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20 October, 2000

Ms Kanwaljit Kaur
Acting General Manager
Regulatory Affairs - Gas
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

Dear Madam,

Santos Submission – Ballera to Wallumbilla Access Agreement

I refer to your letter of 12 September 2000, regarding the Australian Competition & Consumer Commission's ("ACCC") request for public comment on the Ballera to Wallumbilla Pipeline's ("Epic Pipeline") Access Arrangement.

By way of this letter, Santos is pleased to provide the following submission to the ACCC on the proposed Access Arrangement for the Epic Pipeline.

1. Introduction

You will be aware that Santos and the other participants in the South West Queensland Gas Unit represent the largest shippers of gas in the Epic Pipeline. Santos acts as Shipper's Representative for the South West Queensland Gas Producers (the "Producers") under a long term gas transportation contract with Epic Energy ("Epic"). The Producers' understand that their agreement with Epic is the pipeline's only Firm Forward Haul Agreement, and as indicated in Epic's submission this represents over 95% of pipeline revenue.

You will note that most of Santos' comments relate to Epic's trading policy, and specifically provision of additional receipt and delivery points. Santos believes the detail of Epic's trading policy requires further development, to foster the growth of a dynamic and flexible trading environment. While making these comments in both its Epic and Duke submissions, to date Santos has not experienced any practical examples of any form of restrictive trading behaviour.

Indeed, in Santos' experience, Epic's and Duke's approach to pipeline trading has been proactive, although the details of their formal Access policy requires further development. This

situation is different from other Queensland pipelines where serious barriers to trading have restricted effective competition and utilisation of firm capacity reserved by shippers.

2. Services Policy

Santos understands the Firm Forward Service is the only arrangement which has been developed as a Reference Service. This service accounts for over 95% of pipeline revenue. In this instance, Santos accepts that the other non reference services are not sought by a significant part of the market. Any ancillary service which is not gazetted as a Reference Service under the Gas Pipelines Access (Queensland) Act 1998 can be reviewed by the ACCC, if either participant elects to refer the matter to the ACCC for authorisation. Under this circumstance, Santos considers Epic's approach to be appropriate.

3. Trading Policy

Overseas experience has demonstrated that as the gas market develops, there is an increasing desire by various participants to trade gas transportation capacity. Indeed, this process may involve multiple financial transactions per single physical gas transaction.

A flexible trading environment should provide mechanisms for shippers to utilise additional receipt and delivery points. To allow the Service Provider to withhold consent based solely on its own determination of reasonable commercial grounds may be inappropriate, and creates a potential conflict of interest for the Service Provider. In making this comment Santos believes that, to date, Epic has approached all requests on a reasonable basis.

Nevertheless, Santos proposes the following mechanism to provide an equitable basis for determining what is "reasonable commercial or technical grounds", rather than the judgement being at the sole discretion of the Service Provider.

The Service Provider shall provide access to an additional receipt or delivery points without consent being required where the shipper satisfies the following conditions:

- (i) The aggregate of the varied receipt or delivery point maximum daily quantities (MDQs) does not exceed the aggregate of the shipper's receipt or delivery point MDQs prior to the inclusion of the additional receipt or delivery point.
- (ii) It is technically feasible, within the constraints of the Service Provider's contractual obligations to receive or deliver the varied MDQs at the specified receipt/delivery Points.
- (iii) The shipper makes all appropriate arrangements with its customers as a result of the variation nominated.
- (iv) The Service Provider will not, as a result of such a variation, incur any additional capital cost which it would not otherwise have incurred, or will be required to advance the time at which capital costs would otherwise have been required. In the event that a new receipt or delivery point is required, an agreement by the requesting party to indemnify the service provider for the additional costs (both capital and operating) will suffice to ensure that the service provider will not incur any additional capital costs.

- (v) As a result of the variation, and where the transportation distance is equal to or less than previously provided under the shipper's transportation contract, the shipper will pay the same amount of revenue to the Service Provider. Where the transportation distance is increased, the shipper will provide additional revenue in accordance with the Service Provider's Access Arrangement to satisfy the incremental transportation distance.

In the circumstances where the shipper does not satisfy all of the above requirements, then consent will be required by the Service Provider based on reasonable commercial and technical grounds. The ACCC should adjudicate any situation where the user believes the Service Provider has rejected its request on unreasonable grounds.

4. Extensions/Expansion Policy

Santos understands any extension or expansion of pipeline capacity will not affect the Reference Tariff established prior to the upgrade. It is reasonable for the Service Provider to receive an acceptable rate of return on investment associated with the capacity expansion. This may require the user to pay for a capital contribution or additional surcharge. However, it seems the minimum charge payable by a new user is equal to the current Reference Tariff which may alter the overall return on investment of the pipeline. It is assumed that any overly positive impact on the rate of return is partially returned to the shippers via the revenue sharing mechanism. The exact impact of the additional capital surcharge payments on the revenue sharing mechanism is unclear. In particular, if a capital contribution or surcharge payment includes a return on investment component, how is this revenue treated with regards to the revenue sharing mechanism? Alternatively, how is the split between capital contribution and revised Reference Tariff determined and what are the implications on the sharing mechanism? It would be helpful if Epic could provide further detail on this issue.

5. Duration of Access Arrangements

Under its Access Arrangements, Epic has proposed an effective Reference Tariff review date of February 2017. It is understood this date has been established through legislation in Queensland. Although Epic has questioned the legitimacy of the ACCC to review non-tariff elements every five years (Epic's letter of 28 September 2000), Santos is supportive of this proposed shorter review time. Substantial changes to the gas industry are anticipated in the coming years, which are likely to affect elements of Epic's non-tariff Access Arrangements. For example, the market requirements for queuing and trading policies are likely to change over time, and a shorter review time of non-tariff elements would be advantageous to reflect market developments.

It should be noted that the Producers have committed to regular gas price reviews (in some cases for periods shorter than five years) under a number of gas sales contracts. This ensures that gas pricing continues to be reflective of market conditions. It is also appropriate for the industry to be reactive to changing market conditions, and we are not convinced that this should not regularly include reviewing Reference Tariff pricing or non-tariff elements.

6. Conclusion

This submission primarily seeks to highlight that in Santos' opinion, Epic's Access Arrangement is deficient in developing appropriate mechanisms to encourage capacity trading, especially in relation to the provision of access to additional receipt and delivery points. Whilst Epic's submission on trading policy may satisfy its legal requirement under the National Third Party Access Code, from a pipeline users perspective, Santos contends additional parameters are

required to protect competition and to foster growth of capacity trading. As we have highlighted, at all times Epic has approached Santos' previous requests for additional flexibility in an open and productive manner. In no way should Santos' suggestions be interpreted that Epic has not sought to cooperate on trading issues. Rather this submission seeks to formalise a productive process of handling additional receipt/delivery points which currently exists.

If you have any queries regarding this submission, please call Mr Rod Rayner on (07) 3228 6660.

Yours sincerely,

Rod Rayner

Manager Commercial

cc: Barrie Brandt
 T C Lutton
 J Rodda

 R A Rayner

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