



Economic Regulation Authority

Western Australia

NOTICE

PROPOSED ACCESS ARRANGEMENT FOR THE GOLDFIELDS GAS PIPELINE

6 April 2004

The purpose of this notice is to inform interested parties of the amended procedure the Economic Regulation Authority (“**Regulator**”) is adopting in light of the decision by the Full Court of the Supreme Court of Western Australia in the proceedings brought by WMC Resources Limited in respect of the Notice dated 6 November 2002 (“**Court Decision**”). The reference of the Court Decision is [2003] WASCA 288.

In the Notice dated 6 November 2002, the Regulator stated its intention to amend the Draft Decision on the proposed Access Arrangement for the Goldfields Gas Pipeline (“**GGP**”) issued on 10 April 2001 (“**Draft Decision**”) on the basis of, among other things, the effect of sub-clause 21(3) of the State Agreement on the application of the *National Third Party Access Code for Natural Gas Pipeline Systems* (“**Code**”) in so far as it relates to the GGP.

The Notice dated 6 November 2002 set out the process the Regulator intended to apply in examining the effect of sub-clause 21(3) of the State Agreement on the application of the Code to the GGP.

This process was challenged in the Supreme Court of Western Australia by WMC Resources Ltd. The Court Decision was published on 2 December 2003 and declaratory relief was ordered on 18 March 2004. As a result of the Court Decision, the Regulator has amended the process it intends to apply in progressing the assessment of the proposed Access Arrangement for the GGP. The amended process is as follows.

- The first stage will involve applying the Code, without consideration of clause 21(3) of the State Agreement, but considering the extent that other matters arising under the State Agreement are relevant to the Regulator’s assessment under the Code.
- In addition to the submissions already made on the Draft Decision (which the Regulator is taking into account in amending the Draft Decision) the Regulator is also considering written submissions that have already been made by interested parties, which have regard to the reasons in *Re Dr Ken Michael AM; Ex parte Epic Energy (WA) Nominees Pty Limited & Anor* [2002] WASCA 231 and the effects on matters identified in the Draft Decision as being the reasons for requiring amendments to the proposed Access Arrangement.

The Regulator will then release an amended Draft Decision and invite submissions on the amended Draft Decision from interested parties within a time that will be specified pursuant to section 2.14(b) of the Code.

Following consideration of submissions on the amended Draft Decision, the Regulator will proceed to prepare the Final Decision.

As in the past, the Regulator's office will be available to assist in responding to any questions and will be happy to clarify any procedural matters relating to the amendments of the Draft Decision.

Please direct any inquiries to:

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