Joint Press Release –

**AUSTRALIAN COMPETITION AND CONSUMER COMMISSION/
NATIONAL COMPETITION COUNCIL**

EASTERN GAS PIPELINE – REGULATORY OVERSIGHT

The Australian Competition and Consumer Commission and the National Competition Council said today that they would work together on how to regulate access to the services of the Eastern Gas Pipeline.

The Eastern Gas Pipeline is presently under construction. When completed, it will run from Longford, Victoria to Horsley Park, Sydney and will be capable of supplying Bass Strait gas to Sydney and other markets along the route.

On 18 November 1999, the ACCC received an undertaking from the owner of the Eastern Gas Pipeline, the Duke group of companies. The undertaking set out the terms and conditions on which Duke proposed to provide access to the transport and other services of the Eastern Gas Pipeline. The undertaking was submitted for approval under Part IIIA of *the Trade Practices Act 1974.*

On 7 January 2000, the NCC received an application from AGL Energy Sales and Marketing Limited for coverage of the Eastern Gas Pipeline under the National Gas Access Code. If the Eastern Gas Pipeline was covered under the Code, the Duke group would be required to submit an access arrangement to the ACCC that met the requirements of the Code.

The ACCC and the NCC will meet soon to discuss how to deal with the undertaking and coverage processes in a way which would not compromise whether access should be granted to the services of the Eastern Gas Pipeline, and if so, the form of access. The NCC noted that it was yet to be determined whether the Eastern Gas Pipeline should become covered under the Code.

Access to the services of gas pipelines

Access to the services of a gas pipeline typically involves a contract between the pipeline owner or operator and a third party which gives the third party the right to transport gas through the pipeline on certain terms and conditions and upon the payment of a transport tariff.

Parties have a right to negotiate access to the services of gas pipelines under Part IIIA where those pipelines meet the criteria specified in Part IIIA, and the pipelines have spare capacity.

The Commonwealth Government enacted Part IIIA to promote more efficient use of monopoly or near-monopoly facilities – that is where, among other matters, it would be uneconomical for anyone to develop another facility to provide the services provided by the facility, and where access to the facility would promote competition in another market.

Access under Part IIIA may prevent certain pipeline owners using their monopoly power to extract excessively high tariffs in exchange for the transport of gas. Pipeline owners may have monopoly power to the extent that it would be uneconomical for other parties to build other facilities to provide a competing gas transport service.

Certain gas pipelines fall within Part IIIA. It is yet to be determined whether the Eastern Gas Pipeline falls within Part IIIA.

Provisions of Part IIIA

Part IIIA provides three methods for gaining access to the services of monopoly or near-monopoly facilities:
- through declaration of the facility, which creates a right for a third party to negotiate for access to any spare capacity in the facility;
- under an access regime established by a State or Territory and judged to be effective under Part IIIA; or
- under an undertaking submitted by the owner or operator of the facility and approved by the ACCC.

In relation to the services of gas pipelines, the States, Territories, and the Commonwealth agreed to establish identical access regimes in each State and Territory. Each State and Territory with gas pipelines passed legislation providing for access to covered pipelines in accordance with the National Gas Access Code. The Code provides for any party to apply for coverage of uncovered pipelines.

Further information
Mr Ed Willett, NCC, (03) 9285 7499 or (0414) 559 999
Mr Joe Dimasi, ACCC, (03) 9290 1814 or (0414) 535 805

21 January 2000
ACCC MR 7/00