

OffGAR
14 OCT 2002

Dr K Michael AM
Western Australian Independent Gas Pipelines
Access Regulator
Office of Gas Access Regulation
PO BOX 8469
PERTH BUSINESS CENTRE WA 6869

Friday, October 11, 2002

Attention: Mr. R Pullella

Legal Challenge – Dampier to Bunbury Natural Gas Pipeline Tariff Issue

Dear Sir,

The following submission has been issued on behalf of Cramer and Neill, and I request that you review the following comments in support of the claim by Epic Energy to retain the gas tariffs at \$1.00/\$1.08, in light of the outcome of Epic Energy's Supreme Court Challenge.

The Court stated that political, public interest and social dimensions must be considered when assessing tariffs under the Code. The circumstances relating to the sale of the pipeline by the State in 1998 and the positive benefits to the Western Australian community resulting from that sale are therefore very relevant to the Regulator's assessment of the proposed tariffs. The original asset sale of the pipeline enabled the government to reduce its debt level, which is definitely a long term benefit to the public interest. From that it must equally be in the public interest to allow Epic Energy the opportunity to not only recover its investment but also earn an appropriate return on that investment.

However, one must question whether a reduction in the tariffs to levels in the Regulator's draft decision is in the greater public interest. Of concern is that there is no guarantee that the tariff reduction as proposed by your office would be passed on to end gas consumers. This is already evidenced by retail tariffs where the government has recently guaranteed to allow the retailer AlintaGas to adjust the retail price of this commodity at least in accordance with the change in the CPI for some time into the future. The increase when applied by AlintaGas and pegged to CPI has a directly proportionate effect on the price paid by the consumer, whereas the "proposed" tariff reduction on Epic would, if it were passed on, only have a minor disproportionate effect on the price paid by the consumer given that transmission tariffs are only a part of the end price of gas.

In addition, Epic Energy has publicly stated that the draft decision tariffs, if implemented, have the potential to greatly impact Epic Energy's financial viability. If this situation materialised, the public interest would certainly not be served.

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Cramer & Neill Nominees Pty Ltd (ACN 009 135 353) as trustee for the Cramer and Neill Unit Trust T/A Cramer & Neill Refrigeration (ABN 599 6538 5652)

Further, the wider implications of your ruling will seriously affect this State moving forward. The Productivity Commission has recently stated that it is not unreasonable for a company like Epic Energy who has made a major investment in infrastructure to expect to be able to recover their investment and continue to operate the infrastructure service in a profitable manner. The fundamentals of investment apply regardless of the project, profitability, and capital recovery is vital.

As you are aware from submissions made to date, major shareholders of Epic Energy (including Australian superannuation funds) have withdrawn further regulated infrastructure investment in Australia. In one case the investor has apparently even chosen to invest on the sub-continent - a decision which harms our ability to attract industrial infrastructure investment into Australia, and more importantly Western Australia.

As a progressive western economy, we hope that the important role of the Regulator continues sustainable economic growth, which is consistent with the State Government's long term planning. If we do not allow and in fact encourage industrial growth, particularly with respect to oil, gas, and mining industries, then we are failing our responsibility to provide sustainable growth into the future.

The inability of Epic Energy to operate in a profitable manner and recover their investment over reasonable time will only result in the questionable supply of natural gas to existing markets. It will also severely negatively impact the opportunity to increase capacity through further investment. The implications of this could be a decline in investment by upstream companies in exploration, production and marketing of this valuable natural resource. Further afield, our inability to fund infrastructure growth will eliminate the possibility of attracting potential industry, which has a huge demand for natural gas to our State.

We believe it should be the aim of both private and public sector forces in Western Australia to form a strong partnership, which promotes our resource rich land as a globally stable and economically attractive alternative for industry, as supported by the Court.

We hope that you take into account our concerns and comments when reassessing the tariffs that can be applied by Epic. We look forward to your favourable review supporting to retain gas tariffs at \$1.00/\$1.08, which we strongly believe encourages economic growth greatly benefiting our Western Australian community.

To conclude it is appropriate for me to declare our relationship with Epic Energy as that of a minor maintenance contractor for air conditioning services at DBNGP compressor stations.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tony Emmott', with a stylized flourish at the end.

Tony Emmott
General Manager

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