SUBMISSION

ACCC LNG NETBACK REVIEW – SUPPLIMENTARY SUBMISSION 31 AUG 2021

This supplementary submission responds to issues discussed in the meeting the EUAA had with the ACCC Commission on 19th August 2021.

Our position

In our initial submission and subsequent discussions with the ACCC we sought to distinguish between two categories of producers that are not LNG producers:

- Non-LNG producers which have a real option of selling to LNG producers
- Non-LNG producers that do not have a real option to sell to LNG producers e.g. because of location or because they operate leases under the Queensland Government's Australian Market Supply Condition[1]

We advanced a proposition in relation to each of these two categories – that the LNG netback is not a fit for purpose measure against which to report these offers and realised prices against. The LNG netback calculation should only be used to report offers and prices realised for LNG producer domestic sales. We would argue that it is within scope of a review of the LNG netback methodology to conclude that it has a more limited application to domestic gas contracts than is currently the case.

We understand that what benchmark should be used for reporting sales of non-LNG producers is appropriately a matter for a separate review.

The ACCC's July 2021 Interim Report refers to the strong linkage between LNG and domestic markets and says this linkage is not only for LNG producers[2]:

> "A major domestic producer acknowledged the relationship between these markets in 2018, saying that as long as there is spare capacity in the Queensland LNG facilities, domestic prices will be correlated with LNG prices."

We agree. However, our proposition is that for non-LNG producers that have a real option to sell to LNG producers, that correlation is not around the LNG netback price as currently calculated. It is around a lower price. These non-LNG producers do not have sunk capex and we would expect that LNG producers would seek to pay a price for that gas that reflects, at least to some extent, the capital costs of processing in Gladstone plus other costs that may be contract specific e.g. whether it is a spot or term contract.

Given the ACCC's transparency objective, we proposed the ACCC use its information gathering powers to test this proposition and publish the results comparing actual prices received with the LNG netback series. This will provide an answer to the same question the ACCC asks LNG producers for non-LNG producers - what is your next best alternative? What is the opportunity cost of selling to a domestic customer?

---

[1] See https://www.resources.qld.gov.au/?a=109113%3Apolicy_registry%2Foperational-policy-australian-market-supply-condition.pdf

[2] See p.58 https://www.accc.gov.au/publications/serial-publications/gas-inquiry-2017-2025/gas-inquiry-july-2021-interim-report

If the evidence supports our proposition, then the ACCC should seek to develop a different LNG netback price series and report offers of these non-LNG producers against that different series – which we referred to as the Australian Domestic Netback Price. Even if these contracts are few, it does not negate the benefits of developing the ADNP measure. It is consistent with the ACCC's overall objective around transparency and addressing information asymmetry.

Where a producer does not have a real option to sell to an LNG producer (e.g. due to location) or is operating under the Queensland Government's Australian Market Supply Condition then we would argue again that the LNG netback is not a fit for purpose benchmark to report against. It could be reported against a cost benchmark similar to that currently used in the ACCC reports for Queensland and Southern States.

In this context it is interesting to note the position of Senex which argues in its submission on the Draft Position Paper that[3]:

- It supports the existing calculation methodology as it will help to provide increased transparency and address the information asymmetry in the market.
- The gas prices it offers are not influenced by the LNG netback price
- In rejecting the EUAA's proposition that the comparator for sales from Queensland Government leases should be different to LNG netback argues that producers should be free to sell 'at the market price'.

It is the LNG producers' LNG netback that is setting that market price in an uncompetitive market.

Our interpretation of the Commission's response

In the case of non-LNG producers who have a real option to sell to LNG producers, we have interpreted the Commission's response to be:

- why would a non-LNG producer sell to an LNG producer at a price less than what the non-LNG producer can get by selling to a domestic customer
- given what the non-LNG producer can get from a domestic customer is at least LNG netback then the opportunity cost for a non-LNG producer is the LNG netback

We can understand that approach in that it might appear rational. However, our members make a whole range of decisions that may not initially seem economically rational because other considerations are involved. We would propose that the Commission resolve the different approaches by comparing the actual prices received by non-LNG producer for their sales to LNG producers with the LNG netback.

The Commission's response at our meeting was to refer to Chart 2.3 in the July 2021 ACCC Gas Report. Our interpretation of Chart 2.3 is that it shows offers made by non-LNG producers to LNG producers for volumes of at least 0.5PJ and for a term of at least one year. We do not know how many of those offers were by non-LNG producers to LNG producers.

[3] See https://www.accc.gov.au/system/files/Senex%20Energy%20Submission%20-%20LNG%20netback%20reivew_Redacted_1.pdf

We would recommend that the ACCC publish that data (respecting confidentiality) on the number of offers in that category in each reporting period. We see this as no different than publishing the number of spot sales that LNG producers make[4].

Our proposition is not about what was offered, but what was actually accepted/prices paid. It seems that data is in Chart A.5 on p.110 which shows a range. We would encourage the ACCC to compare the actual prices received with the relevant LNG netback price.

Aside from this data there is a further data question. The Charts exclude sales of <0.5PJ and less than 12 months duration. A sale of gas from a non-LNG producer to an LNG producer may include these types of sales. As explained in Appendix A2 p. 105 report:

> "Chart A.1 shows offers made by producers and retailers for 2021 supply over the period from 1 January 2019 to 31 December 2020."

This may not catch all potential sales from non-LNG producers to LNG producers.

In our earlier submission we provided some examples of these sales that would probably not be caught by this definition and the data in Chart A.5:

- the Armour deal which allows 'opportunistic supply'
- the WestSide contract that allows the option of incremental sales to GLNG on a slope, that Energy Quest reported as 8.6%; given the Draft's comment (p.54) that LNG slopes reportedly range from 12% to 15%" this is prima facie evidence that the price received by WestSide is considerably below LNG netback

We would suggest that reviewing the data the Commission has to test our proposition is very consistent with the overall objective of the ACCC:

> "…to improve transparency of gas prices in the east coast gas market and to help address information asymmetry and unequal bargaining positions in the market."

In the case of those producers operating under the Queensland legislation, it seems the Commission's approach here is that even though these producers are prohibited from selling to LNG, the price they can charge has a cap of what non-LNG producers and LNG producers can sell at.

The EUAA's view is that including the data in the regular reporting against the LNG netback is not achieving the objective of improving transparency, addressing information asymmetry and unequal bargaining positions in the market. It does nothing to promote a competitive outcome. Non- LNG producers do it simply because they can – there is insufficient competition in the market.

Some of our members are beginning to think that the current approach to publishing the data is simply providing gas producers with information that achieves the opposite to the ACCC's intent of increasing transparency and

[4] See https://www.accc.gov.au/media-release/domestic-gas-users-paying-too-much

reducing information asymmetry and unequal bargaining positions in the market, given the ability, frequently highlighted by the ACCC, of producers to exercise market power.

By way of example, we had one member a few years back that was negotiating a GSA when the LNG netback data was first published. The supplier took the price off the table and returned with a higher one that reflected the LNG netback.

We look forward to ongoing engagement and cooperation with the ACCC on these and other gas market related matters.

Kind regards,

[redacted]

Andrew Richards
Chief Executive Officer