

18 May 2001

The National Access Regime Enquiry  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

Dear Sirs

### **THE NATIONAL ACCESS REGIME**

We appreciate this opportunity to make the submission in relation to the National Access Regime and particularly part IIIA of the Trade Practices Act 1974.

Our Managing Director Mr Paul Underwood would appreciate the opportunity to make a verbal submission when the hearings are in Perth.

We would be prepared to attend at the public hearing in Perth on 18 June 2001.

As you may be aware Tap (Harriet) Pty Ltd ("Tap") is a participant in the Harriet Joint Venture ("the HJV"). The HJV is a significant gas producer and supplier in Western Australia and owns one gas pipeline and has a 30% interest in a second gas pipeline from Varanus Island compressor station, No.1 on the Dampier to Bunbury Natural Gas Pipeline. The HJV has some 400 PJs of gas reserves in various fields around its gas producing infrastructure on Varanus Island. The HJV markets this gas throughout Western Australian and currently sells in the order of 100 TJ/d.

Tap's main concern is in relation to the role of the Industry specific access regime namely, the National Third Party Pipeline Access Code ("the Pipeline Code").

Tap believes that the concept of a National Access Regime is too generic and unwieldy and access regimes must be considered on an industry by industry basis.

## **The National Access Pipeline Code Has Not Worked in WA**

In short, Tap would strongly argue that the imposition of a national access regime on gas pipelines has had a detrimental effect and not achieved its objectives as follows:

- Critical laterals are exempt – As part of the previous WA State Government’s deregulation process with the privatisation of Alinta Gas there are a number of pipeline laterals which are exempt from the Code and this reduces the ability for gas suppliers to access customer on those laterals.
- The largest offshore gas trunkline (owned by North West Shelf Gas) is not subject to the Code. There are a number of gas fields located in close proximity to the NWSG offshore trunkline, which if it was part of the Code may be accessed. Instead the operators of these fields will need to look at much costlier alternatives.
- No reduced tariffs – In Western Australia two of the most critical perceived benefits of the Pipeline Code were reduced tariffs down the DBNGP and access to the Alinta Gas domestic reticulation system. The Office of Gas Access Regulation has been doing its best however, the practical effect is that gas suppliers such as the HJV cannot access the domestic reticulation systems which are managed by Alinta Gas, without significant and complex paperwork combined with an expensive tariff which makes it practically impossible for the HJV to compete against Alinta in this market.
- Deregulation has been slow to happen – The critical pipelines (DBNGP and GGT) and Alinta reticulation systems have not finalised their Code requirements. As a result tariffs down the DBNGP and GGT are still higher than anticipated. Importantly the uncertainty surrounding finalisation of the Alinta reticulation system has significantly impacted on the ability of gas suppliers such as ourselves to compete against Alinta using its reticulation system.
- No impact on gas prices – Tap acknowledges that the government is keen to ensure cheaper gas and is suggesting that the National Access Regime and Industry Specific Legislation such as the Pipeline Code will assist this. However, in Tap's view, in the Western Australian context, this will not be the case. Gas has become cheaper in Western Australia due to competition between suppliers namely, the Harriet Joint Venture, East Spar Joint Venture and North West Shelf Joint Venture. This is nothing to do with the Government's Energy Policy and in fact Tap's submission would be that the Government's Energy Policy has been counterproductive.
- Disincentive to invest – To achieve cheaper gas will require more discoveries. Open access in the current format, means that the

certainty of the available pipeline capacity in our pipeline is removed. There will be considerably less incentive to explore for new gas or develop smaller approximate discoveries.

This is because the CAPEX required for incremental processing capacity has the potential to make many small to medium approximate discoveries unviable.

There is effectively no risks for third parties once infrastructure is constructed. The consequence is that economically marginal projects will be underwritten by infrastructure holders at the expense of finding and developing approximate resources. The largest component of energy cost for the North West Shelf is transportation down the DBNG and GGT pipelines to the offshore pipelines.

The legislation such as this removes the certainty of outcome in respect of capacity for future exploration activities, and does not properly recognise and compensate the risks of establishing offshore infrastructure.

### **A National Access Regime is Not Always the Answer**

In Tap's opinion, the gas industry is a particular example of where a national solution has been imposed where it is both inappropriate and unnecessary.

Each industry is very different in terms of characteristics and its requirements and at least industry specific legislation can address the issues that are relevant to that industry.

The gas markets in Western Australia are not yet well enough developed to justify suppliers and producers having to comply and commit to the extremely detailed and onerous obligations comprised in the Pipeline Code including ring fencing (with the consequential capital gains tax implications). The definition of sales gas means that the most significant offshore gas pipeline in Western Australia namely, the pipeline owned by the North West Shelf Joint Venture is not within the ambit of the Pipeline Code.

The Pipeline Code in Tap's opinion, is designed to solve problems that are experienced in the Eastern States in terms of access not being granted by a few large companies.

Tap considers a national solution not to be a panacea particularly because of the following:

- Western Australia is not part of the National Grid.
- Western Australia has only a few pipelines.

- Western Australia is different from New South Wales, South Australia and Victoria in terms of distances involved between the sources of gas, its target markets, population and the size of the markets.
- No evidence of similar problems exist in Western Australia for those being experienced in New South Wales, South Australia and Victoria.
- Competition and efficiency in gas markets/pipelines is working extremely well in Western Australia.
- The Code as presently constructed, means a pipeline owner does not have a choice in providing access and will always be in a weak negotiating position in achieving an equitable outcome for shareholders.
- The Code essentially forces companies like Tap to procure capital to provide risk free infrastructure for late entry projects without proper recognition and compensation for the risks taken and a loss of certain future capacity for its own operations.

Tap believes that electricity has become cheaper for most part of the resolved lower gas prices and efficiencies.

The same argument as to why Western Australia electricity should not be deregulated should really apply for gas eg. distances involved – small population.

Other states (eg. Victoria/New South Wales) have gone down the deregulation road with electricity however, their situation is quite different.

For the reasons detailed above, Tap believes that the outcome of a national access regime for one type of nationally significant infrastructure, namely gas pipelines, has not been successful in WA.

Yours faithfully

**MICHAEL DAGOSTINO**  
**COMMERCIAL MANAGER**