



## Minister for Energy Industries and Resources

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Nauru House  
80 Collins Street  
GPO Box 2797Y  
Melbourne, Victoria 3000

Ref: MBN000268/BR02377

Mr Graeme Samuel  
President  
National Competition Council  
GPO Box 250B  
**MELBOURNE VIC 3001**

Dear Mr Samuel

### **COVERAGE OF MILDURA GAS DISTRIBUTION SYSTEM**

On 17 September 2002, Envestra Limited applied to the National Competition Council (NCC) to revoke coverage of the Mildura distribution system under the Gas Pipelines Access (Victoria) Act 1998, which incorporates the National Third Party Access Code for Natural Gas Pipeline Systems (the Code).

In accordance with the provisions of the Code, the NCC conducted a review of the application and prepared a final recommendation, which was submitted to me on 6 December 2002. The NCC recommended that coverage of the Mildura distribution system be revoked.

Under Section 1.34 of the Code, I, as the relevant Minister, am required to decide whether to revoke or not revoke coverage of the Mildura distribution system, based on consideration of the criteria under section 1.9 of the Code.

I have considered these matters and the NCC's recommendation and have decided to revoke coverage of the Mildura distribution system.

I have prepared a Statement of Reasons, which has been enclosed for your information.

Section 1.34 of the Code requires my decision on revocation to take effect no earlier than 14 days after I make the decision. My decision to revoke coverage of the Mildura system was made on the date of this letter.

Yours sincerely

**Theo Theophanous MP**  
**Minister for Energy Industries and Resources**

27 / 12 / 2002

cc: John Tamblyn, Chairperson, Essential Services Commission,  
Ollie Clark, Managing Director, Envestra Limited  
Bill Nagle, Chief Executive Officer, Australian Gas Association  
Tony Wood, General Manager, Public & Government Affairs, Origin Energy

**ATTACHMENT****STATEMENT OF REASONS****MILDURA GAS DISTRIBUTION SYSTEM****Introduction**

The Mildura distribution system is a 100km small diameter polyethylene pipe that supplies natural gas to customers in the city of Mildura and the nearby townships of Merebin, Red Cliffs and Irymple.

The Mildura distribution system is currently covered under the National Third Party Access Code for Natural Gas Pipeline Systems (the Code) and is subject to an Access Arrangement that was put in place in July 1999 by the regulator, the Office of the Regulator-General (now the Essential Services Commission). The first Access Arrangement period expires on 30 June 2003.

On 17 September 2002, Envestra Limited applied to the National Competition Council (NCC) to revoke coverage of the Mildura distribution system under the Gas Pipelines Access (Victoria) Act 1998, which incorporates the National Third Party Access Code for Natural Gas Pipeline Systems (the Code).

In accordance with the provisions of the Code, the NCC conducted a review of the application and prepared a final recommendation, which was submitted to me on 6 December 2002. The NCC recommended coverage of the Mildura distribution system be revoked.

As the Relevant Minister, I am required by section 1.34 of the Code to make a decision, within 21 days of receiving a recommendation from the NCC, on whether coverage of the Mildura distribution system should be revoked or not revoked.

**The Decision**

I have decided, in accordance with Section 1.34 of the Code, to revoke coverage of the Mildura distribution system, based on consideration of the criteria under section 1.9 of the Code.

**Reasons for the Decision**

I made the decision to revoke coverage the Mildura distribution system after consideration of Envestra Limited's application, submissions to the NCC's issues paper and the NCC's final recommendation. In particular:

- I am not satisfied that the Mildura distribution system meets the criterion in section 1.9(a) of the Code. I support the NCC's assessment that continued coverage of the Mildura distribution system is unlikely to promote competition in the downstream market for natural gas sales in the City of Mildura and surrounding towns. Further, given the size and nature of the market, Envestra does not have the ability or incentive to exercise market power to hinder competition in the downstream market.
- I am satisfied that Mildura distribution system meets the criterion in section 1.9(b) of the Code. I agree with the NCC's conclusion that, for a range of likely demand scenarios, it is more efficient, in terms of costs and benefits for the community as a whole, for the Mildura distribution system to provide natural gas transportation services to gas consumers in the Mildura area. I note that the Mildura distribution system is currently servicing 890 customers, 13% of the forecast customers and 44% of the forecast load, and that future expansion of demand is likely to be met through the services of the existing distribution network.
- I am satisfied that regulated access could be provided to the Mildura distribution system without undue risk to human health or safety, thereby meeting the criterion in section 1.9(c) of the Code.
- I am not satisfied that the Mildura distribution system meets the criterion in section 1.9(d) of the Code. I support the NCC's assessment that continued coverage of the Mildura distribution system is contrary to the public interest. I note that, to date, there have been no third party access requests on the Mildura distribution system, and therefore no likely benefit from regulated access to weigh against the regulatory and compliance costs associated with coverage under the Code.

Given that the Mildura distribution system does not meet all the criteria set out in section 1.9 of the Code I have recommended revocation of its coverage.