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The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Dear Sir/Madam

Alcoa World Alumina Australia's (Alcoa) further submission on the North West Shelf Project applications for authorisation A91220 to A91223

Overview

Alcoa makes this further submission to the Australian Competition and Consumer Commission (**ACCC**) in support of its original submission dated 30 April 2010 (**Alcoa Original Submission**) relating to the North West Shelf (**NWS**) venture participants' applications for authorisation A91220 to A91223, and in response to the NWS venture participants' submission in response to certain interested party submissions dated 27 May 2010 (**NWS May Submission**).

As detailed in the Alcoa Original Submission, Alcoa strongly advocates it remains in the public interest to have reliable, long term, affordable natural gas available to supply Western Australian industry. Therefore, Alcoa submits that should the joint marketing authorisations to the NWS venture participants be granted, the ACCC imposes the following conditions:

1. the NWS venture participants maintain domestic natural gas (**Domgas**) supplies at existing levels (subject to adjustment under point 2) for the term of the NWS project;

2. Domgas supplies are linked with the NWS venture participants' LNG production, providing the participants with flexibility to either increase Domgas supplies (in line with increases in plant capacity) or decrease Domgas supplies (in line with decreased LNG exports); and

3. an annual review be conducted under which the NWS venture participants would be required to demonstrate to the ACCC that they are doing everything practicable to market the natural gas domestically.

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Alcoa considers that the conditions specified above are justified as they will support the public benefit of obtaining long term security of Domgas supplies. This is critical to the future of Western Australian industry.

Alcoa Original Submission

The Alcoa Original Submission noted:

1. Alcoa's significant contribution to Western Australian industry and, in particular, to supporting and developing natural gas and natural gas infrastructure, including the Dampier to Bunbury Natural Gas Pipeline;

2. the importance of reliable, long term Domgas supplies to Alcoa's alumina refinery operations in Western Australia (and therefore to employment opportunities);

3. the critical importance of Alcoa's facilities to the supply of electricity to the South West Interconnected System;

4. the importance of Domgas supplies to the State's energy supplies, with 60% coming from natural gas generators;

5. the importance of reliable, long term, affordable Domgas to investment decisions;

6. the increased demand for Domgas versus the State's limited supply options, with the State currently relying on only two facilities (the NWS project and Varanus Island)[1] and that, despite the commissioning of the Devil Creek and Gorgon facilities, there is still an expected shortfall in Domgas supply;

7. the impact of Domgas supply shortfalls on project delays and viability;

8. that the proposed condition for the NWS venture participants to maintain Domgas supplies at existing levels for the term of the project complements the State's Strategic Energy Initiative to ensure that competitive, cleaner, secure and reliable energy is available for consumers and energy investors;

9. the ACCC's support of joint marketing for the Gorgon project was based on the public benefit in facilitating a greater amount of secure Domgas supplies and providing a source of additional competition (with a compelling factor being the requirement under the State Agreement for the supply of 2000 PJ of Domgas from the Gorgon project); and

10. the ACCC's support of joint marketing by the NWS venture participants.

Alcoa also pointed out that under the NWS project State Agreement, approximately 5000 PJ of natural gas is reserved for Domgas. However, all of this supply is now contracted. Furthermore, after 2014 there is no contractual or policy constraint on the NWS venture participants to maintain Domgas supplies at existing levels. Alcoa is concerned that the NWS venture participants may not continue to supply Domgas since there is no undertaking in the authorisations sought. On the contrary, the NWS venture participants' applications indicate that the supply of Domgas will be subject to investment decisions, which will take into account the advantages of LNG sales over

[1] It should also be noted that the major gas explosion at the Varanus Island facility on 3 June 2008 cut Western Australia's Domgas supply by 30%

Domgas supplies. Therefore, any Domgas supply would be at the NWS venture participants' discretion.

Further submission

In further support of the Alcoa Original Submission and in response to the NWS May Submission, Alcoa makes the following comments relating to specific paragraphs of the NWS May Submission:

1. Paragraph 13 - Alcoa considers that its proposed conditions are necessary to ensure that the public benefit of preserving Domgas supplies over the long term is achieved. Without the conditions, the NWS venture participants are under no obligation to maintain Domgas supplies at existing levels beyond 2014.[2] Furthermore, the NWS venture participants have indicated that:

    (a) future supplies of Domgas will be dependant upon investment decisions, in particular 'the value of alternative uses for the gas (such as LNG sales)';[3] and

    (b) the supply of Domgas involves greater risks and costs than the exporting LNG.[4]

    Therefore, if the NWS venture participants are not required to allocate production to Domgas supplies, then it is very likely that they would instead allocate it to LNG sales. This conclusion is further emphasised by the statement in Attachment 1 to the NWS venture participants' North West Shelf Project Application for authorisation - supporting submission dated 31 March 2010 (**NWS March Submission**) that 'the attractiveness of both scale and oil indexed pricing which can be achieved through LNG projects results in the consideration of sales into the WA domestic market unappealing by comparison'.[5]

    As acknowledged by the NWS venture participants, this would mean that there would be a material reduction in domestic marketing activities and Domgas supply,[6] and correspondingly higher Domgas prices.[7]

    Based on the above, Alcoa disputes the proposition made in paragraph 13 of the May Submission that 'none of the proposed conditions are necessary to ensure that there are net public benefits from the NWS venture participants continuing joint marketing to 2016'. Alcoa maintains that the proposed conditions are necessary, since the conditions will ensure that the NWS venture participants maintain Domgas supplies at existing levels for the term of the NWS project. Without the imposed conditions, there is no obligation on the NWS venture participants to do so after 2014 and they have indicated that, based on commercial considerations, they would not do so. The public detriment of any

[2] NWS March Submission, para 2.42; Alcoa Original Submission, pages 6-7

[3] NWS March Submission, para 2.69

[4] NWS March Submission, para 7.76, 9.22

[5] Wood Mackenzie report dated 26 March 2010, page 44

[6] NWS March Submission, para 7.80, 9.22

[7] NWS March Submission, para 9.22

reduction in Domgas supplies from the NWS Project is obvious. Therefore, these conditions are within the scope of ACCC's authorisation process as outlined in paragraphs 5.96 to 5.103 of the ACCC Guide to Authorisation, March 2007.

2. Paragraph 14 - Paragraph 14 of the May Submission states that the counterfactuals outlined in the NWS March Submission would result in reduced public benefits when compared to the NWS venture participants' application for joint marketing. Alcoa does not dispute this. However, none of the counterfactuals outlined in the NWS March Submission include the scenario whereby joint marketing authorisation is granted subject to conditions. If the current application for joint marketing is compared with an authorisation granted subject to conditions, then the net public benefits would be greater under the second scenario since:

   (a) more Domgas would be supplied to the Western Australian market;

   (b) Domgas prices are likely to be more globally competitive; and

   (c) there would be certainty regarding the supply of Domgas over the long term, leading to recognised economic benefits.

3. Paragraphs 15 and 16 - Alcoa recognises the uncertainty of the factors outlined in paragraph 15 of the May Submission relating to the NWS venture participants' continued supply of Domgas. It is as a result of these uncertain factors that Alcoa seeks that conditions be imposed on any authorisation granted to the NWS venture participants in order to make Domgas supplies certain. In particular, the NWS venture participants' repeated acknowledgement that Domgas supplies will be directly affected by:

   (a) the terms of potential Domgas sales; and

   (b) the value of alternative uses for the gas (which includes LNG sales),[8]

   indicates that if the NWS venture participants are not required to allocate production to Domgas supplies, then it is very likely that they would instead allocate it to LNG sales, being a more commercially attractive option.

4. Paragraph 17 - Alcoa does not consider that the imposition of condition that the NWS venture participants maintain Domgas supplies at existing levels for the term of the NWS project is unworkable. It simply preserves the current status, which provides certainty for both the NWS venture participants and Domgas consumers. Furthermore, it is consistent with clause 46(1a) of the NWS State Agreement.[9] The imposition of this condition would not require the ACCC (or any other government authority) to 'determine in advance what the 'correct' or 'optimum' level of Domgas production (and inevitably the market price) 'should be' and accordingly there would be no 'risk of regulatory error or failure' in trying to 'set this fixed or base quantity / price restriction'.

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[8] NWS March Submission, para 2.69; NWS May Submission, para 15

[9] Clause 46(1a) of the State Agreement provides that 'The Joint Venturers shall keep the Minister informed of their intended arrangements for the utilisation of natural gas processed through the onshore facilities during the years 2010 through 2025 and before entering into any arrangements for the sale, use, supply or export of such natural gas during those years the Joint Venturers and the Minister shall consult and reach agreement on the requirements in the State and the manner in which they will be met during those years having regard to requirements for natural gas which the Joint Venturers could make available on arms length commercial terms.'

Likewise, the condition that an annual review be conducted under which the NWS venture participants would need to demonstrate to the ACCC that it is doing everything practicable to market the natural gas domestically would also not require the ACCC to determine what the 'correct' or 'optimum' level of Domgas marketing and production is. It simply requires the ACCC to audit the NWS venture participants' marketing activities on an annual basis to ensure that they are meeting their obligation to supply Domgas at existing levels. Therefore, there would again be no 'risk of regulatory error or failure' in trying to set any production quantity.

Alcoa's proposed condition that Domgas supplies are linked with the NWS venture participants' LNG production provides the participants with flexibility to either increase or decrease Domgas supplies and would assist the participants in meeting their supply commitments.

The demand for Domgas is increasing, with around 30 customers now purchasing gas directly from producers.[10] Furthermore, there currently exists a shortage of Domgas to meet the demand.[11] Therefore, certainty of supply is critical in order to service both the current and future increased demands and to maintain price at an affordable level.

5. Paragraph 18 - This paragraph does not directly relate to Alcoa's submissions and is therefore not addressed.

6. Paragraph 19 - As noted in point 4 above, Alcoa's proposed conditions will not require the ACCC to engineer 'optimum' levels of production or price in the Domgas market. However, the proposed conditions are necessary to ensure that there are net public benefits from the NWS venture participants' continued joint marketing. These benefits would not be achieved if the NWS venture participants were permitted to decide how much Domgas they would supply, since they have repetitively stated that it would depend on market forces, including the value of LNG sales. Therefore, these conditions are within ACCC's scope of the authorisation process as outlined in paragraphs 5.96 to 5.103 of the ACCC Guide to Authorisation, March 2007.

   Alcoa considers that the imposition of its proposed conditions is unlikely to 'fundamentally change the NWS venture participants' business in Western Australia' or 'impose an unjustified burden upon them' since no changes to the NWS venture participants' current Domgas supply arrangements are required, other than an annual review.

7. Paragraph 20 - For the reasons expressed in points 1 and 2 above, Alcoa disputes the claims made in paragraph 20 of the May Submission.

8. Paragraph 21 – Alcoa recognises the NWS venture participants' valuable contribution to Domgas supplies and is encouraged that they are seeking

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[10] Synergy's submission to the ACCC dated 30 April 2010, pages 1-2; Media statement by Energy Supply Association of Australia dated 24 June 2010 stating that Western Australia had an increase in electricity consumption of 4.3% in 2008-09

[11] Record of meeting between Alcoa and ACCC on 31 May 2010; Domgas Alliance submission to the WA State Energy Initiative relating to the Domestic Gas Action Plan dated March 2010, pages 29-31

protection for contracts for terms of 25 years.[12] However, the NWS venture participants are under no obligation to maintain Domgas supplies at existing levels beyond 2014.[13] Therefore, Alcoa's proposed conditions are necessary in order to ensure that Domgas supplies are maintained past 2014.

Alcoa does not specifically address the other paragraphs of the NWS May Submission as they do not directly relate to Alcoa's submissions.

As stated in the Alcoa Original Submission, the security of natural gas supply at affordable prices for Western Australia must be a paramount consideration.[14] For that reason, Alcoa's proposed conditions should be imposed on any joint marketing authorisation granted to the NWS venture participants.

Should you have any questions regarding either of Alcoa's submissions or require further information, please contact Mike Shaw, Alcoa's Energy Services Manager, on (08) 9316 5824.

Yours sincerely

MIKE SHAW for.

Michael A. Parker
Director, Business Development and Marketing
Alcoa World Alumina Australia

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[12] Alcoa Original Submission, pages 1-2

[13] NWS March Submission, para 2.42; Alcoa Original Submission, pages 6-7

[14] Alcoa Original Submission, page 1