



25 June 2012

Mr Warwick Anderson  
General Manager  
Network Regulation Branch  
Australian Energy Regulator  
GPO Box 3131  
CANBERRA ACT 2601

Submitted by email: [rbp@aer.gov.au](mailto:rbp@aer.gov.au)

Dear Mr Anderson

## **APT PETROLEUM PIPELINE LIMITED 2012-17 ACCESS ARRANGEMENT PROPOSAL FOR THE ROMA TO BRISBANE PIPELINE - DRAFT DECISION AND REVISED PROPOSAL**

Origin Energy Limited (Origin) welcomes the opportunity to comment on the Australian Energy Regulator's (AER's) Draft Decision on the proposed 2012-17 Access Arrangement for the Roma to Brisbane Pipeline (RBP), as well as APT Petroleum Pipeline Limited's (APTPPL's) revised Access Arrangement Proposal.<sup>1</sup>

In general, Origin supports the AER's suggested amendments to APTPPL's original Access Arrangement Proposal, especially its conclusions in relation to the reference tariff amount and its price path over the Access Arrangement period. However, we consider there is one issue that warrants re-examination by the AER, namely its findings on APTPPL's proposed other charges. We also provide comments on APTPPL's revised queuing policy.

### **1. Reference Tariff Price Path**

The effect of the AER's Draft Decision is that it estimates reference tariffs will be 21.9 percent lower on average over the Access Arrangement period in nominal terms than APTPPL's proposal.<sup>2</sup> This is reflected in its lower X factors of -5.8% in 2012-13 (compared to APTPPL's original proposed X factor of -17.8%) and -4.0% in each of the following four years (compared to APTPPL's original proposed X factor of -13.0%).<sup>3</sup>

Origin welcomes this finding. Our earlier submission to APTPPL's original Access Arrangement Proposal queried the rationale for a significant increase in APTPPL's proposed reference tariff rate over the Access Arrangement period. Given zero or moderate forecasts for demand growth, capital expenditure and operating expenditure, along with a falling capital base, it was not clear what changes to APTPPL's cost structure warranted substantial increases in the reference tariff each year.

We note that APTPPL's revised Access Arrangement Proposal does not directly comply with the AER's Draft Decision as it proposes a reference tariff comprised of a \$0.5922 per GJ of MDQ/day capacity component and a \$0.0396 per GJ throughput

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<sup>1</sup> References to the Access Arrangement Proposal refer collectively to APTPPL's Access Arrangement Information, Access Arrangement Submission and Proposed Access Arrangement for either the original Proposal (prepared in October 2011) or the revised Proposal (prepared in May 2012).

<sup>2</sup> AER 2012, *Access Arrangement Draft Decision*, May, p. 8

<sup>3</sup> AER 2012, *Access Arrangement Draft Decision*, May, p. 8

component in 2012-13.<sup>4</sup> This compares to the AER's Draft Decision that the reference tariff for 2012-13 is to comprise of a \$0.5149 per GJ of MDQ/day capacity component and a \$0.0344 per GJ throughput component.<sup>5</sup> APTPPL also maintains the same X factors as in its original Access Arrangement Proposal.<sup>6</sup>

APTPL's proposed revised reference tariff is higher than the tariff in the AER's Draft Decision and is forecast to increase significantly each year. It is also markedly higher than in its original Access Arrangement Proposal.<sup>7</sup> As such, Origin again requests that the AER pay particular attention to the costings behind APTPL's proposed reference tariff and its associated price path. Any increases across the Access Arrangement period need to be transparent and justified.

## 2. Other Charges

In APTPL's original Access Arrangement Proposal, it proposed to tighten the imbalance and daily variance allowances, as well as increase the daily variance rate.<sup>8</sup> Our earlier submission to the Proposal noted that APTPL had not provided any explanation or analysis to support these changes. We asked that the AER examine these charges as any change should be supported by robust cost-benefit analysis to explain why it delivers better value and more efficient outcomes.

The AER's Draft Decision notes that these charges are intended as penalties to incentivise users to abide by their scheduled gas takings when using the pipeline. It considers APTPL's proposed charges are reasonable and are unlikely to result in a material increase in revenue to APTPL.<sup>9</sup>

Origin agrees that a regime is necessary to encourage users to correctly nominate their gas needs and discourage behaviour that may disadvantage other users. However, we continue to question the reasonableness of APTPL's proposed charges.

Origin is a user of a number of different pipelines to transport gas along the east coast. An analysis of charges across our portfolio shows that some of APTPL's charges are higher than the charges offered on other regulated and unregulated pipelines. For example, we found that one of APTPL's charges for the RBP is as much as ten times the same charge on other pipelines. APTPL also has certain charges where other pipelines do not.

This raises questions as to how APTPL costs its charges. It is important that any charge is set at a level that balances the need to efficiently dissuade bad user behaviour but does not penalise users beyond a reasonable level. In addition, as the RBP is a fully regulated asset where APTPL earns a regulated rate of return, it should be limited in its ability recover excess revenue from undue charges.

We ask that the AER reassess APTPL's proposed charges to ensure a clear and justifiable link between the level of the charge and its underlying cost drivers. To assist its review, Origin is happy to discuss this issue further with the AER directly.

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<sup>4</sup> APTPL 2012, *Revised Proposed Access Arrangement*, May, Details - p. 1

<sup>5</sup> AER 2012, *Access Arrangement Draft Decision*, May, p. 41

<sup>6</sup> APTPL 2012, *Revised Proposed Access Arrangement*, May, Details - p. 1

<sup>7</sup> APTPL 2011, *Proposed Access Arrangement*, October, Details - p. 1

<sup>8</sup> APTPL 2011, *Proposed Access Arrangement*, October, Details - p. 1

<sup>9</sup> AER 2012, *Access Arrangement Draft Decision*, May, pp. 59-63

### 3. Revised Queuing Policy

Origin appreciates the significant efforts by both APTPPL and the AER to establish a suitable queuing policy for the RBP. Our comments below relate to APTPPL's revised proposal for existing capacity. We broadly agree with its proposed arrangement for developable capacity to: accept expressions of interest; conduct an 'open season' process; and then enter into bilateral negotiations to develop the optimally sized capacity expansion.<sup>10</sup>

With regard to existing capacity, APTPPL listed its concerns with the current first-come-first-served queuing approach in its original Access Arrangement Submission. These concerns included the potential for 'queue sitting' and 'capacity hoarding' by prospective users as a means of effectively blocking other users further down the queue from accessing available capacity.<sup>11</sup> Origin agrees that a well-developed queuing policy should mitigate the potential for this kind of user behaviour.

#### *a) Timeframes*

Origin considers that a queuing policy based on robust and transparent timeframes that are strictly enforced should avoid this kind of behaviour. The incentive and ability for a non-genuine user to join and then remain on the queue are diminished if they are aware from the onset of the requirements to be in the queue, such as the need to confirm every three months that the capacity is still required and accept an offer of capacity within 10 business days of receiving the offer.<sup>12</sup> Failure to meet these requirements would result in their removal from the queue. This affords APTPPL the certainty that only genuine users are in the queue. It also allows it to efficiently move to the next user in the queue when a user does not accept capacity within the requisite timeframe.

A schedule of strict timeframes imposed on users can only be effective if timeframes also exist for the service provider. For example, APTPPL has included a requirement that a user must confirm at intervals of no more than three months that it wishes to remain in the queue.<sup>13</sup> This is an acceptable condition but a user's ability to provide this confirmation is dependent on APTPPL giving sufficient notice of when the confirmation is expected. In this example, the Access Arrangement could specify that APTPPL must give users ten business days notice of when their confirmation must be received. This notice should also be accompanied by any relevant updates that may impact a user's request.

#### *b) Information Exchange*

The example provided above demonstrates the need for effective information exchange between APTPPL and users in the queue. Information exchange is a two-way process: information gives evidence to APTPPL so that it can be satisfied that users in the queue are genuine users; and the ability for users to adhere to specific timeframes requires that APTPPL provide updated and complete information on which they can base their responses.

For example, the Proposed Access Arrangement notes that when a request is made to join the queue, APTPPL will advise the user of: the date the request was placed in the queue; its position in the queue; and the aggregate capacity of the requests ahead of this

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<sup>10</sup> APTPPL 2012, *Revised Access Arrangement Submission*, May, p. 68

<sup>11</sup> APTPPL 2011, *Access Arrangement Submission*, October, pp. 111-112

<sup>12</sup> APTPPL 2012, *Revised Proposed Access Arrangement*, May, pp. 25-26

<sup>13</sup> APTPPL 2012, *Revised Proposed Access Arrangement*, May, p. 25

new request.<sup>14</sup> This information should also be updated and supplied to the user on a regular basis. Part of this update could also include an indication from APTPPL of when the request could reasonably be expected to be fulfilled. This will assist the user to assess whether they wish to remain in the queue and also whether there is a need to initiate discussions on potential developable capacity.

*c) Senior Management Endorsement*

APTPL has noted its concern that a position in the queue could be secured by simply filing a letter requesting to join the queue. This does not necessarily require the endorsement of senior management of the business.<sup>15</sup> Origin's own internal processes require that our requests to join the queue are approved at a senior level. This is in line with good industry practice. To address APTPL's concern, it may be appropriate to include a requirement in the Access Arrangement that any request to join the queue is lodged on company letterhead and is signed by someone with the appropriate senior delegation to do so.

*d) Deposit*

Outlining the above regime in the Access Arrangement and then adhering to it should address APTPL's queue sitting and capacity hoarding concerns. A strict regime will discourage non-genuine users from joining the queue. Even if such a user does join the queue, APTPL could quickly identify and remove that user once particular timeframe requirements had lapsed. Consequently, Origin does not see a warranted need for a deposit.

In addition, Origin considers the deposit requirement is not an efficient outcome as the proposed design has not been fully developed or analysed. There are many questions that remain unanswered with regard to its practical application that have the potential to create more problems than it is intended to solve. From our preliminary assessment, these include but are not limited to:

- APTPL has not discussed how the deposit will be held. For example, will they effectively "own" the deposit or will it be held in trust on behalf of the user?
- The above point also relates to the interest earned on the deposit. The Access Arrangement stipulates that when a user enters into a Transportation Agreement, APTPL will credit the deposit plus interest toward the amount payable by the user.<sup>16</sup> Is it appropriate that APTPL could gain revenue themselves from holding the deposit and interest earned or should the interest be returned to the user on a regular basis?
- APTPL has indicated that the deposit is non-refundable.<sup>17</sup> The Revised Access Arrangement Submission does not include an explanation to warrant this condition. Having to pay to be in the queue should be a sufficient enough incentive to dissuade bad user behaviour as the user would not have access to the deposit for the period of time that they are in the queue. In addition, the lack of discussion around this issue leads to the question of whether there are circumstances where a refund of the deposit is justified. For example, can a user obtain a refund when it is offered part of its requested capacity but declines it because it wants all the capacity required or nothing and subsequently does not wish to remain in the queue? A second example is when a user reduces the capacity sought in its request. Does that user receive a refund for the difference

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<sup>14</sup> APTPL 2012, *Revised Proposed Access Arrangement*, May, p. 24

<sup>15</sup> APTPL 2012, *Revised Access Arrangement Submission*, May, p. 67

<sup>16</sup> APTPL 2012, *Revised Proposed Access Arrangement*, May, p. 26

<sup>17</sup> APTPL 2012, *Revised Proposed Access Arrangement*, May, p. 24

between its original request and revised request? Both circumstances are allowed for in the Revised Access Arrangement.<sup>18</sup>

- How does providing a deposit interact with the process for developable capacity? For example, what happens if a user wishes to be removed from the queue as they have negotiated access to capacity through bilateral negotiations for an expansion?
- For those users in the queue, does the deposit need to be topped up with increases to the reference tariff each year?
- Is requiring all users to provide a deposit for the same capacity an equitable process? For example, if five users each want 10 TJ of capacity, they are each required to provide a deposit of \$216,153 (based on a capacity tariff of \$0.5922 per GJ of MDQ/day)<sup>19</sup>. This aggregates to \$1,080,765, which is not an insignificant amount especially given it could be some time before each user is able to sequentially access existing capacity.
- What is the justification for the deposit amount required? APTPPL has provided no cost-benefit analysis to show that the proposed deposit calculation, including the 10 percent value, has been efficiently priced.

In light of these questions, Origin asks that the AER thoroughly review APTPPL's proposed deposit requirement. We query the necessity for a deposit if the Access Arrangement details a robust queuing policy that includes comprehensive and clearly defined timeframes, effective dialogue and information exchange requirements between users and APTPPL and a requirement for senior management endorsement to join the queue. We urge the AER to consider how these three elements could be enhanced and sufficiently detailed in the Access Arrangement. We do not consider a deposit an efficient or effective mechanism to address APTPPL's concerns with the current queuing arrangements.

#### 4. Further Discussions

Should you have any questions or wish to discuss this information further, please contact Hannah Heath (Manager, Regulatory Policy) on (02) 9503 5500 or [hannah.heath@originenergy.com.au](mailto:hannah.heath@originenergy.com.au).

Yours sincerely,



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<sup>18</sup> APTPPL 2012, *Revised Proposed Access Arrangement*, May, p. 25-26

<sup>19</sup> APTPPL 2012, *Revised Proposed Access Arrangement*, May, Details - p. 1