

**TRANSCRIPT OF PROCEEDINGS**

**ACCC PRE-DECISION**

**CONSULTATION FORUM**

**MOOMBA-ADELAIDE PIPELINE SYSTEM**

**ACCESS ARRANGEMENT**

**Adelaide Town Hall: Meeting Hall  
King William Street, Adelaide**

**Thursday 2 November 2000 at 8.30 a.m.**

**AGENDA ITEM 1: EXCLUSIVITY RIGHTS/RELEASE OF CONFIDENTIAL INFORMATION**

**THE CHAIRMAN:** Welcome to this morning's proceedings. I am Rod Shogren. I am a Commissioner at the ACCC responsible for energy matters. This is a very pleasant place to have a meeting of this kind, although there is no truth to the rumour that we are doing it all on a wing and a prayer! I would like to thank you for coming along, taking the time to help us with our thinking on this process. That is how we see today's proceedings, as helping us with our thinking. So the purpose is to provide you with an opportunity to discuss issues and to put views forward to us, and any views that are put forward today, like those that have been put forward in submissions, will be taken into account by us in preparing the final decision on the access arrangement for the Moomba to Adelaide Pipeline System.

Since we issued the draft decision in August we have received written submissions. I think they were due by mid September, and we have also gone through a subsequent process to do with some confidential clauses in the access arrangements, and submissions on those were due by Monday. We have also had response from Epic, and ACCC staff have had discussions with a lot of market participants over the last few weeks. If you have had the opportunity to read Epic's response to the draft decision you will know that Epic is proposing some significant amendments to its access arrangement. In a number of cases Epic has outlined the general principles of the amendments that it wishes to make, but in some areas it has not set out the detail of those amendments.

As a consequence of that development we in the ACCC are coming round to the view that we may need to undertake another step in the process before we move to our final decision. What we are proposing is that ACCC staff work with Epic to produce a consolidated version of the access arrangement, which may at least in some parts look a fair bit different from the one that we went out for consultation earlier in the year. And, of course, that would incorporate the amendments arising from the draft decision and from submissions that Epic now wishes to make. We would then make that consolidated access arrangement available for one further round of comments before moving to a final decision.

So I think we are in a slightly, not exactly artificial, but a slightly mixed up stage of the process here, where we have the original access arrangement, and it went through a couple of versions. We have comments on it from participants. We've got our draft decision and we've got Epic's response, and today we are discussing those matters but in some areas we know that Epic has had further thoughts. We want to get some discussion on that to the extent we can today, but we think we also need to have a further round where people actually see all that in writing, as a result of discussions between Epic and us, and then we move to the final decision which would be in the New Year sometime. So during the course of the proceedings I would welcome any comments about that further process that we are now proposing.

In terms of the program for today, we have prepared an agenda document, which I hope you all have. It has been out for a while. In that we have attempted to focus on what we see as the key issues that have arisen following the draft decision. So it doesn't go through absolutely everything in the draft decision. I propose that we work through that agenda

systematically, by which I mean I would ask people to speak to the specific topic we are on at that time and not range too far afield. But I do want people to have a chance to speak on whatever they want to, so there will be time for that at the end under the Other Issues rubric, and of course if you want to bring in something within a topic that I haven't mentioned in introducing it, that's fine, too. For example, we are going to have one session on back-haul tariffs, and, as a result of a request, we are going to also allow a discussion of distance-based tariffs under that heading. We have provided a pretty generous amount of time, at least it looks generous to me, going through from now until about 1 p.m. I think that should be more than adequate to get through the topics, and I guess nobody will be too disappointed if we finish early. But we should at least have a chance to do it all properly.

As I said, I will briefly introduce each topic. What I propose to do generally is to ask Epic if they want to make any comments and then open the discussion to the floor, and Epic may wish to respond at times during the morning. The proceedings will be kept pretty informal. I like to have a little bit of to and fro discussion, but I would ask you to do that through the Chair. So if you want to ask somebody else a question do it through me. But I don't want to keep the thing too rigid. Then at the end of the proceedings Epic may wish to sum up their position. As you can see, we are recording the proceedings and there will be a transcript available. It is vital that you identify yourself before you speak and that you do that each time you speak. I would also ask people to come up and speak from the lectern. That is for the purposes of the recording.

Well, let's get into it. If people want to indicate as they go along anything else they want to raise that would be fine, but I would suggest that if it doesn't fit neatly under one of the seven substantive topics that we have on the list we will cover it at the end under Other Issues. So let's start off with the topic of exclusivity rights and the release of confidential information. Section 2.25 of the Code prohibits the regulator (that's us) from approving an Access Arrangement, any provision of which would, if applied, deprive any person of a contractual right in existence prior to the date the proposed Access Arrangement was submitted (or required to be submitted), other than an exclusivity right. So we cannot tamper with existing contractual agreements, except to the extent that they may include an exclusivity right. We identified what we considered were some exclusivity rights in the existing haulage agreements and we proposed a series of amendments to the access arrangements, with the aim of ensuring that existing contractual rights, which in the Commission's view did constitute exclusivity rights, would not be given effect by the proposed access arrangement. We have had a range of submissions on that matter. I would ask Epic please to speak to that.

**MR WILLIAMS:** I am David Williams, General Manager, Corporate Services, Epic Energy. I now have the national responsibility for regulatory matters within the Epic Energy Group. I am based in Perth, so a lot of you will not have met me before and I am happy to talk to anyone during the break or after the session, so you can get to know who I am and what I am about. With me I have Ian MacGillivray, General Manager, Commercial Services. Most of you, if not all of you, will know Ian. Also with me is Ashley Kellett, our State Sales Manager for South Australia. During this process we will interchange amongst ourselves as we consider appropriate as to who will answer or deal with any particular issue. In relation to this particular issue, I think we have stated the position quite clearly in our submissions. The summary in the issues paper for the public forum is a fair representation of that, and at this stage we would not say anything further in the public forum on this particular topic.

**THE CHAIRMAN:** Okay. Over to anybody else who wants to have a say. Anything on exclusivity rights?

**MR SCHERER:** George Scherer, Office of Energy Policy. It is very debatable whether the provisions which are claimed to be exclusivity rights are in fact exclusivity rights, and there is a serious issue here that it is simply not possible for an outsider to determine whether in fact there are exclusivity rights, because the clauses that are claimed to be exclusivity rights are not available. So the only thing that an outsider would be able to do would be to rely on interpretations of other parties, notably the ACCC, as to what the provisions say. But they can't actually go right back to basics and look at what the provisions themselves are. In fact, you've got a derived version only of what are claimed to be exclusivity rights. The Code does not actually provide for reasons for decisions to be made confidentially. So it is strongly arguable that by not making everything that is supposed to be available for a reasoned and well informed submission to be made there has been a fairly fundamental breach of the Code.

In view of this, it is arguable that if this goes through to final decisions there could be very serious problems indeed if any party wanted to exercise rights of appeal. They may not wish to, but it is an issue. But there is a fairly fundamental issue there from the point of view of the process within the Code. These things have flow-on effects right throughout the access arrangement. The issue is fairly fundamental, because the overturning of the exclusivity rights, which appears to be the objective of the ACCC, is based on whether in fact they are exclusivity rights, and other issues flow indirectly from them, like the reallocation of unused capacity, and so on. So there are serious reservations about whether the process envisaged in the Code has been properly followed.

**THE CHAIRMAN:** I think there is a problem with the fact that the actual clauses aren't in the public domain. We have gone through the process that we think is open to us on that. To the extent that we need to get any further legal advice about process obviously we will do that. But I would have thought, given we wrote screeds on this in the draft decision, that there was sufficient basis for people to try to reach some views about the substantive issues, and I think we have had submissions on this, but it is entirely up to you. It is certainly still an issue for us that we are going to have to cover in the final decision. Does anybody else want to say any more this morning? It certainly is a difficult area to talk about, I know that. Okay, it doesn't look like it. It is a problem that we are going to have to continue to grapple with.

**AGENDA ITEM 2: INITIAL CAPITAL BASE**

**THE CHAIRMAN:** I am confident that on the next issue people will not be so reticent, the initial capital base. The Code requires the regulator to approve a value for an existing pipeline. That's called the initial capital base, as part of the first access arrangement for that pipeline. That's the process we are going through here. The principles for establishing the initial capital base of a pipeline system are set out in sections 8.10 to 8.14 of the Code. What we proposed in the draft decision was an initial capital base of \$310 million. This was calculated using the DORC asset valuation methodology, and in that we adjusted for Epic's deferred tax liability. Epic had proposed an initial capital base of \$354 million. We will separately talk about the issue of a rate of return on the capital base. We will come to that next. Could we for the moment, if that is convenient to people, limit ourselves to discussing the issues around the initial capital base itself

**MR WILLIAMS:** The only issue that Epic wishes to comment on in the forum on this area at this stage is the valuation, the ORC valuation. As you will see in the submission filed by Epic in this area, we have filed two additional valuations conducted by independent experts, Venton & Associates and Worley, the former, though, we would suggest is an acknowledged expert in this area. Those reviews confirm that Epic's valuation was not too high, and particularly Venton & Associates accepted it as being a reasonable valuation. These findings have not been refuted by any experts provided by the Commission, or elsewhere, that we have seen, and we submit that they are appropriate valuations and the value submitted by Epic is an appropriate ORC valuation.

The other area that has been touched on in the Epic submission is that dealing with the deferred tax liability. There is a detailed explanation of how Epic refutes the adjustment to the capital base made by the Commission in its draft decision. I think that has been adequately dealt with in the explanation in the submission, probably far better than I could do at this podium.

**THE CHAIRMAN:** We have a few issues here. We've got the actual value of the DORC that we used as our starting point and we've got the treatment of the deferred tax liability. We have also potentially I think got the treatment of depreciation by asset class. Does anybody want to speak to any issues under this heading, Initial Capital Base?

**MR DOMANSKI:** My name is Roman Domanski. I am the Executive Director of the Energy Users Group of Australia, representing larger business customers of both electricity and gas. We have a concern, as the Commission would be well aware, with the continued use of DORC asset valuations. We have expressed in many forums both those put on by the ACCC and by other jurisdictional regulators, that the DORC asset valuation exposes customers to a pretty considerable risk of over valuation, and I wanted to express that view again here publicly today in relation to this Moomba to Adelaide Pipeline System. We are disappointed that the Commission continues to rely so heavily on the DORC approach and we believe that customers have good grounds for having a view that that is exposing them to higher prices than they need be paying for transportation of gas and electricity.

In relation to the comments that have been made about further independent

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valuations in relation to this pipeline, whilst we do not seek to in any sort of way disparage the worth of the people providing those valuations, we do, however, note, and we have expressed this view to the Commission previously also, that the ability to get independent valuations in this area is itself a considerable difficulty. There are only a handful of people, within Australia at least, who are capable of doing this. It has not escaped our attention that those people happen to do a lot of their work for the very utilities that the Commission is regulating. I would have to say that we do not, because of that reason alone, have an awful lot of faith in what those people come up with.

My other point is that I note that within the Code there is considerable scope for the Commission or any other regulator to adopt asset valuations that can be anywhere between DORC and DAC—DORC at the high end and DAC at the lower end. We continue to have a concern that the Commission is always adopting asset values on a DORC basis, which is always putting you at the high end of the scale and exposing customers to those risks that I talked about.

**THE CHAIRMAN:** I draw people's attention to the fact that some of this is discussed on pages 42 and 43 of the Commission's draft decision, where we set out different DORC values and we compare them with book value and residual value and depreciated sale price. It is true, as Roman said, we have, basically as a policy decision across our regulatory area, given higher weight to DORC valuations, for the reasons that are set out in this and other decisions, and we say a bit about why we don't think the depreciated actual cost would be very useful in the case of this particular pipeline. Any other comments about this initial capital base? Any comments about the deferred tax liability?

Incidentally, I think Epic have drawn attention to the fact that in their response submission they have put arguments to us as to why we are wrong about the deferred tax liability. Those two valuations that David referred to are in Appendix 1 to Part A of Epic's submission, which I think is dated 10 October. Nothing else on that? All right, well we'll move on to the rate of return.

**AGENDA ITEM 3: RATE OF RETURN**

**THE CHAIRMAN:** The Code states that the rate of return should provide a return that is commensurate with prevailing conditions in the market for funds and with the commercial risk associated with providing the reference service. The Commission proposed a number of changes to the WACC and associated parameters forming part of the access arrangement, to deliver what we considered was a rate of return to Epic that is commensurate with prevailing market conditions and the risk involved in delivering gas transmission services. Of course, this raises the whole issue of putting the rate of return in post tax nominal terms. David, did you wish to speak to that?

**MR WILLIAMS:** There are many factors to this element, that of the rate of return. The critical one that Epic has commented on in its submission is the Asset Beta. Epic's independent expert's report is the Brattle Group report that was referred to in the Epic submission, and a full copy of that report can be found on the OFFGAR Web site, the Western Australian Independent Gas Access Regulator in relation to the Dampier to Bunbury natural gas pipeline. It is Attachment 1 to the revised access arrangement information. In referring to that report, which we say actually applies relevant empirical studies, it shows that the Asset Beta adopted by the Commission in relation to the Moomba to Adelaide pipeline is too low. To also assess the risk as being low to Epic as it has contracts spanning this regulatory period is a furphy, and does not reflect reality. In fact, Epic will be negotiating contracts with shippers, no doubt before the end of this regulatory period, to cover the period beyond the existing contract drop off, and that occurs as a cliff face in 2006.

The issue of the contract is specific to Epic, not the general risk associated with operating a pipeline like the Moomba to Adelaide Pipeline in general terms. For example, much is made of alternative pipelines in other areas, but no allowance for that is made in the calculation of the Asset Beta. As a general comment, such a low WACC will clearly impact on the owners of the Moomba to Adelaide Pipeline in what they do with this asset. One might observe that the owners would be better placed putting their whole investment, being debt and equity, into the share market and would get overall a far greater return, even on the Commission's figures, as to return on equity, as well as having a well risk weighted portfolio and a far more liquid portfolio.

**THE CHAIRMAN:** Any comments about the rate of return on the initial capital base?

**DR FONG:** Cliff Fong from the Office of Energy Policy, South Australian Government. Just to make a few general comments about the weighted average cost to capital and its impact on future investments in South Australia, I think the point the Government wants to make is that the South Australian energy market, gas and electricity, is extremely tight. We don't have sufficient capacity right now to deliver enough gas or gas fired power generation in South Australia. That is very clear. So one of the clear issues for South Australia is that it is not just new pipelines coming into South Australia; it's potential augmentation of things like Moomba to Adelaide Pipeline System, which we think is necessary now. It is pretty clear to us that in the history of watching this pipeline operate from the South Australian Government's point of view, for the last year, year and a half, maybe two years, it is extremely

tight.

The market conditions have changed since the start of the National Electricity Market. In the old days, perhaps two or three years ago, the sort of MDQs, the daily nominations for the pipelines, were relatively quite smooth, they were pretty stable. Since the National Electricity Market has started these nominations are going up and down like yo-yos, extremely up and down like yo-yos, highly variable. There is a large debate going on between the retailers and the producers: the producers at the top end putting the gas in and the retailers at the bottom end taking gas out to supply to their customers. There are huge debates going on, and some of you in the room know all about those, huge debates about we are not getting enough gas into the pipeline, you're taking it out too fast, etc., etc. What that is telling us is that there is a huge capacity issue here. So that is the first issue. We actually need new gas capacity supplied to South Australia now.

In the longer haul, perhaps around 2003, 2004 when the current contracts start to wind out from the Cooper Basin, we clearly are looking for new pipelines coming into South Australia to provide competition to the Moomba to Adelaide Pipeline System, or competition, if you like, to the producers from the Cooper Basin and the South West Queensland fields. As you know, we have gone out on a request for submissions, publicly, to look for, and with the Government's role to try and enhance, that gas coming into South Australia. That is how critical we think it is. We are having problems with gas supply now. We are probably likely to have problems with electricity supply, possibly this summer and in future summers.

So what we are really saying is that the headline rate, the weighted average cost to capital that is being sent to the market, if you like, by the ACCC we think is sending the wrong signals. It is not pro competitive. We are not talking about a mature market here where we have a lot of competitors, possibly like you might have in Victoria perhaps, where there are at least a few alternatives. We don't have that here, and our concern is that a low weighted average cost to capital is going to send the wrong signals to future investors, even though it is a headline rate, and they will just simply go elsewhere. I mean, capital purely has feet. It will go to other areas and they won't even look into South Australia. So we think that is a major concern.

With respect to issues about new pipelines, it is true, I think, and we have talked to the ACCC about this in the past, that there is the competitive tender route, and that's true, but various options that come about in the period 2003, 2004 may very well be options that include augmentation of current pipelines. So we think the signal that is being sent to the market by weighted average cost to capital in this draft determination is fundamentally sending the wrong signals, apart from the fact that we think it is too low.

But I do want to emphasis again that we have a very tight energy market in South Australia. About 50 to 60 per cent of the electricity produced in South Australia is produced from gas fired power generation. So the potential impact of a wrong decision, if you like, or a misleading decision on the weighted average cost to capital is to actually provide dis-benefits to the whole market in South Australia, gas and electricity consumers. It doesn't take a genius to realise that if, in fact, the gas supply is short the cost of electricity coming out of the pool is going to go up.



**THE CHAIRMAN:** Does anyone else wish to speak to the rate of return issue?

**MR DOMANSKI:** I would like to strongly support the WACC decision that the ACCC has put in its draft determination. We believe that the decision is very consistent, and needs to be consistent, for the purposes of creating precedent and creating certainty amongst all players in both the gas and electricity markets. When we look at that decision we look at it in terms of the many other access and price regulatory processes that we get involved in around the country. I actually prepared a slide to bring along today which showed some of those comparisons. Unfortunately, I only have it on my laptop so there is not the technology here to show it to you. But I would be happy to provide it to the Commission after the conference. Anyway, what the picture basically shows is that what the Commission is proposing here is highly consistent with the decisions that are coming out of what we would call the more credible and independent regulators around Australia. It is certainly not seen in one sense consistent with decisions that have come out of people like OFFGAR and people like the South Australian Pricing and Access Regulator, which is looking at distribution gas in South Australia, or indeed the decisions that have come out of the South Australian Electricity Reform and Sale Unit in relation to ETSA, where they are all setting excessive rates of return that permit those industries to earn monopoly rents.

The Commission's decision, in contrast, is setting a rate of return which is getting much closer to the benchmark that is needed to avoid those monopoly rents. I would have to say, in making that statement, that we do not believe that the Commission's rate, even in this decision, is down at the level where it needs to be to completely eliminate the monopoly rents. In our view there is still an element of monopoly rent there. When we look at decisions coming out of the UK recently in relation to the national grid, which set a real pre-tax WACC of about 6¼ per cent, we would say that's getting down to the level that we really need to see here.

We also look at the Office of the Regulator General's recent decision in Victoria, which set a 7 per cent WACC, and while that has certainly caused a lot of distress amongst the regulated businesses, as one would expect, I think it is much more instructive to look at how the financial markets have reacted to it. We have been watching the statements of rating agencies, for example, like Standard and Poors and Fitches in relation to that decision and, basically, the way we would describe their reaction is that they are taking it in their stride, because they realise what the real implications of the decisions are, not what vested interests might tell you the implications are.

The other point I would like to make is that there is a connection between the WACC and the asset base that is being set. I come back to my earlier point about the risk that customers bear, that that asset base continues to be inflated because of the DORC valuations. Therefore, what customers are in fact seeing here is that that WACC is still being applied to an inflated asset base to give inflated prices, basically. So we certainly have a concern about that, but we strongly support the Commission's proposal in this area.

I would just like to pick up on a few points that were made by Cliff Fong in his comments. We certainly appreciate that the energy market in South Australia is tight. I guess we would argue that the South Australian Government had a pretty good opportunity to avoid

that in terms of building an interconnector with New South Wales, and for various reasons that one could speculate on—I probably won't bother these proceedings with them—they have not proceeded to do that. That is one way they could have got themselves out of the bind that they now face. And we continue to have a concern about that.

The other comment that I would make is that I do not believe it is good policy or good regulation to permit regulated entities to earn above market rates of return, and I don't believe that situation will solve the problems that Cliff was talking about, namely, the need for additional sources of gas into South Australia. He also made the point that he thought there were some differences between the South Australian situation and the other State situations in relation to gas. While that is certainly true in some cases, Victoria last time I looked still virtually had only one source of gas, although there is a bit coming in now from New South Wales. But that is still a relatively small proportion, and the rates of return that were set by the Office of the Regulator General and the Commission for Victorian gas back in 1998 are comparable to what's being done here, given the circumstances that have evolved in between 1998 and now. And I do not see any evidence in Victoria that that is having a deleterious impact. So I wanted to make that comment as well. There was one other one that I wanted to talk about.

The gentleman from Epic said that the WACC decision will impact on what the owners do with the asset, and he ventured to speculate that they might be better placed to put that money into the share market, and that they'd get a better return if they did that. They might well do that, but they'd also be taking a much bigger risk than they are taking with this asset. As to this asset, the capacity of this pipeline last time I checked is basically tied up in contracts and that plus the nature of the business gives you a relatively risk free venture, and that needs to be reflected in the rate of return.

And I note in passing that the rate of return, as measured by the return on equity, implied by this decision is something of the order of 13 per cent. That's probably the figure we all should be focusing on more because it has a much more direct relationship to the financial market. That is still above what listed companies on the Australian Stock Exchange, on average, are earning. Bear in mind that those companies generally—you are talking about mining, you are talking about manufacturing, you are talking about services, most of those are operating in competitive industries. A lot of them are competing with the rest of the world. They are operating in risky businesses. That is all they can expect to earn on average. It therefore seems somewhat wrong-headed to us that a business like this should be earning 2 per cent over that.

**THE CHAIRMAN:** Anybody else on the question of rate of return? It does seem to me that we have a bit of a dilemma being put to us at least; whether it is a real dilemma I am not sure. But on the one hand it is being said that effectively we have demand exceeding supply, and that would seem to reduce the risk of the pipeline for the period immediately ahead. You've got the pipeline full of gas under existing haulage agreements, and all those things would suggest, I think, that you need the returns on the pipeline to be regulated. On the other hand, it is being put to us, I think, that we should allow excess profits on this pipeline so as to provide incentives for another pipeline to be built. It doesn't seem to me that that fits clearly within what the National Gas Code tells us to do. And that is the dilemma we have to see around this. But presumably whether another pipeline gets built will

depend on the returns that that pipeline can earn, and I would ask people to keep that in mind when we are talking about the regulatory decision we make for this pipeline and a decision that we are making in respect of a period for the access arrangement that only goes through until around when the existing haulage agreements come to an end. I can see either Roman or I have prompted Cliff to seek a right to say some more.

**DR FONG:** Rod, just in response to your comments, and Roman's comments, what we are really saying here is that we are not saying that excess profit should be allowed. What we are saying is that the market risk factors are different in South Australia than, say, for Victoria. Victoria is a mature market. It is a very tight market. The gas pipeline system in Victoria is effectively just one big distribution system—because it is quite small. It is not like South Australia where there are large distances between wherever the gas is coming from down to where we are sitting now in Adelaide. That's the first issue. So we are saying that the market conditions are quite different. When you look at the energy market there is, in fact, quite effective competition to some degree in Victoria, especially when you look at electricity. So what we are saying here in South Australia is that gas is in fact feeding at least half to 60 per cent of the electricity market. So that is a significant difference from Victoria.

With respect to the issue about the comments on interconnectors, the supply and demand is in fact very tight right now and the interconnectors that were proposed were about 200 megawatts. That's not a lot, because, after all, when you look at the NEM, and they talk about disruptions to the market, you talk about losing particular units at a time, and units can be anywhere up to 250 megs in one go. So, as to those interconnectors that were proposed at the time—and the South Australian Government had some arguments about the technicalities of them; they were purely technicalities—we don't have a problem with interconnectors. The issue is that those interconnectors would not have solved our problem.

The real problem in South Australia, and I suspect in most parts of Australia, is that there are two types of markets you are talking about here. One is the base market and the other one is the peak market. The peak market is growing at a huge rate of knots, and it is probably driven by airconditioners, we think. But the base market in South Australia, the fundamental market, is growing organically, maybe at about 2 or 3 per cent. We think the airconditioning market, the peak market, is going at probably three times that. And that is being reflected also in other States, certainly in New South Wales and Victoria.

So when you look at interconnectors coming across from Victoria, there are 500 megawatts coming in from Victoria. We can't always be guaranteed in a pinch that we are going to get the full capacity of that interconnector coming to South Australia when things are tight. It is well known, for example, that the correlation coefficient between a hot summer's day in Adelaide and in Melbourne is something around about .69, which means that when we have a hot day in South Australia they are going to have one in Victoria, which probably means that they are going to be running flat strapped in Victoria, and, again, Victoria has a very tight peak electricity capacity issue. It is true that Bass Link might fix that, if Bass Link ever gets off the ground. So the issue I am pointing out here is that it is not just simply a case of saying interconnectors will fix everything.

**THE CHAIRMAN:** Okay, thanks for that Cliff. I think that gets us about as far into electricity as we want to get today. We might come back to gas. Anything more on the

rate of return?

**MS FAIRHURST:** Sarah Fairhurst, PA Consulting. I'm sorry, Rod, I just wanted to comment on the comment you just made not wanting to get too far into electricity. I think the point that Cliff made really needs to be emphasised: you cannot separate gas and electricity in the South Australian market. The two are extremely tightly linked and what happens in gas will affect what happens in electricity and what happens in electricity will affect all of the consumers in South Australia. I find it incredible that Roman sitting down there, who really wants low prices for all of his large electricity consumers, is advocating policies that in the long run are going to reduce the level of competition in both gas and electricity and raise prices to his consumers and increase the shortages they currently face. At the end of the day it's just not going to help you. You've got to look long term. I fully support everything that Cliff has been saying—and I'm not going to make comment on interconnectors because there's just too much crap about interconnectors floating around at the moment.

**THE CHAIRMAN:** That's what I meant when I said I thought we'd got into electricity enough today, because I don't think it is going to be all that productive to talk further about interconnectors—although I do note that Roman was talking about an interconnectors from New South Wales, and I'm not sure what the correlation with the weather there is, but it might be a little bit lower. Anything more on rate of return?

**AGENDA ITEM 4: TRIGGER MECHANISM/BACK-HAUL TARIFF**

**THE CHAIRMAN:** The fourth topic that I have on the list is the trigger mechanism that the Commission proposed, which was essentially in case there needed to be at some future time a back-haul tariff. As I mentioned right at the beginning, I had an indication that somebody might want to extend the discussion into distance-based tariffs more generally. This comes up right near the end of our draft decision, because a section of the Code allows the regulator, having had regard to the objectives in section 8.1 of the Code, to require that specific major events be defined that trigger an early review of the access arrangement.

You will see in the draft decision that we've got quite a lot of material in there about how we don't think access arrangements should be opened up willy-nilly and we do see a case for providing certainty to an access provider and we don't think the regulator should be able to be opportunistic about opening things up. But in the case of South Australia there were clearly the possibility of a new pipeline coming in, questions of where that would be interconnected and the possibility that there would be a need for some sort of change in the structure of the tariff, which was a postage stamp tariff that had been proposed by Epic.

As a consequence the Commission decided in the draft decision to require Epic to amend the access arrangement by defining 'specific major events' (if any)—and that was to be subject to further processes of public consultation that we are going through now—specific major events that would trigger an obligation on the access provider to submit revisions prior to the revision submission date. This is a fairly difficult area. Staff have been talking to a number of people about whether what we were proposing would do the trick. Perhaps, David, you could speak to Epic's thinking on this at the moment.

**MR WILLIAMS:** I noted the plaintiff plea there, Rod. In actual fact I think this is one that we would actually prefer to withhold making comment at this stage and we will wait and see what is said in the forum.

**THE CHAIRMAN:** Okay, fine. Is there anybody in the audience who has a passionate interest in this?

**DR BOOTH:** Chairman, I am Rob Booth from the Bardak Group, but this morning I am speaking on behalf of WMC Limited, which asked me to come and represent them. It was in fact WMC that asked for the topic of distance dependencies to be added to this one, but I think our comments have a little more general relevance, too, that will help initiate the discussion on the event. The specific reason for WMC's interest, Chairman, as I think will be apparent from reference to some recent press releases, is that the Olympic Dam project is capable of continual stages of expansion; in fact, effectively, a de-bottlenecking expansion was announced only a couple of weeks ago.

That means that WMC is continually re-examining and looking at the way in which electricity and gas—or, in the present case, it happens to be distillate and LPG which is supplied to the Olympic Dam operation. Their consumption of distillate and LPG has increased to the point that it could be substituted by something like 5 petajoules of gas, and so one of the options under consideration would be to get a gas pipeline, from the main pipeline

or direct from Moomba, across to Olympic Dam to substitute for the present use of distillate and LPG. And it is possible that that kind of development could take place within the regulatory period that you are considering here. So WMC would like, first of all, to make sure that its interests are registered; also to make the point that it would become a third user in the pipeline that effectively only has two users. In the context of the Gas Code, reference tariffs are there to be specified whenever there is the prospect of a significant number of users making use of a pipeline. This is a rather odd pipeline in the sense that the addition of one user has to be considered as a significant number, I think, in the context of the Code.

WMC is also having a look at the possibility of electricity generation alternatives. You will be pleased, Chairman, that I bit my tongue and I will resist getting involved in the electricity debate, but I can do so with some equanimity now because I have published a book and people can go and read my views in the book. But from WMC's point of view one of the possibilities might be to working with people to develop something up in the north towards Port Augusta, or even associated with the potential Samag project in Port Pirie, and therefore WMC has an interest in the back-haul issue. While the company doesn't always completely see eye to eye with the South Australian Government, here is an instance where the company does, and they're supportive of the plea that was made by the South Australian Government that there not only should be back-haul tariffs included in the set of reference tariffs but they also should be distance dependent.

We note, for example, that the same proponent, Epic—David sitting in the front there—has put forward distance dependent tariffs in the case of the Dampier to Bunbury pipeline. They happen to be zonal, but there are some 10 reasonably logical zones on that pipeline, so we don't think it would be much of a problem for Epic to convert reference tariffs into distance dependent tariffs and to offer distance dependent back-haul tariff for the Moomba to Adelaide Pipeline. I might also point out, Chairman, that WMC was the leading joint venturer who developed the Goldfields Pipeline in Western Australia, since sold to a consortium essentially of CMS and AGL. It itself is the subject of an access undertaking.

In that case, after having examined the various options for setting tariffs, WMC and its partners in the initial stage went for complete distance dependent tariffs, in the sense that every element of that tariff is expressed in a dollar per gigajoule per kilometre type element. So it is not even zoned; it is completely distance dependent. Having said that and having gone through that decision making process, WMC obviously has a leaning towards that kind of tariff structure for gas pipelines generally. So, in essence, the main plea that WMC is making is to have distance dependent tariffs, completely distance dependent, or zones, if there are logical zones that can be defined, and, secondly, the back-haul rates be included in the reference tariffs, also distance dependent.

But I think, Chairman, the more general comment is to do with the trigger event. With the reference tariffs that have been put up right now WMC would say you almost certainly will need some trigger event. Given the volatility and the excess of demand over supply in gas in South Australia, it is almost certain that something will happen over the period of this regulatory review that will change the operating regime of this particular pipeline quite substantially. We hope that it does, because South Australia most certainly needs competition in gas, more competition in electricity, if I may say so, and that inevitably means that there will be changes.

So I think that the dilemma, or perhaps the choice may express it more correctly, Chairman, might be to have a more complicated set of reference tariffs, including distance dependent, back-haul tariffs, interruptibility tariffs, generally aimed at coping with a general range of events and not so much a trigger event, or the present limited range of reference tariffs, but then you are in the position where people will argue that you need a trigger event if something dramatic comes up in the regulatory period that would substantially change the operating regime of this pipeline.

I might just indulge myself with one other comment. I know I should have made this earlier on, on the initial capital base, just drawing from WMC's experience in the west. When the Goldfields Gas Transmission Pipeline was developed, WMC and its partners had very elaborate cost models for gas pipelines, very current, of course, for a pipeline that was finished at the end of 1996. If we update some of those estimates to present day and apply the formulas that we were using to Moomba-Adelaide, even if we were going to use a DORC valuation—and you know my views; they are aligned with Roman's in terms of a preference not to use DORC—but even if it is used to calculate a DORC figure, they come out with figures much closer to the ACCC's valuations than they do for Epic. WMC is not in the pipeline business at the moment, but it is just an interesting comment that, in terms of getting a check of reasonableness on the DORC valuations that you were using, we tended to come out closer to yours than we did to Epic's.

The other comment was that Epic, perhaps I think tongue in cheek, have suggested that exchange rate variations should be taken into account. We also struck that on the GGT Pipeline and ended up discounting it, for the simple reason that one can buy pipe and compressors and valves and fittings from a wide variety of countries. In fact the most likely sources of supply for those things tend to be either within Australia or Japan or Europe. Exchange rates to those countries have either hardly moved at all, or sometimes have moved in favourable directions and, frankly, there is just no case at all for escalating a DORC valuation, how ever it is calculated, by the \$A-\$US exchange rate. If anything, you might do something on the Trade Weighted Index, but essentially what one has to do is to look at the various sources of supply and where it is that one will get the best price. I do know in car generation equipment, if you buy it from Japan these days you will pay no more than you paid two or three years ago. But the same is not true if you buy it from the US. So, Chairman, that is the essence of the WMC submission.

**THE CHAIRMAN:** Thanks Rob. Anybody else?

**MR WHEATLEY:** Adam Wheatley, representing Samag Limited. As introduced by my colleagues at Western Mining, Samag has a large potential incremental load predominantly in electricity, but of course in the South Australian market that is, to all intents and purposes, an additional gas load. We've been working very hard over the last year or so on projects to increase the volume of gas coming into South Australia, and I think it is fairly clear to us that one way or another there will need to be an additional pipeline, whether that's an ultimate increment to the existing pipeline such that you join up all the dots and a new pipeline will be put in place, or whether indeed there is a separate pipeline built in the nearer term.

But quite clearly one of the issues that we've come on, in terms of earlier topics,

is the appropriate rates of return to encourage new pipelines, and we are caught, nicely I guess, as consumers at trying to encourage the lowest possible return to pipelines, but also appreciating that their businesses, like ours, require a proper return to encourage the risks. Quite clearly, if there are to be two pipelines into the State in the near-ish term, then the load is going to have to be shared between the two, and there is a degree of risk.

The particular issues that we want to talk to in this context, as introduced by our friends at Western Mining, is that we represent a significant load outside of Adelaide. The pipeline has operated, to all intents and purposes, to date as a tube from the producers all the way into Adelaide. We will change that. I think, in fact, if you look at a number of the new projects that are being proposed a fair few of them will be in the north of the State. A variety of different new industries are going to be encouraged, and, of course, access to low energy costs, competitive energy costs, and therefore access to competitive transportation, is going to be very important. In that context we are interested, again as my colleagues from Western Mining have said, we are interested in a part-haul tariff, reflecting the fact that we're not all of the way down in Adelaide, and we are also potentially interested in back-haul but, again, reflecting the fact that we don't appear at one end or the other of the existing pipeline.

**THE CHAIRMAN:** When you say you are interested potentially in part-haul or back-haul, does that depend on what actually happens in future for bringing in additional gas, whether it is an extension of Moomba to Adelaide or a new pipeline interconnecting?

**MR WHEATLEY:** As far as we are concerned there are two alternatives that are available to us: an extension, and quite clearly MAPS is incapable of taking our additional load in its current form, and so in that particular instance we are interested in a part-haul from the north and if, indeed, the alternative suggestion, which is a pipeline from the east, comes about, then again we sit, say, 20, 25 per cent up from Adelaide along the MAP System, in which case we'd be interested in back-haul. But again a similar principle, essentially we'd be interested in a part-haul tariff.

**THE CHAIRMAN:** And are you suggesting that Epic should include in their access arrangement at this stage provisions for those contingencies? What's playing on my mind is that nobody knows exactly what's going to happen with bringing additional capacity in, and what you are asking for on the face of it seems reasonable, except that you are sort of asking them: 'Well if this happens, this would be the tariff, and if that happened, this would be the tariff, and put it all in an access arrangement that the ACCC would be approving in the next few months.'

**MR WHEATLEY:** Well, as you are aware, our preference, given the uncertainty, is to deal with those 'what ifs' with Epic rather than do it in the broader context.

**THE CHAIRMAN:** Thank you. Anybody else on these issues?

**MR JERVOIS:** My name is Kym Jervois from the South Australian Office of Energy Policy. I just wanted to reiterate something in the previous South Australian Government submission, and also go through more where the Code developers—since I was one of the people involved in developing the National Gas Code—where they came from in terms of reference tariffs. If I can start off by saying that in terms of the trigger mechanism I



think the South Australian Government has made its position quite clear that we would prefer there not to be a trigger mechanism, and in our submission we made the point that we thought that such an arrangement would increase the level of regulatory uncertainty. Obviously as you have heard today, with the tight balance of supply in South Australia and the request for submissions, we are interested in getting new supply into the State, and any increase in the level of regulatory uncertainty we think could mitigate those extra sources of supply.

If I can move on to the other issue, which is about, essentially, back-haul and what the Code actually was trying to develop in terms of the reference tariff. The developers of the Code were trying to put together, essentially, a matrix of services, not just one service but a number of services. The reason for that was to allow people to understand where the negotiating points were and negotiate between them. That was one of the, I guess, directives that the Code developers thought would be very important, to basically have some indicators out there so that people who wanted, shall I say, somewhat different services would be able to see where the lines in the sand were and therefore get involved in a level of negotiation for their particular service, which might not be quite the same as what was in the access arrangement.

To that extent the view was that there would be a number of services which would have reference tariffs on them, not just one. As we have said in our submission, we would prefer there to be a back-haul tariff. The point I am making here is that having a back-haul tariff is consistent with the way the Code has been developed. It is part of a matrix of reference services. So I see that it is absolutely consistent with the Code and, as other speakers have indicated, there are strong commercial reasons that people are quite likely to be looking at in the near term for back-haul services.

**THE CHAIRMAN:** Anybody else on back-haul tariffs, distance-based tariffs? It is evident to me that some further thought is needed on this. I think Epic's position as put so far is that these matters could be sorted out by arbitration, and I think that is a possibility under the Code. I would look at that with a distinct lack of enthusiasm, I think, as the person who might end up having yet another arbitration on his plate. So I think I would like to see some further discussions between us and Epic and see if we can bed something else down for proposals that could be put out for further consultation. But it is not an easy area and there are even some issues as to the interpretation of what the Code requires in terms of reference tariffs. I think we will keep moving along. We are well ahead of time as per the proposed schedule, but I would like to keep on going and turn to the next topic.

**AGENDA ITEM 5: EXTENSIONS/EXPANSIONS/QUEUING POLICY**

**THE CHAIRMAN:** Section 3.16 of the Code requires an access arrangement to have an extensions/expansions policy. The policy is to set out the method to be applied to determine whether any extension to or expansion of the system's capacity will be treated as part of the covered pipeline. Sections 3.12 to 3.15 set out the Code's requirements for a queuing policy. An access arrangement must include a queuing policy for determining the priority given to users and prospective users for obtaining access to a covered pipeline and for seeking dispute resolution (under section 6 of the Code).

We the ACCC proposed a number of amendments to Epic's proposed extensions/expansions and queuing policies. They focused on priority of service, frequency of queue clearance, the IT service application fees and the capital contribution threshold and formulae. This is an area where Epic has undertaken to amend, and I think perhaps simplify, the consolidated access arrangement information, and have put forward what, I think it is fair to say, is essentially a new proposal.

**MR KELLETT:** Ashley Kellett of Epic Energy. Queuing, extensions and expansions are inextricably linked. When we first approached the access arrangement we had the queuing/extension/expansion as virtually just one part of our access arrangement as proposed. In subsequent discussion, and certainly with the draft decision, the Commission has come up with an approach, to which we have responded. All of you have been able to see the way we have responded. Perhaps to summarise the way we have responded to extensions/expansions is simply to say that we will look at those extensions/expansions as they arrive on a case by case basis: are they commercially acceptable to us and to the proponents seeking to have access to that capacity?

In relation to queuing, we took the approach originally of considering that the most equitable way of treating all parties seeking to obtain access to what is potentially constrained capacity, at least in terms of the current situation, and potentially moving down the track that is forecast, as we all know what forecasts are. So that presented us with a situation where we felt that the most equitable treatment was to have a line in the sand. Those seeking access would be able to put their hand up for that access and we would clear that queue that formed at that particular line in the sand and if there were additions required, expansions/extensions, then parties would share in that.

There has been considerable discussion, considerable responses by parties in the draft decision by the ACCC, as you have been able to read it. Our view then is to follow the approach of the ACCC and to, again, put that in simple terms: that first in first served for access to capacity. For somebody seeking capacity, if it is spare that gets allocated to that party. For another party seeking capacity, if by that time they come along to seek capacity there is no longer spare capacity then, to the extent that it is required, enhancement will be discussed with that party.

**THE CHAIRMAN:** I just want to see if I can get this clear in my mind. So, it is first in first served. So you put your name down in a queue. When are we talking about this binding? Is this what David referred to as the Cliff face, when the existing haulage agreements

run out, that you've just sort of suddenly got this ostensibly hollow capacity available and you read the names on the queue at that stage? Is that how it would work? I am just not sure if I understand it.

**MR KELLETT:** Epic, as are all your other entities here, are going concerns on a day-to-day basis, and people will be considering their positions on a day-to-day basis and will be speaking with us between now and forever, as to what they want to do in terms of access to capacity. Therefore, we can't say, 'No we're not going to do anything.' There is a cliff face certainly. Parties who can see that cliff face and know, to the extent that they can ever know, what their future position is may well seek to obtain access to that capacity beyond 2005, or in fact access to enhanced capacity, or even interruptible, prior to that time. If they come to see us about access to capacity, and they want that on a firm basis, clearly that is not available until 2006. If they wish to they can certainly contract for that capacity beyond 2005, which means that, if they put their hand up today, figuratively speaking, clearly there is spare capacity now and clearly they can have that capacity. If they are seeking capacity prior to 2006, clearly there is not firm capacity. We would therefore have to enhance it and they would take that on the basis with a commercial consideration.

**THE CHAIRMAN:** Okay, thank you. Well, we do have a proposition here. It is different from the original proposition. Are there any comments or discussion on that?

**MR WILLIAMS:** I just wanted to add a little bit to what Ashley said there, just to really clarify it. The intention from Epic now is to commence a queuing process, and we will get the details of this queue out to the industry as soon as possible. It is the simple queuing process that Ashley described, because, as I have referred to earlier, people are already looking at, and will look well before the cliff face is reached, to negotiating contracts. So we must get some order into that now. In answer to your question, Rod, we won't wait until 2006 to commence the queue. The queue will commence now. We will get the details out to people so they know how that's to operate, so we can operate in a sensible fashion from now on, and everything doesn't get held up until 2006 and dealt with at that time. We will deal with things ahead of time, in the order that they are received.

**MR SCHERER:** Just a quick question. I am not clear in my mind how the queuing would work in practice, even after that. If the queuing process opens and you have the first application and the first application takes up 100 per cent of the capacity does it mean that the second applicant gets nothing? If all the applicants are in on the same day, what happens? It is a bit of a minor nitty-gritty technical question, but is it possible to give a bit more detail about how that process would work in practice?

**MR KELLETT:** In response to that question, first in first served means that. The first party in, if they seek 100 per cent of the capacity and they are prepared to contract for that, how can we refuse them? If they come in five seconds before the next party, so be it.

**THE CHAIRMAN:** The queue starts at the door. I think that might raise some interesting questions in the Government's mind, because it raised an interesting question in my mind. As you say, first come first served means first come first served, and, to say the least, there could be questions of allocation that somebody might be worried about. I don't know whether it should be us or not. Anybody else?

**MR HARRINGTON:** Mark Harrington from Terra Gas Trader. I just wanted to clarify with Ashley whether he meant with the queue starting now from the time of access arrangement or from today.

**MR KELLETT:** To make it absolutely clear, which obviously I wasn't before, we are a going concern. If someone wants to see me when we walk out the door we will be pleased to commence discussions with you in terms of contracting for capacity—from today, or 2005 or 2006.

**THE CHAIRMAN:** Okay. I think it is about as clear as it could be. Any other comments. Well, it sounds as if there could be some action from the time that anybody can grab Ashley's ear. But I think it is also something that we will need to be thinking about as we go through the process of getting to the final decision. The thing that occurred to me, although it is partially cleared up by that last answer, is that if it is first come first served then, as Kym said, you've got the issue of who is first come as it were? How do you actually decide, if two people arrive at once, that one of them was ahead of the other? It sounds to me as if there is still possibly a difficult issue here, although it may not be one that Epic would find difficult or unpleasant to deal with. Anything else on that?

**AGENDA ITEM 6: PROPOSED TRANSFER MECHANISM**

**THE CHAIRMAN:** This relates to a provision that I think is in the existing haulage agreements. What the Commission proposed in the draft decision was an amendment to Epic's access arrangement to include a provision to transfer capacity from one supplier to another, where a customer changes its supplier, and it was intended that such a provision in the access arrangement would be based on clause 15.3 of the existing haulage agreements, which gives Epic the discretion to reallocate capacity between suppliers, where a customer changes its supplier. I don't think I want to say much more about that. We set out the reasoning for why we thought this would be a good idea in the draft decision, but I think it is fair to say that various problems have been raised with it by both Epic and others. David, did you want to say anything to this one?

**MR WILLIAMS:** I was tempted to say nothing on this one, but given the response I had the last time I said nothing and given the response that Ashley got when he said a lot, I probably should say something! That aside, I suppose all I want to do is to reiterate what we have said in our submission. We don't accept that the Commission has the power to force us to exercise a discretion, a commercial discretion, under existing contracts, and Epic will not accept that if it remains in the final decision. It is an important commercial discretion that we would exercise, and, for a variety of reasons, we would not let that go lightly. I think that is probably all I need to say, but I might respond later on if something else is said

**THE CHAIRMAN:** I think there is a real issue here. Does anybody else want to speak to this issue?

**MS FAIRHURST:** One of the problems that I foresaw, looking at this—and you can see some advantages to it on the face—but in practice most customers are all served by the same retailer, and let's say that customer A moves across, you are assuming that that retailer has exactly the capacity to meet the sum of all the customers they have at the moment. I think we all know in both gas and in electricity that when you've got a lot of customers the unders in one match the overs in the other such that the capacity that you have booked on the pipeline may not actually match the sum of all the maximum demands of all your customers. So the minute that customer moves if you take his maximum demand away to sell to someone else then what you've got left may not actually match the customers you've got left.

Similarly, if you follow that through to the logical competitive conclusion that we'd all really like to see, that is, multiple retailers all with a smaller number of customers, than one big monopolist that is similar to the moment, the actual capacity on the pipeline that each retailer needs in order to match their own risk position is not the same as it was before when everyone was with the same customer. That drives us to, I think, where we came earlier in the day, which is: we need more capacity in the pipeline to allow there to be some spare to allow real competition to develop, and if there is spare in the pipeline then some pipeliner's taking risks, and I guess they ought to earn a commensurate rate of return.

**THE CHAIRMAN:** Any other views on that? I take it, Sarah, you are saying you can see an issue but you don't think there's anything that we can or should do through an actual transfer mechanism?

**MS FAIRHURST:** Unless you are doing everything on a case by case basis.

**THE CHAIRMAN:** Anybody else?

**MR JERVOIS:** After the latest disclosure document put out by the ACCC on the disclosure of confidential information, the Office of Energy Policy provided comments and a submission to the ACCC. I am not sure if it is on the Web site yet because it only got to them yesterday. But in terms of the release of capacity, we've found it, I guess, hard to see how the proposed A3.4 amendment by the ACCC would work, and we will put forward a simple example which might explain to people how there are other mechanisms in the law and the Code which might be able to do what, say, the ACCC are looking for without that amendment. If we just take a reasonably simple example here. If a shipper has a certain contracted annual maximum quantity, and, in terms of proportion, a large and significant proportion of the annual maximum quantity customer or customers were to be lost, then this particular proportion of annual maximum quantity—this is essentially under the proposal, as I understand it from the ACCC—should be made available to other shippers. As I understand, that is the proposal you are putting forward. Our view on that is that that particular situation can be taken care of under section 13 of Schedule 1 of the Act, which deals with preventing or hindering access. So if that particular capacity is not transferred under the current arrangements in the haulage agreement then we would have thought that under section 13 of Schedule 1 parties could seek remedies.

**THE CHAIRMAN:** Kym, does that section continue in operation once the access arrangement is in place?

**MR JERVOIS:** Section 13 of schedule 1 is in the current 1997 Act, so that's currently operative, and once you make the final decision for the access arrangement, naturally enough it stays in operation. I'm not referring to the 1995 South Australian Act; I'm referring to the current 1997 Act.

**THE CHAIRMAN:** Okay. I haven't seen your submission, so we'll have to have a look at that.

**MR JERVOIS:** So we thought that under that particular scenario that there were other provisions in the Act which are relatively similar, though as we have indicated in previous submissions, not the same as the 1995 South Australian Act.

**THE CHAIRMAN:** I guess my preliminary position is that we are not happy with just thinking of this as a matter that will sort itself out if and when there is another pipeline or expanded capacity, but we tentatively accept that there have been some real problems raised with what we proposed. So we are in a position where we still think there is an issue to be dealt with but we need to find another way of dealing with it, and that's what we want to try to do. So we will look at what the South Australian Government is putting to us, but we would also be interested in any other comments that we can get on this issue. So I guess we would be particularly interested to hear from users whether they think that this is something that matters to them. Anybody else on this?

I meant to say, incidentally, that when Rob belatedly went back to the initial capital base and mentioned that exchange rate issue, it hadn't been my impression that Epic's tongue was firmly in its cheek when it suggested that the DORC ought to be increased by \$55 million for the exchange rate. So we would be interested in anything people could put to us about what impact on a DORC there ought to be in a circumstance of a significant exchange rate depreciation—the sort of thing you were talking about, Rob. Nothing more on the transfer mechanism?

**AGENDA ITEM 7: METERING AT DELIVERY POINTS**

**THE CHAIRMAN:** This is the last specific issue on the agenda. This is not a matter that we had raised in our little consultation paper, but I think it is something that Epic wish to speak to.

**MR KELLETT:** We asked for this item to go on to the agenda because we noted a number of responses and also discussions we had with various people in relation to what we thought we were saying, and clearly we were not saying it as clearly as we thought we were saying it. When you go back and look at the words at least in the proposed access arrangement, going back before the consolidated document at least, it can be a bit convoluted. But can I simply say, the intention is—and the words ultimately get there—that we will allocate at a delivery point whatever the users at that point tell us the allocation agreement is.

What we don't have in there at the moment, but we are certainly prepared to consider putting in so that there is some kind of fall-back in the event that, for reasons that are best known commercially to those individual users, if they can't agree on something then we would take the fairly standard approach then of saying that an allocation at a delivery point—and by that I mean a delivery point that we meter—the gas that is leaving our pipeline system, would be allocated on the basis of nominations of users at that delivery point, which is a fairly standard approach. But we're not saying that's the answer; we're saying that if users can come up with some other way of doing it, then certainly that is the approach that we would be happy to accept.

In the event that all users had their own meters, then clearly you'd read the meter. In the event that only a few users have meters, then the meter reading is a consideration, but that still leaves a quantity after you subtract that amount from our delivery point meter, that still has to be allocated, and the same approach would apply. We'd expect the individuals to provide us with the allocation process that they have agreed. If they don't agree it would be basis of nominations. There seems to be—and I am not sure why this—a concern about this, and it just seems to me such a straightforward process that we are trying to apply here. If in fact for some reason the words don't say it we would be more than pleased to address that.

**THE CHAIRMAN:** Thank you. Does that raise any questions in anybody's mind? No? Okay, thank you. It is not even the scheduled morning tea time and we've come to the end of all the specific topics. It is time to ask if anybody wants to raise anything under the heading Other Issues. Nothing else that anybody wants to speak to us about? Finally then, David, did you or anyone else on behalf of Epic want to make any response comments that you were holding back from earlier?

**MR WILLIAMS:** No. I think in the circumstances the way it has gone I don't think there is anything more I need to add. I think topics have been covered well. I would just simply like to say, Rod, on behalf of Epic, a thank you to the Commission and its staff in the openness and the accessibility that they have provided. I think we also value the comments, and we won't always agree with the comments, but I myself find them extremely useful, from interested parties in helping us to develop and evolve our thinking, and I think as you will see we are not immutable on what we put in; we have moved, and there's been some interesting



comments made today, as well as before. We will continue to work with the Commission and work with the Commission to get a speedy finalisation of the access arrangement. So, again, thank you, Rod, to yourself and the staff for their help and willingness to listen to us.

**THE CHAIRMAN:** Thank you very much. We are open to everyone, of course. As I mentioned at the beginning, we have been going around talking to market participants. We will continue to do that. We find the submissions that we get very helpful. A couple of things have come up this morning that I've made a mental note about where I would be keen to get some more information. As to where we stand on the access arrangement proposed by Epic, I think there is some movement. We welcome the fact that, as you say, your position hasn't been immutable and is moving on some things. Obviously there are others where we are fundamentally at odds. We will resolve that as far as we can, and where we can't resolve it that will have to remain the case.

But I think what we need to do in all of this is keep in mind all the time what the objectives are that we are seeking. We try to set that out in the draft decision. We don't want to be a regulator that just says this is it, particularly when we are dealing with these issues like transfer mechanisms and queuing policy. What we want to do is keep in mind what the objective is and then try to work with both Epic and other people in the market to come up with solutions that will give us the best competitive results, and that is what I would hope we can do with some more of these issues. On other ones that go to issues like initial capital base and rates of return we will take into account all the comments that are made to us. We have had some new material put to us. I hope there'll be even a little bit more yet, and we will reach a final decision on those matters as soon as we can.

So the process from here is for us to get together with Epic to come up with a consolidated arrangement that we hope can be put out for a final round of consultation. I hope we can get that done by Christmas and that we can move in the New Year to making up our minds about a final decision on this matter. Thank you everybody for coming along this morning. These processes are helpful to the Commission and we do rely on all of you to make an input for us to come up with the best decision we can. Again, thank you very much.