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Ref: DAK:LCD:LL-0478
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11 October 2000

Dr Ken Michael
Independent Gas Pipelines Access Regulator
Office of Gas Access Regulation
Level 6, Governor Stirling Tower
197 St. George's Terrace
PERTH WA 6000

Dear Dr Michael

KAMBALDA LATERAL (WA: PL 27) APPLICATION FOR CONDITIONAL EXTENSION OF REQUIREMENT TO SUBMIT AN ACCESS ARRANGEMENT

As you are aware, the current deadline for Southern Cross Pipelines Australia Pty Ltd (SCPA) to submit an Access Arrangement (AA) for the Kambalda Lateral (WA: PL 27) is 1 December 2000.

You will recall that following initial coverage of the Kambalda Lateral under the National Third Party Access Code (the "Code") in February 1999, an application was made by SCPA for revocation of coverage on the basis that it did not promote competition, it did not restrict the development of another pipeline, and that it was an adverse and unnecessary burden to produce an AA. The National Competition Council (NCC) subsequently rejected this application in June 1999. This was primarily due to a submission made at that time by the Water Corporation contesting SCPA's assertions based on its own advocacy of a conceptual plan to ship sea water from Esperance, north to Kalgoorlie where the water supply is hyper-saline. SCPA had not been cognisant of this proposal at the time of its application for revocation.

Once the Water Corporation's interest was known, dialogue was entered into and, with the latter's cooperative support, an application for an extension of time for submission of an AA was put to the Regulator by SCPA in November 1999. The basis was that the public interest would best be served if submission of an AA for the Kambalda Lateral were to be postponed until such time that the benefits obtained would outweigh the costs. The application proposed that, should an extension be granted, the situation regarding access to the Kambalda Lateral be reviewed in the latter part of 2000, and a decision regarding the requirement for submission of an AA be made at that time. Following a public submission period, the current extension to 1 December 2000 was granted.

Accordingly at this time SCPA wishes to submit to the Regulator that for the present and immediate future, the submission of an AA will not provide any significant benefits to any party. In addition, the cost of preparing and following due process for the approval of an AA is a very significant cost imposition for the Kambalda Lateral relative to the normal expenses associated with it.

The length of the Kambalda Lateral represents only a little more than 10% of the distance from Kalgoorlie to Esperance. An AA for this small segment of pipeline will provide no relevant indication of the cost to transport gas to the southern coast. It will not reflect any economies of scale that might be realisable, nor will it necessarily even reflect an appropriate tariff structure for a longer pipeline, whether or not such a pipeline physically extended from the existing lateral or, as a result of hydraulic engineering, simply bypassed it. In fact, it will not be possible to extrapolate from an AA for the Kambalda Lateral any information that would be in any way pertinent to a longer pipeline.

As a result, SCPA wishes to avoid what would amount to a wasteful expenditure in preparing an AA at this time. However SCPA is mindful of the comfort afforded present and future Shippers in the knowledge that the Kambalda Lateral remains covered under the Code. In addition SCPA wishes to avoid incurring, or the need to pass on unnecessary expense.

Consequently, SCPA wishes to apply for the present Extension to be itself conditionally extended. SCPA requests that a Conditional Extension be granted on the basis that extension will be terminated upon failure of good faith negotiations for access between any bona fide prospective User and the Service Provider. Following any subsequent application to the Regulator, SCPA undertakes to produce an AA no later than 90 days after termination of the Conditional Extension.

In addition, SCPA undertakes to provide a periodic development status report of the requirement for submission of an AA, to be submitted at intervals of six months. This would provide the Regulator with an overview and sufficient basis, combined with whatever assurances the Regulator would otherwise obtain from potential Users, to ensure adequate regulatory oversight.

It is our belief that this approach meets the needs of all parties concerned, while at the same time offering, for all parties, the least cost and most economically efficient means of complying with the requirements of the Code. We would commend this approach as being the most pragmatic conclusion to a full consideration of the costs and circumstances, and to this effect, would ask that any interested parties give adequate consideration to the further details of the rationale behind this application as provided in the following attachment.

SCPA remains committed to working with any party interested in further developing and utilising its gas transportation infrastructure. This includes whatever potential contribution the Kambalda Lateral may make to project viability, albeit that the lateral represents only a short step towards Esperance. Please do not hesitate to contact myself or my staff to further discuss any matter relating to potential opportunities or issues relating to this submission.

Yours faithfully

D A King
for Southern Cross Pipelines

Att: Rationale for Conditional Extension for Kambalda Lateral

RATIONALE FOR CONDITIONAL EXTENSION FOR KAMBALDA LATERAL

1. The cost of preparing an AA is basically fixed regardless of the magnitude of Capital Base or Load therefore the cost impact for a pipeline with a small load is substantial and disproportionate. For the Kambalda Lateral, the cost of completing the AA process, including the costs incurred by the Regulator which are back-charged to the service provider would, at a minimum, be of similar magnitude as a full year of otherwise normal operational expenditure. In fact, they could easily exceed this figure by as much as 100% or more, with SCPA having little or no control of the final amount. Obviously the necessity and timing of incurring this expenditure needs particular scrutiny.
2. SCPA firmly supports and is actively seeking to encourage regional development – market growth is good business. SCPA desires that potential Users have the comfort of knowing that they continue to have ready recourse to an AA for the Kambalda Lateral in the event that they have cause to consider this an efficient means to the end.
3. However, preparing an AA at this time is both premature and inefficient. The proposal for a gas pipeline associated with development of a utility corridor between Kalgoorlie and Esperance (which would include a water pipeline for the supply of seawater to Kalgoorlie) presently suffers from marginal economics due to sub-economies of scale (even if optimistic assumptions of additional third party load eventuating are applied by SCPA). The imposition at this stage of a substantial (in relative terms) cost impost will do nothing to help the economics of this project.
4. The existing water pipeline proposal itself is presently in a feasibility phase of study. Even if a water pipeline were to be given the go-ahead in the near future, the soonest it could reasonably be expected to be realized would be at least two to three years from now, substantially into the likely five year term of an AA. The impact of whatever gas load eventuates could possibly even trigger an AA review, thus rendering any initial AA expenditure largely wasted.
5. It should also be considered that as the Kambalda Lateral represents little more than 10% of the total proposed pipeline length, an AA will not provide any appreciable increase in transportation cost certainty for the proposed project, but only serve to raise the economic hurdle. In addition, the basis upon which an AA will be formulated for a 45km small capacity lateral will provide no indication of what an AA might contain for a 385km of yet-to-be-determined capacity, neither in terms of tariff or even tariff structure. In fact what is needed is not an AA for the lateral but an AA for the eventual full haul proposal, a requirement which is likely to be mandated as a pre-investment requisite by whatever party ultimately seeks to undertake the project anyway.
6. The current absence of an AA has not been an impediment to SCPA working co-operatively in providing the two current water pipeline proponents with engineering/costing and indicative least cost tariffs, and bearing the costs of these studies in good faith.
7. Given that an AA may be required at some time in the future (if demand for gas transportation grows, as SCPA would like to see) but is not presently justified, there are only two options now available to avoid the unnecessary and wasteful expense of meeting the 1 December submission date – either by successful application to the NCC for revocation or by successful application to the WA Regulator for Conditional Extension.

8. Revocation is the costlier option for both the applicant and subsequently, by any potential shipper who may ultimately seek to have Coverage re-established. A Conditional Extension however is cheap and simple to both implement and also to subsequently terminate should circumstances later demand an AA be prepared. Hence the latter affords the least cost and most efficient option.
9. While the very existence of an Independent State Regulator was predicated on the unique circumstances of development in Western Australian, there is nonetheless broader regulatory precedent from the ACCC for granting of a Conditional Extension. It is a pragmatic solution that provides for the interests of all parties while being entirely consistent with the principles and intent of the National Code.