



Australian Competition & Consumer Commission



PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
Australia
Ph (02) 6243 1111
Fax (02) 6243 1199

12 September 2000

«Title» «FirstName» «LastName»
«JobTitle»
«Company»
«Address1»
«City»

By Facsimile: «Fax»

Dear «Title» «LastName»,

Re: Application for authorisation of Joint Marketing by PNG Gas Producers

The Commission received an application on 7 September 2000, (Application A40081 ('the Application')) from the participants in the PNG Gas Project ('the Applicants') for interim and final authorisation of their joint marketing conduct prior to financial close of the project.

The conduct sought to be authorised is described as follows:

All contracts, arrangements or understandings in relation to common terms and conditions (including price) upon which gas to be produced by the Project will be marketed and offered for sale to customers prior to the Financial Close of the Project as identified in the submission of the Applicants which accompanies this application.

(referred to herein as 'joint marketing').

The Applicants are set out in Annexure 1 of the attached application. The application dated 6 September 2000, consisted of:

- The Application Form prescribed by the Trade Practices Act 1974, being Form B – Agreements affecting competition; and
- A submission, which outlines the Applicant's grounds for seeking the authorisation.

The Applicants subsequently withdrew the 6 September 2000 submission, and have since submitted a revised submission, dated 12 September 2000 which is enclosed.

Background

In June 1998 a number of PNG producers applied for authorisation of conduct relating to the negotiation of gas sale agreements with potential customers. In August 1998 the Commission granted interim authorisation for that conduct. In December 1999, that interim authorisation was revoked and a varied interim authorisation was substituted. In doing so, the Commission



.ejected an application by the producers to have the interim authorisation extended to certain Santos group companies.

It is intended that this Application will replace the existing applications for authorisation, and, if the Commission were to grant interim authorisation as requested, this new interim authorisation would replace the interim authorisation of December 1999. The August 1998 and December 1999 interim authorisations can be viewed at the Commission's website <http://www.accc.gov.au> under 'Gas – Authorisations'.

This Application (6 September 2000) differs from the existing applications for authorisation and the existing interim authorisation in several respects. The most important of these are -

- the Application is limited to conduct that may contravene section 45 of the Trade Practices Act (TPA);
- the Application is limited to conduct that takes place prior to financial close of the project (as defined in the Applicants' submission);
- the Application does not seek authorisation to make or enter into contracts, arrangements or understandings with customers;
- the Applicants include certain ExxonMobil and Santos group companies.

Issues

The Applicants have asked the Commission to grant interim authorisation to their joint marketing activities pending consideration of their application for final authorisation of joint marketing.

The joint marketing activities of all of the Applicants except the Santos and ExxonMobil companies are already covered by the existing interim authorisation. Accordingly, the main issue that the Commission needs to address in deciding whether to grant interim authorisation is the fact that Santos and ExxonMobil companies are included amongst the Applicants.

Due to the increased volumes of gas arising from the Project's expansion and the proposed pipeline extension, the applicants are seeking to incorporate the PDL1 (Hides) joint venture parties as full equity participants in the PNG Gas Project.

The Applicants argue that it is necessary for all participants in the PDL1 and PDL2 fields to participate in the joint marketing activities. ExxonMobil and Santos are participants in the PDL1 Joint Venture.

In order to determine whether it should grant interim authorisation as requested, the Commission seeks comment on the following issues:

- (a) is it necessary for Santos and ExxonMobil to participate in the joint marketing activities, and thus for them to be granted interim authorisation?
- (b) would any irreversible detriment (ie. detriment that could not be remedied in a final authorisation determination) result from the granting interim authorisation to Santos and ExxonMobil to participate in the proposed joint marketing activities?


In particular, the Commission seeks your views on the Applicants' statements in support of their proposal that:

- (a) the PNG Gas Project cannot proceed without Santos' and ExxonMobil's involvement;

- (b) it is necessary for Santos and ExxonMobil to participate in the joint marketing of Project gas;
- (c) Santos and ExxonMobil cannot be considered competitors of the PNG Project in Queensland; and
- (d) any anti-competitive detriments arising from participation of Santos and ExxonMobil in the joint marketing can be addressed in the final authorisation determination or in any consideration of the gas sales agreements (GSAs) that might eventuate.

In an attempt to progress this matter in a timely fashion, the Commission seeks your comments by close of business 22 September 2000. Please Fax or E-mail comments to (02) 6243 1205 or lisa.ayres@accc.gov.au. If you wish to discuss any aspect of this matter please call David Hatfield (02) 6243 1266 or Lisa Anne Ayres on (02) 6243 1166.

Yours sincerely



for Kanwaljit Kaur
Acting General Manager
Regulatory Affairs Division - Gas

Title	FirstName	LastName	JobTitle	Company	Address1	City	Phone	Fax	email
Mr	Stephen	Ohl	Project Director Gas	APC	Level 11, AGL Centre, 111 Pacific Highway	NORTH SYDNEY NSW 2060	02 9922 8336	02 99573871	sohl@eapl.com.au
Ms	Karen	Moses	General Manager, Trading & Development	Origin Energy Limited	GPO Box 5376	SYDNEY NSW 2001	02 9220 6400	02 9235 1661	karen.moses@origienergy.com.au
Mr	Mark	Grenning	General Manager - Project Development	Cornalco Aluminium Limited	GPO Box 104	BRISBANE QLD 4001	07 3214 7361	07 3214 7370	mark.grenning@riotinto.com
Ms	Laurel	Green							Belinda Gibbons (PA) bgibson@bechtel.com om
Mr	Richard	Cottee	CFO	CS Energy Limited	GPO Box 769	BRISBANE QLD 4001	07 3222 9301	07 3222 9300	iwebb@csenergy.com.au
Mr	Nick	Heath	Gas Marketing Director	Esso Australia Pty Ltd	GPO Box 400C	MELBOURNE VIC 3001	03 9270 3457	03 9270 3495	fax preferred
Mr	Richard	King		Duke Energy Australia Pty Ltd	Level 33 Waterfront Place 1 Eagle Street	BRISBANE QLD 4000			rking@duke-energy.com
Mr	Mick	McCormack	Manager Regulatory Affairs	AGL	Level 11 AGL Centre 111 Pacific Highway	NORTH SYDNEY NSW 2060	02 9922 8730	02 9957 3871	mmccormack@pipelinetrust.com.au
Mr	Michael	Wilton	Partner	The PNG Gas Project c/- Deacon	GPO Box 4592	MELBOURNE VIC 3001	03 9235 0235	03 9629 1429	michael.wilton@deaconslaw.com.au
Mr	Don	Cleary	General Manager, Corporate Development	Energex Limited	GPO Box 1461	BRISBANE QLD 4001	03 3407 4442	07 3407 4225	dc051@energex.com.au
Mr	Ian	MacGillivray	General Manager Eastern Australian Operations	Epic Energy	PO Box 53	GLENSIDE SA 5065	08 8372 2509	08 8372 2586	ian_macgillivray@epic.com.au

Title	FirstName	LastName	JobTitle	Company	Address1	City	Phone	Fax	email
Mr	Darren	Barlow	Regulation Manager	Ergon Energy	PO Box 107 Albert Street	BRISBANE QLD 4002	07 3228 8116	07 3228 8255	darren.barlow@eryg.on.com.au
Mr	Jim	McLeod	Supply Manager	Incitec Ltd	PO Box 140	MORNINGSIDE QLD 4170	07 3867 9401	07 3867 9400	jim.mcleod@incitec.com.au
									Jacqueline A Pittman jacqueline.pittman@orica.com
Ms	Chrysanthi	Papadopoulos	General Manager, Gas Reform and Taxation Branch	Industry Science Resources	GPO Box 9839	CANBERRA ACT 2601	02 6213 7924	02 6213 7945	chrys.papadopoulos@istr.gov.au
Mr	Andy	Carroll	Australasian Representative	Lundin Oil Limited	21 Cove Street	BIRCHGROVE NSW 2041	02 9810 3014	02 9555 5715	
Dr	Howard	Brady	CEO	Mosaic Oil NL	3rd Floor, 6-8 Underwood Street	SYDNEY NSW 2000	02 9247 9324	02 9241 1655	hbrady@mosaicoil.com
Mr	Andrew	Andrejewskis	Director, Petroleum & Minerals Developments	NT Department of Mines and Energy, Office of Resource Development	GPO Box 2901	DARWIN NT 0801	08 8999 5425	08 8999 5191	
Ms	Kira	Westwood	Office of the Chief Executive	Petronas Australia Limited	Level 53, The MLC Centre, 19- 29 Martin Place	SYDNEY NSW 2000	02 9233 3400	02 9231 0636	westwoodk1@petro.nas.com.au
Mr	Rob	Crook	Commercial & Financial Manager	Petroz NL	GPO Box 733	BRISBANE QLD 4001	07 3231 0200	07 3231 0222	
Mr	Red	O'Hara	Director Planning & Operations Division	Queensland Department of Mines & Energy	GPO Box 194	BRISBANE QLD 4001	07 3235 4162	07 3237 1227	rohara@dme.qld.gov.au
Mr	Jeff	Pollock	Director, Energy Directorate	QLD Dept Treasury	GPO Box 611	BRISBANE QLD 4001	07 3224 6372	07 3221 4203	jeff.pollock@treasury.qld.gov.au

Title	FirstName	LastName	JobTitle	Company	Address1	City	Phone	Fax	email
Mr	Chris	Indermaur	Commercial Manager	Queensland Alumina Ltd	Parsons Point	GLADSTONE QLD 4680	07 4976 2309	07 4976 2309	indermaur@qal.co.m.au
Mr	Bruce	McCleary	Commercial Manager	QNI Yabulu	Level 8, 1 Eagle Street	BRISBANE QLD 4000	07 3224 3400	07 3229 2398	bhncleary@qni.co.m.au
Mr	Rod.A.	Rayner	Manager Commercial QNT	Santos	GPO Box 1010	BRISBANE QLD 4001	07 3228 6666	07 3228 6522	
Mr	Shane	McCarthy	Principal Counsel (Resources)	Shell Australia	1 Spring Street	MELBOURNE VIC 3001		03 9666 5008	
Mr	John	Lippiatt		Stanwell Corp	199 Charlotte Street	BRISBANE QLD 4000	07 3335 7444	07 3335 3822	
Mr	Stephen	Ridgeway	Lawyer for	Tarong Energy					
Mr	David	Biggs	Vice President, Gas Marketing Australia	BHP Proprietary Company Limited	GPO Box 86a	MELBOURNE VIC 3001		03 9652 6316	
Mr	Ken	Muir	Senior Manager - Energy	Transfield Pty Ltd	GPO Box 1020	BRISBANE QLD 4001	07 3334 8600	07 3334 8901	
Dr	James	Butler	Managing Director	Tri-Star Petroleum Co.	PO Box 7128	RIVERSIDE CENTRE QLD 4001	07 3236 9800	07 3221 2146	
Mr	Daljit	Gill	Gas Business Manager, Northern Business Unit	Woodside Energy Ltd	GPO Box D188	PERTH WA 6840	08 9348 4000	08 9348 5055	
Mr	Ray	Garand		Department of State Development QLD					PA majorj.morris@sdl.qld.gov.au
Mr	Andrew	Craig	CEO	QCCI					qcci@qcci.com.au