

5 November 2002

Mr Russell Phillips
Acting General Manager
Regulatory Affairs - Gas
Australian Competition and Consumer Commission
PO Box 1199
Dickson ACT 2601

Dear Mr Phillips

Moomba-Sydney Pipeline System Access Arrangement

Thank you for the opportunity to make this submission regarding the Epic Decision and consequent errors of law in the Moomba Sydney Pipeline (MSP) Draft Decision.

The attached submission is accompanied by legal advice from Geoff Taperell of KPMG Legal. EAPL's submission and the legal advice confirm that the Epic Decision, which sheds significant light on the interpretation of the Code, reveals that there are fundamental flaws in the Draft Decision. Therefore, the only consequence can be that the Commission must undertake a complete reassessment of the Initial Capital Base (ICB) for the MSP and accordingly, the price path, both of which are fundamental elements of the Access Arrangement. That reassessment, on a proper interpretation of the Code, results in a substantial increase in the range of relevant valuations and the appropriate basis for an ICB.

As identified in my letter of 1 November, in the light of the significance to EAPL and users of the MSP of a reassessment of the ICB, and the fact that this will be the first indication of the Commission's view of the Epic Decision, it is essential that interested parties be given an opportunity to consider and comment on the interpretation and application of that decision by the Commission, prior to the Commission reaching its Final Decision.

I note from your response that the Commission does not believe it can give a clear indication of what its course of action will be following its consultation process. I trust that the significance of the conclusions in this submission clarifies the need for APT and interested parties to be given the opportunity to know and comment on the Commission's thinking before the Final Decision.

Please note that that the attached submission contains information which is both confidential and commercially sensitive. The confidential information has been highlighted to ease identification by the Commission. It should only be used by the Commission for the purpose for which it has been provided and it should not be disclosed to any third party without the prior consent of EAPL.

Should you have any matters for clarification arising from this response please contact Chris Harvey of Agility on 02 9922 8601.

Yours faithfully

Michael McCormack
General Manager Commercial

Attch.