

28 March 2008

South West Queensland Pipeline – access arrangement review trigger mechanism

The access arrangement for the South West Queensland Gas Pipeline (SWQP), also known as the Ballera to Wallumbilla Pipeline, contains a ‘review trigger mechanism’ under the *National Third Party Access Code for Natural Gas Pipeline Systems* (the code). This requires the service provider, Epic Energy Queensland Pty Ltd (Epic Energy), to submit revisions to the access arrangement before the scheduled review date if a specified event occurs.

Specifically, clause 13(c) of the SWQP access arrangement states:

Epic Energy is required to submit revisions to this access arrangement within one month of receiving written notification by the Commission that one of the following major events has occurred:

- (i) the interconnection of another pipeline with the SWQP; or
- (ii) the introduction of a significant new source of gas supply to one of the SWQP’s markets:

that substantially changes the types of Services that are likely to be sought by the market or has a substantial effect on the direction of the flow of natural gas through all or part of the pipeline.

Epic Energy has confirmed that a specified event has occurred, namely the introduction of a new significant source of gas that has had the effect of reversing the flow of gas on the SWQP. Notwithstanding that a trigger event has occurred, for various reasons Epic Energy has submitted that the review should be deferred. The reasons submitted by Epic Energy include:

- There will be no spare capacity on the SWQP until 2014.
- Epic Energy has an open access approach to available capacity of the SWQP. Epic Energy has entered into agreements for the transportation of gas in a westerly direction despite the absence of a reference tariff for such a service. This demonstrates that the access arrangement does not need to be revised to reflect the reversal of the flow of gas on the SWQP.

A public version of Epic Energy’s letter of 9 November 2007 (which Epic Energy provided on 27 March 2008) setting out its reasons can be found on the Australian Energy Regulator’s (AER’s) website <http://www.aer.gov.au/content/index.phtml?itemId=718159>.

The ACCC notes Epic Energy’s reasons for proposing that the review be deferred. These commercial issues need to be considered in light of the current regulatory arrangements for the SWQP. The code envisages that if a trigger event mechanism is included in an access arrangement and a specified event occurs, the service provider must submit revisions to its

access arrangement. Accordingly, at this stage the ACCC intends to issue the written notification to Epic Energy as required by clause 13(c) of the SWQP access arrangement on 1 July 2008, which will give Epic Energy a reasonable period of time to prepare its proposed revised access arrangement. This review will constitute the first full review of the SWQP access arrangement, including establishing the initial capital base (ICB) in order to set a reference tariff for a Wallumbilla to Ballera service. The ICB has not been established previously.

In addition, the ACCC understands that the proposed new National Gas Law (NGL) is expected to commence by, or soon after, 1 July 2008, which may have implications for the classification of certain pipelines in the future. The NGL provides for more distinction in the nature of covered pipelines than currently provided for under the current regulatory regime, which may be of relevance to the SWQP. Moreover, the SWQP and other Queensland gas transmission pipelines are subject to local transitional arrangements under the current regulatory regime and it is unclear how these current arrangements may be transitioned and accommodated under the NGL. The ACCC will monitor any developments regarding the NGL implementation and commencement date that may have implications for the review of the SWQP access arrangement. If the commencement of the NGL is delayed significantly or developments warrant further communication, the AER may provide further notice as appropriate to interested parties on this matter.

Once the ACCC provides its written notification, Epic Energy must submit its proposed revised access arrangement for the SWQP within one month of receiving the notice from the ACCC. In the event that Epic Energy does not submit a proposed revised access arrangement within this period, the ACCC is required to draft its own proposed revised access arrangement under section 2.45 of the code.

Once the ACCC receives Epic Energy's proposed revised access arrangement, the formal assessment process for an access arrangement review under the code will commence. Interested parties will be provided with further information about the process once the formal notification has been provided to Epic Energy. As interested parties would be aware, the ACCC's usual practice is to publish an access arrangement proposal on the AER's website in order to seek submissions from interested parties.

In the meantime, if interested parties have any queries and/or wish to provide comments on this matter submissions should be sent electronically to aer inquiry@aer.gov.au. All submissions received will be regarded as public documents and placed on the AER's website unless otherwise requested.

Please contact Mr John Bastick in the first instance on (02) 6243 1364 if you have any questions regarding this matter.