



**Submission to the Bulletin Board Working Group (BBWG) on the
National Gas Market Bulletin Board Consultation Paper**

July 2007

1. INTRODUCTION	3
2. BULLETIN BOARD OPERATOR	4
3. INCLUSIONS AND EXEMPTIONS	4
4. DATA AND VALIDATION ISSUES	6
4.1 Nominated Daily Deliveries for Individual Pipelines	7
4.2 Use of Actual Historical Data	7
5. USE OF THE BULLETIN BOARD IN EMERGENCIES	8
6. FUNDING OF BULLETIN BOARD OPERATIONS	9
7. BULLETIN BOARD IT OPTIONS AND ISSUES	9
8. INCENTIVES TO PROVIDE INFORMATION	10
8.1 Liability Issues	10
8.2 Costs Issues	11
9. TRANSPARENCY AND BROADER GAS MARKET ISSUES	12

1. INTRODUCTION

The Energy Users' Association of Australia (EUAA) appreciates the opportunity to provide a submission to the Bulletin Board Working Group (BBWG) on the National Gas Market Bulletin Board Consultation Paper.

The EUAA is the national association of electricity and gas users with some 85 members, drawn predominantly from large business users who have operations across all states and many sectors of the economy. The priorities for our policy and regulatory work activities are determined by our members and cover both national and state issues. A number of our members are large-scale gas users, who are interested in increasing the amount and transparency of information in the gas market. These users are also interested in better understanding gas system supply adequacy arrangements, and communications protocols that surround the management of gas supply curtailment events.

We note that the establishment of a National Gas Market Bulletin Board was one of the key recommendations of the Gas Markets Leaders Group (GMLG) to the Ministerial Council of Energy (MCE) in June 2006. We are keen to see the initiative progress. In particular, we consider that the implementation of the Bulletin Board should improve transparency and information in the gas market, and should assist energy users in their gas supply arrangements and contracts.

Our members consider that the Bulletin Board (BB) proposal should be developed to ensure that gas market supply, demand, pricing and emergency-related information:

- Is communicated to all stakeholders (not just registered participants) in a timely manner, and can be easily accessible by members and other stakeholders;
- Facilitates the development of market-based solutions to supply, demand and emergency issues, so that economically efficient decisions can be made about gas supply and curtailment;
- Allows all stakeholders to fully understand the dimensions of any emergency (advance notice, duration, location, options available to meet any emergency);
- Is communicated down to the pipeline or (at least) hub level; and
- Respects contract and tort law.

While the Consultation Paper comments that the purpose of establishing the BB is to facilitate trade in gas, the EUAA considers that there are other objectives that can be met with the establishment of the BB, principally:

- The BB can be used as an emergency management tool (as foreshadowed in the Consultation Paper);
- The BB can provide information to the market and prospective pipeline investors about the need or viability of construction of additional pipeline or storage capacity;
- The BB can provide information to regulators that can be used to facilitate market investigations; and
- The BB can be used as a tool for the development of other aspects of the gas market

The EUAA would like to see the incorporation of these aspects as part of the further development of the BB and believes that they will allow further benefits to be derived from the concept.

The EUAA now makes some further comments in relation to specific parts of the Consultation Paper.

2. BULLETIN BOARD OPERATOR

The EUAA supports the proposal that VENCORP develop and operate the BB under the leadership of the GMLG, but only until such time as a National Energy Market Operator [NEMO] is established. This will facilitate the timely development of the BB. VENCORP as developer and operator can leverage off existing knowledge, resources, systems, expertise and participant interfaces. However, there should be clear protocols in place that specify and separate VENCORP's objectives in relation to the management of the Victorian gas market, and its role as the operator of the BB facility.

3. INCLUSIONS AND EXEMPTIONS

The EUAA supports the Consultation Paper's position that all major pipelines and connected production and storage facilities that are interconnected to, or supply major demand centres, should be included in the BB. The group of pipelines subject to BB requirements should (ultimately) not be limited to pipelines connected within the south-eastern region of Australia, as broader considerations (such as the implementation of emergency procedures and provision of transparent information to gas users and investors) will be relevant to whether the pipeline should be included or not.

Additionally, the provision of accurate and timely signals about pipeline usage as a necessary precursor to signalling the need for additional capacity development are likely to be particularly relevant and important in localised markets where there is less competition and limited (or no) alternative existing supply capacity.

Removing the need for pipelines away from the existing Victorian hub market to fall within BB arrangements potentially removes the investment signals that BB-type information can be designed to provide, and may limit the timely and appropriate development of additional capacity, to the detriment of our members.

Furthermore, removing pipelines away from the interconnected market from the need to comply with BB reporting requirements may also deprive regulators (ACCC, AER, VENCORP / NEMO) of information that may be important in, or may assist in determining access or planning arrangements.

Finally, the EUAA does recognize that there may be some need to protect the commercial interests of pipeline operators, shippers and end users (and others) on particular pipelines. However, there should be a *starting presumption* that all pipelines, other than those that meet the exemption criteria specified in the Consultation Paper, will be covered.

Users that are affected by pipelines that are proposed (by operators or shippers or others) to be exempted should be given the opportunity to comment on whether an exemption is appropriate, as ultimately it is users that benefit from BB requirements (or are disadvantaged by a lack of availability of information via a BB service.).

In relation to the exemption thresholds themselves, the EUAA considers that the 20TJ / day threshold should be based on nameplate capacity. This is because both the actual utilized capacity *and* the potential capacity of a relevant pipeline (denoted by the nameplated capacity) serve as an indicator of the need for associated pipeline investment, and the market dynamics downstream from the pipeline itself, which may be of interest to a regulator.

VENCORP should also give some thought to developing a mechanism by which the BB-related status of pipelines can be reviewed, in recognition that supply and demand and competition-related characteristics of pipelines can and do change over time. Particularly, changes that reinforce connections through to northern Queensland (through the further development or extension of the existing Ballera / Moomba link) and Northern Territory markets into the larger interconnected market in the future may mean that it is appropriate to incorporate pipelines into BB / market mechanisms, where such pipelines have previously been exempted.

4. DATA AND VALIDATION ISSUES

The EUAA and its members support the implementation of a BB that provides timely and useful information to users and other market participants about the operation of the market. A BB facility should also provide stakeholders with relevant information that underpins competitiveness in the market, and allows the regulator to undertake the market monitoring function effectively. Finally, a BB feature should provide both market participants (actual and intending) and market planners with robust information relevant to the development of gas supply.

On this basis, it is the EUAA's strong contention that disaggregated information is necessary to meet these objectives. Disaggregated information:

- Allows end users to understand the prevailing gas supply market conditions that are relevant to their businesses, and use this in contracting and supply. Aggregated data does not allow users to understand local supply conditions and inhibits the effective operation of the market;
- Allows regulators to more clearly understand the market dynamics that apply to a certain pipeline, as a stand-alone pipeline or in relation to other pipelines, including identification of market participants that may be contributing to or causing market distortions, and to make continuous assessments about the competitiveness of the market;
- Enables targeted information on emergencies to be disseminated, helping to avoid confusion, misunderstanding and minimizing undue distortion of normal market processes; and
- Can provide targeted information to network planners and intending or current gas (and electricity) market participants about the need to augment and upgrade pipelines. This is particularly important as, with the establishment of NEMO, the EUAA expects that there will be an increased focus on the co-ordination of complementary gas and electricity production capacity.

The EUAA considers that the BB requirements should be, where practicable, no lesser than those required for operation in the National Electricity Market (NEM), and in certain cases, should incorporate information requirements that are greater than those that exist in the NEM (particularly in relation to the provision of information relating to actual daily production). Additionally, where information requirements can be synchronized with existing (or likely) obligations under the National Gas Law (NGL), the GMLG should look to ensure that this is done.

4.1 Nominated Daily Deliveries for Individual Pipelines

The EUAA strongly supports timely publication of information relating to nominated gas demand at the individual pipeline level. Consequently, we oppose the position taken by the APA in its submission¹ namely:

‘Provision of data at a pipeline level could result in potential for inappropriate provision of information between competing producers, competing shippers, competing pipelines and competing end users. This may provide incentives to manipulate outcomes.’

The EUAA argues that the formation of the BB needs to be driven by the need to create a truly competitive market with appropriate signals that engender competition.

If, as the APA comment, there is little incentive for shippers to nominate accurately², then the appropriate response is to provide incentives for this to occur, rather than to disregard the collection of forward-looking supply and demand capacity at the pipeline level. There is even greater margin for error in aggregating nominated daily gas demand on a jurisdictional basis. Accordingly, this makes it more important to break down demand to the pipeline level and provide appropriate incentives / disincentives to ensure that market transparency is enhanced.

4.2 Use of Actual Historical Data

The EUAA contends that, if actual data is required to be provided as part of BB processes, then, by corollary, historical data should also be provided – by definition this is a collection of data about previous current demand for each pipeline. This type of information is also likely to provide system planners with useful information about the adequacy of supply at the individual pipeline level, and may also signal the need for further investment to meet increasing demand over time.

Ignoring the need for the provision of historical data ignores the planning and investment signals that can be gathered from this type of information if considered on a historical basis.

The APA considers that providing historical information creates a perceived need for reconciliations between nominated and actual demand, including the explanation for differences. The EUAA contends that the investigation of these differences is a role

¹ APA Group, *Submission by APA Group On the June 2007 Consultation Paper*, 6 July 2007, p 8, available at www.mce.gov.au/assets/documents/mceinternet/APA%5FGroup20070709103311%2Epdf

² *ibid*

for the regulator and the reconciliation requirement, (if for example, errors exceed certain variances) can be used as part of the incentive framework to ensure that shippers provide accurate information about shipping data to the market.

The EUAA also supports the comments in the Consultation Paper in relation to the need to have in place appropriate data validation requirements.

5. USE OF THE BULLETIN BOARD IN EMERGENCIES

The EUAA supports the development of the BB as a tool that can be used to assist in the management of emergencies, in addition to having other functionality, as discussed in the Introduction to this submission.

The EUAA considers that the incorporation of emergency-related information and trading-related information in the one information space is likely to assist in delaying the need to invoke emergencies through greater use of market responses, the co-ordinated management of emergencies and the enhanced understanding by stakeholders of the effects of any emergency on the operating conditions within the market that a BB might provide.

As experiences from some of our members suggest, they received verbal instructions about the management of the recent NSW gas supply disruption that conflicted with written advice. The availability of a central repository of information is likely to avoid some of these problems.

The EUAA cautiously supports the comments made in the Consultation Paper about the desirability of co-ordination of emergency data requirements and protocols for the BB with those used under the NGERAC process. However, the desire to limit the dissemination about any emergency to 'limit panic' should be balanced by users' legitimate interest in knowing the parameters of any emergency and how it will impact on them. Additionally, a well-designed information dissemination protocol should limit the opportunity for the misinterpretation of emergency-related information. Limiting access to up-to-date information on emergencies seems contrary to the intent of the BB and might impair its functionality as a tool to assist users in emergencies.

Additionally, during the recent NSW gas curtailment crisis, our members were unsure how widely curtailment instructions were disseminated, and in some cases were concerned about the competition impacts that might result if only selected members were required to curtail or different gas users interpreted verbal instructions differently. The development of a BB arrangement with written advice about ongoing system capacity and curtailment instructions is likely to increase the confidence of our members that uniform emergency instructions are being issued, that they are

consistent with what is being reported on the BB, and that they are being uniformly followed by all affected users.

6. FUNDING OF BULLETIN BOARD OPERATIONS

In principle, the EUAA supports a funding arrangement for the establishment and on-going operation of the BB where the parties that benefit from the operation of the BB also meet the costs that are involved in establishing and continuing its operation.

In relation to the establishment costs, the EUAA considers that it is appropriate that parties contributing to the design of the BB also bear their own costs in relation to doing so. This is because, to the extent that stakeholders have an interest in influencing the design process, and the ultimate, look, feel and functionality of the BB, they will contribute resources to the development and consultation process. If stakeholders perceive that there is little benefit in being involved in this process, then they should look to minimize costs by not being involved.

In recognition that the BB will provide benefit for parties other than just users, the EUAA would support any proposal that resulted in stakeholders other than users bearing a proportion of the costs of the creation of the BB, and the ongoing functioning of the BB. Clearly the availability of pass-through provisions in access arrangements and commercial agreements will see users ultimately pay for a large proportion (if not all) of the costs of establishing and maintaining the BB that are not met by the MCE.

The EUAA also supports arrangements whereby the costs associated with the project are spread over a wide number of stakeholders, including operators of both covered and uncovered pipelines in all jurisdictions.

7. BULLETIN BOARD IT OPTIONS AND ISSUES

The EUAA notes at the outset that detailed costings for the various options for the development of the BB have not been provided in the Consultation Paper, and the consideration of the actual cost differential in developing a Graphical User Interface (GUI) system over an email-based File Transfer Protocol (FTP) based system may be important in arriving at a decision on the initial design of the BB.

Users as a class of BB participants could derive a benefit out of a proposed BB system. Users, as previously mentioned, would also ultimately be likely to incur much of the costs associated with the implementation of the system. Accordingly, the EUAA urges the BBWG to continue to consult with relevant users (and others) to ensure that the business case for development of the system (and future functionality) is sound and meets the needs of those that will derive benefit from it, now and into the future.

In principle, the EUAA supports the development of an IT option that represents the most efficient solution over the long term. This is not necessarily the system that is 'least cost' in the current environment or immediate term. It may be a system that offers considerably more by way of extendable functionality as the market develops and the usefulness of BB features become apparent, in line with longer-term goals for the development of the gas market. However, care is needed to ensure that any additional functionality is likely to be utilised in future. For users, there is always a risk that, whilst costs are 'front ended', any benefits are only a 'promise' further down the track.

'Chopping and changing' between static and dynamic IT solutions as the market develops does not necessarily represent the implementation of the 'least cost' option, either. Clearly, there are significant establishment costs involved with the installation of any system, and the long-term usages of the system must play an important role in determining the type of IT solution that is initially deployed.

8. INCENTIVES TO PROVIDE INFORMATION

In order to provide useful, practical information to gas users, market participants and other stakeholders, such information should in general be robust and reliable, and able to be used so that it can facilitate the effective and efficient functioning of the market. As a corollary, there should be appropriate incentives on market participants and others to provide accurate, timely and compete information to the market. Likewise there should be appropriate disincentives or penalties in place that discourage market participants (including users) from providing misleading or incomplete information to the market.

The EUAA supports the establishment of a framework where Gas producers, shippers, storage providers, operators of covered and uncovered pipelines and pipeline users would be obliged by the NGL to provide information to the BB Operator in accordance with relevant gas market rules.

The EUAA also supports arrangements whereby the NGL would also provide that any contractual duty of confidence would not provide an excuse for compliance with the information disclosure requirements associated with the BB. Compliance with the information disclosure requirements should not create liability for a breach of confidence, breach of contract or other civil wrong.

8.1 Liability Issues

The EUAA supports arrangements whereby BB Information Providers would be legislatively compelled to provide information required to enable the efficient

functioning of the BB, and where legislation would also provide statutory immunity against breach of contractual confidentiality obligations.

Other proposals suggested in the Consultation Paper appear to be less able to meet the 'efficient functioning' test and introduce effective incentives as have been detailed above. For example, the implementation of a waiver and exclusions framework for providers of information and users would mean that there would be no effective incentives for providers to ensure that information provided was complete and accurate, as little (or, in effect, no) liability would attach to the provision of the relevant information.

The EUAA also acknowledges that, as the APA have pointed out in its submission, some classes of information may be subject to frequent change or reveal errors when subject to aggregation. However, the EUAA considers that just because this information is subject to variation should not relieve the parties responsible for posting this information from behaving in good faith by providing accurate data. Again, this question relates to the incentives that are in place to ensure that parties participate in the running of the BB on a *bona-fide* basis. A *carte-blanche* release from liability in respect of the provision of certain classes of information may not be the most appropriate way of incentivising *bona-fide* behaviour.

Finally, the EUAA opposes the establishment of a 'click-wrap' agreement containing appropriate waivers and exclusions, and additional disclaimers if these may result in watered-down incentives for stakeholders to provide accurate and complete information for the efficient and timely operation of the BB. Where possible, the information standards relating to the BB should mirror those under the National Electricity Law and National Electricity Rules, to ensure consistency of obligations and in recognition of the drawing together of gas and electricity markets.

8.2 Costs Issues

As raised by the submission on the Consultation Paper made by the APA Group, if pipelines receive no offsetting benefit from the establishment of the BB, then it may not be appropriate for pipeline operators to bear the full cost of the establishment of the BB. However, the EUAA notes that several aspects of the development of the BB (eg emergency procedures, pipeline capacity and loss or reserve, forecast and actual gas demand, and capacity and supply offers) are likely to be of interest to pipeline operators. Accordingly, to claim that operators will receive no demonstrable benefit from the operation of the BB is overstating the case.

Alternatively, as the APA claim, if there are no benefits flowing to 'pipelines', (presumably one or more of shippers, gas storage participants, operators or producers) from the establishment of the BB, then it becomes even more important to

take gas user views into account in designing the BB, particularly in relation to coverage and detailed data requirements.

We are also presuming that pipeline operators will wish to have access to the BB, so they should be prepared to pay some of the costs. If they do not, access should be restricted or denied.

9. TRANSPARENCY AND BROADER GAS MARKET ISSUES

Whilst the establishment of a BB and its likely extension to a STTM are useful reforms that will add some (much needed) transparency to the gas market, they are limited in their scope and ability to benefit gas users. The limited benefits were highlighted in the MMA benefit-cost analysis for the GMLG of the BB and STTM options, which showed only minor net benefits of fairly small magnitude.

The EUAA therefore supports the need for continuing gas market reforms that will enhance competition and efficiency in the operation of gas markets in Australia. These reforms are likely to bring far more substantial benefits than the more limited options of establishing a BB and STTM.

The EUAA therefore encourages the MCE to ensure timely progress with gas market reforms.