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Ref: RAE;jm

27 August 2003

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

Dear Sirs

Review of Gas Access Regime

As a major Australian gas producer Santos Limited ("Santos") supports the development of an efficient gas transmission industry which transports gas at competitive prices.

Santos believes that gas producers are already operating in a highly competitive environment and that increased competition in future years will best be achieved by the free market determining who the most effective supplier of gas will be. The availability of an efficient gas transmission pipeline network to get gas to market is essential to competition. This requires pipeline investment conditions that encourage the construction of competitive pipelines to meet projected demands as well as The National Third Party Access Code for Natural Gas Pipeline Systems ("Code") that ensures that their services are available to all who seek them in a fair and economically viable manner.

Santos believes that, on balance, the gas access regime has enhanced competition in the gas supply industry and that it should not be the subject of extensive change. This was particularly so with major transmission facilities at the commencement of the Code.

Santos is concerned that investment in new pipelines, when necessary to meet demand be encouraged by the Code. The greenfields pipelines guidelines published by the Australian Competition and Consumer Commission have emphasised some mechanisms, already available in the Code to facilitate investment. The consideration currently being given to regulatory holidays for lengthy periods is inadequate to address the need for more certainty for pipeline investors. The fifteen year period should be made flexible at the discretion of the ACCC. Speed of ACCC response, certainty of outcomes over reasonable periods of time, flexibility to take account of different individual circumstances and respect for freely arrived at commercial solutions to the commercial drivers could form part of the amendments.

The Code in principle does facilitate the development of a national market for natural gas and to some extent energy in general, but needs to be refined to enhance these benefits. There however appears to be growing focus on short term pricing objectives without consideration being given to the long term viability of gas production and transmission. Governments should resist the temptation to see lowest prices as the only objective. It is quite clear from international comparison that gas prices to customers in Australia are some of the lowest in the OECD. Prices need to be moved upwards to retain incentive for the industry to respond to the increasing demands for gas in

Australia. It is acknowledged that the Code has encouraged the development of more pipelines and has restrained prices for transmission services.

With regard to commercially negotiated outcomes, on page 18 of your Issues Paper, it seems to Santos that the Gas Code leaves almost no room for commercial negotiation for access to covered pipelines. Once regulated there appears to be insufficient incentive for a service provider to offer any price lower than the regulated price.

With regard to extensions and expansions Santos believes that this part of the Code can be improved. If the capacity of a pipeline is fully utilised and an access seeker wants more capacity then there needs to be a much quicker response to requests for such capacity. Such times should be rigidly applied and in the event that the service provider is unwilling or unable to keep to the timetable penalties should flow for it.

Santos suggests the following refinements to the Code:

1. When a service provider is approached with a request for access and there is insufficient capacity there should be a short defining period in which the service provider is required to respond with the information listed in the Code.
2. If the expansion/extension can be made such that the cost thereof will be recovered out of the normal tariff that is charged for usage of the pipeline to then current users, if charged to the access seeker, then that should cover the cost of the extension/expansion.
3. If that is not the case the access seeker should, in every case, be offered the choice of an upfront capital payment to cover the cost of the extension/expansion or a surcharge on the tariff for a specified period to cover the costs of the extension or the expansion. The calculations forming the basis of these offers should be made available to the ACCC and the access seeker.
4. Construction should then commence as soon as reasonably practicable.
5. No option should be available to the service provider to adjust the priority of applications for access that arrive consecutively in time. If there are obvious benefits to calling a meeting of all access seekers to that pipeline and agreeing some other priority than consecutive arrival of the request and time that should be done within a short period e.g. one month.
6. The service provider should be required by the Code to construct all expansions that comply with the above.

Improved provisions for extensions/expansions should be linked to a much improved capacity trading regime. Capacity trading, under the current Code, works ineffectively. Availability of overall pipeline capacity and the capacity actually being used from time to time is the cause of this difficulty. Santos suggests the following refinements:

1. The ACCC should very carefully determine the capacity of the pipeline.
2. All service providers should be required to lodge, confidentially, from time to time with the ACCC, actual usage of the pipeline capacity.
3. If, in the ACCC's discretion there appears to be spare capacity in the pipeline this spare capacity must be made public and must be traded by the holders of that capacity if it is not being used by them.

Santos has had some difficulty in acquiring capacity in pipelines in the face of the determination of the holders of that capacity, not to trade it. The ACCC should be empowered to specify the information to be provided to make the Code operate more effectively.

We look forward to further steps in the process of review.

Yours faithfully

Robin English
Senior Joint Venture & Regulatory Adviser