



**BALLERA TO WALLUMBILLA NATURAL GAS PIPELINE  
(South West Queensland Pipeline)**

**SUBMISSION#6  
SUBMISSION IN RESPONSE TO DRAFT DECISION**

**OCTOBER 2004**

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## **1. Introduction**

- 1.1 On 6 October 2004, the ACCC made its draft decision in connection with Epic Energy's proposed revisions to the SWQP access arrangement. The ACCC has requested submissions be made by 27 October 2004.
- 1.2 This submission:
- (1) responds to one of the amendments proposed by the ACCC and the associated reasoning; and
  - (2) responds to other aspects of the ACCC's Draft Decision.
- 1.3 It is noted that prior to the release of the ACCC's draft decision, the ACCC had not received any submission which contained evidence to enable the ACCC to conclude that a significant part of the market was likely to seek any of the AFT Services. In light of the evidence Epic Energy has provided to the ACCC in support of the position that none of the AFT Services are likely to be sought by a significant part of the market, Epic Energy requests that the ACCC provide Epic Energy with copies of any submissions and an opportunity to respond to any contrary evidence it receives before it proceeds with the next formal step in the regulatory approvals process.

## **2. Response to Draft Decision Amendment #3.1 – Trigger Events**

- 2.1 The Draft Decision contains 2 amendments, the first of which was proposed by Epic Energy prior to the release of the decision. Accordingly, this section only contains submissions in respect of the second amendment – the major events trigger mechanism.
- 2.2 The ACCC has proposed that Epic Energy reinsert the major events trigger that the ACCC included in the Original Access Arrangement.
- 2.3 While Epic Energy does not propose to make any submissions about the substance of the proposed amendment, it is noted that at page 40 of the Draft Decision, the ACCC makes the following statement:

*The existing major events trigger would open up for review all aspects of the access arrangement except for those precluded from review until 2016 under the Queensland Government derogation (that is, the tariffs and reference tariff policy for the full forward haul service and the review dates for all revisions other than those relating to AFT services). Therefore, this would include the non-tariff elements of the full forward haul service, as well as the tariff and non-tariff elements of the AFT services.*

- 2.4 Epic Energy considers that the last sentence above is an oversimplification of the scope of the regulator's power in the event of a major events trigger occurring.
- 2.5 Epic Energy considers that certain matters which have traditionally been considered non tariff elements (such as terms and conditions) may not be reviewable in so far as they relate to the FH Service and associated reference tariff. This is because the tariff the service provider charges reflects the value of the service. The value of the service is established by reference to many factors including the various risks that the parties are prepared to bear. The terms and conditions reflect one aspect of the risk apportionment and therefore the valuation exercise. A change to the terms and conditions could therefore change the value of the service and therefore impact on the reference tariff. Any attempt to do this in relation to the FH Service may therefore be in breach of the regulator's powers.
- 2.6 While it is not relevant for the current review, Epic Energy does not consider that the above paragraph properly states the scope of the regulator's powers for so long as section 58 of the Act remains in force.

### **3. Response to other aspects of the Draft Decision**

- 3.1 This section of the submission responds to specific aspects of the Draft Decision that are not the subject of the amendments being proposed.

#### ***Interconnection with SWQP***

- 3.2 Section 1.1 of the Draft Decision provides as follows:

*"The SWQP interconnects with the Carpentaria Gas Pipeline (CGP) at Ballera and with the Roma to Brisbane Pipeline and Wallumbilla to Gladstone Pipeline at Wallumbilla."*

- 3.3 Although this is what Epic Energy stated in paragraph 6.4 of its Submission 2, technically it is not correct in so far as it relates to the CGP. The SWQP, as a covered pipeline, does not include the interconnector between the SWQP and the CGP.

#### ***Services to be sought on SWQP***

- 3.4 At page 19 of the Draft Decision, the ACCC states that:

*"There is evidence to suggest that, under a range of scenarios, a variety of services would be sought on the SWQP.*

- 3.5 The ACCC then goes on to conclude at page 20 of the Draft Decision that no interested party has been able to demonstrate to the ACCC's satisfaction that AFT services are likely to be sought by a significant part of the market before the end of 2006.

- 3.6 Epic Energy understands that the "range of scenarios" referred to by the ACCC includes the range that Epic Energy has outlined in submissions to the ACCC as part of this regulatory approvals process and others which are in the public domain.

- 3.7 While Epic Energy does not dispute that there may be scenarios where a variety of services would be sought on the SWQP, it submits that:

(1) many of these are hypothetical scenarios that should not be relied upon to conclude that the services are likely to be sought without further evidence existing to enable one to conclude that they are services that are likely to be sought by a prospective user; and

(2) even if it can be demonstrated that one or more of the services is or are likely to be sought, there would still need to exist evidence to support the conclusion that a significant part of the market would require it or them.