

Our Ref: C2000/10392  
Contact Officer: David Hatfield  
Contact Phone: (02) 6243 1266

12 October 2000

Mr Alistair Butcher  
Regulatory Affairs Specialist  
PO Box 6470  
EAST PERTH WA 6892

Dear Mr Butcher,

### **Submission to ACCC Issues Paper**

Thank you for Epic Energy's submission dated 28 September 2000 regarding the Commission's recently published *Issues Paper* for the Wallumbilla to Gladstone via Rockhampton Pipeline and the Ballera to Wallumbilla Pipeline in South-West Queensland (the SWQP).

Epic Energy's submission queried why certain matters (namely, the Queensland certification process; Reference Services; Access Arrangement Information; and the duration of the Access Arrangement) were raised in the *Issues Paper*.

The *Issues Paper* was intended to provide interested parties with an opportunity to comment on the proposed Access Arrangement and Access Arrangement Information and enable the Commission to make an informed assessment of the Access Arrangement. The Commission's reasons for raising, in the *Issues Paper*, the particular matters referred to in Epic Energy's submission are set out below.

#### **1. Queensland Certification Process**

Epic Energy's submission queried the relevance of the certification process currently being conducted by the National Competition Council under Part IIIA of the *Trade Practices Act* to the Commission's assessment of Epic Energy's proposed Access Arrangement under the *National Third Party Access Code for Natural Gas Pipeline Systems* (the Code).

Chapter 2 of the *Issues Paper* was intended to provide background information on the regulatory framework. The certification process is a component of that framework.

Further, the possibility that the regulatory framework may be amended in response to the certification process may be material to the Commission's assessment of Epic Energy's Access Arrangement. For this reason, Parts 4.2.8 and 5.2.8 of the *Issues Paper* (Term and Review) note that there may be future amendments to the derogations and seek submissions on whether an 'events trigger' should be included in the Access Arrangements. This is discussed further below.

#### **2. Reference Services**

Epic Energy states that the Full Forward Haul Service is the only Reference Service.

The tariffs set out in an Access Arrangement are unenforceable under the Code except to the extent that an arbitration decision must not require a Service Provider to provide a Reference Service at a Tariff other than the Reference Tariff (section 6.18(e)).

Section 3.2 of the Code does not limit 'Reference Services' to Services likely to be sought by a significant part of the market. Rather, the Services Policy in an Access Arrangement must, at a minimum, describe one or more Services likely to be sought by a significant part of the market.

If an Access Arrangement specifies a Service and a Reference Tariff in respect of that Service, then that Service is a 'Reference Service' under section 10.8 of the Code. The 'reference tariff and reference tariff policy' approved by the Qld Minister for the SWQP under section 58 of the *Gas Pipelines Access (Queensland) Act 1998* (Qld Gas Act) specifies certain services<sup>1</sup> and tariffs for those services. Consequently, the *Issues Papers* sought submissions on whether those services are Reference Services (and come within section 6.18(e)).

### **3. Access Arrangement Information**

Section 2.2 of the Code requires Epic Energy to provide Access Arrangement Information (AAI) as set out in sections 2.6 and 2.7 of the Code.

Under section 58 of the Qld Gas Act, the tariff arrangement approved by the Qld Minister determines the reference tariff, reference tariff policy and revisions submission and commencement dates. Section 58 does not expressly exclude the obligation to provide AAI. Further, the tariff arrangement approved by the Qld Minister for the SWQP (as notified in the *Qld Government Gazette* No 39 16 June 2000) does not state that Epic Energy is not required to provide AAI. Accordingly, the *Issues Paper* sought submissions on whether Epic Energy should be required to provide additional information.

### **4. Review of Access Arrangement**

Epic Energy's submission queries why the *Issues Paper* sought submissions on review triggers.

Under section 58 of the Qld Gas Act, the revisions submissions and commencement dates mentioned in the reference tariff policy approved by the Qld Minister are taken to be the revisions submissions and commencement dates for the access arrangement. However, section 58 does not expressly exclude other elements of sections 3.17 and 3.18 of the Code. In particular, section 58 of the Qld Gas Act does not refer to:

- the Commission's obligation under section 3.18 to consider whether mechanisms should be included to address the risks of forecasts proving incorrect; and
- section 3.17(ii) which allows the Commission, in making its decision on an Access Arrangement, to require a 'specific major events' trigger.

Consequently, the operation of sections 3.17 and 3.18 of the Code was raised in the *Issues Paper*.

The Commission will further consider these issues after it has received submissions on the *Issues Paper* (submissions are due by 19 October 2000). As with all publicly available

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<sup>1</sup> Ie Back Haul Service, Interruptible Transportation Service, Forward Part Haul Service (Zonal), Back Part Haul Service (Zonal) and Interruptible Part Haul Service (Zonal).

submissions, Epic Energy's submission will be placed on the Public Register for the Ballera to Wallumbilla Pipeline's Access Arrangement and interested parties may also obtain a copy from the Commission's website <http://www.accc.gov.au> under 'Gas'.

A copy of this letter will also be placed on the website and on the public register.

Should you wish to discuss any issues arising from this letter please contact David Hatfield on 02 6243 1266.

Yours sincerely

Ms Kanwaljt Kaur  
Acting General Manager - Gas