
Regulatory issues

Electricity

Authorisation of amendments to the national electricity code—regional pricing of ancillary services

On 27 March 2003 the ACCC received applications for authorisation (Nos A40086–8) about amendments to the national electricity code. The proposed amendments related to the modification of the arrangements for the cost recovery of some ancillary services in the national electricity market (NEM). The applications were submitted by the national electricity code administrator (NECA).

The proposed arrangements to be implemented through these code changes were specifically aimed at dealing with circumstances where part of the market becomes isolated and frequency control ancillary services (FCAS) need to be sourced locally. These refinements are also intended to ensure that the revised arrangements for regional pricing of FCAS:

- enable economic purchasing of FCAS and extend the degree of co-optimisation between the energy and FCAS markets
- more appropriately apportion costs between overlapping regional and market-wide requirements for FCAS
- are robust in a wide range of more complex circumstances. The proposed changes are intended to implement revised arrangements that will cope with multiple local FCAS requirements and overlapping local and global requirements
- provide a sound and logical basis for further, future refinements to the cost allocation arrangements for FCAS.

The ACCC received submissions on the applications from Delta Electricity, Eraring Energy, Ergon Energy, Hydro Tasmania, NEMMCO, National Generators' Forum, Origin Energy, Powerlink and TXU.

The ACCC released its draft determination on 6 August 2003 and one submission was received from the National Electricity Market Management Company (NEMMCO).

The final determination was released on 17 September 2003 and authorisation was conditionally granted.

Authorisation of amendments to the national electricity code—connection point responsibility

On 23 June 2003 the ACCC received applications for authorisation (Nos A9087–5) about amendments to the national electricity code. These applications were lodged by the national electricity code administrator (NECA).

The amendments relate to changes to the market rules that evolved from proposals originally put forward by the National Retailers' Forum aimed at:

- further developing and enhancing connection point responsibility and enhancing relevant metering obligations
- creating deemed connection point responsibility
- allowing for adjustments and revised settlement statements.

NECA's recommended changes limit the application of the changes to market customers and shift the emphasis to clarifying the market settlement and transfer (MSATS) procedures.

The ACCC received one submission from United Energy. The ACCC released its draft determination on 10 September 2003 proposing to authorise the code changes. It expects to release a final determination in November.

Authorisation of code changes—amendments to the prudential framework and the settlement residue auction arrangements

On 14 August 2003 the ACCC received applications for authorisation (Nos A90877–9) of amendments to the national electricity code. The applications were submitted by NECA.

The proposed amendments are to ss. 3.3.8, 3.3.10, 3.3.13, 3.15.11, 3.15.21, and schedule 3.3 of the code, which relate to the prudential framework of the code, and to s. 3.18.2 of the code, which relates to the settlement residue auctions arrangements.

NECA is seeking to amend the prudential framework of the code to provide for:

- an optional reduction in maximum credit limits by allowing participants the option of reducing their payment period to 14 days so that the credit period over which the maximum credit limit is calculated decreases from 42 to 28 days
- an extension of the settlement reallocation provisions to allow participants to lodge reallocation requests after, rather than before, the end of the billing period
- the ability to terminate a reallocation request early with the agreement of both parties and NEMMCO
- a change to the period during which a market participant must remedy a default event before suspension from trade may occur from 24 hours to 1pm Sydney time on the next business day following the date of issue of the default notice.

The proposed amendment to the settlement residue auction arrangements extends the list of persons whom NEMMCO may exclude from participation in the settlement residue auctions to include certain small players defined by the provision.

The ACCC received one submission from Ergon Energy regarding the proposed code changes.

The ACCC expects to release a draft determination in early December 2003.

Murraylink transmission company— application for conversion to a prescribed service

On 1 October 2003 the ACCC released its decision approving the conversion of the Murraylink interconnector from an unregulated to a regulated interconnector. By converting to a regulated interconnector it will earn regulated revenue determined by the ACCC.

Before the ACCC's decision, MTC was registered with NEMMCO as a market network service provider (MNSP). MNSPs operate as unregulated interconnectors that rely on the spot price differential between two interconnected regions to earn revenue. MTC's application was lodged in accordance with clause 2.5.2(c) of the code. It states that:

If an existing network service ceases to be classified as a market network service it may at the discretion of the Regulator or Jurisdictional Regulator (whichever is relevant) be determined to be a prescribed service or prescribed distribution service in which case the revenue cap or price cap of the relevant Network Service Provider may be adjusted in accordance with chapter 6 to include to an appropriate extent the relevant network elements which provided those network services.

The ACCC used its regulatory test, which is a cost-benefit analysis, to determine the benefits of conversion for electricity consumers as well as to determine what the efficient cost for the project should be.

Based on the result of the regulatory test the ACCC put a cap on the Murraylink interconnector's revenues ranging from \$11.88 million in 2004–05 to \$12.72 million in 2012–13. This is in line with the regulatory principles outlined in the code and the



ACCC's Draft principles for the regulation of transmission revenues.

The revenue cap is based on a post-tax nominal return on equity of 11.44 per cent and an opening asset balance of \$97.33 million.

Tasmanian transmission network revenue cap

The ACCC will commence regulation of the Tasmanian transmission network, owned and operated by Transend Network from 1 January 2004. The ACCC's review will determine the revenue cap to apply to the non-contestable transmission network services provided by Transend for a period of five and a half years from 1 January 2004 to 30 June 2009.

Transend lodged an application with the ACCC on 14 March 2003 outlining its proposed revenue cap in assessing Transend's application. The ACCC engaged GHD to undertake a review of key aspects of Transend's application including capex, opex service standards and the opening asset base. GHD completed its review in July 2003.

The ACCC released its draft revenue cap decision on 26 September 2003. The draft decision provides a revenue allowance for Transend that increases from \$95 million in 2003–04 to \$142 million in 2008–09. The ACCC estimates that its draft decision results in a 10 per cent per annum increase on average in transmission charges.

A public forum on the draft decision was held in Hobart on 17 October and submissions on the draft decision have been received. The ACCC is currently considering the issues raised at the forum and in submissions. It is envisaged that a final decision will be made in December 2003.

A copy of Transend's application, submissions from interested parties, GHD's report and the draft decision can be found on the ACCC website.

Statement of principles for the regulation of transmission revenues—service standards guidelines

Part B of Chapter 6 of the national electricity code requires the ACCC to set revenue caps for transmission network service providers (TNSPs). As a part of each decision the ACCC must be satisfied with the level of service that TNSPs will provide in return for their revenue cap. Therefore the ACCC has developed service standards guidelines to outline

how service levels will be considered in revenue cap decisions.

The ACCC published its draft service standards guidelines on 28 May 2003. It held a public forum on 15 July 2003, and after taking into consideration issues raised at this forum, and in response to the draft, released its final decision on 5 November 2003.

These guidelines specify what service standards information TNSPs are required to provide to the ACCC in their revenue cap applications and in their annual compliance statements.

Put simply, the guidelines propose to use a TNSP's own historical performance to set performance benchmarks. Any improvements or reductions in performance will result in an increase or decrease in the revenue cap. These increases and decreases will initially be capped at 1 per cent of a TNSP's maximum allowed revenue. However, the ACCC will explore raising this cap when it is satisfied with the incentives that the scheme provides. The incentives are intended to be commercially based in that they encourage TNSPs to consider the cost and quality of service trade-offs when making operational decisions.

The ACCC intends to monitor how performance standards are applied and the effect that they have on TNSPs' standards of service. Furthermore the ACCC is in the process of establishing a service standards working group which will encourage consultation on more specific market related measures that may be included as performance measures in the future.

Telecommunications

ACCC issues transmission capacity service discussion paper

On 5 September 2003 the ACCC announced that it would hold a public inquiry reviewing the transmission capacity service declaration.

To begin, a discussion paper was issued to identify issues relevant to the review and to seek comments on particular aspects of transmission markets.

The public inquiry needs to determine whether the declaration of the transmission capacity service should be maintained, varied or revoked by the ACCC.

Transmission capacity is a generic service used for the carriage of voice, data or other communications. Currently the ACCC regulates access to regional, capital, intra-regional, metropolitan and CBD transmission services. Inter-capital transmission routes were removed from the declaration in 2001. This followed an earlier variation in 1998 which had included the Melbourne–Adelaide, Adelaide–Perth and Sydney–Brisbane inter-capital routes in the declaration.

This transmission capacity service declaration expires in March 2004 and under the Trade Practices Act the ACCC is required to complete its review before this date.

To assist its decision the ACCC sought submissions on its discussion paper from stakeholders and interested parties. The ACCC expects to issue a draft report setting out its preliminary findings by the end of November 2003.

Copies of the discussion paper will be available on the ACCC's website.

Gas

Access arrangement for the Moomba to Sydney gas pipeline—ACCC final decision

On 2 October 2003 the ACCC issued its final decision on the terms and conditions of gas transportation services for the Moomba to Sydney gas pipeline (MSP) for the next five years.

The ACCC has not agreed with all the terms and conditions of the access arrangement as submitted by the owner of the MSP, East Australian Pipeline Ltd (EAPL). In particular, the ACCC did not agree with the tariffs EAPL proposed should be charged to transport gas through the MSP from Moomba to Sydney and several regional centres, such as Lithgow and Wagga Wagga.

EAPL is currently charging approximately 66 cents per gigajoule to ship gas from Moomba to Sydney. The ACCC has, however, determined that the starting tariff should be 52 cents (GST exclusive).

Consequently some of EAPL's customers, such as gas retailers, may be able to obtain transportation services at a lower price than what EAPL is currently charging.

Even though the ACCC has approved a lower tariff, EAPL's cash flows will not be affected in the short term. This is because EAPL has a contractual

arrangement with its main customer, AGL, under which AGL is required to make minimum monthly payments to EAPL regardless of the level of tariff.

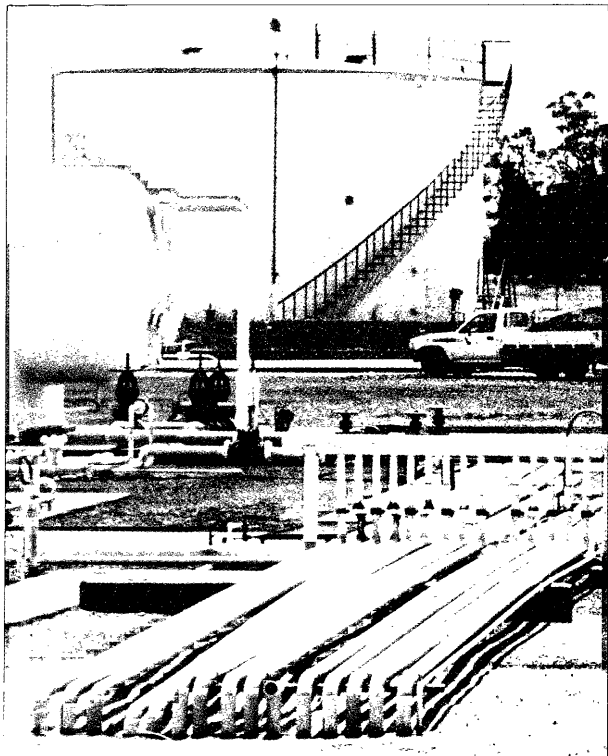
EAPL has the opportunity to earn additional revenue if it can increase the level of demand for its services above the level it has forecast for the five years of the access arrangement period.

While the ACCC broadly agrees with important aspects of EAPL's proposed access arrangement, such as proposed capital expenditure, the ACCC could not agree to EAPL's proposal for:

- the value of the pipeline assets at \$779 million. The ACCC concluded that the value should be \$559 million.
- operating costs of \$23 million per annum. The ACCC concluded \$18 million per annum was a better estimate of the efficient costs of operating the pipeline.
- a return on equity for the MSP of around 15 per cent. The ACCC estimates that a return on equity of 11.3 per cent is more consistent with the benchmark for regulated pipeline assets.

The ACCC's final decision sets out the amendments EAPL will have to make for the access arrangement to be approved.

EAPL submitted an amended access arrangement on 23 October 2003 and this is currently being reviewed.



Review of the gas access regime

The review of the gas access regime by the Productivity Commission was announced on 13 June 2003 in a joint media release from the Treasurer and the acting Minister for Industry Tourism and Resources.

The ACCC provided a submission to the Productivity Commission presenting factual evidence on the operation of the code. The ACCC also appeared at the hearings held by the Productivity Commission.

The ACCC's submission demonstrates that gas reform since the mid-1990s has supported a significant growth in the industry and should be regarded as a success story. Removal of restrictions on interstate sales of gas coupled with the introduction of third party access to natural gas transmission and distribution pipelines has encouraged the construction of several new pipelines. These pipelines bring new sources of supply to markets, both connecting existing producing basins to new markets and more recently bringing new basins on stream. Gas consumption has grown at an accelerating rate since the mid to late 1990s.

The Productivity Commission is expected to release a draft report in December 2003.

Tribunal matters

GasNet

On 31 January 2003 GasNet applied to the Australian Competition Tribunal for review of the ACCC's decision in relation to its pipeline system. The tribunal heard the matter in Melbourne in mid-August 2003 and has reserved its decision. Four aspects of the ACCC's decision were before the tribunal: the appropriate bond rate for calculating the risk-free rate, an allowance for debt raising costs, an annual allowance for asymmetric risk and the inflation forecast.

Moomba-Adelaide

On 15 August 2002 Epic Energy applied to the tribunal for review of the ACCC's decision about the Moomba-Adelaide pipeline. The tribunal heard the matter in Adelaide on 1 and 2 September 2003 and reserved its decision. Two aspects of the ACCC's decision were before the tribunal: the cost of pipe and the coverage of a recent expansion of the pipeline.