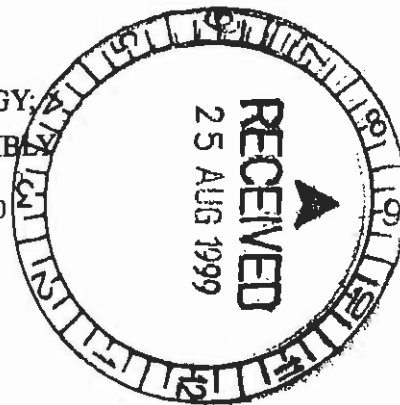




MINISTER FOR RESOURCES DEVELOPMENT; ENERGY;
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Our Ref: 73293

Mr Graeme Samuel
President
National Competition Council
GPO Box 250B
MELBOURNE VIC 3000

Dear Mr Samuel

**APPLICATIONS FOR REVOCATION OF COVERAGE OF THE TUBRIDGI AND
BEHARRA SPRINGS PIPELINES**

In accordance with section 1.37 of the National Third Party Access Code for Natural Gas Pipeline Systems (the Code), please find attached my Final Decisions in relation to two applications requesting that coverage of the Tubridgi and Beharra Springs pipelines be revoked under the Code.

Yours sincerely

**COLIN J BARNETT
MINISTER FOR ENERGY**

20 August 1999



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Final Decisions

I, Colin J Barnett

Minister for Energy, Resources Development and Education
Western Australia's Relevant Minister in relation to Coverage Decisions under the Code

make the following Decisions in relation to

Applications to the National Competition Council requesting that Coverage of two Covered Pipelines (PLs 16 & 18) be revoked

20 August 1999

In accordance with sections 1.36 of the National Third Party Access Code for Natural Gas Pipeline Systems (the Code), and after consideration of the Recommendations submitted by the National Competition Council on 30 July 1999, I make the following decisions under section 1.34 of the Code:

- (a) that Coverage of the Beharra Springs Pipeline, subject to the licence PL18 issued under the *Petroleum Pipelines Act 1969*, is revoked; and
- (b) that Coverage of the Tubridgi Pipeline, subject to the licence PL16 issued under the *Petroleum Pipelines Act 1969*, is not revoked.

The decisions have effect on 3 September 1999. This is also the date before which a person adversely affected by the decisions may apply to the Gas Review Board for a review of the decisions under section 38 of the Gas Pipelines Access Law (contained in Schedule 1 of the *Gas Pipelines Access (Western Australia) Act 1998*).

(Cont'd)

Description of the Covered Pipelines the subject of this decisions

Pipeline Owner	Pipeline Licence	Location/Route	Length (km)	Diameter (mm)
SAGASCO SE Inc	WA – PL 16	Tubridgi to DBNGP* Compressor Station No 2	87.5	168
Boral Energy Developments Ltd	WA – PL 18	Beharra Springs to CMS Pipeline	1.6	168

*DBNGP – Dampier to Bunbury Natural Gas Pipeline

The Pipelines are listed in Schedule A to the Code and as such were Covered at the commencement of the Code.

The Applications

On 14 May 1999, applications under section 1.25 of the Code were made to the National Competition Council (the NCC) requesting that Coverage of the two Covered Pipelines be revoked. The applicant in respect of the Tubridgi Pipeline (PL16) was SAGASCO South East Inc (SAGASCO), and the applicant in respect of the Beharra Springs Pipeline (PL18) was Boral Energy Resources Ltd (Boral).

The Tubridgi Pipeline is listed in Schedule A of the Code as part of the Tubridgi Pipeline System which comprises two Pipelines - the Griffin Pipeline (WA - PL19) and the Tubridgi Pipeline (WA - PL16). The relevant application was made only in respect of the Tubridgi Pipeline and not in respect of the Griffin Pipeline.

The Public Consultation Process

The following organisations have made submissions to the NCC under section 1.26 of the Code:

CMS Gas Transmission of Australia Pty Ltd (two submissions)
 BHP Petroleum
 Western Power Corporation (two submissions)
 Mobil Exploration and Producing Australia Pty Ltd

In addition, submissions were made to the NCC following its draft recommendation by:

CMS Gas Transmission of Australia Pty Ltd
 BHP Petroleum
 Mobil Exploration and Producing Australia Pty Ltd
 Boral Energy Resources Ltd (two submissions)

Provisions of the Code

I make the decisions in accordance with section 1.36 of the Code, which provides that:

"1.36 The Relevant Minister must decide not to revoke Coverage of the Covered Pipeline, to any extent, if the Relevant Minister is satisfied of all of the matters set out in paragraphs (a) to (d) of section 1.9, but the Relevant Minister must decide to revoke Coverage of the Covered Pipeline (either to the extent described, or to a greater or lesser extent than that described, in the application) if not satisfied of one or more of those matters."

In reaching these decisions, I have considered the following criteria for Coverage contained in section 1.9 of the 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; and*
 - (d) *that access (or increased access) to the Services provided by means of the Pipeline would not be contrary to the public interest."*

Coverage in respect of a Pipeline must be revoked unless it meets all of the above criteria.

Reasons for the Decisions

I have made the decisions after consideration of the Recommendations submitted by the National Competition Council on 30 July 1999. Reasons for the decisions are as follows:

(a) decision that Coverage of the Beharra Springs Pipeline (PL18) is revoked:

1. I consider that the Beharra Springs Pipeline does not meet criteria (a) in section 1.9 of the Code.

Based on NCC's analysis, given that this Pipeline is relatively short and there is no present evidence that new reserves are likely to be found in its vicinity, and therefore it is unlikely that third parties will seek to access it in the foreseeable future, I am not satisfied that access to the Beharra Springs Pipeline would promote competition in another market.

- 2. I consider that the Beharra Springs Pipeline does not meet criteria (d) in section 1.9 of the Code.

Given there is no evidence that third parties will seek access to the Pipeline in the foreseeable future, it is likely that the regulatory compliance costs involved in establishing access arrangements for the Pipeline outweigh the benefits and I consider that continued Coverage of the Pipeline is not in the public interest.

I note, however, that in the event a third party does seek access to the Pipeline in the future, it would be possible for that party to seek re-coverage of that Pipeline under the mechanisms provided in the Code.

(b) decision that Coverage of the Tubridgi Pipeline (PL16) is not revoked:

- 1. I consider that the Tubridgi Pipeline continues to meet criteria (a) in section 1.9 of the Code.

Based on the NCC's analysis, which in turn has taken into account the views expressed in the public submissions including the submissions made by CMS Gas Transmission of Australia Pty Ltd, BHP Petroleum, Western Power Corporation, and Mobil Exploration and Producing Australia Pty Ltd, I consider that access to the Tubridgi Pipeline is likely to promote competition in another market. Taking into account the views of current gas producers in the region, I consider that it is likely that third party access to the Tubridgi Pipeline will be sought in the foreseeable future.

I consider that access to the Tubridgi Pipeline is likely to promote competition amongst gas producers by encouraging exploration and the development of additional gas fields in the Carnarvon basin. I also consider that the presence of additional sources of gas may place competitive pressures on gas producers to supply gas at cheaper rates or on better terms and therefore the ability to obtain access to the Pipeline may also promote competition in the energy market of Western Australia.

The Tubridgi Pipeline could provide additional gas transport capacity and may therefore promote competition if the Griffin Pipeline became capacity constrained and not able to fully meet the requirements of gas producers in the Carnarvon Basin once fields such as the Macedon field are developed.

The Tubridgi Pipeline also could be used to transport gas of a different specification to the Griffin Pipeline where this was necessary to meet the requirements for delivery of gas. In addition to the options raised by the submissions, the Tubridgi Pipeline could potentially be used to transport industrial quality gas in the event an industrial quality pipeline emerges as one possible outcome of the Expressions of Interest process for additional pipeline capacity to the South West currently undertaken by the Western Australian Government.

An additional argument raised by the applicant against granting access to the Tubridgi Pipeline was that it might decommission or abandon the Pipeline after 2001 when the Tubridgi gas field is depleted. I do not consider that Coverage and the development of an Access Arrangement for the Pipeline now should prevent the joint venturers from either decommissioning or abandoning the Pipeline in the event there is at that time no reasonably foreseeable demand for its services.

I consider that the opportunity should be available for the joint venturers, if they so desire, to develop a single Access Arrangement for the Tubridgi Pipeline System whereby it is not necessary to maintain the Tubridgi Pipeline following the depletion of the Tubridgi field if the capacity of the Griffin Pipeline is sufficient to accommodate reasonably foreseeable demand. This would likely require that the capacity of the Griffin Pipeline is fully committed before third parties are offered access to the Tubridgi Pipeline. I also consider that the Access Arrangement may be able to be developed in a way that accommodates the possibility of subsequent recommissioning of the Tubridgi Pipeline in the event increased demand warrants this.

2. I consider that the Tubridgi Pipeline continues to meet criteria (b) in section 1.9 of the Code.

Based on the NCC's analysis, given the pipeline has spare and developable capacity, I am satisfied that construction of a new duplicate pipeline would not be a more efficient way to provide the gas transportation services offered by the Tubridgi Pipeline.

3. I consider that the Tubridgi Pipeline continues to meet criteria (c) in section 1.9 of the Code.

I consider that in the existence of appropriate measures taken by the operator, third party access to the Pipeline would not pose undue risks to human health and safety.

4. I consider that the Tubridgi Pipeline continues to meet criteria (d) in section 1.9 of the Code.

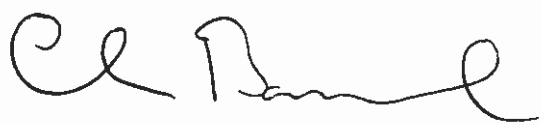
Based on the NCC's analysis, I consider that, given there is a prospect that a third party will seek access to this Pipeline and that the owner/operator has available means of reducing its regulatory costs, the benefits of Coverage outweigh the regulatory compliance costs.

I understand that the Regulator has granted SAGASCO extensions of time to submit Access Arrangements for the Tubridgi Pipeline until 21 October 1999 and for the

Griffin Pipeline until 3 September 1999 (and has the power to grant a further extensions under section 7.19 of the National Code). I also understand that SAGASCO has advised the Regulator that if Coverage of the Tubridgi Pipeline is not revoked, then the Tubridgi joint venturers would wish to lodge an Access Arrangement for the combined Tubridgi Pipeline System, rather than separate Access Arrangements for the Tubridgi Pipeline and the Griffin Pipeline. In order to minimise regulatory compliance costs, the Regulator may wish to consider granting a further extension to the owners of the Griffin Pipeline to enable such a joint access arrangement to be submitted. It is my view that deferment of a submission in respect to the Griffin Pipeline until at least 21 October 1999 will not significantly disadvantage any stakeholder.

As already discussed in this decision, I consider that it may not be efficient for the Coverage and Access Arrangements for the Tubridgi Pipeline System to prevent the joint venturers from decommissioning or abandoning the Tubridgi Pipeline when the Tubridgi gas field is depleted in the event the Griffin Pipeline can sufficiently meet the entire demand that is reasonably foreseeable at that time for pipeline services. In considering the Access Arrangements, the Regulator may wish to also consider an appropriate arrangement to accommodate this action, including the possibility of subsequent recommissioning of the Pipeline in the event increased demand warrants this.

Detailed analysis in relation of the criteria against which the applications were assessed can be found in Part B of the NCC's final recommendation.



COLIN J BARNETT
MINISTER FOR ENERGY,
RESOURCES DEVELOPMENT AND EDUCATION