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Confidential

7 December 2023

Ms Melisande Waterford
General Manager
Gas Markets Branch
ACCC
GPO Box 3131
Canberra ACT 2601

Email gascode@acc.gov.au

Dear Ms Waterford

RE: Proposed Determinations – Gas Market Code – Record-keeping, reporting and publishing obligations

Thank you for the opportunity to comment on the proposed Gas Market Code (the **Code**) Determinations (the **Determinations**). As a gas supplier, Senex Energy Pty Ltd (**Senex**) expects to be captured under the Code and Determination requirements as they apply to record-keeping, reporting and the publication of certain information.

Senex welcomes the Australian Competition and Consumer Commission's (**ACCC**) interest in understanding the additional compliance burden that may result from the new obligations particularly the interaction between these proposals and information collected under the 95ZK Notices. Senex takes its compliance obligations seriously and has been involved in providing information to the ACCC through 95ZK Notices and to other regulatory and market bodies so is well placed to comment on the workability and suitability of the requirements under the Draft Determination.

Senex's primary comments relate to the commencement date of the record-keeping requirements and ensuring that under the Determination gas suppliers have the flexibility to maintain records in systems outside the spreadsheet template (the **Spreadsheet**) provided by the ACCC.

In summary, it is unreasonable to commence the record-keeping requirements earlier than 1 April 2024. These new record-keeping requirements present a higher level for compliance risk for gas suppliers such as Senex and accordingly require enhanced systems, controls and internal scrutiny. In addition, Senex requires confirmation from the ACCC that the on-going maintenance of records in an alternate system to the Spreadsheet provided is acceptable under the Determination. We recognise, the information needs to be placed in a spreadsheet in the form presented by the ACCC for data collection purposes.

About Senex

Senex is a world-class supplier of affordable, reliable and secure natural gas – committed to delivering essential energy for life. The energy we proudly provide is essential to our modern lives and for the thriving communities we serve.

We are also a critical energy provider to Australia's manufacturing industry, supporting thousands of workers who make essential goods – from bricks to plasterboard to glass bottles.

Senex currently contributes around 27 petajoules of natural gas each year into the Australian domestic gas market and, in mid-2022, announced plans to invest more than A\$1 billion to boost natural gas supply for the east coast domestic market through the Atlas gas expansion project. This planned investment would see Senex producing 60 petajoules (PJ) of natural gas per year, equivalent to more than 10 percent of annual eastern Australian gas demand by the end of 2025.

Commencement of Record-keeping Obligations

Senex understands the ACCC is keen for the commencement of these record-keeping obligations (and associated data collection) to be as soon as possible to enable the use of the new broader information sharing provisions under the Code (i.e., the ability to share information with Ministers and Departments, which is not possible under the existing arrangements). This could be as early as 1 January 2024.

The ACCC has indicated that the timing of the commencement date is based on their expectation that record-keeping requirements essentially align with the information collected under the 95ZK Notices and that gas suppliers such as Senex will already have the necessary systems and processes in place. In this regard, Senex wishes to make the following comments:

1. **There are differences between the 95ZK Notices, and the record-keeping requirements proposed in the Draft Determination** - Senex acknowledges there is crossover between the information collected under the 95ZK Notices and the record-keeping requirements outlined in the Draft Determination. We have, however, undertaken a review and there are a reasonable number of material differences between Senex's data capture system and the ACCC's Spreadsheet. In short, the changes to ensure alignment are more involved than perhaps initially appreciated by the ACCC.

[REDACTED]

For context, Senex's current system was developed to align with the outcomes of a process run by the ACCC in 2020 seeking to standardise the information collected through the 95ZK Notices. We were supportive of the objectives of this process, however, despite the likely best endeavours of the ACCC since then the information requested has expanded/shifted. This means systems are likely to need work to meet the new Code requirements and the expectation that the Code record-keeping requirements align with current systems and processes for 95ZK Notices is not entirely correct.

2. **Increased compliance risk** – Practically, these recording-keeping requirements represent an increase in gas supplier regulatory/compliance burden and risk relative to the current 95ZK Notice arrangements. Enhanced systems and compliance controls are necessary to manage the higher level of risk and involve amending and testing systems, developing additional assurance processes, and ensuring that all relevant staff are trained in the new requirements.

Regarding system development and testing, Senex's experience has been that in making each update, the functionality of earlier versions needs re-testing to ensure they are still operating as expected. Quite often the addition of new fields will impact the operation of existing fields and rework is necessary to ensure the entire system is working as expected and is reliable. The testing of existing functionality adds additional time to finalise and approve system updates.

3. **Senex was waiting for further direction from the ACCC** – Senex took the considered decision not to make fundamental changes to our existing systems until further clarity was provided by the ACCC on the form and nature of the new record-keeping requirements. We consider this was more than reasonable given the cost and time involved in system development changes and the competing priorities for these resources. Essentially, we were seeking to avoid unnecessary reworks and additional cost if final arrangements differed from what was expected.

- 4. Additional time is required to ensure systems are developed in an orderly and comprehensive manner** - Senex estimates it would take two to three months to ensure these new processes and systems are in place and operating effectively. It is not appropriate to commence reporting from 1 January 2024 given the limited time available to undertake the work plan outlined above and given the limited resources available to businesses over the holiday period. An appropriate start date would be 1 April 2024.

We do not consider this presents any meaningful information gaps to the ACCC as it can still collect the relevant information via the 95ZK process covering the period until the record-keeping requirements commence.

- 5. Pragmatic approach to compliance and enforcement** - If the ACCC insists on progressing with a 1 January 2024 commencement date, then it should provide a level of assurance and comfort to suppliers that it will take a pragmatic and reasonable approach to compliance and enforcement over this transitional period. From Senex's perspective, the gas suppliers take information provision, to the ACCC, seriously and were expecting earlier notification of these new requirements and/or more reasonable transitional arrangements.

Recording-keeping systems

As mentioned, Senex together with other reporting gas suppliers, has developed record-keeping systems to manage the information collected under the 95ZK Notices. These were developed and refined over several years while the Gas Inquiry has been progressing. Notwithstanding the comments above, it is unclear, under the Draft Determination, whether gas suppliers can maintain records outside the Spreadsheet that accompanied the release of the Draft Determination.

It is important that suppliers have the flexibility to store the information/record-keep in a form and system that is suitable to their business operations and aligns with other external and internal reporting requirements. In some cases, these systems offer an improved compliance monitoring and reporting relative to the functionalities available in a standard spreadsheet application.

We do, however recognise, for data collection purposes, the information needs to be placed in the ACCC's requested spreadsheet.

We recommend the Draft Determination explicitly note that gas suppliers can maintain records in a system other than the Spreadsheet provided by the ACCC and if requested to produce records, a gas supplier has 2 days to provide these to the ACCC (in the required form).

Other issues

As a provider of information under 95ZK Notices, Senex has identified information that is regularly requested/collected and which is not part of the new Code requirements. Amongst other things, this includes reserves and production reporting and provisions of bids, offers and agreements in document form. Senex seeks clarity on whether provision of this information will be an on-going requirement.

To assist in planning, it would be helpful for the ACCC to provide more information on the how the 95ZK Notices and information under the Code will interact and if there are plans for further changes. As a start, it would be useful if the ACCC could publish a matrix incorporating the information collected under the Code and through 95ZK Notices.

Senex also views there is duplication between 95ZK Notice information (and data collection under the Code) and the information collected by bodies such as the Australian Energy Market Operator (**AEMO**) and the Australian Energy Regulator (**AER**). As highlighted in our response to the Draft Gas Mandatory Code in May, reporting to the various bodies requires a broad strategic review to eliminate the unnecessary and duplicative reporting, which adds to the cost of doing business.

We have suggested to Officials that a process is initiated with relevant bodies (including AEMO, ACCC and the AER) to provide a single platform for lodgement of gas market information. Senex would be pleased to further discuss this with the ACCC.

Thank you again for the opportunity to provide comments on the recordkeeping, reporting and publishing obligations Draft Determination and Senex welcomes the opportunity to discuss further the points raised in this response. Please do not hesitate to contact me directly on my mobile 0409 877 116.

Yours sincerely,

A handwritten signature in cursive script that reads "Erin L Bledsoe".

Erin Bledsoe

Regulatory and Compliance Manager

Senex Energy Pty Ltd