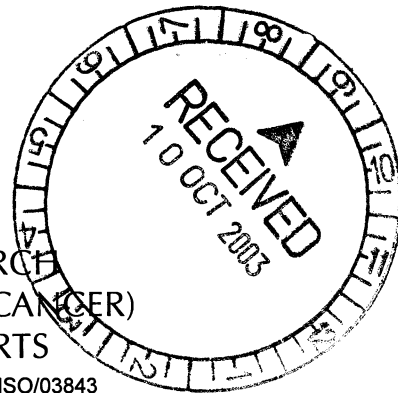




NEW SOUTH WALES

MINISTER FOR ENERGY AND UTILITIES  
MINISTER FOR SCIENCE AND MEDICAL RESEARCH  
MINISTER ASSISTING THE MINISTER FOR HEALTH (CANCER)  
MINISTER ASSISTING THE PREMIER ON THE ARTS

MSO/03843  
MEU Ref: 03/01485



Ms Wendy Craik  
Acting President  
National Competition Council  
GPO Box 250B  
MELBOURNE VIC 3001

3 OCT 2003

Dear Ms Craik

### **SOUTH WEST SLOPES AND TEMORA GAS DISTRIBUTION NETWORKS**

On 20 June 2003, Country Energy applied to the National Competition Council (NCC) to revoke coverage of the Temora gas distribution network (Temora network) and the South West Slopes gas distribution network (SWS Network). The SWS Network includes the towns of Culcairn, Henty, Holbrook and Walla Walla.

Country Energy's application is made under the *Gas Pipelines Access (New South Wales) Act 1998*, which incorporates the National Third Party Access Code for 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 received by me on 17 September 2003. The NCC has recommended coverage of the SWS network and the Temora network be revoked.

Under section 1.34 of the Code, I, as the relevant Minister, am required to decide whether or not to revoke coverage of the SWS network and the Temora network, based on consideration of the criteria under section 1.9 of the Code.

I have considered Country Energy's application, the Australian Gas Association's submission to the NCC, and the NCC's Final recommendation and decided to revoke coverage of the SWS network and the Temora network. In accordance with the Code, the reasons for my decision are provided in the enclosed attachment.

My decision to revoke coverage of the SWS network and the Temora network takes effect on the date of this letter.

Yours sincerely

**Frank Sartor**

## REASONS FOR THE DECISION

### Background

The South West Slopes gas distribution network (SWS network) and the Temora gas distribution network (Temora network) are subject to the *Gas Pipelines Access (New South Wales) Act 1998*, which incorporates the National Third Party Access Code for Natural Gas Pipeline Systems (the Code).

The SWS network and the Temora network are separate systems, serving different NSW regional centres as follows:

- The SWS network

This network supplies natural gas to the towns of Walla Walla, Culcairn, Holbrook and Henty. It comprises a 32 km lateral main from Culcairn to Holbrook and 68km of distribution gas mains within the towns. In 2001/2002, the SWS network delivered approximately 123 TJ of natural gas to 1051 customers. One large contract customer accounted for 97 TJ (79%) of the total amount. Total distribution network revenue was \$605,000 for the 2001/2002 financial year.

- The Temora network

This network delivered approximately 44 TJ of natural gas to 1001 customers in Temora in 2001/2002. One large contract customer accounted for 16 TJ (36%) of the total amount. Total distribution network revenue was \$262,500 for the 2001/2002 financial year.

A map of the SWS network and the Temora network is at Tab A.

Access to the SWS network and the Temora network is currently provided under the AGL Gas Networks Access Arrangement, as approved by the Independent Pricing and Regulatory Tribunal in September 2000. Great Southern Energy bought both networks from AGL in February 2001. Country Energy was formed in July 2001 from a merger of Great Southern Energy, Advance Energy and NorthPower.

### Coverage Revocation Application

On 20 June 2003, Country Energy applied to the National Competition Council (NCC) to revoke coverage of the SWS network and the Temora network from 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 received by me on 17 September 2003. The NCC has recommended coverage of the SWS network and the Temora network be revoked.

As Relevant Minister, I am required by section 1.36 of the Code to make a decision, to revoke coverage if the network concerned does not meet one or more of the criteria set out in section 1.9 of the Code.

The criteria in section 1.9 are:

- (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.

### **The Decision**

I have decided, in accordance with section 1.34 of the Code, to revoke coverage of the SWS network and the Temora network, based on consideration of the criteria under section 1.9 of the Code.

### **Reasons for the Decision**

I made the decision to revoke the SWS network and the Temora network after consideration of the NCC's final recommendation, Country Energy's application to the NCC and the Australian Gas Association's submission to the NCC. In particular:

- 1.1 I am not satisfied the SWS network and the Temora network met the criterion in section 1.9(a) of the Code. I support the NCC's assessment that continued coverage of the SWS network and the Temora network is unlikely to promote competition in the downstream markets for natural gas in the SWS or Temora regions respectively. On the evidence before me, Country Energy does not have the ability or incentive to exercise market power to hinder competition in the downstream markets. Natural gas must compete with other established energy forms in these markets. With excess capacity in both the networks, Country Energy's interest would be enhanced by increasing throughput into the gas sales market rather than restricting competition.
- 1.2 Despite regulated third party access being in place for these networks since September 2000, no party has sought access. Furthermore, given the small size and nature of the SWS and Temora gas markets, it appears unlikely there will be any request for access to the networks in the foreseeable future. Unless there are access seekers, providing access to the networks, of itself, will not promote competition.
- 2.1 I am satisfied the SWS network and the Temora network meet the criterion in section 1.9(b) of the Code. I agree with the NCC's conclusion that, for the likely range of reasonably foreseeable demand for transportation of gas on the SWS network and the Temora network, it is more efficient, in terms of costs and benefits to the community as a whole, for the SWS network and the Temora network to provide those services rather than for those services to be provided by more than one network to the SWS and Temora regions, respectively.
- 2.2 Country Energy's application states both the SWS network and the Temora network are characterised by "significant levels of spare capacity". Country

Energy has forecasted the demand growth for the SWS network and the Temora network to be averaging below 1/2 % and 1% respectively per annum for the next 10 years. The combination of excess capacity and low forecasted demand growth suggests the most efficient way to satisfying future expansion of demand would be through the services of the existing networks. Accordingly, it would be uneconomic for the SWS network and the Temora network to be duplicated.

- 3.1 I am satisfied regulated access to the SWS network and the Temora network can be provided without undue risk to human health or safety, thereby meeting the criterion in section 1.9(c) of the Code. Country Energy in its application states there are no health or safety issues associated with providing access to the pipelines and there is no evidence to suggest otherwise.
- 4.1 I am not satisfied the SWS network and the Temora network meet the criterion in section 1.9(d) of the Code. I support the NCC's assessment that continued coverage of the SWS network and the Temora network is contrary to the public interest. This assessment is based on a comparison of the benefits of regulated access against the costs.
- 4.2 Country Energy has estimated total costs to be incurred by Country Energy and the local regulator in the preparation of, and compliance with, a new stand-alone access arrangement for each network to be approximately \$300,000 over the period of the arrangement.
- 4.3 Providing access to the SWS network and the Temora network will generate public benefits if it facilitates competition. However, as it appears unlikely, in all parties' assessments, that there will be future requests for access to either the SWS network or the Temora network, there is no direct benefit to weigh against the regulatory and compliance costs associated with regulated access. On this basis, and in the absence of evidence on benefits, it is concluded that regulated access would be contrary to the public interest.

