

16 November 2004

## **Proposed minor variations to MSO Rules & a revision to VENCORP's Access Arrangement for the Principal Transmission System**

### ***Introduction***

On 5 November 2004, the Victorian Energy Networks Corporation (VENCORP) applied to the ACCC proposing six minor variations to the authorisation of the Victorian Gas Market & System Operations Rules (MSO Rules) under Section 91A of the Trade Practices Act 1974.

The ACCC has authorised the MSO Rules until 31 December 2012.

The purpose of this notice is to invite your comment on this application. The proposed minor variations are set out in greater detail in the application, which may be viewed on VENCORP's website at [www.vencorp.com.au](http://www.vencorp.com.au).

### ***The proposed minor variations***

VENCORP states that the proposed minor variations to the MSO Rules provide for:

- clarification, and sundry corrections of minor drafting error
- re-structuring of provisions relating to compensation for directions to inject gas and/or the application of an administered price cap under market suspension, force majeure, and IT failure preventing normal determination of market price
- amendments to the process for raising disputes on settlement outcomes and making revisions to settlement statements to better manage billing periods both before and after implementation of full retail contestability ('FRC') on 26 October 2002.

### ***Impact of the proposed minor variations***

VENCORP asserts that the proposed minor variations do not affect the fundamental principles, objectives or design of the Victorian gas market or the market design already authorised by the ACCC.

The ACCC is aware that the proposed minor variations have already been the subject of public consultation processes prior to approval by the VENCORP Board. The current consultation process forms part of the Commission's statutory obligations under the *Trade Practices Act (1974)* and *Gas Industry Act (1994) (Vic)*.

The ACCC invites comment as to whether these minor variations would result, or would be likely to result in:

- a) a reduction in the extent to which the benefit to the public outweighed the detriment caused to the public by the original authorisation; or
- b) a reduction in the benefit to the public that arose from the original authorisation.

## ***Submissions***

Submissions concerning these variations and their impact on the current authorisation must be delivered to the ACCC by Tuesday 30 November 2004. Unless confidentiality is requested, submissions will be publicly available and placed on a public register for that purpose.

If you wish to include information in a submission which is of a confidential nature, it should be clearly marked as such and a claim for confidentiality for the material should also be submitted. You will be informed of the outcome of that claim and, if it is refused, the relevant material will be returned to you if you wish.

Material for which confidentiality is granted will not be publicly available, but may be taken into account by the ACCC in considering whether to allow the previously granted authorisation to cover the proposed changes.

Guidelines for seeking confidentiality are attached.

## ***Access arrangement revision***

Concurrently, VENCORP also applied to revise its Access Arrangement for the Principal Transmission System in Victoria under s2.28 of the National Gas Code (the Code). The MSO Rules form part of the Access Arrangement.

The proposed revisions to its Access Arrangements are set out in detail in the application, which may also be viewed on VENCORP's website at [www.vencorp.com.au](http://www.vencorp.com.au).

VENCORP has submitted that the proposed revisions meet the criteria set out in s2.33 of the Code, which permits the Commission to truncate the typical approval process for revisions where:

- the revision is proposed other than as required by the access arrangement; and
- the Commission considers that the revisions proposed are not material and will not result in changes to reference tariffs or the services that are the reference services.

The ACCC welcomes comments on whether the revisions proposed by VENCORP meet the criteria of s2.33 of the Code as set out above.

All submissions should be addressed to:

Mr Mike Buckley  
General Manager  
Regulatory Affairs – Gas  
Australian Competition and Consumer Commission  
PO Box 1199  
Dickson ACT 2602  
Fax: (02) 6243 1205

All submissions must be in writing and should also be supplied in electronic form (compatible with Microsoft Word 2003 for Windows). They may be e-mailed to [gas@acc.gov.au](mailto:gas@acc.gov.au).

Please contact Fessehaie Abraham on (02) 6243 1232 if you have any queries in relation to this matter.

## GUIDELINES FOR CONFIDENTIALITY CLAIMS

The process whereby the Commission assesses applications for authorisation is very public, transparent and consultative. The *Trade Practices Act 1974* (the Act) requires the Commission to maintain a public register in respect of authorisation applications.

Applicants and interested parties can request that a submission, or a part of a submission, be excluded from the public register.

The Commission is required under the Act to exclude from the public register upon request details of:

- (i) secret formulae or processes;
- (ii) the cash consideration offered for the acquisition of shares in the capital of a body corporate or assets of a person; or
- (iii) the current manufacturing, producing or marketing costs of goods or services.

The Commission also has the discretion, under s89 of the Act, to exclude material from the public register if it is satisfied that it is desirable to do so, either by reason of the confidential nature of the material or for any other reason. The Commission expects that a party claiming confidentiality on these grounds will present a case for its treatment in this manner.

Under Regulation 24 of the *Trade Practices Regulations*, when a request for confidentiality is made to the Commission:

- (a) where the request is that a whole document be excluded, the words “**Restriction of Publication Claimed**” should appear in red writing near the top of each page; and
- (b) where the request is that part of a document be excluded, the words “**Restriction of Publication of Part Claimed**” should appear in red near the top of the first page of each document, and the part for which confidentiality is claimed should also be marked in red. A submission of more than 5 pages should also include a description of the whereabouts of the parts for which confidentiality is claimed.

However, even if a document does not meet these technical requirements, the Commission may still grant confidentiality where, in the Commission's view, it is desirable to do so.

If the Commission denies a confidentiality request, the requesting party may ask that the material be returned. As a matter of practice, the Commission will specify a period (usually 14 days) in which they can request the return of such material. Upon response, the Commission will return the original material and destroy all associated copies. The Commission will not consider this material when reaching its decision.

If the Commission does not receive a response within the specified period, the original material will be placed on the public register.

Information or documents granted confidentiality may be used by the Commission pursuant to its powers generally under the *Trade Practices Act*.