



Australian Competition & Consumer Commission

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Australia

3 February 2006

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**PNG Gas Project – application for authorisation A40081
PRE-DECISION CONFERENCE**

The Energy Users Association of Australia (EUAA) has requested that the Australian Competition & Consumer Commission (ACCC) convene a conference in relation to the draft determination issued by the ACCC on 16 January 2006 with respect to the application for authorisation A40081.

The draft determination follows an application by the participants in the PNG Gas Project for authorisation of joint marketing conduct. The ACCC concluded in its draft determination that overall it was satisfied that the public benefit flowing from the proposed arrangements is likely to outweigh any anti-competitive detriment and proposed to grant authorisation for a term of 16 years. The ACCC further proposed to extend the authorisation to future participants in the project who met specific criteria. A copy of the application and draft determination can be found on the ACCC's website <www.accc.gov.au>.

A pre-decision conference provides an opportunity for the applicants and interested parties to make oral submissions to the ACCC on its draft determination.

The ACCC will hold the conference on Wednesday, 1 March 2006 in Brisbane (at a venue to be decided). The conference will commence at 2 pm. ACCC Commissioner, Mr Ed Willett, will chair the conference.

Under the *Trade Practices Act 1974* (the Act), the conference may be attended by the applicant and other interested parties. The Act defines an interested person as a person who has notified the ACCC that they, or an unincorporated association of which they are a member, have an interest in the application and the ACCC is of the opinion that the interest is real and substantial.

If you wish to attend, you must notify the ACCC of your intention by Friday, 17 February 2006 and briefly indicate why you or your company or organisation has an interest in the matter. Notifications must be in writing and addressed to:

Mike Buckley
General Manager
Access Branch
Australian Energy Regulator
PO Box 1199
DICKSON ACT 2602



You can also notify the ACCC by e-mail to: AERInquiry@acr.gov.au or by facsimile on 02 6243 1205.

You should provide details of a contact name, telephone number, mailing address and, if possible, a facsimile number or e-mail address so that you can be notified of any late changes to conference arrangements.

If you represent a company or organisation you should also provide a list of attendees and their position titles and indicate who will be the chief spokesperson.

While conference participants may bring outside legal or other professional advisers to assist them, the Act prohibits these advisers from participating in conference discussions.

Attached for your information are procedures usually followed at pre-decision conferences.

A copy of this notice will be placed on the ACCC's public register and website. If you require any further information in regard to the conference or wish to clarify whether you may be considered an 'interested person' within the terms of the Act, please do not hesitate to contact John Bastick on (02) 6243 1364.

AN OUTLINE OF THE PROCEDURES
USUALLY FOLLOWED AT PRE-DECISION CONFERENCES

The Australian Competition and Consumer Commission (the ACCC) tries to conduct such conferences as informally, flexibly and speedily as possible. Where necessary a conference may be adjourned and reconvened at a later time.

An interested party attending a conference may have the assistance of outside legal or other professional advisers. Although such persons may attend the conference to assist, they are not entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the ACCC and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the applicant's conduct and the ACCC's draft determination. The applicant and interested parties have the opportunity to persuade the ACCC to accept their views. The ACCC benefits from direct contact with the parties and its perceptions of public benefit and competition are tested in a forum of interested parties where points are often quickly and forcefully made.

1. Preliminary procedures

- (a) When you arrive at the conference you will find that a seating plan may be available. You should identify yourself to the ACCC staff before the conference begins and indicate clearly if you expect messages to be left for you during the conference. Further, please complete the attendance book when arriving at the conference. This assists ACCC staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the Trade Practices Act and the manner in which the conference will be conducted. An agenda may be circulated.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the ACCC receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the ACCC and other parties present are assisted and your submission also forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) If you intend to present a submission at the conference and you wish it (or certain details in it) to remain confidential, you should make your confidentiality request to the Chair at the time of presenting the document. You should state in general terms the reason for your request. The Chair may request other parties present to leave the conference for a short period so that you may be given the opportunity, if necessary, to expand on your reasons.

If your request for the document (or parts of it) to remain confidential is denied you may ask for the document (or parts of it) to be returned to you. Any material returned to you will ordinarily not be taken into consideration by the ACCC in making its final decision (unless, of course, it was supplied from another source).

Any document you present without making any request for confidentiality will be placed on the ACCC's public register and website and the information it contains may be used by the ACCC in making its decision. Where confidentiality is granted the confidential information may also be taken into account, although such material will not be placed on the public register or website.

2. General procedures

- (a) The conference has been convened to discuss the draft determination, to canvass points of view and to assist the ACCC's weighing of issues and its interpretation of the information given to it.
- (b) The procedure is discretionary. The Chair controls the order of discussion and may take particular topics separately so that all the discussion on any given topic may be heard at the one time.
- (c) The conference is not a court and there is no right of cross-examination. You may request the Chair to ask questions of other parties present but the Chair retains the discretion as to whether your questions will be put. The Chair may also directly question the parties at the conference and they have discretion whether or not to answer.
- (d) ACCC staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register and website and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the ACCC and is required to report back to the ACCC, which will make the final decision.

3. Other matters

- (a) Following the pre-decision conference the ACCC will review its draft determination in the light of discussion and further submissions made at the conference (or within a set period of time after the conference). The ACCC will publish its final determination as soon as possible thereafter.
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