21 May 2001

Ms. Kanwaljit Kaur
Acting General Manager
Regulatory Affairs – Gas
Australian Competition and Consumer Commission
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Dear Ms. Kaur,

RE: Draft Decision – Application for Revision by GPU GasNet Pty Ltd Southwest Pipeline (SWP)

Thankyou for providing ENERGEX with an additional opportunity to make comment on the above matter.

As your are aware, ENERGEX Retail's previous submission to the original ACCC issue paper was generally critical of GPU GasNet's proposal for roll-in of the SWP assets into the general asset base. Our particular concern related to the competition impact of such a scheme on independent retailers who do not use SWP assets to transport their gas. We also questioned the veracity of GPU GasNet's proposal to equalise peak injection charges at the Gippsland and Otway fields so as to promote wellhead on wellhead competition. Given the tenor of this position, we agree with ACCC's draft decision not to approve the revisions to the Principal Transmission System (PTS) access arrangement.

In respect to the specific matters raised in the draft decision paper, we make the following observations:

Upstream Competition
ENERGEX Retail agrees with GPU GasNet's assessment that efficient upstream pricing and effective competition amongst wellhead producers remains the single most important element in the continued health of Victoria's gas reform initiatives. However, whilst we share GPU GasNet's concerns that little has been done to address this quasi monopoly market, ENERGEX Retail does not agree that artificially inflating the efficient price of the Longford injection charge is an appropriate (or even creditable) method for promoting producer competition. As indicated in our original submission, ENERGEX Retail's view is that the end affect of GPU GasNet's proposal will be to artificially alter and dull price signals in the wholesale market. Having considered the arguments posed by GPU GasNet, we remain convinced that the proposal will have no impact on upstream competition other than to make new contracts for the Victorian market less attractive for Gippsland gas producers.

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Prudence of investment/System Wide benefits

ENERGEX retail agrees that the twin issues of investment prudence and system wide benefits is perhaps the most contentious of the matters under review. There appears to be a general consensus amongst respondents to the original ACCC issues paper that the timing of the SWP investment was driven solely by the Victorian Government's fears over the ability of the Longford plant to supply winter 1999 gas. ENERGEX Retail believes that the sizing of the pipeline to match the capacity of the WUGS facility is a clear indication of the purpose built nature of the investment. Moreover, the match between the lowered MDQ from Longford[1] and GPU GasNet's advice (reported in ACCC's draft decision document) of the total SWP capacity contracted by Victoria's three incumbent retailers clearly signals that the facility was constructed (at least to a capacity of 100 TJ) to replace the Longford MDQ shortfall in the GASCOR contract. Given this context ENERGEX Retail contends that the principal beneficiaries of the investment are;

- TXU (owner of the WUGS facility and a fully sized delivery pipeline to the Melbourne load center)
- TXU retail, Origin Energy and Pulse Energy (contracted owners of a total of 100 TJ of capacity to offset a possible shortfall of Longford MDQ in their physical gas book)

We argue accordingly that the costs/benefits of both the WUGS and SWP infrastucture has already been valued and paid-for by the successful bidders for GPU GasNet, the owner of the WUGS facility and the three incumbent retailers as part of the gas utility sale program in Victoria.

The degree to which the investment will provide genuine system wide benefits remains to be seen. It is ENERGEX Retail's view that the likely impact of the facility on the Victorian spot market will be to produce a hitherto unseen peak/off-peak pricing differential during the winter season. That is, it is our expectation that a "binary" pricing dynamic will occur with Spot prices diverging whenever the MDQ from the Longford contract is exceeded. We are not yet convinced that truly competitive pricing will result from the contracted WUGS retailers, however if efficient pricing prevails, our expectation is that magnitude of the peak/off-peak differential should be the marginal price of WUGS (plus the summer-time shipping costs from Longford). Whilst ENERGEX Retail agrees that this anticipated outcome may fall within GPU's definition of "enhanced competition" we are not persuaded that the end impact on the market is sufficient to meet the system wide benefits test.

Finally, GPU GasNet's insistence that the terms of their existing contracts with the three incumbent retailers remain confidential, whilst understandable, results in significant information asymmetry for independent retailers making submission to ACCC. We acknowledge and accept that the position taken by ENERGEX Retail in this debate is necessarily limited by data that is publicly available and information provided by the applicant. However, we continue to share AGL's concern that decisions made by ACCC in respect of the SWP should not impact on these existing commercial contracts and we urge that ACCC satisfy themselves of the exact nature of the contractual arrangement between GPU GasNet and the incumbent retailers.

Yours sincerely

Don Vigilante
Energy Regulation Manager

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[1] see VENCorp - Biannual Gas Planning Review July 2000 to June 2001, Executive Summary page (iii)