

4 March 2016

Baethan Mullen
Acting General Manager
Adjudication Branch
Australian Competition & Consumer Commission
GPO Box 3131
Canberra ACT 2601

Lodged (via email): adjudication@acc.gov.au

Dear Baethan,

**Re: Australia Pacific LNG & Ors applications for authorisation A91516-A91517
– draft determination and interim authorisation**

Thank you for the opportunity to make a submission to the Australian Competition & Consumer Commission's (ACCC) draft determination.

Stanwell thanks the ACCC for considering the impact of the proposed conduct on information asymmetries for participants in the domestic markets. Stanwell generally supports the ACCC's draft determination and condition of authorisation however remains concerned with several elements.

1. Shutdown size

The Condition requires the LNG Producer to publish Maintenance Information in relation to the size of the shutdown. That is, at 2 b) it requires the producer to specify whether the maintenance involves:

- i) Shutdown of one half or less of an LNG train;
- ii) Shutdown of greater than one half of an LNG train but not greater than one LNG train; or
- iii) Shutdown of greater than one LNG train

In the event that a producer needs to shut down greater than one LNG train, it is essential that the shut down proportion of the 2nd train be disclosed. This is due to the large volume of gas involved and the impact on the domestic gas markets. This could be achieved by replacing iii) above and adding

- iv) Shutdown of greater than one LNG train but not greater than one and a half LNG trains;
- v) Shutdown of greater than one and a half LNG trains

2. Preliminary discussions

The Condition specifically excludes disclosure due to "preliminary discussions between LNG Producers for the purpose of determining possible dates for Scheduled Maintenance Activities". This presumably involves discussing preliminary dates in order to ascertain the availability of contractors and maintenance equipment. While this iterative approach to finalising outage dates is appropriate, there is nothing in the Condition that prevents this shared, preliminary information from being used by the LNG Producers in their gas market trading activities. Even though the information shared is preliminary, it is still market sensitive information that would give the LNG Producers an advantage in their negotiations with

domestic gas market participants. Stanwell suggests that the Condition include a clause to ensure that the preliminary discussions envisioned in 2 (b), which are not disclosed as part of the Condition, are kept in strict confidence within the planning team/s until after they are disclosed through the Condition. This will prevent the information being shared with the LNG Producer's gas market trading teams, and used to the detriment of domestic participants, before it is disclosed through the Authorisation.

3. Unscheduled vs Scheduled outages

The Authorisation proposes to allow the LNG Producers to "inform one another of ad hoc unplanned maintenance requirements"¹. However, the Condition does not mandate the disclosure of unplanned maintenance activities. Unplanned maintenance is likely to have a greater impact on the domestic gas market than scheduled maintenance due to the lack of time to make plans to otherwise divert the gas.

If this information is shared with other LNG Producers, it must be disclosed to the wider market. This is to prevent the same information asymmetry problems that undisclosed shared, scheduled maintenance information causes. Stanwell suggests renaming "Scheduled Maintenance Activities" to "Maintenance Activities" and including in the definition both "scheduled" and "unscheduled" maintenance activities.

4. Updating of previously published information

The draft determination says "The ACCC does not consider that the condition should include a requirement to require updating of published information where that information has not been shared by the LNG Producers. LNG Producers will have the incentive to share any revised planned maintenance dates to ensure that the revised dates do not clash with the other LNG Producers' activities. This would trigger the requirement to disclose maintenance information and thereby see the previous information updated."²

Stanwell does not consider this satisfactory. For example, after discussions with the other LNG Producers, a LNG Producer may finalise and publish an outage schedule. Later, further planning may reveal the proposed outage may be shortened by 2 weeks. As the outage is planned to be shortened (rather than extended), the LNG Producer may consider that the change will not impact the other LNG Producers and therefore choose not to disclose this information to the other LNG Producers. Similarly, an extension to the outage timeframe may occur without the need for consultation between LNG participants where the contractors involved confirm their availability in the knowledge of the outage schedules of other LNG plants.

If this occurs, the change is not required to be disclosed by the Condition. This means critical information relating to the outage will be out of date and misleading to gas market participants. This will impact on confidence in the information at all times and is likely to adversely affect dealings between gas market participants and LNG Producers.

Stanwell consider that the disclosure obligation should include a requirement that disclosed information not be allowed to become misleading through inaction.

¹ Page 3, Draft Determination

² Paragraph 157, Draft Determination

5. As soon as practicable

Stanwell is concerned that framing the disclosure obligation as "...as soon as is practicable after, but within 2 business days of, the disclosure to the other LNG Producer(s)." risks diluting the "as soon as practicable" element of the condition. Where it is reasonably practicable that the information is able to be disseminated earlier than 2 business days, we believe it should be, in order to minimise price sensitive information assymetry.

We encourage the ACCC to remove ", but within 2 business days of,".

Thank you for your consideration of Stanwell's response to the draft determination. If you would like to discuss any aspect of this submission, please contact Jennifer Tarr on 07 3228 4546.

Regards

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Energy Trading and Commercial Strategy