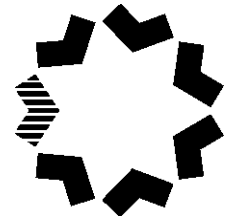


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MEDIA RELEASE

16 November 2005

National Competition Council releases draft recommendation on Moomba to Adelaide Gas Pipeline System

The National Competition Council (NCC) today released a draft recommendation to revoke coverage of the Moomba to Adelaide Gas Pipeline System (MAPS) under the National Gas Code.

Today's draft recommendation follows an application by Epic Energy to revoke National Gas Code coverage of its 1185 kilometre gas pipeline running from Moomba to Adelaide and servicing a number of nearby regional centres.

This draft recommendation will be followed by a further public submissions period, before the Council makes its final recommendation to the South Australian Minister for Energy, the Hon. Patrick Conlon MP. The Minister will decide whether or not to accept the Council's final recommendation and has 21 days in which to do so.

The National Gas Code, introduced in 1995 with the agreement of all Australian governments, is designed to replicate competitive market outcomes where monopoly pipeline facilities exist. The Code does this by providing third parties with a legally enforceable right to negotiate access to private or government-owned monopoly pipelines, thereby creating competition in the supply of gas without the need to duplicate costly pipeline infrastructure.

The MAPS was covered under the National Gas Code upon its inception in 1995.

Epic Energy has applied to the Council for revocation of coverage for the MAPS on the basis that the pipeline no longer satisfies the coverage criteria outlined in the National Gas Code.

A copy of Epic Energy's application, submissions from interested third parties and the Council's draft recommendation are available from www.ncc.gov.au.

The Draft Recommendation

The Council must recommend that coverage of the covered pipeline (in this case the MAPS) be revoked if it is not satisfied of one or more of the following coverage criteria set out in s1.9 of the National Gas Code.

- a) That access (or increased access) to Services provided by means of the Pipeline would promote competition in at least one market (whether or not in Australia), other than the market for the Services provided by means of the Pipeline
- b) That it would be uneconomic for anyone to develop another Pipeline to provide the Services provided by means of the Pipeline

- c) That access (or increased access) to the Services provided by means of the Pipeline can be provided without undue risk to human health or safety
- d) That access (or increased access) to the Services provided by means of the Pipeline would not be contrary to the public interest

The draft recommendation — that coverage of the Moomba to Adelaide Gas Pipeline System (MAPS) under the National Gas Code be revoked — reflects the Council's view that, on the basis of the available evidence, the statutory criteria for declaration are not met.

In formulating this draft recommendation, the Council has reached the following conclusions relating to each of the criteria.

- a) That access (or increased access) to Services provided by means of the Pipeline would promote competition in at least one market (whether or not in Australia), other than the market for the Services provided by means of the Pipeline**

The Council did not find sufficient evidence to be satisfied that access to services provided by the MAPS would promote competition in a dependent market.

Therefore, the Council finds that criterion (a) is not met.

- b) That it would be uneconomic for anyone to develop another Pipeline to provide the Services provided by means of the Pipeline**

The current capacity of the covered MAPS is about 143 petajoules a year. Foreseeable demand for the MAPS services to 2019-20 is likely to be less than this. The Council therefore considers that Epic Energy should be able to satisfy the demand for the services of MAPS. This would make it uneconomical to duplicate the pipeline when a single pipeline is capable of meeting foreseeable demand.

The Council considers that criterion (b) is met.

- c) That access (or increased access) to the Services provided by means of the Pipeline can be provided without undue risk to human health or safety**

The Council considers that access to the services of the MAPS can be safely provided. The Council therefore finds that criterion (c) is met.

- d) That access (or increased access) to the Services provided by means of the Pipeline would not be contrary to the public interest**

As outlined in the Council's considerations of criterion (a), continued coverage of the MAPS under the National Gas Code would not bring competition benefits in upstream or downstream markets. Therefore the costs of continuing coverage are not offset by benefits to the community.

The Council is not satisfied that continued coverage of the MAPS would not be contrary to the public interest. The Council therefore finds that criterion (d) is not met.

All interested parties are invited to make submissions pertaining to the Council's draft recommendation to revoke coverage of the MAPS under the National Gas Code. Submissions should be directed to: The Executive Director, National Competition Council, GPO Box 250B Melbourne 3001, by 2 December 2005.

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See also:

Fact sheet: National Gas Code

Copies of the Council's draft recommendation will be available at www.ncc.gov.au

For further information:

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FACT SHEET

National Third Party Access Code for Natural Gas Pipeline Systems (the National Gas Code)

Rationale

In some circumstances, businesses require the use of major infrastructure to compete in a particular industry. Where access to that infrastructure is not readily available, and the infrastructure is costly to duplicate, it may pose a 'bottleneck' that can impact adversely on competition in other markets.

Such bottlenecks contribute to inefficiencies in the Australian economy, especially if they result in unnecessary duplication of essential infrastructure.

For example, an energy retailer may require access to gas pipeline services to move gas from a production base to customers. By gaining access to pipeline services, the business is able to compete in the energy retail market.

By opening up markets to new entrants, access helps to promote competition in those markets.

CoAG Natural Gas Pipelines Access Agreement

Under the auspices of the Council of Australian Governments (CoAG), the Gas Reform Implementation Group developed a national regulatory framework and the *National Third Party Access Code for Natural Gas Pipeline Systems* (commonly referred to as the National Gas Code) to regulate third party access to natural gas transmission and distribution pipelines throughout Australia.

All jurisdictions signed the CoAG Natural Gas Pipelines Access Agreement on 7 November 1997.

It sets out their obligations to give legislative effect to the National Gas Code within a specific timeframe and take other actions to implement and maintain the integrity of the Code.

The National Gas Code and coverage criteria

The National Gas Code is designed to replicate competitive market outcomes where monopoly pipeline facilities exist. The Code does this by providing third parties with a legally enforceable right to negotiate access to private or government-owned monopoly pipelines, thereby creating competition in the supply of gas without the need to duplicate costly pipeline infrastructure.

The National Gas Code applies to many existing natural gas transmission and distribution pipelines and new pipelines for which an application for coverage has been made and which satisfy the National Gas Code's coverage criteria.

The Council recommends a pipeline be covered only if it is satisfied of all of the following coverage criteria set out in s1.9 of the National Gas Code.

- a) That access (or increased access) to Services provided by means of the Pipeline would promote competition in at least one market (whether or not in Australia), other than the market for the Services provided by means of the Pipeline
- b) That it would be uneconomic for anyone to develop another Pipeline to provide the Services provided by means of the Pipeline
- c) That access (or increased access) to the Services provided by means of the Pipeline can be provided without undue risk to human health or safety
- d) That access (or increased access) to the Services provided by means of the Pipeline would not be contrary to the public interest

Where a pipeline is already covered, the Council must recommend that coverage of the pipeline be revoked if it is not satisfied of one or more of the above coverage criteria.

Access to Natural Gas Pipelines - Enactment and Certification

The 1997 gas agreement requires governments to enact legislation to introduce a regime for third party access to the services of natural gas pipelines covered under the National Gas Code.

The regime comprises a national Gas Pipelines Access Law (GPAL), the National Gas Code and state legislation covering the appointment of regulatory and review bodies. Governments are also required to apply for certification of their gas access regimes as being effective regimes under part IIIA of the Trade Practices Act 1974.

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