



The Hon. Tony McGrady MLA
Member for Mount Isa

E/00/02617

28 NOV 2000



**Queensland
Government**

Minister for Mines and Energy

and
**Minister Assisting
the Deputy Premier on
Regional Development**

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

Dear Mr Samuel

On 23 August 2000, the Dalby Town Council applied to the National Competition Council for revocation of Coverage of the Dalby Gas Distribution Pipeline System.

In accordance with the provisions of the National Third Party Access Code for Natural Gas Pipeline Systems, the National Competition Council conducted a review of the application and prepared a recommendation which was submitted to me on 3 November 2000. The recommendation was that Coverage of the Dalby Gas Distribution Pipeline System be revoked.

Section 1.34 of the National Third Party Access Code for Natural Gas Pipeline Systems requires me, as the Relevant Minister, to make a decision on whether or not Coverage is to be revoked. Section 1.36 requires me to revoke Coverage if I am not satisfied of one or more of the following:

- (i) that access (or increased access) to Services provided by means of the Dalby Gas Distribution Pipeline System 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 Dalby Gas Distribution Pipeline System;
- (ii) that it would be uneconomic for anyone to develop an alternative gas pipeline distribution system to provide the Services now provided by the existing Dalby Gas Distribution Pipeline System;
- (iii) that access (or increased access) to the Services provided by means of the Dalby Gas Distribution Pipeline System can be provided without undue risk to human health or safety;

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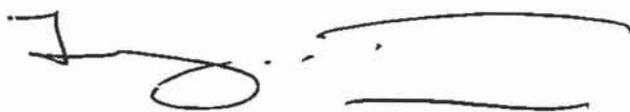
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- (iv) that access (or increased access) to the Services provided by means of the Dalby Gas Distribution Pipeline System would not be contrary to the public interest.

I have considered these matters and the recommendation submitted to me by the National Competition Council and have decided to revoke Coverage of the Dalby Gas Distribution Pipeline System to the full extent of the reticulation system established within the Dalby gas franchise area as delineated on drawing GAS 035A held by the Department of Mines and Energy.

I have prepared a Statement of Reasons, which includes a copy of the above drawing, and this is attached for your information.

Yours sincerely



TONY McGRADY
Minister for Mines and Energy
and Minister Assisting the Deputy Premier
on Regional Development

STATEMENT OF REASONS
REVOCATION OF COVERAGE
DALBY GAS DISTRIBUTION PIPELINE SYSTEM

INTRODUCTION

1. The Dalby Gas Distribution Pipeline System ("Dalby Distribution System") is a Covered pipeline having been included in Schedule A of the National Third Party Access Code for Natural Gas Pipeline Systems ("National Access Code").
2. The Dalby Town Council applied in August 2000 to the National Competition Council for revocation of Coverage of the Dalby Distribution System, which is located in the Dalby gas franchise area delineated on drawing GAS 035A held by the Department of Mines and Energy (copy attached).
3. On the 3 November 2000, the National Competition Council recommended to me, in accordance with Section 1.29 of the National Access Code, that Coverage of the Dalby Distribution System be revoked.
4. As the Relevant Minister, I am required by section 1.34 of the National Access Code to make a decision, within 21 days of receiving a recommendation from the National Competition Council, on whether Coverage of the Dalby Distribution System should be revoked or not be revoked.
5. In accordance with section 1.36 of the National Access Code, I must decide not to revoke Coverage of the Dalby Distribution System, to any extent, if I am satisfied of all of the matters set out in paragraphs (a) to (d) of section 1.9, but I must decide to revoke Coverage of the Dalby Distribution System (either to the extent described, or to a greater or lesser extent than that described, in the application) if I am not satisfied of one or more of those matters.

THE DECISION

I have decided, in accordance with section 1.34 and 1.36 of the National Third Party Access Code for Natural Gas Pipeline Systems and having regard to the recommendation made to me by the National Competition Council, to revoke the Coverage of the Dalby Distribution System to the full extent of the gas reticulation system constructed within the gas franchise area delineated on drawing GAS 035A held by the Department of Mines and Energy.

EVIDENCE OR OTHER MATERIAL ON WHICH THE FINDINGS OF FACT WERE BASED

In making my decision, I had before me for consideration the following material:

- Letter to me from the National Competition Council, dated 3 November 2000, recommending that Coverage of the Dalby Distribution System be revoked;
- The Recommendation document dated November 2000, attached to the National Competition Council's letter of 3 November 2000 and entitled "Dalby Gas Network, Application to Revoke Coverage under the Queensland Access Regime";
- Section 1 of the National Third Party Access Code for Natural Gas Pipeline Systems, which section deals with Coverage;
- Drawing No GAS 035A being the delineated area of the Dalby gas franchise.

FINDINGS ON MATERIAL QUESTIONS OF FACT

I made the following findings from the material presented to me:

- On 23 August 2000, the National Competition Council received an application from the Dalby Town Council for Coverage of the Dalby Distribution System to be revoked.
- The Dalby Distribution System is listed in Schedule A of the National Access Code and became a Covered pipeline system on 19 May 2000 when the *Gas Pipelines Access (Queensland) Act 1998* commenced.
- The National Competition Council made a recommendation to me, by letter dated 3 November 2000, that Coverage of the Dalby Distribution System be revoked.
- In accordance with section 1.36 of the National Access Code, I must decide to revoke Coverage of the Dalby Distribution System (either to the extent applied for or to a greater or lesser extent) if I am not satisfied of one or more of the following matters:
 - (a) that access (or increased access) to Services provided by means of the Dalby Distribution System 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 Dalby Distribution System;
 - (b) that it would be uneconomic for anyone to develop another gas pipeline distribution system to provide the Services now provided by the existing Dalby Distribution System;
 - (c) that access (or increased access) to the Services provided by means of the Dalby Distribution System can be provided without undue risk to human health or safety;
 - (d) that access (or increased access) to the Services provided by means of the Dalby Distribution System would not be contrary to the public interest.

- I have noted that the Dalby Distribution System provides services to a total of 2,268 consumers with annual gas consumption being in the order of 160 terajoules. I note that 2,177 of the total consumers are domestic class with an annual consumption of 32.9 terajoules, 77 are commercial class consumers with an annual consumption of 8.6 terajoules and 14 are industrial class consumers with an annual consumption of 117.9 terajoules.
- The Dalby Distribution System is wholly located within an area of approximately 85 km² which includes the Dalby business centre and surrounding area, and there is no current authority for the Dalby Distribution System to be extended beyond the boundaries of the area delineated on drawing no. GAS 035A.
- Access to the Dalby Distribution System would be for the sole purpose of supplying the market within the franchise area.
- Dalby is largely a rural community located on the Darling Downs about 83 kms west of Toowoomba. The expectation is that there would be little growth in the gas sales market in Dalby.
- The market serviced by the Dalby Distribution System is the market for gas transportation services in the Dalby area.
- The most likely market (other than the market for gas transportation services) in which access to the Dalby Distribution System might promote competition is the market in which gas sales take place.
- The National Consumer Council's inquiries to other major gas retailers and potential users have not provided any evidence that access (or increased access) to the Dalby Distribution System would promote competition in the market in which gas sales take place, nor was any evidence found of any demand for access to the Dalby Distribution System.
- The Dalby Distribution System is comprised of buried steel and polyethylene mains and service pipes from 32 mm diameter up to 90 mm diameter, generally located in road easements throughout the town of Dalby.
- To provide the same services as the Dalby Distribution System would require a duplication of the pipes which, at this stage of development of the town, would be expensive, disruptive to the community and would create considerable environmental issues.
- The Dalby Distribution System is currently operating below maximum capacity and the Dalby Town Council has conceded that it would be uneconomic to develop another distribution system. Even if the Dalby Distribution System were to reach its current maximum capacity, an efficient way of satisfying additional demand would be for the regulating and metering equipment at the Dalby Gas Gate Sales Station to be upgraded.
- Under the provisions of the *Gas Act 1965* and the *Gas Regulation 1989*, the development of a reticulation system such as the Dalby Distribution System requires all work to be carried out and tested in accordance with approved Australian Standards and industry standards.

- There is no evidence to indicate that access to the Dalby Distribution System would pose a risk to human health and safety.
- There are regulatory and compliance costs associated with coverage of a pipeline system under the National Access Code, which would ultimately need to be recouped from users of the gas delivered via the pipeline in the form of higher distribution tariffs.
- A matter of public interest is whether any benefits of access, such as cheaper prices and more efficient use of resources, are outweighed by regulatory or compliance costs.
- Regulated access may facilitate another gas retailer in offering a competitive gas supply to a wide range of different gas consumers.
- The National Consumer Council's inquiries have not provided any evidence that a third party intends to seek access to the Dalby Distribution System, so there is little, if any, benefit from regulated access which could be weighed against the compliance and other costs associated with regulated access.

REASONS FOR THE DECISION

I made the decision for the following reasons:

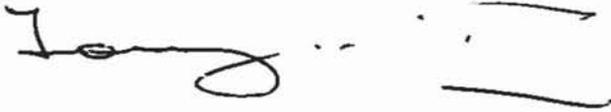
1. The National Competition Council has examined the application of the Dalby Town Council to revoke Coverage of the Dalby Distribution System and has recommended to me that such Coverage be revoked.
2. I have considered each of the four matters set out in section 1.9 of the National Access Code and, after examining the recommendation of the National Competition Council and the other information before me, I am of the opinion that:
 - Access to the Distribution System will not promote competition in at least one market (whether that market be in Australia or not) other than the market for gas transportation services in the Dalby area, now serviced by the Dalby Distribution System;
 - It would be uneconomic for anyone to develop an alternative gas pipeline distribution system to provide similar services to the Dalby Distribution System;
 - Access to the services being provided by the Dalby Distribution System can be provided without undue risk to health or safety;
 - Providing access to the Dalby Distribution System is not in the public interest.

3. Therefore, I am not satisfied of two of the matters set out in section 1.9 of the National Access Code, as follows:

- that access (or increased access) to Services provided by means of the Dalby Gas Pipeline Distribution System 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 Dalby Distribution System; or
- that access (or increased access) to the Services provided by means of the Dalby Distribution System would not be contrary to the public interest.

4. Section 1.36 of the National Third Party Access Code for Natural Gas Pipeline Systems provides that I must decide to revoke Coverage of the Distribution System (either to the extent described, or to a greater or lesser extent than that described, in the application) if I am not satisfied of one or more of the matters set out in section 1.9 of the National Access Code.

DATED THIS 28th day of November 2000



TONY McGRADY
Minister for Mines and Energy
and Minister Assisting the Deputy Premier
on Regional Development

