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Australian Competition and Consumer Commission
East Coast Gas Inquiry Team

By email: gas.inquiry@accc.gov.au

Dear Sir/Madam

SUBMISSION RE - EAST COAST GAS INQUIRY

Company overview

Adelaide Brighton, an S&P/ASX100 company, commenced its operations in South Australia in 1882 and is now a leading construction materials and lime producing business operating in all states and territories with a market capitalisation of approximately \$3 billion.

Continuing its decade long trend, in 2014 Adelaide Brighton recorded strong growth in sales and earnings and could report another record result for its shareholders.

This has been against the recent trend of decline in Australian manufacturing and construction activity and in spite of significant cost pressures.

Adelaide Brighton Cement Ltd (ABCL) is part of the Adelaide Brighton Group. The Group is comprised of three operating businesses, Cement and Lime, Concrete and Aggregates and Concrete Products. ABCL is part of Adelaide Brighton's Cement and Lime Division which accounts for approximately 70% of Group revenue.

ABCL's Birkenhead and Angaston facilities in South Australia are important clinker, cement and lime producing assets for the Group and for South Australia. The Birkenhead plant manufactures approximately 1.3 million tonnes per annum of clinker (the intermediate product in cement manufacture) and 1.95 million tonnes per annum of bulk and bagged cement to the South Australian and Victorian markets. It is a world class and world scale operation and one of South Australia's biggest manufacturers.

ABCL directly employs 330 people at its Birkenhead and Angaston plants, its Klein Point limestone quarry on Yorke Peninsula and at other locations. Every job at ABCL creates another 4.9 indirect jobs, worth a total contribution to Gross State Product in South Australia of approximately \$303 million per annum (Report – Economic Research Consultants, Adelaide Brighton contribution to the South Australian Economy – 2011).

Adelaide Brighton is committed to the future of its Birkenhead plant and invested a further \$60 million in 2012 to upgrade its cement milling and ship loader facilities bringing significant capacity and environmental benefits and further underpinning business sustainability in South Australia. The Birkenhead and Angaston plants are two of the remaining six (soon to be five) fully integrated cement manufacturing facilities still operational in Australia.

Adelaide Brighton continues to make progress on its downstream strategic plan through acquisition of concrete and aggregate businesses. In 2014, Adelaide Brighton acquired Penrice Quarry and Minerals and Direct Mix/Southern Quarries in South Australia at an overall enterprise value of \$172 million. Apart from the quarrying operations, the acquired businesses produce more than 250,000 cubic metres of concrete annually, securing a significant volume of ABCL's cement sales in the South Australian market, further underpinning utilisation of the Birkenhead and Angaston plants.

We are writing to you as a large industrial gas user and significant South Australian employer and contributor to the local economy to provide important information to the ACCC in relation to its inquiry into the competitiveness of wholesale gas prices and the structure of the gas industry in Eastern Australia.

Executive Summary

Significantly contributing to Adelaide Brighton's success, has been cost reduction and continuous improvement initiatives across the Company.

ABCL is a large user of energy, predominantly natural gas, for its production requirements in South Australia. Changing the way the company procured its gas in South Australia was a major component of its energy efficiency program from January 2010. This was necessary to secure gas supply at the lowest possible cost and saw a move away from the traditional retail gas supply model, to sourcing the commodity, pipeline capacity and becoming a gas market participant.

Adelaide Brighton has since become proficient as a participant in the gas market in South Australia. We have realised significant savings and have established systems, policies and procedures which act to continue to optimise our gas costs. This is predicated on the continuity of a market model that promotes competition and flexible and secure gas supply from multiple gas sources.

Adelaide Brighton has unique Australia wide import capability and is the largest importer of cementitious materials (cement, clinker and slag) into Australia. This stems from the implementation of a cement and clinker import strategy in excess of 10 years ago. The strategy has since matured to include bulk slag (an environmentally sustainable cement replacer) and also to replace domestic clinker production in Western Australia. Adelaide Brighton is therefore constantly assessing the advantages and disadvantages of manufacturing products at each of its locations in Australia compared with importing. Increases in energy costs are a significant factor against domestic production.

We are greatly concerned about rising gas costs and have already incurred a significant increase in costs over the last 5 years. We have experienced first hand, the reluctance of gas suppliers to enter into long term contracts, a shift away from flexible take or pay conditions in contracts and an upwards move in pricing towards the Liquefied Natural Gas (LNG) net back price.

Other than our use of alternative fuels where possible, our participation in the eastern Australian gas market has been relied upon by ABCL to mitigate gas cost increases. It has enabled ABCL flexible access to a wider number of gas suppliers and markets, bringing with it pricing benefits through competition and transparency.

The current South Australian STTM model has facilitated this outcome, is in our long term interests and works to sustain domestic production in South Australia. We have stated this in our recent submission to the Australian Energy Market Commission (AEMC) in response to the recently released, East Coast Wholesale Gas Market and Pipeline Frameworks Review – Stage 1, Draft Report. In particular, we submitted that the recommendations of the AEMC Draft Report (to re-design the STTM), if adopted, are not in our interests as a large gas consumer and potentially jeopardise long term sustainability of local clinker production.

In addition to our strong view that the South Australian STTM model continues in its current form to ensure continued benefits to those that participate in that market, the supply and demand dynamics

being introduced by the Australian LNG projects given the dominant market positions held by producers and the internationalisation of gas markets and pricing are causes for significant concern.

Adelaide Brighton is doing all it can to protect its business from energy cost increases, including where necessary, ceasing domestic production. The Company's sustained and proactive focus on its power and fuel costs has resulted in innovative strategies that have delivered operational improvements for at least 10 years and kept viable until now, a long standing South Australian manufacturer and major employer. There is however a limit to what Adelaide Brighton can achieve by way of cost mitigation without regulatory support.

Adelaide Brighton welcomes this initiative by the ACCC.

Yours sincerely



Michael Miller
Regional Executive GM, SA/NSW

Areas for inquiry – gas exploration, production and supply

Adelaide Brighton responses to issues

Changes affecting the domestic gas industry

1. Q1. How are changes in the gas industry affecting gas buyers? Provide details of the key changes and explain their effects, including whether the effects vary by location and whether these effects are expected to be temporary in nature.
 - Adelaide Brighton Cement Ltd (ABCL) is a large industrial gas buyer in South Australia and currently incurs gas costs of in excess of \$30 million per year. Prior to commencement as a gas market participant, ABCL procured its gas on a delivered basis. From 2010, this changed to a long term, commodity only, gas supply agreement (GSA) with 70/30 take or pay conditions which combined with new haulage rights, gave ABCL flexibility to purchase up to 30% of its requirements on an opportunistic basis from either the STTM or other gas suppliers. For the term of the GSA, ABCL was able to significantly reduce its gas costs. This was made possible by the design of the STTM and ABCL's participation in the market.
 - However, following the expiration of its long term GSA in 2014, ABCL has experienced a material increase in its gas costs. This was feared, due to the rapidly expanding Australian LNG industry and its linkage to international markets driving prices upwards.
 - In the past 5 years there has been a marked shift by gas suppliers away from their previous willingness to enter into long term gas supply agreements with mutually favourable cost and other contract conditions to a clear reluctance to offer terms greater than 12 months and with cost and non-cost terms favouring the supplier.
 - In order for ABCL to remain competitive as a domestic manufacturer, access to competitively priced gas is essential. To respond to this changing demand/supply dynamic ABCL significantly expanded its gas supplier portfolio and now has a number of GSAs for various terms, both firm and non-firm and utilises the STTM on a flexible basis to purchase gas to meet daily and annual gas needs. In addition, pipeline park facilities have been secured and/or expanded to provide further flexibility.
 - Now, in 2015, the gas supply market in the eastern states has significantly transitioned from a purely domestic market to a market that will become increasingly dominated by export volumes as the LNG projects are commissioned. Beyond the ramp gas phase, the LNG projects will draw a significant amount of natural gas from the domestic market, which will have an upward impact on prices (toward LNG netback prices) and potential scarcity of supply in some locations. The east coast of Australia consumed about 700PJ of gas in 2013/14. The LNG projects will generate demand of approximately 830PJ (2015), 1,500PJ (2016) and 1,650 in 2017.
 - Add to this:
 - 86% of the eastern states gas reserves are controlled by Queensland LNG project parties;
 - the proposed acquisition by Royal Dutch Shell of BG Group potentially further consolidates gas reserves;
 - BHP/Exxon Mobil controls 6% of reserves and has interests aligned with LNG project parties; and
 - Together, the Queensland LNG projects comprising QCLNG, GLNG and APLNG with BHP/Exxon Mobil control approximately 90% of eastern states gas reserves.

And you have a market where gas suppliers have substantial market power and a commercial incentive to place priority on supply to export customers. This is translating to restrictions in the availability and flexibility of gas supply for domestic users and deteriorating price and non price terms.

- In this setting, use of STTM has been and will continue to be invaluable, allowing large customers to proactively manage their gas requirements and counter some of the issues such as supplier market power, asymmetry of information, price transparency and limited competition. As ABCL is now well established as a gas market participant we have been able to undertake flexible, price driven decision making on a daily basis to allow us to minimise our gas costs significantly whilst also enjoying security of supply.
 - As the LNG projects are long term in nature, the abovementioned issues will be long term issues for domestic gas users, and will likely impact the commercial viability of consumers that are reliant on natural gas in their operations.
2. Q.3 Are there currently any factors that are significantly restricting or limiting the ability or incentive for gas producers to explore for, or develop, new gas reserves? If so, explain.
- Inability to access Moomba gas processing facility.
 - Cost and availability of access to pipeline facilities.
 - Physical gas pipeline constraints making it more difficult to move gas between markets.
3. Q4. Does vertical integration of domestic gas producers with the LNG export projects materially affect the incentives of those or other gas producers to supply domestic gas users? If so, does this effect vary by location?
- Vertically integrated gas producers and LNG producers focus primarily on supply from their LNG projects.
 - There is little interest in the supply of domestic gas markets other than to address potential regulatory risks from political intervention (such as the threat of introducing a gas reservation policy).
 - For example:
 - BG has demonstrated little interest in supplying domestic gas customers;
 - Santos is rationing gas supply contracts to large SA customers to satisfy SA Government; and
 - Origin gas offers to ABCL have been very uncompetitive relative to their peers.
4. Q5. Has the development of LNG export facilities created opportunities for gas suppliers to exercise market power in any location in Eastern Australia? If so, explain where and how.
- In our experience:
- Santos can exert market power for gas supplies to customers who are captive to the Moomba to Adelaide Pipeline.
 - Beach sell their gas to their peers, not making any real offers to large customers.
 - Origin is not forthcoming in providing contract offers and/or pricing is not competitive.
 - Drillsearch and Senex are captive to Cooper Basin Production facility and are forced to sell their raw gas to Santos
 - The only alternatives are high risk projects such as those offered by Strike Energy and Marathon.
5. Q6. What factors affect the scope for inter-basin competition between gas producers in Eastern Australia? What are the circumstances in which such completion is viable and in which it is not viable? Provide examples.
- There are many barriers arising from the control of gas resources by the few. Gas producers have ownership of gas resources in multiple basins eg: Santos and Origin. Major gas producers have control of all major production facilities and regularly have dominant contract positions in pipeline haulage arrangements.

- High cost, lack of flexibility and lack of innovation from APA on gas transportation agreements. When moving gas between markets it will invariably require gas to pass through an infrastructure asset operated/owned or in which APA has an equity stake.
 - Market structure, infrastructure ownership and pipeline arrangements make it very difficult to purchase gas from Gippsland Basin and reliably move it to South Australia.
 - Otway Basin gas reserves are diminishing and remaining reserves are contracted out. BHP, Santos and Origin have significant control of remaining Otway Basin reserves.
 - Santos is moving gas from Victoria up to Queensland – Cooper Basin gas resources are heading to Queensland and are not readily available for the SA market.
 - Slow development of NSW gas resources, plus these resources are controlled by large incumbents such as Santos and AGL.
6. Q7. What factors dictate whether it is commercially viable for gas users to employ strategies (such as vertical integration or sponsorship of new entry) to respond to the changing environment?
- Large gas users are not explorers or investors in upstream gas exploration and should not have to put capital at risk in order to create a competitive gas pricing environment. Large commercial and industrial businesses in Australia should get access to gas at a competitive price in order to remain internationally competitive in their core business.
 - ABCL is a major gas user but is not a resource company and the investment in gas exploration and development projects would be a material change in its activities. Gas exploration and development is not a core competency.
 - Entry would require a significant investment for an uncertain return in an activity that is not business as usual and would represent a high risk. If investors want exposure to gas exploration and development they would invest in such Companies and not in a business participating in such ventures only in an attempt to secure competitively priced gas for other purposes.
7. Q8. What opportunities are available to gas users for switching to alternative types of energy sources in response to rising gas pricing? What factors affect the ability of gas users to do so? How likely is this outcome? To what extent is any response from gas users likely to affect the broader dynamics of the domestic gas industry?
- Adelaide Brighton has had a strong focus on the use of alternative fuels where possible and has pioneered the development of a refuse derived fuel as a direct substitute for natural gas at Birkenhead. ABCL also utilises waste oil and carbon powder in South Australia. Plans are also in place to seek to increase the use of alternative fuels to up to 40% of energy requirements in South Australia by 2017.
 - However it is not feasible from an operational point of view to achieve 100% alternative fuel substitution. Adelaide Brighton’s ongoing focus on alternative fuel usage (as well as its power and fuel costs generally) is to mitigate fuel cost increases.

Access to processing facilities

8. Q13. Is the cost of building new processing facilities or the ability to access existing facilities a significant barrier for prospective entrants? If so, explain how and give examples of where this has occurred.
- ABCL considered participating in a project in the Cooper Basin.
 - One of the major development risks is the gas processing facilities required.
 - ABCL considered the overall risks of the project to be too high and did not participate in the project.
9. Q14. Do owners of processing facilities have an incentive to provide third party access to spare processing capacity? Explain why or why not.

- Gas producers have a dominant position in the eastern states and own the gas processing facilities. There is a commercial disincentive to provide a third party with access to processing capacity.
 - Due to their inability to access a gas processing facility, our understanding is that third parties (eg Senex and Drillsearch) are given no option other than to sell raw gas to the Cooper Basin production facility (South Australian Cooper Basin Joint Venture (SACBJV)) which then processes and sells the gas.
 - There is an inability to toll gas through the Cooper Basin production facility on terms that reflect the real processing cost of gas.
 - These factors combine to reduce competition and gas buyers are denied access to a wider pool of potential suppliers.
10. Q15. Are there any examples of industry participants attempting to gain access to processing facilities owned by another party? If so, were they successful in gaining access on reasonable terms? Explain why or why not.
- See response to Q13.
11. Q16. How important is it for existing or prospective gas suppliers to gain access to the Moomba Processing Hub? Are there any examples of industry participants attempting to gain access to this hub? If so, were they successful in gaining access on reasonable terms? Explain why or why not.
- See earlier comments in response to Q13 and Q14.
12. Q17. Do gas specification requirements materially affect the supply of gas for different uses? Is any divergence of gas specifications between Queensland LNG and other uses a barrier to trading gas within Eastern Australia (e.g. due to processing cost differences)? If so, explain how.
- Gas specifications vary and these differing requirements can have the effect of materially increasing the costs for independent producers as it forces processing of gas to meet such restrictive gas specifications
 - Can also push independent producers who have limited financial resources to deal with incumbent owners of production facilities who are also incumbent gas suppliers and have the overall effect of reducing competition.

Negotiation of New Gas Supply Agreements

13. Q18. Have industry participants encountered any difficulties in obtaining offers of gas supply, or been involved in any failed negotiations for supply of gas? If so, describe the negotiation, providing comments on what concerns arose about the process of negotiation and how this was different to previous negotiations.
- The gas supply market has a limited number of suppliers and those suppliers are generally very large organisations.
 - There are many physical and contractual constraints which have the effect of preventing or make it commercially unviable to move gas between some suppliers and some markets. This can provide gas suppliers with significant market power at particular locations in the eastern states gas market.
 - From a gas buyer’s perspective, the gas sellers can appear to behave in a club like manner. Large gas producers have traditionally been reluctant to sell gas to large gas users, such as ABCL, who they consider should be the domain of the large gas retailers. In turn ABCL has found the pricing from such gas retailers to be uncompetitive.
 - There is an increasing perception that the balance of power in the negotiating process is held by the seller. The sellers appear confident they have many other parties who want the gas and there are limited prospects for the buyer to negotiate the terms of the offer.

- There is a long timeframe to negotiate offers and obtain firm pricing often leaving gas buyers with little time to seek alternative arrangements. Gas suppliers do not appear motivated to negotiate and conclude a gas sale agreement in a timely manner. ABCL is currently looking up to 5 years ahead as to its potential sources for gas supply.
- Example: ABCL discussions with Supplier 1 have been guarded. They are reluctant to disclose any details of gas pricing even after putting in place a Confidentiality Agreement. In our experience, on several occasions the discussions on price have been met with a response that they need to do more work to determine gas availability and therefore pricing and they won't be in a position to discuss this for several months. In effect it appears we need to undertake a "courtship" with Supplier 1 before they will provide any gas pricing and related terms and conditions.
- Example: Negotiations with Supplier 2 on a gas purchase agreement took an extended period of time (over 12 months). There was minimal appetite on Supplier 2 's part to negotiate on price and terms and conditions. Any minor changes in conditions met with very strong opposition even where they had no commercial impact for the Supplier. There was also little appreciation (without very substantial explanation and effort) of ABCL's practical needs as a cement manufacturer as opposed to an industry participant who was in the gas business.
- Example: Discussion with Supplier 3. High level discussions about having gas available in the future. Supplier 3 expressed an interest in supplying large gas customers. Several times we have pushed for an indicative term sheet and Supplier 3 has refused to put anything in writing. After approximately five years of discussion we are yet to see any offer from Supplier 3 and from their actions it appears their preference is to sell gas directly to other gas suppliers.
- Example: Discussion with Senex and Drillsearch indicated they had sold all their gas on a raw basis to SACBJV and therefore have no gas available to sell to ABCL.
- Example: Discussion with Supplier 4. Have discussed opportunities to buy and sell gas on a non-firm basis. Supplier 4 has requested we put in place an ISDA Agreement to cover transactions. Supplier 4 promised to send through for review but it has not been provided. Have pursued Supplier 4 many times seeking the ISDA Agreement to no avail.

14. Q19. Are there differences in the behaviour of gas suppliers in relation to negotiations for supply from, or to, different geographic regions? If so, provide details.

- Gas supply offers from Cooper Basin have very high take or pay levels and very limited flexibility – 95% take or pay.
- Gas supply offers from Otway Basin have greater flexibility – though this flexibility is decreasing. Was 80% take or pay.

Rising Domestic Gas Prices

15. Q.21 What are the key factors currently affecting the price of gas in Eastern Australia? Are current prices expected to be transitory or likely to be sustained? What information is most important to informing your view?

- In the longer term, contractual gas prices in eastern Australia will be based on the LNG netback price. This is inevitable as approximately 93% of the gas resources are controlled by the major gas suppliers.
- Where domestic pricing falls below LNG pricing, it is unlikely the major producers will supply gas to the domestic market.
- Where new entrants gain access, the incumbent gas suppliers will be motivated to either contract with the new entrants or acquire them to maintain prices and reduce competition.
- Short term prices will vary from the long term contractual gas price because they will be priced on a marginal basis. Gas buyers may be able to access these short term prices but only to the extent STTMs continue in their current form to provide a vehicle for customers to access reliable supplies of short term gas.

- Whilst there is a case for regulation to address the dominant position held by gas suppliers, it is unlikely this will be readily achieved due to incumbent gas suppliers' strong financial resources and significant influence.
16. Q.22 Do gas users have sufficient information to be confident that they are receiving reasonable offers for long-term gas supply arrangements? If so, what are the sources of that information?
- It is now rare to receive offers for long term gas supply. If such an offer is received, the pricing is not materially negotiable.
 - As ABCL is a market participant and can access gas from multiple markets and suppliers, we have seen a wide range of pricing (and terms) being offered.
 - Gas suppliers engage in price signalling in the press, which then becomes the de-facto market price.
 - Gas suppliers would be very sensitive about revealing prices on contracts that have been concluded which are lower than their price signalling in the press because this could affect their commercial position.
17. Q.23 Is there an appropriate reference price for gas in Eastern Australia? Is one necessary? What are the pros and cons of different references prices?
- Gas suppliers have market power and have effectively set the reference price at the LNG netback price.
18. Q.24 Are buyers that enter into oil-linked gas supply agreements able to effectively hedge their exposure to changes in oil prices? If so, how? If not, why not?
- To our knowledge, the only party insisting on oil linking pricing has been the GBJV.
 - Oil linked pricing has been uncompetitive relative to fixed price offers.

Changes in non-price terms and conditions of gas supply agreements

19. Q.25 How do non-price terms and conditions offered by gas suppliers in new gas supply agreements differ to previous agreements? Provide examples with reference to recent gas supply negotiations, successful or unsuccessful. To what extent have any changes affected the business of gas buyers?
- The non-price terms have become less flexible. Previously, gas was regularly offered on an 80-80 basis, which means 80% Take or Pay and 80% Maximum Daily Quantity (MDQ) Flex.
 - Note1: 80% Take or Pay means the buyer had to purchase a minimum of 80% of the annual contract quantity for gas and had the flexibility to purchase or not to purchase the remaining 20% of the annual contract quantity.
 - Note2: 80% MDQ Flex means the maximum quantity a buyer could purchase on a gas day was 20% greater than the average quantity of gas needed to be purchased every day to achieve the annual contract quantity.
 - Gas offers are now commonly made on a 95% to 100% Take or Pay and MDQ Flex basis and this requires customers to pursue other mechanisms to create more flexible gas supply arrangements.
 - Commonly the gas nomination timeframes are being set to require firm nominations to be made ahead of the STTM nomination timelines. This has the effect of forcing the customer to nominate its gas early and reduces its ability to adjust its nominations in response to the STTM prices.
 - The ability to re-nominate gas volumes on a gas day is tending to become more difficult or more expensive if available at all.
 - ABCL's previous contractual arrangements allowed for a 70% Take or Pay with gas nominations timed to be able to be made after the STTM price was determined. This allowed ABCL opportunistic switching between gas supply options on a daily basis to take advantage of the best price. Under our current contractual arrangements, Take or Pay conditions are either 95% or 100% and

nominations must be made before the STTM deadline considerably reducing our opportunity to optimise gas costs.

- During ABCL's recent negotiations for a long term gas supply arrangement with a major producer, there were differences between the parties on the penalties for the non-delivery of gas by the gas producers. Whilst the gas supply was offered on a firm basis the penalties for non-delivery of the gas were almost nil other than reputational risk. The gas producer refused to negotiate on this and ABCL was left with a take-it or leave-it decision and made a commercial decision to accept the risk of non-delivery.

20. Q.26 What are the factors driving any changes to the non-price terms and conditions that suppliers are offering to gas users? To what extent are any such changes necessary and desirable given the changes in the domestic gas industry? To what extent are any such changes being driven by transportation capacity constraints or uncertainty about available transport capacity?

- We consider the primary driver for the reduced flexibility in the gas supply offers is the competing interests of the LNG projects. The major producers are LNG producers and they are seeking to retain gas production flexibility for these projects.
- A secondary driver is the perceived future limited availability of gas for the domestic gas market, the ability of the major gas producers to ration gas to domestic customers and the lack of competition between the major gas producers. This creates a situation where the major gas producers have substantial negotiating power and do not need to offer more flexible gas supply arrangements to win contracts.
- It is also possible, major retailers prefer to sell retail contracts to large customers and not wholesale contracts due to the higher margins they can achieve under retail contracts. Therefore, their commercial best interests are served to reduce the flexibility of wholesale contract arrangements and seek to encourage large customers to take retail contracts.
- ABCL has been able to introduce flexibility in its gas supply arrangements by using the STTM and is obtaining greater flexibility through varying its gas transport arrangements. Large gas retailers are unsurprisingly opposed to the STTM.
- Given the changes in the market it is essential that the STTM remain in place as compulsory markets which ensure security of supply for all customers.
- EPIC, the owner of MAPS, has been very open to developing more flexible transport arrangements which are of commercial benefit to both parties. SEAGas is fully contracted and offers traditional pipeline contractual arrangements. Any pipelines controlled/owned by APA are expensive and inflexible.
- EPIC charges approximately 50% to 100% of the firm tariff for non-firm transport which reflects the non-firm nature of the service. APA charges 200% of the firm tariff for non-firm transport arrangements on the MSP which reflects their focus on encouraging customers to purchase firm capacity.
- Given the changes in the market and the high cost of non-firm transport arrangements being offered by APA, it is important that pipeline capacity trading be developed on APA controlled pipelines. Non-firm transport arrangements should be offered at a discount to the firm tariff.

21. Q.27 In what way do non-price terms and conditions influence the negotiations for the price for gas or vice versa? Which non-price terms and conditions have the biggest effect on price negotiations?

- In ABCL's experience it has become increasingly difficult to negotiate the non-price terms. All competitive gas offers have very restrictive non-price terms. Any flexibility is difficult to obtain and is priced at a premium.
- ABCL has differing needs to other gas buyers due to its operational activities. Daily gas purchases are predicted based on expected daily production but unplanned stoppages occur over the course of a year. These stoppages will be sudden and beyond ABCL's control. It is critical that ABCL include

gas purchase flexibility into its overall gas procurement strategy as it can no longer rely on contractual terms as a safeguard, to avoid significant cost increases.

- For ABCL, the most important non-price terms are Take or Pay and MDQ Flex.
 - Other key non-price terms are:
 - Nomination timeframes
 - Intraday renominations
 - Penalties for non-delivery
 - Interruptions and Force Majeure
 - Delivery points
 - Flexibility to use gas at different locations
22. Q.28 Has there been a noticeable change to the extent to which gas suppliers require strict and full compliance with non-price terms and conditions of gas supply agreements? What do you consider has driven any change?
- As outlined above, the major gas producers have significant market power and in ABCL's experience are not negotiable on non-price terms and conditions of gas supply arrangements even though it is made clear the reason for the requested change.
23. Q.29 Are there non-price terms and conditions being included in new long-term gas supply agreements which may be warranted in the current market circumstances, but which could have an effect on supply of gas in Eastern Australia beyond those circumstances? If so, explain the likely effect.
- The penalties on the supplier for non-delivery of gas are very low (practically non-existent) in ABCL's most recently negotiated and only long term agreement. ABCL does not have access to information to be able to determine if penalties for non-delivery of gas exist in other new gas contracts with domestic gas customers. If very low penalties for non-delivery has become the standard, where there was a major shortage of gas in eastern Australia the major gas producers could choose not to deliver gas to the domestic gas customers with little financial penalty and give priority of gas supply to their LNG projects.

Availability of information and trading liquidity

24. Q.30 Is there adequate information publicly available about production capacity to supply LNG and domestic users? If not, what key sources of information are missing and what kind of issues does this create for market participants?
- There is very limited information on gas production and supply for the LNG projects.
 - The LNG projects should be required to disclose on a daily basis their forecast gas production, their gas transportation nominations to the LNG projects and their forecast consumption of gas. Further, they should also be required to disclose the timing and frequency of LNG shipments.
 - The LNG projects are major consumers of electricity and their production of gas and LNG has the potential to influence electricity prices. They should be required to provide forecasts of the electricity consumption and this should be disclosed as part of AEMO's Medium Term PASA process.
 - To ensure a level playing field in the daily gas markets there should be greater transparency in all gas production in eastern Australia. All material gas producers should be required to produce forecast and actual data on their gas production which includes gas storage.
25. Q.31 What information do gas users need for the purpose of being able to confidently engage in gas supply negotiations? How would it be used?
- As discussed earlier, the major gas producers have significant market power that derives from their control of the majority of the gas production available in the eastern states. Providing additional information is useful in creating a more transparent market for those parties operating on a day to

day basis in the various gas markets. However it will have little influence on gas contract negotiations where the major gas suppliers have and apply market power to set price and terms.

26. Q.33 To what extent does the lack of a widely accepted external reference price affect market outcomes in the supply of gas in Eastern Australia?

- The widely accepted reference price regularly stated in public by the major gas producers is the LNG netback price.
- The core issue in contract negotiations is not the lack of an external reference price but rather it is the market power of the major gas producers, a lack of competition between gas producers and their ability to ration the availability of gas supply for the domestic market. These factors support the producers' ability to achieve their desired reference price.

27. Q.34 Do facilitated trading markets currently provide a sufficient level of flexibility to market participants to manage risks and uncertainty in the changing market circumstances? To what extent are they likely to do so in the future?

- Yes. The STTMs are critical to the ability of major gas customers to be able to more actively manage their gas supply arrangements.
- The STTMs provide the ability for major gas customers to manage the less flexible gas supply arrangements being offered by the major gas suppliers.
- The STTMs effectively guarantee the security of supply and this provides gas customers with an alternative source of supply and an alternative to unfavourable take-it or leave-it offers from gas suppliers.
- The gas supply hub at Wallumbilla is of very limited benefit to gas customers. Its non-compulsory structure means gas customers cannot rely upon the gas supply hubs as a source of gas supply. This issue is further exacerbated by the lack of an active market for the trading of capacity on gas pipelines.

28. Q.35 To what extent are the pricing outcomes observed in facilitated trading markets likely to be relevant to the future negotiation of long term gas supply contracts?

- The pricing in the STTMs has been favourable to gas customers. This provides gas customers with incentives to more actively manage their gas requirements and thus achieve commercial benefits from doing so.
- The ability to access lower cost gas via the STTMs provides a credible alternative gas supply option for gas customers. In commercial negotiations, it has the effect of providing some limited competition to the high price contract offers from the major gas producers. In the current environment, ABCL has increased reliance on the STTM for a proportion of its gas requirements due to the difficulty in securing firm gas supply at commercially viable pricing.
- The ability to access the STTMs enables gas customers to put in place multiple smaller gas supply contracts from different sources that are individually less flexible and then utilise the STTM to manage all the variations between these contracts.
- Without the ability to access the STTM, ABCL's overall cost of gas would be significantly higher (greater than 25%).

29. Q.36 Is the further development of existing or additional facilitated trading markets likely to result in better outcomes for market participants? If so, how?

- Not based on the concept recently put forward by the AEMC. Through the AEMC, the major gas producers and retailers are pursuing a re-design of STTM's into voluntary balancing markets. ABCL has already submitted this is in the best commercial interests of the gas suppliers. It is not in the best interests of gas buyers. The major gas producers and retailers are seeking long term gas pricing that reflects the LNG netback price. The STTMs are producing price outcomes that reflect the short term cost of gas and these outcomes are materially lower than the LNG netback price. The STTMs provide gas customers with access to an alternative source of gas at a lower cost than current long

term contract prices and encourages gas customers to more actively manager their gas requirements.

30. Q.37 To what extent are international comparisons relevant to the supply of gas and associated services in Eastern Australia? Are there any lessons from reforms in the US, the EU or elsewhere that may be relevant for Australia? What reforms or measures adopted in the US or the EU are not likely to work in Eastern Australia, and why? Are there any intermediate trading models between the US/EU trading markets and bilateral contracting that could improve information flow and increase trading liquidity in Eastern Australia?

- Comparisons to the international markets in the US and the EU are of very limited value. There are major differences between those markets and the gas market in eastern Australia.
- Unlike the US and EU markets, there is a lack of competition in the supply of gas in eastern Australia. The market is dominated by a limited number of large gas producers, their commercial interests are all aligned and there is a lack of competition between them.
- The eastern Australian domestic market is dwarfed by the volume of gas required to support the LNG export projects which are concurrently controlled by the major gas suppliers and this creates a range of issues not present in the US and EU markets.
- There are significant pipeline/infrastructure constraints and commercial pipeline arrangements that make it difficult to move gas between regional markets. These constraints serve to further limit the competition between gas suppliers as gas from one regional market may not be able to be physically moved to another regional market.
- As outlined in the National Gas Law:
 - “The objective of this law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.”

Any international comparisons need to be considered in the context of the long term best interests of consumers of natural gas.

Joint Marketing

31. Q.38 Are gas trading markets in Eastern Australia sufficiently well developed to enable the separate marketing of gas by producers in joint ventures? If not, what would the preconditions be for removing joint marketing?

- Yes. All joint marketing of gas should be disallowed, as the markets are mature. There is in fact a need for joint marketing to cease in order to promote competition.

32. Q.39 What regulatory costs or savings arise from joint marketing of gas by producers? What are the costs and benefits that would flow from separate marketing of gas that is currently supplied under joint marketing arrangements? How significant would these be?

- The joint marketing of gas lessens competition between gas suppliers. It has the effect of increasing the price of gas and supports the imposition of unfavourable non-price terms and conditions for all gas purchasers.
- In addition, there should be a separation of ownership of gas production facilities or other regulation to encourage the tolling of gas through these facilities. One option would be the development of a third party access framework covering all major gas production facilities that supports gas tolling at pricing that is reflective of efficient gas production facilities.

Ownership and regulation of transmission pipelines

33. Q.40 Have users observed an increase in the price of pipeline services or deterioration in the terms on which pipeline services are provided? If so, to what extent is this due to increased

concentration in ownership of transmission pipelines, decreased economic regulation or other factors? Provide specific examples of changes to prices/terms over the relevant period.

- There are physical constraints inhibiting flexible gas movement as well as cost constraints.
- Since the change ownership of the MAPS pipeline, EPIC has become open to developing more flexible and innovative transport arrangements which are of commercial benefit to both parties. ABCL has been able to negotiate changes to its transport arrangements with EPIC.
- SEAGas is fully contracted. The foundation shipper contracts on SEAGas restrict its ability to offer transport to new customers and prevent it from doing so on terms that are favourable to new customers.
- Any pipelines controlled/owned by APA are expensive. The firm tariff is expensive. The non-firm tariff is very expensive. In addition APA earns incremental revenue by charging extra fees for additional services such as renominations.
- It is our understanding that some foundation gas transport contracts contain “most favoured nation” provisions which prevent the offering of transport on terms which are more favourable to other customers.
- EPIC charges approximately 50% to 100% of the firm tariff for non-firm transport which reflects the non-firm nature of the service. APA charges 200% of the firm tariff for non-firm transport arrangements on the MSP which reflects their focus on encouraging customers to purchase firm capacity.
- Given the changes in the market and the high cost of non-firm transport arrangements being offered by APA, it is important that pipeline capacity trading be developed on APA controlled pipelines. Non-firm transport arrangements should be offered at a discount to the firm tariff.

34. Q.41 With so few transmission pipelines now covered by economic regulation, does the threat of coverage still place a constraint on pipeline owners’ behaviour?

- Lack of pipeline capacity trading is a bigger threat than economic regulation. Some pipelines are fully contracted but their actual gas flows average well below the pipeline’s capacity. Where a pipeline is fully contracted the threat of economic regulation is of no significance because there would be no available firm capacity.

Pipeline services

35. Q.42 Are pipelines being developed or enhanced to meet producer and shipper needs?

Please provide examples of experiences in securing changes to pipelines to meet changes in supply and demand for gas.

- There are various pipeline constraints that reduce the movement of gas within the eastern states. These include:
 - Unable to physically move gas from MAPS to MSP without going through the Moomba Gas Production facility
 - Unable to move gas from the Victorian gas market into the SEAGas pipeline without going through the Iona Gas Production facility

36. Q.43 Are pipeline services (including emerging hub facility service requirements in Wallumbilla) adequately evolving to meet user requirements? If not, explain which services are lacking on which pipelines and the effect of that on users.

- ABCL does not use the Wallumbilla Hub and it would be very costly to move gas from the Wallumbilla Hub to Moomba due the cost and lack of availability of transport.

37. Q.44 Are there any restrictions or limitations on the supply of specific ancillary pipeline services that are affecting competition in the supply or acquisition of gas? Do restrictions or limitations vary by location or by pipeline owner?

- ABCL cannot purchase gas from the GBJV and purchase firm transport arrangements to move that gas through the Victorian gas market and into the SEAGas pipeline. This reflects the market carriage structure of the Victorian gas market and the lack of any ability to move gas on a firm basis from the South West Pipeline into SEAGas (unless using the Iona Gas Processing Facility).
 - APA should be required to provide a firm service to transport gas from Longford to the SEAGas pipeline and this service can be purchased outside of the Victorian gas market arrangements.
38. Q.45 Is the level of available information on gas flows sufficient to support competition across pipeline services? Provide any examples where timely availability of information on gas pipeline conditions would have influenced which pipeline was used to transport gas. What are the costs/barriers to providing more dis-aggregated information?
- This has not been an issue for ABCL to date.
39. Q.46 To what extent is the 15 year no-coverage determination (the so-called Greenfields Incentive), a useful driver of pipeline investment? To what extent is it a restriction on access to pipelines?
- The cost of pipeline access is a major impediment to the movement of gas in the eastern states.
 - For example ABCL has been reviewing the cost effectiveness of moving gas from the Sydney STTM to Adelaide. On some days the Sydney STTM has been experiencing low gas prices. ABCL can move gas from Moomba to Adelaide for approximately \$0.10/GJ on a variable cost basis. The cost of purchasing as available haulage on the MSP and the compression service to move the gas to the MAPS via QSN is approximately \$2.20/GJ and this materially alters the viability of moving the gas between these markets. However the actual marginal cost of moving the gas from the MSP to the MAPS is negligible because the actual gas flows in the MSP are in the opposite direction i.e. gas is flowing down the MSP to Sydney. By moving gas from Sydney to Moomba in the opposite direction to the actual gas flow, the net gas flow on the pipeline is reduced and the MSP operational costs are reduced (less compression required). From an economic efficiency standpoint, when prices in the Sydney STTM are lower than the Adelaide STTM and the difference is greater than the marginal cost of providing the gas haulage service, then gas should flow from Sydney to Adelaide.

Terms and conditions in gas transportation agreements

40. Q.47 Are there contractual terms and conditions in gas transportation contracts that are limiting competition in the supply of pipeline services (including secondary trading of capacity)? If so, explain what those terms are, the rationale for them and their effect on pipeline users.
- There can be terms and conditions in gas transportation contracts that seek to limit the supply of pipeline services. However these terms and conditions can generally be bypassed through the use of the STTMs and derivative style contracts. This is a key reason why pipeline owners are not generally supportive of the STTMs.
 - It is our understanding that some foundation gas transport contracts may contain “most favoured nation” provisions which prevent the offering of transport on terms which are more favourable to other customers. This can have the effect of preventing the offering of more competitive pipeline services by the pipeline owners.

Pipeline capacity trading

41. Q.49 To what extent are the new capacity listing platforms offered by APA and Jemena, or the current rule change proposal to the AEMC to enhance capacity information, likely to assist in the development of efficient capacity trading? If so, how?
- The current capacity listing platforms offered by APA and Jemena are of no benefit to gas customers. A compulsory capacity offering platform is required where the price is set by demand for the service and not by reference to historical long term tariffs.

42. Q.50 To what extent, or under what conditions, are the 'as available services' offered by pipeline operators a substitute for capacity trade entered into with a shipper? If not, provide reasons.
- As available capacity is a very important pipeline service that encourages competition and reduces the benefits of incumbent shippers to hoard firm capacity. However non-firm pricing should be offered on a discounted basis to the firm tariff. Currently APA, unlike EPIC, charges a significant (prohibitive) premium for the as available service which has the effect of discouraging take up.
43. Q.51 How effective is competition between shippers and pipeline owners for the provision of contracted but unutilised capacity? If it is not effective, what factors are impeding competition?
- There can be commercial advantages from hoarding capacity. Where firm capacity has been contracted but is not being utilised it should be made available through a capacity trading market and the price should be reflective of both the marginal cost and the demand for the service.
44. Q.52 Are the prices charged for capacity trades and 'as available services' what you would expect to observe in a workably competitive market?
- The pricing should reflect the demand for the capacity at the particular location. But as a starting point, as available capacity should be priced at approximately a 50% discount to the firm capacity price.
 - When capacity is tight on a pipeline, short term capacity will trade at a premium to the firm tariff. When there is low demand on a pipeline or the capacity trade is in the opposite direction to the underlying pipeline flow, the pricing of short term capacity should be at a discount to the firm tariff.
45. Q.53 How should available pipeline capacity be measured?
- The calculation of available pipeline capacity for short term capacity trading can have an impact on the economics of pipeline operators. Pipeline operators argue it must be calculated as the firm contracted capacity minus the nominated gas flows to ensure the market for firm capacity is not adversely affected by short term capacity trading. At a high level ABCL concurs with the pipeline operators as it is necessary to ensure pipeline operators remain viable.
 - Where capacity is sought in the opposite direction to the underlying gas flows the available capacity should be equal to the forward flow of gas plus the additional ability of the pipeline to flow gas in the other direction (this reverse flow may be nil for some pipelines).

The role of storage

46. Q.55 How do industry participants use gas storage? Is this changing or likely to change given the gas industry re-structure? If so, explain why.
- Storage capacity plays an increasingly critical role in enabling gas customers to more actively manage their gas requirements. New long term gas contracts have less flexible arrangements and ABCL actively uses gas storage to manage the risks (non-delivery, unplanned production stoppages, deviations etc) associated with these less flexible gas contracts.
47. Q.56 Are there adequate levels of gas storage in Eastern Australia? Does the market provide adequate locational and investment signals for adequate storage? If not, why not? Would new storage assist in supply, including during transitional and peak periods? If so, where would it be placed?
- There are substantial gas storage facilities in eastern Australia. Unfortunately, access is not available to many of these facilities particularly for short term transactions.
 - Key gas storage facilities that are not being made available should be reviewed by the ACCC to determine if they can be incorporated into the short term capacity trading eg: Moomba gas storage. This would require regulatory intervention to make the storage capacity available.