

24 May 2006

Mr Mike Buckley  
General Manager  
Networks Regulation Branch  
AER  
GPO Box 3648  
Sydney NSW 2001

By email to [rbp@acc.gov.au](mailto:rbp@acc.gov.au)

Dear Mr Buckley,

**RE: REVISIONS LODGED BY APT PETROLEUM PIPELINES LTD FOR THE ROMA TO BRISBANE PIPELINE ACCESS ARRANGEMENT**

Origin Energy (Origin) appreciates this opportunity to provide the Australian Competition and Consumer Commission (the Commission) with a submission on Australian Pipelines Trust Petroleum Pipelines Ltd (APTPL) Revisions to the Roma to Brisbane Pipeline (RBP) Access Arrangement (AA).

We are an active participant in the energy industry and are the second largest retailer in Australia with over 2 million customers. Origin largely participates in the contestable elements of the energy market concentrating on retail, generation and upstream gas supply; however we also have interests in a number of distribution and transmission gas pipelines, including the SEAGAS pipeline connecting Victoria and South Australia. Origin also owns around 50 per cent of the coal seam gas (CSG) reserves in Surat-Bowen basin in central QLD.

Origin considers that where workable competition can be achieved markets are generally better than regulation at driving industry to efficient outcomes. However, this does not apply to the RBP because it lacks an alternative competing pipeline transporting gas into the Brisbane market. As a consequence, we fully support continued regulation of the RBP to encourage competitive upstream and downstream markets. In particular, it is important that the transportation services provided address the needs of Users and that associated tariffs are cost reflective and transparently determined. The latter in particular is critical with respect to monopoly pipelines where Users are subject to considerable asymmetry of information and therefore poorly placed to properly evaluate the competitiveness of access prices.

In this regard, and notwithstanding the generally very good service that Origin has received to date with respect to its current level of access to the RBP, we do have a number of concerns we the proposed APTPL AA. These are discussed below.

## 1. Services Policy

The APTPPL AA offers only a Firm Forward Haul Service (FFH) as a reference service; all other transport services required by participants will be provided under a negotiated tariff.

In this context we note Section 3.3(b) of the Code requires only that a transport service which is “likely to be sought by a significant part of the market” is subject to a reference tariff. While this provision appears somewhat open to interpretation there is some precedent to draw upon from previous pipeline determinations. For example, in its draft decision in relation to the *Amadeus Basin to Darwin Pipeline Access Arrangement* the ACCC interprets “likely” as “a real chance or possibility” and ‘significant’ as:

*‘not only in regard to numbers or percentages...but in the case of one person seeking the service, whether that person is a significant player in the market’.*

In light of this interpretation we consider APTPPL to be overly restrictive in what it intends to provide as reference services. In particular, we consider that demand for a variety of forms of Back Haul service will increase for a number of reasons, including the depletion of Cooper Basin reserves, significant customer growth in south eastern markets and the increasing availability of supply sources from central Queensland (Coal Seam Methane) and PNG. Given our own upstream interests in particular, we envisage a strong demand for the following services:

- Firm Back Haul Service and As-Available Back Haul Services: Producers in the Walloons area of Southwest QLD<sup>1</sup> will increasingly require Back Haul services to the Wallumbilla hub to supply southern markets (particularly with the decline of Cooper Basin supply). A Back Haul service would foster growth of new gas production areas in Central QLD in particular, encouraging greater competition with established production fields. Though we recognise that such a service should not interfere with the FFH service. The latter should always take precedence.
- As-Available Forward Haul: Producers often need to engage in short-term trades (less than one year) to supply small blocks of gas into the South East QLD Market. This is currently not possible at a reference tariff unless this gas is supplied via an existing FFH User of the RBP with an overrun service. Origin considers that the availability of this service at a transparently determined reference tariff would substantially enhance competition in the QLD gas market.
- Line-pack Swap Service: Origin proposes that the AA includes in its reference service policy a line pack swap facility between Shippers, which does not require consent by APTPPL (notice should be all that is required). This is because the costs to the Service Provider of facilitating such swaps are very small (to the extent that it simply nets out imbalances) yet the cost savings to Shippers can be substantial. For example, when customer demand is suddenly

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<sup>1</sup> Currently Queensland Gas Corporation, Arrow Energy and Origin Energy.

reduced or eliminated the result is rapid change in line pack. Without the ability to swap this line pack oversupply to other Users there is no alternative for a Shipper but to sell (or rather dump rather) the gas at the deemed Delivery Point; which clearly can entail significant financial losses to that Shipper. When Origin has found itself in these circumstances it has been unable to successfully negotiate with APTPPL to swap the excess gas to other shippers. We note in this respect that Epic does provide such a service to Shippers on the Moomba to Adelaide pipeline (see “Imbalance Trading” in section 20 of the MAPS AA).

## 2. Referenced Tariff Policy

APTPPL proposed the following tariffs for its FFH service:

- A daily Capacity Reference Tariff equal to \$0.4243/GJ of Firm MDQ (as at 1 July 2006), plus
- A Throughput Charge equal to \$0.0283/GJ (as at 1 July 2006), plus
- Authorised Overrun Charges equal to 120% of the Capacity Reference Tariff for each GJ of Authorised Overrun, plus
- Un-Authorised Overrun Charges equal to 300% of the Capacity Reference Tariff for each GJ of Un-Authorised Overrun, plus
- A daily Receipt Point Variation Charge equal to 120% of the Capacity Reference Tariff for each GJ of Receipt Point Variation in a day, plus
- A daily Delivery Point Variation Charge equal to 120% of the Capacity Reference Tariff for each GJ of Delivery Point Variation in a day, plus
- An Imbalance Charge equal to 250% of the Capacity Reference Tariff for each GJ of Imbalance but only if allowable as described in clauses 57 thru 65 of Schedule 2, plus
- Receipt Point and Delivery Point operation & maintenance charges.

It is proposed that tariffs will be adjusted in two ways:

- Annually on 1 July at 100% of the 8 Cities CPI (clause 4.4), and
- Should a User’s Transportation Term extend beyond the Term of the Access Arrangements (5 years from commencement), the tariff will be adjusted to and in accordance with the new or replacement RBP Access Principles<sup>2</sup>.

Origin is comfortable with the proposed new tariffs as they relate to the FFH service defined in the AA, particularly compared with the previous charges. However, we have a number of concerns with other elements of the tariff policy, including the following:

- In the first instance, as a point of transparency, we consider that APTPPL should clearly specify what it means by “existing capacity” in respect of what is actually contractually available to Users given that this is open to interpretation and has implications with respect to possible tariffs (for example, it would be inappropriate if new Users were able to access existing capacity at lower rates than existing users).

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<sup>2</sup> clause 2.3.6 of the Access Arrangements

- Clause 3.3.3 (b) (ii) notes the transport service User is entitled to 24 days in each Contract Year were Variation charges are not required to be paid. Origin considers further explanation and detail is required with regard to the operational aspects of this feature; for example, with respect to whether reconciliation will be performed “year end” or over some other period.
- Origin notes that the CPI Adjustment has been increased from 75% of CPI to 100% of CPI under the new AA. However, APTPPL has provided little detail of any changes to its cost structure which might justify such a significant adjustment. We therefore urge the ACCC to examine closely whether such a increase in CPI is warranted.
- Origin believes that an undefined tariff reset after the term of the proposed AA is unacceptable<sup>3</sup>. The proposed reset coupled with a short 5 year AA term serves to introduce significant uncertainty for market participants in respect of the long term cost of supplying end use customers. This not only impacts Users or Shippers servicing retail energy markets, where much of the load is subject to fixed regulated tariffs, but it also impacts at higher levels of the gas supply chain where large fixed capital costs necessitate long term fixed gas prices to underpin recovery of these costs. Origin therefore proposes the AA term be extended to a minimum of ten years or alternatively exempt all existing transport contracts from the tariff reset for the term of the individual gas transportation agreement(s).
- Origin believes that the proposal for a postage stamp tariff in the AA ignores the dramatic changes in the SEQ gas market, in particular the rapid development of Queensland’s CSG assets and the westerly expanding industrial/commercial footprint. This will bring supply sources and loads closer together thus utilising less of the pipe. For example, the RBP Mainline consists of two separable components; the 410 km main transmission pipeline (9.6 MPa) and the 30 km metro section (4.61 MPa), which is roughly defined as that portion downstream of Bellbird Park. The growing southeast customer base is expanding westward and thus many customers will not require transport along the more easterly metro section. However, under the proposed AA these westerly demand centres will be required to bear a portion of the costs associated with expansions of the metro section. This implicit subsidy is likely to distort efficient location and consumption decisions since consumers do not observe the true costs of the transportation service they are using.

Consequently, Origin proposes that the proposed postage stamp tariff be replaced with two transport zones differentiated on the basis of the pipeline pressure limits identified above. The zonal tariffs should be applied to all deemed reference services, which we consider to include all westerly services such as Back Haul. This would encourage entry of new supply sources into the market and thus enhance the level of inter-basis competition, which will ensure gas is delivered at lowest possible cost to end users.

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<sup>3</sup> clause 2.3.6 of the Access Arrangements

### 3. Extensions and Expansions Policy

Section 4.2 of the AA provides APTPPL with the discretion to recover the costs of new investment in relation to an expansion or extension which is covered in one of three ways:

- i) the additional capacity is rolled into existing capacity, with access to that combined capacity being provided by a single reference service;
- ii) the costs of the additional capacity will be recovered through a separate reference service; or
- iii) the costs of the additional capacity will be recovered through a negotiated service

APTPPL has elected to recover the costs of new capacity through the third approach. In this context APTPPL defines its existing capacity as that existing on the 31 January 2006, with the implication that any extension or expansion of capacity beyond this level will be subject to negotiated tariffs. It is evident from supporting analysis done by CRA that the pipeline will need to be expanded within the next two years. Indeed, we consider that requirement for new capacity is likely to exceed that predicted by CRA as the demand forecasts underlying its analysis are highly conservative in our opinion.<sup>4</sup> In any case, there will be significant new capacity sought by Users in the near term which will be subject to negotiated tariffs.

However, Origin is very concerned at the lack of detail APTPPL has provided in its AA regarding how it will determine negotiated tariffs. APTPPL has provided no principles, methodologies or quantitative detail with regard to how it will, firstly, value the costs of new pipeline capacity and, secondly, how it intends to translate these costs into tariffs for pipelines Users. The consequent asymmetry of information leaves the access seeker in an extremely poor negotiation position and unable to objectively evaluate whether negotiated tariffs incorporate monopoly rents.

For example, when Origin has sought to obtain new transport capacity or MDQ increases on the RBP under existing gas transportation agreements this has led inevitably to revisions to our access tariffs, but with very little substantiation of how the new charges have been derived.

It is also unclear whether APTPPL is in fact in a position to charge negotiated tariffs on pipeline expansions which form part of a covered pipeline. Section 3.16 (b) of the Gas Code provides that a service provider outline how any extension or expansion which is treated as part of the covered pipeline will affect reference tariffs. There are only two options available under this clause, either a roll-in tariff or a surcharge approach.

The former is effectively excluded by APTPPL so only the latter would appear to apply. However, where a surcharge is applicable this has specific requirements under 8.25 and 8.26 of the Code including that such a charge should be submitted for

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<sup>4</sup> It ignores power stations currently under construction and other industrial and commercial proposals.

review by the Commission (and be consulted upon as a revision under clause 2.28) and must reflect clause 8.16 (a)(i) of the Code:

“That the amount [of investment reflected by the surcharge] does not exceed the amount that would be invested by a prudent service provider acting efficiently in accordance with good industry practice and to achieve the lowest sustainable cost of providing services”

In other words, the Code would appear to preclude the provision of a negotiated tariff for incremental capacity on covered pipelines (to the extent such a charge is defined as one not objectively and independently reviewed). Rather, the Code requires that incremental capacity should be determined on the basis of a separate surcharge, which is effectively a reference tariff, or a roll-in.

With regard to whether a surcharge or a rolled in tariff is the preferred option, Origin strongly supports the former. Multiple tariffs which appropriately distinguish between Users of current capacity and those contracting for new capacity are more efficient. Users should only pay for capacity which they use. If tariffs for new capacity were rolled into the asset base this would mean current Users would subsidise new capacity contracted by others with each type of User therefore failing to observe the true costs of their access. This could lead to inefficient investment decisions, such as an inherent bias for new Users to seek an expansion to the existing pipeline rather than construct a new one, discouraging potential alternative competing transport options.

Nevertheless, regardless of the approach adopted, the key point is that transparency with regard to how the costs of existing and new capacity is determined and translated into tariffs is critical to competitive access to monopoly pipelines (which have no competing pipelines to constrain their pricing behaviour). *Prima facie* we can see no reason why service providers would have any less incentive to exercise their market power over new capacity compared to existing capacity. A regulated benchmark tariff (or the nearest equivalent) determined in a transparent manner and on the basis of appropriate consultation should be required in each case.

#### 4. Trading Policy

The APTPPL AA notes that a User may transfer or assign all or part of the Receipt or Delivery Point MDQ to another Receipt or Delivery Point only with the consent of APTPPL<sup>5</sup>. The only guidelines governing such consent in the AA are that any decisions to this effect must be based on “reasonable commercial and technical grounds”. As has been stated by ourselves and others elsewhere, these grounds allow APTPPL excessive discretion to reject transfer requests. We draw the attention of the AER to acceptance guidelines proposed by Santos and subsequently incorporated by EPIC into its *Moomba to Adelaide Pipeline Access Arrangement*:

- The aggregate of the varied receipt or Delivery Point maximum daily quantities (MDQs) does not exceed the aggregate of the Shipper's receipt or Delivery Point MDQs prior to the inclusion of the additional Receipt or Delivery Point.

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<sup>5</sup> Clause 5.3 of the AA.

- It is technically feasible, within the constraints of Service Providers' contractual obligations under the AA to receive or deliver the varied MDQs at the specified Receipt or Delivery Points.
- The Shipper or User makes all appropriate arrangements with its customers as a result of the variation nominated.
- The Service Provider will not, as a result of such a variation, incur any additional capital cost, which it would not otherwise have incurred, or will be required to advance the time at which capital costs would otherwise have been required. In the event that a new or revised Receipt or Delivery Point is required, an agreement by the requesting party to indemnify the Service Provider for the additional costs (both capital and operating) will suffice to ensure that the Service Provider will not incur any additional capital costs.
- As a result of the variation, and where the transportation distance is equal to or less than previously provided under the User's transportation contract, the User will pay the same amount of revenue to the Service Provider. Where the transportation distance is increased, the User may provide additional revenue in accordance with Service Provider's AA to satisfy the incremental transportation distance.

Origin considers it imperative that these guidelines are also included in the APTPL AA.

## 5. Other issues

### *Receipt Points*

While not detailed in the AA, the RBP currently has four separate receipt points at Wallumbilla. The specific Points are: Run #1 from the Santos/Mosaic compound; Run #2 from the Origin compound; Run #3 from the Epic Energy Ballera to Wallumbilla Pipeline and Run #4 from the Alinta Queensland Gas Pipeline. They are all physically located within the same compound connected to the same point on the RBP.

Origin proposes that flexibility would be enhanced considerably if these four Receipt Points are considered as one, with appropriate limits associated with each branch.

### *Nominations*

The AA's nomination procedures<sup>6</sup> specify the requirements for monthly nominations which are to be received at least three days prior to the first day of each month during the term and daily nominations revisions which are to be received at least 24 hours prior to the day the revision is being sought.

Origin considers that Nominations procedures should cover treatment of Receipt Point nominations received after the 24 hour daily limits. Origin proposes that the AA allow intraday Receipt Point nominations on a reasonable endeavours basis. This would greatly assist Users in management of line pack balancing issues by allowing

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<sup>6</sup> Schedule 2, clause 14 & 15 of the AA



reduced gas injections by the RBP Users' gas suppliers. This is of particular importance without any Line pack Swap Service.

We consider these types of transport services should be defined and priced as reference services.

If you have any further questions please do not hesitate to contact Glen Orgias on 02 8345 5241 or Robert Timmons on (07) 3858-0663.

Yours sincerely

Phil Graham  
Gas Trading Manager