

22 JUL 2008

CENTRAL RANGES PIPELINE PTY LTD

21 July 2008

Ms G Gleeson
Director
Australian Energy Regulator
Level 7
123 Pitt Street
SYDNEY NSW 2000

Dear Ms Gleeson

**TAMWORTH DISTRIBUTION NETWORK
TARIFF VARIATION 2008/2009**

Request

Central Ranges Pipeline Pty Limited ('CRP') owns both the Dubbo to Tamworth Natural Gas Transmission Pipeline and the Tamworth Natural Gas Distribution Network and seeks the Australian Energy Regulator's (AER) approval to what CRP considers a minor variation to its Access Arrangement in respect of the Tamworth Natural Gas Distribution Network.

Background

Both pipeline systems are subject to Access Arrangements pursuant to the National Gas Law (NGL) and National Gas Rules (NGR).

These Access Arrangements in turn reflect the outcome of a tender conducted under the National Third Party Access Code for Natural Gas Pipeline Systems ('the Code') and have a Revision Commencement date of 1 July 2019.

One of those tender outcomes related to the method by which Reference Tariffs would be varied.

The Reference Tariffs for the Reference Services established in the Tender process were expressed in 1 July 2003 dollars and it was a Tender outcome that those tariffs would remain constant in real terms. It was also a Tender outcome that those Tariffs must be increased each year by the current rate of inflation in each subsequent year.

Access Arrangements

Both Access Arrangements under which CRP operates provide in Part 3B Section 3.3 as follows:

"Therefore during the Access Arrangement period Reference Tariffs will only be adjusted on 1 July 2004 and on 1 July each year thereafter in accordance with the formula specified below and in accordance with Sections 8.3B to 8.3H of the Code.

$$RT_n = RT_{n-1} \times \left(\frac{CPI_{n-1}}{CPI_{n-2}} \right)$$

Differences in Access Arrangements

The only differences in the formula in the Access Arrangement for the Distribution Network and that approved for the Transmission Pipeline are:

- (i) the CPI used for the Network Access Arrangement is the average of the CPI's for the four quarters to December in each relevant year; and
- (ii) the CPI used for the Transmission Pipeline Access Arrangement is the March figure in each relevant year.

The other relevant difference in the two Access Arrangements for current purposes relates to the Notification period required.

In the Network Access Arrangement, CRP is required to provide the relevant regulator (until 30 June 2008, the relevant regulator was IPART) with Notice of a proposed increase in Reference Tariffs at least 50 Business Days before the end of the relevant financial year.

Under the Transmission Pipeline Access Arrangement, CRP is required to provide the equivalent notice to the relevant regulator (AER) at least 30 Business Days before the end of the relevant financial year.

The Issue

Last financial year CRP did not provide IPART with the requisite notice of its intention to vary tariffs in accordance with CPI under the Access Arrangement for the Distribution Network at least 50 Business Days before the end of the Financial Year. IPART subsequently determined that the proposed increase to the Reference Tariffs would not be granted because of the failure to submit the Notification within the prescribed time which, in this case, meant by 19 April 2008. IPART determined that under the Code it was unable to grant an extension of time.

CRP asked IPART to reconsider its position, presenting IPART with arguments supporting its ability to grant an extension of time and to review its earlier decision. However, while IPART did reconsider the issue, IPART declined to vary its initial view.

Copies of the Access Arrangement for the Distribution Network, IPART's initial decision dated 12 June 2008 but received on 17 June 2008, CRP's request for a review of that decision dated 25 June 2008 and IPART's further determination dated 4 July 2008 can be provided if required.

The Potential Solution

CRP understands that the only realistic option open to it to prevent CRP from suffering the permanent and compound loss of one year's CPI increase over the life of the Access Arrangement is to seek an amendment to the Access Arrangement for the Network.

CRP accordingly seeks the AER's approval to amend its Access Arrangement for the Network with effect from 1 September 2008 to apply the varied Reference Tariffs for 2008/2009 from that date being the tariffs which would otherwise have been applied from 1 July 2008 had CRP submitted its Notification within the required time. Please note that this is not a retrospective amendment to the Access Arrangement. The changes are designed to take effect only from 1 September 2008. The attachment to this submission sets out the nature and extent of the proposed amendment to the Access Arrangement for the Distribution Network.

Alignment

The AER has been the relevant regulator of the Distribution Network since 1 July 2008 and there is obviously some benefit in realigning the requirements of the two Access Arrangements which AER is now responsible.

We have, accordingly, taken the liberty of suggesting, in the proposed amendment, that the Notification date under the Network Access Arrangement be reduced to 30 Business Days to bring it into line with the Transmission Pipeline Access Arrangement.

Relevant provisions of the NGL and NGR

The Access Arrangement for the Distribution Network was made and approved in accordance with section 3.34 of the Code. Accordingly it is taken to be a "CTP access arrangement" under the NGR.¹

Rule 27(5) of the NGR provides that an "approved CTP access arrangement may be amended, with the AER's approval, by the service provider".

The NGR does not specify a process or the relevant principles for the assessment of revisions to a CTP access arrangement submitted in accordance with rule 27(5).

Rule 29 of the NGR provides that Parts 8, 9 and 10 of the NGR do not apply to a CTP access arrangement. This means the provisions of the NGR relating to revisions to an

¹ NGR, Schedule 1, clause 3(15).

access arrangement (Division 10 of Part 8) do not apply to this proposal to amend the Access Arrangement for the Distribution Network.

In relation to process, we note that there are no prescribed requirements in relation to consultation and timing. We also note that the only current user of the Distribution Network is Country Energy. CRP is not aware of any other party who would be directly affected by this proposed revision.

In relation to the relevant principles, CRP submits that this decision is governed by section 28 of NGL. This means that, in deciding whether to approve the revisions to this Access Arrangement, the AER must act in a manner that will, or is likely to, contribute to the achievement of the national gas objective.² It also appears that the AER must take into account the revenue and pricing principles set out in section 24 of the NGL (see section 28(2)). Even if the AER is not bound to take these principles into account under section 28(2), CRP submits that these principles are relevant to this decision and should be taken into account pursuant to section 28(3) of the NGL.

Conclusion

The approval of these proposed revisions will contribute to the achievement of the national gas objective and is consistent with the revenue and pricing principles. In particular:

- a) approval of these revisions will give effect to a key tender outcome, namely, that tariffs will escalate in line with CPI. Giving effect to the outcome of a competitive tender process is consistent with the national gas objective;
- b) if tariffs do not escalate at least in line with CPI, there is a risk that CRP will be denied a reasonable opportunity to recover the efficient costs incurred in providing reference services. Such an outcome would be inconsistent with section 24(2) of the NGL.

Please advise if you require any further information or explanation in respect of the request which we trust will meet with your favourable consideration.

Yours sincerely



RP: **Ross Piffi**
Chief Executive Officer

² The national gas objective is defined in section 23 of the NGL.

3 REFERENCE TARIFFS

PART 3A – REFERENCE TARIFFS FOR SERVICES

The Reference Tariffs in Section 3 are expressed in 1 July 2003 dollars. The actual Reference Tariff applicable in a particular year is the real 1 July 2003 value escalated at CPI to that year in accordance with this Section. (Tender outcome)

The Reference Tariffs shown in this section are exclusive of GST. The schedule will be updated each year and published by CRP including GST at the applicable rate.

3.1 Transportation Service Charges

Transportation Reference Service	Charge in \$/GJ (1 July 2003 dollars) exclusive of GST
Special Contract Transportation Service	0.05
Contract Transportation Service	1.20
I&C Transportation Service	1.50
Domestic Transportation Service	3.50

PART 3B - VARIATIONS TO REFERENCE TARIFFS

3.2 General

CRP may vary the Reference Tariffs in accordance with the variation method set out in Section 3.3. CRP is required to comply with the notification requirements set out in Section 3.4. Variations may result in both increases or decreases in Reference Tariffs. (Tender outcome)

3.3 Variation Method

The Reference Tariffs for the Reference Services established in the Tender are expressed in 1 July 2003 dollars and are to remain constant in real terms. This means that they must be increased at the then current rate of inflation for each subsequent year. (Tender outcome)

Therefore during the Access Arrangement period, Reference Tariffs will only be adjusted on 1 July 2004 and (subject to Section 3.4A) on 1 July each year thereafter in accordance with the formula specified below and in accordance with Sections 8.3B to 8.3H of the Code.

$$RT_n = RT_{n-1} \times \left(\frac{CPI_{n-1}}{CPI_{n-2}} \right) \text{ where}$$

CPI means the Consumer Price Index (All Groups - Weighted Average Eight Capital Cities) published quarterly by the Australian Statistician. If the Australian Statistician ceases to publish the quarterly value of that Index, then CPI means the quarterly values of another Index which CRP reasonably determines most closely approximates that Index.

CPI_{n-1} means the value of the average of the CPIs for the four quarters to December in Year_{n-1}.

AMENDMENT WITH EFFECT FROM 1 SEPTEMBER 2008

CPI_{n-2} means the value of the average of the CPIs for the four quarters to December quarter in Year_{n-2}.

RT_n means the Reference Tariff in Year_n

RT_{n-1} means the Reference Tariff in Year_{n-1}

3.4 Notification

The following conditions apply to variations to Reference Tariffs in accordance with the variation methods set out in Section 3.3:

Subject to Section 3.4A, CRP may only adjust Reference Tariffs pursuant to Clause 3.3, if it has provided the Regulator with a Notice pursuant to Section 8.3B of the Code at least 30 Business Days before the end of the financial year and the Regulator has not disallowed the variation to the Reference Tariffs prior to the date they are due to come into effect.

The notice pursuant to Clause 8.3B of the Code must include:

- the proposed new tariffs, and
- the calculations supporting the proposed new tariffs.

CRP must submit one and only one notice pursuant to this Clause each financial year.

3.4A Reference Tariffs from 1 September 2008

Notwithstanding anything in this Section 3, from 1 September 2008 the Reference Tariffs are as follows:

Transportation Reference Service	Charge in \$/GJ (1 September 2008 dollars) exclusive of GST
Special Contract Transportation Service	0.06
Contract Transportation Service	1.51
I&C Transportation Service	1.89
Domestic Transportation Service	4.40

These Reference Tariffs:

- will apply from 1 September 2008 as if they had been determined under the variation method set out in Sections 3.3 and 3.4; and
- will be adjusted on 1 July each year thereafter in accordance with the variation method set out in Sections 3.3 and 3.4.

For the purpose of adjusting the Reference Tariffs, in accordance with Section 3.3, to apply from 1 July 2009, the Reference Tariffs specified in this Section 3.4A will be deemed to be the Reference Tariffs for the 2008/09 financial year.

PART 3C – OTHER CHARGES

3.5 Charges for Ancillary Services

AMENDMENT WITH EFFECT FROM 1 SEPTEMBER 2008

Charges for the following ancillary Services are set out in the table below in real 1 July 2004 dollars:

- Request For Services – for time spent collating the information and writing the letter of offer to a user (or Prospective User) when the User requests a new/additional/changed Service.
- Special Meter Read – for reads requested by a User rather than ordinary reads (for instance when the meter reader makes a special visit to read a particular meter out of the usual meter reading route). This service must be scheduled with a minimum 5 day notice period.
- Meter Testing Service – on request of a user, an off-site check to test the accuracy and soundness of Metering Facilities in order to determine whether the Metering Facilities are accurately measuring the quantity of natural gas delivered. The Meter Testing Service will be provided in accordance with the relevant provisions of the Network Code. No charge will apply for this service if the meter is not reading correctly. This Meter Testing Service is for Domestic and small I&C Customers who have gas delivered through a meter of less than 20 cubic metres per hour. Meter Testing Service for all other meters would be subject to a quotation and separate contract.
- Domestic Customer Disconnection Fee – this charge covers disconnection of meters to Domestic Customers. The specific method of disconnection will be at the discretion of CRP to ensure the site is able to be left in a safe state. The fee also covers the cost of subsequent reconnection, during normal business hours, for disconnections which are temporary in nature. Disconnection services will be provided in accordance with the current Network Code in place as at the effective date of this Access Arrangement.
- I&C, Contract and Special Contract Customer Disconnection Fee – this charge covers disconnection of meters to I&C, Contract and Special Contract Customers. The specific method of disconnection will be at the discretion of CRP to ensure the site is able to be left in a safe state. The fee also covers the cost of subsequent reconnection, during normal business hours, for disconnections which are temporary in nature. Disconnection services will be provided in accordance with the current Network Code in place as at the effective date of this Access Arrangement.
- After Hours Reconnection Fee – this charge covers the connection or reconnection of gas supply to a User by removing the lock from the meter isolating the valve or the removal of wadding from the basic meter assembly. This service does not include purging the User, installation or lighting of pilots. This service only applies to meters with a capacity of less than or equal to 6 cubic metres per hour outside normal business hours.

	GST inclusive (1 July 2004 dollars)
Request for Service	\$60 plus \$60 per hour after the first hour
Special Meter read	\$36
Meter Testing Service	\$208
Domestic Customer Disconnection fee	\$75
I&C, Contract and Special Contract Customer Disconnection fee	\$300
After Hours Reconnection Service	\$100

AMENDMENT WITH EFFECT FROM 1 SEPTEMBER 2008

With effect from 1 July 2005 and each year thereafter, the escalation formula set out in clause 3.3 will (subject to Section 3.5A) apply mutatis mutandis to the Charges for Ancillary Services.

3.5A Charges for Ancillary Services from 1 September 2008

Notwithstanding anything in this Section 3, from 1 September 2008 the charges for Ancillary Services are as follows:

	GST inclusive (1 September 2008 dollars)
Request for Service	\$66.81 plus \$66.81 per hour after the first hour
Special Meter read	\$40.07
Meter Testing Service	\$231.61
Domestic Customer Disconnection fee	\$83.51
I&C, Contract and Special Contract Customer Disconnection fee	\$334.05
After Hours Reconnection Service	\$111.35

These charges:

- will apply from 1 September 2008 as if they had been determined under the variation method set out in Sections 3.3 and 3.4; and
- will be adjusted on 1 July each year thereafter in accordance with the variation method set out in Sections 3.3 and 3.4.

For the purpose of adjusting the charges, in accordance with Section 3.3, to apply from 1 July 2009, the charges specified in this Section 3.5A will be deemed to be the charges for the 2008/09 financial year.