



Ref.:

29 August 2003

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

e-mail: [gas@pc.gov.au](mailto:gas@pc.gov.au)

Dear Sir/Madam

## Review of the Gas Access Regime

Ergon Energy Gas Pty Ltd ("Ergon Energy") welcomes the opportunity to provide comments to the Productivity Commission ("the Commission") in relation to its public inquiry into the Gas Access Regime. It is Ergon Energy's view that a review of the Gas Access Regime has been long awaited given a somewhat slower growth of gas infrastructure than originally anticipated in the mid-late 1990's when infrastructure access regimes were developed. There has been significant debate through the recent Energy Market Review process over the need to review the Gas Access Regime, in conjunction with reviews of joint marketing arrangements and retail competition rules. The combined aim of these reviews should be to identify impediments and implement solutions which can deliver a market and regulatory environment which delivers effective competition throughout Australia.

In relation to the "Review of the Gas Access Regime – Issues Paper" ("the Issues Paper"), released in July 2003 by the Commission, Ergon Energy wishes to limit its comments to the section "Effective Upstream and Downstream Competition" where the issue of accessing unutilised pipeline capacity is debated. Specifically, the Issues Paper acknowledges that there is scope for pipeline access to be blocked by either an upstream or downstream party in order to prevent its competitors gaining access that would allow them to compete. Ergon Energy would agree that this

practice causes a substantial barrier to entry for small retailers seeking to win customers and has significantly limited Ergon Energy's ability to compete in the major Queensland gas customer market.

The comments made in this submission relate specifically to accessing Queensland pipelines, where capacity rights in a contestable market environment remain very uncertain. In the case of pipelines which are heavily contracted (ie little or no spare uncontracted capacity), being able to access the pipeline capacity already being used to serve a customer is essential for a new retailer when seeking to win that contestable customer. Without clarity over pipeline capacity rights, and with no additional capacity available to contract, a new retailer cannot guarantee supply to the customer on the same terms as the incumbent retailer. This pipeline access issue has been central to what Ergon Energy considers a lack of effective competition in the Queensland gas retail market and the entry into that market of new retail competitors. In summary, what Ergon Energy seeks from the review of the Gas Access Regime is clarification that pipeline capacity rights belong with the customer and would transfer with the customer when they change retailer, in order that access to capacity does not present a barrier to customer switching.

In the case of the Queensland pipelines, the matter is further compounded by the existence of long-term bundled contracts, incorporating gas plus transportation to the city gate. This arrangement means that capacity is notionally contracted to the shipper/producer rather than the incumbent retailer. The Shipper/producer has no incentive to relinquish pipeline capacity given that they will continue to receive transportation revenue from the incumbent through take-or-pay arrangements even if a customer switches away from the original retailer. Alternatively, the shipper/producer holding pipeline contracts in a fully-contracted pipeline is in a monopoly position in relation to retailers, as it can effectively prevent other producers accessing the pipeline.

Without this fundamental pipeline access right issue being resolved with rights being clearly identified to reside with the customer, (who effectively pays through their gas contract for the pipeline development and access), customer transfers will continue to be stymied at the expense of strong competition.

An additional, but related, issue is that of gaining access to unused contracted capacity, on a "while available" basis. It should be feasible to contract for access to such unused capacity, subject to the original contracting party's actual requirements.

We are happy to discuss this issue with you in further detail as required. In this regard please do not hesitate to contact me on (07) 3228 8134.

Yours sincerely

Rebecca Myers  
Energy Regulation Manager

Telephone: 07 3228 8134  
Facsimile: 07 3228 8255  
Email: [rebecca.myers@ergon.com.au](mailto:rebecca.myers@ergon.com.au)