

20 August 2003

The Chairman
Commerce Commission
PO Box 2351
WELLINGTON

Dear Sir

SUBMISSION TO THE COMMERCE COMMISSION - GAS CONTROL INQUIRY

Introduction

1. This submission is made by Swift Energy New Zealand Limited ("SENZ") and Southern Petroleum (New Zealand) Exploration Limited ("Southern"). SENZ and Southern are the wholly owned New Zealand subsidiaries of Swift Energy Company ("Swift"). Swift is an independent oil and natural gas company engaged in the development, exploration, acquisition and operation of oil and gas properties. Swift is a listed company with its common stock having been traded on the New York Stock Exchange since 1991 and the Pacific Exchange, Inc since 1988.
2. SENZ, or Swift, has been active explorers of oil and gas in New Zealand since 1995. SENZ is now the sole owner in respect of the area bounded by Petroleum Mining Licence 38151 ("PML 38151"). SENZ has drilled several producing wells in the area bounded by PML 38151, which is known as the "Rimu field" and has drilled several successful wells in PEP38719 known as the "Kauri series". SENZ is also undertaking or involved with exploration and drilling activities in a number of other Petroleum Exploration Permit areas. Those licence areas are superimposed on the pipeline map attached as an Exhibit.
3. As noted SENZ already has a number of wells in production, with processing being conducted at the Rimu Production Station located on the land bounded by PML 38151, 30 kilometres south of Hawera, in Taranaki.
4. In November 2001, SENZ acquired all of the issued shares in Southern from members of the Shell Group which was required to divest its shareholding in Southern pursuant to the Commerce Commission clearance enabling Shell to acquire the Fletcher Challenge Energy Group. In particular, the acquisition of Southern resulted in SENZ acquiring Fletcher Energy Group's 96.76% interest in the Tariki, Ahuroa, Ngaere and Waihapa (together referred to as "TAWN") gas and oil fields (shown as PML 38138, PML 38139, PML, 38140 and PML 38141 on the pipeline map attached as an Exhibit). That interest also included ownership and operation of a number of assets including:
 - (a) production facilities at Waihapa, Taranaki used for petroleum production, processing, gathering, treatment, storage and transportation (the "Waihapa Production Station");

- (b) the gas export pipeline running from the Waihapa Production Station to Contact Energy's New Plymouth power station;
 - (c) the oil export pipeline running between the Waihapa Production Station and the oil tank farm located at Omata, near the Port of the New Plymouth; and
 - (d) certain commercial contracts for the sale of oil, condensate and gas produced from the TAWN fields.
5. As a result of subsequent acquisitions, Swift (through SENZ and Southern) now owns 100% of the TAWN assets listed in item 4 above.
 6. A number of issues are raised by the draft framework paper published by the Commerce Commission which have the prospect of impacting on SENZ and Southern. For this reason SENZ and Southern consider it appropriate to make this submission identifying and commenting on those matters.

Background

7. Having reviewed the draft framework paper and developed an understanding of the two stage consultative process to be undertaken by the Commerce, SENZ has spent some time considering the first part of the analytical framework promoted by the Commission. That is the level of competition in the market for gas services.
8. In particular, SENZ has taken a keen interest in the services that are included within the definition of "gas services" for the purposes of the inquiry. SENZ has reviewed the material provided by the Commission in relation to the transmission pipelines which the Commission considers may be subject to its inquiry.
9. In relation to the transmission pipelines specified as being owned by SENZ, there are physical and commercial issues that may mean one or more of those pipelines should be excluded from the scope of the enquiry. The first part of the submission elaborates on the reasons why those pipelines may be excluded.

SENZ Pipelines

10. The Commission's draft framework paper referred to two sets of pipelines owned by SENZ, being:
 - (a) the pipeline from the Rimu Production Station to the NGC South transmission line; and
 - (b) the pipelines from the Waihapa Production Station to:
 - (i) the Taranaki Combined Cycle power station ("TCC"); and
 - (ii) the New Plymouth Power Station ("NPPS").

Rimu to NGC South

11. In relation to the pipeline from the Rimu Production Station to the NGC south transmission line, the relevant pipeline is approximately 600 metres long (at a

nominal diameter of 150 mm) and runs from the Rimu Production Station, south of Hawera to a tie-in point on the NGC south transmission line which is located close to the coast line.

12. The pipeline is used almost exclusively for the purpose of transmitting gas produced from the Rimu field and test production from the Kauri wells, that has been processed in the Rimu Production Station, to NGC's transmission line. From time to time, small amounts of gas are imported from the NGC South transmission line, along the pipeline to the Rimu Production Station, in order to facilitate the start up of the Production Station following a shutdown for the likes of maintenance. The connection to that transmission line and the sale of natural gas produced at the Rimu Production Station are the subject of contracts between SENZ, as sole owner of the producing wells and operator of the Rimu Production Station, and:
 - (a) Natural Gas Corporation Limited for interconnection to NGC's high pressure transmission system, and
 - (b) Genesis Energy Limited for sale and purchase of natural gas.
13. For the sake of completeness, we also note oil production from the Rimu Production Station (which is sourced from PMP 38151 and PEP 38719) is taken by road tanker to the Waihapa Production Station from where it is then transported to the oil storage facility at Omata immediately adjacent to the Port of New Plymouth by means of an oil export pipeline owned by Southern.
14. A diagram of the Rimu transmission line is shown as running from point A (the Rimu Production Station) to point B (the tie-in to the NGC south transmission line) on the pipeline map attached as an Exhibit.
15. At page 30 of the Draft Framework Paper, the Commission addresses the question:

"What transmission businesses (systems) should be covered by the Inquiry and why?"

On the basis of the foregoing information about the Rimu to NGC south pipeline, SENZ is of the view that the pipeline should not be covered by the Inquiry. In short, the pipeline has been designed and constructed with the objective of providing a dedicated transmission for gas production from SENZ's production and exploration activities in the Rimu field and Kauri prospects, following processing at the Rimu Production Station. It has not been developed with a view to additional use as a provider of third party transmission services.

16. If third party services were to be provided, then the capacity of the pipeline and the functionality of the entry and terminal points would require significant development. Notwithstanding the Commission's views about gas transmission systems including the transporting of gas from a processing plant to the NGC transmission network, it seems unrealistic to suggest that a third party would seek to develop facilities in order to connect to this short stretch of pipeline. This point becomes particularly clear when it is noted that SENZ is the holder of permits for the petroleum exploration areas immediately adjacent to the area bounded by PML 38151.

17. The area bounded by the relevant licence areas controlled by SENZ and Southern is superimposed on the pipeline map attached as an Exhibit.
18. In other words, the Rimu pipeline is not a general transmission line because of its size and location. Therefore, inclusion of the pipeline within the transmission systems covered by the Inquiry would appear out of step with the objectives underpinning the Inquiry.

Waihapa transmission lines

19. The transmission pipelines from the Waihapa Production Station, owned by Southern, to Contact Energy's power stations at Stratford (TCC) and New Plymouth (NPPS) were acquired in 2001 as part of a comprehensive suite of arrangements that included contracts for the off-take of natural gas production from the Waihapa Production Station.
20. The course taken by each of those transmission pipelines is shown on the pipeline map attached as an Exhibit. The starting point of the Waihapa pipelines is at the Waihapa Production Station, from where the first section of the pipeline system moves west to the compound at the (old) Stratford power station, owned by Natural Gas Corporation Limited, which is adjacent to the TCC, which is owned by Contact Energy Limited. The second section of the pipeline system starts at the old Stratford power station compound and moves northwest to the NPPS, which is also owned by Contact Energy Limited.
21. In the case of the pipeline supplying gas from the Waihapa Production Station to TCC, the pipeline owned by Southern is 6,433 metres in length (at a nominal diameter of 200 mm). That pipeline commences at the Waihapa Production Station (item C on the pipeline map) and terminates at the old Stratford power station compound (item D on the pipeline map). A further short distance of pipeline, which is not owned by Southern, traverses the short distance between the Stratford power station compound and TCC.
22. For the purposes of the delivery of gas from the Waihapa Production Station to the NPPS, a second pipeline travels from the old Stratford power station compound (item D on the pipeline map) to the NPPS (item G on the pipeline map). That pipeline includes connection points for the Kaimiro Production Station (owned by Greymouth Petroleum Limited) (item E on the pipeline map) and the Omata tank farm (item F on the pipeline map), although the latter is not used. It should also be noted that the Kaimiro Production Station is also interconnected to the NGC high pressure transmission system and it is this system that has typically been used to transport natural gas exported from the Kaimiro Production Station for sale to customers.
23. Southern's contract for the supply of gas to Contact Energy enables Contact to nominate delivery of natural gas from Waihapa at either TCC or NPPS. Since the acquisition of Southern by SENZ in 2001, the NPPS has only operated on an intermittent basis, primarily over the winter months. Until the contract between Southern and Contact Energy expires, there will be capacity constraints on the use of the pipelines from Waihapa to TCC and NPPS as a result of Southern's primary obligations to Contact Energy.
24. Most significantly from the perspective of any alternative supplier of gas to either TCC or the NPPS, there are alternative delivery routes to both such facilities

provided by means of the NGC transmission system (each of which are shown on the pipeline map attached as an Exhibit. In each case, a supplier of natural gas can utilise available connections to the NGC system, which also has the benefit of significantly greater capacity – the Southern pipelines are generally at a nominal diameter of 200mm whilst those used in the NGC system are generally 500mm in diameter.

25. The availability of alternative means of supply is amply demonstrated in the case of the Kaimiro production station owned by Greymouth Petroleum, which can and does choose to deliver natural gas to customers via the NGC system.
26. In these circumstances, there is clearly both an alternative means for the delivery of gas to the two principal facilities served by Southern pipelines and the presence of capacity constraints which would make those pipelines less attractive to both alternative suppliers of natural gas end users of that gas. This in turn would indicate that there are more than sufficient constraints on Southern's activities to provide an effective safeguard against Southern seeking to wield any market power with respect to the delivery of natural gas to end users. The combination of existing contractual commitments and the resultant capacity constraints that have arisen from those commitments, together with the availability of suitable alternative high pressure gas transportation pipelines, has meant that there has been neither the capacity nor the demand to provide open access to the Waihapa pipeline system for transporting natural gas other than from the TAWN fields. Southern expects that position to remain unchanged until expiry of the contract between Southern and Contact Energy.
27. In these circumstances, and in the absence of any demonstrable detriment to users or potential users of Southern's pipelines, it seems most unlikely that the imposition of any form of control under the Commerce Act, whether in the form of access requirements or price cap regulation will provide any benefit to users or potential users of those pipelines. Instead, in the view of SENZ and Southern, any such controls will be more likely to add a significant layer of costs to the operation of the relevant business activities – a cost that will need to be passed on and ultimately borne by the end user.

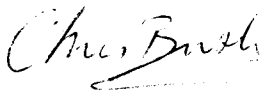
Summary

28. This submission is confined to that part of the analytical framework developed by the Commission relating to the gas services market that contains an evaluation of the existing competition in that market. In particular, SENZ and Southern have sought to demonstrate that, for the reasons set out above, the pipelines owned by each of them should not be included within the Commission's evaluation of the market and therefore the scope of the Commission's inquiry. The reasons for that exclusion are:
 - (a) Rimu to NGC South: the size and location of the pipeline are such that it is currently most unlikely that any other use will be made of the pipeline other than transporting natural gas from the Rimu Production Station (which is used for processing gas, condensate and oil from SENZ' Rimu and Kauri fields) to the NGC South transmission pipeline; and
 - (b) Waihapa transmission lines: in each case the capacity constraints and presence of parallel pipelines (which are part of the NGC transmission

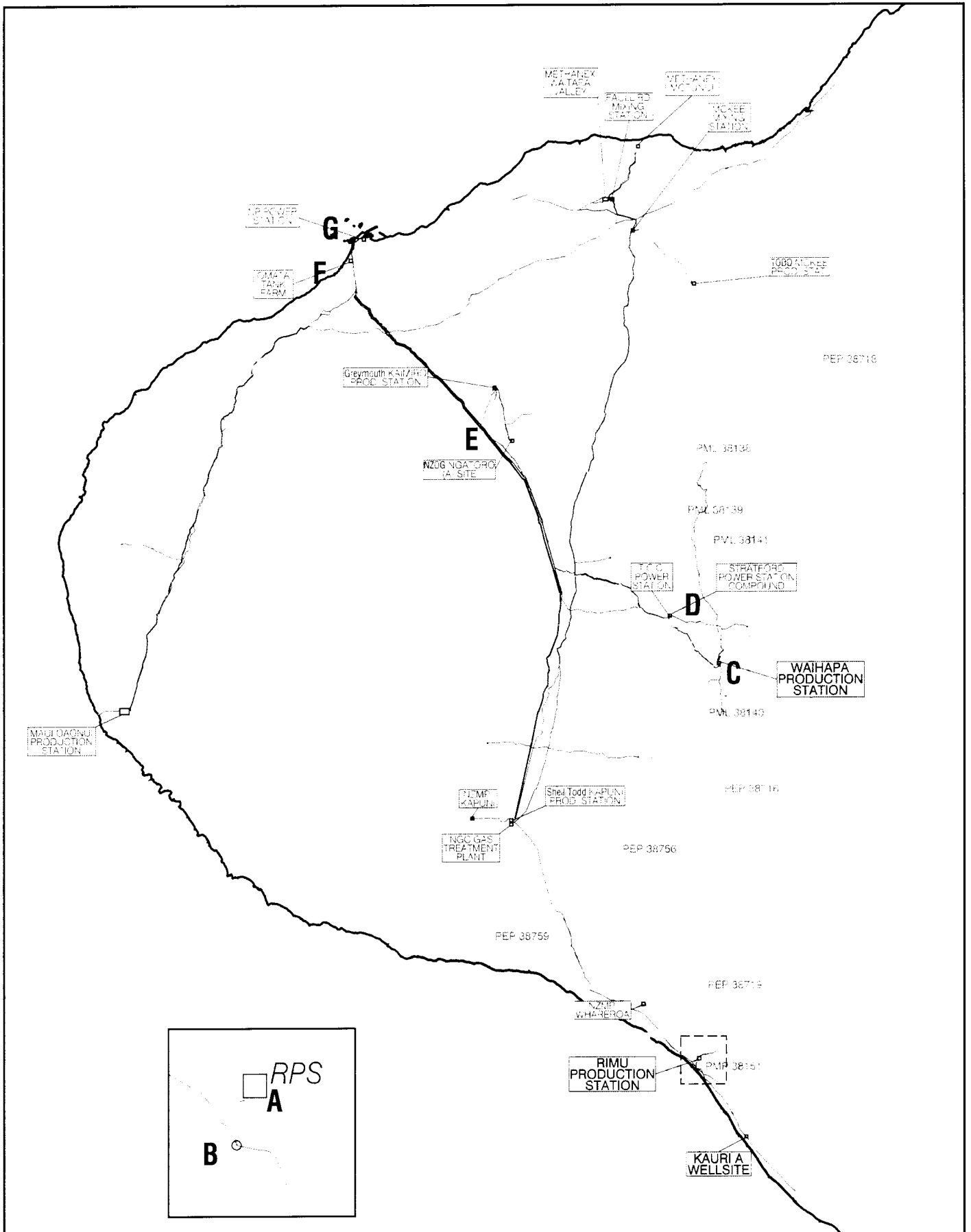
system) mean that the transmission lines from the Waihapa Production Station to Contact Energy's TCC and NPPS are likely to be regarded as a small and relatively insignificant part of the gas reticulation network used to transport natural gas from Taranaki to end users (whether at Huntly or further north).

29. Finally, SENZ and Southern have not sought to comment on the balance of the Commission's draft framework paper except insofar as to say that the cost of including the SENZ and Southern pipelines within the gas services market identified by the Commission for the purposes of (ultimately) imposing any form of controls over that market is likely to result in the imposition of costs on end users that outweigh any benefit that may result from any pro-competitive effects asserted in favour of imposing such controls.

Yours faithfully



Chris Bush
Vice President – Facilities



**SWIFT TARANAKI
PIPELINES**



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