ANGLO COAL

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SUBMISSION

Provided to the Australian Competition and Consumer Commission in response to the submission lodged by WestSide Corporation Limited in relation to the Access Arrangement for the Dawson Valley Pipeline

1. Introduction

1.1 Anglo Coal (Dawson) Limited, Mitsui Moura Investment Pty Ltd and Anglo Coal (Dawson Management) Pty Ltd (**Service Providers**) are Service Providers for the Dawson Valley Pipeline (**DVP**).

1.2 On 5 February 2007, the Service Providers submitted a proposed Access Arrangement and Access Arrangement Information for the DVP to the Australian Competition and Consumer Commission (**ACCC**) pursuant to section 2.2 of the National Third Party Access Code for Natural Gas Pipeline Systems (**Code**).

1.3 On 15 February 2007, the ACCC invited interested parties to make submissions on any issues relevant to the proposed Access Arrangement by 16 March 2007. WestSide Corporation Limited (**WestSide**) lodged a submission on 21 March 2007.

1.4 The Service Providers appreciate this opportunity to respond to the key issues raised in WestSide's submission. Each of the six issues is addressed below in the order in which it was raised by WestSide.

2. As Available Service

2.1 In relation to WestSide's proposal that there should also be an 'As Available' service, [1] the Service Providers consider that it would be inappropriate to include an As Available service as an alternative Reference Service for two reasons.

2.2 First, there is no reasonable basis upon which demand for an As Available service can be forecast. The Code provides that the Reference Tariff for a Reference Service is to be determined on the basis of the revenue to be generated from the sales of that Service. The nature of an As Available service combined with the historically low level of throughput on the DVP attributable to an As Available service is such that it would be extremely difficult to forecast demand and to determine expected revenue.

2.3 Second, while the Service Providers appreciate that a production company faces many uncertainties in exploring and developing new sources of natural gas including uncertainty about its potential levels of production, the Service Providers submit that the Code does not require that a Service Provider assist a User or Prospective User to manage its production risks. Coverage under the Code is designed to provide third parties with access to key infrastructure on fair and reasonable terms. In the case of the DVP, coverage is designed to allow a shipper access to gas transportation services. Coverage does not require the Service Providers to accept risk in relation to any uncertainties of gas production. Further, the existence of an Access Arrangement for the DVP which provides for a firm forward haul Reference Service does not restrict the right of a Prospective User to approach the Service Providers to provide an alternative service (including an As Available service) on the basis of a commercially negotiated agreement.

3. Nominations

3.1 In relation to WestSide's submission that the nominations scheme should be based upon daily nominations,[2] the Service Providers reiterate their response to a similar submission made by AGL Sales (Queensland) Pty Limited that they are prepared to amend clause 4.3 to permit Users to notify Anglo Coal of a variation to its nomination 24 hours in advance.

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[1] WestSide submission, paragraph 4, page 1.
[2] WestSide submission, paragraph 5, page 1.

3.2 The Service Providers otherwise consider the nominations scheme as set out in clause 4 of the standard terms and conditions to be appropriate.

4. Tariffs

4.1 In relation to the assertion that the Reference Tariff is 'much higher than is reasonable on a benchmark basis',[3] the Service Providers submit that the Reference Tariff has been calculated in accordance with both the principles in section 8 of the Code and accepted practice for the development of Reference Tariffs for pipelines. The fact that the tariff appears to be higher on a benchmark basis is, in the Service Providers' opinion, a reflection of the lack of economies of scale and economies of scope in relation to the DVP.

4.2 In relation to WestSide's submission that 'the operator would be the beneficiary of the application of the low utilisation cost recovery to any increase in throughput', [4] the Service Providers note that the proposal that Anglo Coal as operator retains the benefits of temporary market growth is consistent with sections 8.44 to 8.46 of the Code which permit the Reference Tariff Policy to contain an Incentive Mechanism. However, the inclusion of section 10.2(b) of the Access Arrangement whereby the Service Providers will lodge revisions to the Access Arrangement within three months of throughput in excess of 25% of the demand forecast ensures that the benefits of any sustained increase in throughput will be shared between the operator and Users.

4.3 In relation to WestSide's comments that the DVP cost structure is 'at least 4 times its closest rival', [5] the Service Providers make two comments:

(a) the DVP exhibits high non-capital costs when compared to other pipelines on a $/km basis due to the short length of the DVP; and

(b) although the Service Providers consider that it is difficult to draw conclusions based on the data in the table in section 6 of the Access Arrangement Information, it can be seen that the DVP's non-capital costs of $650,997 are broadly comparable to the total non-capital costs of other sub-255km pipelines e.g. the Tubridgi Pipeline's costs of $624,575,[6] the Riverland Pipeline's costs of $706,497[7] and the Mildura Pipeline's costs of $528,652.[8]

4.4 In relation to WestSide's assertion that the high level of overhead costs is 'likely to be the result of an arbitrary allocation of corporate overheads from related or associated companies', [9] the Service Providers reiterate the comments made in their submission in reply to the submission by Molopo Australia Limited that the overheads are a reasonable, measured assessment of the true costs of providing the Services and of services ancillary to the provision of the Services.

5. Escalation

5.1 The Service Providers disagree that a 'more appropriate escalation rate would be closer to 50% of CPI'. [10] They consider that the proposed tariff escalation rate of 100% of CPI is appropriate in light of the challenging input cost pressures affecting the mining industry. The Queensland CPI index rose 2.6%, 2.8% and 3.4% in 2004, 2005 and 2006 respectively whereas the Australian Bureau of Statistics' Materials Mining Open Cut

[3] WestSide submission, paragraph 1, page 2.
[4] WestSide submission, paragraph 2, page 2.
[5] WestSide submission, paragraph 3, page 2.
[6] 175km x $3,569
[7] 237km x $2,981
[8] 149km x $3,548
[9] WestSide submission, paragraph 4, page 2.
[10] WestSide submission, paragraph 5, page 2.

index rose 10%, 9% and 4% respectively over the same period. If these high input cost pressures continue, the Reference Tariff is unlikely to recover the efficient costs of providing the Services even if it is escalated at the proposed rate of 100% of CPI.

6. Reference Tariff is disproportionately high

6.1 In relation to WestSide's submission that the proposed Reference Tariff 'appears disproportionately high in comparison with tariffs charged for access to other pipelines', [11] the Service Providers note that the level of the Reference Tariff is a function of the limited revenue generated from sales of the Services and the more significant costs incurred in providing the Services. It is also a reflection of the lack of economies of scale and economies of scope in relation to the DVP. The Service Providers consider that it is a fair and reasonable Reference Tariff based on the forecast revenue and estimated costs of the provision of the Services.

6.2 The Service Providers disagree with WestSide's assertions that the level of the Reference Tariff will provide a significant impediment to the development and commercialisation of gas resources in the Dawson Valley region. In contrast, the Service Providers consider that the existence of the DVP encourages the development and commercialisation of gas resources around the Dawson Valley by providing access to the Queensland gas market.

7. Current customers

7.1 WestSide also 'notes with some concern the matters raised by a current customer of the DVP'.[12] The Service Providers confirm that, contrary to Molopo Australia Limited's assertion at page 4 of its submission of 9 March 2007, there are currently no third party users of transportation services on the DVP.

8. Conclusion

8.1 This submission has addressed the key issues raised by WestSide in its submission.

8.2 In summary, the Service Providers submit that:

(a) it would be inappropriate to include an As Available service as an alternative Reference Service;

(b) they are prepared to amend clause 4.3 to permit a User to notify Anglo Coal of a variation to its nomination 24 hours in advance but otherwise consider the nominations scheme to be appropriate;

(c) the Reference Tariff has been calculated in accordance with both the principles in section 8 of the Code and with accepted practice for the development of Reference Tariffs for pipelines;

(d) the 100% tariff escalation rate is appropriate; and

(e) the level of the Reference Tariff is a function of the limited revenue generated from sales of the Services and the more significant costs incurred in providing the Services and reflects the lack of economies of scale and economies of scope in relation to the DVP.

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[11] WestSide submission, paragraph 6, page 2.
[12] WestSide submission, paragraph 2, page 3.