



**Australian
Competition &
Consumer
Commission**

Our Ref: N40987; C2006/1063
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20 June 2006

Attn: Ms Jo Daniels
Partner
Clayton Utz Lawyers
Level 18
333 Collins Street,
Melbourne VIC 3000

Dear Ms Daniels,

Re: Blacktip Gas Sales Agreement – Notification

The ACCC is currently undertaking a detailed assessment of the Notification lodged by your client, the Power and Water Corporation (PWC), in relation to the proposed Gas Sales Agreement (GSA) with Eni Australia B.V. (Eni). As part of this process, we are seeking some additional information in relation to the curtailment clause (Clause 15.1) written into the proposed GSA.

Clause 15.1 of the proposed GSA stipulates:

“Gas to be delivered and sold to the Buyer (PWC) under this agreement has a higher priority than all of the Seller’s (Eni) other customers (if any), so that, if, for any reason, the capacity available...is restricted on any day...the Seller (Eni) must allocate all gas available for delivery...to the Buyer (PWC).”

In the event of a curtailment, Clause 15.1 suggests that new customers receiving supply from Eni (if any) will always rank lower than PWC in priority. This may have implications for potential new NT gas customers in terms of the attractiveness of seeking supply from the Blacktip field.

The submissions from both notifying parties in support of the notified conduct argued that any detriment would be mitigated by the availability of additional Blacktip reserves, which could then be marketed to other users.



The effect of Clause 15.1 may be to detract from this mitigating feature, as Eni may have difficulty marketing its gas to new customers. For example, it may be particularly difficult for Eni to attract an NT power generator with electricity customers for whom reliability of supply is of paramount concern (eg. hospitals, nursing homes). The ACCC considers that if Eni is restricted in contracting out its reserves to new customers, the competitive influence of additional Blacktip gas may be reduced.

Could you please provide further information regarding the underlying purpose/need for Clause 15.1 in the proposed GSA. The ACCC would appreciate this information by Thursday 22 June.

A copy of this letter has been placed on the public register.

Should you wish to discuss this matter, please do not hesitate to contact David Hatfield on (02) 6243 1266.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Scott Gregson', with a large, sweeping flourish extending to the right.

Scott Gregson
General Manager
Adjudication Branch