



4 March 2016

Baethan Mullen  
Acting General Manager, Adjudication Branch  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
Canberra ACT 2601

Lodged by email to [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au)

**Re: A91516-A91517 – Australia Pacific LNG Pty Ltd & Ors**

Dear Baethan

Thank you for the opportunity to comment on the Australian Competition and Consumer Commission's (ACCC) Draft Determination on the application for authorisation lodged by the participants of the Australian Pacific LNG Project, the Queensland Curtis LNG Project and Gladstone LNG Project (LNG Participants) to enter into arrangements regarding the scheduling of maintenance works and share relevant maintenance information.

**About ERM Power Limited**

ERM Power is an Australian energy company that operates electricity generation and electricity sales businesses. Trading as ERM Business Energy and founded in 1980, we have grown to become the fourth largest electricity retailer in Australia, with operations in every state and the Australian Capital Territory. We are also licensed to sell electricity in several markets in the United States. We have equity interests in 497 megawatts of low emission, gas-fired peaking power stations in Western Australia and Queensland, both of which we operate.

**General comments**

ERM Power appreciates the ACCC's acknowledgement of the detrimental competition impacts on the domestic energy markets that may arise if relevant LNG facility maintenance information is not made available to all trading participants on an equal basis. As stated in our recent submission dated 2/02/16, we strongly support the ACCC's proposal to impose a condition of authorisation that requires the LNG Participants to publicly disclose relevant maintenance information. We welcome the inclusion of the information disclosure condition in the Draft Determination however recommend that the condition be expanded to ensure that all information asymmetry issues are completely addressed.

**Condition should require information to be kept up to date**

In our previous submission we recommended that the LNG Participants should be required to ensure that the information furnished is accurate and accordingly update the information where applicable. Under the ACCC's proposed condition, to the extent the LNG Participants share updates with each other, they will be required to provide the same updates to the wider market. However the condition does not require the LNG Participants to provide updates where those updates have not been shared with the other LNG Participants. The ACCC notes that they expect the LNG Participants to have an incentive to share updated information with each other to ensure a coordinated approach to scheduling maintenance, and hence in most cases updates would be publicly disclosed as required by the condition.

ERM Power is still of the view however that the condition of authorisation should require the LNG Participants to provide updates regardless of whether or not the updates have been shared with the other LNG Participants. This is necessary to minimise the risk that the information reported is misleading and provide confidence to domestic energy market participants that they can rely on the information to make commercial decisions.

**Other relevant maintenance information that can potentially impact the domestic gas demand/supply balance and prices should be disclosed**

In our recent submission we also recommended that the LNG Participants should be required to publicly disclose a range of other relevant maintenance information (capacity impacts, unplanned maintenance and MTPASA/MTCO information). Although a potential disclosure requirement that captures such information is currently being considered as part of the Australian Energy Market Commission's (AEMC) east coast gas market review, it is not clear as to whether and when such a requirement will be effected. As the ACCC notes in paragraph 87 of its Draft Determination, the AEMC's process is unlikely to be completed in 2016.

In our view, there is a significant information asymmetry issue affecting the domestic energy markets that should be addressed now. We maintain our position that LNG Participants should be required to disclose the additional information mentioned above (as well as provide updates), as part of the condition of authorisation or some other method. The existing information asymmetry hinders the ability of non-LNG participants to make optimal commercial decisions and effectively manage their risks. It also diminishes confidence in trading in the domestic energy markets (including for forward contracts) due to the fact that the LNG Participants will have information about factors that can impact future demand/supply conditions and prices, while others trading in the same markets do not have access to the same information. The consequence of allowing the information asymmetry to persist is a loss of efficiency in the east coast domestic energy markets.

Thank you again for the opportunity to provide our comments. Please feel free to contact me if you would like to discuss or require any further information.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'SK', written over a light blue horizontal line.

Sarah Kok  
Commercial Manager – Gas  
02 8243 9109 - [skok@ermpower.com.au](mailto:skok@ermpower.com.au)