



26 November 2004

Mr E J Hall
Chief Executive
Queensland Competition Authority
Level 19, Comalco Place
12 Creek Street
BRISBANE QLD 4000

Dear Sir

GasNet Australia is pleased to provide the attached submission in relation to the Draft Decision of the Authority in respect of the Dalrymple Bay Coal Terminal.

GasNet Australia is the owner of regulated gas transmission pipelines in Victoria and New South Wales and makes this submission as an owner of regulated infrastructure assets.

GasNet Australia also notes and supports the submission from the Australian Pipeline Industry Association of which it is a member.

A hard copy of this letter and the submission has been posted today. If you have any queries with regard to the submission please contact me on (03) 9797 5204.

Yours sincerely

Paul Callander
Acting Regulatory Manager

cc: Mr D McDonough
Chairman

Submission by GasNet Australia in relation to the Draft Decision by the Queensland Competition Authority in respect of the Dalrymple Bay Coal Terminal

Introduction

GasNet is concerned at the tariff level approved by the QCA in its Draft Decision on the Dalrymple Bay Coal Terminal (DBCT). This decision has implications for other infrastructure owners in Australia. GasNet's concerns relate to the allowed rate of return on the investment represented by the DBCT and the calculation of the allowable non capital costs that can be recovered in the tariff. These are the main factors in setting a tariff rate for DBCT that GasNet sees as punitive for the service provider and resulting in significant costs to the economy in the longer term. These costs will arise from the chilling effect on investment at both DBCT and elsewhere in the provision of regulated infrastructure to support continued growth in the Australian economy. We note that the users of the DBCT are already calling for government intervention to require the port to be expanded.

Rate of Return

Because the provision of infrastructure is fundamental to the development of the whole economy, the results of operational strictures on and under investment in infrastructure will have a multiplicative affect on the well being of all Australians. It is imperative that regulatory outcomes do not create a barrier to the efficient operation and continued development of infrastructure assets.

GasNet is concerned at the methodology chosen by the QCA in determining the inputs to the WACC calculation for DBCT. While the CAPM may be the accepted estimator of a corporation's cost of capital, it is generally acknowledged that the application of the theoretical model to an individual company is subject to a great deal of uncertainty. Few of the inputs into the formula are capable of accurate definition. This is especially true where the service provider is not a single purpose vehicle nor directly participates in a liquid market. In Australia, this uncertainty is exacerbated by the limited number and short market history of participants in the infrastructure industry. The QCA has relied on empirical data as processed by its consultant, Allen Consulting Group, which is subject to these limitations. Not only is the data subject to the limitations noted above, but the choice of comparative data is controversial. Nevertheless, the data has been applied without allowance for these uncertainties.

Non Capital Costs

GasNet is unable to agree with the concept that the corporate structure of a service provider should be ignored and non capital costs be allowed only to the extent that they directly concern operations. Even a stand alone port operator would need to meet the accounting and governance standards required of all corporations in Australia. Moreover, the financial and strategic management of a port of the size of DBCT is a significant commitment. This means costs for executive and strategic management, financial and legal control and possibly listing costs are a normal cost of doing business and so should be allowed. Far from disallowing these costs as unnecessary to a stand alone company, the corporate structure of an entity such as Prime allows for these necessary costs to be shared by a number of operations thus reducing the burden on each.

GasNet is further of the opinion that the type of corporate structure chosen by a service provider cannot be ignored and its costs disallowed. The corporate structure of Prime and other Australian infrastructure entities is constrained by accounting and taxation requirements such that most of them have chosen a trust structure. This structure enables them to optimize their

financial management so as to minimize their cost of capital. Thus, to disallow the costs of the structure while insisting on the lower cost of capital is patently inequitable.

Conclusion

GasNet considers the Draft Decision does not reflect a balanced outcome which takes into account both the requirement for efficient operation of DBCT and the legitimate business interests of the service provider. Moreover, the fact that the Draft Decision would result in a reduction in tariffs to levels significantly below comparable ports both in Australia and internationally suggests that the outcome is not sustainable. GasNet's concern is further that the imposition of such a tariff level on one infrastructure service provider in Australia will establish a precedent that will, over time, flow through to other service providers.

GasNet has raised these issues at a general level as they affect other providers of regulated infrastructure services in Australia. GasNet understands that the service provider has addressed these concerns in detail from its own perspective in its submission.