



AUSTRALIAN PETROLEUM PRODUCTION & EXPLORATION
ASSOCIATION LIMITED

ABN 44 000 292 713

HEAD OFFICE
GPO BOX 2201
CANBERRA ACT 2601

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Manager – Energy Market Reform Team
National Energy Market Branch
Department of Industry, Tourism and Resources
GPO Box 9839
Canberra ACT 2601

LEVEL 3
24 MARCUS CLARKE STREET
CANBERRA ACT 2600
PHONE 61 2 6247 0960
FAX 61 2 6247 0548

PERTH OFFICE
PO BOX 7039
CLOISTERS SQUARE
PERTH WA 6850

LEVEL 1
190 ST GEORGE'S TERRACE
PERTH WA 6000
PHONE 61 8 9321 9775
FAX 61 8 9321 9778

Dear Sir/Madam

**Consultation on the MCE Response to the Review of the National
Gas Access Regime**

INTERNET
<http://www.appea.com.au>

EMAIL
appea@appea.com.au

Thank you for the opportunity to comment on the MCE's Response to the Review of the National Gas Access Regime.

The Australian Petroleum Production & Exploration Association (APPEA) is the peak national body that represents the collective interests of companies involved in oil and gas exploration and production in Australia. The industry seeks the development of an efficient gas industry that provides reliable, competitively priced supplies of gas to end users and the incentives necessary for investment in exploration and production to meet growing gas demand. APPEA 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 non discriminatory and cost based access to gas pipelines for third parties, and ongoing investment in new pipelines and pipeline expansions.

APPEA supports the retention of the Gas Access Regime and believes it has delivered clear and significant benefits leading 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 APPEA's view that truly strong, enforceable arrangements in this regard can only further enhance increased supply options and improve competition throughout the gas supply chain.

APPEA generally supports the recommendations in the "*Table for MCE SCO consultation Paper on the Productivity Commission (PC) Gas Access Review August 2005 – PC Recommendations and related response and proposals in the Consultation Paper*" with the following exceptions or comments:

Section 5.1

APPEA supports the inclusion of an objects clause. Our preference is for the first option, namely:

The objective of the gas access regime is to promote efficient investment in, and efficient operation and use of, natural gas pipeline services for the long term interest of consumers of natural gas with respect to price, quality, reliability, safety and security of supply.

Section 6.4

APPEA supports the recommendation, but suggests removing the word "markedly" given that it is too open to interpretation. Alternatively, markedly should be clearly defined.

Section 7.13

APPEA disagrees with this recommendation. There is a risk that if the allocation of costs between different services or users is not revealed there is the potential for service providers to bias the allocations towards services where customers are more able to pay or less able to object. This is inequitable.

Section 8

While APPEA supports a move to a light handed regulatory approach, APPEA's primary concern is that the code continue to provide for price control of services where the service provider could otherwise exercise monopoly power, particularly on pipelines of significance to the upstream industry.

APPEA is concerned that there is the real possibility that under either proposal, an ineffective regime could be put in place whereby only a small number of pipelines (as low as one) are covered. This arrangement defeats the purpose of having the Access Regime in place.

The PC approach could result in several of the important pipelines not being subject to price control, given that monitoring would be the default. On the other hand, if the alternative approach is adopted with a strong coverage test, the same problem might arise where significant pipeline services are not price regulated leaving open the opportunity for monopolistic activity without mandatory arbitration over pricing.

On balance, the PC approach is APPEA's preference. Pipelines of concern are more likely to be "covered" and therefore economically informed price regulation may be easier to secure in instances of market failure.

Section 8.11

APPEA does not support this recommendation. If any party believes there is a case to shift the form of regulation to access arrangements with reference tariffs, they should be able to apply to the National Competition Council to argue their case.

Section 9.1

APPEA supports all recommendations identified in the box in Section 4.1 on pg 16 of the Consultation Paper. In particular:

- a. While APPEA's preference is for a fixed period of 20 years, APPEA supports 15 years.
- b. Strong endorsement of the price regulation holiday for greenfields pipelines, again, preferably for 20 years.

Section 10.1

APPEA does not support this recommendation and sees no case for amending the rules. It is important for the regulator to be able to exert some control over these arrangements and as such should authorise associate contracts.

Should you require any further information, please contact Peter Gniel in the Canberra Office on 02 6267 0910, or via email at pgniel@appea.com.au.

Yours faithfully



Belinda Robinson
CHIEF EXECUTIVE