



Todd Energy

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Public Version

Gas Pipelines Inquiry
Commerce Commission
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Wellington

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Mining Company
Limited**

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Submission in Response to the Gas Control Draft Report (21 May 2004)

Summary

1. This submission is made by Todd Petroleum Mining Company Limited ("Todd") in relation to the pipeline running from the Kapuni gas field to the Hawera Co-Generation plant ("Kapuni/Hawera Pipeline").
2. Todd submits that there are no grounds for control of the Kapuni/Hawera pipeline under section 52 of the Commerce Act 1986 ("Act") because:
 - (a) competition in the relevant market is not "limited or likely to be lessened" in terms of the test in section 52(a); and
 - (b) the costs of controlling the pipeline outweigh the potential benefits to acquirers.
3. Confidentiality is claimed in respect of all information contained within square brackets.

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Background to the Kapuni/Hawera Pipeline

4. The Kapuni/Hawera Pipeline is jointly owned by Todd and Shell (Petroleum Mining Company) Limited ("Shell"). It is approximately 22 kilometres long.
5. The pipeline was built to transport untreated gas from the Kapuni gas field to the cogeneration plant at Fonterra's dairy factory in Hawera (owned by the Kiwi Joint Venture ("Kiwi") between Todd and Fonterra). The pipeline has since been extended to allow Todd and Shell to also supply Taranaki By-Products Limited. In respect of both customers, energy and distribution are provided on a bundled basis.
6. Todd and Shell's agreement to supply gas and transmission services to Kiwi expires in []. The parties are currently negotiating a new agreement to apply after that.



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Competition

7. Todd submits that the Kapuni/Hawera Pipeline is subject to competition from both the adjacent NGC South pipeline and the threat of a competitor installing a new pipeline and supplying Kiwi on expiry of its contract with Todd and Shell. Other pipelines could potentially supply transmission services to Kiwi and Taranaki By-Products and therefore competition is not "limited or likely to be lessened".
8. Kiwi's ability to change its supplier of transmission services on expiry of its contract acts as a competitive constraint on the Kapuni/Hawera Pipeline.
9. The NGC South pipeline runs parallel to the Kapuni/Hawera Pipeline. Although it carries gas of a different specification, it would be possible to alter the Kiwi cogeneration plant to enable it to run on treated gas. NGC has previously indicated that its South pipeline has sufficient capacity to supply Kiwi and that it would consider building a link from the NGC South pipeline to the Kiwi cogeneration plant. Purchasing transmission services from NGC would be a viable alternative for Kiwi. It is notable that, prior to Shell and Todd building the pipeline and commencing to supply Kiwi in 1996, the Kiwi dairy factory was supplied by NGC, via the NGC South pipeline.
10. The Kapuni/Hawera Pipeline is only approximately 22 km long and Todd estimates the cost to replace it would be approximately []. Kiwi's gas consumption means that it would be economic for Todd and Shell's competitors to construct a new pipeline to Kiwi.

Interests of Acquirers

11. Todd agrees with Commission's finding that control of the Kapuni/Hawera Pipeline would not be in the interests of acquirers.
12. The costs of control of the 22 kilometre pipeline would far outweigh any benefit to Kiwi or Taranaki By-Products. The test in section 52(b) is not met and there is no case for control.

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