



14 December 2007

Mr Chris Pattas
General Manager
Network Regulation South
Australian Competition and Consumer Commission
GPO Box 520
Melbourne VIC 3001

Email: gns@acc.gov.au

Dear Mr Pattas

Draft Decision – Revised access arrangement by GasNet Australia Ltd (GasNet Australia) for the Principal Transmission System

Victoria Electricity Pty Ltd (Victoria Electricity) is a licensed electricity and gas retailer in the Victorian energy industry. Victoria Electricity has operated in Victoria since 2003 and is one of Victoria's largest non-incumbent retailers, currently supplying gas and electricity to approximately 230,000 customers within Victoria.

Victoria Electricity has previously provided submissions to the ACCC regarding the ACCC's informal review under s.50 of the *Trade Practices Act 1974* (Cth) of the proposed sale of 1,500 tonnes of GasNet Australia's LNG storage facility at Dandenong (Dandenong storage facility). Victoria Electricity's submissions to the ACCC in relation to this review, arose out of the increased exposure of non-incumbent retailers to ancillary payments in the Victorian gas spot market, following amendments to the Victorian Gas Industry Market and System Operation Rules (MSO Rules) in February 2007 which (among other matters) introduced "injection dependency" in the determination of liability for congestion uplift payments. As noted in Victoria Electricity's submissions to the ACCC in relation to this review, the options available to non-incumbent retailers and potential new entrants to mitigate exposure to uplift payments include both the purchase of AMDQ credits and the purchase of storage capacity at the Dandenong storage facility.

The ACCC's *Draft Decision – Revised access arrangement by GasNet Australia Ltd for the Principal Transmission System* (Draft Decision) addresses matters relevant to these risk mitigation options. Accordingly, Victoria Electricity would like to take this opportunity to make the following submissions in relation to the Draft Decision.

1 Authorised MDQ and AMDQ credit certificate revenue

In its Draft Decision the ACCC proposes that:

- the amount of revenues received by GasNet Australia from the procurement and sale of AMDQ/credit certificates should be included in the 'actual revenues' referred to in cl. 4.2 of schedule 4 of GasNet Australia's proposed access arrangement, which would be counted towards its revenue requirement.
- GasNet Australia be allowed to propose any additional operating costs associated with issuing and administering these authorised MDQ and AMDQ credit certificates.¹

The ACCC considers that the provisions of AMDQ/credit certificates is ancillary to the reference service provided by Gas Net Australia (being the making available of the Principal Transmission System (PTS) to VENCORP to operate under the MSO rules).

Victoria Electricity supports the ACCC's decision to include revenue derived by GasNet Australia from the procurement and sale of AMDQ/credit certificates in GasNet Australia's revenue requirement . We do so on the basis that current arrangements allow for doubling up on revenues on a single investment for no particular benefit. In fact, current arrangements provide GasNet with incentives to artificially inflate prices or limit access to those products, to the detriment of competition in other markets.

However, Victoria Electricity remains concerned with the transparency and certainty of the process undertaken by GasNet for the sale of AMDQ/credit certificates.

The Draft Decision notes that GasNet's procurement and sale of AMDQ/credit certificates is governed by s. 5.3 of the MSO Rules and its service envelope agreement (SEA) with VENCORP.² Clause 5.3.3 of the MSO Rules (essentially) requires VENCORP to allocate authorised MDQ or AMDQ credit certificates as directed by the relevant transmission pipeline owner (i.e. GasNet Australia). Victoria Electricity understands that the SEA contains no substantive provision regarding the method of allocation of authorised MDQ or AMDQ credit certificates by GasNet Australia.

Victoria Electricity's experience in seeking to procure AMDQ credit certificates from GasNet Australia has been that there is no consistency in the approach taken by GasNet Australia regarding the sale of these certificates (or put another way, GasNet Australia has no transparent policy in respect of its allocation of additional authorised MDQ or AMDQ credit certificates).

For example, Victoria Electricity recently sought to purchase AMDQ credit certificates from GasNet Australia in respect of the Brooklyn Lara pipeline (the 'Corio loop' augmentation). These credits were sold by GasNet

¹ Draft Decision pp 154 and 155.

² Draft Decision pg 154.

Australia on a 'first come first served' basis. Subsequently, GasNet Australia has advised it will sell newly available AMDQ credits through an open tender process, to be conducted during the first half of 2008.

This lack of regulation may be contrasted with clause 5.3.4 of the MSO Rules which provides that, where it is agreed between VENCORP and the relevant transmission pipeline owner that VENCORP is to be directly responsible for allocation of authorised MDQ, VENCORP must either allocate authorised MDQ to all persons who have requested an allocation (if there is sufficient available authorised MDQ to satisfy requirements) or conduct an auction amongst persons from whom VENCORP has received requests for authorised MDQ and allocate the available authorised MDQ to the persons who offer the highest amount for that authorised MDQ (where there is not sufficient available authorised MDQ to satisfy requirements). This process comprises the queuing policy of VENCORP (as required under the Access Code).

Victoria Electricity is of the view that, if GasNet Australia is to be allowed to recover additional operating costs associated with issuing and administering authorised MDQ and AMDQ credit certificates, these costs must be determined on the basis of a defined process for the sale of AMDQ/credit certificates, that will be applied by GasNet Australia on a consistent basis.

Further, Victoria Electricity is of the view that, given the recent increase in importance of AMDQ/credit certificates to the operation of the Victorian gas spot market, the process for sale of AMDQ/credit certificates should be by way of transparent tender process, with a clearing price published by GasNet Australia (to provide appropriate signals to market participants).

2 LNG storage facility at Dandenong

As noted in the Draft Decision, one of the main injection zones of the PTS is Dandenong, the site of GasNet Australia's LNG storage facility (Dandenong facility).

Victoria Electricity acknowledges that the Dandenong facility does not form part of the PTS, and revenue derived by GasNet from its operation of the facility is not regulated in accordance with the Access Code. However, Victoria Electricity (again) wishes to highlight to the ACCC the importance to non-incumbent gas retailers of obtaining access to the service provided by the Dandenong facility.

Access to storage capacity at the Dandenong facility is a key option (among the limited options) available to non-incumbent retailers for obtaining increased scheduled injections and mitigating exposure to congestion uplift payments under the MSO Rules. Victoria Electricity understands that AGL and Origin are the only market participants who have storage contracts at the facility. While GasNet Australia is proposing a sale of 1,500 tonnes of capacity, Victoria Electricity (and other non-incumbent retailers) may not be successful in acquiring storage capacity through this process. Having considered the broader interests of other

bidder and the approach proposed by GasNet, we believe we have strong grounds for concern.

Accordingly, Victoria Electricity has considered the option of constructing an additional (or competing) LNG storage facility. Construction of an additional LNG storage facility at GasNet's Dandenong site would be more cost-effective than construction of an additional storage facility at an alternative site. From discussions with GasNet Australia, however, Victoria Electricity understands that construction of an additional LNG storage facility at GasNet's Dandenong site would be subject to minimum facility size requirements and WorkSafe and other approval restrictions. Further to replicate the facility, or build a competing facility, would take at least three years.

In other words, there are substantial barriers to the duplication of the Dandenong facility and GasNet Australia holds a dominant position with respect to the supply of LNG in Victoria. Accordingly, as submitted to the ACCC in the context of the ACCC's informal review regarding the proposed sale of 1,500 tonnes of storage capacity at the Dandenong facility, Victoria Electricity is of the view that regulation of access to this facility is required, and asks that the ACCC have regard to this issue (to the extent relevant) in making its final determination.

If you have any questions in relation to this submission, or require further detail, please contact myself or Darryl Flukes on (03) 9835 0959.

Regards



Simon Draper
Managing Director