



8 Aug 2001

Ms Kanwaljit Kaur
General Manager
Regulatory Affairs - Gas
Australian Competition and Consumer Commission
PO Box 119
DICKSON ACT 2602

Dear Ms Kaur

Access Arrangement for Moomba – Adelaide Pipeline

Your letter dated 1 August seeks additional comment in relation to queuing policy in Epic Energy's access arrangement for the Moomba to Adelaide pipeline system. AGL Energy Sales & Marketing offers the following comment on the alternative queuing policy described in the attachment to your letter.

1. Separation of queuing policy into two streams, for developable and existing capacity, is not workable in practice. Given the strong possibility that demand for capacity will be close to (and may exceed) existing capacity for this pipeline system for the foreseeable future, the access arrangement should recognise that access to existing and to developable capacity need to be managed as a single process. Further, given our comments in the following paragraph, there is no need to follow separate queuing procedures for existing and developable capacity.
2. It is overly simplistic to suggest that developable capacity can be handled with a first in first served queue. The nature of developable capacity on the MAPS means that different 'tranches' may carry very different costs and therefore be offered to potential customers at varying tariffs according to the sequence of their request. The principles of equity and non discrimination require that Epic should attempt to 'pool' multiple requests to minimise tariff differentials wherever possible.
3. It is undesirable that an arbitrator become involved automatically if there is demand in excess of available existing capacity. In the first instance Epic and the applicants should be required to



negotiate in good faith, using a conciliation process if the parties agree. Only if that fails within a reasonable period should arbitration be sought. The process outlined in paragraph 3 of the attachment to your letter should, with some modifications as described below, apply to both existing and to developable capacity:

- 3.i. The requirement for Epic to advertise for requests for capacity should apply equally to existing and to developable capacity;
 - 3.ii. If requests for service are more than existing capacity, then Epic should negotiate with the applicants (using a conciliation process if the parties agree) with a view to apportioning existing capacity (if there is any available) and developable capacity between the applicants in a manner that is consistent with Code principles such as non-discrimination.
4. With regard to the six points listed as 'guidance' for the arbitrator we comment as follows:
- applicants' willingness to contract should be a mandatory criterion for the arbitrator rather than a guide;
 - in respect of existing capacity in the MAPS, given its scarcity value and therefore its potential to be 'locked up' for long periods, we believe that period should not be a factor; in respect of developable capacity we would expect contracts to cover a period relating to Epic's recovery of its investment;
 - we accept that pro rating may be a relevant factor;
 - we strongly believe that non-discrimination between applicants is the highest priority and that favouring users with existing contracts represents a possible basis for discrimination;
 - some features of different gas uses, and in particular the seasonality of consumption patterns, may provide a basis for distinguishing between potential users, but we disagree that the arbitrator should have regard to the intended use for the gas of itself;
 - we accept that demand and supply projections may be relevant to the arbitrator's decision.
- In addition the arbitrator should have regard to the prospective users' willingness and ability to offer unutilised capacity into the secondary market.

Thank you for providing us with this opportunity to comment on this matter.

Yours Sincerely
AGL Energy Sales & Marketing Limited

P M James
General Manager Business Strategy