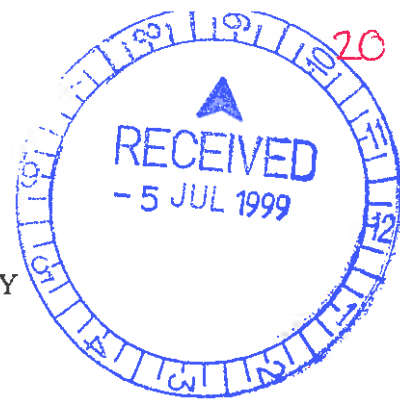




MINISTER FOR RESOURCES DEVELOPMENT; ENERGY;
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Our Ref: 71887

Mr Graeme Samuel
President
National Competition Council
GPO Box 250B
MELBOURNE VIC 3000

Dear Mr Samuel

APPLICATIONS FOR REVOCATION OF COVERAGE OF FOUR GGT LATERALS

In accordance with section 1.37 of the National Third Party Access Code for Natural Gas Pipeline Systems (the Code), please find attached my Final Decisions in relation to four applications requesting that coverage of pipelines (subject to the *Petroleum Pipelines Act 1969* licences PLs 25, 26, 27 and 28) be revoked under the Code.

Yours sincerely

COLIN J BARNETT
MINISTER FOR ENERGY

1 July 1999



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Final Decisions

I, Colin J Barnett
Minister for Energy, Resources Development and Education
Western Australia's Relevant Minister in relation to Coverage Decisions under the Code

make the following Decisions in relation to

Applications to the National Competition Council requesting that Coverage of four Covered Pipelines (PLs 25, 26, 27 & 28) be revoked

1 July 1999

In accordance with sections 1.36 of the National Third Party Access Code for Natural Gas Pipeline Systems (the Code), and after consideration of the Recommendations submitted by the National Competition Council on 8 June 1999, I make the following decisions under section 1.34 of the Code:

- (a) that Coverage of the Covered Pipelines the subject to the following licences issued under the *Petroleum Pipelines Act 1969* is revoked:

PL 25, PL 26 and PL 28

- (b) that Coverage of the Covered Pipeline subject to the following licences issued under the *Petroleum Pipelines Act 1969* is not revoked:

PL 27

The decisions have effect on 15 July 1999. This is also the date before which a person adversely affected by the decisions may apply to the Gas Review Board for a review of the decision under section 38 of the Gas Pipelines Access Law (contained at Schedule 1 of the *Gas Pipelines Access (Western Australia) Act 1998*).

(Cont'd)

Description of the Covered Pipelines the subject of this decisions

Pipeline Owner	Pipeline Licence	Location/Route	Length (km)	Diameter (mm)
Southern Cross Pipelines Australia Pty Ltd	WA – PL 25	GGT to Mt Keith Power Station	8.1	219
Southern Cross Pipelines Australia Pty Ltd	WA – PL 26	GGT to Leinster Power Station	5.2	219
Southern Cross Pipelines Australia Pty Ltd	WA – PL 27	Kalgoorlie to Kambalda Power Station	44.3	219
Southern Cross Pipelines (NPL) Australia Pty Ltd	WA – PL 28	GGT to Kalgoorlie Power Station	8.2	219

*GGT – Goldfields Gas Transmission

The Pipelines are listed in Schedule A to the Code and as such were Covered at the commencement of the Code.

The Applications

On 19 March 1999, applications under section 1.25 of the Code were made to the National Competition Council (the NCC) requesting that Coverage of the four Covered Pipeline be revoked. The applicant in respect of PLs 25, 26 and 27 was Southern Cross Pipelines Australia Pty Ltd (SCP). For pipeline PL 28, the applicant was Southern Cross Pipelines (NPL) Australia Pty Ltd (NPL).

The Public Consultation Process

The following organisations have made submissions to the NCC under section 1.26 of the Code:

Australian Competition and Consumer Commission
Normandy Power Pty Ltd
Water Corporation of Western Australia

In addition, submissions were made to the NCC following its draft recommendation by:

Southern Cross Pipelines Australia Pty Ltd
Water Corporation of Western Australia

Provisions of the Code

I make the decisions in accordance with section 1.36 of the Code, which provides that:

"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."

In reaching this decision, I have considered the following criteria for Coverage contained in 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."*

Coverage in respect of a pipeline must be revoked unless it meets all of the above criteria.

Reasons for the Decisions

I have made the decisions after consideration of the Recommendations submitted by the National Competition Council on 8 June 1999. Reasons for the decisions are as follows:

- (a) decision that Coverage PL 25, PL 26 and PL 28 is revoked:

1. I consider that PLs 25, 26, and 28 do not meet criteria (a) in section 1.9 of the Code.

Based on NCC's analysis, given that these laterals are geographically remote and relatively short, and therefore it is unlikely that third parties will seek to access them in the foreseeable future, I am not satisfied that access to PLs 25, 26, and 28 would promote competition in another market.

2. I consider that PLs 25, 26, and 28 do not meet criteria (d) in section 1.9 of the Code.

Given there is no evidence that third parties will seek access to the laterals in the foreseeable future, it is likely that the regulatory compliance costs involved in establishing access arrangements for these laterals outweigh the benefits and I consider that continued Coverage of these laterals is not in the public interest.

I note, however, that in the event a third party does seek access to any of the pipelines in the future, it would be possible for that party to seek re-coverage of that pipeline under the mechanisms provided in the Code.

(b) decision that Coverage of PL 27 is not revoked:

1. I consider that PL 27 continues to meet criteria (a) in section 1.9 of the Code.

Based on the NCC's analysis, which in turn has taken into account the views expressed in the public submissions including the submission made by the Water Corporation of Western Australia, I consider that access to PL 27 is likely to promote competition in another market. Access to PL 27 is likely to facilitate the construction of an interconnected gas pipeline between Kambalda and Esperance which will in turn will promote competition in the market for process water in the Eastern Goldfields, and in the market for energy in the Eastern Goldfields, Norseman, and Esperance.

2. I consider that PL 27 continues to meet criteria (b) in section 1.9 of the Code.

Based on the NCC's analysis, I am satisfied that construction of a new duplicate pipeline would not be a more efficient way to facilitate meeting the gas requirements of the seawater pipeline scheme.

3. I consider that PL 27 continues to meet criteria (c) in section 1.9 of the Code.

I consider that in the existence of appropriate measures taken by the operator third party access to the pipeline would not pose undue risks to human health and safety.

4. I consider that PL 27 continues to meet criteria (d) in section 1.9 of the Code.

Based on the NCC's analysis, I consider that, given there is a prospect that a third party will seek access to this pipeline and that the owner/operator has available means of reducing its regulatory costs, the benefits of Coverage outweigh the regulatory compliance costs.

I understand that the Regulator has granted the owners of PLs 25, 26, 27, and 28 an extension of time to submit access arrangements until 1 September 1999 (and has the power to grant a further extension under section 7.19 of the National Code). In order to minimise regulatory compliance costs, the Regulator may wish to consider granting a further extension to the owners of PL 27 to enable a joint access arrangement to be submitted in respect of the Goldfields Gas Pipeline and the lateral. Section 97(3) of the Act requires that a submission in respect of the Goldfields Gas

Pipeline is to be made to the Regulator no later than 9 November 1999. It is my view that deferment of a submission on PL 27 to that date will not significantly disadvantage any stakeholder.

Detailed analysis in relation of the criteria against which the applications were assessed could be found in Part B of the NCC's draft recommendation.



COLIN J BARNETT
MINISTER FOR ENERGY,
RESOURCES DEVELOPMENT AND EDUCATION

1 July 1999