

Mr R Pullella
Office of Gas Regulation
Level 6 Governor Stirling Tower
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Perth WA 6000

21 August 2001

Dear Mr Pullella

The following is a submission we wish to make on the proposed DBNGP Access Arrangement:

Submission to the Western Australian Gas Access Regulator on the Proposed Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline.

By Hon Mark Nevill & Hon Julian Grill

Introduction

The methodology used by the Western Australian Gas Access Regulator in his Draft Determination is consistent with both the National Gas Access Code and with the determinations of other State and Federal regulators.

On that basis there is nothing unusual or surprising about the Draft Determination and it is our view it should be supported by industry and adopted.

The calculation of transmission tariffs is not difficult. In his first round submission, Hon Mark Nevill used two scenarios to calculate a fair transmission tariff at between \$0.67 and \$0.80 / GJ to Perth. The variation used a WACC of 7.5% and depended on the on the Initial Capital Base being \$1billion or \$1.2 billion and the depreciation being 45 or 65 years. The Gas Access Regulator calculated draft tariff to Perth of \$0.75 /GJ, which is within tariff range calculated by these scenarios.

The Regulator in his Draft Determination used a more generous Capital Base of \$1.233 billion and a life of asset depreciation which would average more than 65 years. He found in his determination, that the transmission tariff of \$0.75 /GJ to Perth and \$0.85 /GJ south of Perth was warranted. There does not seem to be much argument about the depreciation period or the WACC. While the technical subtly is complex, they do not have a great impact on the "ball park" figure of what that tariff should be.

The main contention appears to be the Initial Capital Base. The Epic Energy calculations rely on using a Capital Base that has no relationship to the DAC and the DORC. They want the acquisition premium to be included in the price on the basis that they had an agreement with the previous State Government and or the Minister for Energy Colin Barnett. Any such agreement would have no effect on and would be contrary to the National Gas Access Code.

Rumors were circulating that Epic Energy made two offers to the State Government for the purchase of the Dampier to Bunbury Natural Gas Pipeline. A lower offered price of \$1.5 or \$1.6 billion for a tariff of \$0.75 cents to Perth and a higher offer of \$2.3 billion for a higher \$1.00 tariff to Perth.

The State Government was not in any position to offer Epic Energy Ltd any deal on tariffs other than the interim access arrangement. Any tariff after 1 January 2000 would be subject to and had to be consistent with the National Gas Access Code as outlined above.

Epic Energy Ltd Purchase Price.

The purchase price that Epic Energy paid for the pipeline was a commercial decision based on its ability to improve the efficiency of the pipeline and Epic Energy capacity to increase the throughput of the pipeline.

Another and continuing threat to future volumes and revenue was the prospect of a second pipeline from the Pilbara to Perth carrying industrial quality gas. That prospect has been openly canvassed and the sale of AlintaGas was also used to try expedite that prospect. The prospect of a second pipeline was probably the major limiting factor on all other bids for the pipeline. Epic Energy must have been confident that it could avert any economic need for a second pipeline by incremental expansion of its pipeline as demand arose.

Gas demand has not grown as much as most informed observers had thought, with the Kingstream Steel and other sound projects failing to find the development capital.

Application of the National Gas Access Code

Epic Energy has known since at least the 28 August 1997 that gas transmission tariffs of covered pipelines would have to be consistent with the National Gas Access Code.

When the *Energy Coordination Amendment Bill 1997* was introduced, the Coordinator of Energy was proposed as the regulator of gas access. On 27 August 1997 during debate in the Legislative Council, the Minister handling the Bill, the Hon Norman Moore said

"it is intended that the terms and conditions placed by the Coordinator on a licensee would be consistent with the provisions of the national (gas) access code".

That Bill was heavily amended in the Legislative Council before it completed its passage in 1999, some two years later.

On 7 November 1997 the Premier as part of COAG signed an intergovernmental agreement with the Prime Minister and other Premiers to adopt by complementary legislation a uniform National Gas Access Code which at that stage was well advanced in drafting.

On 27 November 1997 the Minister for Energy Hon Colin Barnett MLA made a Ministerial Statement advising the Parliament that he planned to introduce legislation

to adopt the uniform National Gas Access Code for Western Australia. As part of that announcement he referred to the Intergovernmental Agreement signed by Premier Court on 7 November 1997.

The Auditor General in his May 1998 report to Parliament, *Sale of the Dampier to Bunbury Gas Pipeline*: concluded:

"Regulation of access to transmission capacity and tariffs exists for the period to January 1, 2000, to be followed by the application of the National Access Code subject to Parliament's enactment of complementary legislation"

The Auditor General further said:

"No evidence was disclosed of the State having given specific undertakings to any party regarding tariffs to be agreed by the Gas Access Regulator beyond January 1, 2000"

The Independence of the Gas Access Regulator

The Western Australian Gas Access Regulator has had access to all the documentation needed to make a fair and informed decision without interference.

Earlier moves in Parliament to become involved in the process were unsuccessful. A move on 14 June 2000 to establish a select committee in the Legislative Assembly to investigate the "arrangements" between Epic Energy Ltd and the former Court Government failed. When holding the balance of power in the Legislative Council, Hon Mark Nevill refused to supply the vital vote to support an attempt to set up a Select Committee in that chamber.

Hon Mark Nevill's reasons were that Parliament had appointed an independent Gas Access Regulator and should not "second guess" his findings. The Regulator had the powers and processes and had access to all the necessary documents needed to make an objective and fair determination.

Recent Submissions Claiming Regional (Southwest) Western Australia will be Disadvantaged by the Draft Determination

In recent weeks there have been a number of submissions, all with the same theme supporting the Epic Energy call for higher tariffs. These submissions are both misguided and flawed and lack any critical analysis of the methodology of how the tariffs were calculated. They follow the theme of the public comments of the Leader of the National Party Max Trenorden.

The main argument is that the expansion of *the* pipeline into regional areas will be jeopardised by the recommended tariff. That argument is naïve and cannot be sustained.

Any laterals into the WheatBelt or to Albany will be monopolies and will be regulated. Investors such as AGL, Boral, CMS Energy, Epic Energy and others who

may want to construct laterals, will be allowed a fair rate of return on those pipelines when they think the demand for gas warrants their construction.

The demand for gas will depend on the price it can be delivered to the end user. Inflated transmission tariffs from Dampier to the Southwest under the Epic Energy proposal will increase the landed cost of gas to those in the regional Southwest who are complaining, and reduce the prospect of any new gas laterals. Higher gas costs will only lower demand and delay the construction of these laterals.

The draft determination if adopted will improve the chances of getting access to gas to those area, contrary to the opinion of the National Party and those who have lodged similar submissions.

Close

The Gas Access Regulator is to be commended for his objective determination. Nothing of any substance has been put forward to significantly vary that determination.

Submission ends.