



2 July 2015

Mr Rod Sims  
Australian Competition and Consumer Commission  
GPO Box 520  
Melbourne VIC 3001

Via email: [gas.inquiry@accc.gov.au](mailto:gas.inquiry@accc.gov.au)

Dear Mr Sims,

### **East Coast Gas Inquiry – Issues Paper**

GDF SUEZ Australian Energy (GDFSAE) appreciates the opportunity to make a submission in response to the Australian Competition and Consumer Commission (ACCC) East Coast Gas Inquiry (the Inquiry) issues paper dated 4 June 2015.

GDFSAE welcomes the Inquiry and along with the Australian Energy Market Commission's existing work and Australian Energy Market Operator's hub development, believes the industry and stakeholders are well placed to identify opportunities to further develop Eastern Australian gas markets in the context of the significant challenges facing the sector and the structural impediments that have arisen in recent times.

GDFSAE have previously suggested that asking whether the current levels of inflexibility in the market, the reliance on opaque long term arrangements, and the way in which infrastructure is developed is in the long term interests of consumers is at the heart of a range of claims and counter-claims concerning gas markets in recent times. It is important for the ACCC to be able to assure consumers that developing open and flexible markets will best meet their needs and that those markets will appropriately incentivise market participants.

#### *Gas market experience*

GDFSAE owns and operates 3540MW of brown coal, gas fired and renewable generating plant in Victoria, South Australia and Western Australia, with its retail arm, Simply Energy, serving markets in Victoria, New South Wales, South Australia and Queensland. As well as gas fired generation and gas retailing on the east coast, GDFSAE is a gas shipper and actively participates in the facilitated hubs and in the contract market. GDFSAE also has gas interests in Western Australia.

GDFSAE perspectives on eastern Australian gas markets are also informed by the extensive experiences of related businesses within the international GDF Suez energy portfolio. This includes as a leading participant

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in Europe, as a buyer, transport and distribution network manager, storage operator and as the European liquefied natural gas leader. GDF Suez has more than 16 million customers in Europe.

### ***Changes affecting the domestic gas industry***

The ACCC has correctly characterised the changes affecting the gas industry and the potential conflicting outcomes that may arise depending on developments.

GDFSAE experience is that interactions between market participants are already evolving and there is a large degree of uncertainty at this time. That uncertainty creates risk for some participants and opportunities to exert influence for others. In such an environment there is a degree of natural tension as participants reach new commercial positions which best manage the risks they face.

For GDFSAE, the issue for the ACCC is to what extent are outcomes in this environment potentially sub-optimal due to dominate market positions or inflexible market arrangements.

Where regulatory impediments, marketing arrangements, vertical integration, pipeline capacity or hub arrangements do not allow participants to optimise their positions in the face of changing market dynamics GDFSAE welcomes further examination with a view to greater market development.

### ***Access to new gas resources,***

It is clear the ongoing regulatory uncertainty creates challenges for parties wishing to develop new resources and disincentivises less experienced parties from seeking to pursue development opportunities. Whether parties are also seeking to retain leases to lock out development is difficult to assess.

Retention leases should not lock out willing entrants. There needs to be an appropriate balance between underpinning commercial viability for an identified period of time and increased competitive tension. An exclusivity period which does not encourage development may have the effect of dampening competition.

Arguments for greater scrutiny at times of extension with less scope to extend or more market driven arrangements for on-selling leases could be considered although GDFSAE notes that these issues can be more difficult to address in practice than conceptually.

### ***Access to processing facilities***

There is always a tension between the benefits to incumbents of developing infrastructure and the growing importance placed on those facilities as they are integrated into the market. For example, if the Moomba Gas Supply Hub is developed as proposed by the Australian Energy Market Operator the importance of the Moomba Processing Hub and access to its spare capacity will continue to increase.

In an environment where the value of processing facilities are increased by wider market developments there may be a case for considering whether existing third party access settings for those facilities are appropriate.

### ***Negotiation of new gas supply agreements and non-price terms***

The current period of transition represents a new dynamic in the market whereby buyers are facing challenges to strike gas supply agreements on terms or at prices that meet their needs. While gas should flow to the participants who most value it, and there may be legitimate reasons for producers to avoid contracting in the short term, changing dynamics should be transitional and allow the market to reach a new equilibrium.

GDFSAE is concerned that the current challenging environment will result in a market characterised by a limited number of participants dictating terms and prices that go beyond managing changing market dynamics. Where changes to terms and prices are not driven by market transitions or changing expectations then it is legitimate to question whether the market is delivering effective competition.

### ***Rising domestic gas prices***

As international linkages drive price rises on the east coast of Australia GDFSAE has witnessed price rises that are difficult to reference externally. There are few alternatives where dominant participants' inflexible or short term offerings are shadow priced by the small number of offerings from other sources.

Notionally, inter-basin competition should provide some alternatives; however, issues around capacity availability then need to be considered. Likewise, regulatory imposts disincentivise new developments that may primarily focus on the domestic market.

### ***Availability of information and trading liquidity***

GDFSAE made a combined statement<sup>1</sup> with a group of leading energy companies and large users in support of the Council of Australian Government Energy Council gas market vision stating:

*Information informs participants, potential new entrants, energy users, governments and other stakeholders about the performance and suitability of gas market arrangements to enable efficient decision making. In the absence of prohibitive costs, industry supports improvements in information availability, transparency and discovery for the purpose of facilitating trade and liquidity, and providing clear price signals.*

- *The status quo is not sufficient to support the market moving forward. Despite ongoing development and some modest changes, the information on the Eastern Australian gas markets is inadequate to enable participants to respond to and manage risk. Data is fragmented and incomplete across multiple platforms and lacks the necessary frequency.*
- *The consequence of limited information transparency is also becoming more relevant in light of the market impact of LNG facilities. These developments highlight the need to accurately define and deliver information the market needs, now and moving forward, so as to capture the full benefits of trade.*
- *Given information asymmetries are genuine impediments to fully functioning markets, industry has some support for the view that the market would be better served by a more centralised and complete reporting framework encompassing both supply and demand sources.*
- *The challenge is identifying the most appropriate dataset that meets users' needs and can be presented simply as opposed to unconstrained provision of vast amounts of data.*

GDFSAE retains this view. Specific consideration should be given to provision of real-time information, appropriate incorporation of liquefied natural gas data, and information platforms in comparison with arrangements operating in overseas markets.

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<sup>1</sup> See <http://www.aemc.gov.au/getattachment/443141ef-cf8e-4e13-b2e3-ec6566d14889/Group-of-leading-energy-companies-and-major-users.aspx>

### ***Joint marketing***

Joint marketing is a historical legacy that has served its purpose and which fails to account for ongoing developments. Joint marketing impacts the ability of gas users to negotiate commercial terms to meet their needs, including conditions of sale and non-price terms. The lack of support for joint marketing amongst downstream industry participants is testament to the concern it raises across industry and the impact it is having on competition.

Arguments that joint marketing has little impact on competitive tension or supply by those who benefit from joint marketing should not be accepted as a rationale for it to remain, but rather, another justification for it to be removed. The practical benefits do not justify its retention and the probable commercial benefits to participants are no longer justified in an evolving market. If the suggested commercial benefits don't exist, as some claim, then cessation of joint marketing should pose no more than an administrative concern.

### ***Transmission pipelines, services and capacity trading***

GDFSAE believes there is tension between the availability of cost-reflective pipeline services and the concentration of ownership. Furthermore, the threat of regulation is not generally considered an option during commercial negotiation to secure transportation and thus does not affect prices and terms offered.

Nonetheless, it is generally accepted that the contract carriage model encourages pipeline investment whereas market carriage facilitates new entry and competition. The primary difference being the mechanisms by which participants are granted access to capacity. GDFSAE doesn't believe there is sufficient evidence to propose one model is necessarily superior to the other and it is not inappropriate to conclude both models, with possible amendment, should remain within their existing spheres of coverage if both can evolve and continue to efficient outcomes.

In that regard, GDFSAE notes there are specific concerns with terms and access under contract carriage, as it currently manifests itself, and if that remains the case then those impediments should be revisited. For example, the availability of bundled products that cover off the majority of delivery points between hubs and standardised contractual terms could improve trade of contracted capacity as might management of security of supply by the market operator.

As a general rule unused capacity should be offered back to the market either bi-laterally or through a market trading arrangement (whether via a platform or auction) so that it can be directed to participants who most value it. This relates to both firm and as available services, noting that as available services, especially at a price premium, are not equivalent to firm services.

It is currently the case that long term contracts sometimes prohibit pipeline owners from selling spare capacity at a price less than that paid by the incumbent long term shipper. These contract clauses require that should a pipeline owner sell spare capacity at a price below that in the existing contract, that the incumbent shipper be given a discount of the same value henceforth. GDFSAE understands these clauses take no account of the size or duration of opportunistic capacity trades by pipeline owners.

GDFSAE also has a number of issues regarding the capacity rights on the Declared Transmission System that it intends to raise with the Australian Energy Market Commission's review as it relates to design and allocation of those rights as opposed to competition per se.

**Conclusion**

GDFSAE welcomes the ACCC's work to date and looks forward to its consideration of the issues contained in this submission. Should you have any queries in relation to this submission please do not hesitate to contact me on, telephone, 03 9617 8415

Yours sincerely,



**Jamie Lowe**  
Head of Regulation