



AUSTRALIAN PETROLEUM PRODUCTION & EXPLORATION
ASSOCIATION LIMITED

27 February 2004

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

Dear Commissioner

Review of the Gas Access Regime Draft Report

Thank you for the opportunity to comment on the Productivity Commission's Review of the Gas Access Regime Draft Report.

The Australian Petroleum Production & Exploration Association (APPEA) is the national body that represents companies involved in oil and gas exploration and production in Australia. The industry seeks the development of an efficient gas industry which provides reliable, competitively priced supplies of gas and the incentives necessary for investment in exploration and production to meet growing gas demand. APPEA's members rely on there being access to pipeline services at fair prices for delivery of their gas to market.

In the case of the Gas Access Regime, APPEA has the twin objectives of ensuring that there is non discriminatory and cost based access to gas pipelines for third parties, and that there continues to be investment in new pipelines and pipeline expansions.

APPEA supports the retention of the Gas Access Regime and believes there have been demonstrably clear and significant benefits which have lead to increased competition in the industry. That said, the Regime must be able to demonstrate that it is efficient, cost effective, has clearly articulated processes and boundaries to its authority and most importantly can demonstrate the benefits that it provides in increasing competition and the efficient use of capital within the industry. Ring fencing is particularly important in facilitating greater competition in downstream markets and it is the belief of APPEA that truly strong, enforceable arrangements in this regard can only further enhance increased supply options and improve competition throughout the gas supply chain.

Furthermore, APPEA member companies believe that the introduction of pipeline access regulation has enabled them and their customers to gain access to pipeline networks and to

obtain that access on commercial terms that were not available or would not have been available without the introduction of regulation. APPEA is satisfied that the current regulated access regime has provided the means to counter access and/or pricing power and as a consequence has resulted in significant benefits to downstream consumers, particularly through lower prices and access to alternative supplies. Producers and consumers have gained from economic access to markets. It is important that all these ongoing benefits continue to be captured.

Although we acknowledge that the costs (particularly in relation to information exchange, appeals and arbitration) associated with the regime have been cited as one of the pitfalls of the current regime, APPEA is unable to identify any specific instances where this may have led to a major opportunity failure. Numerous new pipelines have been built in recent years, albeit recognising the critical role foundation contracts have played in the development of these pipelines.

APPEA nevertheless believes there are some adjustments to the access regime that could be made to ensure more efficient and cost effective operation. In responding to the Draft Report's recommendations, APPEA seeks to address concerns in the following areas:

Objectives and Objects Clause

APPEA believes that the Gas Access Regime could provide greater certainty by clearly stating its objectives. In that context, APPEA supports the proposal of an Objects Clause, but also believes that the clause should place a greater focus on supporting the development of new supplies to serve existing and new markets. Facilitation of efficient pipeline services is the means to achieving this end.

Coverage issues

APPEA supports the principle of moving to a lighter handed system of regulation, but is concerned to ensure that the watering down of the coverage test does not result in the number of currently price-regulated pipelines being greatly reduced. Coverage should be restricted to those pipelines that represent natural monopolies. Coverage should be subject to a suitable competition test. The final decision to remove coverage of the Eastern Gas Pipeline demonstrates that the current coverage/uncoverage process can work.

In addition, APPEA believes that important phrases such as “providing *significant* economic efficiency”, “*substantial* increase in competition” and “*material* increase in competition” need to be carefully defined to ensure that the integrity of the regime is not undermined. These amendments may provide significant benefits or disadvantages depending upon the interpretation provided.

Lighter handed regulation via monitoring

The Productivity Commission's recommendation for a less intrusive, lighter handed approach with monitoring may only be suitable in certain instances and there does remain the need for price regulation. Those transmission pipelines and distribution networks which are currently subject to price regulation should remain so unless an objective assessment can be made showing that substantial benefits will be retained, but at a lower cost via monitoring. For new pipelines, APPEA supports the relaxation of the provisions on a case by case basis.

Consideration should also 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.

Investment and access arrangements

APPEA acknowledges the Productivity Commission's draft recommendation 9.1 relating to coverage not applying for fifteen years. Although the recommendation by the Commission goes a considerable way towards providing certainty for pipeline developments under binding rulings, APPEA believes that this may be too prescriptive and that the length of period should be judged on a case by case basis. Projects are often financed over a period of twenty years rather than the recommended fifteen years and should the Productivity Commission need to be prescriptive, we would prefer to see this extended to twenty years.

Conclusion

The Gas Access regime should be maintained, but with some adjustments to ensure more efficient, cost effective operation. An Objects Clause should be incorporated broadly in line with the recommendations in the Draft Report, but should also place greater focus on the development of new supplies. The use of "significant, substantial and material" should be clearly defined. APPEA supports the move to a lighter handed approach, but only where justified. The monitoring regime should only be applied to new pipelines, and/or on existing pipelines where there is an objective assessment supporting that alternative. APPEA believes that a fifteen year regulation free period may be too prescriptive and that the length of period should be judged on a case by case basis.

Should you require any further information, do not hesitate in contacting Peter Gniel in the Canberra Office on 02 6267 0910, or via email at pgniел@appea.com.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Barry Jones', with a long horizontal flourish extending to the right.

Barry Jones
Executive Director