
Regulatory issues

Draft decision on the Amadeus Basin to Darwin pipeline

The Commission issued its draft decision on the access arrangement for the Amadeus Basin to Darwin pipeline (ABDP) on 2 May 2001. The draft decision sets out the amendments that must be made before the Commission will approve the access arrangement. The Australian Pipeline Trust holds a 96 per cent share in NT Gas Pty Ltd, the operator of the pipeline.

The access arrangement describes the terms and conditions on which NT Gas proposes to market its natural gas haulage services on the ABDP, and the maximum price (reference tariff) that third party access seekers would be charged for those services.

NT Gas proposed a reference tariff of \$3.46/GJ for the first year (2001-02) of its access arrangement. The Commission believes this is unreasonably high, and has proposed a tariff of \$1.90/GJ. This would provide sufficient revenue to cover forecast efficient costs (including capital costs) of running the pipeline.

The main reason for the difference is the treatment of depreciation since 1986, with the draft decision establishing a lower capital base than that proposed by NT Gas.

The Commission accepted NT Gas' claim that the ABDP faces a significant risk of stranding after 2011 because of uncertainty about the remaining reserves in the Amadeus Basin, the expiration of NT Gas' foundation contract and the possibility of Timor Sea Gas being brought onshore. It is the Commission's view that the risk of stranding currently faced on the pipeline was evident during the construction of the pipeline and NT Gas' proposed initial capital base was inconsistent with its forward-looking depreciation schedule.

NT Gas also sought a higher weighted average cost of capital as compensation for the risk that the pipeline might be stranded from 2011. The draft decision proposes that the risk of stranding should be managed through accelerated depreciation rather than a premium on the return on equity. This will enable NT Gas to recover most of its capital investment by 2011, while at the same time recognising the reduced economic value of the pipeline after existing contracts expire.

The revenue stream established by the draft decision would provide a post-tax return on equity for NT Gas over the next five years of 12 per cent.

Under the National Gas Code, NT Gas could achieve a return on equity above 12 per cent through lower than forecast operations and maintenance costs and the sale of non-reference services.

NT Gas does not anticipate earning revenue from the reference tariff until existing gas haulage contracts expire in 2011 as the pipeline is fully contracted. Under the gas code, existing haulage agreements and revenues are preserved. However, when new gas haulage contracts are negotiated, the terms of the access arrangement will be important to these negotiations.

The Commission's draft decision is subject to further public consultation before the release of the final decision. Submissions from interested parties were requested by 8 June 2001.

Draft decisions on Queensland and south-west Queensland pipelines

The Commission has recently released draft decisions for two Queensland pipelines covered by the The Gas Pipelines Access (Queensland) Bill 1998. The draft decision for the Queensland Gas pipeline (also called the Wallumbilla to Gladstone via Rockhampton pipeline) was released on 17 April 2001. The south-west Queensland pipeline (also called the Ballera to Wallumbilla pipeline) draft decision was released on 14 June 2001. Submissions to the Queensland Gas pipeline decision were due by 11 May, and submissions for the south-west Queensland pipeline decision closed on 13 July. Staff are now finalising decisions for each of these pipelines.

The Queensland Gas pipeline is 627 km long and runs from Wallumbilla to Gladstone via Rockhampton. The Queensland Government commissioned it in December 1989, with the extension to Rockhampton included in 1991. Pacific Gas Transmission Australia Pty Ltd bought the pipeline in July 1996 and sold it to Duke Energy in 1998.

The south-west Queensland pipeline is 756 kilometres long and transports gas from the Cooper Basin in south-west Queensland to Wallumbilla, near Roma in central Queensland. It was constructed in 1996 by Tenneco Gas Australia and is now operated by Epic Energy (Queensland).

There are two other pipelines in Queensland that are also covered by the National Access Code and subject to the national access regime — the Carpentaria pipeline and the Roma to Brisbane pipeline. Under the code, operators of covered pipelines are required to submit an arrangement to the Commission describing the terms, conditions and reference tariffs for access to the pipeline.

In 1998, however, the Queensland Government introduced special arrangements (derogations) for the Queensland regime, by-passing the Queensland Gas Pipelines Access Law (GPAL). In particular, the State Government removed the obligation on operators of these four Queensland pipelines to submit reference tariffs to the Commission for approval.

The derogations also removed the Commission's power to review the tariffs for these Queensland pipelines for up to 20 years. The Commission cannot review the tariffs on the Queensland Gas pipeline or the south-west Queensland pipeline until 2016.

The Queensland Government has asked the Commonwealth Government to certify its Gas Pipeline Access Regime as an 'effective' regime. The National Competition Council reviewed the regime, including the amendments, and made a recommendation to the Commonwealth Government but a decision is yet to be announced.

As a result of the derogations, the Commission's role in assessing access arrangements for pipelines in Queensland has been significantly restricted. In the current draft decisions the Commission assessed the non-tariff elements of the proposed access arrangements and suggested some amendments.

The amendments proposed for the Queensland Gas pipeline access arrangement were to:

- increase the flexibility of the capacity trading policy;
- apply the queuing policy to developable capacity as well as spare capacity;
- clarify that any proposed surcharges for pipeline extensions will be submitted to the Commission for approval; and
- require Duke to specify major events that will trigger a review of the non-tariff aspects of the access arrangement.

For the south-west Queensland pipeline the Commission suggested amendments to:

- reduce the minimum term for forward haul contracts from five years to one or two;
- clarify the operation of the queuing policy;
- have Epic set out the criteria it will use to decide whether to expand or extend the pipeline;
- change the revisions date for services other than forward haul to properly reflect the date set out in the derogation (2004 rather than 2016); and

- require Epic to specify major events that will trigger a review of the non-tariff aspects of the access arrangement.

Of relevance to all service providers is the discussion in these decisions of the Commission's obligations under the national access code on arbitration. The Commission is keen to highlight that the dispute resolution provisions in the code do not apply to current users, but only to prospective users. Once a contract is made, users do not have recourse to arbitration by the Commission in the case of a dispute, but must seek commercial or legal dispute resolution. Therefore access seekers should ensure adequate flexibility in their contracts before signing them.

The Queensland derogations declare that access arrangements, once approved, shall not be reconsidered for up to 20 years. The Commission therefore advises all interested parties to respond to draft decisions when they are released for each pipeline. Decisions for the Roma to Brisbane and Carpentaria pipelines will be released shortly. Submissions from interested parties will allow the Commission to address any concerns about proposed terms and conditions before they are locked in for long periods.

Revisions to the PTS access arrangement for the south-west pipeline

The Commission issued a final decision not to approve the roll-in of the south-west pipeline to the Victorian gas transmission system on 29 June 2001. The south-west pipeline assets link the principal transmission system (PTS) with the western underground gas storage facility, the Otway Basin gas fields and the western transmission system.

GPU GasNet proposed to roll-in its investment in the south-west pipeline on the basis that the investment provides system-wide benefits that justify a higher reference tariff for all users. The proposal, if accepted, would have resulted in transmission tariffs rising, on average, by 12.8 per cent in net present value terms.

GPU GasNet nominated two forms of system-wide benefits: system security benefits and competition benefits. The Commission accepts that some system security benefits and competition benefits do arise. However, there is insufficient evidence of these benefits to justify a reference tariff high enough to recover the full investment in the south-west pipeline. In particular, as the underground storage facility operates on a commercial basis supplying peak load gas in winter, it may contain little useable gas for much of the year and provide quite limited system security benefits.

The Commission recommends that GPU GasNet submit a revised proposal as part of the 2002 scheduled review of its access arrangement. The Commission expects that there will be firmer evidence of the likely use of the pipeline and its benefits at that time.

Copies of the draft and final decision are available from the Commission's website at <http://www.accc.gov.au> under 'Gas'.