SUBMISSION

ACCC REVIEW OF UPSTREAM COMPETITION AND TIMELINES OF SUPPLY ISSUES PAPER
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EUAA
Energy Users Association of Australia

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Introduction

The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our membership covers a broad cross section of the Australian economy including significant retail, manufacturing, building materials and food processing industries. Combined our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade.

Critically, our members are highly exposed to movements in both gas and electricity prices and have been under increasing financial stress due to escalating energy costs. These increased costs are either absorbed by the business, making it more difficult to maintain existing levels of employment or passed through to consumers in the form of increases in the prices paid for many everyday items.

Given the heightened concerns over future gas supply and potential costs impacts on gas users, the EUAA welcomes this review. Successive ACCC reports have highlighted the lack of upstream competition that our members have faced for many years as they have sought bids to supply their gas needs. We are glad to see that the ACCC's information gathering powers have confirmed our members' experiences in the face of claims by the industry that the upstream industry is competitive.

As the Paper notes (p.4):

> *"…competition between producers is ineffective and has had an adverse effect on producers' selling practices and the ability of C&I users to procure gas on competitive terms between 2017 and 2020."*

We agree with the Paper when it says that a competitive market would produce domestic prices:

> *"…to sit somewhere between the costs of domestic production and the LNG netback price. Further, when LNG netback prices are substantially higher than the costs of domestic production, we would expect domestic prices to be substantially lower than the LNG netback price."*

rather than the current situation where producers (whether LNG exporters or not) see:

- LNG netback in Queensland, and
- LNG netback plus transport (the buyer's alternative) in Southern States

as representative of the respective price floors.

Recent press releases from the APPEA seek to perpetuate the myth of a competitive gas market for East Cost customers with the following standard sentences being used in multiple recent press releases relating to Senex GSAs with a variety of customers[1]:

[1] e.g. recent Senex GSAs for supply to various customers e.g. https://www.appea.com.au/all_news/media-release-gas-keeps-delivering-for-queenslands-economy/; https://www.appea.com.au/all_news/media-release-another-gas-sales-agreement-reached/; https://www.appea.com.au/all_news/media-release-another-gas-sales-agreement-with-an-australian-manufacturer/

"The market is clearly working with competitively priced gas continuing to deliver for Australia. Domestic users are paying less for Australian gas over the long term than overseas markets and have been doing so for some time."

Note that the price comparison is with 'long term' prices paid by consumers in 'overseas markets' without reference to calculation method or location. Obviously not in the US, Canada or the Middle East.

These deals that APPEA is now lauding are using gas from fields covered by the Queensland Government's Australian market supply condition which requires the gas be sold only to domestic consumers[2]. This policy was introduced by the Queensland Government in 2017 against strong opposition from APPEA which did not support any conditions being placed on where the gas could be sold.

The then APPEA Chief Executive is quoted at the time of the first allocation of acreage under the legislation as saying[3]:

"The best - indeed the only - way to put downward pressure on local [prices] is to expand supply…However, APPEA is disappointed that the government has, for the first time, attached 'Australian market conditions' to the release of new acreage. While the government is clear that this is only a trial, and it will only apply to 58 square kilometres, imposing restrictions is unnecessary and can only discourage development."

In its review of the LNG netback methodology, the ACCC concluded that the pries offered even by companies like Senex selling gas that cannot be exported, is driven by the LNG netback. This is clear evidence that while the Queensland policy has had a welcome impact in increasing supply, it has not had any downward impact on price. Price setting in this type of market cannot be considered 'competitive'.

The situation in other States, particularly NSW and Victoria, suggests that there is little scope for any recommendations coming from this review to reduce the barriers to increased supply from onshore locations. The NSW Government has recently issued its Future of Gas Statement[4] that has removed the so-called 'zombie' licences and left the only area for potential development as the Santos Narrabri project that is tied up in a lengthy legal and approvals process. In Victoria, while the Government recently allowed the development of onshore conventional gas resources, we do not expect this to result in a significant increase in supply even in the medium term.

So this leaves the only real options to be offshore areas controlled by the Commonwealth and onshore in South Australia (where the State Government is awarding leases to juniors), Queensland and the Northern Territory with its potentially substantial reserves in the Beetaloo Basin. The Queensland experience shows that increasing supply does not mean competitive prices, as defined by the ACCC, if the producers from those restricted leases are only competing against producers who are LNG exporters or who can sell to LNG exporters. The fact that for Senex[5]:

"Unit operating costs <$3/GJ (all-inclusive cost, including field operating costs, tolls, tariffs and royalties)"

is irrelevant if it is only competing against these other producers that have an LNG option. Supply needs to expand enough so there is real competition between holders of the restricted Queensland licences to get offer prices near the ACCC competitive benchmark of somewhere between the costs of production and the LNG netback.

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[2] https://www.resources.qld.gov.au/?a=109113:policy_registry/operational-policy-australian-market-supply-condition.pdf&ver=2.01

[3] Mark Ludlow "Queensland earmarks gas for domestic use amid consumer worries about pricing" AFR 25th January 2017 https://www.afr.com/politics/queensland-earmarks-gas-for-domestic-use-amid-consumer-worries-about-pricing-20170125-gty9r2

[4] https://www.nsw.gov.au/regional-nsw/future-of-gas-statement

[5] "Senex delivers transformational growth though its Surat Basin Investments" March 2020 Slide 28 https://www.senexenergy.com.au/wp-content/uploads/2020/03/2040406.pdf

Even if this were to occur, it is of no assistance to consumers in Southern States if there are pipeline transport constraints or a shortage of locally produced gas in those States, which is what AEMO is forecasting[6].

Our feedback on the issues raised in the Issues Paper covers the following areas:

- The Queensland Government continuing to allocate acreage under the Australian market supply condition to a level that brings price competition in addition to increased supply
- Governments setting strict lease conditions and then rigorously enforcing 'use it or lose it' provisions
- Field developers not being able to 'warehouse' gas in anticipation of future demand; if developers do not wish to develop reserves in the lease conditions timetable, then they should lose the lease and it be offered to other parties that are prepared to meet that timetable
- The need for regulation to ensure third party access to processing and transport infrastructure that has spare capacity
- Support for separate marketing arrangements supported by our members positive experience of the separate marketing by the GBJV, and
- On issues around mergers and acquisitions, we consider that the ACCC is best placed to consider what changes are required.

While implementation of the above changes would help, it remains to be seen if implementation would result in a significant movement towards a competitive market. Developments in the east coast gas market since the announcement of the three LNG projects mean it is very difficult to unscramble the egg.

Kind regards,

[redacted]

Andrew Richards
Chief Executive Officer

[6] AEMO "Gas Statement of Opportunities" March 2021 https://aemo.com.au/en/energy-systems/gas/gas-forecasting-and-planning/gas-statement-of-opportunities-gsoo