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Dr Ken Michael
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Dear Dr Michael

SUBMISSION TWO - SECOND CONSULTATION ROUND

The following submission is Western Power's further response to Epic Energy's recent submissions including Number 3, which was published by the Office of Gas Access Regulation (OffGAR) on Friday 12 May 2000.

Western Power requests that the Regulator give consideration to the following matters in determining an Access Arrangement that could have significant financial impact on existing contractual arrangements between Epic Energy and all shippers.

Western Power is concerned that there remains information presented by Epic Energy that is held to be confidential. Furthermore, Epic Energy make ongoing claims in their latest submission which foreshadow that there may be amendments to their Access Arrangement. Such proposals would be made after the current period for third party representations.

If Epic Energy follows this modus operandi, Western Power requests that the Regulator provide appropriate time for consideration of the draft determination and access to the information that may be necessary to give full consideration to issues that appear to be withheld at this time.

Western Power has had discussions with both Epic Energy and AlintaGas, and has not had any further insight into confidential information. Western Power has found as a result of the DBNGP sale, certain outcomes appear to prejudice Western Power's future options, for example, the treatment of fuel gas and past shipper specific charges.

There also appears to be a need to ensure that consideration is directed to the effect of the current unregulated access arrangements for the DBNGP. Western Power presumes that the confidential submissions cover the grandfathered unregulated use of about one third of the capacity in the DBNGP.

It appears from the data contained in Schedule 39 and from other submissions, that the capital, be it DAC, DORC, or some other similar determination, is being considered only for the regulated use of the DBNGP. If this is the case, then the regulated shippers could be paying a disproportionate share of the return on capital.

Western Power has further reviewed the data available in Schedule 39 and the statements made by Epic Energy in their recent submissions. Epic Energy's promotion of the concept of a "tariff compact" appears inconsistent with the comments presented to grandfathered contract shippers.

In the case of fuel gas, Epic Energy have indicated that shippers will be able to provide in-kind fuel gas, presumably based on Schedule 39. However, this is inconsistent with Epic Energy's proposal. Western Power suspects that there is a confidential arrangement that is limiting opportunities to transport gas at a lower cost.

The fuel gas issue raises a number of concerns about the timing of Epic Energy's commitment to Schedule 39 and the ongoing contracts, and between Epic Energy's proposed Access Arrangement and the grandfathered contracts.

This leads to the increasing concern about Epic Energy's statement about its proposed Access Arrangement in a recent public forum, that GTRs and Access Manual Contracts could be in "breach of contract" in regard to balancing. Western Power considers this to be a strong signal about Epic Energy's intentions to deal with these grandfathered arrangements.

This concern is raised to endeavour to ensure that grandfathered arrangements are appropriately considered so that legal challenges are not precipitated by the introduction of a new Access Arrangement. From Western Power's perspective, it is vital that the new Access Arrangement provides a Reference Tariff for grandfathered T1 capacities and interruptible capacity as detailed in Schedule 39.

It is noted that Epic Energy is currently "...obtaining an independent legal review of the requirement to include a T1 Reference Service...". It is expected that this issue would have been adequately understood by Epic Energy in making its offer to purchase the DBNGP.

Western Power reflects on all the public information relating to Epic Energy's interpretation of the Code in proposing an Access Arrangement for the DBNGP noting that:

- Epic Energy were fully apprised of the existing regulations, grandfathered contracts and current use of the DBNGP;
- Full disclosure of the information about the DBNGP is understood to have been provided in the Information Memorandum;
- Epic Energy has had access to all pertinent data held by AlintaGas; and

- The sales process is understood to have provided a comprehensive assessment of the introduction of the National Access Code by PricewaterhouseCoopers, in which an indicative tariff range was provided.

It is evident that Epic Energy has placed a premium value on securing the ownership of the DBNGP monopoly. Presumably, this premium value related to the revenue gathering capacity of the DBNGP to provide future income from enhanced use of existing gas delivery capacity, and in the main, substantial future market growth.

Epic Energy are held to be a world leader in owning and operating major natural gas transmission assets and managing these monopolies in regulated markets. The Regulator should be aware that the DBNGP services a particular market and that Epic Energy's Access Arrangement must meet the requirements of the majority of the shippers, specifically, the grandfathered contracts, for the determination period of their existence.

Should you require information concerning this submission, please contact:

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Yours sincerely

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