



Wesfarmers Limited

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OFFGAR
25 OCT 2002

24 October 2002

Mr Robert Pullella
Senior Analyst
Office of Gas Regulation
PO Box 8469
Perth Business Centre WA 6849

Dear Mr Pullella

Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline (DBNGP) – Decision of the Full Court of the Supreme Court of Western Australia

I refer to the Office of Gas Regulation Information Paper dated 2 September 2002 seeking submissions in respect of the above. The Wesfarmers Limited Group has an ongoing interest in this matter, both as a significant purchaser of gas or gas transmission services across several industries and as an industrial participant in the Western Australian economy.

We understand that the Supreme Court has determined that the Regulator, in making his final determination as to reference tariffs for the DBNGP, should consider the relevance of the circumstances surrounding Epic's 1998 purchase of the DBNGP. In this regard, we make the following submission with respect to key understandings and expectations of Western Australian industry dating back to the privatisation process.

When announcing the sale of the DBNGP in March 1998, the State Government announced that DBNGP tariffs would fall to \$1 (nominal)/GJ in 2000 with the National Access Code to be applied for determination of tariffs thereafter. At that time, there was a general expectation by Western Australian industry, based on announcements and other statements from the State Government and other relevant authorities, that DBNGP transmission tariffs would continue to fall in real terms over time. It was further noted that these figures represented caps, with potential for competition and economies of scale giving lower tariffs. Further, there was not, at that time, any industry expectation of a significant premium to be paid by gas users in Kwinana, where most gas is consumed, over the DBNGP headline tariff as stated.

These expectations were supported by, amongst other things, the State Government's 3 March 1998 announcement that Epic's successful bid was a complying bid and that Epic "...had committed to lower gas tariffs, a condition of sale set down by the State Government".

We understand that a key practical effect of Epic's subsequent proposal for determination of the initial Capital Base of the DBNGP would be for Western Australian gas users to now financially compensate Epic, by way of reference tariffs, for the premium which Epic elected to pay to acquire the DBNGP.

In our view, it would be to the detriment of the Western Australian economy for a purchaser of a privatised monopoly asset to be compensated by Western Australian industry for having chosen to pay a discretionary premium over and above the objectively determinable Capital Base of that asset. We are not aware of any relevant precedent for such a proposition in any other jurisdiction and are concerned at the implications of such an approach.

We would support the Regulator in ensuring that the reference tariff regime for the DBNGP is properly and expeditiously determined in accordance with established objective benchmarks for determination of the initial Capital Base.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G T Tilbrook', written over a horizontal line.

G T TILBROOK
EXECUTIVE DIRECTOR, BUSINESS DEVELOPMENT
WESFARMERS LIMITED