



24 June 2011

Mr Scott Haig
Acting General Manager – Network Regulation
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

Dear Mr Haig

Amadeus Gas Pipeline revised 2011-16 Access Arrangement - project capital expenditure

APT Pipelines NT Pty Ltd (APTNT) submits the following information as part of the access arrangement revision process for the Amadeus Gas Pipeline (AGP).

APTNT is the service provider for the AGP following a transaction on 17 June 2011 transferring ownership of the pipeline from NT Gas Pty Ltd to APTNT.

This is a public submission made in accordance with National Gas Rule 59 whereby interested parties may make submissions in response to the Australian Energy Regulator's (AER) draft decision.

This submission provides further information regarding NT Gas' revised project capital expenditure proposal. In particular, it provides further information regarding the basis of NT Gas' (now APTNT's) revised capital expenditure forecast first provided to the AER in February 2011, and included in the revised access arrangement proposal submitted to the AER in May 2011 in response to the AER's draft decision.

What was the access arrangement proposal for the AGP at the time of the AER's draft decision?

NT Gas revised its access arrangement proposal¹ by way of information provided to the AER on 25 February 2011. The relevant information was provided to the AER in direct response to an information request from the AER dated 31 January 2011. It was therefore NT Gas' access arrangement proposal of December 2010 as varied by the information provided to the AER on 25 February 2011 that comprised NT Gas' access arrangement proposal, and the proposal that the AER was required to assess in its draft decision pursuant to rule 59 of the NGR.

¹ The term "access arrangement proposal" is defined to include an access arrangement revision proposal (see definitions in rule 4 of the NGR), which is the proposal submitted by NT Gas to the AER pursuant to rule 52 in December 2010.



That NT Gas had revised its proposal by way of the information provided to the AER on 25 February 2011 was reinforced, or formalised, by way of the submission of an access arrangement revision proposal provided to the AER on 18 March 2011, which was noted to be a public submission, with the exception of the project proposals for the integrity program which were attached to the submission and were noted to be confidential.

Subrule 58(3) of the NGR provides that: “[A] service provider may, with the AER’s consent, revise a full access arrangement proposal even though an initiating notice has been published”. It would be an odd outcome indeed if, in direct response to an information request from the AER, a service provider revised their proposal, and the AER did not consent to such revision.

Given that the access arrangement proposal that the AER was required to assess in its draft decision was the access arrangement proposal of December 2010 as varied by the information provided by NT Gas on 25 February 2011 and/or the access arrangement revision proposal submitted on 18 March 2011, it follows that in the draft decision the AER did not accept the capital expenditure forecasts in the NT Gas access arrangement proposal. The “matter” raised in the access arrangement draft decision that the NT Gas access arrangement revision proposal of May 2011 therefore addresses, is, amongst other things, the AER’s decision not to approve the NT Gas capital expenditure forecasts as provided to the AER on 25 February 2011 and 18 March 2011.

It is APTNT’s primary submission that the full access arrangement proposal that the AER made its draft decision on the basis of was the NT Gas access arrangement proposal of December 2010 as varied by the information provided to the AER on 25 February 2011. However, to the extent the AER considers that NT Gas had not revised its December 2010 access arrangement proposal, the next section details why in fact it is incorrect to assert that the AER did approve NT Gas’ forecast capital expenditure as set out in its December 2010 access arrangement proposal.

What did the AER approve in its draft decision?

In communications between APTNT and the AER since submission of the NT Gas revised proposal in May 2011, the AER indicated that it considered that it had approved NT Gas’ proposed forecast capital expenditure (with the exception of project management costs and real cost escalation), in its draft decision. As a result, the AER considered that the revised capital expenditure proposal was not necessary to respond to a “matter” raised in the access arrangement draft decision.

As noted above, it is the primary position of APTNT that it had in fact revised its access arrangement proposal by way of the information it was required to provide to the AER on 25 February 2011, and it is therefore the access arrangement proposal submitted to the AER in December 2010 as varied by the information provided to the AER on 25 February 2011 that the AER was required to make its draft decision.

Even if NT Gas was considered not to have revised its access arrangement proposal by way of the information provided to the AER in February and March 2011, a fair reading of the AER’s draft decision would be that it did not approve NT Gas’ forecast capital expenditure provided in the original December 2010 access arrangement proposal. This includes because by accepting the capital expenditure estimate for 2010/11 as set out in NT Gas’ access arrangement proposal as revised in February and/or March 2011, and purporting to accept the capital expenditure forecasts for the access arrangement period



as they were set out in NT Gas' December 2010 access arrangement proposal, a significant proportion of the total capital expenditure estimated amount for 2010/11 and the forecast amount for the next access arrangement period has "fallen through the gap".

The following table shows this in more detail. To ensure like-to-like comparisons, APTNT has presented project costs for the original proposal and AER draft decision before escalation and project management costs are added. This means the AER's draft decision in respect of the projects themselves is isolated from other parts of the AER draft decision relating to real cost escalation and project management costs. As a result, the approved AER project amounts are estimates, as the AER's calculation of escalation and project management cost is not known in detail by APTNT. While this may change the percentages at the margin, it will not change the overall magnitude of the shortfall in approved project capital expenditure by a significant amount.

APTNT has also excluded from this analysis project amounts where NT Gas advised the AER (in its revised proposal) that total project expenditure would be less than that originally proposed (relating to the Katherine meter station upgrade and Elliott heater upgrade projects). APTNT considers that the AER's exclusion of these amounts from the actual and projected capital bases was appropriate, and therefore does not include these amounts in its analysis below. All project amounts are presented in \$2010/11.

AER decision with respect to NT Gas' original capital expenditure forecast

Project	Prudent and efficient costs as assessed by the AER	Project costs allowed by AER in Draft Decision	Variance from efficient costs as assessed by AER
Channel Island Meter station upgrade	615	298	-52%
Install filtration and slamshut at Palm Valley	256	318	+24%
Channel Island spurline piggability	6,205	4,351	-30%
Channel Island meter replacement	205	29	-86%
DCG oil vessel	123	38	-69%
DCG moisture analyser	103	95	-7%
DCG C9GC	97	135	+39%
Hazardous area assessment and equipment replacement	923	625	-32%
Heat shrink sleeve replacement	482	378	-22%
Bidirectional pigging	410	369	-10%
Cathodic protection – stage 2	3,487	2,596	-26%
PV and NW Anchor block repairs	103	17	-83%
Below ground station pipework	4,616	1,846	-60%
Total	17,627	11,096	-37%

By way of example, this table shows that while the AER accepted the need, timing and base costing for the Channel Island meter station upgrade project, it only approved 48 per cent of the costs originally proposed for this project. The only revision to this project in NT Gas' revised project expenditure forecast was to change the timing of expenditure – from all in 2010/11 to roughly 50 per cent of expenditure in each of 2010/11 and 2011/12 – the



total expected expenditure remained unchanged. As a result of this timing change, the AER allowed less than 50 per cent of the costs of this project in its draft decision.

Therefore, even to the extent that the AER considers that NT Gas did not revise its access arrangement proposal by way of the information provided to the AER in February and March 2011, it is not correct to say that in the draft decision the AER approved NT Gas' proposed capital expenditure amount as set out in NT Gas' access arrangement proposal of December 2010. The "matter" therefore addressed in NT Gas' access arrangement revision proposal of May 2011 was the AER's non-approval of NT Gas' forecast capital expenditure.

In the draft decision the AER explicitly states that it did not approve NT Gas' estimated capital expenditure in 2010/11. NT Gas' access arrangement revision proposal of May 2011 is also responsive to this issue – which includes reflecting the fact that significant forecast expenditure has been shifted from the earlier access arrangement period to the forthcoming access arrangement period. It is open to NT Gas to submit material relating to the shifting of this capital expenditure in response to the draft decision, and the AER is required to take this information into account.

The AER must have regard to the revised forecasts

As set out above, APTNT submits that the AER was required to have regard to the revised forecasts in making its draft decision, and is required to have regard to the revised forecasts in making its final decision, as the AER is obliged to make these decisions in respect of NT Gas' access arrangement proposal. As from February and/or March 2011 the revised forecasts formed part of NT Gas' (now APTNT's) access arrangement proposal.

To the extent the AER considers that it has any relevant discretion not to consider the revised forecasts (a proposition which APTNT does not accept), the AER should exercise any such discretion so as to take account of the revised forecasts. This includes because those forecasts represent the best forecast or estimate of capital expenditure possible in the circumstances. To the extent the AER purports to make its final decision as to the capital expenditure allowances on the basis of the information contained in NT Gas' access arrangement proposal of December 2010, such decision could not be considered to be arrived at on a reasonable basis, nor to represent the best forecast or estimate of capital expenditure possible in the circumstances.

APTNT further submits that in accordance with principles of administrative law, the AER was required to have regard to the revised forecast capital expenditure information in making its draft decision and/or is required to have regard to it in making its final decision.

APTNT would be pleased to discuss the matters raised in this submission with you further. Please contact Alexandra Curran, Regulatory Manager on 02 9275 0020.

Yours sincerely

Peter Bolding
General Manager Strategy and Regulatory