

1994

THE PARLIAMENT OF THE COMMONWEALTH  
OF AUSTRALIA

SENATE

MOOMBA-SYDNEY PIPELINE SYSTEM SALE BILL 1994

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and new clauses to be moved on behalf of the Government

(Circulated by the authority of the Minister for Finance,  
the Hon Kim C Beazley, MP)





## **MOOMBA-SYDNEY PIPELINE SYSTEM SALE BILL 1994**

*(Amendments to be moved on behalf of the Government)*

### **OUTLINE**

Part 6 of the Moomba-Sydney Pipeline System Sale Bill provides for a regulatory regime which will apply specifically to the Moomba-Sydney pipeline system post-sale. This regime was developed with the assistance of the Trade Practices Commission and key parties with an interest in the sale were consulted.

A Government condition on the sale was the resolution of various contractual rights held by the Cooper Basin Gas Producers. The Government is seeking a negotiated settlement with the Producers prior to the sale.

The amendments to clause 80 will provide the Producers with legislative protection of the Schedule A volumes of gas which AGL has contracted to purchase from the Producers pursuant to the Letter of Agreement and the resolution of residual Trade Practice Commission concerns.

Other amendments are of a technical nature and included correction of a drafting error in clause 32 and providing clarification by inserting a definition of "sale act" in clause 159.

### **FINANCIAL IMPACT STATEMENT**

No identifiable financial impact.

### **NOTES ON AMENDMENTS**

- (1) Amendment (1) omits from clause 32, subclause (4) the words "after the sale day but before 15 October 1994". These words were included in the Bill in error.
- (2) Amendment (2) inserts subclause (3) to clause 66. Subclause (3) provides that a reference in Part 6 to engaging in conduct includes a reference to failing or refusing to do an act or thing.
- (3) Amendment (3) omits subclause (2) from clause 73. This is a consequential amendment to amendment (2).
- (4) Amendment (4) omits paragraphs 80(3) (a) and (b) and substitutes new paragraphs to provide that the Trade Practices Commission (TPC) must not make a determination which affects the right of AGL Sydney Limited to obtain haulage services under its new Gas Transportation Agreement with Newco to have hauled the gas which AGL purchases under its gas supply agreement up to the volumes worked out under Schedules A and C of the Letter of Agreement with the Cooper Basin Gas Producers. It also provides for AGL Sydney Limited's right, and that of future clients of Newco, to require Newco to supply haulage services sufficient to protect the right of their contract customers to obtain their gas supply thus enabling Newco's clients to meet their contractual obligations to meet their customer's actual gas requirements where those contracts are in force at the time notice of an access dispute is given.

- (5) Amendment (5) inserts a new subclause 80(3A) which provides that the TPC must not make a determination which affects the right of a person who pays for increased capacity of the Pipeline System to require Newco to supply haulage services from that increased capacity sufficient to meet that person's own haulage requirements or that person's obligations to supply gas to that person's contract customers.
- (6) Amendment (6) inserts a new subclause 80(6A) which provides that any amendment to the Letter of Agreement on or after the sale day does not affect the operation of clause 80 including the rights of the Producers or their successors and assigns as protected by clause 80.
- (7) Amendment (7) inserts a definitions in subclause 80(8) which are relevant to subclauses 80(3), 80(3A), and 80(6A). Nothing in these definitions operates to remove the protection accorded to the Producers' rights under the Letter of Agreement by Section 80(3) should the Producers assign those rights in the future.
- (8) Amendment (8) inserts "or 135A" to clause 114 subclause (1) **Enforcement of section 73 and subsection 129(1)**. Subclause 114 (1) provides for the TPC or any other person to apply to the Federal Court for an injunction and other orders against a Moomba operator or related body corporate of the operator for engaging or proposing to engage in conduct which prevents or hinders the supply of haulage services to a person in New South Wales or the Australian Capital Territory. Adding "or 135A" has the effect of providing a Federal Court action as the remedy for infringement of 135A.
- (9) Amendment (9) inserts a new clause **135A Certain information to be supplied to the TPC**. This clause provides that if a Moomba operator decreases the amount of haulage services provided to a party under a determination because those services are actually required by a person whose rights are covered by subclauses 80(3) or 80 (3A), the Moomba operator must give the TPC and each party to the determination a written notice informing the TPC and each party of the details of the circumstances giving rise to the decrease in the provision of haulage services. The notice must be given within 7 days of the time when the decrease happens.
- (10) This inserts a new definition in clause 159 of "Sale Act" to mean the *Moomba-Sydney Pipeline System Sale Act 1994*. Clause 159 repeals section 28 of the *Pipeline Authority Act 1973* and substitutes a new section **28 Financial policy**. This section sets the financial policy of the Authority post-sale.