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Gas Marketing

Date 8 November 2002 Subject ACCC Draft Decision - Authorisation of  
VENCorp MSOR from Jan 1, 2003  
To **Simon Brinsmead** Total Pages 2  
ACCC  
Fax 02-6243-1205 Status  
From **Frank Slebos** C

Please find enclosed.

Regards

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**Esso Australia Pty Ltd**

ABN 49 000 018 566  
12 Riverside Quay  
Southbank, Victoria 3006  
61-3-9270 3388 Telephone  
61-3-9270 3996 Facsimile  
frank.slebos@exxonmobil.com

An **ExxonMobil** Subsidiary

Esso Australia Pty Ltd  
ABN 49 000 018 566  
12 Riverside Quay  
Southbank, Victoria 3006  
61 3 9270 3388 Telephone  
61 3 9270 3996 Facsimile  
frank.slebos@exxonmobil.com

Frank Slebos  
Gippsland Gas Marketing Manager

## ExxonMobil Gas Marketing

November 8, 2002

The General Manager  
Regulatory Affairs - Gas  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

ACCC Draft Decision -  
Authorisation of VENCORP  
MSOR from January 1, 2003

Dear Sir or Madam,

Further to your letter of October 18 providing the ACCC draft decision for the authorisation of the VENCORP Market System Operating Rules (MSOR) from January 1, 2003, we provide the following comments.

As the MSOR is now likely to form the basis for the management of the Victorian gas system into the future, we believe that in order for it to deliver to participants and end use customers the highest level of efficiency and system security, it is vital that the MSOR encourages the maximum possible liquidity in the spot market. The necessity for an increase in spot market liquidity was highlighted again by the July 22, 2002 emergency. To accomplish such a liquidity increase it is vital to achieve direct market participation of gas producers. In order to encourage gas producers to become direct market participants it is important that the obligations on producers providing gas under the MSOR are consistent with those which would be agreed under bilateral gas supply contracts.

In our submission of July 19, 2002 to the ACCC we highlighted key areas of concern with the MSOR, which place significant risk on gas producers and therefore act as a significant disincentive to them becoming direct market participants. These areas are;

- a) Force Majeure relief from scheduling instructions,
- b) appropriate balance of liabilities for market participants together with a limitation of liabilities for market participants to direct damages (excluding consequential damages), and with no liability for off-specification gas accepted by VENCORP, and
- c) ability for gas producers to nominate non-firm gas into the spot market.

We strongly support the ACCC's decision to include Force Majeure into the conditions for the extension of the MSOR. However, we believe that it should be for the Market Participant to claim Force Majeure relief based on a list of objective criteria rather than the decision to be in VENCORP's "reasonable opinion". Further we encourage the ACCC to include in its final decision a mandate that VENCORP develop and include appropriate amendments to cover the issues limitation of liabilities and nomination of non-firm gas.

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Since the emergency of July 22, 2002 we have been working closely with VENCORP in order to make appropriate changes to the MSOR that address each of Force Majeure, limitation of liabilities and nomination of non-firm gas. As part of this process we have provided proposed MSOR amendments. These amendments are currently being considered by VENCORP and the Gas Market Consultative Committee (GMCC). We look forward in the coming months to working positively with VENCORP and the GMCC to conclude final amendments that will reduce impediments for producers to become market participants.

If you have any questions regarding the issues raised in this submission please contact Nigel Collins on 03 9270-3682 or me on 03 9270-3388.

Yours faithfully,



**Frank Slebos**  
**Gippsland Gas Marketing Manager**  
Esso Australia Pty Ltd  
for and on behalf of  
Esso Australia Resources Pty Ltd