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Ms Kanwaljit Kaur
General Manager
Regulatory Affairs - Gas
Australian Competition & Consumer Commission
PO Box 1199
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Dear Ms Kaur

MOOMBA TO SYDNEY PIPELINE - DRAFT ACCC DECISION

Origin Energy Retail Limited (Origin) welcomes the opportunity to make a submission to the Australian Competition and Consumer Commission (ACCC) on the Draft Decision issued by the ACCC on 19 December 2000 in relation to the Access Arrangement by East Australian Pipeline Limited for the Moomba to Sydney Pipeline System.

Origin has several concerns with the Draft Decision and these are addressed in detail below.

1. *Interruptible Service*

Origin notes that the IT service originally proposed by EAPL has now been withdrawn and that comments are now sought on an appropriate replacement service. Origin understands the reluctance of EAPL to offer an Interruptible Service when there is adequate capacity to provide a firm service to all applicants such that any Interruptible Service is effectively firm. However, Origin sees a need for a more flexible service than that contemplated by FT service coupled with high overrun charges. Without a more flexible service, Origin believes that small users and, particularly, new entrants face barriers to entry and high unit costs as they start to grow their markets. Origin proposes that an IT service be offered to a limited extent which could supplement the proposed FT service. The arrangement proposed is as follows:

IT Service	Maximum Daily Quantity	Limited to 5 TJ per day;
	Commodity Charge	As for FT Service;
	Capacity Charge	FT Capacity Charge x 1.35;
	Charges levied on actual throughput on a day.	

For the duration of the initial Access Arrangement, this service would not be a rebateable service as it would be replacing some volume that EAPL would otherwise be expecting to sell on the basis of the FT Service. Once the pipeline is close to having the full 470 TJ per day capacity committed to FT Service, this service could become a rebateable service. This position could be reviewed at the time of the next Access Arrangement.

2. *Delivery Point Aggregation*

Origin notes that the Request for Transportation Services form is to be modified to allow for multiple delivery points. Origin agrees with that proposal. However, it is not clear whether the total pipeline MDQ is intended to be the sum of individual delivery point MDQs or the pipeline MDQ is established with the flexibility to deliver that gas through a range of delivery points. Origin believes that the latter process should apply to enable users to take advantage of any aggregation they are able to achieve in their loads to minimise their costs and ultimately those of the consumers.

3. *Gas Used*

Origin notes that APT is now proposing that users provide their own fuel gas. Origin strongly opposes such a retrograde step. It is the responsibility of the pipeline owner to manage the pipeline and he should be responsible for the costs involved. If the pipeline owner is acquiring fuel gas at no cost there is no incentive on the pipeline owner to use that gas efficiently.

4. *Order of Priority*

The order of priority gives firm services first priority, with all other services having secondary status. However, reference is made at each stage to this being subject to any pre-existing contractual rights to a higher priority (if any). EAPL should delete this provision unless it can advise whether there are such pre-existing rights and, if so, where they fit into the priority schedule. This may be a consideration for a potential user in determining what service to apply for in order to service his customers.

5. *Shared Facilities*

Origin understands the Commission's concerns with the provision of clause 28.1(5) of Attachment 3 and the proposed amendment A3.4 to delete it. However, there is a need for a consultative process to occur for any new user of a facility. Such a facility may already be a shared facility or may become one by virtue of the new user. The accommodation of the new user will involve the establishment of, or possible modification to, the Shared Facility Appointee, an apportionment process and any necessary confidentiality agreements. The new user cannot in practice use the facility until this process has been completed. The condition of consent is therefore still relevant but only until the above arrangements are completed.

6. *Overrun Charges.*

The Commission has sought comment on the overrun charges proposed by EAPL. Origin accepts that a reasonable overrun regime is necessary to ensure that users do not significantly under-book capacity knowing that there is adequate capacity available if needed. Without that driver, the overrun charge could be set at a reasonable rate of, say, 1.35 x the equivalent capacity charge, the same as that proposed for the interruptible charge. The under-booking problem is probably better handled by a retrospective adjustment process such as that used elsewhere to cover this problem. Such a clause would read as follows:

"Should a user incur an overrun charge on more than 10 occasions in any year, the Capacity Charge will be increased retrospectively by multiplying the 11th largest of the overrun quantities by the capacity charge rate for each month of that year. The payment of the retrospective charge does not entitle the user to any additional MDQ for that year."

Origin notes that the overrun charges are intended by EAPL to be calculated from the furthestmost Receipt Point (Attachment 2, clause 4.4). This should only apply to the furthestmost Receipt Point of that user for that relevant service.

7. *Liability*

Origin notes that the liability issue is covered by clause 24 of attachment 3. Origin believes that this issue is best covered in the one clause. To that end, the references to other areas should be deleted and the provisions dealt with in this clause. References to liabilities elsewhere should be deleted. These include, in attachment 3, Clauses 5.4, 7.4, 7.5, 7.7 & 16.5. Origin agrees that liability should be limited to direct losses only for all parties. The only exception to that provision should be that, where the default actions of one user causes EAPL to default on its obligations to other users, the defaulting user's liability should extend to EAPL's liability for the direct losses of the other users. Direct losses of a party should exclude losses incurred by a party due to its own negligence or default and losses which a party would not have incurred had it acted in a reasonable and prudent manner and used reasonable endeavours to mitigate its losses.

8. *Unilateral Actions*


Where the Access Arrangement allows EAPL to issue or modify procedures or other documents, the Access Arrangement should require that any such actions should only be taken only after drafts have been circulated to users for comment and any reasonable comments received taken into account in drafting the final documents.

9. Capacity Charge Relief

The capacity charge relief described in clause 19 of attachment 3 should not be limited to those events where Force Majeure is claimed. The relief should be given for prolonged outages irrespective of whether EAPL claims Force Majeure.

Please let us know if you require any further clarification of any aspect of this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Neumann', followed by a long horizontal line.

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