

15 December 1999

1. INTRODUCTION

- (a) The Secondary Market is intended to provide a means for Shippers to dispose of Capacity they are contracted to take under a Firm Service Access Contract, that on a particular day they do not require. In that way Shippers may be able to recover some or all of the payments they have made in respect of the Gas Receipt Charge and Capacity Charges for that unutilised Capacity.
- (b) The Secondary Market is also intended to provide Shippers with a means to obtain Capacity on a spot basis to enable them to meet their actual capacity needs where they are in excess of their contracted entitlements.
- (c) Epic Energy will stand in the market to sell any uncontracted Capacity it may have available on the day. The amount of Capacity available will vary from Day to Day and may vary during the Day if purchased.
- (d) Capacity can be purchased at any time during the Day and can be resold after purchase.
- (e) It is intended to provide purchasers of Capacity on the Secondary Market with Capacity that is effectively Firm Service.
- (f) Epic Energy will develop a computer trading system via the CRS to give effect to these Secondary Market Rules.

2. SALE OF CAPACITY IN THE SECONDARY MARKET

2.1 Eligible Capacity

The Secondary Market will only operate in respect of Capacity under:

- (a) a Firm Service Access Contract;
- (b) a Secondary Market Service Contract; or
- (c) a Non Reference Service Access Contract where the Shipper and Epic Energy have agreed a mechanism for such Capacity to be traded on the Secondary Market,

("Eligible Capacity")

2.2 Translation of Capacity for Secondary Market

- (a) Amongst other things, Eligible Capacity posted for sale on the Secondary Market must specify the quantity of gas available at each Delivery Point that is posted.
- (b) The Secondary Market System will automatically convert the quantity posted for sale at each Delivery Point, to Secondary Market Quantities.
- (c) Capacity purchased on the Secondary Market will be in Secondary Market Quantities.

3. PARTICIPATION IN THE SECONDARY MARKET

3.1 Sellers

- (a) Only Shippers holding Eligible Capacity and Epic Energy may post Capacity for sale on the Secondary Market ("**Eligible Seller**"), and only Eligible Capacity may be posted for sale.
- (b) By posting Capacity for sale on or selling Capacity through the Secondary Market, the Shipper is deemed to have agreed to be bound by the Secondary Market Rules.

3.2 Buyers

- (a) Only the following persons may purchase Capacity through the Secondary Market:
 - (i) a holder of Eligible Capacity;
 - (ii) Epic Energy;
 - (iii) a shipper under a transportation contract issued under:
 - (A) the *Gas Transmission Regulations 1994*;
 - (B) the *Dampier to Bunbury Pipeline Regulations 1998*; or
 - (C) the "repealed access scheme" as defined in the *Gas Pipelines Access (Western Australia) Act 1998*; and
 - (iv) an Approved Third Party,("Eligible Buyer").
- (b) By bidding for Capacity or posting an offer to purchase Capacity on the Secondary Market, an Eligible Buyer is deemed to have agreed to be bound by the Secondary Market Rules.

3.3 General

Participants on the Secondary Market must be Eligible Sellers or Eligible Buyers, as the case may be.

4. OPERATION OF THE SECONDARY MARKET

4.1 Who Operates the Secondary Market

Epic Energy will operate the Secondary Market through the Secondary Market System in accordance with the Secondary Market Rules, from the commencement of the Access Arrangement.

4.2 Customer Reporting System

The Secondary Market System shall form part of Epic Energy's CRS and shall be established with the following principles in mind:

- (a) detailed information posted by an Eligible Seller will only be able to be accessed by that Eligible Seller and any person authorised by that Eligible Seller;
- (b) detailed information posted by an Eligible Buyer will only be able to be accessed by that Eligible Buyer and any person authorised by that Eligible Buyer;
- (c) Eligible Capacity posted for sale by an Eligible Seller will be automatically converted into Secondary Market Quantities;
- (d) Secondary Market System will only show to Participants in respect of a day:
 - (i) the aggregate of Eligible Capacity for the day posted for sale expressed in Secondary Market Quantities;
 - (ii) the amount of Eligible Capacity, expressed in Secondary Market Quantities, for the day posted for sale by Epic Energy;
 - (iii) the Floor Price and Ceiling Price for the day;
 - (iv) the quantity (expressed in Secondary Market Quantities) and associated bid price each Eligible Buyer posts as an offer to purchase, but shall not identify the Eligible Buyer; and
 - (v) the time, date, quantity and price of the last trade conducted on the Secondary Market;
- (e) upon a successful trade on the Secondary Market being completed, notification will automatically be sent:
 - (i) to the successful purchaser advising the Secondary Market Quantities purchased and associated prices and confirming that a Secondary Market Service Contract exists for the relevant day for such quantity and advising the due date for payment of the price;
 - (ii) to the successful seller advising the quantities sold, (including associated Delivery Points), and associated prices and confirming that the relevant contracted capacity under the relevant transportation contract for the relevant Day is reduced by the quantity so sold, save that the seller remains liable for charges under such transportation contract as if that quantity remained part of the contracted capacity; and
 - (iii) to Epic Energy advising for the relevant Day, the name of the successful purchaser, the quantity acquired by the successful purchaser, the name of the

successful seller and the quantity (and associated Delivery Point) sold by the successful seller;

- (f) in respect of any Stand In The Market Bid, the quantity required and the relevant Day, the current highest or lowest price, as relevant, bid for each Stand In The Market Bid and the closing time for that Stand In The Market Bid.

4.3 Posting Capacity on the Secondary Market

- (a) **Sale**

An Eligible Seller shall complete and send a Posting For Sale notification on the Secondary Market System, which may require details of the transportation contract from which the Capacity is being posted; the quantity being posted for each Delivery Point (which in the case of Epic Energy shall be the Secondary Market Point); where the notification is a Stand In The Market Bid, the closing time for acceptance of bids and the minimum price acceptable, otherwise, the price posted for each quantity; and the Day for which the Capacity is posted.

- (b) **Purchase**

An Eligible Buyer shall complete and send a Posting For Purchase notification on the Secondary Market System, which may require details of the quantity sought to be purchased; whether that is a maximum or absolute amount; where the notification is a Stand In The Market Bid, the closing time for acceptance of bids and the maximum price acceptable, otherwise, the maximum price to be paid; and the day for which the Capacity is sought.

4.4 Changing Capacity Posted

A Participant may change any details of a notification made under clause 4.3 (including withdrawal) at any time before acceptance of that part of the offer contained in the notification that is to be changed. Such change is made through an amendment notification on the Secondary Market System.

4.5 Restrictions on Epic Energy in Posting Capacity for Sale

Epic Energy will only be able to post for sale on the Secondary Market, Capacity that is uncontracted capacity. The price bid shall be neither lower than the Floor Price, nor higher than the Ceiling Price.

4.6 How to Bid for a Stand In The Market Bid Posted on the Secondary Market

A Participant wishing to bid for a Stand In the Market Bid shall issue a notification under clause 4.3 but will specify it is in response to a Stand In The Market Bid and identifying which one.

4.7 How is a Bid on the Secondary Market Accepted

- (a) **Stand In The Market Bid**

At the closing time for the Stand In The Market Bid, the Secondary Market System will determine:

Formal Submission

- (i) in the case of a Stand In The Market Bid to purchase, the bid with the lowest price at or below the maximum price specified in the Stand In The Market Bid;
- (ii) in the case of a Stand In The Market Bid to sell, the bid with the highest price at or above the minimum price specified in the Stand In The Market Bid,

and the bid, if any, referred to in paragraph (i) or (ii), as the case may be, shall be deemed to be the bid accepted by the Stand In The Market Bid and notified under clause 4.2(e) accordingly.

(b) **Otherwise - Purchase**

- (i) Where a notification is made under clause 4.3(b) which is not expressed as a Stand In The Market Bid ("**Purchase Request**"), the Secondary Market System shall allocate the Successful Sale Bids as being accepted by the Purchase Request and shall be notified under clause 4.2(e) accordingly.
- (ii) "**Successful Sale Bids**" means those notifications under clause 4.3(a) (which are not Stand In The Market Bids and which have a bid price at or below the maximum price specified in the Purchase Request) ("**Sale Bid**") starting with the Sale Bid with the lowest price bid and working up until the aggregate quantities of such Sale Bids equals the quantity specified in the Purchase Request (save that if the quantity of the last such Sale Bid ("**Partially Successful Sale Bid**") when added to the other Successful Sale Bids would exceed the quantity specified in the Purchase Request, only such quantity in the Partially Successful Sale Bid as would mean that the quantity specified in the Purchase Request is not exceeded, shall be included).
- (iii) If there are insufficient or no Sale Bids, the Purchase Request shall continue to stand in the Secondary Market to the extent not satisfied by Successful Sale Bids until varied or withdrawn under clause 4.4 or satisfied by Successful Sale Bids.

(c) **Otherwise - Sale**

- (i) Where a notification is made under clause 4.3(a) which is not expressed as a Stand In The Market Bid ("**Sale Request**"), the Secondary Market System shall allocate the Successful Purchase Bids as being accepted by the Sale Request and shall be notified under clause 4.2(e) accordingly.
- (ii) "**Successful Purchase Bids**" means those notifications under clause 4.3(b) (which are not Stand In The Market Bids and which have a bid price at or above the minimum price specified in the Sale Request) ("**Purchase Bid**") starting with the Purchase Bid with the highest price bid and working down until the aggregate quantities of such Purchase Bids equals the quantity specified in the Sale Request (save that if the quantity of the last such Purchase Bid ("**Partially Successful Purchase Bid**") when added to the other Successful Purchase Bids would exceed the quantity specified in the Sale Request, only such quantity in the Partially Successful Purchase Bid as would mean that the quantity specified in the Sale Request is not exceeded, shall be included).
- (iii) For the purposes of clause 4.7.3(b), if but for this paragraph a Purchase Bid which has been notified as being an absolute bid would be a Partially Successful Purchase Bid, it shall not be included as a Successful Purchase Bid.

- (iv) If there are insufficient or no Purchase Bids, the Sale Request shall continue to stand in the Secondary Market to the extent not satisfied by Successful Purchase Bids until varied or withdrawn under clause 4.4 or satisfied by Successful Purchase Bids.

4.8 Resultant Access Contract from purchase on Secondary Market

- (a) Upon notification being made under clause 4.2(e), the Successful Purchaser shall be deemed to have a Secondary Market Service Contract from Epic Energy for the Day and the quantity specified in the notification, upon the Secondary Market Terms and Conditions.
- (b) The Secondary Market Terms and Conditions are as set out in Appendix A.

4.9 Payment of Bid Prices by Purchaser

- (a) The Shipper under a Secondary Market Service Contract ("**Purchaser**") shall pay the relevant bid price to the Eligible Seller ("**Seller**") from whom the Purchaser acquired the quantity that is the subject of the Secondary Market Service Contract, within 5 Business Days of the relevant notification under clause 4.2(e) being sent.
- (b) If payment is not made in accordance with clause 4.9(a):
 - (i) the Purchaser shall pay the Seller interest on the overdue amount, calculated on a daily basis at the Interest Rate plus 2% per annum, from the due date for payment until actual payment; and
 - (ii) without limiting paragraph (i) and without limiting any other action Epic Energy may be entitled to take, Epic Energy shall be entitled to suspend the Purchaser's entitlement to take Capacity under any transportation contract until all amounts outstanding have been paid in full and shall be entitled to suspend the Purchaser's right to participate in the Secondary Market for such period as Epic Energy considers appropriate.

5. REPRESENTATION AND WARRANTIES

Each Participant warrants and represents each day it participates in the Secondary Market that:

- (a) it has full power and authority to take any action it takes with respect to the Secondary Market and to enter into any Secondary Market Service Contract it enters into;
- (b) it will be able to make all payments which it becomes obligated to make under the Secondary Market Rules or any Secondary Market Service Contract to which it becomes a party;
- (c) it will be able to fulfil all obligations imposed on it under the Secondary Market Rules or any Secondary Market Service Contract to which it becomes a party as and when they are required to be performed;
- (d) where the Participant is an Eligible Seller, it has full right and unencumbered title to the Capacity sold or offered to be sold on the Secondary Market;
- (e) where the Participant is an Eligible Buyer, it would not be in breach of any representation or warranty under a Secondary Market Service Contract if it were the Shipper under such contract for the quantity offered to be purchased by the Participant.

6. TERMS AND CONDITIONS OF ACCESS CONTRACT FOR CAPACITY PURCHASED ON THE SECONDARY MARKET

The terms and conditions applicable to Secondary Market Service are as referred to in clause 4.8(b). Epic Energy may amend the Secondary Market Terms and Conditions from time to time and any such amendment shall be effective from the Day commencing after the amendments are made available to Participants through the Secondary Market System or the CRS. Epic Energy shall at the same time provide a copy of the amended Secondary Market Terms and Conditions to the Regulator.

7. EFFECT OF SALE ON SELLER'S FIRM SERVICE ACCESS CONTRACT

See clause 4.2(e)(ii).

8. DISPUTES or DISAGREEMENT

- (a) If a Participant has any concern regarding the operation of the Secondary Market, that concern shall first be referred to Epic Energy and Epic Energy shall consider and endeavour to resolve such concern in good faith. Should the Participant still not be satisfied the Participant may refer the matter for resolution in accordance with the Secondary Market Terms and Conditions as if it were a Dispute.
- (b) Without limiting clause 8(a), Epic Energy may from time to time appoint an independent auditor to audit the operation of the Secondary Market, and Epic Energy shall make the details of that report available to any Participant on request.

9. VARIATION OF SECONDARY MARKET RULES

Epic Energy may amend the Secondary Market Rules from time to time and any such amendment shall be effective from the Day commencing after the amendments are made available to Participants through the Secondary Market System or the CRS. Epic Energy shall at the same time provide a copy of the amended Secondary Market Rules to the Regulator.

10. LIMITATION OF LIABILITY

Epic Energy will operate the Secondary Market System and the Secondary Market with the care and diligence expected of a reasonable and prudent pipeline operator, but under no circumstances shall Epic Energy be liable to any person for any loss, cost, expense or damage (howsoever caused) including Indirect Loss, suffered or incurred by that person as a result of that person's use of the Secondary Market System or involvement in the Secondary Market.

11. GOVERNING LAW

These Secondary Market Rules shall be governed by and construed in accordance with the laws of the State of Western Australia.

12. INTERPRETATION

In the construction of these Secondary Market Rules, unless the context requires otherwise:

- (a) a reference to a clause number or schedule is a reference to a clause or annexure of these Secondary Market Rules;
- (b) words indicating the singular number include the plural number and vice versa;
- (c) words indicating one gender include any other gender;
- (d) headings are for convenience only and do not affect interpretation;
- (e) words indicating persons include natural persons, bodies corporate and unincorporated associations;
- (f) a reference to any statutory law extends to and includes any modification of, or substitution for, that law;
- (g) a reference to any contract or agreement is a reference to that contract or agreement as amended, varied, novated or substituted from time to time;
- (h) references to dollars or \$ are references to Australian dollars;
- (i) where the Shipper comprises two or more persons, an obligation, representation or warranty of the Shipper binds, or is given by, those persons jointly and severally;
- (j) a reference to a time and date in connection with the performance of an obligation by a Party is a reference to the time and date in Perth, Western Australia, even if the obligation is to be performed elsewhere; and
- (k) Unless specified otherwise, reference to a quantity of gas is a reference to that quantity of gas measured in TJ.

13. DEFINITIONS

With the exception of the terms defined below and unless the context otherwise requires, terms defined in these Secondary Market Rules have the meaning given in Epic Energy's Access Arrangement for the DBNGP.

"CRS" means Epic Energy's customer reporting system;

"Ceiling Price" means the maximum price at which Capacity may be offered in the Secondary Market on a Day, being \$100/GJ;

"Eligible Capacity" has the meaning given in clause 2.1;

"Floor Price" means the minimum price at which Capacity may be offered in the Secondary Market on a Day, being a price not less than "r" as set out in Paragraph 9.2 of the Access Arrangement;

"Partially Successful Purchase Bid" has the meaning given in clause 4.7(c)(ii);

"Partially Successful Sale Bid" has the meaning given in clause 4.7(b)(ii);

"Participant" means a person referred to in either clause 3.1(b) or 3.2(b);

"Purchaser" has the meaning given in clause 4.9(a);

"Purchase Bid" has the meaning given in clause 4.7(c)(ii);

"Purchase Request" has the meaning given in clause 4.7(b)(i);

"Sale Bid" has the meaning given in clause 4.7(b)(ii);

"Sale Request" has the meaning given in clause 4.7(c)(i);

"Secondary Market Point" means point immediately upstream of the upstream flange of Kwinana Junction valve V4 and of the upstream flange of valve HV401A;

"Secondary Market Quantities" means:

- (a) where the Capacity to be sold on the Secondary Market is upstream of the Secondary Market Point, the converted amount being the lesser of:
 - (i) the amount determined by the Secondary Market System using the conversion model developed by Epic Energy to ascertain the equivalent available amount of the relevant Capacity if it were to be taken at the Secondary Market Point; and
 - (ii) the amount of the relevant Capacity (in GJ) multiplied by the aggregate of the Gas Receipt Charge, the Pipeline Capacity Charge and the Compression Capacity Charge for the Delivery Point and then divided by the aggregate of the Gas Receipt Charge, Pipeline Capacity Charge and Compression Capacity Charge for the Secondary Market Point; and
- (b) where the Capacity to be sold on the Secondary Market is downstream of the Secondary Market Point, the converted amount which shall be the same amount."

"Secondary Market System" means that part of the CRS which runs the Secondary Market;

“**Seller**” has the meaning given in clause 4.9(b);

“**Stand in the Market Bid**” means a bid referred to in clause 4.3(a);

“**Successful Purchase Bids**” has the meaning given in clause 4.7(c)(ii);

“**Successful Sale Bids**” has the meaning given in clause 4.7(b)(ii);



DAMPIER TO BUNBURY NATURAL GAS PIPELINE

ANNEXURE “A”

PROPOSED SECONDARY MARKET TERMS & CONDITIONS UNDER THE NATIONAL ACCESS CODE

**Submission Version
15 December 1999**

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DAMPIER TO BUNBURY NATURAL GAS PIPELINE

PROPOSED SECONDARY MARKET RULES UNDER THE NATIONAL ACCESS CODE

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