

28 February 2005

Dr Michael Keating  
Chairman  
Independent Pricing and Regulatory Tribunal  
Level 2, 44 Market Street  
Sydney NSW 2000

Dear Sir,

**PUBLIC SUBMISSION**  
**Review of AGL Gas Networks NSW Access Arrangement**

**Introduction**

Hunter Gas Pipeline (HGP), a wholly-owned subsidiary of Hunter Energy, proposes to build, own and operate a transmission pipeline from a connection to the existing AGLGN Newcastle Pipeline near Seahampton, to Rutherford passing through the Hunter Economic Zone (HEZ) and the township of Kurri Kurri in the Hunter Valley.

The pipeline will convey natural gas to supply existing industrial and commercial loads and provide for the needs of others that may diversify into this developing area.

The proposed pipeline will have an approximate total length of 36.4 km. Its design, construction and operation will be in accordance with AS2885, "pipelines – Gas and Liquid Petroleum". It will be constructed of steel pipe manufactured and tested to comply with API Specification 5L – Grade X42.

The HGP development will be the first embedded network on the AGLGN gas network.

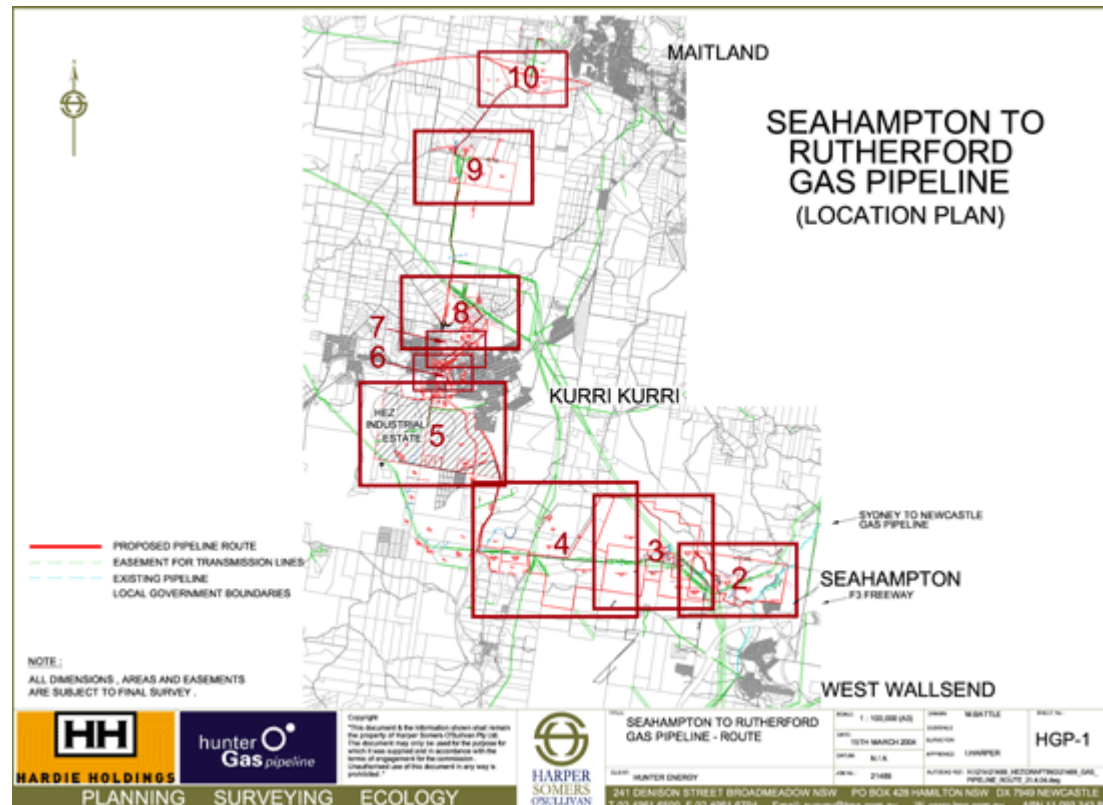
Accordingly, HGP is very mindful of the need for issues associated with this development to be recognised by IPART in its consideration of the proposed AGLGN Access Arrangement. A number of these issues which are discussed below are fundamental to be successful development of an embedded network.

Of particular note is that whilst both AGLGN and IPART recognise embedded networks as being a negotiated services, it is imperative that the terms and conditions within the Access Arrangement generally are balanced so as not to place unreasonable hurdles before embedded network developers.

## The Selected Route

The proposed pipeline route has been carefully selected to be as short as possible – consistent with servicing the required load points, to avoid locations in close proximity to dwellings and, as far as possible, to minimise environmental impact. Clearing of trees and vegetation has been minimised by use of open grazing farmland and existing cleared corridors to the maximum extent possible.

A map of the HGP route is shown below:



## Current Stage of Project Development

### 1. Regulatory Approval

A permit Application for the proposed pipeline was prepared and was submitted to Department of Energy, Utilities and Sustainability (DEUS) on 18 May 2004.

The Permit application and the Review of Environmental Factors have been reviewed by all Departments, including the Department of Infrastructure, Planning and Natural Resources (DIPNR). All comments received have been noted and incorporated by DEUS. A Draft list of Permit conditions and requirements has been reviewed and accepted by HGP. HGP is advised that the issue of the consent of the Minister for Energy for the Permit to be issued awaits the necessary sign off by four other Departmental Ministers.

Following the issuance of a Permit (which HGP understands is imminent) HGP will proceed with a Licence Application. Upon the Granting of a Licence under the NSW Pipelines Act (1967), HGP will be in a position to proceed with construction of the pipeline and facilities.

## **2. Landholder Issues**

In the meantime, work has been completed on the identification of landholders on the pipeline route and easement valuation. Negotiations to obtaining the necessary easement agreements are in an advanced stage with most landholders in preparation for easement registration with the Lands Department.

## **3. Design**

Detailed design of the pipeline and all associated systems, pressure reduction stations and associated facilities is also well advanced.

Individual approvals have been obtained from the three City Councils and the Road Transport Authority for State and Council controlled road crossings and from the Australian Rail Track Corporation for the crossing of the Great Northern Railway.

Extensive investigation has been undertaken to equip the pipeline to safely resist the predicted mine subsidence over the proposed Tasman Coal Mine and possible associated mine sinkhole collapses.

The adoption of a route paralleling and within high voltage electric power transmission easements has necessitated the design of an extensive induction mitigation system integrated with the normal cathodic protection measures. The design of these systems is in an advanced state and has been submitted to the relevant electrical transmission organisations for comment.

The preparation of Technical Specifications and Tender Documentation has been commenced in order that construction can be initiated as soon as regulatory and other approvals permit.

## **4. Other Approvals**

HGP is currently preparing a Reticulator's Authorisation application, which is due to be submitted to IPART during March 2005.

## **5. Interconnection with AGLGN Gas Network**

Discussions have commenced with AGLGN for the interconnection of the HGP with the AGLGN Trunk pipeline at Seahampton.

During November 2004, HGP requested AGLGN provide details of its requirements for the provision of a metered offtake on the Newcastle pipeline, the timing and costs associated with such offtake, and a copy of the proposed Embedded Network Service Agreement.

As at 28 February 2005, AGLGN has not provided details of any of the above requirements. AGLGN has proposed a Charge for Engineering Investigation, but has not commenced that investigation.

HGP is concerned that the delays being experienced in progressing the issues around interconnection are compromising the timetable for this pipeline development.

## **6. Customers**

HGP has executed transportation service agreements with two existing industrial consumers in the region to be serviced by the proposed pipeline. The two customers are Hydro Aluminium smelter at Kurri Kurri and Weston Aluminium.

Other customers are anticipated to be announced in the coming months, particularly relating to proposed new industrial developments to be located in the HEZ.

## **7. Timetable**

HGP anticipates achieving full project approvals by mid-2005, with construction of the pipeline to be undertaken during the third and fourth quarters of 2005, and first gas by end-2005.

### **Comments on proposed AGLGN Access Arrangement**

HGP is primarily concerned about the following key issues:

- De-linking of Trunk and Local Network Reference Services, which unless achieved has the potential to derail the HGP project;
- Conditions which apply to connecting an Embedded Network to the AGLGN system, including Load Shedding priorities on Embedded Networks users.

### **De-linking of Trunk and Local Network Reference Services**

HGP is confident that the Hunter gas pipeline project will proceed. We have contracted two customers, as previously stated, and expect to sign a lot more.

The pipeline approvals and construction details are progressing.

The only thing that is providing uncertainty and which could derail this project for Hunter users is the uncertainty regarding the applicable gas transportation tariff on the AGLGN gas network. It is imperative that standalone trunk services be established as reference services. The whole viability of the project hangs on that uncertainty being eliminated.

IPART has noted in its email advice to stakeholders (dated 16/2/05) that:

“Stakeholders may address any issues they consider relevant to the Tribunal’s considerations but in making their presentation/comments should keep in mind that the Tribunal must conduct its review within the

regulatory framework of the National Third Party Access Code for Natural Gas Pipeline Systems.”

HGP submits that IPART has the ability under the Code to be able to de-link the Trunk and Local Network Reference Services. We would remind IPART that they gave such a direction to AGLGN in both their Draft Decision of October 1999 (Amendment 3) and their Final Decision in July 2000 (Amendment 2).

The following set out detailed argument to support the de-linking of trunk and local network reference services

1. IPART in its Draft Decision dated October 1999 for the AGLGN stated on pages 62 and 63 the following:

#### 4.4.6 Treatment of transmission pipelines

##### Code Requirement

Schedule A of Code lists the pipelines to be covered from the commencement of the Code. AGLGN owns and operates the following NSW covered pipelines:

- Wilton to Newcastle (Wilton to Horsley Park, Horsley Park to Plumpton, Plumpton to Killingworth, Killingworth to Walsh Point)
- Wilton to Wollongong
- AGL NSW distribution
- AGL Central West system

The first two pipelines are transmission pipelines and the other two are distribution pipelines. The NSW Government has obtained derogation that the transmission pipelines are to be deemed to be distribution pipelines for the purpose of the Gas Pipelines Access Law and the Code until 1 July 2002. At that time, the regulation of the transmission pipelines will be transferred to ACCC.

Where a pipeline is covered, section 2.2 of the Code requires a service provider to establish an Access Arrangement.

##### AGLGN’s proposal

AGLGN’s proposed Access Arrangement covers all of its four covered pipelines, including the two transmission pipelines, Wilton to Newcastle and Wilton to Wollongong.

##### Tribunal’s assessment

The Tribunal considers the four pipelines cannot be aggregated as a single pipeline system under a single access arrangement. AGLGN has indicated to the Tribunal that at this stage the requirement to submit separate access

arrangements for each covered pipeline would impose excessive administrative costs and other burdens. There are difficulties regarding cost information and expenditure projections applicable to each covered pipeline, as all the pipelines are operated by AGLGN as an integrated system. There is no formal accounting separation among these pipelines. Meeting the requirement for separate access arrangements for the pipelines at the present time would inevitably cause delay to the review process and involve an arbitrary allocation costs.

The Tribunal has consulted the Government on this issue. The resolution of this issue is currently under Government consideration.

As the Tribunal regulation of the two transmission pipelines is planned to cease on 30 June 2002, it is essential that reference tariffs covering the transmission pipelines be identified and set separately in this Access Arrangement. AGLGN proposed trunk charges relate to the transmission pipelines only. As a consequence:

- provision of the cost and asset information should be consistent with the transmission pipelines specified in Attachment A to the Code
- the capital base relevant to the two transmission pipelines must be established under the ICB for the four gas pipelines, as redetermined by the Tribunal in this draft decision.

Tribunal's draft decision

### **Amendment 3 - Separation of transmission pipelines**

AGLGN is required to:

- p) establish separate reference services and tariffs associated with the transmission pipelines consistent with the route from Wilton to Newcastle and Wilton to Wollongong, as specified in Attachment A to the Code
- q) derive reference tariffs on a non discriminatory basis
- r) allocate the ICB as redetermined by the Tribunal into the four covered pipelines (ie Wilton to Newcastle, Wilton to Wollongong, AGL NSW distribution and AGL Central West distribution)
- s) provide separate asset and cost information for the two transmission pipelines (Wilton to Newcastle and Wilton to Wollongong).

The above is a technical issue related to jurisdiction and the requirements of the Code. However it did require AGLGN to “establish separate reference services and tariffs associated with the transmission pipelines consistent with the route Wilton to Newcastle and Wilton to Wollongong, as specified in Attachment A to the Code”.

2. In section 12.4.5 of the Draft Decision (October 1999), Partial use of assets, IPART stated on page 220:

Bypass of monopoly networks should not normally be viable. If it is, questions arise about the efficiency of the reference service available. AGLGN must develop reference services which allow for partial use of assets. This requirement disciplines the service provider to charge efficiently. Therefore, the Tribunal requires AGLGN to introduce reference services which allow partial use of assets.

3. In section 14.5.4 of the Draft Decision (October 1999), Separation of transmission, (page 257), IPART stated:

AGLGN's trunk system from Wilton to Wollongong and Wilton to Newcastle is listed in the Code as a transmission pipeline. NSW has sought derogation for these pipelines to be deemed distribution pipelines for the purpose of the Code until 1 July 2002. This part of AGLGN's distribution system will be regulated by the ACCC from July 2002.

To separate the transmission system, the initial capital base for the transmission pipelines must be established in accordance with section 8.10 of the Code. The cost of service will include the capital costs associated with the initial capital base. The operating costs should be those incurred by a prudent service provider acting efficiently. Any shared costs of the whole system should be allocated on some basis to the transmission line.

It is proposed that all transmission services be priced on the same basis, irrespective of end use. As this would lower the charges paid by the contract market for use of the transmission services, it would affect the contract market revenues. However, it would still be feasible to price access to different services on the distribution network on a stand alone, fully distributed, or incremental basis.

IPART was very clear in the Draft Decision on two points:

- There should be "separate reference services and tariffs associated with the transmission pipelines along the routes from Wilton to Newcastle and Wilton to Wollongong".
- There should be "reference services which allow for partial use of assets".

Any reasonable interpretation of IPART's intentions would include that a User must be able to obtain a trunk service as a reference service without being obliged to also take the equivalent local network service and vice versa. By repeatedly making reference to 'reference services' IPART has provided a clear direction that it intended that standalone trunk and local network reference services would be established and that coverage under a negotiated service was not contemplated for such services.

Section 15 – Separation of Transmission Assets, (pages 263-265) also dealt with the separation issue but was focussed on cost and prices issues.

4. On 30 November 1999, AGLGN provided IPART with a response to the draft decision. Under section C Detailed Response (pages 19 and 20), AGLGN provided two options to deal with the requirements of “Amendment 3 – Separation of transmission pipelines” of the Draft Decision.

Option 1, included a requirement for “making services for the respective Local Networks for both tariff and contract Customers”. Therefore Option 1 entrenches a policy that requires a User who requires a trunk reference service to also take the equivalent local network reference service, and whether or not they require that local network reference service.

Option 2, included details of a need to upgrade metering to fiscal standards on trunk main sections at a cost of approximately \$5 million and operating costs of \$500,000. Under ACCC jurisdiction with separate access arrangements, the metering upgrades and costs are probably required. But while those trunks remain under IPART’s jurisdiction, then the upgrades are not necessary to provide separate trunk and local network reference services. A person wishing to establish an embedded network is required to reimburse AGLGN for metering equipment installed at the inlet to the embedded network. AGLGN stated that “Option 1 substantially maintains the approach adopted by policy makers and AGLGN in having, as far as possible, a uniform tariff structure for Tariff customers across NSW”. This may be so, but it does not and it should not preclude non-tariff customers from having separate trunk reference services which provides for partial use of the system.

5. In February 2000, AGLGN released a Discussion Paper entitled “Matters arising out of the preparation of the Draft Decision Documents”.

In this paper AGLGN stated under point 4:

Separate services and tariffs are provided for the Trunk and Local Network in the Prices, Services and Terms and Conditions document.

The provision of separate services for the trunk has lead to a duplication of services which, in turn, has led to a substantially more complex suite of reference services. AGLGN does not believe there is any benefit to users in the separation of services between the Trunk and Local Network in the proposed Access Arrangement and believes that the better approach is to offer Reference Services for the whole of the Network in which the Reference Tariffs contain a Trunk and Local Network component. This would have the benefit of administrative and contractual simplicity, while achieving the result sought by the Draft Decision.

We take issue with AGLGN’s position.



It is misleading for AGLGN to state that “Separate services and tariffs are provided for the Trunk and Local Network in the Prices, Services and Terms and Conditions document”. The trunk and local network services are not separate – for to have one service a User must have the other. They are not stand alone reference services – the trunk and local network service are the two components of the one reference service.

AGLGN comments that “AGLGN does not believe there is any benefit to users in the separation of services between the Trunk and Local Network in the proposed Access Arrangement”. Firstly, AGLGN contradicts their previous statement that “Separate services and tariff’s are provided ...”. Secondly, the obvious benefit to users is that those users who only require a partial service can have that partial service and as a reference service in line with IPART’s clear and unequivocal intentions under the 1999 Draft Decision.

6. In its Final Decision in July 2000, IPART under section 3.7.1 (page 55) restated its position:

#### Final Decision

The following amendments were contained in the draft decision and are now specified in further amendments contained in the final decision:

- derive reference tariffs on a non discriminatory basis (chapter 14)
- allocate the ICB to the four covered pipelines (chapter 5)
- provide separate asset and cost information for the two transmission pipelines (see amendment 1).

In addition, the Tribunal requires AGLGN to establish separate services and tariffs within the Access Arrangement for the transmission pipelines.

#### **Amendment 2 – Separation of transmission pipelines**

In its Access Arrangement, AGLGN must establish and list Reference Services and Reference Tariffs for each of the Covered Pipelines:

- (a) Wilton to Newcastle; and
- (b) Wilton to Wollongong,

separately from the Reference Services and Reference Tariffs that it must establish and list for its NSW distribution system including the Central West distribution system.

The above is consistent with IPART’s earlier position that AGLGN “must establish and list Reference Services and Reference Tariffs” for each of the Wilton to Newcastle and Wilton to Wollongong pipelines.

Under section 11.5 (page 163) of the Final Decision IPART stated:

Amongst other factors, the Tribunal has reviewed its draft decision on AGLGN's reference tariff policy in light of the Code. The Tribunal has decided to maintain its required amendments.

7. In September 2000 IPART gave its Approval to AGLGN Access Arrangement.

On page 6, under the heading "Amendment 2 – Separation of transmission pipelines", IPART stated:

In its Access Arrangement, AGLGN must establish and list Reference Services and Reference Tariffs for each of the Covered Pipelines:

- (a) Wilton to Newcastle and
- (b) Wilton to Wollongong

separately from the Reference Services and Reference Tariffs that it must establish and list for its NSW distribution system including the Central West distribution system.

Tribunal's assessment

In its revised AA, all reference services are offered separately for:

- the local network ie AGLGN's NSW distribution system including the Central West distribution system
- each trunk ie the two transmission pipelines Wilton to Newcastle and Wilton to Wollongong.

AGLGN has defined the "Local network" and "Trunk Section" in Schedule 1 to the AA.

The Tribunal is satisfied that the revisions meet the requirements set out in Amendment 2.

The revisions sought by the amendment were that AGLGN "establish and list Reference Services and Reference Tariffs for each of the Covered Pipelines ... separately from the Reference Services the Reference Tariffs that it must establish and list for its NSW distribution system".

AGLGN failed to do as IPART directed yet IPART stated "The Tribunal is satisfied that the revisions meet the requirements set out in amendment 2".

That Approval, which in our view is not consistent with the Final Decision, had the effect of forcing those large customers who wish to bypass the local network into a position under which they must seek the trunk service as a negotiated service, and a position where they must negotiate from a less than equal position. IPART has moved significantly from its previously held position that trunk services should be separate

references services and that there should be references services which allow for partial use of assets. The “right” IPART sought to create in allowing Users to access separate trunk and local network services as a reference service has been relegated to a negotiated service which relies on the good grace of AGLGN to provide that service at the reference tariff rate. The approval granted by IPART in September 2000 is still with us today and it is proposed it continue for a further 5 years under the proposed Access Arrangement based on the Draft Decision of December 2004.

8. On the subject of stand alone trunk and local network services on page 25 of the 2004 Draft Decision, IPART stated in part in relation to the HGP:

Even if these projects were to proceed within the proposed access arrangement period, the Tribunal is not satisfied that a significant part of the market would seek a partial use of network service. Even with a narrower view of the market as encompassing just the Newcastle region, it is difficult to arrive at a conclusion that this service would be likely to be sought by a significant part of that market, especially given reasonable doubts as to projects’ timing and service requirements.

Furthermore the Tribunal is not persuaded that the interest of a few users in having access to standalone services would outweigh the legitimate business interest of AGLGN or the interests of other users and prospective users.

The Tribunal considers that a partial use of network service (involving the separation of local and trunk network services) is not likely to be sought by a significant part of the market and, having taken into account the various factors in section 2.24 of the Code, it is therefore satisfied that it should not be included as a reference service in the services policy of AGLGN’s access arrangement. As this does not preclude prospective users and AGLGN negotiating the provision of such a service outside of the access arrangement, there is still an incentive for AGLGN to develop and offer negotiated services for users that require a separate trunk or local network service.

IPART appears to have backed away from its strongly held position of 1999 that there should be “reference services for partial use of assets”.

IPART’s reasons for not requiring AGLGN to provide separate trunk reference services and local network reference services noted in respect to prospective users of an embedded network that (page 24 of Draft Decision) “The Tribunal considers that, in effect, these stakeholders are seeking a “partial use of network” service, although as a reference service with an associated reference service tariff”. IPART’s assessment of what some large industrial gas users are seeking is correct. They are seeking a trunk service as a trunk reference tariff, a position consistent with IPART’s own position held in 1999 that reference services should be available for partial use of assets. IPART, in determining not to require AGLGN to provide separate trunk and local network reference services, cited as reasons:

- AGLGN proposal to remove the partial use of local network service it offers in its existing access arrangement as a non-reference service on the basis of lack of interest in the service;
- the likely demand for such services, with IPART not being satisfied “that a significant part of the market would seek a partial use of network service”;
- IPART is “not persuaded that the interest of a few users in having access to standalone services would outweigh the legitimate business interests of AGLGN or the interests of other users and prospective users”.

and determined, having taken into account the various factors in section 2.24 of the Code, that it is satisfied that separate trunk and local network reference services should not be included as reference services in the services policy of AGLGN’s Access Arrangement.

We are at the view that IPART in making its decision failed to apply sufficient weight to the following matters:

- IPART’s previous statements expressing the desirability of having “reference services for partial use of assets”. Which it could, and can, require AGLGN to implement under section 3.2(a)(ii) of the Code – “any Service or Services which in the Relevant Regulators opinion should be included in the Services Policy”.
- Section 3.2(b) of the Code contemplates partial use of service, and states: “**To the extent practicable and reasonable, a User or Prospective User must be able to obtain a Service which includes only those elements that the User or Prospective User wishes to be included in the Service**”. Given that AGLGN have established terms and conditions and tariffs separately for the trunk and local network components of their reference services, the “practicable and reasonable” components of section 3.2 (b) of the Code should not be an issue in establishing separate reference services for trunk and local network services. If IPART believes it desirable to have separate trunk and local-network reference services, a view it held in 1999, then we cannot see any impediment to such a course given the “practicable and reasonable” provisions are satisfied. Allowing AGLGN to continue to offer only combined trunk and local network reference services when customers and potential customers request separate reference services is in our view unreasonable.
- The “not required by a significant part of market” issue needs further examination. AGLGN offers backhaul services as a reference service albeit as a reference service for a combined trunk and local-network service. While we do not advocate that this service should not remain a reference service, we use it as an example of a service, which to our knowledge has no users and therefore is not required by a significant part of the market. The point is that the application of the Code by IPART appears to be selective in determining the merits of approving or disapproving a service as a reference service on the basis of the “significant part of the market” test.

- Section 2.24 of the Code lists a range of matters that IPART must take into account when assessing a proposed Access Arrangement. These include:
  - the Service Provider’s legitimate business interests
  - the public interest, including the public interest in having competition in markets (whether or not in Australia)
  - the interests of Users and Prospective Users
  - and other matters that the Relevant Regulator considers are relevant.

In determining not to require AGLGN to provide stand-alone trunk and local network reference services, we believe that IPART did not assign sufficient weight to the “public interest”, particularly having regard to the “public interest in having competition in markets” (which HGP brings to the Hunter region), and the “interests of Users and Prospective Users”, and given IPART’s 1999 position that there should be “reference services which allow partial use of assets” we would have thought “the other matters that the Relevant Regulator considers are relevant” issue would have borne considerable weight.

This issue is not just about AGLGN’s business interests – particularly if the decision not to de-link actually hinders competition in the market for pipeline services in NSW.

9. We note that The Allen Consulting Group on pages 26 and 27 in their “Revisions to AGLGN’s Access Arrangement-Assessment of Terms and Conditions” dated 28 October 2004 stated (in part) in relation to non-reference services:

Despite the inability of IPART to require amendment to the terms and conditions for non-reference services if it considers these to be unreasonable, IPART is able to give consideration to whether the relevant non reference service should be a reference service, in which case the terms and conditions would be subject to assessment against the criterion of section 3.6 of the Code. This matter for consideration in respect of the services policy of an access arrangement and is not further addressed in this report.

#### **Final analysis and recommendations**

The Allen Consulting Group maintains the conclusion as set out under its preliminary analysis that the Code does not empower IPART to require that an access arrangement include terms and conditions for non-reference services.

The Allen Consulting Group’s comments, with which we concur, confirm the grounds under the Code by which IPART can require AGLGN to provide separate trunk and local network reference services as stand alone services should IPART so determine.

10. In 1999/2000 IPART stated that: “the Tribunal’s regulation of the two transmission pipelines is planned to cease on 30 June 2002”. This did not happen and the date has been extended to 30 June 2007 pursuant to the Gas Pipelines Access (New South Wales) (Savings and Transitional) Amendment Regulation 2002. Unless the NSW Government again moves back that date, then regulation of the Wilton-Newcastle and Wilton-Wollongong transmission pipelines will come under ACCC regulation from 1 July 2007. This is some 3 years prior to the proposed end of the proposed Access Arrangement. Unless IPART has information which confirms the NSW Government will again extend regulatory coverage by IPART, and to beyond 1 July 2010, then we would suggest it would be prudent for IPART to require changes to the proposed access arrangement, as it believed necessary in 1999, to accommodate a change in regulatory process for the transmission pipelines.
11. The reasons IPART provides for not supporting a de-linking of trunk and local network reference services relies on section 2.24 and 3.2 of the Code, which state:

#### 2.24

The relevant Regulator may approve a proposed Access Arrangement only if it is satisfied the proposed Access Arrangement contains the elements and satisfies the principles set out in section 3.1 to 3.20. The Relevant Regulator must not refuse to approve a proposed Access Arrangement solely for the reason that the proposed Access Arrangement does not address a matter that sections 3.1 to 3.20 do not require an Access Arrangement to address. In assessing a proposed Access Arrangement, the Relevant Regulator must take the following into account:

- (a) the Service Provider’s legitimate business interests and investment in the Covered Pipeline;
- (b) firm and binding contractual obligations of the Service Provider or other persons (or both) already using the Covered Pipeline;
- (c) the operational and technical requirement necessary for the safe and reliable operation of the Covered Pipeline;
- (d) the economically efficient operation of the Covered Pipeline;
- (e) the public interest, including the public interest in having competition in markets (whether or not in Australia);
- (f) the interest of Users and Prospective Users;
- (g) any other matters that the Relevant Regulator considers are relevant.

#### 3.2

The Services Policy must comply with the following principles:

- (a) The Access Arrangement must include a description of one or more Services that the Service Provider will make available to Users or Prospective Users, including:
  - (i) one or more Services that are likely to be sought by a significant part of the market; and

- (ii) any Service or Services which in the Relevant Regulator's opinion should be included in the Services Policy.
- (b) To the extent practicable and reasonable, a User or Prospective User must be able to obtain a Service which includes only those elements that the User or Prospective User wishes to be included in the Service.
- (c) To the extent practicable and reasonable, a Service Provider must provide a separate Tariff for an element of a Service if this is requested by a User or Prospective User.

As AGLGN have conditions of service and tariffs for each of the trunk and local network components of the reference service in place now, one begs the question as to what detriment is caused to AGLGN and other users of the system by a de-linking which creates separate trunk and local network reference services having regard to IPART's statements in the 1999 Draft Decision.

IPART can apply section 3.2(a)(ii) of the Code to establish de-linked services and satisfy sections 3.2(b) and (c).

12. HGP has a strongly held view that there is no substantial argument for not de-linking trunk and local network reference services. IPART itself proposed this move in 1999 but settled for a response from AGLGN which wasn't consistent with IPART's decision, thereby forcing users into a negotiated service situation where outcomes can be very uncertain and to a large degree dependent on the level of good faith displayed by AGLGN.

We seek that IPART review its draft decision with view to creating separate trunk and local network reference service.

### **Load Shedding Priorities on Embedded Networks**

HGP is of the opinion that all users of the AGLGN gas network, whether or not they happen to utilise an Embedded Network, should have the same load shedding arrangements/principles applied. The contract users served by an Embedded Network should, for the purposes of load shedding, be treated exactly the same as AGLGN's other customers. It should be mandatory for Embedded Network Operators and AGLGN to apply the AGLGN Load Shedding priorities to contract users of the Embedded Network as if they were exclusively served by the AGLGN. It is not acceptable to potentially leave certain contract users unduly exposed simply because they are being supplied from an Embedded Network.

HGP submits that IPART has incorrectly ruled in relation to this issue in its Draft Decision on the basis that it is discriminating in its treatment of end-users whose Delivery Point is into an Embedded Network rather than a site supplied on the AGLGN local network.

We note the following extracts from the Draft Decision:

ACG considered the terms and conditions related to embedded network to be outside the scope of the Tribunal's assessment, as section 3.6 of the Code relates only to terms and conditions for reference services. It also considered that, on the whole, the elements of the operational principles (which include load shedding and establishment of receipt points) are reasonable. (page 140)

The Tribunal agrees with ACG that the terms and conditions relating to the load shedding principles, load shedding priorities, and establishment of receipt points are largely reasonable, and that the terms and conditions relating to embedded networks are outside the scope of this review. (page 141)

We submit that ACG and IPART have confused the issue of Embedded Network arrangements with the issue of the rights of users utilising the AGLGN Reference Services.

Notwithstanding that arrangements for Embedded Networks are negotiated services under the Access Arrangement (ie the rules for interconnection, etc), this is a separate matter.

If a user is contracting for a reference service, regardless of whether the delivery point is into an embedded network or not, that user should be treated no differently to any other user of the AGLGN gas network, including for the purposes of load shedding priorities.

Every user who contracts for AGLGN transportation services must nominate a Receipt Point and a Delivery Point on the AGLGN gas network for that service. In the case of a user seeking transportation services into an Embedded Network, the Delivery Point is the entry point into that Embedded Network.

The fact that there may be a number of separate users nominating the same Delivery Point is irrelevant – all these users are utilising AGLGN reference services up until that point, so should be treated in a non-discriminatory manner.

This particular issue again highlights the need for standalone trunk reference services.

Notwithstanding the above, IPART should recognise that it is reasonable that regardless of whether a user is a reference or negotiated services user, the load shedding should be the same for all end-users, and that embedded network operator should, in respect to restrictions and load shedding on the AGLGN gas network, be required to apply those same load shedding principles as a condition of service on its embedded network.



## **Conclusion**

The Hunter Gas Pipeline project has the potential to underpin substantial industrial growth in the Hunter region by providing competitively priced gas transportation services.

HGP is currently in discussions with AGLGN for the interconnection of the HGP with the AGLGN Trunk pipeline at Seahampton. We are clearly mindful of the requirement to negotiate embedded network services with AGLGN, and hope that those discussions can be conducted and completed in good faith and with an outcome which provides quality services at competitive prices for all Users and end-users.

HGP seeks that IPART reconsider its decision on key aspects of the AGLGN Access Arrangement terms and conditions which have the potential to impact on the competitive outcome which stakeholders are seeking and even threaten the viability of the project if such terms and conditions (as discussed above) are not balanced to reflect the interests of all stakeholders.

Yours sincerely

Garbis Simonian  
**Managing Director**