



Notice

30 May 2014

Application for expansion of the Goldfields Gas Pipeline to be not regulated

DETERMINATION

The Economic Regulation Authority (**Authority**) has completed its determination on an election by Goldfields Gas Transmission Pty Ltd (**GGT**) for an expansion to the Goldfields Gas Pipeline (**GGP**) to be not covered (not regulated), pursuant to clause 10.2(a) of the current GGP Access Arrangement.

For the detail of GGT's application, as well as an Issues Paper setting out the Authority's evaluation framework, see the Economic Regulation Authority [website](#).

The Authority's determination is to approve GGT's election not to treat the capacity from the expansion of the GGP as part of the covered pipeline for any purpose under the *National Third Party Access Code for Natural Gas Pipeline Systems* (the **Code**).

The Authority's determination is based on its view that the requirements for coverage as set out in the Code are not met in relation to this particular expansion. Specifically:

- The Authority is not satisfied that criterion b) in section 1.9 of the Code is met, that it would be 'uneconomic for anyone to develop another Pipeline to provide the Services provided by means of the Pipeline'.
- In line with the High Court of Australia's interpretation, the section 1.9 criterion b) is interpreted to mean whether it would be privately profitable for anyone to develop another pipeline to provide the same services on a standalone basis, or as part of a larger project.¹
- In this context, the Authority notes that the Fortescue River Gas Pipeline (**FRGP**) – for capacity of 64 TJ/day – is under construction. The FRGP is entirely funded by a 20 year 100 per cent take or pay contract with Fortescue Metals Group (**FMG**). This implies that the economics of iron ore in the Pilbara are able to support a standalone pipeline of relatively small capacity.

For these reasons, the Authority is not satisfied that it would not have been profitable for BHP Billiton Iron Ore and Rio Tinto Iron Ore to contract services on another (green fields) pipeline to service the required throughput, through a process similar to that undertaken by FMG contracting for the FRGP.

¹ The Authority notes that the Productivity Commission in its recent review of the National Access Regime recommended changes to this criterion. However, the Government has yet to respond, and the High Court's interpretation stands.



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The Authority notes that GGT applied to the Authority for approval just as the expansion capacity was nearing its commissioning date. The Authority considers that this was contrary to the requirements of the GGP access arrangement that GGT apply for approval in relation to any 'proposed expansion'. The Authority considers that GGT should have applied earlier, when the expansion was first being considered, prior to Final Investment Decision. The Authority then could have engaged with GGT to ensure that its coverage determination occurred in a timely way, and related to an expansion of optimal size, given the prospective demand.

The Authority notes that prior to the expansion, around a third of the GGP comprised uncovered capacity. The current uncovered expansion will lift that proportion significantly. The Authority notes that many of the customers on the GGP are large mining companies. In the event that those companies judged that coverage of the *full capacity* of the GGP would deliver significant net benefits for the community, and thus not be contrary to the public interest, they would be open to apply to the National Competition Council for coverage. The Authority notes that such application by a user has not occurred to date, despite the pipeline being expanded, without coverage, on a number of occasions.

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