



Australian
Competition &
Consumer
Commission

Final Decision

Revised access arrangement
by Epic Energy Queensland Pty Ltd
for the
Ballera to Wallumbilla Natural Gas Pipeline
(South West Queensland Pipeline)

1 November 2006

File: S2006/96

Commissioners:

Samuel
Sylvan
Martin
McNeill
Willett
Smith

Summary

On 3 July 2006, Epic Energy Corporate Shared Services Pty Limited on behalf of Epic Energy Queensland Pty Ltd submitted to the Australian Competition and Consumer Commission (ACCC) the proposed revisions to the access arrangement for the Ballera to Wallumbilla Natural Gas Pipeline as required under the terms of the access arrangement. The relevant access arrangement information was also provided.

The SWQP is the subject of a Queensland Government derogation which precludes the ACCC from reviewing the reference tariff and reference tariff policy for the full forward haul service (the only reference service available on the SWQP) until 30 June 2016. The current review is restricted to revisions relating to AFT services.¹

On 20 September 2006, the ACCC made a draft decision under section 2.35(a) of the *National Third Party Access Code for Natural Gas Pipeline Systems* (code) that it proposed to approve the revisions to the access arrangement as proposed by Epic.

No submissions were received in response to the draft decision.

The ACCC has now made a final decision, pursuant to section 2.38(a)(i) of the code, that it approves the revisions to the access arrangement as originally proposed by Epic.

The access arrangement as revised will become effective on 1 January 2007.

¹ The AFT services are alternative forms of transport to the full forward haul service. They are: back haul, interruptible, forward part haul, back part haul, and interruptible part haul. See ACCC, Draft Decision, p. 9.

1. Background

The Ballera to Wallumbilla Natural Gas Pipeline supplies gas from the Cooper Basin in south-west Queensland and is also known as the South West Queensland Pipeline (SWQP). The pipeline is 756 km long, with a diameter of 406 mm and maximum allowable operating pressure of 15 MPa. It was constructed in 1996 by Tenneco Gas Australia and is now owned by Epic Energy Queensland Pty Ltd and operated by Epic Energy Corporate Shared Services Pty Limited (which are owned by Hastings Diversified Utilities Fund).² The SWQP interconnects with the Ballera to Mt Isa Pipeline at Ballera and with the Roma to Brisbane Pipeline and Wallumbilla to Gladstone Pipeline at Wallumbilla.

The access arrangement describes the terms and conditions on which Epic makes access to its pipeline available to third parties.

In general, the regulator is required to assess an access arrangement and access arrangement information against the principles and requirements of the *National Third Party Access Code for Natural Gas Pipeline Systems* (code). However, the SWQP is subject to a derogation of the Queensland Government which precludes the ACCC from reviewing the reference tariff and reference tariff policy for the full forward haul service (the only reference service available on the SWQP) until 30 June 2016. The reference tariff and reference tariff policy for the full forward haul service contained in the access arrangement have been established by the Queensland Government. Accordingly, the reference tariff and reference tariff policy for the full forward haul service have not been reviewed at this time.

As a consequence, the current review has focussed on the access arrangement as it relates to the non-reference services (also referred to as AFT services). The tariffs for these services are to be negotiated with Epic, subject to clause 6.1(d) of the access arrangement, and are not set out in the access arrangement.³

The ACCC has made a decision based on information supplied by Epic, a consultant's report and its own analysis. Pursuant to section 2.38(a)(i) of the code, the ACCC's final decision is to approve the proposed revisions to the SWQP access arrangement.⁴

² Epic Energy Queensland Pty Ltd and Epic Energy Corporate Shared Services Pty Limited are referred to in this final decision as Epic.

³ ACCC, Draft Decision, p. 12.

⁴ This concludes the assessment process for this matter. No decision under section 2.41 of the code is required.

2. Assessment

This chapter provides an outline of the ACCC's draft decision and its subsequent analysis of the proposed revisions to the SWQP access arrangement.

2.1 Draft decision

2.1.1 Services policy, reference tariff and reference tariff policy

The ACCC considered whether one or more of the AFT services, which are currently non-reference services, should be included in the access arrangement as a reference service.⁵

This assessment was carried out with reference to the services policy, the reference tariff and reference tariff policy provisions of the code. These provisions specify, among other things, that an access arrangement must include a description of one or more services that the service provider will make available to users and prospective users. It must also include services that are likely to be sought by a significant part of the market, and any that in the regulator's opinion should be included.⁶

In considering whether any non-reference service (in particular, back haul) should be reclassified as a reference service, the ACCC took into consideration the following factors:⁷

- the circumstances under which the AFT services were classified as non-reference services in 2004
- that clause 6.1(d) of the access arrangement states Epic will not charge tariffs for the AFT services that are greater than those approved by the Queensland Minister (subject to CPI escalation)
- no interested party had requested any additional services be included as reference services in the access arrangement
- the likelihood of users and prospective users requesting a back haul service
- Epic's ability to provide a back haul service in the short term
- that demand for back haul is very uncertain, and
- the tariff used by Epic in responding to enquiries for a back haul service is at most approximately \$0.38/GJ, consistent with clause 6.1 of the access arrangement

⁵ The AFT services are back haul, interruptible, forward part haul, back part haul and interruptible part haul. See ACCC, Draft Decision, p. 9.

⁶ Sections 3.1 and 3.2 of the code.

⁷ ACCC, Draft Decision, pp. 11-13.

The ACCC also acknowledged that it was difficult to forecast demand for back haul and other AFT services with any degree of accuracy. Any subsequent cost of service based calculation of tariffs would therefore be subject to considerable doubt.

Taking into account these factors, the ACCC concluded that all the AFT services should remain as non-reference services for the forthcoming access arrangement period of two years.

Minor administrative revisions to the services and reference tariff policies proposed by Epic were considered to be consistent with the code requirements. The ACCC's draft decision proposed to approve the revisions as proposed by Epic.

2.1.2 Other policies

The ACCC also considered the following elements of the proposed revised SWQP access arrangement before reaching its draft decision:

- the terms and conditions for the reference service
- the capacity management policy
- trading policy
- queuing policy
- extensions/expansions policy, and
- the revisions submission date and revisions commencement date.

No revisions were proposed for the capacity management, trading or queuing policies. Each of these policies was found to comply with the code requirements.

Terms and conditions

In addition to considering whether one or more of the AFT services should be a reference service, the ACCC also assessed the proposed revised terms and conditions for compliance with the code.

First, in addition to some editorial changes, minor revisions were proposed for certain terms and conditions. After considering a report prepared by its consultant, the ACCC concluded that the proposed revisions were reasonable.⁸

Second, the ACCC considered clause 10.2 of the access arrangement. This clause states that the terms and conditions in the access arrangement do not apply to non-reference services. Accordingly, the terms and conditions in the access arrangement cannot be relied upon to provide guidance as to the terms and conditions upon which Epic would provide a non-reference service. As the ACCC concluded that no AFT services should be reclassified as reference services, AFT related terms and conditions do not need to be included in the SWQP access arrangement. However, it was noted that if any new

⁸ See ACCC, Draft Decision, pp. 14-16. Sleeman Consulting, *South West Queensland Pipeline review of proposed terms and conditions*, 12 August 2006, p. 3.

reference services are incorporated into the access arrangement in the future then Epic may need to revise some of the current terms and conditions.

Extensions and expansions policy

The current policy on expansions provides Epic with the discretion, upon providing written notice to the regulator, as to whether expansions to the SWQP will become part of the covered pipeline. The ACCC noted that this is not consistent with its preference for the discretion over coverage for an expansion to rest with the regulator. However, the ACCC acknowledged in the draft decision that:

- the expansions policy was assessed as part of the 2004 review of the SWQP access arrangement and accepted
- the current throughput of the SWQP is much less than the pipeline's capacity allows
- the swap arrangement between Santos and Origin has, and will continue to have, a substantial impact on the actual flow of gas, and
- the SWQP has been operating with excess capacity and is likely to continue to operate in this manner for the next two years.

Accordingly, the ACCC concluded that it would not seek an amendment to the extensions and expansions policy. However, this would be reconsidered at future reviews if the operating circumstances of the SWQP change.

Revisions dates

Epic proposed a two year access arrangement period. In considering this proposal, the ACCC noted that the Queensland gas market is changing. Coal seam methane (CSM) has been developed to the extent that the market is less reliant on gas from the Cooper Basin. The growing importance of CSM is expected to continue.

However, despite the development of CSM and the growth of the Queensland gas market the future demand for the services provided by the SWQP remains uncertain. In response to these circumstances the ACCC concurred with Epic's proposal and did not propose a change to the revisions submission or revisions commencement dates.

2.2 Submissions

The ACCC has not received any submissions from Epic or from other interested parties in regard to its draft decision.

2.3 ACCC considerations

The ACCC notes that there have been no submissions from interested parties or Epic in regard to the draft decision. In addition, the ACCC is not aware of any other information or material that is relevant to its considerations. The ACCC has concluded that the SWQP access arrangement as revised would contain the elements and satisfy the principles set out in sections 3.1 to 3.20 of the code. Accordingly, it has decided to

confirm its draft decision to approve the proposed revisions to the SWQP access arrangement.

3. Final decision

For the reasons expressed in the draft decision and this final decision, pursuant to section 2.38(a)(i) of the code, the ACCC approves the revisions to the South West Queensland Pipeline access arrangement as originally proposed by Epic.

The revised access arrangement commences on 1 January 2007.

This final decision document and the revised access arrangement are available on the Australian Energy Regulator's website www.aer.gov.au.⁹

⁹ The ACCC has prepared this final decision in consultation with the Australian Energy Regulator (AER). The ACCC is currently the regulator of natural gas transmission pipelines under the code. However, this function (and the regulation of natural gas distribution pipelines) will be undertaken by the AER in the future.