

DECISION ON COVERAGE OF PARTS OF THE MOOMBA TO SYDNEY PIPELINE SYSTEM

I, the Hon Senator Nick Minchin,
Minister for Industry, Science and Resources, and
the Relevant Minister for Coverage Decisions, for Cross Border Transmission Pipelines, under
the National Third Party Access Code for Natural Gas Pipeline Systems

Make the following Decision in relation to the

Application for Revocation of Coverage of Parts of the Moomba to Sydney Pipeline System

16 October 2000

DECISION

In accordance with section 1.34 of the National Third Party Access Code for Natural Gas Pipeline Systems (Code) I have decided that Coverage of the parts of the Moomba to Sydney Pipeline System, comprising the Moomba to Wilton gas transmission pipeline, the Young to Culcairn gas transmission pipeline, and the Dalton to Canberra gas transmission pipeline, should not be revoked.

The decision has effect from 1 November 2000 (being not earlier than 14 days after decision).

Code Requirements

My decision complies with the requirement in the Code (Section 1.34 and 1.36) that I, as the Relevant Minister must make a decision on Revocation of Coverage.

1.34 ...the Relevant Minister must make a decision:

- (a) that Coverage of the Covered Pipeline is revoked; or*
- (b) that Coverage of the Covered Pipeline is not revoked.*

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.

My decision is based on the criteria set out in paragraphs (a) to (d) of 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;*

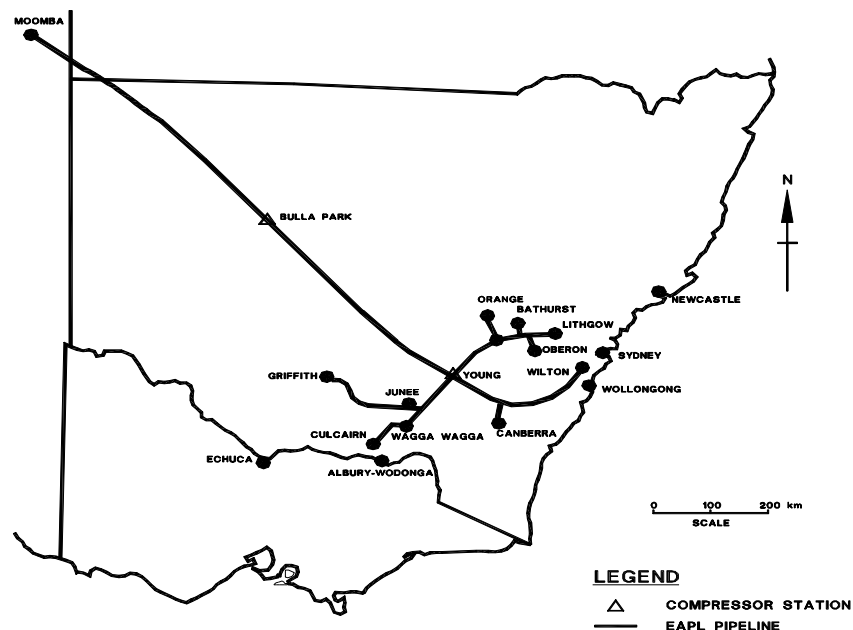
- (c) that access (or increased access) to the Services provided by means of the Pipeline can be provided without undue risk to human health or safety; and
- (d) that access (or increased access) to the Services provided by means of the Pipeline would not be contrary to the public interest.

Description of the Pipeline

My decision relates to the parts of the Moomba to Sydney Pipeline System comprising the pipelines referred to as:

- the Moomba to Wilton gas transmission pipeline, including compressor stations and other appurtenances, which is covered by pipeline licences PL 7 (South Australia), PPL 21 (Queensland), and 16 (NSW);
- the Young to Culcairn gas transmission pipeline, which is covered by pipeline licences 19 (NSW) (Young to Wagga Wagga, including Cootamundra spur) and 23 (NSW) (Wagga Wagga to Culcairn); and
- the Dalton to Canberra gas transmission pipeline, which is covered by pipeline licence 21 (NSW).

Pipeline Licence	SA:PL7	Qld:PPL21	NSW:16	NSW:19	NSW:19	NSW:21	NSW:21	NSW:23
Location/ Route	Moomba to Queensland border	SA border to NSW border	Qld/NSW border to Wilton	Young to Wagga Wagga	Cootamundra Spur	Dalton to ACT border	ACT/NSW border to North Watson	Wagga Wagga to Culcairn
Owner/ Operator	East Australian Pipeline Limited							
Length (km)	111 (incl. 10km loop at Moomba)	56.2	1142	131	2.7	52	6	88
Pipe Diameter (mm)	864 660	864	864	324/89	89	273	273	457
Regulator	ACCC							



Coverage Process

On 28 April 2000, the National Competition Council (NCC) received an application from East Australian Pipeline Limited (EAPL), to revoke coverage of a portion of the Moomba to Sydney Pipeline System. The application was made under the *Gas Pipelines Access (NSW) Act 1998* (the NSW Gas Access Act), the *Gas Pipelines Access (SA) Act 1997* (the SA Gas Access Act), the *Gas Pipelines Access (Queensland) Act 2000* (the Queensland Gas Access Act) and the *Gas Pipelines Access (ACT) Act 1998* (the ACT Gas Access Act), which apply the Code to gas pipelines in NSW, SA, Queensland and ACT respectively.

The NCC released its draft recommendation on revocation on 11 August 2000, and its final recommendation on 11 September 2000. The NCC received eight submissions. The NCC's Recommendation and the public submissions are available on the NCC's website at www.ncc.gov.au.

I gave notice of one extension to the decision period (as provided for in the Code).

My decision is based on consideration of the recommendation made by the NCC.

Reasons for the Decision

I am satisfied that the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra gas pipelines meet the coverage criteria in the Code. The reasons for my decision are set out below.

Criterion (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

I agree with the NCC's conclusion, and their reasons supporting that conclusion, that coverage would promote competition in the South East Australian gas sales market. I therefore consider that criterion (a) is met.

I agree with the NCC's finding that the relevant market, in which access to the pipeline may promote competition, is the market for gas sales in South East Australia. I also agree that the services provided by means of the pipeline are those related to the transportation of natural gas between Moomba and Wilton, Young and Culcairn, and Dalton and Canberra, including to all possible destinations between these start and finish points and proximate to the three pipelines and to lateral pipelines branching off them.

This approach is consistent with the Code's objectives of:

- facilitating the development and operation of a national market for natural gas; and
- promoting a competitive market for natural gas in which customers may choose suppliers, including producers, retailers and traders.

I consider that continued coverage, of the Moomba to Wilton, Young to Culcairn, Dalton to Canberra pipelines, by the Code will give participants (and potential entrants) in the gas market greater certainty in relation to commercial negotiations for third party access and tariffs. This certainty is likely to reduce barriers to entry in those markets. I note that the majority of participants in the upstream and downstream sectors, who made submissions to the NCC, support this view.

I note the NCC's firm view that based on consideration of the available evidence, there is a real likelihood of parallel pricing behaviour between the Eastern Gas Pipeline and Moomba to Sydney pipelines. I also note the view put forward by the NCC that each of the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines are the sole means of supplying gas to regional areas along their routes.

Therefore, the Moomba to Sydney pipelines, individually and collectively with the Eastern Gas Pipeline may be able to capture economic rents through the market power they possess. In the absence of coverage, end users may not benefit from the potential price competition between gas fields if the natural monopoly transmission pipelines were able to capture any price differentials between producers in different producing basins through discretionary tariff adjustments in the markets for their pipeline services where there are no effective substitutes.

I am therefore satisfied, on the evidence available, that the application of the Code to the Moomba to Sydney Pipeline System, will create the conditions to allow an improvement in competition in at least one market (other than the market for the services of the pipeline) compared to the situation without coverage.

I am satisfied that criterion (a) is met for the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines.

Criterion (b)

that it would be uneconomic for anyone to develop another Pipeline to provide the Services provided by means of the Pipeline

I am satisfied, on the evidence available, that it would be uneconomic to develop another pipeline to provide the services of the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines.

I am satisfied that the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines exhibit natural monopoly characteristics. This, coupled with the Moomba to Sydney Pipeline System's significant spare capacity, will make it uneconomic to develop another pipeline to provide the services of the pipeline up to the point of its fully expanded capacity.

I concur with the NCC's examination of other existing pipelines and agree that other existing pipelines, such as the Eastern Gas Pipeline and the Interconnect, are not effective substitutes for the services provided by the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines, and that it would be uneconomic to develop them to provide the services of the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines.

I am satisfied, from the information provided in submissions and the examination by the NCC of the characteristics of the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines, such as cost of construction, marginal cost of production per unit, and projected demand, that it is uneconomic from a social perspective to develop existing pipelines, or build other pipelines to provide the services provided by these pipelines.

I am satisfied that criterion (b) is met for the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines.

Criterion (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

I am satisfied that access (or increased access) to the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines, facilitated by the Code, can be safely provided without undue risk to human health or safety.

I note that the relevant States have regulations dealing with the safe operation of gas pipelines, and that none of the public submissions argued that this criterion was not met.

I am satisfied that criterion (c) is met for the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines.

Criterion (d)

that access (or increased access) to the Services provided by means of the Pipeline would not be contrary to the public interest.

I agree with the NCC recommendation that access (or increased access) to the services provided by means of the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines would not be contrary to the public interest.

I agree with the NCC's finding that overall, the costs of regulating the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines under the Code would not outweigh the benefits.

As noted by the NCC it is inevitable that any regulatory model will have some shortcomings that would cause it to fall short of the results achieved in a competitive market, but that regulation of a pipeline is justified where regulation provides the environment or conditions for improvement on the outcome without regulation.

I am satisfied that criterion (d) is met for the Moomba to Wilton, Young to Culcairn, and Dalton to Canberra pipelines.

Nick Minchin