

## **Application for Coverage of Eastern Gas Pipeline**

- (a) Applicant's name and contact details:

AGL Energy Sales and Marketing Limited  
111 Pacific Highway  
North Sydney NSW 2060  
Contact: Mr. Bruce Connery  
General Manager Regulatory Affairs  
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- (b) Applicants address for the delivery of documents:

Mr. Bruce Connery  
General Manager Regulatory Affairs  
AGL Energy Sales and Marketing Limited  
111 Pacific Highway  
North Sydney NSW 2060

- (c) Description of the pipeline:

The Eastern Gas Pipeline licenced under Pipeline Licence No 175 (Pipelines Act 1967 (vic)) and Pipeline Licence No 26 (Pipelines Act 1967 (NSW)) from Longford in Victoria to Horsley Park in New South Wales including lateral pipelines to Port Kembla and Smithfield, compressor stations and other appurtenances ("the EGP"). Construction on the pipeline commenced on 6 August 1999 and Duke plans to place the pipeline in service by no later than September 2000.

- (d) Name of the pipeline operators and owners:

Duke Eastern Gas Pipeline Pty Ltd and  
DEI Eastern Gas Pipeline Pty Ltd  
Level 33 Waterfront Place  
1 Eagle Street  
Brisbane QLD and  
Duke Australia Operations Pty Ltd (latter company is also operator)  
(Collectively referred to as "Duke")

- (e) Coverage:

AGL Energy Sales and Marketing seeks coverage of the whole of the pipeline

- (f) Reason for seeking coverage of the pipeline:

The EGP will transport gas from the Gippsland Basin to the New South Wales and Australian Capital Territory gas markets. The capacity of the pipeline at 110 PJ/annum at

100% load factor is sufficient to supply gas to meet the entire market in New South Wales at present rates of consumption. Third party access to a pipeline of such significance must be assured within the framework for providing third party access to natural gas pipelines developed by the Council of Australian Governments (“COAG”) in the Gas Pipelines Access Laws adopted in most States and Territories, and the National Third Party Access Code (“Code”):

- to ensure conditions that are fair and reasonable for both Service Providers and Users, and
- to prevent abuse of monopoly power.<sup>1</sup>

Duke have lodged a Voluntary Access Undertaking with the Australian Competition and Consumer Commission under Part IIIA of the Commonwealth Trade Practices Act 1974, with the express intent of avoiding the tariff setting mechanism in the Code<sup>2</sup>. AGL considers this to be unacceptable. The policy objectives of COAG are best implemented through the Code requirements for an Access Arrangement, with reference tariffs based on the complex pricing principles established in the Code. To allow Duke to avoid this tariff setting mechanism and the other provisions of the Code is to foster confusion in the market place and inconsistency in regulatory price setting. In the absence of coverage and the regulatory investigation anticipated by the Code, Duke have the potential to capture monopoly rents which the Code process would ensure are available to facilitate competition in the retail market.

It is essential that the rules intended to protect the interests of users of monopoly infrastructure are applied to all participants in the industry.

- (g) Explanation of how access (or increased access) to services provided by 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 gas market in New South Wales and the Australian Capital Territory can only experience real competition when there is upstream competition amongst producers. The EGP will allow natural gas “basin on basin” competition between the South Australian Cooper Basin producers and the Gippsland Basin producers, and hence facilitate competition in the end gas markets.

- (h) Description of the market, or of each of the markets, in which competition would be so promoted:

Competition will be promoted both in the retail gas markets of New South Wales and the Australian Capital Territory, and upstream between the Moomba producers and the Gippsland Basin producers of natural gas, and possibly between present and new Gippsland Basin producers.

- (i) Explanation as to why the applicant believes it would be uneconomic for anyone to develop another pipeline to provide the services provided by means of the pipeline:
- It is the nature of major pipelines serving a large market such as New South Wales that they constitute a natural monopoly, as evidenced by the pipelines which are presently

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<sup>1</sup> Introduction to the National Third Party Access Code for Natural Gas Pipeline Systems

<sup>2</sup> Section 1.8, Eastern Gas Pipeline Access Undertaking

covered under the Code. This natural monopoly occurs because of the economies of scale which result in reducing marginal cost.

- The capacity of the EGP is largely uncontracted, and accordingly the marginal cost of transport through the EGP would be such as to make duplication even more uneconomic.
- It is undesirable to allow duplication of the EGP pipeline through environmentally sensitive territory, and it might be expected that any attempt to duplicate this pipeline would face significant policy issues.

- (j) Description of one or more methods by which access to the service can be provided and details of any risk to human health or safety caused by that method or those methods:

Access to the EGP can be provided, as anticipated in the Code, as a haulage service, a right to interconnect with the pipeline and services ancillary to the provision of such services, which can be provided with adequate safeguards to ensure that there is minimal risk to human health or safety.

- (k) Explanation as to why the applicant believes access (or increased access) to the services provided by means of the pipeline would not be contrary to the public interest:

Given the significance of the EGP and its potential impact on the gas markets in New South Wales and the Australian Capital Territory, the public interest lies in the application of the Code principles to third party access to this pipeline to ensure consistency of price setting and certainty for users of pipelines.

- (l) Description of any efforts which have been made to negotiate access to the pipeline with the service provider; and if no attempts have been made, the reasons for this.

*The following response is provided as commercially confidential information not to be disclosed.*  
[Withheld as commercial-in-confidence by Council]