



28 August 2003

The Commissioner
Gas Access Regime Inquiry
Productivity Commission
LB2 Collins Street East
MELBOURNE VIC 8003

Dear Commissioner

Review of the Gas Access Regime

Please find enclosed the Australian Production & Exploration Association's (APPEA) initial submission to the Productivity Commission's Review of the Gas Access Regime. APPEA is the national body that represents companies involved in oil and gas exploration and production in Australia. The Association seeks to promote a competitive Australian petroleum resource industry that operates at the highest environmental and safety standards.

APPEA looks forward to being further actively involved during the course of the Productivity Commission's review.

Yours faithfully

Barry Jones
Executive Director

Australian Petroleum Production & Exploration Association

Submission to the Review of the Gas Access Regime

The Australian Petroleum Production & Exploration Association (APPEA) is the national body that represents companies involved in oil and gas exploration and production in Australia.

One of APPEA's objectives is to see the development of an efficient gas industry in Australia which supplies gas at competitive prices and provides the incentives necessary for investment in exploration and production to meet growing gas demand. APPEA believes that this is best achieved by:

- promoting competition in downstream markets;
- an investment framework for pipeline infrastructure which encourages investment in, and facilitates access to pipelines; and
- policies to encourage investment in expanding production from existing basins and in bringing on new supply sources to enhance upstream competition.

APPEA believes that a key issue for the deepening of competition by upstream producers in Australian gas markets is the continuing efficient development and expansion of gas transmission infrastructure coupled with the means of accessing pipeline capacity on transparent and reasonable terms. Indeed, the construction of gas transmission pipelines and distribution facilities and fair access to them is fundamental to commercialising gas discoveries and getting gas to markets at competitive prices. Assuming there is the prospect of an economic supply of gas available to meet a projected demand, then in terms of transportation services, this requires both;

- an investment framework and approvals process that assist the necessary investment for developing pipeline infrastructure; and
- where a pipeline owner fails or is unlikely to provide reasonable access within a reasonable time effective and efficient arrangements to guarantee non-discriminatory third party access to gas pipelines. These arrangements should have the objective of ensuring access on terms which are economically viable for service providers and users.

Thus, in the case of pipeline access regulation under the National Third party Access Code for Natural Gas Pipeline Systems (Gas Access Regime), APPEA has the twin objectives of ensuring that there is fair access to pipelines for all producers and that there continues to be investment in new economic pipelines.

In APPEA'S view the reforms of the 1990's which included regulated access to downstream transmission and distribution services have led to significant benefits to the gas market and end consumers. Such benefits include more dynamic and competitive upstream and downstream sectors, diversification of supply sources and ultimately customer choice. These benefits have come from (1) Government policies of customer contestability, (2) regulated access to the existing monopoly transmission and distribution infrastructure, (3) new supply

opportunities opening in the market, and (4) the development of new transmission pipelines. Indeed, since implementation of the reforms, a significant number of new transmission pipelines have been built and APPEA has seen no demonstration that the Gas Access Regime has prevented economic pipelines from being built. However, APPEA does highlight that the majority of these new pipelines have been built on the strength of long term transportation agreements with foundation shippers, with regulated access to date applying to few. Nevertheless, APPEA believes that the Gas Access Regime has been an important element in the development of the gas market and in competitive gas accessing markets, particularly in the case of existing monopoly transmission and distribution facilities, and believes that wholesale changes to the Gas Access Regime are not justified. However, APPEA does believe that there are some improvements and enhancements that can be made.

It should be recognised that the development of greenfield pipelines may require additional certainty and flexibility for investors. While the Gas Access Regime supports negotiated outcomes, a further concern is that vital foundation shipper arrangements may be devalued or indeed, at a competitive disadvantage compared with subsequent regulated third party access arrangements. APPEA therefore supports amendments to the Gas Access Regime targeted at providing greater certainty to both greenfield pipeline developers and foundation customers. APPEA believes the COAG Energy Markets Review provided a valuable contribution to regulatory debate in the area of greenfield pipelines and supports recommendation 7.2 to provide greater certainty to pipeline investors by allowing an economic regulation free period if the pipeline fully meets the criteria in that recommendation. However, APPEA argues that a fifteen year economic regulation free period may be too prescriptive and the length of the period should be judged on a case by case basis but should be sufficient to allow for a period of certainty of return.

Subject to specific changes in the area of greenfield pipelines, APPEA believes that the existing coverage process and criteria allow an appropriate framework for determining coverage of pipelines. APPEA believes that there have been a number of coverage revocations progressed and that the recommendation by the NCC in the case of the Eastern Gas Pipeline has demonstrated that coverage is not automatic. APPEA supports the application of coverage of pipelines being restricted to those that represent natural monopolies not subject to commercial pressures and whose market power is not limited by competitive forces as assessed under the current coverage test in the Gas Access Regime. APPEA believes that demonstrated and enforced ring fencing of pipeline assets from downstream marketing activities is also important to help ensure fair access to pipeline infrastructure by third parties.

In order to limit problems associated with information asymmetry APPEA supports changes to the Code that would entitle Regulators to prescribe what information a pipeline is to gather and provide as part of an access arrangement.

When considering changes to deliver a more light handed Gas Access Regime, consideration should be given to ways in which the appeals processes can be changed to give equal opportunity to the user as well as the service provider. This may help balance negotiations between user and service provider and lead to a greater likelihood of unregulated, commercial outcomes.