

26 February 2001

The Executive Officer
National Gas Pipelines Advisory Committee
Level 13, Wakefield House
30 Wakefield Street
ADELAIDE SA 5000

Dear Sir/Madam

Proposed Amendment to the National Third Party Access Code for Natural Gas Pipeline Systems

The Australian Pipeline Industry Association (APIA) welcomes the opportunity to comment on the Information Memorandum dated 1 February 2001.

APIA urges that the National Gas Pipelines Advisory Committee (NGPAC) recommend to Ministers that Option A be adopted urgently as an interim arrangement that could be applied to new pipeline development activity.

The proposed amendment:

- Removes the current regulatory overlap between a Part IIIA undertaking and the Code and the regulatory risk and uncertainty this creates
- Can be implemented quickly if jurisdictions agree
- Would be consistent with the infrastructure policy and regional development objectives of governments to facilitate new private sector pipeline development activity
- Would not work against the legitimate interests of prospective customers for pipeline services

APIA reiterates the fact that the Code route remains completely untested and highly controversial for prospective major gas transmission developments.

Owner/developer members of this Association have been active in arguing that the Code, including the prescriptive arrangements that apply to the development of reference tariffs for prospective pipelines, are creating major uncertainties and delays and represent a major barrier to infrastructure development. APIA stands by that view.

APIA has signalled its strong support for an interim solution (Option A), particularly in view of the need to bring forward a solution within the development timetable envisaged for major projects which may wish to make use of the Part IIIA undertaking route, including the proposed Darwin to Moomba pipeline. In this respect both Option C and Option D (neither of which were raised by APIA) are deficient because they do not address the issue at hand and/or the issue of development certainty in a timely manner.

APIA's preferred Option A has the effect of removing any uncertainty by making it clear that if an access undertaking is accepted under Part IIIA of the Trade Practices Act, then there will be no requirement to lodge an Access Arrangement under the

provisions of the Code. This is necessary, and must be done quickly, to avoid the unacceptable risk that tariff arrangements developed and agreed under a Part IIIA undertaking might be unravelled by subsequent application of certain provisions of the Code. It should be noted that this arrangement, provided a pipeline is assessed and meets the coverage test under the Code, does not preclude the need for other provisions of the Code to be met.

Option B, whilst addressing the key issue by making it clear that new pipelines cannot become covered under the Code if a Part IIIA undertaking is in place, is understood not to be the preferred policy option of governments on the grounds that it could totally circumvent all provisions of the Code.

It was always intended that the arrangements under the National Gas Pipelines Access Agreement facilitate new development activity. Governments have, in general, signalled their desire to see more pipeline infrastructure development take place in order to meet wider policy objectives including regional development, greater producer competition, diversity of supply and reliability of supply.

Private sector capital must be secured if this development is to take place.

By supporting Option A, jurisdictions can give effect to their pipeline infrastructure development policy objectives without compromising the legitimate concerns of potential customers. Whilst more detailed work on the underlying issues (eg the commercial basis for tariff setting on greenfield transmission pipelines) will be necessary, Option A can create a way forward on an interim basis.

Yours sincerely

Allen Beasley
Executive Director