

25 August 2005

Hon Ian Macfarlane MP
Minister for Industry, Tourism and Resources
Parliament House
CANBERRA ACT 2600

Dear Minister

I write regarding the consultation paper, prepared by Victorian officials and released on 11 August 2005, addressing the Ministerial Council on Energy's proposed response to the *Productivity Commission Review of the Gas Access Regime* (June 2004). Also on 11 August, the Victorian officials invited industry representatives and other members of the MCE Standing Committee of Officials to their presentation on an aspect of the paper, namely their proposed "price monitoring" option. Along with other industry representatives, APIA members were pleased to attend, although we have real concerns about both the price monitoring proposal outlined to us and with the proposals outlined in the discussion paper. The approach being proposed by the Victorian SCO officials is not so much a response to the PC as an unnecessary reopening of the debate.

As mentioned in my earlier correspondence, the development of the response to the Productivity Commission's recommendations seems to be moving away from the PC's recommendation for "light-handed" regulation and is also calling for further review of major aspects of the PC Report rather than moving to developing a system or systems for implementation.

The PC has proposed a monitoring regime for pipelines that are covered but might not warrant full-scale regulation. In contrast, the discussion paper and the presentation by the Victorian officials, calls for price monitoring to be introduced for pipelines that do not meet the coverage test. While monitoring is a form of "light-handed" regulation, by introducing such regulation for pipelines that are not covered would effectively be expanding regulation rather than reducing the regulatory impost on industry.

On the matter of merit review, decision-makers in any regulatory regime that impacts on infrastructure returns and investment should be accountable and the process needs to be transparent. The current appeals system under the Code is working. Given the extent of powers and discretion granted to the regulators under the Gas Code, and also that the regulators' decisions substantially affect the profitability or viability of a business, the existing review rights should be maintained. Industry urges the Government to address the issue of merits review and the right of appeal rather than refer this important right for further debate and assessment.

The Victorian paper also suggests there should be consistency between the gas and electricity regimes. While there is an understandable policy preference to have appropriate alignment and consistency between electricity and gas, there are major differences between the products, and the proposed approach would be inclined to introduce inefficiencies. It also reopens the debate on this issue. Given that the review of the Gas Access Regime is based on the review of the National Access Regime and provides a clear direction by the PC on the development of an industry-specific regime, it would seem more appropriate to introduce the gas regime first.

In the interests of clarity and certainty, industry strongly urges the Government to introduce the recommendations of the Productivity Commission. We would be happy to work with officials to resolve the issues raised in the PC report. We do not believe the debate should be re-opened as this would increase market uncertainty and delay reform.

Minister, you suggested that, if APIA was not comfortable with the Victorian paper, you would be happy to meet with us. I now ask if you could find time in your busy schedule for a meeting.

Yours sincerely

CHERYL CARTWRIGHT
Chief Executive