



**EnergyAustralia**

4 March 2016

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

EnergyAustralia Pty Ltd  
ABN 99 086 014 968

Level 33  
385 Bourke Street  
Melbourne Victoria 3000

Phone +61 3 8628 1000  
Facsimile +61 3 8628 1050

enq@energyaustralia.com.au  
energyaustralia.com.au

Lodged via email: adjudication@accc.gov.au

Dear Baethan,

**Australia Pacific LNG Pty Ltd and Others applications for authorisation (A91516-A91517) – draft determination and interim authorisation**

We are one of Australia's largest energy companies with over 2.5 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own and operate a multi-billion dollar energy generation portfolio across Australia, including coal, gas, and wind assets with control of over 4,500MW of generation in the National Electricity Market

Liquefied Natural Gas (LNG) export facility outages will create significant volatility in expected gas flows and market prices yet currently there is no visibility to gas market participants as to the timing of planned outages. The application explains the potential need to repurpose excess gas during outages which includes on-selling to third parties not privy to the maintenance schedules shared between the applicants.

We commend the Australian Competition and Consumer Commission's (ACCC) acknowledgement of stakeholders' concerns with the potential for material information asymmetry to arise due to the authorisation. The draft conditions take a positive step towards reducing public detriment by ensuring parties involved in the discussions to coordinate maintenance schedules do not gain an advantage over other market participants.

However, the information arising from the draft conditions will be of limited use to market participants. There is a possibility that the information being provided will be misinterpreted by the market as a reliable indicator of plant outages as the conditions make it clear that the information will be incomplete and outdated. Significant gaps in the completeness and reliability of the outage schedules could arise from:

- Only information disclosed to the other LNG producers is required to be reported
- Preliminary dates that are discussed are not captured even if those dates become firm, unless the final dates are disclosed
- Minor outages may not require coordination and as such are not disclosed
- Updates or cancellation of outages may not require disclosure

- Maintenance involving the shutdown of an LNG train may not require an outage of the train for the entire maintenance period creating ambiguity around published dates
- LNG train shutdowns below one day are not captured
- A potential two-day delay from initial disclosure to publishing the information
- A potential large delay from the knowledge of the timing of 'Scheduled Maintenance Activities' to disclosure

This will ensure that the maintenance schedules published are incomplete and unreliable.

The ACCC notes that requirements comparable to the MTPASA (Medium Term Projected Assessment of System Adequacy) go beyond the scope of the proposed conduct of the authorisation.<sup>1</sup> We accept this, but find the outcome may not go far enough. Due to the standard of the MTPASA it can be used by market participants 'to meet their obligations under the insider trading provisions of the Commonwealth Corporations ACT 1989, by allowing them to provide timely disclosure of the implications of their generation outage plans prior to seeking financial cover through securities dealings.'<sup>2</sup>

We would like to highlight the inability of information published under the draft conditions to meet the same obligations due to its incompleteness. Although financial products that are captured here are not traded in the gas market, equivalent products *are* traded, where market confidence is equally important.

We strongly support a tightening of the conditions or for an accelerated implementation of the AEMC's recommendations in the East Coast gas review which accept the necessity of additional information disclosure for an efficiently functioning market.

If you would like to discuss this submission, please contact me on (03) 8628 4518.

Regards



**Ben Hayward**

Industry Regulation Analyst

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<sup>1</sup> Applications for authorisation A91516-A91517 - Australia Pacific LNG Pty Limited and others - Consultation on possible information disclosure condition

<sup>2</sup> <http://www.aemo.com.au/Electricity/Data/Market-Management-System-MMS/Projection-Assessment>