honoured**

2.12 This principle arises from the commercial nature of the gas business (industry participants are dependent on long term contracts for the conduct of their businesses).

2.13 Existing contractual commitments should not be jeopardised by third party access requests. Existing contractual commitments may include explicit or implicit obligations for security of supply. Spare capacity to upstream facilities may be complex to determine, particularly in the light of managing variable demand and resultant production schedules. The petroleum industry places a very high value on its capacity to contract for and to provide reliable and secure supplies of its products to customers, and these matters need to be addressed during the negotiation of access arrangements.

- **Provide for continuing safety, efficiency and integrity of the facility**

2.14 The operational integrity of upstream facilities is fundamental to their safe and reliable operation. Liquid and gaseous hydrocarbons are hazardous, inflammable and potentially explosive. Processing of petroleum products is strictly controlled, and maintaining the integrity of all facilities for hydrocarbon extraction, transportation, processing and storage is paramount, as is protecting the safety of employees, contractors and the wider public.

2.15 Raw (input) gas quality, the existing configuration and operational parameters of existing facilities are all critical considerations. New contaminants and other components of an additional raw gas stream will need to be addressed. Existing processing capability and capacity may or may not be appropriate for a new gas stream, and relevant modifications, extensions or enhancements will need to be carefully designed.

2.16 Production, particularly when more than one product is being produced from more than one input stream and for more than one market, is complex and requires careful coordination. Increased complexity creates additional risk, and therefore requires additional attention to safety.

2.17 Depending on existing separate product streams, the balance between them, the availability of markets and/or storage for these and any new products streams derived from a new input source, there may be a range of consequential investments required for handling, processing, contaminant disposal, storage and/or transport (eg for liquids). These considerations need to be addressed during the negotiations. These considerations may raise complex technical issues that require careful study before agreement can be reached.

- **Maintain environmental standards and obligations**

2.18 Maintaining high standards of environmental performance is also a priority for the petroleum industry. Performance standards may be self-imposed, or specific requirements set through legislative, regulatory or other government measures. Increasingly, environmental regulation is moving from prescriptive requirements to a more co-regulatory approach, with companies committed to progressive improvement in environmental performance. Often companies set higher standards and targets than

required by governments. These may be the result of local or internationally-determined company policies, and these should be made known to access seekers. Any negotiated access arrangement should ensure that environmental standards and practices are maintained.

- **Recognise the legitimate business interests and investments of facility owners and access seekers**

2.19 In negotiating the terms and conditions of any access, the parties should have regard to a set of factors, including each other's legitimate business interests and investment in the facility. For example, product quality or the capacity within a processing plant or other upstream facility can have a purpose beyond the ability to guarantee supply. Redundancy may also provide a distinct marketing tool for a producer, allowing them to differentiate their product from others in a competitive marketplace.

- **Recognise that parties are at liberty to inform relevant authorities that access negotiations are in progress**

2.20 The facility owner and the access seeker are at liberty at any time to inform the Minister (the relevant Minister responsible for the issuing of petroleum titles) of the progress and outcome of commercial negotiations for access to facilities. Any information should be provided on a commercial-in-confidence basis.