

12 January 2007

Energy Market Authority  
111 Somerset Road #15-05  
Singapore 238164  
Attn: Deputy Director (Systems Development & Assessment)

Dear Sirs

**Request for Feedback – 2<sup>nd</sup> Amendments to Gas Act (Cap. 116A)**

1. We refer to your request for feedback on the 2<sup>nd</sup> amendments to the Gas Act (Cap. 116A) dated 26 December 2006.
2. We have enclosed a copy of our feedback for your kind perusal. A soft copy of the same (in Microsoft Word format) has also been sent to you via email.
3. Please feel free to contact us should you require any clarification.

Yours faithfully

[Signed]

LIM KONG PUAY  
President & Chief Executive Officer

**Dated 12 January 2007**

**FEEDBACK ON AMENDMENTS TO GAS ACT (CAP. 116A)**

**BY**

**TUAS POWER LTD**

**In response to the 2<sup>nd</sup> Request for Feedback**

**Issued by the Energy Market Authority**

**on 26 December 2006**

**Particulars of Submitting Party**

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## **1. Scope of this response**

The response herein relates to the proposed paragraph (d) of Section 38(4) and to Sections 38A and 61F.

## **2. Statement of Interest**

We are one of the power generation companies in Singapore and a purchaser of substantial quantities of gas for use in generating electricity. Hence, we would like to provide the Energy Market Authority (“**EMA**”) our feedback with respect to the proposed amendments. We hope that our feedback would assist and that it will be given due consideration.

## **3. Comments**

### **3.1 Proposed paragraph (d) of Section 38(4)**

3.1.1 Section 38(4) empowers the Authority to give directions in connection with an application for directions to secure access to the relevant facility. Sub-paragraph (d) of the Section 38(4) empowers the Authority to require “the owner of the relevant facility to make such adjustments to charges imposed by the owner on existing users of the relevant facility, as the Authority considers appropriate”.

3.1.2 Given that any access granted will increase the number of users of the relevant facility, it follows that the power to make adjustments should be exercised only to reduce the charges imposed by the owner on the existing users. Furthermore, the justification for reduction of the charges is further reinforced where the existing users had defrayed the costs of the construction of the relevant facility. In any case, the power should not be exercised to increase the charges imposed by the owner on existing users to their detriment. There is no apparent reason why the owner of the relevant facility should benefit by an increase of the charges imposed to the detriment of the existing users.

3.1.3 In addition, the reservation of an extremely broad discretion on the part of the Authority creates uncertainty and concern for existing facility owners and users. It would be desirable to provide that the Authority will, in exercising its powers under Section 38(4), take into account the terms of the existing arrangements between the owner and such users. This will give some assurance that the Authority will, before making any directions, take into account any capital contributions and investments provided by the existing users for the development of the facility.

### **3.2 Proposed Section 38A**

3.2.1 The proposed Section 38A(1) empowers the Authority to require the persons referred to in paragraphs (a) and (b) of Section 38A(1) to enter into such arrangement for the allocation of gas in the offshore gas pipeline, and to take such steps to ensure that the arrangement is given effect to, as the Authority thinks fit.

3.2.2 It is the natural concern of customers that any such allocation by the Authority will not have the effect of adversely affecting or diminishing the ability of their sellers to supply and deliver the quantity of gas contracted for and required by them for use in their business. This concern is more acute in relation to customers who use

gas to generate electricity since any disruption or diminution in the supply of gas to them may have extensive consequential and economic effects on the electricity consumers and their business.

- 3.2.3 Therefore, the Section 38A should set out a list of the concerns or factors which the Authority should take into consideration in any exercise of the power of allocation conferred by Section 38A and that such list includes a consideration of the effects of allocation on the ability of the gas shippers to supply and deliver the quantity of gas which their customers had contracted for. This should include a power of the Authority to direct the facility owner and/or the new entrant to pay an amount to the other users who are adversely affected by the allocation.

### **3.3 Proposed Section 61F**

- 3.3.1 The proposed Section 61F empowers the Authority to direct, on the application of any relevant gas shipper, any relevant direct access customer to do or not do such things, including to pay the relevant gas shipper such charges under the Gas Network Code, as may be determined by the Authority in relation to any obligation or liability of the relevant gas shipper under the Gas Network Code.
- 3.3.2 We are unclear why the Authority should be given the power to address the commercial, economic or financial concerns of gas shippers. The gas shippers should determine for themselves and as part of their business the terms on which they will agree to ship gas for their customers and their concerns relating to payments and their obligations under the Gas Network Code should and can be included in the contract which they make with their customers. The Authority should not be empowered to compel direct access customers to make payments to the gas shippers of charges imposed on gas shippers under the Network Code or to discharge the any obligation or liability of a gas shipper under the Gas Network Code. Any exercise of such power will detract from the certainty of the rights and obligations in the contract between a gas shipper and its direct access customer and may also place the Authority in the role of an arbiter of disputes between a gas shipper and its direct access customer.

## **4. Recommendations**

- 4.1 For the reasons stated above, we would recommend the following:

- 4.1.1 The power conferred in Section 38(4)(d) to make adjustments to charges imposed by the owner on existing users of the relevant facility should be exercised only to reduce the charges imposed and therefore paragraph (d) of Section 38(4) be replaced with the following:

“requiring the owner of the relevant facility to reduce the charges imposed by the owner on existing users of the relevant facility by such amount and on such terms as the Authority considers appropriate;”,

and a new sub-paragraph be included, which provides for the Authority to take into account, and to the extent reasonably possible, preserve the terms of the existing arrangements between the owner and such users.

- 4.1.2 Section 38A should set out a list of the concerns or factors which the Authority should take into consideration in any exercise of the power of allocation conferred by Section 38A and that such list includes a consideration of the effects of allocation on the ability of the gas shippers to supply and deliver the quantity of gas which their customers had contracted for.
- 4.1.3 Section 61F(1) be revised so that the power conferred on the Authority is confined to directing the relevant direct access customer to do or not to do such things for the purpose of ensuring the security or reliability of the conveyance of gas by the designated gas transporter.

**Annex – Table of Proposed Revisions**

<b>Specific Provision(s) of Proposed Amendments</b>	<b>Revised Amendments</b>	<b>Detailed Reasons for Revised Amendments</b>
Section 38(4)(d)	(i) To replace sub-paragraph (d) with the following text: “requiring the owner of the relevant facility to reduce the charges imposed by the owner on existing users of the relevant facility by such amount and on such terms as the Authority considers appropriate;” (ii) To provide for a new sub-paragraph stating that the Authority will, in exercising its powers under Section 38(4), the Authority will take into account and preserve the terms of the existing arrangements between the owner and the existing users (including any capital contributions and investments made by the existing users for the development of the facility)	Our reasons are as stated in paragraph 3.1 in our feedback.
Section 38A	Section 38A should set out a list of the concerns or factors which the Authority should take into consideration in any exercise of the power of allocation conferred by Section 38A and that such list includes a consideration of the effects of allocation on the ability of the gas shippers to supply and deliver the quantity of gas which their customers had contracted for. This should include a power of the Authority to direct the facility owner and/or the new entrant to pay an amount to the other users who are adversely affected by the allocation.	Our reasons are as stated in paragraph 3.2 in our feedback.
Sections 61F	Section 61F(1) be revised so that the power conferred on the Authority is confined to directing the relevant direct access customer to do or not to do such things for the purpose of ensuring the security or reliability of the conveyance of gas by the designated gas transporter.	Our reasons are as stated in paragraph 3.3 in our feedback.