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Mr Tony Hinton
Presiding Commissioner
Gas Access Regime Inquiry
Productivity Commission
LB2 Collins Street East
Melbourne VIC 8003

Dear Commission Members

Review of the Gas Access Regime

Deutsche Asset Management (Australia) Limited is pleased to provide this submission to the Productivity Commission’s review of the Gas Access Regime. Deutsche Asset Management considers that the current state of gas access regulation represents a serious impediment to investment in Australia’s vital infrastructure and welcomes the opportunity to contribute to this important inquiry.

As the funds management arm of the Deutsche Bank group, Deutsche Asset Management locally manages more than A$35 billion of investments on behalf of its institutional clients, including major public sector superannuation funds. Deutsche Asset Management invests, on behalf of its clients, in listed and unlisted equity, property and fixed interest securities.

In Australia, Deutsche Asset Management manages an infrastructure portfolio totalling approximately A$700 million through its DB Capital Partners division. We manage investments in several of Australia’s major privately owned infrastructure assets including Melbourne and Launceston airports, the Yallourn power station and mine and the Sydney Cross City Tunnel project. Most importantly for current purposes, we manage on behalf of our clients an 11.1% stake in Epic Energy, the owner of the Dampier to Bunbury Natural Gas Pipeline, Moomba to Adelaide Pipeline and South West Queensland Pipeline. All of these pipelines are covered pipelines under the Gas Access Regime.

In Australia, since June 1998, we have invested over $270 million on behalf of our clients in non-regulated unlisted infrastructure and less than $10 million in regulated unlisted infrastructure. The regulated investment was a follow on in the Port of Geelong where we were satisfied with the light handed approach adopted by the Victorian regulator.

Our reluctance to invest in regulated infrastructure is a direct result of our experience as an investor in Epic Energy. Following that experience we have turned our attention to unregulated assets such as toll roads, car parks and electricity generation.

We are respectively director and alternate director of Epic Energy and are aware that Epic has provided you with a detailed submission in relation to the history and consequences of its dealings with Australian access regulators. We do not intend to repeat any of that material here but do wish to confirm that, from the point of view of a major Australian investor, pipeline access regulation is strongly perceived to be unduly intrusive, heavy handed and short sighted. Its focus is on economic theory to the exclusion of everyday commercial reality and on small, short term benefits to consumers at the expense of longer term investment in Australian infrastructure. We have observed that few of these short term benefits actually appear to flow through to end users, and, even if they did, their impact on retail consumer charges would be miniscule. On the other hand, the long term consequences of under-investment will be significant.

As a result of the above, in the current regulatory environment we would only consider further investment in regulated pipeline infrastructure if the risk of regulation could be effectively removed by ensuring that all capacity on the pipeline was covered by long term contracts from the outset. Building pipelines for today’s demand only with no spare capacity for the future is an inefficient outcome for Australia and a direct result of over-zealous regulation. Sadly, however, the only alternative at present is to attach a premium for regulatory risk which has already made many such projects uncompetitive.

We understand that Epic has also discussed in its submission the inappropriate use of the theoretical CAPM approach to setting returns for greenfields projects. We would like in this submission to confirm that investors in nationally significant, illiquid infrastructure assets do not approach the risk/return question as though they were retail investors holding a diverse portfolio of listed stocks. Investments of the size and magnitiude we make are considered carefully on a case by case basis factoring in <u>all</u> relevant risks attaching to the project. The distinction between so called “diversifiable“ and “non-diversifiable“ risks by which it is sought to justify the proposition that greenfields investments require no greater level of return than established assets is spurious in this context. An approach like this (which is adopted in the ACCC’s draft guidelines on greenfields pipelines) only further confirms to investors that theory has triumphed over common sense in regulation.

Until the confidence of investors can be won back by a more light handed approach to regulation (as we were lead to believe would be the case five years ago) this situation will continue. We hope that the Commission’s inquiry may represent an important step along that road.

Yours faithfully

Felicity Gates
Managing Director, Head of Infrastructure
DB Capital Partners

Andrew Elliott
Vice President
DB Capital Partners