



Submission regarding the ACCC Draft Determination to authorise certain proposed conduct by Chevron, INPEX, Shell and Woodside to coordinate planned LNG Plant maintenance in Western Australia and the Northern Territory.

January 2018

INTRODUCTION

In its draft determination regarding the request for authorisation by Chevron Australia Pty Ltd (**Chevron**), Inpex Operations Australia Pty Ltd (**INPEX**), Shell Australia Pty Ltd (**Shell**) and Woodside Energy Limited (**Woodside**) (together, the **applicants**) to coordinate the scheduling of planned maintenance for the:

- Gorgon Project in Western Australia;
- Wheatstone Project in Western Australia;
- North West Shelf Project in Western Australia;
- Pluto Project in Western Australia;
- Prelude offshore floating facility in Western Australia; and
- Ichthys Project in Northern Territory,

(the **Draft Determination**) the Australian Consumer and Competition Commission (the **ACCC**) requests submissions from interested parties in relation to the subject matter of, and the methodology used in, the draft determination.

ENERGY MATRIX

This submission is being lodged by Energy Matrix Group Pty Limited (**Energy Matrix**). Energy Matrix started life as Project Consultancy Services Pty Limited offering strategic and commercial advice and support services to energy, mining and industrial companies and to governments. In 2007 the members of Project Consultancy Services Pty Limited created Gas Trading Australia Pty (**gasTrading**) to:

- provide gas supply management services;
- develop the gasTrading Spot Market™; and
- provide bespoke gas transport services.

As at 1 July 2017, gasTrading manages the gas supply for 21 sites, representing 250 TJ per day of gas consumption or supply. gasTrading has also established the gasTrading Spot Market™ as an integral part of the Western Australian gas market, has developed the “Self-Contracting User Model” for servicing Western Australian Commercial and Industrial gas users, and provides bespoke gas transport services to five gas consumers.

In 2013 and 2016 the members of Project Consultancy Services Pty Limited established, respectively, Agora Gas Pty Limited (Agora Gas) and Agora Retail Pty Limited (Agora Retail). These companies:

- take equity positions in the gas market, buying and selling short, medium and long term gas;
- underwrite liquidity in the gasTrading Spot Market™; and
- retail gas to Commercial and Industrial gas users.

Agora Gas is currently buying and selling over four PJ of gas per year and Agora Retail, while not yet trading, is a fully functional and accredited Commercial and Industrial gas retailer in West Australia’s retail gas market and is currently seeking eastern Australian retail licences.

Project Consultancy Services Pty Limited supported the Northern Territory’s Department of the Chief Minister in the development of the Northern Gas Pipeline and acted as Lead Negotiator in the marketing and sale of Northern Territory Power and Water Corporation gas to eastern Australian gas

buyers. As of 1 July 2017, the name of Project Consultancy Services Pty Limited was changed to Energy Matrix Group Pty Limited, the members of gasTrading, Agora Gas and Agora Retail sold their shares in each of the companies to Energy Matrix and a new company, a new “Project Consultancy Services Pty Limited” (**PCS**), was created by Energy Matrix to continue the group’s consulting business.

PUBLIC BENEFIT

The major thrust of the Draft Determination is that, while the proposed conduct may impede competition in the LNG Plant services sector, the ACCC has adopted the following positions.

- After considering scenarios, with and without the proposed conduct, the ACCC accepts that the proposed conduct is likely to ensure that maintenance of LNG facilities can be planned and resourced with confidence and that the proposed conduct is likely to result in public benefits in the form of more efficient maintenance of LNG facilities.
- The ACCC considers that the proposed conduct is likely to result in public benefits by reducing LNG facility downtime, maximising LNG production and maximising LNG exports.
- The ACCC considers that the proposed conduct is likely to result in public benefits by reducing the likelihood of adverse (safety) incidents.
- The ACCC considers that, while the proposed conduct has the potential to result in some public detriment, this is unlikely to be significant.
- Overall, the ACCC is satisfied that the relevant net public benefit test is met and proposes to grant authorisation.

With one exception, regarding the question of safety and risk, Energy Matrix agrees with the assessment and conclusions of the ACCC regarding net public benefit. *Energy Matrix concurs with the ACCC conclusion that the net public benefit test is met.* The thrust of the ACCC assessment properly relates to the impact of the proposed conduct on competition in the LNG facilities services sector and there is even an argument that the proposed conduct will enhance competition in this sector if maintenance works are taken to market in a coordinated fashion.

Energy Matrix concurs with the ACCC conclusion that the net public benefit test is met.

WHOLESALE SUPPLY OF NATURAL GAS (DOMESTIC AND EXPORT) IN WESTERN AUSTRALIA AND THE NORTHERN TERRITORY

The ACCC bases its assessment of the impact of its decision on the Western Australian and Northern Territory gas markets on advice provided by the Australian Energy Market Operator (**AEMO**), that there are currently no gas trading hubs or Short Term Trading Markets (**STTM**) operating in Western Australia or in the Northern Territory. The ACCC noted advice from AEMO that gas trading hubs or STTM may be developed in Western Australia in the next five years.

The ACCC goes on to acknowledge that information asymmetry regarding LNG Plant maintenance programs and schedules, in circumstances where the applicants are authorised to coordinate scheduled maintenance and are, or may become, local gas (**Domgas**) market participants, may be anticompetitive and may need to be considered further when a gas trading hub or STTM commences in Western Australia. In a similar application in Queensland, where gas is currently being traded in gas trading hubs and STTM, the ACCC concluded this the information shared by the LNG Plant

operators must be made available to the market in order to protect the public interest. Indeed the Draft Determinations sets the ACCC's reservations that the decision, not to require information shared by LNG Plant operators (comparable to the Queensland decision), will not be valid when gas trading hubs and STTM are operating in Western Australia. The Draft Determination notes that the emergence of gas trading hubs and STTM in Western Australia would trigger a change of circumstances review of the authorisation and specifically asks for comment on this matter (see paragraph 75).

In its assessment of this matter the ACCC has failed to recognise that AEMO is a business operated for its members and it is not responsible for the development of energy markets or energy market policy generally. AEMO's role is to enhance and improve the operation of energy markets. There is no suggestion that AEMO has been given an exclusive right to create or promote markets. Gas trading hubs and STTMs, as they have emerged in Australia, are products developed, offered and uniquely controlled by AEMO. AEMO is able to develop these products because of its advantaged position relative to the rest of the market. AEMO is able to offer these products because it alone has legislative authority to force particular market behaviours and outcomes.

While it is technically correct to say that there are currently no gas trading hubs or STTM operating in Western Australia or in the Northern Territory this must:

- be read to mean, that AEMO is not offering its gas trading products in Western Australia or in the Northern Territory; and
- NOT BE READ TO MEAN**, that there are no gas trading markets in Western Australia or in the Northern Territory.

Clearly, irrespective of what some legislators and bureaucrats seem to believe, AEMO is not the 'go-to' source for government policy or knowledge regarding energy markets. A search of AEMO's objects and responsibilities will not uncover an obligation to act as an unbiased purveyor of energy market policy or information. A review of AEMO's governance framework and history will reveal that AEMO was created by the Council of Australian Governments, under the guidance of the then Ministerial Council on Energy, to strengthen the national character of energy market governance by drawing together, under one operating framework, responsibility for electricity and gas market functions, NEM system operations, management of Victoria's gas transmission network, and national transmission planning.

In fact, there are vibrant spot and firm gas trading markets already operating in Western Australia. One of the most notable of these markets is the gasTrading Spot Market™ which has operated since 2008 and which, despite appearances to the contrary, is known to both AEMO and to the ACCC's Perth Office. This market is operated by Gas Trading Australia Pty Limited, a wholly owned subsidiary of Energy Matrix.

The rules governing the gasTrading Spot Market™ and extensive data on trading volumes and prices is publically available and can be found at <http://www.gastrading.com.au/spot-market/historical-prices-and-volume>

Figure 1 compares the volumes of gas traded in the AEMO Wallumbilla and Moomba Hubs and in the gasTrading Spot Market™ in December 2017.

Figure 1 Comparison of Daily Traded Gas Volumes December 2017 Moomba, Wallumbilla and the gasTrading (WA) Spot Market

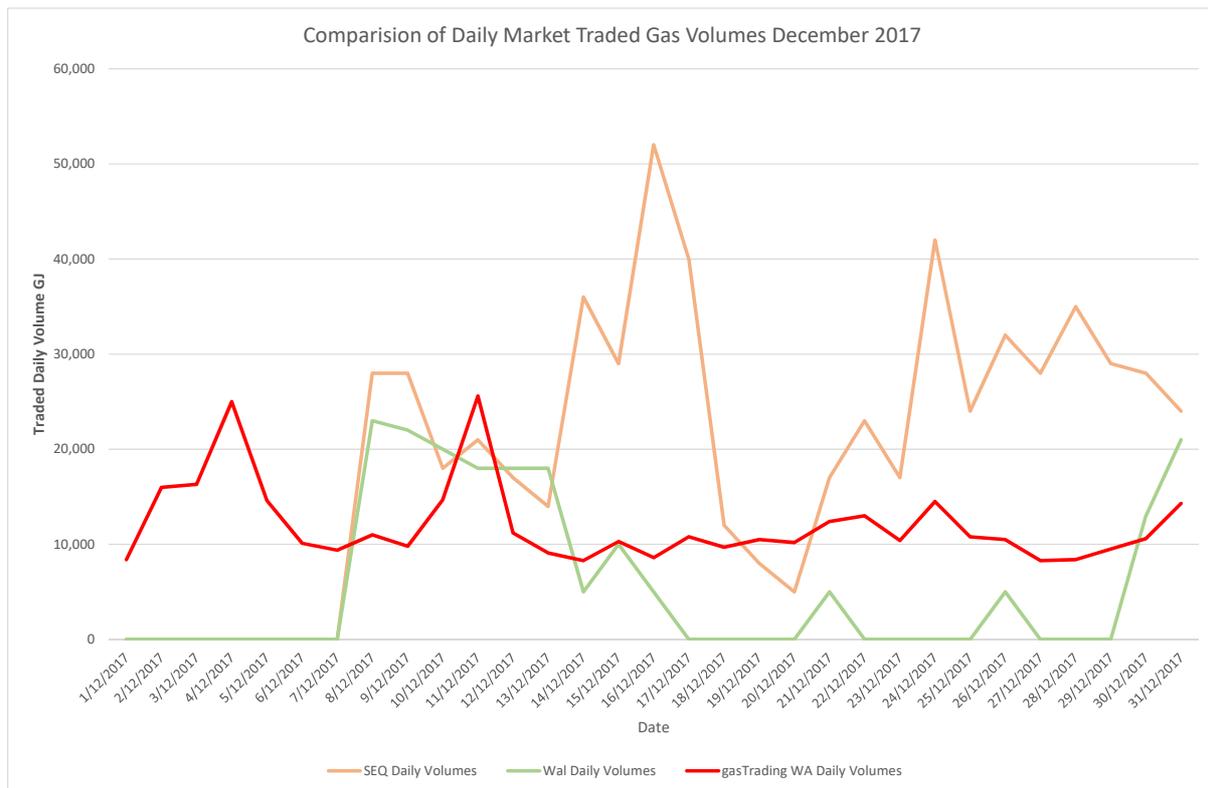


Figure 1 confirms that the gasTrading Spot Market™ traded every day in December 2017 (it has traded every day for several years), traded half the volume of gas traded at Moomba and traded double the volume of gas traded at Wallumbilla.

Further, Energy Matrix, has given undertakings to major interests in the Northern Territory and Queensland that a gasTrading Spot Market™ - NT will be in place and ready for operation before Jemena’s Northern Gas Pipeline becomes operational. Once operational, this market will have the capacity to connect, and will facilitate the connection of, the Northern Territory gas market and the east coast gas market.

Clearly the evaluation conducted, and the conclusions reached, by the ACCC regarding the potential impact of information asymmetry on Domgas market participants is flawed. The ACCC’s generalised observation, that its decision may need to be considered further when gas is actively traded in these markets (not when hub or STTM in these markets), is a matter which The argument that information operators in Western Australia Territory must be made in order to protect the public interest is just as valid in this matter as it was in the comparable Queensland authorisation. The only difference is that AEMO is not operating the relevant gas trading markets.

The AAAC’s generalised observation, that its decision will need to be considered further when gas is actively traded in these markets, is a matter which must be addressed now.

It is generally the case that, on the basis of the information which is currently available, the links between the Domgas market and LNG markets are limited. However, there is no question that both

the LNG and Domgas markets are going through a period of enormous change and adjustment. The fact is, no one outside the oil companies knows how closely the two markets are, or will be, connected. It would be a grave error for the proposed conduct to be authorised without recognising the existence, relevance and importance of gas trading markets other than those controlled by AEMO. These markets stimulate competition as much, if not more, than the AEMO gas trading market products offered by AEMO and are no less worthy of consideration by ACCC in the context of this Draft Decision.

DURATION OF AUTHORISATION

The applicants sought authorisation for a period of ten years. After considering submissions made by the applicants and some specifically *Energy Matrix conditionally recommends that the ACCC reconsider its decision and grant the authorisation for ten years.* a number of interested parties, challenging the proposed ten year term, the ACCC proposes to grant authorisation for the proposed conduct for five years rather than the ten years sought by the applicants.

In reaching this decision the ACCC noted:

- AEMO’s submission that the applications for authorisation are being considered during a period of unprecedented growth in the Western Australian and Northern Territory LNG industry;
- that two of the LNG facilities are still under construction; and
- that the possibility that a gas trading hub or STTM will commence in Western Australia within ten years and a shorter authorisation period will provide an opportunity to reassess possible information asymmetry.

Energy Matrix recommends that, if the ACCC amends its decision and requires the publication of the information shared by the LNG Plant operators in Western Australia and the Northern Territory, it also reconsider its decision regarding the term of the authorisation and grant the authorisation for ten years.

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