



Gas Transmission Regulation A New Perspective

Sydney

16 March 2004

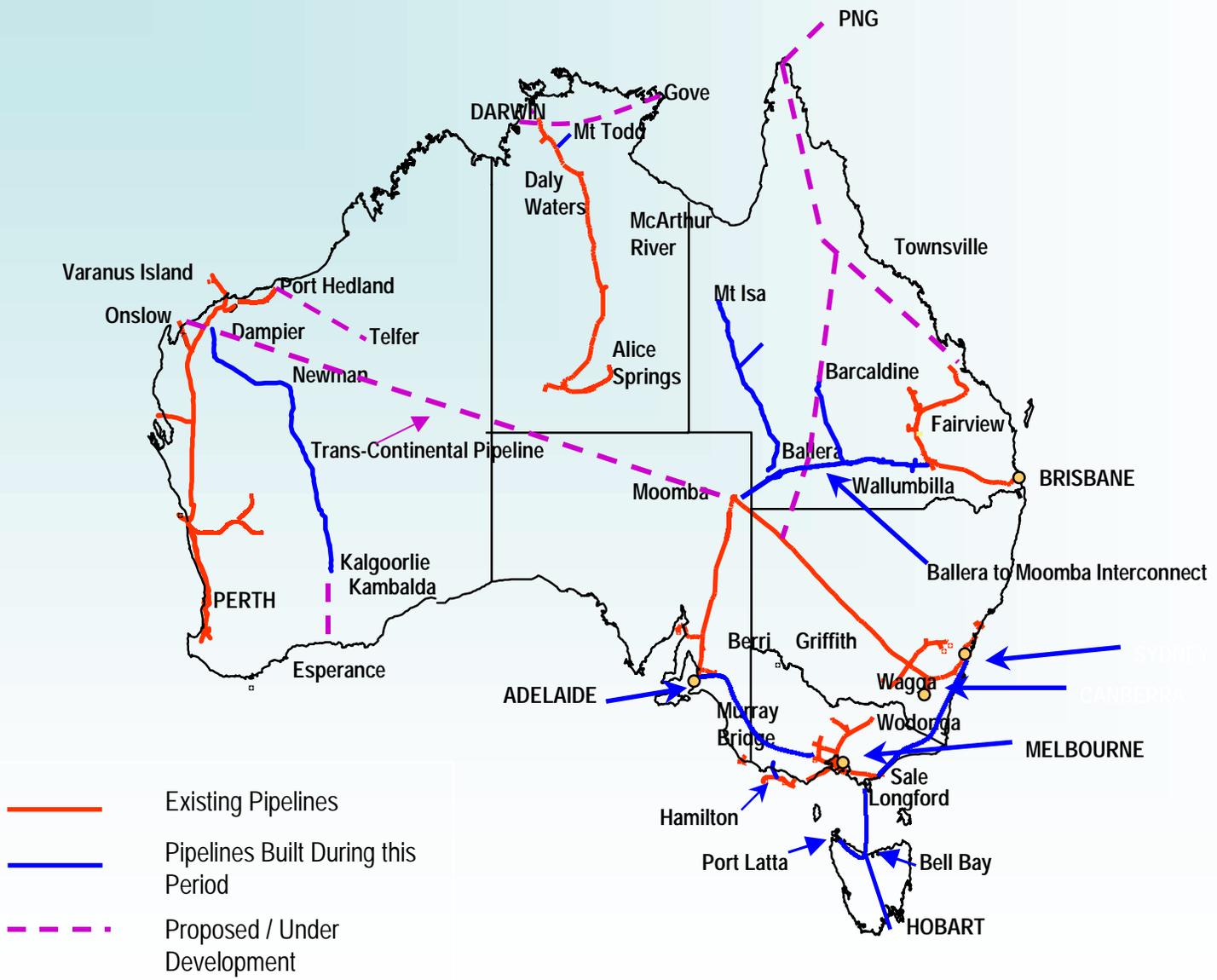


Presentation Outline

-  State of the industry – opportunities and challenges
-  Productivity Commission – identifies major deficiencies in gas transmission regulation
-  Ministerial Council for Energy – a parallel agenda



Infrastructure 1993 to 2004





State of Industry - Key Issues

- ❖ Two gas markets - east and west Australia.
- ❖ Natural gas is essential to the economy, environment and regional development
- ❖ Natural gas faces unique challenges – long transportation distances, thin markets and competing fuels
- ❖ Privatisation coupled with major development over last decade – SE market largely integrated



State of Industry – Key Issues

- ❖ National market remains immature and is currently in transition
- ❖ Asset sales under way (Epic, CMS). Sale of Duke announced
- ❖ In the east, interconnection provides limited competition and may stall
- ❖ Major investment required to provide competitive gas and meet growth projections
- ❖ Balance must be struck
 - Return on investment for investors
 - Reasonable terms for access for users



State of Industry – Key Issues

- ❖ Producer competition very limited – 3 producers more than 95% (85% by 2010) ABARE
- ❖ Tariff regulation of pipelines is a long standing concern to APIA and transmission companies (this is the focus of the PC review)
- ❖ We do not require “no regulation”
- ❖ We do require better regulation
- ❖ Problem is not the Code, but its interpretation



Future Infrastructure Needs

- ❖ National gas use expected to double by 2020
- ❖ Industry response to Moomba fire
- ❖ Link from Qld to Moomba lacking
- ❖ Northern supply options – major investment required
- ❖ Pipelines needed for regional development
- ❖ Existing pipelines require expansion
- ❖ Market driven, integrated national system is the objective
- ❖ Gas is not electricity



State of Industry - Conclusions

- ❖ Still an immature market
- ❖ Privatisation and interconnection are still incomplete
- ❖ Industry and Government objectives not aligned
- ❖ Major development required
- ❖ Regulation is out of step with commercial reality



What is the Gas Access Regime?

- ❖ Gas pipeline specific access regime
- ❖ Industry specific – under umbrella of Trade Practices Act (Part IIIA)
- ❖ Agreed in November 1997 under intergovernmental agreement
- ❖ Based on “reference tariff” approach
- ❖ Implemented by regulators as strict “price control” model
- ❖ Problem is not the Code but the way it has been applied – better guidance needed



Background to Review

- ❖ APIA recognises need to achieve a balance between investor needs (certainty, return on investment) and customer needs (reasonable terms of access)
- ❖ The approach adopted by regulators is intrusive, adopts “least cost” outcomes and is stifling investment



Background to the review

- ❖ Code poses major risk for foundation contracts for new pipelines – size to today’s markets to minimise risk
- ❖ To date most new pipelines have avoided being regulated (EGP, TGP, SEAGas, mid-west pipeline)
- ❖ Major successful legal challenges – many more in train
- ❖ Regulation of competing pipelines has been a contentious issue



PC Draft Report - overview

- ❖ Pipeline owners can find the exercising of market power unsustainable because of characteristics of demand
- ❖ Nature of gas market has changed significantly – competition emerging
- ❖ Widespread acceptance of need for gas access regime of sorts



PC Review - Conclusions

 “...the Commission has concluded that there are problems with the current regime, mainly arising from the considerable costs it imposes and its potential to distort and deter investment.”



PC Review – Conclusions

- ❖ Too great a focus on price regulation
- ❖ Too many conflicting objectives
- ❖ Wide range of objectives to regulators – “virtually unlimited discretion in weighing up these objectives.”
- ❖ Wide discretionary powers to regulators – “able to attach any weight they consider relevant.”



PC Review - conclusions

-  Too many regulatory decisions before merit appeal
-  High information and research costs
-  Investment impact – “Price regulation of reference tariff is likely to be constraining the scope for access providers to deliver and price their services efficiently and offer innovative service offerings.”
-  Other issues



Proposed changes

- ❖ Objects clause – guide regulators, tribunal and courts
- ❖ Raise threshold regulation test – fewer pipelines “covered”; even fewer would be price regulated
- ❖ Introduce price monitoring regime
- ❖ Binding rulings of no “coverage” for 15 years
- ❖ Scope for binding rulings of monitoring for 5 years
- ❖ Better guidance/institutional and administration



PC - Next steps

-  Hearings on draft report - March
-  Final report to Government – June 2004
-  Findings to be considered by Ministerial Council for Energy
-  Change legislation and Gas Access Code
-  Clear statement of Government policy
-  Change culture and attitude of regulators



Ministerial Council for Energy

- ❖ Single national regulator – now agreed and industry consultation to commence late March
- ❖ Identity of regulator not an issue for gas transmission – policy direction, rules and accountability are our critical need
- ❖ Two statutory commissions from 1 July 2004
 - ❖ Australian Energy Regulator (under the ACCC)
 - ❖ Australian Energy Market Commission – rule making and market development
- ❖ Extend in 2005 to include gas transmission except in WA
- ❖ Industry funded levy
- ❖ Strong electricity focus is a major concern for gas interests – “one size fits all”