Mr Warwick Anderson
General Manager
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

By email: rbp@aer.gov.au

21st June 2012

Dear Mr Anderson

RE: APT Petroleum Pipeline Pty Ltd Access Arrangement draft decision Roma to Brisbane Pipeline 2012–13 to 2016–17, April 2012

Australian Power and Gas (APG) welcomes the opportunity to provide comment on the Roma to Brisbane Pipeline Access Arrangement (RBPAA) draft decision. APG is a national retailer of gas, electricity and green electricity products to the domestic energy market. We have both gas and electricity licenses in Victoria, New South Wales, Queensland, ACT and South Australia. We currently have in excess of 300,000 customers in Victoria, New South Wales and Queensland. As a Shipper and User on the Brisbane to Roma Pipeline (RBP) and as an active and growing retailer in Queensland, APG takes particular interest in ensuring this Access Arrangement is fair, equitable and in the best interests of our customers.

Though we generally regard market based solutions as the most efficient and effective mechanism, we recognise that regulatory oversight and price setting of services provided by natural monopolies such as APT Petroleum Pipeline Pty Ltd (APTPPL) is an imperative to uphold the National Gas Objective for the Short Term Trading Market (STTM) in Queensland. Where competition does not exist, regulation allows rates and prices to be set fairly and equitably and services to be provided in a non-discriminatory and efficient manner. It is with these principles in mind we make comments on the proposal (see detailed comments attached).

In summary:

- We are disappointed with the AER's decision to accept the proposed changes to tariffs, inclusion of throughput tariffs and changes to variance charges;

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- We see strong arguments for the inclusion of intraday renomination and other services as part of the Reference Service given the environment of the STTM in Queensland and the proposed heavier penalties for variances;
- We support the reinstatement of queuing but suggest amendments to the newly proposed APTPPL queuing policies are required;
- We understand that changes to terms and conditions have been made with the intention to reflect a consistent format of the Amadeus Access Arrangement. However, we believe that this should not deteriorate the position of Users, particularly with regards to prudential arrangements.

If you have any queries in relation to our comments, please contact Libby Hawker, Market Development Manager on 03 8621 3709.

Yours sincerely

Shelley Reed
General Manager Wholesale Gas & Carbon

Detailed Comments

Capacity Utilisation

APG welcomes the AERs draft decision and APTPPLs subsequent amendment to the utilisation forecast in the 2016 -2017 period to be 100%.

Tariffs

We are disappointed in the AERs decision to accept the proposed increased tariff charges, including the throughput tariff. We maintain that these charges will only increase prices to customers for no change in the service provision. Further we do not agree with the AERs supposition that they appear to provide users with a "reasonable imbalance limit"[1] and seek clarification from the AER on how a halving of the daily variance allowance coupled with a significant increase in the daily variance rate is justified or indeed reasonable?

Intra-day renomination services, as available and backhaul services

APG is disappointed with the AER draft decision that additional services such as intraday renomination, as available and backhaul should be excluded from the Reference Service. The AER's rationale that it does not appear that intraday renomination services are likely to be sought by a significant part of the market[2] is in contradiction with submissions from Users, including our own. We see these services as being consistent with the Reference Service provision under the National Gas Rules[3] and as being critical to Users in managing the risk with the complex environment presented by the STTM in Queensland.

We do not agree with the conjecture that levels of usage of intraday renomination services are due to the current free charging[4]. Users are utilising this service because it is becoming a requisite to manage balancing and to avoid costly deviations for a service which operates on a fully contracted single pipeline. Moreover, we argue that the newly proposed increase for the variance allowance tariff and the tightening of the daily variance allowance (which seeks to cut flexibility to shippers) make these services even more crucial and we urge the AER to take particular consideration of this and review its draft decision.

We also find it unsatisfactory to Users that we will need to wait for the next RBPAA before the AER will consider inclusion of the services. If the new variance payment and allowances remain in the Final Decision, then intraday renomination services are

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[1] APT Petroleum Pipeline Pty Ltd Access arrangement draft decision Roma to Brisbane Pipeline 2012–13 to 2016–17, April 2012, Page 62

[2] APT Petroleum Pipeline Pty Ltd Access arrangement draft decision, page 84

[3] National Gas Rules, r 101

[4] APT Petroleum Pipeline Pty Ltd Access arrangement draft decision, page 84

even more inherently required for the firm service from the start of this RBPAA and should accordingly be considered part of the Reference Service now.

We regard price regulation of these services as justified given these services reduce the likelihood of variance payments which appear to be becoming more onerous; are widely used for that purpose and will be even more so. Further, the monopolistic nature of these services gives rise to the need for regulation to ensure service provision is efficient and effective and is consistent with the National Gas Objective.

Tariff Variation:

We welcome the AERs draft decision on rejecting the automatic annual adjustment mechanism proposed by APTPPL whereby if an approval to tariff adjustment is not forthcoming from the AER by 1 July, tariffs may be increased irrespective. Retailers would have no option but to pass the unauthorised and potentially temporary tariff increase through. It is unreasonable and impractical to have a potentially unresolved tariff increase passed through to customers. Further, such a mechanism may add to administrative costs with repealing the adjustments should increases not be subsequently approved.

Carbon Costs

With respect to carbon costs, APTPPL has presented its forecast of carbon costs under table 8.1 of its Revised Access Arrangement Revised Proposal Submission[5]. We note that the forecast 2016/ 2017 has combustion emissions (categorised as "Fuel Gas Emissions") reducing to 24,063 tCO2e. We question whether carbon costs would be covered by an Obligation Transfer Number (that is, as a liable cost to APTPPL) towards the end of the Access Arrangement period, given this estimate is under the Large Gas Consuming Facility threshold for combustion emissions of 25000 tCO2e?

Queuing

We support with the removal of the APTPPL's publically notified auctioning proposal. Although we do see an auctioning mechanism as reasonable *in theory* to meet the objective of providing an accessible platform for Shippers seeking additional capacity, we agree the models proposed had shortcomings that were insurmountable in the timeframe of the Access Arrangement decision. Further we did have concerns with the level of transparency afforded to bidders to make reasonable decision on bidding, including understanding the detail of the terms and conditions surrounding the capacity being sold and bid outcomes.

[5] See APPTPPL's RBP AA Revised Proposal Submission, table 8.1 MAY 2012, page 47

We wish to make the following comments on APPPLs newly proposed queuing policies:

Existing capacity

We note of the inclusion of a Capacity Queue Deposit as being

Existing Capacity Queue Deposit = Volume of capacity sought x Reference Tariff x 365 x 10%

Given that this deposit is to dissuade shippers from "queue sitting", we see that it should not be so onerous that it is beyond that purpose of being a deterrent. Hence at 10%, we see the deposit as too excessive and would be more appropriate to be at a level of no more than 5%. Further we believe that this money should be refunded should a shipper choose to leave the queue. We do not see the possible return of a deposit as a dilutant to the disincentive to queue sit. The return of deposit is important particularly if circumstances change beyond the control of the shipper and to the extent that the plans for future capacity are no longer suitable. This also includes situations where the planned capacity does not proceed.

We also consider that any deposit monies should have interest accrued which is later offset with the deposit against the Shipper's future contract costs once the new capacity has been realised.

Decision on queuing by shippers will be made according to the information provided by APTPPL. Although we understand that notification as to whether a shipper intends to remain on a queue as important, this must be an *informed* decision and can only be made with latest available information on planning, estimated timeframes etc. Therefore we see quarterly updates as two-way, and the latest information and plans on proposed capacity needs to be provided to shippers *prior* to any confirmation of queuing status.

Developable Capacity

Any open season process for developable capacity needs to be conducted on a fair and equitable basis and not discriminate against smaller shippers. Rules need to be established to ensure a level playing field is upheld.

Comments on Terms and Conditions Applying to the Firm Service:

Clause 2 Prudential Requirements

We have always maintained that provision of credit support should be commensurate with the level of risks associated with payment default and balanced to recognise the costs that the arrangements impose on Users.

We strongly oppose the drafting of clause 2 which suggests that credit support arrangements are to be solely at the discretion of APTPPL. The drafting lacks reference to any consistent calculation methodology in determining the quantum, or criteria for determining the type of this support. In our opinion, the clause as worded may produce an arrangement that is unfair, risks being discriminatory against smaller unrated Users and is susceptible to over-provision. It is therefore unacceptable.

We maintain that Users should be given flexibility to provide credit support in a low cost manner, commensurate with the risk of payment default and with consideration to that User's risk profile. Credit support should be flexible to Users for provision upfront but also to maintain the arrangement. We believe forms such as cash deposits, bank guarantee or indeed a mix should be available. Where Users are not officially rated by an agency, assessments of profiles according to models such as Dunn & Bradstreet should be sufficient.

Clause 8b

We support the AERs deletion of 8b. However if this clause is to remain it should stipulate that it is limited to those directions or requirements of an Authority that are binding on the Service Provider or User.

Clause 10 a

We note APTPPL has inserted a further clause (clause 10A) dealing with changes to nominations due to contingency gas quantities.

We believe this clause is unnecessary as the STTM Rule and Procedures clearly define requirements on participants should contingency gas be called.

Clause 16

We agree with the AER draft decision that the original wording of clause 16 should remain. We note that APTPPL has disputed this draft decision but we query how a failure to schedule in the context as APTPPL argues it should remain, would not be captured under an interruption or curtailment?

Clause 35

Notice of curtailment under this clause is no later than 1 month prior but we suggest that notice should be provided earlier if APTPPL is aware that curtailment is necessary. Hence wording should suggest no later than one month and in any event, notify us as soon as practicable on becoming aware of the issue.

Clause 57

We disagree with the changes to clause 57 and the insertion of "gross negligence" instead of negligence. We believe this is an unacceptable weakening of APTPPLs liability.

Clause 60B

We agree with the AERs draft decision that this clause be removed. If however it is to remain we suggest that it we "*use reasonable endeavours to ensure that* Contract Reference information provided by or on behalf of the User to Service Provider or AEMO is accurate".

Clause 100

APG believes the provisions for change of control should be removed. The clause provides that in circumstances where there is a change in control of a party (affected party) the Deed cannot be enforced until consent has been obtained from the other party. Further, the other Party may terminate the Deed if consent under paragraph (d) is not obtained within 60 Business Days of the earlier of the date on which the Affected Party first notifies the other Party of the Change in Control and the date on which the other Party becomes aware of the Change in Control. We suggest that 'change in control' may be beyond the immediate control of the parties (as in the case of a publically listed company) and in effect, a subsequent trigger that the Deed is not enforced until consent is obtained from the other party maybe an unreasonable disruption to continuing business. Further we see this potential disruption as inconsistent with the application of the NGO with regards to reliability and security of supply.

Clause 102

We believe this clause should make provision for disclosure to any financiers or prospective financiers of a party, as exceptions to consent requirements (in addition to those already specified as a lawfully required by an authority). Further, we believe there should be explicit provision for disclosure due to adherence of rules of a stock exchange, again as an exception to consent requirements under this clause 102.