



THE HON PAUL HENDERSON MLA

MINISTER FOR BUSINESS, INDUSTRY AND RESOURCE DEVELOPMENT

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

Dear Mr Samuel

On 30 January 2003, NT Gas Distribution Pty Limited applied to the National Competition Council (NCC) for revocation of Code coverage of the City Gate to Berrimah transmission pipeline, under the *Gas Pipelines Access (Northern Territory) Act 1998* ("the Act"). The Northern Territory Act incorporates the National Third Party Access Code ("the Code") for the Natural Gas Pipelines Systems.

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 24 April 2003. The NCC recommended that Code coverage of the City Gate to Berrimah transmission pipeline should 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 based on consideration of the criteria under section 1.9 of the Code. I have now considered these matters and the NCC's recommendation and have decided to revoke Code coverage of the entire City Gate to Berrimah transmission pipeline.

I have prepared a Statement of Reasons, which has been enclosed for your information. Interested parties will be advised of my decision as required under section 1.37 of the Gas Assess Code.

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 City Gate to Berrimah transmission pipeline was made on the date of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'P. Henderson', followed by a horizontal line extending to the right.

PAUL HENDERSON 15/5/03

STATEMENT OF REASONS

CITY GATE TO BERRIMAH TRANSMISSION PIPELINE (DARWIN)

BACKGROUND

The City Gate to Berrimah transmission pipeline (pipeline license NT: PL 18) is owned and operated by NT Gas Distribution Pty Limited. It is a steel pipeline of 19 km in length, with a pipe diameter of 150mm. It is used to transport natural gas from Darwin City Gate to Berrimah. This is a light industrial area that includes the Darwin Trade Development Zone.

NT Gas Distribution Pty Limited supplies a combined transportation/retail service to end-users in a localised area. At present the City Gate to Berrimah Pipeline has five customers and transports 8TJ/pa per annum. The gas from the transmission pipeline is distributed from two offtake stations to a small number of industrial/commercial users through a plastic reticulation system. The reticulation system is owned by NT Gas Distribution Pty Limited and is not a "covered" pipeline under the Access Code.

The natural gas supplied in Darwin is sourced from the Central Australian natural gas fields and is transported to the Darwin City Gate via the Amadeus Basin to Darwin pipeline (ABDP). This is the major transmission pipeline in the Northern Territory and is the only source of gas for the Darwin area. Over 90 percent of gas transported through the ABDP is destined for electricity generation, either en route to Darwin or at the Channel Island power station.

An initial Access Arrangement for the pipeline was due to be submitted to the Australian Competition and Consumer Commission (ACCC) on 12 February 1999, but NT Gas Distribution has applied for and been granted successive deferrals of the date for submission of an Access Arrangement. On 5 February 2003, the ACCC agreed to a further extension until 12 June 2003 to allow sufficient time for an application for revocation of coverage to be considered by the Council and the Relevant Minister.

INTRODUCTION

On 30 January 2003, the National Competition Council (NCC) received an application for revocation of Code "coverage" of the entire City Gate to Berrimah Pipeline under the *Gas Pipelines Access (Northern Territory) Act 1998*, which incorporates the National Third Party Access Code for Natural Gas Pipeline Systems.

The applicant, NT Gas Distribution Pty Limited (NT Gas Distribution) owns and operates the City Gate to Berrimah Pipeline.

In accordance with the provisions of the Code, the NCC conducted a review of the application according to its established rules and procedures. Advertisements were placed by the NCC advising the public of the application and published in the Australian *Financial Review* and the *Northern Territory News* and letters sent to interested parties railing for submissions.

The NCC also published a copy of the application, and invited submissions, on its website. No submissions were received in response to the publicity campaign. In March 2003 the NCC released its draft recommendations and called for public submissions. Again no submissions were received.

The NCC prepared its final recommendation, which was submitted to me, the Hon Paul Henderson Minister for Business, Industries and Resource Development in the Northern Territory on 24 April 2003. It recommends Code coverage of the City Gate to Berrimah transmission pipeline should be revoked on the basis that it does not meet criteria (a) and (b) of section 1.9 of the Code.

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 City Gate to Berrimah transmission pipeline should be revoked or not be revoked.

THE DECISION

I have decided, in accordance with Section 1.34 of the Code, to revoke Code coverage of the City Gate to Berrimah transmission pipeline (pipeline licence NT:PL18), based on consideration of the criteria under section 1.9 of the Code.

REASONS FOR DECISION

I made the decision to revoke Code coverage of the City Gate to Berrimah transmission pipeline ("the City Gate to Berrimah pipeline") after consideration of NT Gas Distribution Pty Limited's application and the NCC's final recommendation. No submissions were received on the application by NCC during the period provided for public comment.

In particular:

- I am not satisfied that the City Gate to Berrimah pipeline meets the criterion in section 1.9(a) of the Code. I support the NCC's assessment that continued Code coverage of the City Gate to Berrimah pipeline operates in a small separate market and regulated access is unlikely to promote competition in the downstream market for natural gas sales in

- Darwin. Due to the very small size and nature of the market, the owner/operator of the pipeline, NT Gas Distribution Pty Limited does not have the ability or incentive to exercise market power to hinder competition in the downstream market. Indeed it is in the owner/operators interest to promote increased throughput of gas but the opportunities in the foreseeable future to expand the customer base are very limited.
- I am satisfied that the City Gate to Berrimah pipeline meets criteria in section 1.9(b) of the Code. I agree with the NCC's conclusion. Based on predictions for future demand for transportation of gas on the pipeline, it is more efficient, (in terms of costs and benefits for the community as a whole), for the City Gate to Berrimah pipeline to provide natural gas transportation services, rather than for those services to be provided by more than one pipeline. I note that the City Gate to Berrimah pipeline is currently servicing only five customers and the prospects of expanding the customer base are very limited. I support the NCC conclusion that the market in which the gas transmission service exists is separate from the market for gas sales in Darwin.
- I am satisfied that regulated access could be provided by the City Gate to Berrimah transmission pipeline without undue risk to human health or safety and so meets the criterion in section 1.9 (c) of the Code.
- I am not satisfied that the City Gate to Berrimah pipeline meets the criterion in section 1.9 (d) of the Code. I support the NCC's assessment that continued coverage of the City Gate to Berrimah pipeline is contrary to the public interest. I note that, to date, there have been no third party access requests on the City Gate to Berrimah pipeline, and therefore no likely benefit from regulated access to weigh against the regulatory and compliance costs associated with coverage under the Code.

I have concluded that the City Gate to Berrimah transmission pipeline does not meet criteria (a) and (d) of section 1.9 of the Gas Access Code. On the basis that the City Gate to Berrimah transmission pipeline does not meet all the criteria set out in section 1.9 of the Gas Access Code, I have revoked coverage by the Code.