



Senex Energy Pty Ltd  
ABN 50 008 942 827

**Head Office**  
Level 30  
180 Ann Street  
Brisbane Qld 4000

GPO Box 2233  
Brisbane Qld 4001

**T** +61 7 3335 9000  
**F** +61 7 3335 9999

info@senexenergy.com.au  
[senexenergy.com.au](http://senexenergy.com.au)

25 August 2023

Senate Economics Legislation Committee  
PO Box 6100  
Parliament House  
Canberra, ACT 2600

Dear Committee Members,

**RE: Inquiry into the Competition and Consumer (Gas Market Code) Regulations 2023**

Thank you for the opportunity to make a submission to the Committee's inquiry into the Competition and Consumer (Gas Market Code) Regulations 2023 (**the Mandatory Code**).

**Background**

Senex is a world-class supplier of affordable, reliable and secure energy, committed to delivering essential energy for life. The energy we proudly provide is essential to our modern lives and for the thriving communities we serve. We are also a critical energy provider to Australia's manufacturing industry, supporting thousands of workers who make essential goods from bricks to plasterboard to glass bottles.

In mid-2022 Senex announced plans to invest more than A\$1 billion to boost natural gas supply for the east coast domestic market. This planned investment would see Senex producing 60 petajoules (**PJ**) of natural gas per year, equivalent to more than 10 percent of annual eastern Australian gas demand by the end of 2025. In September 2022, the Senex board also approved plans to further double gas production to 120 PJ per year by the end of 2027 and to extend significant investment across the natural gas value chain.

However, the government's unprecedented intervention in gas markets in December 2022 caused Senex shareholders to direct the investment and associated recruitment to be paused. Senex is majority owned by POSCO INTERNATIONAL Corporation, a subsidiary of Korea's POSCO Group, one of Australia's largest natural resource customers and investors. POSCO invested in Senex because it saw value in the Australian energy market and understood Australia to be one of the lowest risk places to invest in energy. The government's intervention materially challenged that understanding.

The government has made significant and welcome changes to its approach since December 2022 and Senex's position on the final Mandatory Code is addressed in the remainder of this submission. Senex's expansion project remains subject to receipt of certain government approvals including a conditional Ministerial exemption under the *Competition and Consumer (Gas Market Code) Regulations 2023* and approvals under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

Since June 2023, Senex has secured over 130 PJ in long-term gas supply agreements with high-quality Australian manufacturers and energy retailers, demonstrating the continued need for gas in Australia, and the ability of both producers and consumers to reach mutually-agreeable terms. These agreements are conditional on the expansion project proceeding.

## The role of natural gas in Australia's energy transformation

Eastern Australia's energy market is complex and finely balanced with both the Australian Energy Market Operator (**AEMO**) and the Australian Competition and Consumer Commission (**ACCC**) forecasting structural shortfalls in supply in coming years. At the same time, we know that natural gas has a critical role to play in providing secure, reliable and affordable energy to Australian households as Australia strives to achieve its carbon reduction targets.

The International Energy Agency (**IEA**) recognises natural gas as an integral part of the energy mix globally until at least 2050, and in the Australian context AEMO has reaffirmed the critical importance of gas in the transition, describing natural gas in its 2022 Integrated System Plan as having a crucial role for decades as a reliable and flexible stabiliser for the electricity grid<sup>1</sup>.

Importantly, natural gas is also critical to Australia's \$100 billion manufacturing industry which directly employs 890,000 people. In addition to the role of gas in electricity generation, natural gas provides around 40% of energy used for Australian manufacturing and energy intensive businesses which face technical barriers to electrification.

Meeting current and future demand for natural gas in the east coast domestic market, and ensuring gas is available at reasonable prices, requires continued multibillion-dollar investments to keep supply up and prices down. Supplies from existing gas fields will naturally decline over time and material new investment is required just to maintain current levels of supply. When investment slows, or is not allowed to progress, such as in Victoria or New South Wales, gas supply decreases and prices increase.

Senex's proposed Atlas expansion is exactly the type of domestically-focused investment needed to address supply concerns and put downward pressure on prices.

## The Mandatory Code

The legislation and regulatory instruments proposed in December 2022 posed an immediate threat to investment and worked against the government's stated objective of enabling 'domestic users to access adequate supply at reasonable prices and on reasonable terms'<sup>2</sup>. The intervention created a climate of sovereign and commercial risk that jeopardised new investment in existing and undeveloped gas fields, including Senex's proposed expansion.

Senex acknowledges that, while there was no genuine consultation ahead of the intervention in December 2022, there has been subsequent meaningful and welcome consultation that has moderated the most severe effects of the initial proposal. In particular, the shift away from a price cap and binding arbitration model towards a price anchor and supply commitments from producers is expected to enable new investment in gas developments in the short term.

However, as stated throughout the consultation period, Senex considers that the only sustainable response to high prices in a demand-inelastic domestic gas commodity market is a stable policy and regulatory framework that encourages investment in additional domestic gas supply in both the short and long-term. Sustained investment in new gas supply will continue to stall without the regulatory certainty needed to support these highly capital-intensive projects.

Further, the government's approach to lowering gas prices stands in contrast to its more recent decisions relating to the affordability of rental housing. The government has chosen not to support a rental price freeze or price caps with the Prime Minister stating "No one is arguing that [a rent freeze] will make a positive difference. Indeed, we believe that will make it worse. The key to addressing these issues is supply and that's why we have focused our attention on supply"<sup>3</sup>.

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<sup>1</sup> Page 11, 2022 Integrated System Plan, AEMO.

<sup>2</sup> Page 4, Options to ensure the domestic wholesale gas market delivers for Australians. Consultation paper, December 2022, Australian Government.

<sup>3</sup> [Press Conference - National Cabinet - Brisbane | Prime Minister of Australia \(pm.gov.au\)](https://www.pm.gov.au/news/press-conference-national-cabinet-brisbane)

Housing, like natural gas, is essential for life, and affordable access is central to a prosperous Australia. And, in the same way that a price cap does not work to improve rental housing supply and affordability as it chokes off incentives for investment in housing stock, it does not work to improve gas supply or affordability for domestic consumers and industry. Rather, it results in the removal of capital available for new gas development.

The clear priority for government needs to be a targeted and effective energy policy that recognises the unique and important role of natural gas to provide the confidence to invest across the energy value chain. Effective energy policy will increase gas supply and ensure Australians can access secure, reliable and affordable energy for manufacturing, businesses and homes. A positive first step would be amendment of the Mandatory Code to insert a sunset date on the pricing provisions so industry can have the certainty it needs to make much needed investment in new gas supplies over the longer term. A sunset date of 24 months from commencement of the Mandatory Code would be consistent with the Emergency Price Order and other market intervention regimes.

Senex also notes that, at the time of writing, the ACCC is yet to publish specific information to help suppliers comply with record keeping, reporting and publication obligations of the Mandatory Code. As the two-month transition period ends on 10 September 2023, and non-compliance with these requirements may attract significant financial penalties, Senex calls for the publication of this information as a matter of priority.

To reduce the regulatory burden and costs associated with the reporting requirements Senex also recommends:

- Reporting under the Mandatory Code be consolidated with the substantial reporting already provided by gas market participants to both AEMO and the ACCC; and
- The Mandatory Code be amended to exempt small producers (under 100 PJ production) from the record keeping requirements. These requirements are very burdensome, and the penalties associated with non-compliance are materially disproportionate.

Finally in relation to the Mandatory Code, Senex recommends active monitoring of downstream participants in the gas market including re-sellers of gas, gas retailers and power generators. These market participants are exempt from pricing provisions of the Mandatory Code and therefore there is no guarantee that any reduction in gas commodity prices will be passed through to end users. This is particularly relevant for small commercial and industrial manufacturers without access to the wholesale gas market.

### **Future policy reform**

As stated above, Senex is strongly of the view that regulatory intervention in the gas market is not an effective means to achieve the shared objective of producing more gas at reasonable prices in support of east coast domestic customers. Rather, it acts as a significant deterrent to sorely needed investment.

The government's Future Gas Strategy (**Strategy**) is an opportunity to recognise the role of natural gas in the Australian energy and industrial system and to outline policy approaches that will make a meaningful difference to new supply and the efficient operation of the market. A key objective of the Strategy should be to enable the delivery of reliable and affordable gas supply for domestic users through the energy transformation and beyond. It is important that the Strategy clearly articulate the ongoing role for natural gas in Australia as a key enabler of the government's emissions reduction targets, partnering with renewables to provide secure, reliable and affordable energy and supporting Australia's manufacturing industry through the use of a lower-carbon product. In addition to net zero targets, the Strategy should also consider energy security, affordability, and investment certainty for both Australian customers and Australia's international trading partners.

There is more that can be learned from the government's approach to housing policy when considering ways to boost gas supply. The National Planning Reform Blueprint, agreed by National Cabinet on 16 August, includes the streamlining of approval pathways and reforms to address barriers to the timely issuing of development approvals<sup>4</sup>. It is these types of policy measures that can work to improve gas supply for Australians also.


The Samuel Review of the EPBC Act released in 2020 found that the average time taken to approve a resources project is 1,009 days or nearly three years.<sup>5</sup> This is too long if we are to address the forecast structural shortfalls in gas supply. The government has announced its intention to reform the EPBC Act and Senex looks forward to working constructively to ensure the Act will efficiently deliver the necessary environmental protections in a balanced and sustainable way.

## Conclusion

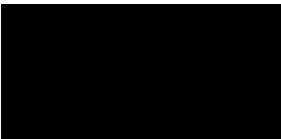
Thank you for the opportunity to make a submission to the Committee's inquiry into the Competition and Consumer (Gas Market Code) Regulations 2023.

Senex stands ready to play its part in delivering new gas supplies to the domestic market and put downward pressure on prices through its planned A\$1 billion expansion in the Surat Basin. Since the announcement of the gas market intervention in December 2022, Senex has participated actively in the consultation processes around the Mandatory Code and recognises the substantial improvements that have been made in that time.

We look forward to continuing to work with the government to ensure Australians continue to enjoy access to secure, reliable and affordable energy.

Senex is a member of the Australian Petroleum Production and Exploration Association (**APPEA**) and supports the submission it has made to the inquiry. If you require any further information, please contact us by phone (07) 3335 9000 or by email 

Yours faithfully,



Ian Davies  
Chief Executive Officer  
Senex Energy Pty Ltd

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<sup>4</sup> [Meeting of National Cabinet - Working together to deliver better housing outcomes | Prime Minister of Australia \(pm.gov.au\)](#)

<sup>5</sup> [Executive summary | Independent review of the EPBC Act \(environment.gov.au\)](#)