# Application for revocation of coverage of the City Gate to Berrimah Pipeline under the National Gas Access Regime

## Final Recommendation

## April 2003

**National Competition Council**

# Final Recommendation

This document contains the National Competition Council's (the Council) final recommendation in respect of an application for revocation of coverage of the City Gate to Berrimah Pipeline under the *Gas Pipelines Access (NT) Act 1998* (the NT Gas Access Act). The application seeks revocation of the entire pipeline pursuant to sections 1.24 and 1.25 of the National Third Party Access Code for Natural Gas Pipeline Systems (National Gas Access Code).

**The Council's final recommendation is that coverage under the National Gas Access Code of the City Gate to Berrimah Pipeline should be revoked. The Council is not satisfied that all four of the criteria in section 1.9 of the National Gas Access Code are met for the whole of the City Gate to Berrimah Pipeline**.

This final recommendation is divided into two parts:

**Part A**, which explains the legislative background to the National Gas Access Code; the concept of coverage under the regime; and the Council's approach to the revocation criteria under the National Gas Access Code. It also examines details of the application, including specifications of the pipeline and the state of competition in the relevant markets.

**Part B**, which contains the Council's detailed consideration of whether the City Gate to Berrimah Pipeline meets each of the criteria against which revocation of coverage must be assessed (the coverage criteria).

# Abbreviations and glossary of terms

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| ABDP | Amadeus Basin to Darwin pipeline |
| ACCC | Australian Competition and Consumer Commission |
| Access Arrangement | A statement of policies and the basic terms and conditions that apply to third party access to a Covered Pipeline |
| Application | Application for revocation of coverage of the City Gate to Berrimah Pipeline lodged by NT Gas Distribution Pty Limited on 30 January 2003 |
| Council | National Competition Council |
| Coverage Criteria | Criteria set out in section 1.9 of the National Third Party Access Code for Natural Gas Pipeline Systems |
| Covered Pipeline | A pipeline covered under the National Gas Access Code |
| EGP | Eastern Gas Pipeline |
| Gas Access Acts | The Acts in each State and Territory which provide for third party access to the services of natural gas pipelines. The Acts apply the Gas Pipelines Access Law and the National Gas Access Code as law in those jurisdictions |
| Gas Pipelines Access Law | In conjunction with the National Gas Access Code and the Gas Access Acts, sets out provisions of the regime for third party access to the services of gas pipelines |
| GJ | Gigajoule, a unit of measurement for measuring the energy content of natural gas or other energy sources |
| GST | Goods and services tax |
| MSP | Moomba to Sydney Pipeline System |
| National Gas Access Code | National Third Party Access Code for Natural Gas Pipeline Systems |

| | |
|---|---|
| Pipeline | Defined in the National Gas Access Code and the GPA as a pipe or system of pipes for transporting natural gas and tanks, machinery, etc attached to the pipes, but does not include any facilities of the upstream processing plant, or anything downstream of the connection point to the consumer |
| PJ | Petajoule (equal to 1,000,000 GJ or 1,000 TJ) |
| PJ/a | Petajoules per year |
| PJ/d | Petajoules per day |
| TJ | Terajoule (equal to 1,000GJ) |
| TJ/a | Terajoules per annum |
| TJ/d | Terajoules per day |
| TPA | *Trade Practices Act 1974* |
| NT Gas Access Act | *Gas Pipelines Access (NT) Act 1998*. The act which applies the National Gas Access Code to gas pipelines in the Northern Territory. |
| NT Gas Distribution | NT Gas Distribution Pty Limited |

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# Part A–Legislative background

## The National Gas Access Code

The NT Gas Access Act applies the National Gas Access Code to gas pipelines in the Northern Territory.

The National Gas Access Code entitles parties to negotiate access to the transport capacity in natural gas transmission pipelines and distribution networks which are covered by the National Gas Access Code within an independent regulatory framework. The National Gas Access Code sets out the rights and obligations of service providers, pipeline users and access seekers. It includes coverage rules, the operation and content of access arrangements, ring-fencing arrangements, information parameters, dispute resolution and pricing principles.

## Mechanism for revoking coverage

The National Gas Access Code allows parties to seek revocation of coverage of a pipeline under the National Gas Access Code. Applications for revocation of coverage must be made to the National Competition Council. Following consideration of issues raised in public consultations, the Council issues a draft recommendation, conducts a further public consultation process then conveys a final recommendation to the relevant Minister, who decides the matter. In this case, the relevant Minister is the Hon Paul Henderson MLA, the Northern Territory Minister for Business, Industry and Resource Development. Both the Council and the Minister must consider the criteria set out in Section 1.9 of the National Gas Access Code. Those criteria are set out in the Appendix.

If the Minister decides to revoke coverage of a pipeline, the owner and operator of that pipeline are released from their obligations under the Gas Access Act of the applicable state or states and the National Gas Access Code.

The NT Gas Access Act includes a process for administrative (merits-based) reviews of decisions to revoke coverage. The process is set out in section 38 of the Gas Pipelines Access Law. The Australian Competition Tribunal would hear any application for review.

# The revocation criteria

Under section 1.31 of the National Gas Access Code, the Council cannot recommend revocation of coverage unless it considers the pipeline in question does not meet one of the criteria set out in section 1.9 of the National Gas Access Code. From another perspective, where a pipeline does not meet all of the criteria set out in section 1.9 of the National Gas Access Code, the Council must recommend revocation of that pipeline.

The Council may recommend revocation either to the extent sought, or to a greater or lesser extent than sought in the application.[1]

The criteria in section 1.9 are:

(a) **that access (or increased access) to services provided by means of the pipeline in question 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 in question;**

(b) **that it would be uneconomic for anyone to develop another pipeline to provide the services provided by means of the pipeline in question;**

(c) **that access (or increased access) to the services provided by means of the pipeline in question 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 in question would not be contrary to the public interest.**

# Process for considering the criteria

For the Council to recommend against revocation of coverage it must be affirmatively satisfied of all the matters set out in section 1.9. In interpreting the National Gas Access Code criteria, the Council has used general principles of statutory interpretation and has accorded primacy to the language of the coverage criteria. In addition, the Council has regard to the following matters:

1. Relevant decisions of the Tribunal. The criteria have been considered by the Tribunal in the *Eastern Gas Pipeline decision*.

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[1] Taking account of any part of the pipeline that is necessary to provide services that potential users may seek access to (section 1.29).

2. The objectives underlying the National Gas Access Code.

3. Decisions of the Tribunal in relation to applications for declaration under part IIIA of the *Trade Practices Act 1974* (the TPA). This is because, apart from some minor variations (the significance of which will be discussed where relevant), the words of the coverage criteria in section 1.9 of the National Gas Access Code are the same as the words of the declaration criteria in section 44G(2) of the TPA.

4. Previous applications for coverage, and revocation of coverage, of gas pipelines considered by the Council under the National Gas Access Code. The Council has also had regard to the work of Janusz A Ordover and William Lehr, *Should Coverage of the Moomba to Sydney Pipeline be Revoked?* (Ordover and Lehr 2001), which focused specifically on East Australian Pipeline Limited's application for revocation of coverage of two pipelines within the Moomba to Sydney Pipeline System (MSP) under the National Gas Access Code.

This recommendation considers the criteria in a different order from that laid out in the National Gas Access Code. Conceptually, the Council considers it logical to begin with criterion (b), as it focuses on the issue of the service to which access is sought and the pipeline providing that service and asks whether that pipeline exhibits natural monopoly characteristics. Criterion (a) is wider in scope as it requires consideration of industry structure, the related but distinct markets dependent on the service and whether the service provider is able to exercise market power in those related markets because the provision of the service has natural monopoly characteristics. This approach is consistent with the approach adopted by the Tribunal in the *Eastern Gas Pipeline decision*.

The process adopted by the Council for considering the criteria can be broadly summarised as follows:

- define the service provided by means of the City Gate to Berrimah Pipeline, delineate the physical assets that comprise it and identify the "provider" of the "service";

- examine whether it is economic to develop another pipeline to provide the service. Coverage is confined to facilities exhibiting natural monopoly characteristics – that is, where for a likely range of reasonably foreseeable demand for the service, it would be cheaper for the City Gate to Berrimah Pipeline to provide those services rather than two or more pipelines. Such an assessment is relevant to whether criterion (b) is met;

- if development of another pipeline to provide the service would be uneconomical, for the purposes of criterion (a) assess whether coverage of the service will improve the conditions or environment for competition in a dependent market. Whether the conditions for competition will be enhanced depends critically on whether the natural monopoly characteristics associated with the provision of the service confer substantial market power on the service provider that can be exercised to adversely affect competition in a dependent market(s). As part of this evaluation, dependent markets will need to be identified, as will factors affecting the ability and incentive to exercise market power to adversely affect competition in a dependent market(s). Such an assessment is relevant to whether criterion (a) is met;

- assess whether access to the service can be provided safely. This is relevant to criterion (c); and
- determine whether access would not be contrary to the public interest. This is relevant to criterion (d). This criterion comes into play if the other criteria are satisfied and enables account to be taken of other factors not raised under the other three criteria, e.g., regulatory costs involved in providing access.

# Submissions

The Council received the application on 30 January 2003. In accordance with section 1.26 of the National Gas Access Code, the Council advertised the application in *The Australian Financial Review* and in the *Northern Territory News* on 13 February 2003, and wrote to interested parties calling for submissions. The Council also published a copy of the application, and invited submissions, on its website. The Council received no submissions.

In accordance with section 1.28 of the National Gas Access Code, the Council released its draft recommendation on 20 March 2003 and called for submissions in relation to it. The Council again received no submissions.

# The application

The applicant, NT Gas Distribution Pty Limited (NT Gas Distribution), owns and operates the City Gate to Berrimah Pipeline. The applicant seeks revocation of coverage for the entire City Gate to Berrimah Pipeline under sections 1.24 and 1.25 of the National Gas Access Code.

# The pipeline

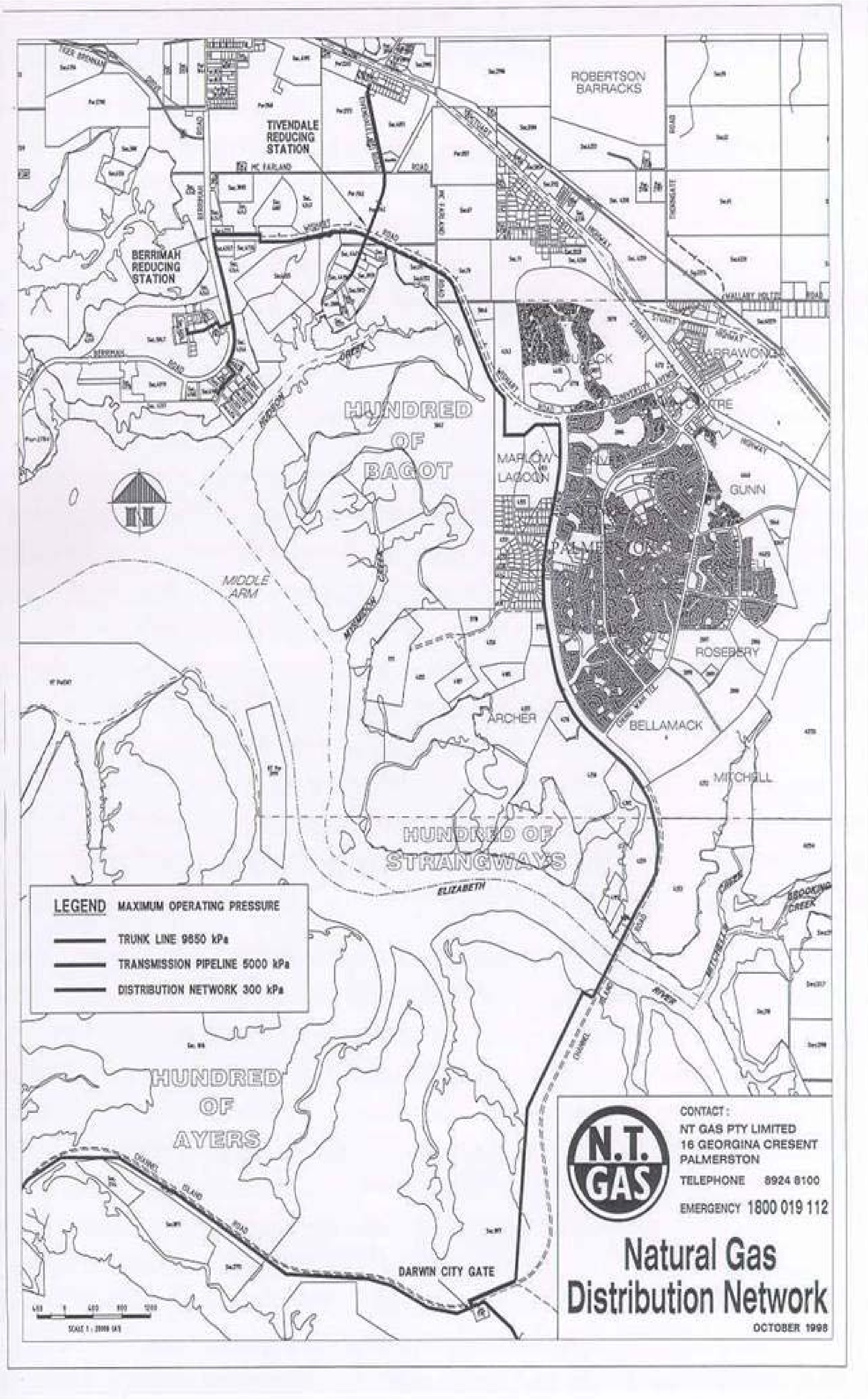
The pipeline is identified in Schedule A of the National Gas Access Code as the "City Gate to Berrimah" transmission pipeline (pipeline licence NT:PL18). It has a length of 19km and a pipe diameter of 150mm and is a steel pipeline. The application states that natural gas is transported from the Darwin City Gate to Berrimah, which is near the area designated as the Darwin Trade

Development Zone. Gas is then distributed from two offtake stations to a small number of industrial/commercial users through a plastic reticulation system. The reticulation system is owned by NT Gas Distribution and is not a covered pipeline. NT Gas Distribution supplies a combined transportation/retail service to end-users.

The natural gas supplied in Darwin is sourced from the Central Australian natural gas fields and is transported to the Darwin City Gate via the Amadeus Basin to Darwin pipeline (ABDP). This is the major transmission pipeline in the Northern Territory and is the only source of gas for the Darwin area. Over 90 per cent of gas transported through the ABDP is destined for electricity generation, either en route to Darwin or at the Channel Island power station (NTGD, p. 2).

According to the application, the City Gate to Berrimah Pipeline has 5 customers and transports 8TJ per annum (NTGD 2003, p. 6). A map of the pipeline is shown in Figure 1.

An initial Access Arrangement for the pipeline was due to be submitted to the Australian Competition and Consumer Commission (ACCC) on 12 February 1999, but NT Gas Distribution has applied for and been granted successive deferrals of the date for submission of an Access Arrangement. On 5 February 2003, the ACCC agreed to a further extension until 12 June 2003 to allow sufficient time for an application for revocation of coverage to be considered by the Council and the Relevant Minister.


ROBERTSON BARRACKS
TIVENDALE REDUCING STATION
BERRIMAH REDUCING STATION
HUNDRED OF BAGOT
MARLOW LAGOON
GUNN
MIDDLE ARM
ROSEBERY
ARCHER
BELLAMACK
MITCHELL
HUNDRED OF STRANGWAYS
ELIZABETH
LEGEND MAXIMUM OPERATING PRESSURE
TRUNK LINE 9650 kPa
TRANSMISSION PIPELINE 5000 kPa
DISTRIBUTION NETWORK 300 kPa
HUNDRED OF AYERS
DARWIN CITY GATE
CONTACT:
NT GAS PTY LIMITED
16 GEORGINA CRESENT
PALMERSTON
TELEPHONE 8924 8100
EMERGENCY 1800 019 112
N.T. GAS
Natural Gas
Distribution Network
OCTOBER 1998

# Part B - Coverage criteria

## Criterion (b) that it would be uneconomic for anyone to develop another pipeline to provide the services provided by means of the pipeline.

### The Council's approach to criterion (b)

In analysing this criterion, the Council will:

- define the service provided by the City Gate to Berrimah Pipeline; and
- assess whether it is economic to develop other pipelines (including both existing pipelines and new pipelines) to provide that service.

### Service

In the *Eastern Gas Pipeline decision*, the Tribunal decided that the "service" provided by means of the Eastern Gas Pipeline was a haulage service for the transport of gas between one point on the pipeline and another:

> *The question of what constitutes the services provided by the pipeline is fundamentally a mixed question of fact and the proper construction of criterion (b), rather than a matter of economic analysis. Every haulage service will of necessity be from one point to another. That is the commercial service actually provided by the pipeline operator to its customers.* (Eastern Gas Pipeline decision 2001, paragraph 69)

On this approach, the service provided by the City Gate to Berrimah Pipeline could be described as a gas transportation service from the Darwin City Gate to Berrimah.

The applicant submits that the service provided by the Pipeline is "a transportation service from the City Gate to Berrimah (which in turn is part of a bundled pipeline, distribution and retail service to customers)." (NTGD, p. 7).

### Conclusion on service definition

The Council considers that the service provided by the City Gate to Berrimah Pipeline is a gas transportation service from the Darwin City Gate to Berrimah.

## Uneconomic to develop another pipeline

In considering whether it is uneconomic to develop another pipeline, it is appropriate to have regard to pipelines that have already been developed (Eastern Gas Pipeline decision 2001, paragraph 57).

The term "develop" is sufficiently broad to encompass modifications or enhancements to existing pipelines. Thus, if an existing pipeline does not presently provide the services provided by the pipeline in question, but could economically be modified or expanded to do so, then criterion (b) is not met. This is consistent with the Tribunal's approach in the *Eastern Gas Pipeline decision* (paragraphs 55-57).

In the present case, the Council must therefore have regard to whether it would be uneconomic to develop either new or existing pipelines to provide the services of the City Gate to Berrimah Pipeline.

### Uneconomic

The Tribunal explained the concept of uneconomic as follows:

> … *if a single pipeline can meet market demand at less cost (after taking into account productive, allocative and dynamic effects) than two or more pipelines, it would be "uneconomic", in terms of criterion (b), to develop another pipeline to provide the same services.* (Eastern Gas Pipeline decision 2001, paragraph 64)

The Tribunal cast the test for whether it was uneconomic to develop another pipeline "in terms of costs and benefits to the community as a whole" (Eastern Gas Pipeline decision 2001, paragraph 137). By emphasising efficiency "in terms of costs and benefits to the community as a whole", the Tribunal endorsed a 'social' approach to the assessment of whether development of another pipeline was uneconomic.[2] This approach follows from that adopted by the Tribunal in the *Sydney Airport decision*.[3]

The social approach to the test therefore takes account of all relevant costs and benefits faced by society rather than being limited to private costs and benefits faced by the party considering development of another pipeline. The Tribunal has explained the rationale for this approach as follows:

> *…the uneconomical to develop test should be construed in terms of the associated costs and benefits of development for society as a whole. Such an interpretation is consistent with the underlying intent of the legislation, as expressed in the Second Reading Speech of the Competition Policy Reform Bill [which inserted Part IIIA into the Trade Practices Act 1974], which is directed at securing access to "certain essential facilities of national significance". This language and these concepts are repeated in the statute. This language does not suggest that the intention is only to consider a narrow accounting view of "uneconomic" or simply issues of profitability.*
>
> *… If "uneconomical" is interpreted in a private sense then the practical effect would often be to frustrate the underlying intent of the Act. This is because economies of scope may allow an incumbent, seeking to deny access to a potential entrant, to develop another facility while raising an insuperable barrier to entry to new players (a defining feature of a bottleneck). The use of the calculus of social cost benefit, however, ameliorates this problem by ensuring the total costs and benefits of developing another facility are brought to account. This view is given added weight by Professor Williams' evidence of the perverse impact, in terms of efficient resource allocation, of adopting the narrow view.* (Sydney Airport decision, paragraphs 204-205)

Ordover and Lehr provide guidance on the social interpretation of 'uneconomic' in the context of the Moomba to Sydney pipeline:

> *When [criterion (b)] is met, the total cost of transporting gas is minimized (and the goal of economic efficiency is served) when the activity is undertaken by one firm rather than by two or more firms. In the instant case, firms demanding transportation of natural gas between the production fields in Cooper Basin and the retail markets*

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2 The Tribunal in the *Eastern Gas Pipeline decision* later confirmed its social costs approach to criterion (b) when it concluded that the Eastern Gas Pipeline met criterion (b) "because it would be uneconomic in a social costs sense to develop [another pipeline] to provide the services provided by means of the [Eastern Gas Pipeline]" (*Duke Eastern Gas Pipeline case*, para 144).

3 The *Sydney Airport decision* was concerned with interpretation of the term "uneconomical" in the declaration criterion in Part IIIA of the Trade Practices Act. The Tribunal in the Duke Eastern Gas Pipeline case stated that nothing turned on the difference between the term "uneconomic" in criterion (b) and the term "uneconomical" in Part IIIA of the Trade Practices Act (*Duke Eastern Gas Pipeline case,* para 58).

> *in NSW/ACT could not efficiently develop another pipeline that could compete with MSP without the overall cost of gas transport increasing. Such wasteful duplication of assets would engender inefficiencies to the detriment of the consuming public. Therefore, when criterion (b) is satisfied, it is efficient for firms wishing to ship gas between Cooper Basin and the NSW/ACT retail markets to avail themselves of the services provided by the MSP rather than constructing another pipeline. Coverage, if mandated, assures third parties access to the MSP.* (Ordover and Lehr 2001, p.6)

Noting the findings of the Tribunal and the views of Ordover and Lehr, the Council considers that criterion (b) is satisfied if a single pipeline can satisfy demand for relevant services at lower cost than two or more pipelines. The pipeline is then a natural monopoly[4], and competition between two or more pipelines offering the same services would be inefficient (Ordover and Lehr 2001, p.4).

Thus, for the purpose of criterion (b), a natural monopoly exists if for a likely range of reasonably foreseeable demand it is always cheaper for a single pipeline to provide the service under consideration rather than multiple pipelines. In determining whether such a natural monopoly exists the Council is required to:

- determine the reasonably foreseeable demand for the service provided by the City Gate to Berrimah Pipeline; and
- assess whether the City Gate to Berrimah Pipeline can serve the reasonably foreseeable demand for the service under consideration at lower cost than two or more pipelines.

## Demand for natural gas in Darwin and the capacity of the City Gate to Berrimah Pipeline to provide for it

The application notes that the City Gate to Berrimah Pipeline currently services 5 customers consuming a total of 8 TJ/pa (NTGD, p. 6). The two largest users are a galvanising works and Darwin Prison. The application suggests that residential demand for natural gas is constrained by high minimum temperatures. It also notes that the Northern Territory has a

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4 Ordover and Lehr 2001 provide the following technical description of "natural monopoly" at p.4: Formally, a provision of a particular product or service is a natural monopoly if, over the entire relevant range of outputs, the firms' cost function is subadditive. A cost function C(q) is subadditive at q if it is always cheaper to produce a vector of outputs, q, in a single firm then by partitioning the output among two or more firms. For further discussion of these technical characteristics, see Sharkey, William, *The Theory of Natural Monopoly*, Cambridge University Press: Cambridge, (1982) and W J Baumol, J C Panzar, and R D Willig, *Contestable Markets and the Theory of Industry Structure*, HBJ Publishers: New York (1982).

relatively narrow economic base, derived from mining, tourism, government administration and defence. (NTGD, p. 4)

The Council has limited information on forecast demand for gas in Darwin. However, the applicants note that, while they are continuing to seek opportunities for additional gas sales, the market is not growing significantly. In particular:

- prospective growth in current customers' loads is minimal;
- there are no current or proposed developments which indicate a significant upsurge in Darwin industrial activity; and
- residential gas demand is minimal and can be met effectively through alternate energy sources (e.g., solar hot water and LPG and electricity for cooking). (NTGD, pp. 4-5)

The applicants note that the City Gate to Berrimah Pipeline was constructed in 1995 in anticipation of gas loads in excess of 100 TJ/pa becoming available in the Darwin Trade Development Zone and nearby Berrimah industrial estate. However, the anticipated industries either never eventuated or closed down after a brief period of operation (NTGD, p. 4). As a consequence, the City Gate to Berrimah Pipeline has additional capacity available to serve foreseeable market growth based on current knowledge (NTGD, p. 7).

Given the significant excess capacity in the City Gate to Berrimah Pipeline and the limited prospects for growth in demand for natural gas from industrial, commercial and residential users, the Council considers that the City Gate to Berrimah Pipeline has sufficient capacity to meet demand for natural gas in Darwin for the foreseeable future.

## Developing a new pipeline

Investment in gas pipelines is, in economic language, 'sunk'. That is, the investment is fixed or committed, and if the investment is a failure, little or none of it can be retrieved. This means that entry and exit costs to provide these services are high, and that incremental or gradual entry – a common form of entry in other industries – is not feasible in gas transmission and distribution.

It is not uncommon for existing pipelines to have spare capacity. From a pipeline company's point of view, it is often prudent to cater to the unpredictability of future requirements by building a larger capacity pipeline. This is because the costs of laying a new pipeline rise slowly compared with increases in the capacity of that pipeline. In other words, it is much less expensive – per unit of capacity – to lay a large capacity pipeline than a small capacity pipeline.

The Council notes that gas pipelines typically have high construction costs and low operating costs, making the marginal cost of transporting a unit of gas very low. Moreover, up to the point of fully expanded capacity, average costs of transport per unit of gas decline. These features are indicative of natural monopoly characteristics. In lay terms, it is almost always cheaper to transport gas through existing pipelines (if spare capacity exists or can be added) than it is to build another pipeline to transport gas. In the case of distribution systems, there are additional obstacles of urban town planning and environmental restrictions.

In summary, therefore, it is generally not economic to develop another pipeline where an existing pipeline has spare capacity (or can develop it through greater compression and/or looping). Having said this, the Council recognises it will always be necessary to consider the facts of particular pipelines.

In considering the services of the City Gate to Berrimah Pipeline, the Council has found no evidence to suggest that it deviates from the typical characteristics noted above. The Council notes in this regard that the City Gate to Berrimah Pipeline is currently servicing only a fraction of forecast load, suggesting that the most efficient way of satisfying any future expansion in demand would be through the services of the existing pipeline. The Council also notes that the applicant, while commenting that it is not submitting formal arguments in respect of criterion (b), states that “it would seem uneconomic to develop another similar pipeline” (NTGD, p. 7).

### Develop existing pipelines

As noted by the Tribunal in the *Eastern Gas Pipeline decision*, criterion (b) includes consideration of whether it would be economic to develop another existing pipeline to provide the services provided by the City Gate to Berrimah Pipeline. On the evidence before the Council, it does not appear that there is another pipeline that could be developed to provide a substitute service to that of the City Gate to Berrimah Pipeline.

## Conclusion on criterion (b)

The Council is affirmatively satisfied that, for the likely range of reasonably foreseeable demand for the transportation of gas on the City Gate to Berrimah Pipeline, it is more efficient, in terms of the costs and benefits to the community as a whole, for the City Gate to Berrimah Pipeline to provide those services rather than for those services to be provided by more than one pipeline.

The Council is therefore satisfied that criterion (b) is met.

# 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.

## The Council's approach to criterion (a)

Criterion (a) specifies that coverage is only warranted if regulated access would create the conditions or environment for improving competition in at least one market other than the market for the services of the gas pipeline.

To conclude that a pipeline meets criterion (a), the Council must be satisfied that:

(a) the service to which access is sought is not in the same market as the market or markets in which competition is promoted; and

(b) access would promote a more competitive environment in that other market.

## Market

In considering market definition, the Council is guided by the decisions of the Federal Court, the Tribunal and the High Court in their consideration of markets for the purposes of Part IV; as well as the Tribunal's and the Courts' consideration of Part IIIA.

The Tribunal has defined "market" in the following way:

> *"A market is the area of close competition between firms or, putting it a little differently, the field of rivalry between them (if there is no close competition there is of course a monopolistic market). Within the bounds of a market there is substitution - substitution between one product and another, and between one source of supply and another, in response to changing prices. So a market is the field of actual and potential transactions between buyers and sellers amongst whom there can be strong substitution, at least in the long run, if given a sufficient price incentive. ... Whether such substitution is feasible or likely*

> *depends [on a number of factors] ... in determining the outer boundaries of the market we ask a quite simple but fundamental question: If the firm were to `give less and charge more' would there be, to put the matter colloquially, much of a reaction?"* (Re Queensland Co-operative Milling Association Ltd (1976) 25 FLR 169 at 190).

This view of market has been accepted by the High Court in the Queensland Wire decision (*Queensland Wire Industries Pty Ltd* v *The Broken Hill Proprietary Ltd and Another* (1989) 167 CLR 177) and was adopted by the Tribunal in the *Sydney Airport* and *Eastern Gas Pipelines* decisions.

## Dimensions of markets

The relevant dimensions of markets include the following.

- The product market, that is the types of goods and services in a market. Separate product markets exist if their respective products are not substitutable in demand or supply. Products are demand substitutes (and are therefore in the same product market) if consumers will substitute one product for the other following a small but significant change in their relative prices. Substitution in supply occurs when a producer can readily switch its assets from producing one product to another. Market entry can be distinguished from supply side substitution by the requirement for significant investment in production, distribution or promotion.

- The functional market. Functional market definition focuses on the different steps in a production process. In defining functional markets, the Council has had regard to the Tribunal's approach to functional market delineation in the *Sydney Airport case*[5] which is consistent with the approach used by the High Court in *Queensland Wire* and developed by Mr Henry Ergas (Ergas 1997, pp. 1 - 3). The Council considers that the two following conditions must be satisfied before markets can be regarded as functionally separate.

  – The layers at issue must be separable from an economic point of view (*economically separable*). This involves an assessment as to whether the transaction costs in the separate provision of the good or service at the two layers are so large as to prevent such separate provision from being feasible. In effect, to be in different markets, vertical integration must not be inevitable.

  – Each layer must use assets sufficiently specific and distinct to that layer such that the assets cannot readily produce the output of the other layer (*economically distinct*). In effect, supply side substitution must not be so readily achievable as to unify the field of rivalry between the two layers.

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5 See paras 91 – 99.

Markets may be functionally separate even though there is a *one for one* relationship, that is to say, perfect supply and demand side complementarity. However, where complementarity is associated with economies of joint production or consumption such that separate provision or consumption was not economically feasible, the services will not be in functionally separate markets.

- The geographic dimension of the market. This refers to the area covered by the market such as national, intrastate or regional markets. The reference to 'other markets' in criterion (a) includes markets outside Australia.
- The temporal dimension of the market. refers to the period over which substitution possibilities should be considered. The temporal dimension may impact on how broadly the market is defined. With a longer time dimension, the ability of consumers to substitute to other sources of supply in response to a price increase is likely to be greater. For example, with a sufficiently long time dimension, gas consumers can switch to alternative fuels (e.g., oil) or sources of power (e.g., electricity) in response to an increase in the price of natural gas. The Council has considered each of these factors in its assessment of criterion (a).

## Market analysis

The applicant submits that the relevant primary downstream market is:

> *… the natural gas sales market in Darwin, and more particularly the industrial/commercial gas sales market since the potential for residential gas sales is minimal. However, [NT Gas Distribution] also suggests that there is a relevant secondary market – the industrial and commercial energy market in Darwin. (NTGD, p. 5)*

In defining the scope of the downstream market(s) the Council focuses on the market dimensions identified above.

In recent recommendations on applications for revocation of coverage for gas distribution systems in Mildura, Dalby and Roma, the Council concluded that the relevant downstream markets were the markets for the provision of natural gas to meet the demands of gas consumers in the respective towns. Similarly, the Council considers that the relevant downstream market in the current case is the market for gas sales in the area serviced by the City Gate to Berrimah Pipeline. The Council does not consider it necessary to narrow the market for gas sales to a particular type or types of customer (e.g., on the basis of type of premises or good or service produced).

The Tribunal has previously considered that the relevant product market is the market for natural gas; and there are a number of functional levels in the natural gas market including transmission, exploration, sales and distribution (Eastern Gas Pipeline decision 2001, paragraph 77). In line with these conclusions, the Council considers that the market in which the transmission services provided by the City Gate to Berrimah Pipeline exists, is separate from the market for natural gas sales.

The Council notes that the applicant considers the geographic scope of the downstream market to encompass the city of Darwin. The Council considers that there is a possibility that the geographic scope of the market is narrower, i.e. extending only to the Darwin Trade Development Zone and environs. In particular, it is not clear to the Council whether the reticulation system, which currently services a small number of industrial/commercial users in the Darwin Trade Development Zone and environs, could feasibly be extended to service any business or household in the city of Darwin. Whether a narrower or broader definition of the geographic scope of the market is adopted does not alter the Council's conclusions in relation to its assessment of the application against the coverage criteria, and the Council has therefore not found it necessary to form a definite view on the matter.

### Conclusion on markets

The Council is satisfied that the market in which the transmission services provided by the City Gate to Berrimah Pipeline exist, is separate from the market for gas sales in Darwin.

## Promotion of competition

Criterion (a) requires consideration of whether regulated access under the National Gas Access Code would promote competition in a dependent market.

The notion of competition is central to Australian trade practices law. Competition is a dynamic process, generated by market pressure from alternative sources of supply and demand. In this sense, competition expresses itself as rivalrous market behaviour. The key feature of effective competition is that no one seller (or group of sellers) or buyer (or group of buyers) has sustained and substantial market power.

The Federal Court, in the QCMA decision, described "competition" as follows:

> *"Competition expresses itself as rivalrous market behaviour … In our view effective competition requires both that prices should be flexible, reflecting the forces of demand and supply, and that there should be independent rivalry in all dimensions of the price-product-service packages offered to consumers and customers.*
>
> *Competition is a process rather than a situation. Nevertheless whether firms compete is very much a matter of the structure of the markets in which they operate.* (Re Queensland Co-operative Milling Association Ltd; Re Defiance Holdings Limited (1976) 25 FLR 169,188).

Promotion of competition refers to improving the opportunities and environment for competition such that competitive outcomes are more likely to occur. In considering s.44H(4)(a) of the TPA, on which criterion (a) of the National Gas Access Code is based, the Tribunal in the *Sydney Airport decision* made the following observations on the promotion of competition test:

> *The Tribunal does not consider that the notion of "promoting" competition in s 44H(4)(a) requires it to be satisfied that there would be an advance in competition in the sense that competition would be increased. Rather, the Tribunal considers that the notion of "promoting" competition in s 44H(4)(a) involves the idea of creating the conditions or environment for improving competition from what it would be otherwise. That is to say, the opportunities and environment for competition given declaration, will be better than they would be without declaration.*
>
> *We have reached this conclusion having had regard, in particular, to the two stage process of the Part IIIA access regime. The purpose of an access declaration is to unlock a bottleneck so that competition can be promoted in a market other than the market for the service. The emphasis is on "access", which leads us to the view that [section] 44H(4)(a) is concerned with the fostering of competition, that is to say it is concerned with the removal of barriers to entry which inhibit the opportunity for competition in the relevant downstream market. It is in this sense that the Tribunal considers that the promotion of competition involves a consideration that if the conditions or environment for improving competition are enhanced, then there is a likelihood of increased competition that is not trivial.* (Sydney Airport decision, paragraphs 106 - 107)

The Tribunal added:

> *The Tribunal is concerned with furthering competition in a forward looking way, not furthering a particular type or number of competitors. In this matter, therefore, the Tribunal must be reasonably satisfied that declaration would, looking forward, improve on the competitive conditions in the relevant markets that are likely to exist as a result of the [Sydney Airports Corporation Limited] tender process as compared with a situation where there was no declaration.* (Sydney Airport decision, paragraph 108)

The Tribunal in the *Eastern Gas Pipeline decision* endorsed this approach:

> *The Tribunal* [in the Sydney Airport decision] *concluded that the TPA analogue of criterion (a) is concerned with the removal of barriers to entry which inhibit the opportunity for competition in the relevant downstream market. It is in this sense that the notion of promotion of competition involves a consideration that if the conditions or environment for improving competition are enhanced, then there is a*

> *likelihood of increased competition that is not trivial. We agree.* (Eastern Gas Pipeline decision 2001, paragraph 75).

Consistent with the Tribunal's findings, the Council concludes that "promotion of competition" refers to improving the environment or conditions for competition. This may, for example, involve removing barriers to entry that inhibit opportunities for competition. Similarly, it may involve removing barriers that limit the ability of small players to expand their level of operations within a market.

In the *Eastern Gas Pipeline decision*, the Tribunal found that the ability to exercise market power in a dependent market is a key factor in determining whether coverage would promote competition:

> *Whether competition will be promoted by coverage is critically dependent on whether EGP has power in the market for gas transmission which could be used to adversely affect competition in the upstream or downstream markets. There is no simple formula or mechanism for determining whether a market participant will have sufficient power to hinder competition. What is required is consideration of industry and market structure followed by a judgment on their effects on the promotion of competition* (Eastern Gas Pipeline decision 2001, paragraph 116).

Ordover and Lehr describe the economic definition of market power as follows:

> *In economics, market power is defined as the ability to profitably raise prices above marginal cost. Any firm – other than a firm operating in a perfectly competitive market – can have, in principle, some ability to raise price above marginal cost: all that is required is that the firm faces a downward-slopping demand curve. Indeed, under some cost conditions, pricing at marginal cost would ruin the firm and is thus a precondition for financial viability.[6] Regulatory concerns arise only if the firm possesses significant and durable market power leading to prices that substantially deviate from proper economic costs and which generate persistent supracompetitive returns. When a firm possesses substantial and durable market power, it is often said to possess "monopoly power." Additionally, a firm with market power may have both an incentive and ability to engage in market strategies designed to protect its monopoly profits and power to the detriment of competition and consumers.[7]* (Ordover and Lehr 2001, p.7)

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6 "For example, marginal cost pricing will fail to recover total costs if there are substantial fixed costs."

7 "Of course, firms generally strive to protect or enhance their market positions. Such quest for profits and market share is, indeed, an engine of competition and should not be discouraged. See, for example, Jeffrey Church and Roger Ware, *Industrial Organisation*, Irwin/McGraw Hill, Boston (2000)."

## With or without coverage

As has been noted, the Tribunal found in the *Sydney Airports decision* that the "promotion of competition" test requires an assessment of whether regulated access would improve the competitive conditions in relevant markets, compared with the conditions likely to exist absent regulation (Sydney Airport decision, paragraph 108).

The Tribunal endorsed this approach in the Eastern Gas Pipeline decision:

> *... the question posed by criterion (a) is whether the creation of the right of access for which the Code provides would promote competition in another market. The enquiry is as to the future with coverage and without coverage. We agree with the approach adopted by the Tribunal in Sydney International Airport in this respect. The Tribunal must have regard to the position as it now stands, insofar as it provides a reliable guide to the future without coverage. Thus, (assuming the present is a reliable guide to the future without) account is to be taken of the EGP as an open access pipeline, and of any other pipelines supplying the upstream or downstream gas markets, in order to determine whether coverage of the EGP would promote competition in at least one of those markets* (Eastern Gas Pipeline decision, para 74).

## Council's consideration

The Council needs to consider whether NT Gas Distribution, as owner and operator of the City Gate to Berrimah Pipeline, has the ability and incentive to exercise its market power in the market for gas sales in Darwin.

In the *Eastern Gas Pipeline decision*, the Tribunal considered a range of factors in assessing whether the Eastern Gas Pipeline could exercise market power in a dependent market, including:

- the commercial imperatives on Duke Energy to increase throughput, given the combination of high capital costs, low operating costs and spare capacity;
- the countervailing market power of other participants in the dependent markets;
- the existence of spare pipeline capacity; and
- competition faced by Duke Energy from alternatives to the use of the Eastern Gas Pipeline in the dependent markets (i.e., the services of the Moomba to Sydney Pipeline and the Interconnect).

Following its consideration of these factors, the Tribunal concluded that the Eastern Gas Pipeline did not have market power in the dependent markets.

The Tribunal did not indicate that the list of factors on which it based its decision was necessarily an exhaustive one for assessing competitive conditions in dependent markets in all instances. Rather, the Tribunal focussed on pertinent aspects of industry and market structure of specific relevance to the Eastern Gas Pipeline.

There are two plausible reasons why a service provider with monopoly power over the provision of a service (provided by means of a pipeline) might use this power to impact competition in a dependent market or markets. First, it may seek to do this to exploit its monopoly position in the provision of the service. Second, insofar as it is (or plans to be) vertically integrated, it may seek to extend, protect or exploit whatever market power it may have in a dependent market or markets.

It is only where the service provider has both the incentive and ability to use its presumed monopoly power to affect adversely competition in the dependent market(s) that coverage will be likely to improve the conditions for competition in the market(s). The Ordover and Lehr model proposes three lines of inquiry for assessing whether a pipeline owner has the incentive and ability to exploit market power (i.e., inhibit competition) in upstream and/or downstream markets. The lines of inquiry are:

(a) the ability of the relevant pipeline owner to charge monopoly prices for transport services;

(b) the ability of the relevant pipeline owner to engage in explicit or implicit price collusion; and

(c) other incentives and opportunities for the relevant pipeline owner to distort competition in adjacent markets.

Whether the service provider will engage in the conduct described above depends upon it having both the ability and incentive to do so.

The service provider may have an incentive to engage in strategies designed to impact pro-competitively on competition in the dependent market(s). For example, if the service provider has no ownership interests in the dependent market(s) and if the pipeline has excess capacity, it may be profit maximising to promote increased competition in the dependent market(s) to reduce margins and prices in the dependent market(s) and increase incremental demand for the services provided by the pipeline. In these circumstances, the service provider will not have an incentive to engage in the conduct described above.

The applicant argues that access or increased access to the services of the City Gate to Berrimah Pipeline would not promote competition in other markets (NTGD, p. 3). The applicant argues that NT Gas Distribution has neither the ability to charge monopoly prices for transportation services nor the incentive to distort competition in adjacent markets (NTGD, p. 7).

According to the applicant, transportation charges on the City Gate to Berrimah Pipeline are effectively constrained by the existence of competing fuel sources. Indeed, the applicant argues that charging end-user prices sufficient to meet the efficient costs of the pipeline (i.e., maximum non-monopoly prices) would result in prices well above those of alternative fuels (NTGD, p. 8). The applicant states that, for the industrial/commercial market, LPG, industrial diesel oil, fuel oil and locally generated waste oil compete with natural gas, and that the cost of conversion from natural gas to LPG (for example) would not be prohibitive for existing customers (NTGD, pp. 7-8). In the residential market, solar is a cost effective option for water heating, while LPG and electricity can adequately meet cooking demand (NTGD, p. 4).

In the *Eastern Gas Pipeline decision*, the Tribunal noted that gas infrastructure in regional areas where gas penetration is growing face pressures from other fuel sources, such as LPG and electricity. The Tribunal took the view that these pressures represented a sufficient constraint on the price of gas in these areas and that regulated third party access was unnecessary. The Tribunal noted that, in relation to gas infrastructure in regional energy markets:

> *...the ability to monopoly price would be restricted because potential users have bargaining power, the costs of conversion to enable use of gas are significant....In other words, the prices of existing forms of energy will be a countervailing force on the price of gas and pipeline services.* (para 129)

NT Gas Distribution argues in the application that it has an incentive to increase revenue from the pipeline by increasing throughput, as the pipeline's profitability is marginal. It argues that it must increase revenue by increasing throughput rather than prices, as prices are firmly constrained by alternative fuels and the pipeline would otherwise lose existing business (NTGD, p. 8).

As noted above, the Council considers that, in certain circumstances, it may be profit maximising to promote increased competition in the dependent market(s) to reduce margins and prices in the dependent market(s) and increase incremental demand for the services provided by the pipeline. The Council's Final Recommendation on the application for revocation of the Roma distribution system concluded, relying on the statement of the Tribunal in the *Eastern Gas Pipelines decision* concerning regional markets, that the Roma Town Council did not have the ability or incentive to exercise market power to hinder competition because of the very small size of the market. Nor did it have the ability or incentive to use its vertical linkages to distort competition in the downstream market, as it was in its interest to promote increased throughput into the gas sales market. The Council came to a similar conclusion in its Final Recommendation on the application for revocation of Coverage for the Mildura Distribution System.

The Council notes the existence of significant spare capacity in the City Gate to Berrimah pipeline, the close competition provided by competing fuel sources and the marginal profitability of the City Gate to Berrimah Pipeline. The Council considers that these circumstances suggest that NT Gas Distribution has a strong incentive to maximise throughput of gas in the pipeline.

The potential for new participants to enter the gas sales market in Darwin, with or without coverage, appears limited. Market entry appears likely to be constrained by the small and slow-growing industrial base in the area, lack of residential demand for natural gas and strong competition from competing fuel sources. The applicants note that no potential users have requested access to the City Gate to Berrimah Pipeline, and consider that any future requests are unlikely (NTGD, p. 8).

The Council notes that NT Gas Distribution has vertical linkages, being both the owner and operator of the pipeline, as well as being the owner operator of the reticulation system and the sole gas retailer in the downstream market.

In general, the Council is concerned that a vertically integrated service provider may seek to extend, protect or exploit whatever market power it may have in the gas transport market into the downstream market. However, in its final recommendation on the application for revocation of the Roma distribution system, the Council accepted the views of the applicant and other interested parties that, due to the small loads used by consumers and the high transaction costs involved, it was uneconomical for individual gas users to negotiate contracts directly with producers to buy gas and then seek access to transmission pipelines and the Roma gas distribution system in order to have the gas delivered to those users. Therefore, continued coverage would not promote competition in the market for gas sales to consumers in the town of Roma. This was supported by statements that no third parties had ever sought access, or desired to seek access, to the Roma distribution system (NCC 2002a, p. 26).

The Council considers that the City Gate to Berrimah pipeline displays similar characteristics. In particular, the small total load and high transaction costs suggest that it would be uneconomical for individual customers to negotiate each component of a delivered gas tariff with the various service providers. The applicants argue further that:

> *… any disaggregation of the bundled service to customers into pipeline, distribution and retail components would eliminate existing economies of scope so as [to] render [NT Gas Distribution] beyond financial viability. (NTGD, p. 7)*

It also appears highly unlikely that continued coverage of the City Gate to Berrimah pipeline would promote competition in upstream markets. The application notes that there are some potentially significant new sources of gas supply for the Northern Territory but that their development is uncertain and would in any case be some years away (NTGD, p. 9). The small existing load and indifferent outlook for growth in the market for gas sales in Darwin suggest that continued Coverage of the City Gate to Berrimah Pipeline would be most unlikely to be a trigger for greater competition in upstream markets.

NT Gas Distribution also argues in the application that it cannot engage in explicit or implicit price collusion as there are no other relevant service providers with which to do so (NTGD, p. 7).

## Conclusion on criterion (a)

The Council agrees with the application, relying on the statement of the Tribunal in the *Eastern Gas Pipelines decision* concerning regional markets, that NT Gas Development does not have the ability or incentive to exercise market power to hinder competition in the downstream market because of the very small size of the market and because it is in its interest to promote increased throughput into the gas sales market.

The Council considers that continued coverage of the City Gate to Berrimah Pipeline is unlikely to promote competition in the downstream market for natural gas sales in Darwin.

The Council is therefore not satisfied that criterion (a) is met.

# 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

This criterion reflects the criteria in:

- section 44G(2)(d) of the TPA, relating to declaration of a service for access under Part IIIA of the Act; and
- clause 6(3)(a)(iii) of the CPA relating to assessments of the effectiveness of a State or Territory access regime.

The rationale for this criterion is that the National Gas Access Code should not be applied to pipelines where access might pose an undue risk to human health or safety.

The application does not address this criterion. It is therefore open to be implied that the applicant agrees that access (or increased access) to the services provided by means of the City Gate to Berrimah Pipeline can be provided without undue risk to human health or safety.

## Conclusion on criterion (c)

There is no evidence before the Council to suggest that regulated access cannot be provided to the City Gate to Berrimah Pipeline without undue risk to human health or safety. Consequently, the Council is satisfied that this criterion is met.

# Criterion (d) that access (or increased access) to the services provided by means of the pipeline would not be contrary to the public interest

The Tribunal in the *Eastern Gas Pipeline decision* considered that:

> *… criterion (d) does not impose an additional positive requirement which can be used to call into question the results obtained by the application of pars (a), (b) and (c). Criterion (d) accepts the results derived from the application of the other criteria, but enquires whether there are any other matters which lead to the conclusion that coverage would be contrary to the public interest (para 145).*

One matter of public interest is whether any benefits of coverage, such as cheaper prices and more efficient use of resources, are outweighed by regulatory or compliance costs. Other matters of public interest include environmental considerations, regional development, and equity.

While no attempt to list public interest considerations can be exhaustive, matters which might be considered include the open-ended list of items in clause 1(3) of the CPA:

- ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally or of a class of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

Other relevant matters may include impending access regimes or arrangements, national developments and the desirability for consistency across access regimes, relevant historical matters and privacy.

The criterion's use of the double negative – requiring satisfaction that access "would not be contrary to the public interest" – indicates that it does not constitute an additional positive requirement for satisfaction that access would be in the public interest. Rather, the Council must be satisfied that the overall costs of coverage do not outweigh the benefits of coverage. The extent of these benefits depends on the likely effect of coverage on competition in related markets considered under criterion (a) and the resultant positive effects on economic efficiency identified under criterion (d).

## The application

The applicant argues that access to the City Gate to Berrimah Pipeline via an Access Arrangement under the National Gas Access Code would be contrary to the public interest as the costs of providing access would exceed the public benefits (NTGD, p. 3).

- The administrative costs (estimated at $150,000) likely to be incurred in the preparation of an Access Arrangement for the City Gate to Berrimah Pipeline are disproportionately high in comparison with annual revenue. On a per customer and per terajoule basis, the applicant believes that the potential cost to the current market served by the City Gate to Berrimah Pipeline would be much greater compared to the other applications considered by the Council in revocation applications.

- The applicant does not believe that there is any reasonable basis on which these costs can be recovered from customers, given the prices of competing fuels. The likely effect of imposing costs of the above order on customers would be to cause a switch to alternative fuels, leaving the City Gate to Berrimah Pipeline with no market for its services.

- No other party has requested access to the City Gate to Berrimah Pipeline and the applicant believes no such request is likely in the medium term. The size of the potential gas market is so small as to be unlikely to attract other gas retailers. (NTGD 2003, pp. 10-14)

# Conclusion on criterion (d)

The Council accepts that there are regulatory and compliance costs associated with coverage under the National Gas Access Code.

It is necessary for the Council to determine whether the benefits of access outweigh the costs. On the evidence currently before the Council, no third party intends to seek access to the City Gate to Berrimah Pipeline, and there would appear to be no benefit from regulated access which the Council could weigh against the costs associated with regulated access. The most significant benefit of continued coverage is the possibility that access to the City Gate to Berrimah Pipeline will facilitate competition. In its consideration of criterion (a), the Council has concluded that continued coverage of the City Gate to Berrimah Pipeline would not promote competition in the downstream markets.

Accordingly the Council is satisfied that continued coverage of the City Gate to Berrimah Pipeline is contrary to the public interest. The Council is therefore satisfied that criterion (d) is not met.

# Appendix - Coverage criteria in the National Gas Access Code

Section 1.9 of the National Third Party Access Code for Natural Gas Pipeline systems provides:

> *Subject to sections 1.4(a) and 1.10. the NCC must recommend that the Pipeline be covered (either to the extent described, or to a greater or lesser extent than that described in the application) if the NCC is satisfied of all of the following matters, and cannot recommend that the Pipeline be Covered, to any extent, if the NCC is not satisfied of one or more of the following matters:*
>
> *(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.*

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—— 2000b, *Final Recommendation on application from Envestra Limited to revoke coverage of Alice Springs gas distribution network under the Gas Pipelines Access (Northern Territory) Act 1998*, July

—— 2000c, *Final Recommendation on application from AGL Energy Sales and Marketing Ltd for coverage of Eastern Gas Pipeline system*, June.

—— 2002a, *Final Recommendation on application from CMS Gas Transmission Australia to revoke coverage of the Parmelia pipeline under the Gas Pipelines Access (WA) Act 1998*, February

—— 2002b, *Final Recommendation on application from Roma Town Council to revoke coverage of the Roma distribution system under the Gas Pipelines Access (Queensland) Act 1998*, April

—— 2002c, *Final Recommendation on application from Envestra Limited to revoke coverage of the Mildura distribution system under the Gas Pipelines Access (Victoria) Act 1998*, December

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