



18 October 2005

Mr Russell Dumas
Director, Gas and Rail Access
Economic Regulation Authority
Level 6, Governor Stirling Tower
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PERTH WA 6000

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Dear Mr. Rowe

Alternate Part Haul and Back Haul Tariff Methodology for the Dampier to Bunbury Natural Gas Pipeline ("DBNGP")

Birla Nifty Pty Ltd ("Birla") is the owner and operator of the Nifty Copper Mine located in the North West of Western Australia and is currently exploring with Dampier Bunbury Pipeline ("DBP") use of Back Haul services on the Dampier to Bunbury Natural gas Pipeline ("DBNGP"). Birla has reviewed DBP's Submission #48 (entitled An Alternative Part haul and Back Haul Tariff Methodology – "Submission 48") and wishes to make the following submission.

DBP has proposed that:

- τ Back Haul and Part Haul Services not be made Reference Services; and
- τ in the alternative, the proposed tariff be amended to include a non-distance related element.

Nifty submits that it and a significant and an increasing number of parties are users and prospective users of these services and that the services should be Reference Services as previously required by the Authority. To remove this status as reference Services would limit prospective user's rights to seek arbitration of any disputes regarding access to these services.

In regard to the proposed modified tariff methodology Nifty notes that there is no indication in the Approved Access Arrangement information that Back and part Haul service volumes (either capacity reservation or throughput) have been included in the pipeline sale volumes used to derive the Reference Tariff. If these volumes have not been used in this calculation there is effectively no "allocation" of pipeline costs to these services and users of the full haul Reference Service are carrying 100% of the costs of the DBNGP. Submission 48 does indicated that "incremental costs" are allocated to Back and Part Haul Services. In the absence of a formula which reallocates/returns all or part of the Part and Back Haul revenues to full haul services users, these revenues (net of incremental costs) are a windfall to DBP.

If it is the case that Back Haul and Part Haul revenues have been taken into account when deriving the Reference Tariff then the only valid tariff for Back Haul and Part Haul services is a tariff which mirrors the basis upon which these revenues were used in the derivation of the Reference Tariff.

In regard to DBP's proposal Nifty submits that:

- τ a formula should be developed and agreed where DBNGP costs which are not related to distance are built into an efficient tariff; and
- τ for the purpose of calculating the Reference Tariff all full, Part and Back haul sales volumes should be included according to the agreed formula.

If that is not possible Nifty submits that the Back Haul and Part Haul Reference Tariffs should be capped at that portion of the Reference Tariff that the distance over which the service is provided bears to the distance of the full haul Reference Service. This should be a tariff cap and not a default tariff unless pipeline costs (other than incremental costs) are actually allocated to these services.

Finally Nifty notes that the Back/Part haul tariff proposed by DBP is neither efficient nor appropriate. To be efficient such a tariff should produce a haulage cost that falls as distance of carriage increases. That is to say, the cost of haulage declines progressively as distance of carriage rises and the "non-distance" component of the tariff becomes less significant. The tariff proposed by DBP has a constant average haulage cost as distance of carriage rises and a discontinuity at the point of full haul. This tariff results in a subsidy of full haul carriage which is over and above the reallocation of non-distance related costs. Even if the DBP proposal had merit the proposed tariff would be flawed.

Yours sincerely

For Birla (Nifty) Pty Ltd



(Sanjay Bhartia)
Assistant Vice President (Finance & Commercial)