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PRESS RELEASE

Moomba to Sydney Pipeline: access should be regulated — NCC

The National Competition Council today recommended that access to the Moomba to Sydney Gas Pipeline (**MSP**) should remain regulated under the National Gas Pipelines Access Code. The pipeline owner, East Australian Pipeline Limited, had applied to the Council to terminate access regulation for both the main pipeline to Sydney and the Canberra Lateral. The ACCC is the access regulator.

The MSP ships gas from Moomba, in South Australia's Cooper Basin, to Sydney, Canberra and major centres in NSW. Until 2000, it provided the only means of shipping natural gas to NSW. The pipeline continues to transport the bulk of Sydney's natural gas supplies, although some gas is now shipped from Victoria along the Eastern Gas Pipeline (**EGP**). It is also possible to ship gas from Victoria via a combination of the Victorian transmission network, the Interconnect Pipeline, and the MSP.

While access to the MSP has been regulated since the pipeline was privatised in 1994, arrangements have not been fully put in place. The Gas Code requires the pipeline owner to submit terms and conditions of access to the ACCC for approval. This process is now in train.

The Council has recommended that the MSP should continue to be regulated under the Gas Code because the pipeline has substantial market power.

The Council found that the MSP has the ability and incentives to charge monopoly prices. The Council reported evidence that current MSP tariffs may be about 30% above competitive rates, adding significantly to delivered gas prices in NSW and the ACT.

The Council also found that the MSP may have incentives to distort competition in downstream markets due to the interest AGL has in both the MSP and in AGL Wholesale Gas Limited.

Peak industry bodies and major pipeline companies have argued that regulation of the MSP is inappropriate, given the Australian Competition Tribunal’s 2001 decision not to regulate the EGP. It was argued that regulating one pipeline but not the other would be inconsistent, sending negative signals to investors.

The Council found that while both pipelines deliver gas to Sydney, there are important differences between the Tribunal’s findings on the EGP and the circumstances of the MSP.

The Council also reports that MSP and EGP prices have diverged significantly since 2000, with EGP prices escalating annually. These price trends are not indicative of vigorously competing pipelines.

The Council’s recommendation was delivered to the Hon. Ian Macfarlane MP, Minister for Industry, Tourism and Resources, who will make a decision on the matter.

Attachment: Council findings

The Council has recommended that access to the MSP should be regulated because the pipeline has substantial market power. Major Council findings are detailed below with cross-references to the Council's recommendations.

1 Monopoly pricing

The Council found that the MSP has the ability and incentives to charge monopoly prices, due to the lack of effective competition in the Cooper Basin gas sales market, and a lack of effective competition in downstream gas sales markets in Sydney, Canberra, and regional NSW.

The Council considered that while competition was evolving in the capital city markets, it remained too immature to constrain the MSP from monopoly pricing (paragraphs 1.28 to 1.41).

The Council also reported evidence that current MSP tariffs may be about 30% above competitive rates, adding significantly to delivered gas prices in NSW and the ACT (paragraphs 1.42 to 1.44).

2 Vertical leveraging

AGL is a 30% beneficial owner of the MSP. The Gas Transportation Deed reserves a substantial share of MSP capacity for AGL Wholesale Gas Limited, especially until 2006, as well as pricing on the best terms available to any customer.

The Council considered that coverage under the Gas Code would mitigate the anti-competitive effects of the Deed by providing a right for third parties to negotiate access to the MSP, with a published tariff to discipline prices. There was evidence that this would lead to lower delivered gas prices and a more competitive environment in the Cooper Basin gas sales markets, and in downstream gas sales markets. Coverage would also enforce the Gas Code requirements on ring fencing and approval of associate contracts (paragraphs 1.58 to 1.73).

3 Differences between the MSP and the EGP

The Council found that while the MSP and EGP both deliver gas to Sydney, there are important differences between the Tribunal's findings on the EGP and the circumstances of the MSP:

(a) Victoria's Gippsland Basin producers have several ways of defeating monopoly pricing on the EGP. The Tribunal referred to diverting gas sales to Victoria or to Sydney via the Interconnect Pipeline. The opening of the Tasmanian Gas Pipeline provides a third potential alternative. However, the Council considers that the Cooper Basin producers lack viable alternatives to the MSP for shipping their gas, giving the MSP the ability to monopoly price.

(b) The Tribunal referred to competition between pipelines as a constraint on EGP pricing. The Tribunal focussed in particular on the Interconnect as an alternative to the EGP for shipping gas to Sydney. In contrast, the MSP has a monopoly in transport services between Moomba and Sydney.

(c) While there was no evidence of monopoly pricing on the EGP, there is substantial evidence of monopoly pricing on the MSP.

(d) The EGP has commercial incentives to develop new regional markets through competitive pricing. These incentives are less potent in regions served by the MSP, which has well-established gas markets.

(e) While the Tribunal did not regard vertical linkages between Duke (owner of the EGP) and other industry players as a barrier to competition, the Council found that vertical arrangements between the MSP and other industry players may create incentives to distort competition (paragraph 7.97).

The Council's recommendation can be found at www.ncc.gov.au

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