

17 March 2000

Mr Ed Willett  
Executive Director  
National Competition Council  
GPO Box 250B  
MELBOURNE VIC 3001

Dear Mr Willett

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

I refer to the Council's Issues Paper of January 2000 which sought submissions on the application by AGL Energy Sales and Marketing Limited for Coverage under the National Third Party Access Code for Natural Gas Pipeline Systems ("the Code") of the Eastern Gas Pipeline (EGP). As you will be aware, East Australian Pipeline Limited (EAPL) has applied for Revocation of Coverage of its own pipeline although this application is yet to be accepted by the NCC. The Council's processes for considering these applications are closely commercially linked as are ACCC's processes for consideration of Duke Energy's Access Undertaking for the EGP and EAPL's Access Arrangement. Indeed each of these processes is so tightly linked to the others in a commercial sense that all ought to be considered together.

Both logic and justice demand that the Moomba Sydney Pipeline System (MSPS) and the EGP, which are both competing in the same market (the market for gas transportation services to NSW and the ACT), should be treated equally. It is untenable that two pipeline systems competing in the same market should be subject to different regulatory requirements.

EAPL has been a willing participant in the gas reform process to date. Since its inception in 1994 the company has worked cooperatively with the ACCC and its predecessors initially to ensure compliance with the Moomba Sydney Pipeline System Sale Act. That cooperation has continued since the Code came into effect in 1998. Mindful of the objectives of the gas reform process, EAPL has sought to participate in the debate in a constructive manner and to act accordingly. For example, in an increasingly competitive marketplace EAPL is assisting in promotion of inter-basin gas-on-gas competition in NSW, the ACT, and Victoria via the Interconnect Pipeline. This pipeline, which connects the Victorian and NSW gas transmission systems, is currently transporting gas in both the northbound and southbound directions. No producing basin or producer should be disadvantaged in the marketplace by differential treatment of the pipeline which serves it.

EAPL is competing directly with Duke Energy for the transportation of gas to the NSW and ACT markets and Duke acknowledges that it is competing directly with EAPL. You will also be aware that EAPL and Duke have jointly engaged an independent consultant, Network Economics, to undertake a study regarding the issue of coverage of the EGP and the MSPS.

The results of this study will be made available to the NCC as soon as practicable. Should the NCC agree that competition between the two pipeline systems does exist, both should not be Covered.

EAPL contends that the information requirements, obligations and costs to Duke arising from its Access Undertaking would, as evidenced by its submission, be considerably less onerous than those which arise from an Access Arrangement under the Code. EAPL will be severely disadvantaged if the EGP Access Undertaking is accepted but the MSPS remains Covered. EAPL has already been disadvantaged in its attempts to bring Gippsland Basin gas into NSW via the Interconnect by both the vagaries of the Victorian regulatory system (to which EAPL, but not Duke, is bound) and the inability to date of our customers to purchase gas at Longford. Unequal treatment of the EGP and the MSPS is totally unacceptable to EAPL.

In summary, EAPL's position is that both pipeline systems are in direct competition and should therefore be subject to the same regulatory treatment. This will be best achieved if neither is Covered by the Code.

Yours sincerely

**Stephen P Ohl**  
**General Manager**