

## GasNet Final Comments on Application to Revise the WUGS Transmission Refill Tariff

2 December 2004

This note is submitted by GasNet in response to the further comments provided by TXU to the Commission on 1 December 2004 in respect of the Application by GasNet to revise the WUGS Transmission Refill Tariff.

### TXU Main Issues

In summary, TXU claims that a revision to the refill tariff:

- will cause TXU to suffer a material financial impact;
- will cause detriment to its competitive marketing position, particularly with respect to competition from the MAPS;
- is commercially unfair, since TXU has entered into commercial relationships with customers based on the regulated transmission tariff; and
- will create pricing uncertainty for customers.

Furthermore, TXU claims that it faces a unique risk from a change to the refill tariff.

### GasNet Response

#### *No detriment*

TXU has not claimed it will suffer a financial loss as a result of a change in the refill tariff. In particular TXU does not claim that it is not able to pass through tariff changes resulting from this revision. At most, TXU claims it will suffer a financial impact. However TXU has not substantiated the magnitude of this financial impact by providing the relevant commercial contracts to the Commission.

Similarly, it is not clear that TXU would have behaved any differently if the anomaly in the refill tariff had been corrected before the Access Arrangement was approved in 2002.

#### *Closing a loophole*

TXU claims it entered into contracts on the understanding that it would pay the discounted refill tariff on the GasNet system, and therefore will be disadvantaged if this tariff is increased.

Likewise, TXU claims that it is commercially unfair to make a material change to a tariff during the term of an Access Arrangement.

GasNet accepts that one of the goals of tariff design is to provide a reasonable degree of pricing certainty to users. However there is clearly a loophole in the refill tariff which is being exploited by TXU. Where a user is manifestly taking advantage of a loophole in a tariff, it is not appropriate for the Commission to protect the user from subsequent corrections to that loophole. Users who enter into contracts based on a loophole in a regulated tariff run the inherent risk that the loophole may be closed earlier than expected.

### *Competitive neutrality*

In considering the competitive position of TXU in South Australia, it is also worth considering the affect of the discounted refill tariff on the competitive position between TXU and other users of the SEA Gas pipeline, who may be obliged to pay the higher South West zone tariff in order to export gas to South Australia. Only TXU can claim the benefits of the loophole in the refill tariff, because TXU is the owner of the storage facility and can control the flows by other retailers through the facility. As such, TXU can obtain a commercial advantage over other exporters which is neither fair nor likely to result in the economically efficient outcome in the longer run.