

4 June 2004

Mr Lyndon Rowe
Chairman
Economic Regulatory Authority
6th Floor
Governor Stirling Tower
197 St Georges Tce
Perth Western Australia 6000

Dear Sir

DISCUSSION PAPER ON INCENTIVE MECHANISMS UNDER THE GAS CODE

I am writing in response to the call for public submissions on the paper prepared by Farrant Consulting Pty Ltd on the subject of incentive mechanisms under Section 8 of the National Gas Access Code which the ERA issued on 17 May 2004.

The Australian Pipeline Industry Association (APIA) has a number of concerns regarding the timing and justification for initiating a public review process of this nature at this time.

As you will be aware, the Productivity Commission is currently engaged in a major independent review of the Gas Access Code and related matters that is investigating numerous aspects of the form and practice of the gas access regime. It has been open to all interested parties, including regulatory agencies, to make submissions to the Commission in regard to issues which parties feel need to be addressed in order to improve the regime. APIA notes that the ERA has in fact already made submissions to the Commission as part of its review and that ERA has not raised in that forum any of the issues dealt with in its discussion paper.

Given the currency of the Commission's review as a major policy initiative supported by all governments, it is APIA's view that the Commission's review is the appropriate forum in which the issues raised by the ERA's discussion paper ought properly to have been addressed. Although the Commission is yet to arrive at its final conclusions regarding the changes necessary to the Gas Code, it is public knowledge that this is imminent. Against this background APIA does not consider it appropriate for a regulator to initiate its own independent review of any portion of the Gas Code at this point in time.

It is not clear from either the report or the notice that accompanied its release as to what circumstances have arisen as to prompt the ERA to initiate this

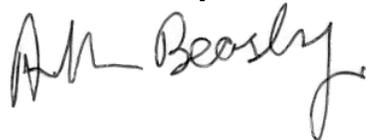
review at this time. The discussion paper does not appear to relate the issues with which it deals to either of the specific Access Arrangement processes in which the ERA is currently engaged.

Consequently it appears that the review initiated by the ERA is intended to be of general application. If this is so, then the matter is one that has significant relevance beyond the deliberations of a single state based regulatory agency considering the application of the gas access regime and should therefore be addressed through the Commission's review.

APIA also notes that the undertaking of an individual, state based review at this time is also potentially counter-productive to the national implementation of the outcomes of the Commission's review given the interaction between incentive mechanisms and the successful operation of the Gas Code. Accordingly, APIA recommends that the issues relating to incentive mechanisms that have been raised by the ERA in its discussion paper, be referred to the Commission for inclusion in its recommendations regarding the improvements necessary to the form and practice of access regulation under the national Gas Code.

Alternatively, even if for some reason the review by the Commission is not regarded as the appropriate forum, for the reasons outlined above it is inappropriate for the ERA to have issued the discussion paper prior to the release of the Commission's final report and its consideration by Ministers. APIA therefore requests that the discussion paper be withdrawn and be reissued only following the release of the final report by the Commission and its subsequent consideration by the Ministerial Council on Energy.

Yours sincerely

A handwritten signature in black ink, appearing to read "Allen Beasley". The signature is fluid and cursive, with a prominent initial "A" and a long, sweeping tail on the "y".

Allen Beasley
Chief Executive Officer

Cc Mr Tony Hinton, Presiding Commissioner, Productivity Commission
Review of the National Gas Access Regime.
The Hon Ian Macfarlane, Chair, Ministerial Council on Energy