Submission to the National Competition Council ("NCC")

Regarding

Queensland Access Regime for Gas Pipeline Services

Issues Paper Dated April 1999

By

Forcenergy Australia Pty Ltd ("Forcenergy")

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A. Executive Summary

Forcenergy appreciates the opportunity to share its views. Our views on such matters are often significantly different from that of the upstream industry association, APPEA. We believe that the debate should be significantly broadened beyond the rhetoric that has plagued the progress of gas reform to date in Australia.

Australia has a world class petroleum resource base, yet it is relatively unexplored. Drilling to date has been largely performed to discover liquids: oil for the domestic market and LNG for the export market. Australia has become more attractive for many new entrants to the energy industry, including the upstream sector. There still exist, however, many barriers to competition in general, and to new entrants in particular.

Reasonable access terms for gas pipelines and growth in the contract market are fundamental to the development of a wholesale gas market. The development of a robust wholesale gas market is the foundation for all of the other characteristics of a free and open market for any commodity.

It is our opinion that Queensland has done everything in its power to pre-empt the application of the Code to its gas pipelines. This behavior is consistent with its decision to delay the joining of the national electricity market and to import gas from PNG rather than better utilise Australia's vast gas resources. While Forcenergy believes that the Code may prove to be far too lenient with natural monopolies, we can only hope that it will in due time deliver better access arrangements than what generally exists in Queensland. State regulators seem to be struggling with the effective application of the Code to distribution networks.

We think that it is important to have as few regulators as possible in order to achieve consistency across state boundaries. The gas industry of Australia needs to get moving in the direction of free and fair trade. The gas reform process has been slow in the delivery of sound results compared to similar initiatives around the world. Queensland's gas industry is far from dynamic or robust or fair.

Forcenergy encourages the NCC to not agree to the derogations to the Code as proposed by the Queensland Government. Although this decision will strain inter-government relations, we think that it is important for the welfare of Australia. Australia needs to get serious about gas reform and global competitiveness. We believe that there is sufficient evidence that the current access arrangements in Queensland do not get the job done. We hope that the NCC and others agree.

B. Introduction

General Comments:

Forcenergy is a new entrant to the upstream sector of Australia's petroleum industry. We fully support wide consultation between all industry stakeholders: associations, government, and all participants in the various sectors of the gas and indeed, the energy industry. It has been our observation that such consultation processes to date in Australia have been dominated by input from industry associations, government, and incumbent players. We strongly believe that unless end users of gas and new entrants to all sectors of the industry become more involved in this process, outcomes will be poor.

Australia has embarked on a journey to radically change its energy industry. Most would agree that a move to a free and fair energy market would significantly enhance Australia's competitiveness. It has been repeatedly demonstrated that free markets result in an efficient and healthy industry – regardless of the commodity or service of interest. The energy industry is of particular interest since the lowering of energy costs lead to a decrease in the prices of outputs from other industries, thereby strengthening national competitiveness. In the emerging global economy, any and all factors contributing to competitive advantage will have to be exploited.

While the Australian economy is increasingly enjoying the benefits of increased competition in the wholesale and retail electricity markets, it is unclear what kind of gas industry will emerge from this period of unprecedented industry restructuring. A patchwork of unfolding national and state reform initiatives has put the restructuring of the gas industry in motion, but, in our opinion, the gas industry has a long way to go before it begins to resemble electricity, oil, LNG, LPG, coal, and other energy industries. It has a very long way to go before it resembles a world or continental commodity market such as world oil, coal, copper, gold, etc or the North American gas market.

A cornerstone that seems to be missing from the gas industry restructuring initiatives is the lack of a wholesale bulk gas market. The development of a wholesale gas market has been delayed, particularly in eastern Australia, for a number of reasons. There is no depth in the gas industry in eastern Australia. The gas industry has historically been fragmented into State or smaller regional markets with one gas supply and little, if any, desire by the incumbents to stimulate market growth in the price sensitive high volume sector of the gas market. State pipelines and distribution networks have historically offered little but the basic service offerings and tolls, have entrenched barriers to competition, and do not have transparent, cost related, user pay tolls; thereby eliminating any resemblance of competitive neutrality among buyers and sellers of gas.

The Competition Principles Agreement requires all Australian governments to provide third parties access to major infrastructure operated by public utilities. The Natural Gas Pipeline Access Agreement of November, 1997 ("Code") established the rules whereby gas pipelines and distribution networks would be economically regulated in Australia …

that is, until state specific derogations or exemptions where filed with the National Competition Commission ("NCC"). Victoria, W.A., and Queensland have filed for major exemptions from the Code. One of the main objectives of gas reform was to rid Australia of inter-state trade barriers. A common regulator of gas pipelines, the ACCC, and uniform rules, the National Code, were large steps toward that end. Derogations or exemption by States should be discouraged by the NCC, if not prohibited! While each State may have the best of intentions, derogations undermine the objective of one day creating an efficient national energy market in Australia.

Australia has elected a distinctly different path from the earnings based "cost plus" approach to monopoly rate-of-return regulation as applied in places such as North America ("*Cost of Service*"). Australia has selected a "*light handed*" regulatory approach upholding a right to negotiate followed by a binding resolution process. This approach to economic regulation is unproven, especially given the lack of a regulated base line from which to extrapolate fair and reasonable terms and conditions. Owners of natural monopoly gas infrastructure continue to provide poor customer service and charge market bearable rates. The right to negotiate has extended to the regulator as well as to the facility user … and based on benchmarking, the monopolies seem to be winning! Furthermore, now the right to negotiate has extended to States negotiating with the NCC for derogations to the National Code. One begins to wonder how such a process will ever deliver free and fair trade in Australia's gas industry!

As a holder of significant exploration interests across Australia, including Queensland, Forcenergy is a possible new entrant gas supplier to Queensland and to the eastern seaboard gas grid in general. Forcenergy has a major interest in the final outcome of the access regime and arrangements for gas pipeline services in Queensland.

It is widely recognised that inter-basin and intra-basin gas supply competition is a pre-requisite to lowering city gate gas prices. Gas pipeline and distribution tolls must reflect the cost of providing service and be free of monopoly rents and cross subsidies. Forcenergy is willing to assist in the creation of inter-basin competition but only after sufficient confidence exists regarding open access to gas infrastructure at world best practice terms and conditions. Although Queensland has, over the past few years, elevated the performance bar for gas pipelines in Australia, there remain many major deficiencies in the current access regime in that State.

Forcenergy has completed a thorough review of the access regime for gas pipeline services in Queensland and each pipeline access arrangement. Our Vice President Marketing, Mr. Glen Gill, has been involved in the privatisation of pipelines, the construction of pipelines, and conducting business with pipeline owner/operators in Queensland since early 1994. It is Forcenergy's view that it would be a major setback to gas reform progress should the NCC agree that this regime is effective and therefore be exempt from the Code until such time as the existing access arrangements expire.

Forcenergy Australia Pty Ltd

Forcenergy Australia Pty Ltd has recently been established to concentrate on the continued exploration and development of significant land holdings of Forcenergy International. Both companies are wholly owned subsidiaries of Miami, Florida based Forcenergy Inc.

Forcenergy Inc is an independent oil and gas company engaged primarily in the exploration, acquisition, development, and production of oil and natural gas. It has been one of the fastest growing US Independent E&P companies over the past few years. 1998 was a tough year for Forcenergy from a stock performance and financial perspective. Consequently, Forcenergy filed for a financial re-organisation under Chapter 11 of the U.S. Bankruptcy Code on March 21, 1999. Underpinned by strong production and cash flow, Forcenergy is hopeful that it will re-emerge in a few months as a much stronger company.

Forcenergy Inc has ownership interest in approximately 3,200 producing oil and gas wells. Third quarter 1998 net production was 5.5 million barrels of oil equivalent; gas production averaged 223 million cubic feet per day and oil production was 22,200 barrels per day. 87% of production is from offshore fields located in Alaska and the Gulf of Mexico. Operations divisions are located in New Orleans, Anchorage, and Houston.

The Gulf of Mexico is the company's core region of operation, where Forcenergy is one of the larger offshore operators among the independents. Substantial growth has occurred due to both exploration and acquisition activity. The Gulf region accounted for 73% of Q1/98 production. Forcenergy has an ownership position in 197 federal and state offshore leases of which 143 are producing and 70 are operated by Forcenergy.

The Cook Inlet of Alaska is the second core area with offshore activity accounting for 14% of company production in Q2/98. Forcenergy is the ranked the largest leaseholder of exploration acreage in the State of Alaska. Current interests include 69 lease blocks of which 18 are producing.

Onshore US activities in Louisiana accounted for the remainder of production. Forcenergy has an ownership interest in approximately 3,200 producing oil and gas wells.

Forcenergy has only recently entered the international arena. We have acquired approximately 3 and 32 million exploratory acres (gross) under lease in Gabon, West Africa and Australia respectively. Australian interest covers nine basins located nationwide. Forcenergy's average working interest exceeding 50% in Australia.

Forcenergy has interest in the following land position:

Conventional Petroleum Targets	
PEL (million acres)	Basin
9.9	Amadeus, N.T.

0.8	Whicher Range, W.A.
6.1	Officer, S.A.
1.1	Eromanga, Qld
8.2	Darling, NSW
Primarily Coal Seam Methane Targets	
PEL (million acres)	Basin
8.8	Gunnedah, NSW

Forcenergy and its Michigan based partner, First Sourcenergy Group Inc., have the largest acreage position in the State of New South Wales. Forcenergy has a 57.8% working interest and is the operator of Petroleum Exploration License 238; a 2.4 million acre concession located in the Gunnedah Basin. Forcenergy's Australia production operations are currently based in Narrabri, NSW. Forcenergy and its partner, First Sourcenergy Group, has embarked on what has been described by the Premier of NSW as the "State's largest single gas exploration project". To date twelve wells have been drilled and tested as part of an ongoing pilot project evaluating the gas productive capacity of the Maules Creek coal seam. Subject to access to equity funding, additional drilling and testing is planned for 1999. There also exists conventional gas in the region generally in geological horizons found at shallower depths.

Forcenergy and its partners would like to sell gas into a competitive market driven eastern Australia and ultimately national gas market. The emergence of a well connected gas pipeline grid that provides seamless low cost service across the eastern states and territories is fundamental to this desire. If such a scenario does not seem likely to develop over the near future, Forcenergy and its partners will have to re-evaluate the attractiveness of exploring for gas in eastern Australia.

Additional information about Forcenergy Inc can be obtained from the following web site: http://www.forcenergy.net/

Submission

Forcenergy supports gas reform in Australia and the establishment of a world competitive gas industry. We welcome the opportunity to assist in the development of Australia's gas resource. We hope that stakeholders welcome our contribution to the establishment of world best practice to the upstream sector of the gas industry. Forcenergy is encouraged by the initiation of energy reform in Australia and hopes that gas reform will soon allow market forces to rule regarding the gas commodity and allow meaningful access on gas pipelines and distribution networks. Competitive neutrality, transparency, elimination of monopoly rent, and user pay principles remain, in our view, largely absent in the regulation of Australia's gas industry infrastructure.

It is difficult for us to understand why Australia has historically neglected the development of its domestic gas industry in favor of exports of LNG to Asia. This situation becomes even more difficult to understand given the rebates on imported diesel and the proposal to import natural gas from PNG. It seems to us that the development of a gas industry in Australia has suffered in the past due to the lack of a national energy policy and a fragmentation causes by self-serving state and local interests. We hope that these problems are soon rectified.

Forcenergy hopes that by offering its perspective, it may assist the NCC in the understanding of some of the key issues and ultimately in the formulation of its decision to either approve or disapprove the recent application made by the Queensland government for a *recommendation on the effectiveness of the Queensland third party access regime for natural gas pipelines.*

Our goal is to accelerate development of Australia's gas market and the efficiency gains that may be realised by free and fair trade. There is widespread evidence that exposure to competition pushes suppliers to lift their game and generate wealth in a much more creative manner. Furthermore, as market forces are unleashed, demand grows in an unprecedented manner. This is vitally important to such a capital intensive industry as ours and for the encouragement of new entrants such as ourselves.

C. Background

Our Perspective:

Gas reform or "de-regulation" was introduced in Australia in February of 1994 when the Council of Australian Governments (CoAG) heads committed themselves to a range of reforms to achieve 'free and fair trade' across Australia. The stated objective was to encourage the most efficient use of Australia's gas resource thereby delivering good value to consumers. The third party code for access to transmission and distribution pipelines was signed off by all Australian governments in November 1997 following some two years of industry wide debate, working group debate, and CoAG led due process.

The author of this submission served on the Transmission Working Group. It was evident then, and confirmed now, that Queensland wanted to "march to its own drum". Queensland elected to make deals with pipeline developers and to insist on third party access arrangements prior to the issuing of any new pipeline licenses rather than rely on the final version of the Code. Queensland's motives throughout the development period 1995 to1998 are rather suspicious. Was it Queenlsand's objective to assist in the development of a National Code that applied to everyone else?

Forcenergy is of the opinion that Australia has vast low cost natural gas resources and much latent gas demand in eastern Australia. Forcenergy looks forward to the opportunity to demonstrate that the efficiency, and therefore cost, of exploration, production, and processing can be greatly improved upon. We believe that there are tremendous public benefits, as yet unrealised because of the past practices in the gas industry. Natural gas is the preferred hydrocarbon in developed countries and it should be a leader among the world competitive resources of Australia. Australia not only lags the OECD and world average in terms of gas penetration but significantly lags the countries that export gas in the form of LNG.

The upstream sector of the gas industry in Australia continues to be problematic. Exploration drilling to date has been oil driven and when gas is discovered the lower priced LNG market seems preferable to the domestic gas market. According to APPEA, in 1997, a total of 308 wells were drilled in Australia (onshore and offshore, exploration, development and stratigraphic) compared to 18,104 well drilled in Canada in that same year. Furthermore, many of the companies exploring in Canada are searching for gas rather than oil. This is particularly curious given the fact that major gas markets are many thousands of kilometers from the Western Canadian Sedimentary Basin (gas molecules on average travel 2,200 km by transmission pipelines) and gas plant prices averaged C$ 1.95/GJ in 1997.

While Australia has an abundant gas resource, the state of New South Wales and Queensland have deplorable gas penetrations in the primary energy market. Queensland is particularly bad, given the its significant indigenous gas supplies. Australia's domestic gas industry had its genisis in Queensland, yet Queensland has failed to keep pace with the rest of Australia. It is evident that market forces have been held at bay in Queensland and world's best practice has eluded the states gas industry. Government intervention has been and continues to be a strong force in the shaping of Queensland's gas industry. This application for derogation to the Code and the States involvement in the PNG gas project are good examples.

In a competitive market the price mechanism plays a vital role in the channeling of available gas supplies to willing buyers and of available markets to willing sellers. The benefits of competition are founded in its ability to serve consumers and avoid waste. Competition tends to push revenues toward costs (where costs include a rate of return sufficient to attract and hold capital). Competition also leads to prices that are based on marginal costs, i.e., the costs of bringing incremental output into an industry. Although unsustainable long run marginal costs are a factor, such costs tend to be fairly elusive and dynamic due to the increase in innovation and good business practices in competitive markets, and declining industry costs due to advances in technology. While some participants may wish to sign long term contracts, in a competitive market, unlike the past, participants may be exposing themselves to more, rather than less, risk by entering into long term contracts.

A fundamental characteristic of any commodity market is the existence of a vibrant spot market. It is difficult to imagine an open market or free and fair trade in Australia for natural gas while such a spot gas market remains absent. As a spot market emerges in the gas industry it is important to note that once a market is established for gas in Australia it may very well quickly grow to a size that is many times greater than its historical supply/demand volume of some 800 PJ/a. For example, if Australia were to follow North America, the spot market for gas would reach 4000 PJ/a (800 PJ/a demand times 10 trades per GJ on average between production and burner tip, times 50% spot market share of total transactions). Posted cash prices have been used extensively around the world in many commodities and are the backbone of a competitive market and a pre-requisite for a gas futures market.

A healthy spot market for pipeline natural gas in Australia is an integral component of effective gas reform, for it will revolutionise the manner in which business is conducted in the gas industry. It has been proven over and over again that the capacity of the free market to innovate and to improve is boundless. Although Queensland is blessed with multiple gas basins, multiple demand centers, and multiple pipelines, there is little, if any evidence, that any of the characteristics of free and fair trade exists. The situation exhibits the following traits:

- Delivered gas prices are among the highest in the nation;
- Santos et al control most of the states pipeline capacity;
- Relatively new long term anti-competitive gas supply contracts exist between producers and gas utilities/end users;
- The spot market has taken forever to develop despite grand efforts by such companies as PG&E and Allgas
- A gas pipeline grid does not commercially exist;
- Santos is the “gate keeper” regarding market channels for the wholesale market;
- End users are frustrated with poor service and overall poor value from the gas industry
- The gas industry has a poor reputation as is evident by Comalco’s gas supply security concerns with the PNG gas project (they obviously have no faith in receiving Qld produced gas at the same or lower delivered price)
- The pipelines, with the exception of the Duke pipeline, are discriminatory;
- Some of the highest pipeline tolls in the world exist on AGL’s Wallumbilla to Brisbane pipeline.

Forcenergy finds it very difficult to applaud the current state of Queensland’s gas industry. If the Code proves to be no more effective than the current access arrangements pertaining to Queensland’s gas pipelines then it will most probably be amended. It is our opinion that the access arrangements in Qld are generally deficient vis-à-vis the Code. We will expand on this point later.

Queensland’s Requested Derogations

As of the November 1997 at the time the Code was published, the following pipelines were declared:

QUEENSLAND - TRANSMISSION PIPELINES

Pipeline Licence	Location/Route	Operator	Length (km)
Qld:PPL2	**Wallumbilla to Brisbane**	AGL Pipelines Ltd	434
Qld:PPL3	**Kincora to Wallumbilla**	Oil Co of Aust Ltd	53
Qld:PPL24	**Ballera to Wallumbilla**	Epic Energy Pty Ltd	750
Qld:PPL26	**Dawson Valley to PG&E Qld Gas Pipeline**	Conoco Australia Pipelines Pty Ltd	47
Qld:PPL30	**Wallumbilla to Rockhampton System**	PG&E Gas Transmission Australia	
	Wallumbilla to Gladstone		530.4
	Gladstone to Rockhampton		96.7
Qld2: ML80032	**Moura Mine to PG&E Qld Gas Pipeline**	BHP Mitsui Coal P/L	23

Queensland has, in accordance with regulations 6B of the Trade Practices Regulations, made a request dated August 1998 that the NCC deem the access principles of seven existing pipelines and two proposed pipeline **effective** and exempt from the Code for a minimum period of fifteen years. The pipelines of interest are:

AGL's Wallumbilla to Brisbane pipleline built in 1969
EPIC's Ballera to Wallumbilla pipeline built in 1996
AGL's Ballera to Mt. Isa pipeline built in 1997
Duke's Wallumbilla to Rockhampton via Gladstone pipeline built in 1989 & 1991
Boral's Kincora to Wallumbilla pipeline built in 1977
Boral's Dawson Valley lateral built in 1996
BHP's Moura mine lateral built in 1995
Allgas's proposed Gatton to Gympie pipeline
AGL/Petronas proposed PNG to Qld pipeline

Queensland has requested that the third party access arrangements that exist and have been approved under section 58 of the Gas Pipelines Access (Queensland) Act 1998 remain in force until the revisions commencement for each specific pipeline, after which the tariffs become subject to the regulatory framework of the Code. The issue at hand is whether or not the regulatory process for the derogated pipelines, should that eventuate, provides a reasonable proxy for the Code, and if not, whether the discrepancies are material. Since the Code is a living document with an amendment process, it may be difficult to impossible to examine this issue over the longer term.

Although it is rather confusing as to what the exact modifications, variations, and exemptions so requested are, we are relying on the issues paper released by the NCC. It states that the principle derogations relate to:

- Reference tariffs and reference tariff policies for five transmission pipelines; and

- Access principles for the PNG to Qld gas pipeline.

The five pipelines are as per the following table:

TABLE 1 QUEENSLAND PIPELINES SUBJECT TO DEROGATIONS

Pipeline License (PPL) Number	Description of pipeline	Revisions commencement date (derogation terminates)
2	Wallumbilla to Brisbane	29 July 2006
24	Ballera to Wallumbilla	30 December 2016[6]
30	Wallumbilla to Rockhampton via Gladstone	The sooner of: (a) the date the capacity of the pipeline exceeds the nominal capacity specified in the pipeline license *or* (b) the date the regulator approves revisions that must be submitted by 31 August 2016
32	Gatton to Gympie	No later than 31 December 2006[7]
41	Ballera to Mt Isa[8]	1 May 2023

D. Comments regarding the requested derogation

Competitive Tender:

Queenlsand's application claims that the competitive tendering process was applied to the three pipelines under PPL's 24, 30, and 41. It is our view that the Code refers to a competitive tendering process that involves market forces; that is prospective pipeline developers and facility users – producers, end users, retailers, etc. Should such market forces reach a mutually acceptable resolution to the extent that a new pipeline is constructed, then the Code allows such commercially negotiated outcomes to continue regardless of future access arrangements. The so called competitive tendering process conducted in Queensland was between pipeline developers and the Queensland Government. The rest of the industry was precluded from the process.

A government conducted tendering process does not represent market forces and commercial outcomes. The process was highly political. Santos was prohibited from building either the Ballera to Wallumbilla or the Ballera to Mt. Isa pipelines for market power reasons, yet they ended up commercially owning the capacity on both of these pipelines since they are the sole foundation shipper on both. The revenue sharing mechanisms and the ability to block the use of either pipeline by third parties is a farce, given the earlier concerns about excessive market power.

Major problems with the Queensland gas network or grid surfaced when Allgas attempted to divert gas otherwise destined for Brisbane to BHP’s Cannington mine located in Mt Isa and when Energy Equity attempted to move its ATP 549 gas located off the Ballera to Mt. Isa pipeline to its Barcaldine power plant located off the Ballera to Wallumbilla pipeline. The pipeline configuration around the Ballera gas plant seems to place unusual market power in the hands of Santos and the SW Qld produces. Allgas encountered numerous rather unique barriers and Energy Equity had to sell its ATP 549 gas to Pasminco in Mt Isa and resort to purchasing gas from third parties for its power plant in order to offset the depletion of their Gilmore gas field. The Qld gas grid did not work!

The results of the *competitive tendering* process for at least the two pipeline development projects were very poor. Back haul tolls are unreasonably high, thereby protecting Santos. There is no depreciation rate on the Ballera to Wallumbilla pipeline. The two pipelines do not interconnect, but rather run parallel for many kilometers from two separate gas meters at the Ballera gas center. This arrangement resulted in not only the duplication of facilities but allows Santos to control the exchange of gas from one pipeline to the other – hence the gate keeper label. The revenue sharing arrangement allows for perpetual competitive advantage vis-à-vis freight costs on these two pipelines for Santos. The end users and gas utilities were not allowed to become foundation customers as they are accustomed to doing. Everyone was forced to purchase new long term gas supplies on a delivered to the city gate or sales lateral basis.

It is difficult to imagine that an industry led tendering process would have resulted in anything resembling this. Allgas, Boral, INCITEC, BHP, WMC, and MIM are all sophisticated energy purchasers. Allgas, Boral, and INCITEC had been purchasing gas at the processing plant since 1969.

The sale of the State Gas Pipeline to PG&E in 1996 was conducted through a competitive tendering process by the Qld Government. While the outcome of this *competitive tendering* process was much more favorable, there was a degree of “horse trading” performed near the conclusion of the process. The Government was having a difficult time comparing radically different tolling methodologies submitted by the short listed bidders and possibly compromised value due to an ignorance about pipeline tolling and the commercial benefits of one methodology over another. Last minute negotiations with PG&E resulted in compromises that favored gas supplies from SW Qld at the expense of new CSM gas supplies.

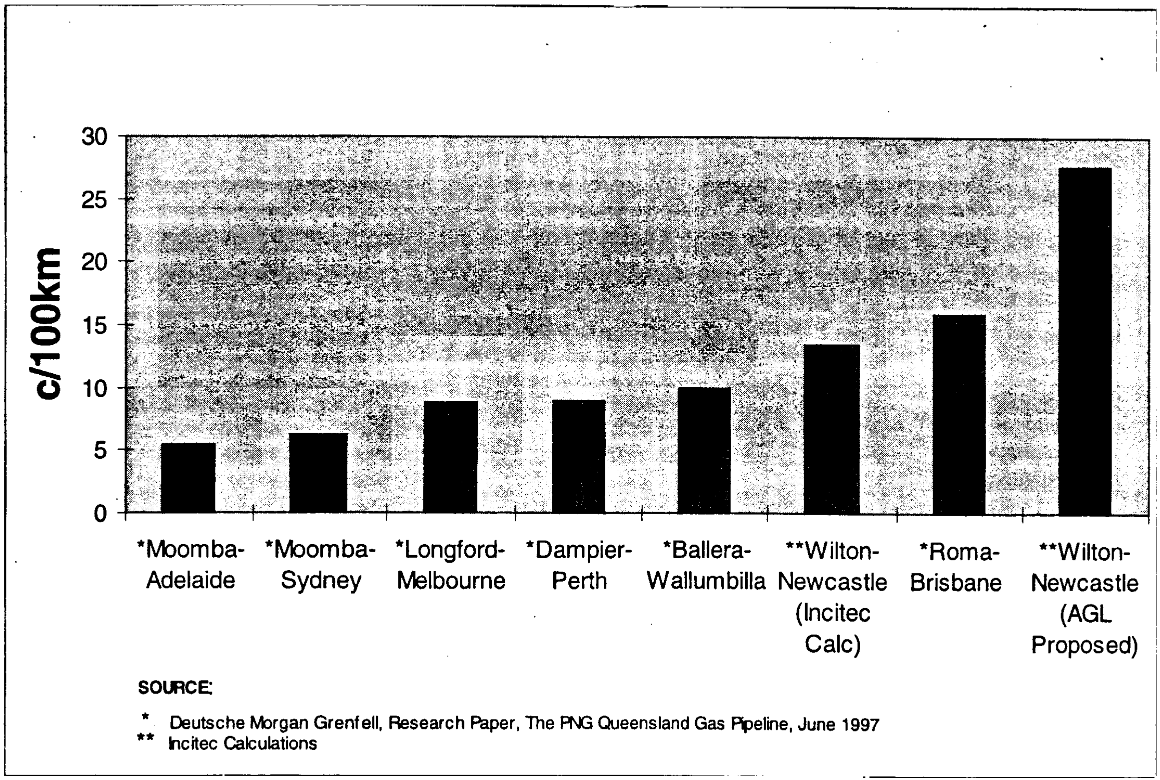
The skewing of fixed costs into the capacity component rather than into the distance related component disadvantages short haul shipments (i.e. CSM) over long haul shipments (i.e. SW Qld gas) in terms of cost reflective value. Furthermore, the back haul rates with onerous demand charges (i.e. pay whether you use it or not) is rather unique in the pipeline business and discourages the flow of CSM into Wallumbilla, thereby protecting SW Qld gas against gas on gas competition in Brisbane or Mt Isa.

Representatives from the Qld Government were hardly as capable as gas industry and pipeline experts and so the competitive tendering process was fundamentally flawed. It was not approved by an independent regulator pursuant to the Code. Furthermore, the establishment of reference tariffs by the Qld Government in the so called tendering process was compromised by their desire for Santos to build a new gas center at Ballera, for new long term gas supply contracts into Brisbane in order to circumvent pending gas supply shortages, and for the timely development of the Mt Isa mineral province. Such a convoluted competitive tendering process has little similarity to that of the Code.

The Wallumbilla to Brisbane Pipeline:

This pipeline is among the highest priced pipelines in the world, given its age, original cost, significant contributions of user-funded capital, and revenues received over the past 30 years. The optimal replacement cost of the pipeline was estimated by ACIL to be $77 million in 1997. As of May of 1998 Allgas had made payments of $154 million in 1998$ for transportation services since 1969. Allgas is but one of three major users of this pipeline! Furthermore, Allgas has a 15 year commitment via Santos to use the pipeline for another 15 years, worth about another $70 million to AGL.

The following graph illustrates how unreasonable the tariffs continue to be on this pipeline:



This pipeline has no less than the following three access arrangements:

- Access principles approved by the Minister in July 1996 for a nominal capacity of 77.7 TJ/d
- Access principles for capacity exceeding 77.7 TJ/d and less than 101 TJ/d
- Access principles for capacity exceeding 101 TJ/d up to 350 TJ/d

Although Qld has embraced the foundation shipper concept on other pipelines no such benefits exist on this one. In fact the original users of this pipe are at a severe disadvantage to new users! The access arrangements are discriminatory in the following manner:

- Postage stamp tolls despite many off take points located from kilometer 215 through 399.
- A wide rang of tariffs for the same service depending on which slice of the pipeline one is using;
- Inconsistent rules regarding the funding of expansions;
- The over building of new capacity funded by severe over collection of revenue from its three original users.

"The rigors of full regulatory examination, including a comprehensive public consultation process" seem to have failed miserably with relation to this pipeline! In reality, the pipeline has historically been fully contracted by Boral, Allgas, and INCITEC and now by Santos and so access principles and reference tariffs were rather meaningless until the expansion from 101 TJ/d to 350 TJ/d takes place. The access principles related to this capacity will be of utmost interest to the incumbents.

The new 10 to 15 year transportation contracts with Santos for most of the current pipeline capacity was part of the Qld solution to resolving the Brisbane gas shortages of the mid 1990's. The cost of these contracts flow through to Boral, Allgas, and INCITEC and their terms and conditions were essentially established by the Qld Government.

It is interesting to note that, among other things, the access principles pertaining to the Wallumbilla to Brisbane pipeline does not contain provisions for interconnection with new pipelines. Impasses arouse over the terms and conditions surrounding the proposed interconnection of the Gatton to Gympie pipeline to this one. The Qld Government resolved the matter but only because AGL wanted an access arrangement for the expanded capacity above 77.7 TJ/d.

Gatton to Gympie and the PNG to Qld Pipelines

It is difficult to imagine why access arrangements for proposed pipelines should be derogated. Surely the developers of these projects were aware of the Code and the associated risk of making deals with the Qld Government. It is difficult to comment further on these two pipelines since their associated access arrangements are difficult to track down.

General Comments:

The regulation of gas pipelines in Queensland during the past few years was neither efficient nor effective. The construction of the Marsden to Gold Coast pipeline in 1990 by Allgas under the Gas Act as a distribution network is one example. Another is the construction of the Moura mine to the Wallumbilla to Rockhampton pipeline in 1995 without even a pipeline license. Furthermore, in 1996 Conoco was forced to duplicate this pipeline by building the Dawson Valley pipeline because there were no access principles and BHP refused to let its competitor have access to pipeline infrastructure. Another contentious issue is the Ballera to Moomba gas pipeline. This is but one of historically two inter-state gas pipelines in Australia and it is classified as a raw gas pipeline whose capacity can be hoarded by the SW Qld producers.

Queensland has been very sloppy in its classification of gas pipelines as transmission or distribution or gathering or for that matter as even a pipeline.

As was the case in all other regulatory departments across Australia, the resources allocated to the establishment of good access arrangements did not exist in Queensland at the time. On the job training was evident. Budgets were tight. Results improved with time.

Queensland tends to be very parochial. It also has a history of intervening in the State's gas industry and it does not have a very good track record of accomplishment. It is questionable at this time as to whether the QCA and the Gas Appeals Tribunal are independent of the Qld Government. The fact that the QCA does not have guidelines to provide for its arbitration functions is a concern. These should exist prior to the seeking of these derogations.

The fact that a number of access providers did not make their access arrangement available to the NCC for posting on its website is not a good sign.

The "watering down" of the Code with respect to the obligation of a service provider to expand/extend its pipeline and the loss of the right for a facility user to seek revocation or modification under a material change in circumstances are major issues.

E. Conclusion

Forcenergy Australia appreciates the opportunity to join in this public consultation process. We hope that our comments have been helpful. As a new entrant to the upstream sector, we plan to do our part in liberalising the gas market of Australia. While we would like to see lower barriers to entry, we will persevere on behalf of the consumer. We encourage the NCC in their benchmarking and consultation process. World's best practice is not too good for Australia! Perhaps Forcenergy can assist in attaining this objective.

Forcenergy would like to see a material improvement in the access arrangements and reference tariffs associated with the Queensland's gas pipelines. As a possible new entrant gas supplier to Queensland, the views of Forcenergy are in alignment with consumers and the general public interest.

We look forward to reports regarding your progress in this matter and the opportunity to further participate in the regulatory process.

Yours truly,

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