






# **Gas Transmission Regulation A New Perspective**

Sydney

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# Presentation Outline

-  State of the industry – opportunities and challenges
-  Productivity Commission – identifies major deficiencies in gas transmission regulation
-  Ministerial Council for Energy – a parallel agenda





# State of Industry - Key Issues

- ❖ Two gas markets - east and west Australia.
- ❖ Natural gas is essential to the economy, environment and regional development
- ❖ Natural gas faces unique challenges – long transportation distances, thin markets and competing fuels
- ❖ Privatisation coupled with major development over last decade – SE market largely integrated



# State of Industry – Key Issues

- ❖ National market remains immature and is currently in transition
- ❖ Asset sales under way (Epic, CMS). Sale of Duke announced
- ❖ In the east, interconnection provides limited competition and may stall
- ❖ Major investment required to provide competitive gas and meet growth projections
- ❖ Balance must be struck
  - Return on investment for investors
  - Reasonable terms for access for users



# State of Industry – Key Issues

- ❖ Producer competition very limited – 3 producers more than 95% (85% by 2010) ABARE
- ❖ Tariff regulation of pipelines is a long standing concern to APIA and transmission companies (this is the focus of the PC review)
- ❖ We do not require “no regulation”
- ❖ We do require better regulation
- ❖ Problem is not the Code, but its interpretation



# Future Infrastructure Needs

- ❖ National gas use expected to double by 2020
- ❖ Industry response to Moomba fire
- ❖ Link from Qld to Moomba lacking
- ❖ Northern supply options – major investment required
- ❖ Pipelines needed for regional development
- ❖ Existing pipelines require expansion
- ❖ Market driven, integrated national system is the objective
- ❖ Gas is not electricity



# State of Industry - Conclusions

- ❖ Still an immature market
- ❖ Privatisation and interconnection are still incomplete
- ❖ Industry and Government objectives not aligned
- ❖ Major development required
- ❖ Regulation is out of step with commercial reality



# What is the Gas Access Regime?

- ❖ Gas pipeline specific access regime
- ❖ Industry specific – under umbrella of Trade Practices Act (Part IIIA)
- ❖ Agreed in November 1997 under intergovernmental agreement
- ❖ Based on “reference tariff” approach
- ❖ Implemented by regulators as strict “price control” model
- ❖ Problem is not the Code but the way it has been applied – better guidance needed



# Background to Review

- ❖ APIA recognises need to achieve a balance between investor needs (certainty, return on investment) and customer needs (reasonable terms of access)
- ❖ The approach adopted by regulators is intrusive, adopts “least cost” outcomes and is stifling investment



# Background to the review

- ❖ Code poses major risk for foundation contracts for new pipelines – size to today's markets to minimise risk
- ❖ To date most new pipelines have avoided being regulated (EGP, TGP, SEAGas, mid-west pipeline)
- ❖ Major successful legal challenges – many more in train
- ❖ Regulation of competing pipelines has been a contentious issue




# PC Draft Report - overview

- ❖ Pipeline owners can find the exercising of market power unsustainable because of characteristics of demand
- ❖ Nature of gas market has changed significantly – competition emerging
- ❖ Widespread acceptance of need for gas access regime of sorts



# PC Review - Conclusions

 “...the Commission has concluded that there are problems with the current regime, mainly arising from the considerable costs it imposes and its potential to distort and deter investment.”







# PC Review – Conclusions

- ❖ Too great a focus on price regulation
- ❖ Too many conflicting objectives
- ❖ Wide range of objectives to regulators – “virtually unlimited discretion in weighing up these objectives.”
- ❖ Wide discretionary powers to regulators – “able to attach any weight they consider relevant.”



# PC Review - conclusions

-  Too many regulatory decisions before merit appeal
-  High information and research costs
-  Investment impact – “Price regulation of reference tariff is likely to be constraining the scope for access providers to deliver and price their services efficiently and offer innovative service offerings.”
-  Other issues



# Proposed changes

- ❖ Objects clause – guide regulators, tribunal and courts
- ❖ Raise threshold regulation test – fewer pipelines “covered”; even fewer would be price regulated
- ❖ Introduce price monitoring regime
- ❖ Binding rulings of no “coverage” for 15 years
- ❖ Scope for binding rulings of monitoring for 5 years
- ❖ Better guidance/institutional and administration



# PC - Next steps

-  Hearings on draft report - March
-  Final report to Government – June 2004
-  Findings to be considered by Ministerial Council for Energy
-  Change legislation and Gas Access Code
-  Clear statement of Government policy
-  Change culture and attitude of regulators



# Ministerial Council for Energy

- ❖ Single national regulator – now agreed and industry consultation to commence late March
- ❖ Identity of regulator not an issue for gas transmission – policy direction, rules and accountability are our critical need
- ❖ Two statutory commissions from 1 July 2004
  - ❖ Australian Energy Regulator (under the ACCC)
  - ❖ Australian Energy Market Commission – rule making and market development
- ❖ Extend in 2005 to include gas transmission except in WA
- ❖ Industry funded levy
- ❖ Strong electricity focus is a major concern for gas interests – “one size fits all”