

18 August 2004



Mr Mike Buckley  
General Manager  
Regulatory Affairs – Gas  
Australian Competition and Consumer Commission  
PO Box 1199  
Dickson ACT 2602

Dear Mr Buckley

**ENERGEX Retail's submission to Epic Energy's proposed revised access arrangements for the Ballera to Wallumbilla Pipeline**

ENERGEX Retail ("ENERGEX") appreciates this opportunity to provide comments to the Australian Consumer and Competition Commission ("the Commission") on the proposed revised access arrangement submitted by Epic Energy Queensland Pty Ltd (Epic) for the Ballera to Wallumbilla Pipeline (the South West Queensland Pipeline, "the SWQP").

Our main concern relates to Epic's proposal to discontinue the provision of AFT services (Back Haul, Interruptible Transportation, Forward Part Haul, Back Part Haul and Interruptible Part Haul Services) as Reference Services. For reasons discussed in this submission, ENERGEX believes that at the minimum, Back Haul Service, and possibly Back Part Haul Service, should continue to be offered as Reference Services over the proposed two year access period to 31 December 2006. As these services are expected to become sought by a significant part of the market within the next two years, we believe that the establishment of Reference Tariffs and corresponding Reference Tariff Policies is essential for ensuring that these services are made available to prospective users on fair and reasonable terms and conditions. It is also important that such terms and conditions are transparent and consistent with the principles under the National Third Party Access Code for Natural Gas Pipelines (the Code).

Services that should be provided as Reference Services

In general, ENERGEX believes that price regulation should only be utilised by regulators in circumstances of market failure. In the case of the SWQP, we believe that market failure arises due to the presence of a monopoly pipeline service provider. This provides clear justification for intervention by the Commission to correct the welfare consequences of such monopoly power.



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By requiring any service that is *likely to be sought by a significant part of the market* to be offered as a Reference Service, the Code explicitly recognizes the need for intervention where such intervention is necessary to ensure that competition in any market is not adversely affected. For any such service, a Reference Tariff must be established in accordance with the Reference Tariff Principles specified under Section 8 of the Code.

ENERGEX believes that Back Haul Service will become increasingly sought by a significant part of the market over the next two years as operational issues associated with the interconnect between the SWQP and the Carpenteria Gas Pipeline (“the CGP”) are resolved and Mt Isa becomes increasingly accessible by retailers along the SWQP. Anticipated growth in demand at Mt Isa is also expected to facilitate entry by new retailers. Such retailers will require the use of Back Haul Service on the SWQP. Defining the “market” for Back Haul Service as the market comprising retailers who are capable of supplying Mt Isa by shipping gas through the SWQP using Back Haul Service, it is expected that this service will be demanded by the majority, if not all, of this market, and should therefore be offered as a Reference Service.

Even if the “market” was defined as the market comprising end use customers at Mt Isa, it is expected that Back Haul Service will be demanded by a significant part of the market given the benefits of an increased diversity of supply and potential for competitive pressures to be exerted on prices. This interpretation also supports the conclusion that Back Haul should be included as a Reference Service.

In addition to Back Haul Service, we understand that retailers transporting gas along the Gilmore to Barcaldine pipeline currently utilise Back Part Haul Service (zonal) provided by Epic, and that there are no retailers who use Forward Haul Service to serve demand north of Gilmore. It is therefore expected that Back Part Haul Service will be demanded by a significant part, if not all, of the market comprising retailers on the Gilmore to Barcaldine Pipeline, and hence should also be provided as a Reference Service.

Given the above, ENERGEX considers that regulation of tariffs for Back Haul and Part Back Haul Services is essential for ensuring that competition is allowed to flourish the Mt Isa market and the market north of Gilmore. The absence of maximum tariffs and lack of visibility in the methodology by which tariffs are determined creates uncertainty as to whether the services will be offered on a non-discriminatory manner, acting as a disincentive to retailers considering operating in either of these markets. Ultimately, any costs will be borne by end users in the form of uncompetitive gas prices that arise from the pricing behaviour of a limited number of retailers willing to supply these markets, and or which reflect the pass through of uncompetitive prices for AFT Services.

### Concluding comments

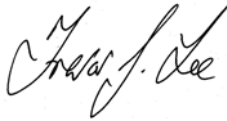
ENERGEX believes that Back Haul Service and Back Part Haul Service should be offered as Reference Services over the proposed two year access period given that –

- Back Haul Service is expected to become increasingly demanded over the next few years by retailers on the SWQP seeking to access the Mt Isa market via the interconnect between the SWQP and the CGP; and
- Back Part Haul Service is expected to be sought by a significant part of the market comprising retailers who are supplying gas north of Gilmore along the Gilmore to Barcaldine Pipeline.

ENERGEX also reiterates the risks to competition in the markets discussed above. Given the potential for competition in these markets to be adversely affected, ENERGEX urges the Commission to consider the need to require the continuation of the provision of Back Haul Service and Back Part Haul Service as Reference Services over the proposed two year access period.

Thank you again for allowing ENERGEX with this opportunity to provide our comments. Please feel free to contact myself or Sarah Kok (07 3407 4092) if you have any questions or would like to discuss our submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "Trevor Lee". The signature is written in a cursive style with a large initial 'T' and 'L'.

Trevor Lee  
Group Manager Regulatory Affairs