



6<sup>th</sup> October 2004

Mr J.P. Cox  
Acting Chairman  
Independent Pricing and Regulatory Tribunal  
Level 2, 44 Market St  
Sydney, NSW, 2000

Dear Jim,

**Review of AGL Gas Networks Access Arrangements 1 January 2005 to 30 June 2010.**

Thank you for the additional opportunity to comment on the above mentioned proposed Access Arrangements.

TXU is a major gas distributor in Victoria and a significant gas retailer in Victoria and South Australia and NSW. TXU owns and manages Australia's only underground gas storage facility at Port Campbell in Victoria and is an equity partner and foundation shipper in the recently commissioned SEAGas pipeline linking the Victorian and South Australian gas markets. TXU commenced supply to the NSW gas retail market in July 2004. For supply into NSW, TXU have access to the both the Moomba and Gippsland Basins, as well as agreements with both EAPL and EGP-Alinta for transport. As such TXU is a major gas industry participant in Australia and maintains a keen interest in the positive development of the NSW gas market.

TXU would like to make specific comment on these proposed arrangements in 2 areas:

1. Zone Merger and Gas Swap Service
2. Terms and Conditions

**1. Zone Merger and Gas Swap Service**

TXU supports the proposed Zone Merger and Gas Swap Service as it will provide incumbent and new market entry retailers with increased supply flexibility and provide customers with increased security of supply.

The introduction of gas swaps represents an additional service to the Access Arrangement. TXU believes that it is appropriate to manage the Wilton to Horsley Park Section of the network under a flexible management scheme as this provides retailers with additional flexibility to manage their retail position.

This proposal caters for spontaneous trade decisions thereby facilitating increased wholesale market competition and increasing choice for users. Facilitating trades between multiple receipt points will open opportunities for users to access spot purchases from sources of gas across South Eastern Australia. TXU believes that this will be conducive to promoting competition in short-term wholesale gas markets.

Under the current arrangements, “Change of Standing Data” transactions cannot become effective earlier than five business days after the market transaction is initiated by the user through the GMC Business Rules. This presents supply risk to customers in certain locations during times of maintenance and emergency network outages. It is TXU’s view that the introduction of the gas swap service will mitigate these problems resulting in improved security of supply to affected customers.

## **2. Terms and Conditions**

TXU believes the Terms and Conditions as proposed remain unbalanced in favour of AGLGN. Specifically TXU is concerned by the following Terms and Conditions:

- AGLGN can request any financial security it considers necessary. This broad power needs to be limited whereby additional security is only to be provided if certain trigger events occur (eg for downgrading of credit rating).
- Where a user is required to establish a receipt station, AGLGN may request certain alterations or additions to be made to that receipt station at the user's cost. There is currently no limit on AGLGN's power to request these, and no cap on the amount that a user would pay.
- Although the parties are relieved from any liability arising out an event of force majeure, such relief is not available where a party could have used “reasonable endeavours” to overcome the force majeure event after a reasonable period of time has passed. TXU believes it appropriate to remove the "reasonable endeavours" requirement from the Access Arrangements.
- The provisions relating to suspension of supply are overly onerous (eg if a party requests suspension it must still pay a charge and may also need to still pay for the service; and if AGLGN suspends deliveries, the party must indemnify AGLGN against claims made by the party’s customers arising out of the suspension). This latter clause is of particular concern and should be removed from the Access Arrangements. Alternatively this clause could be amended to limit indemnity to those occasions where the party requests suspension.
- TXU believes that its liability should be limited to a monetary cap with consequential losses excluded.
- TXU believes that these arrangements should contain all terms and conditions so that there is no need for a separate contract between AGLGN and the supplier as under the current arrangements suppliers are typically in a weaker contract bargaining position than AGLGN.
- AGLGN should engage a transparent process in the event of a gas shortfall so that all market participants can be assured that they are being treated in a fair and

equitable manner. A process similar to the VENCORP tables provides a useful model.

TXU would like to commend IPART on the review process applied to these proposed arrangements and commit our desire to continue working with IPART and other NSW gas industry participants to continue to improve NSW energy markets for the mutual benefit of the industry and customers.

Should you wish to discuss any issue raised in this letter any further, please feel free to contact me by telephone 03 86281233.

Yours sincerely,

Bruce Page  
Regulatory Manager