

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 4 MARCH 1998**

**Hon Mark Nevill (Chairman)
Hon E.R.J. Dermer
Hon Muriel Patterson
Hon Simon O'Brien
Hon Bob Thomas**

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- (a) constitute a contempt of the Legislative Council; and**
- (b) mean that the publication or disclosure of the relevant material is not subject to parliamentary privilege.**

MURPHY, DR PETER
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The CHAIRMAN: Welcome to the Standing Committee on Estimates and Financial Operations. These proceedings are being recorded by *Hansard* and a transcript of your evidence will be provided to you for your information. Once you receive the transcript please read it and make any corrections you feel are necessary on questions of fact and return it to the committee clerk for alteration.

The committee previously resolved that unless witnesses make a request for evidence to be heard in a private session, all hearings of this inquiry will be heard in public. Under Standing Order No 322 the proceedings can be recorded only by members of the Western Australian Parliamentary Press Gallery. I therefore ask all members of the public not to make a record of these proceedings.

Have you been shown an extract of Standing Order No 330 on the entitlements of witnesses appearing before the committee as provided in the witness information sheet you have just completed?

Dr MURPHY: Yes I have.

The CHAIRMAN: Do you fully understand the meaning and effect of those provisions?

Dr MURPHY: Yes.

The CHAIRMAN: All evidence and documentation that you provide to the committee will be covered by parliamentary privilege. I must read to you part of the document you have signed as a prospective witness -

A committee hearing is a proceeding in Parliament. As such, you must not deliberately mislead the committee and you must respect the members of the committee and the committee's orders and procedures. If you do not comply with these requirements, you may be subject to legal penalties.

You have already signed a form to this effect but I restate that provision for your information and for the record.

Thank you for your submission to the inquiry. Did you receive a copy of the two-page letter with 13 questions that the committee wrote to Hon Colin Barnett?

Dr MURPHY: Yes.

The CHAIRMAN: In that letter the committee asked that the submission address certain matters. Your submission addresses question No 1, seeking a copy of the published tariffs, the tariffs setting principles and a set of terms and conditions available to all third party users referred to in a question that was asked in Parliament.

Question No 2, seeking the basis of the initial tariff setting principles that applied to third parties and any changes to those principles, has been addressed in the submission. I presume no changes have been made?

Dr MURPHY: No.

The CHAIRMAN: The third question sought information on the final construction cost of the goldfields gas pipeline and the value of the pipeline for the purposes of the capital base on the date that it first entered service; that is, the actual cost of the pipeline. We have the final construction cost, but we have not been given a final capital cost. Can a capital cost be provided for determining the capital base?

Dr MURPHY: Not yet. I believe in its submission Goldfields Gas Transmission indicated that the capital cost of the pipeline was \$456m. We are reviewing information on the make up of that capital cost. Until we have done that we cannot provide any further information.

The CHAIRMAN: Question No 4 asks whether the capital base includes interest accrued during construction of the pipeline; if so, at what rate interest was charged. No comment is contained in your submission about the interest accrued during construction of the pipeline. That information is essential if we are to calculate what would be a fair and reasonable tariff.

Dr MURPHY: To my knowledge the capital base we have does not include accrued interest.

The CHAIRMAN: Have you been given a breakdown of that figure?

Dr MURPHY: It is with our consultants. I have not seen the breakdown of the construction cost. However, I understand that it does not include interest accrued during construction.

The CHAIRMAN: Question No 5 refers to the expected life of the pipeline and asks if the depreciation period is reflected in the tariff. You say the design life is 42 years. What is the expected life?

Dr MURPHY: I cannot comment on that; I must seek advice. The design life was given to us by the company. We have no technical information on the potential long term life of the pipeline. If you require specific figures your question is better directed to the operators of the pipeline.

The CHAIRMAN: There is no mention in your submission of the depreciation period and whether it is reflected in the tariffs.

Dr MURPHY: Not directly; although in the submission we have given you we described the basis for the tariff. It does not include depreciation; it is not mentioned anywhere in that

section.

The CHAIRMAN: Is it taken into consideration in calculating the tariff?

Dr MURPHY: No.

The CHAIRMAN: Over what period is the pipeline depreciated?

Dr MURPHY: The pipeline would be being depreciated by the operator for its own purposes. You will have to ask the operator. In terms of the agreement and the way the tariff was set, depreciation is not a factor.

The CHAIRMAN: How do you determine whether the tariffs are fair and reasonable if you do not know what is the depreciation period of the pipeline?

Dr MURPHY: It depends on the way the tariff is calculated. Under the agreement the tariff is a net present value tariff that does not include depreciation. A cost of service tariff includes depreciation. Both are acceptable methods of working out a tariff for a pipeline. One allows for depreciation, the other does not.

The CHAIRMAN: In question No 6 we requested information on GGT's debt recovery period. No information is supplied. At the end of the period does the State of Western Australia envisage a reduction in tariffs? I do not think any mention is made in your submission about whether tariffs will increase at the end of the debt recovery period.

Dr MURPHY: It again comes back to the basis for calculating tariffs. In the net present value model there is no debt, so there is no debt recovery. Therefore, in the light of the way the model works there can be no reduction in tariffs because of debt recovery. The model is a pure equity model and assumes that all the money is paid up-front as equity input to the project, so no debt is included in the calculation.

The CHAIRMAN: It is a notional calculation, not an actual.

Dr MURPHY: Yes, it is totally notional. Sorry, it is a notional calculation using some actual figures.

The CHAIRMAN: Item 7 requests any relevant information required for calculated tariffs, including investment costs. You said in your submissions how they were obtained, but not what they are.

Dr MURPHY: Those numbers are not given in the submission. Some confidentiality aspects apply with some of those numbers under the state agreement which meant that we could not release those figures. If you want specific numbers in response to that question, we would need to consider whether we were able to release that information within the framework of the agreement's confidentiality requirements.

The CHAIRMAN: Question 7(b) requests information on the rate of return used. Here you

discuss how it is calculated, but it is not disclosed in the submission.

Dr MURPHY: Correct.

The CHAIRMAN: Do you have that information?

Dr MURPHY: Obviously, yes, we have that information. It is used to derive the tariff. However, it is a question of whether we are able to release that information to the committee. We would need to seek legal advice on that.

The CHAIRMAN: Is the practice in most cases with monopoly pipelines that one has transparency of costs when it comes to tariff calculation?

Dr MURPHY: I am not an expert on pipelines; I could not comment.

The CHAIRMAN: The next point is that depreciation period and methodology are not provided in the submission.

Dr MURPHY: As I said before, depreciation period and methodology are not relevant to the calculation of the tariff. Therefore, they are not mentioned in the submission.

The CHAIRMAN: Do you know the depreciation period and methodology used by the company?

Dr MURPHY: That is their business. For the purposes of calculating a tariff under the requirements of the agreement, depreciation is not an issue.

The CHAIRMAN: Regarding the debt-equity ratio, again the methodology is provided but the ratio is not given.

Dr MURPHY: Yes. A debt-equity ratio is assumed in deriving the rate of return, which is used in the calculation of the tariff.

The CHAIRMAN: Why assume the ratio and not use the real figure?

Dr MURPHY: As the submission mentions, the entity used for calculating the tariff is notional. One does not take any notice of the way the money was raised or the debt-equity ratio of the joint venturer. One assumes a debt-equity ratio for a notional pipeline company operating an independent pipeline.

The CHAIRMAN: Presumably when the pipeline was constructed a 20 or 30 per cent equity and 70 or 80 per cent debt ratio would have applied if it were constructed on the basis of most other pipelines. Is it possible that the equity is being replaced by borrowings?

Dr MURPHY: It is possible, but those are arrangements between the joint venturers and are not relevant to the calculation of the tariffs under the agreement. Therefore, we have no information on it.

The CHAIRMAN: So you are satisfied that the tariffs are fair and reasonable under the information you have?

Dr MURPHY: We were satisfied that the tariffs as set in 1995 complied with the agreement; that is, they met with the tariff setting principles and were fair and reasonable. The present tariffs are under review, so I could not comment on them.

The CHAIRMAN: Does it also require that the tariffs be fair and reasonable?

Dr MURPHY: It requires that they be fair and reasonable and consistent with the tariff setting principles. It requires both to occur.

The CHAIRMAN: I put it to you that you need to know that information in order to determine whether the tariffs are fair and reasonable.

Dr MURPHY: That information is not required to determine whether they are fair and reasonable under the method of calculation under the agreement. If some other method would say that one needs that information in order to get a fair and reasonable tariff, I cannot comment.

The CHAIRMAN: How does a third party determine whether they are fair and reasonable?

Dr MURPHY: I guess, under the way the agreement is presently structured, people rely on the fact that the Minister tests that tariff through the agreement process. They have the opportunity, if unhappy with the Minister's decision, to appeal through the mechanism of the agreement; that is, a party who does not like the tariffs can approach the Minister. But it still comes back to a debate between the Minister and the joint venturers about the fairness and reasonableness of the tariff.

The CHAIRMAN: Question 7(e) was amortisation. That was not provided either.

Dr MURPHY: Similarly, it was not relevant to the notional calculation of the tariff.

The CHAIRMAN: The net cost is not provided either.

Dr MURPHY: The same answer applies. The net cost to the joint venturer is irrelevant to the tariff for the purposes of the agreement.

The CHAIRMAN: In 7(g) we asked for the design throughput and the actual throughput of the pipeline, and you have given those. The design was 164 terajoules per day and the actual throughput was 63 TJ a day. The owners, WMC, Normandy and BHP, were committed to a notional capacity of 98 TJ, and the actual throughput is 63 TJ. Under the agreement they are permitted to reduce their committed notional capacity. Is that correct?

Dr MURPHY: Yes.

The CHAIRMAN: Is that available to third party users?

Dr MURPHY: As far as I am aware, it is available to third party users if it is not being used by joint venturers. They have a maximum entitlement and each year they declare how much of an entitlement they will use. If they have a maximum commitment of 50 TJ and nominate 40 TJ in the year, any amount used by a JV in the 40 TJ to 50 TJ range will be treated the same as with any other pipeline user - they pay the tariff. For the amount used under the 40 TJ commitment, the agreement provisions will apply for the purposes of calculating revenue for the year. The amount between the 40 or 50 TJ not used would be available to third parties for that year.

The CHAIRMAN: What is the point of an owner having a maximum notional capacity if it is not required to use it? When it exceeds it, it pays third party tariffs. What is the point in having it if it is not used? Would it not be discriminatory if third party users contracted for a notional capacity and did not use it in the same way as the owner. Two sets of rules apply.

Dr MURPHY: I will take that question on notice, if I may, rather than try to answer it here. I will check on how the pipeline works for joint venturers themselves, and I will provide a written response.

The CHAIRMAN: Question 8 asks about the effect the infrastructure bond financing had on both the capital structure and the cost of debt. Consequently, what is the actual cost of debt for the pipeline? That matter is not considered in the submission. Why?

Dr MURPHY: Again, those are arrangements made by the joint venturers for their own investment in the pipeline. The agreement is concerned about the tariff setting principles, and the way they are set takes no notice of the way the joint venturers structure their own investment. It is a notional company. If the joint venturers have an infrastructure bond to finance their investment of the project, that is their business.

The CHAIRMAN: The Act has a provision by which the Minister can review a situation of altered circumstances. Would not that constitute altered circumstances regarding the tariffs?

Dr MURPHY: No, not in the way the tariffs are calculated under the Act.

The CHAIRMAN: Have you sought legal opinion on that point? I asked questions on that matter in Parliament last year.

Dr MURPHY: I can seek legal opinion.

The CHAIRMAN: Have you sought legal opinion on the question of whether the financing would be regarded as altered circumstances under the agreement Act?

Dr MURPHY: No, we have not. As I said, it is not relevant to the calculation under the agreement Act. Therefore, in that sense, it is not an altered circumstances as far as the agreement Act is concerned.

The CHAIRMAN: Question 9 referred to whether the State of Western Australia permitted the Goldfields Gas Transmission partners to keep the profits which flowed from the federal

sponsored re-financing of the project through infrastructure bonds. If so, is such an arrangement fair to other users of the pipeline? No comment was made on that question in your submission.

Dr MURPHY: Again, the whole concept is not something encompassed in the way the tariff is calculated. The only way that infrastructure bonds would come into the calculation would be if we received advice from our consultants that if this were a company operating, and it could access infrastructure bonds, it could affect the notional company's rate of return. The fact that the joint venturers have such bonds is irrelevant.

The CHAIRMAN: Which consultants are the department using?

Dr MURPHY: We are using Bird Cameron on the capital cost issue, and McLennan Magasanik to advise on the tariff setting principles and the fairness and reasonableness of the tariffs.

The CHAIRMAN: Item 11 asked whether the State of Western Australia accepted a shorter payback period on the pipeline to reflect the risk associated with the project; if so, what does the State expect to happen to tariffs once it is completed? There is no comment on that point.

Dr MURPHY: Again, it is not relevant to the way the model is used under the agreement to calculate tariffs.

The CHAIRMAN: So DRD knows nothing about the payback period?

Dr MURPHY: We know nothing about the joint venturers' arrangement in the way they have dealt with the pipeline. It is not a factor in the calculation for tariff setting.

The CHAIRMAN: Yet the tariffs are required to be fair and reasonable.

Dr MURPHY: The outcome is that they be fair and reasonable.

The CHAIRMAN: I cannot see how you could determine that without knowing this information.

Item 12 is partly answered. It asks whether the State of Western Australia had an opportunity to review the goldfields gas pipeline transmission tariffs using actual cost of construction, operation and maintenance. That part of the question was answered. The second part reads -

If so, what was the outcome of the review in terms of the tariffs being fair and reasonable in accordance with the *Goldfields Gas Agreement Act, 1994*.

That part was not answered. Was a review of the tariffs conducted to determine whether they were fair and reasonable, as required by the Act?

Dr MURPHY: There has been no review up to now to determine whether the tariffs are fair and reasonable or whether they comply with tariff setting principles. We have initiated a

review as of now. Therefore, at this stage, we could not comment on it one way or the other.

The CHAIRMAN: Question 10 asked whether the joint venturers contracted with Goldfields Gas Transmission; if so, are they allowed the luxury of reducing their bookings as required? That is not really answered in your response. If the owners are committed to initial capacity, it is contracted in such a fashion that it does not consider the ring fencing obligations, nor the discriminatory access regimes to third party users. Do you know whether they can reduce their bookings and whether third party users can do the same?

Dr MURPHY: That relates to some detail in the tariff. I would need to seek more advice on that matter. My understanding is that they have reservations between themselves. That might be a 50 terajoules a day capacity, which they can reduce each year by nomination, say, to 40 TJ. Anything they take between 40 or 50 TJ that year must be paid for as though it was taken by a third party. Any capacity taken up to 40 is part of the arrangement between the joint venturers themselves. We have no information about what is charged for that use of that pipeline.

The CHAIRMAN: No comment was made in the submission to question 13; namely-

Has the State of Western Australia received any complaints from a Third Party that the tariffs are not fair and reasonable? If so, what was the nature of those complaints and how were they resolved?

Dr MURPHY: The test for us is whether someone has felt sufficiently unhappy with the arrangement to make a formal submission under the agreement. No-one has done that yet. Some people have said that it is too high. We received the same submission from the Murrin Murrin operations people as was set to the committee. They have made a case for some time that tariffs are too high.

The CHAIRMAN: Have ICI complained about the level of the tariffs?

Dr MURPHY: ICI have mentioned that to us but the extent of their complaint has been to support the Murrin Murrin Operation submissions so they have not made a direct submission to us.

The CHAIRMAN: It is has been quite public. There have been articles in the *Kalgoorlie Miner*. Have Precious Metals of Australia made any complaints about the tariffs?

Dr MURPHY: Precious Metals have talked to us about tariffs and their unhappiness with the level of them.

The CHAIRMAN: Have any of those complaints triggered any review because they are not considered official complaints?

Dr MURPHY: None of those has triggered a review under the third party access provisions of the agreement. They have been taken note of and we are now moving towards reviewing the tariffs.

The CHAIRMAN: I now refer to your submission. Schedules 4 and 5 of the Gas Corporation Act 1994 gave a whole range of requirements covering third party access and pricing to make it transparent. This is for the AlintaGas and the Dampier to Bunbury Gas Pipeline Acts.

Dr MURPHY: Yes.

The CHAIRMAN: The Goldfields Agreement Act was of the same vintage - I think slightly later. Why were those provisions not put into the Goldfields Gas Agreement Act?

Dr MURPHY: I could not comment on that as I was not involved in the agreement negotiations. So I do not know.

The CHAIRMAN: Who was involved in the negotiations with the agreement?

Dr MURPHY: A number of people for the department were involved. Do you want to know who?

The CHAIRMAN: Just the principal.

Dr MURPHY: Mr Bill Power, who has since retired, was our major negotiator on the pipeline agreement.

The CHAIRMAN: Also, at that time, the Council of Australian Government process was under way and yet those same provisions were not put into the Goldfields Gas Pipeline agreement. I just make that as a comment rather than a question. Did you have access to the Anaconda submission prior to sending in your submission?

Dr MURPHY: I think the Anaconda submission came in around the time we had completed our submission.

The CHAIRMAN: I think it came in a week before, but did you have access to that when you were writing your submission?

Dr MURPHY: If it came in before we put forward the submission, yes, we had access to it in that instance.

The CHAIRMAN: What was the main cause for the delay in putting this submission that was about a month overdue?

Dr MURPHY: The main cause for the delay was getting it right. We spent a lot of time making sure we had the right words and approach in the submission and it went through a large number of drafts that were personally reviewed by me.

The CHAIRMAN: The delay was not because of any announcement of tariff reductions by GGT - did it have anything to do with that?

Dr MURPHY: No.

The CHAIRMAN: On page 1 of the submission you state that some of the commercial information is not available to DRD. Has any of this information been requested from Goldfields Gas Transmission? You say the commercial information is not available to DRD. Has this information been requested from Goldfields Gas Transmission?

Dr MURPHY: No, a large amount of commercial information is involved and as I pointed out is not relevant to the Pipeline Agreement Act.

The CHAIRMAN: I put it to you it is because the Act requires the tariffs to be fair and reasonable and you need that information to determine whether they are fair and reasonable.

Dr MURPHY: There is a process under the agreement Act to determine whether they are fair and reasonable. We will collect information to do that. It will not include the information you are particularly after but it will include the information that is set out in the agreement between us as to how the tariffs are to be calculated.

The CHAIRMAN: Would you provide to the committee any correspondence to or from Goldfields Gas Transmission that requests information about finalisation of pipeline costs?

Dr MURPHY: Yes, we can probably provide that.

The CHAIRMAN: I think they were finalised in October, which was 14 months after the construction of the pipeline.

Dr MURPHY: That is right.

The CHAIRMAN: Are you aware of which contractors had outstanding claims?

Dr MURPHY: No.

The CHAIRMAN: You are not?

Dr MURPHY: No.

The CHAIRMAN: You are not aware of the amount that was in dispute?

Dr MURPHY: No.

The CHAIRMAN: Yet you allowed them to take 14 months to finalise their costs, which usually takes about three months from the information I have got.

Dr MURPHY: We were being told by the joint venturers that they were still settling outstanding accounts and we took their advice and were waiting for them to tell us that they had a final price.

The CHAIRMAN: You did not seek any information as to what those outstanding amounts were and to which contractors they were in dispute with?

Dr MURPHY: No, we saw no need to.

The CHAIRMAN: Would you not agree that a review of tariffs would have been done when the pipelines costs were established?

Dr MURPHY: That was always the intention.

The CHAIRMAN: Is it not the case with virtually every other pipeline in the world that those costs are usually established within three or four months?

Dr MURPHY: I do not know.

The CHAIRMAN: Are you aware that questions were asked in Parliament as early as October 1996 about finalisation of costs?

Dr MURPHY: I could not quote the date but I am aware of questions being asked in Parliament.

The CHAIRMAN: That was a few months after the pipeline commenced operation. Did the Department of Resources Development or the Office of Energy or whose ever job it is recommend that the new tariffs that have been published in recent weeks be approved?

Dr MURPHY: The Government has no role in approving the recent tariffs. They are offered a discount and they are quite clearly at the joint venturers' sole discretion; we do not approve it.

The CHAIRMAN: Do you see a need for an independent regulator to examine those sorts of issues?

Dr MURPHY: That is a policy question for government.

The CHAIRMAN: What information has GGT provided to your department to ensure the proposed new tariffs are in accordance with the GGT Act?

Dr MURPHY: At this time they have provided information on their accounting procedures under clause 23 of the Act. We also expect to see some information about the modelling that lies behind the existing discount tariff. When we receive that information that will be passed to our consultant, who will review it to determine consistency with the tariff setting principles.

The CHAIRMAN: Under the Act there are a number of provisions where the Minister can seek certain information. Has DRD ensured that advantage has been taken of that provision in the Act to actually seek information if it is not being offered.

Dr MURPHY: You would have to be specific about the parts of the Act you mean for me to give an answer.

The CHAIRMAN: There are a number of provisions where the Minister can request information; it is a rather unusual structure.

Dr MURPHY: The Minister has specifically requested information under clause 23 relating to accounting and that is the heart of the financial information the Minister can request.

The CHAIRMAN: Can you advise the committee when that was requested?

Dr MURPHY: That was requested 22 December last year.

The CHAIRMAN: That is 15 months after the pipeline commenced operation, approximately.

Dr MURPHY: Yes.

The CHAIRMAN: Could you provide the committee with all the evidence that you have been pressing the pipeline owners to expedite the review of their tariffs? You say that you have been doing that. Could you present that information to the Committee?

Dr MURPHY: We can certainly indicate what written communication we have had with them. The pressure has been through verbal and telephone calls as well; we have not recorded all of those but we can give you written evidence.

The CHAIRMAN: We would like to see some evidence of that. In what way has the national gas pipelines access agreement expected to affect the operation of the Goldfields Gas Transmission agreement?

Dr MURPHY: I could not answer that. You are talking about a major document. We can provide you with a written response if you wish, but I could not answer that today.

The CHAIRMAN: Why would that delay the consideration of a revised tariff schedule, which you say in your submission caused the delay? Could you address that as well?

Dr MURPHY: Yes.

The CHAIRMAN: Could you also provide the committee with information on how many power plants have actually switched from diesel to gas and of those how many are not associated with GGT owners?

Dr MURPHY: We can endeavour to provide that

The CHAIRMAN: I just want to address a few questions on page 3 about the selection process. Could you provide the committee with some information on what basis "GGT was selected as the preferred bidder"; was it construction costs or was it the lowest tenderer?

Dr MURPHY: I was not involved in the selection of the GGT; that was done by a group headed by Mr Power. I would have to look at the files and take some legal opinion on whether we can provide that information because there might be commercially confidential information, but we will provide you with whatever we can on that decision making process.

The CHAIRMAN: Could you also advise us with what you are not providing, just in terms of general the description of documents?

Dr MURPHY: Within the bounds of whatever advice I receive, yes.

The CHAIRMAN: This committee can subpoena that information, so we want to know what we are not getting.

Dr MURPHY: Sure, but I did indicate that information would be provided following legal advice.

The CHAIRMAN: Did the Government consider the requirements of the ACCC in awarding GGT the preferred tender status?

Dr MURPHY: I could only give you a written response on that.

The CHAIRMAN: Could you provide the committee with the expressions of interest of the four short listed applicants for the pipeline?

Dr MURPHY: I would again need to take legal advice. I do not know what sort of caveats were put on the information provided to us, but within that constraint, yes.

The CHAIRMAN: There were 16 EOIs submitted, according to your submission; nine people were interviewed and four were short listed. We are just interested in the four that were short listed. We would also like to know what ranking was put on those submissions in the selection process.

Dr MURPHY: You are only asking for the EOI information in relation to those four?

The CHAIRMAN: We are asking for the EOI information on the short listed four.

Dr MURPHY: Yes.

The CHAIRMAN: We would like to know also who were the members of the evaluation team, which I think you said was headed by Mr Power.

Dr MURPHY: Yes.

The CHAIRMAN: Your submission states that the Goldfields Gas Transmission Joint Venture was selected as the preferred bidder. You mentioned that additional information was provided by 15 October 1993. We would like to know what additional information was provided - presumably it was requested. We would like to know also which two bidders were

held extant until 30 November 1993. Your submission states that that was extended to 14 December 1993. We would like to know also what were the main issues that were negotiated during the discussions with the joint venture partners.

Dr MURPHY: The main issues are the ones that are dealt with in the agreement. I would have thought that would cover it, but we can go back and check.

The CHAIRMAN: Yes please, even if that is very brief, with just a few headings. The committee is interested to know why the transparency requirements were left out of the GGT Act but were put into the Gas Corporations Act when they are both monopoly pipelines, albeit one run by the Government and the other run by a private company. The main issues are not necessarily the ones that went into the Act but the ones that were left out of the Act.

Your submission states at page 4 that key development principles were agreed. Could you provide some information about that? Could you also provide some information about what were the main sticking points in negotiating the development agreement? Could you also provide the committee with a copy of the detailed proposals that were approved by the Minister on 27 January 1995? Do you know why Goldfields Gas Transmission has maintained control of marketing of the pipeline capacity for third parties and not the operator, such as AGL?

Dr MURPHY: No to the last question. Rest taken on notice.

The CHAIRMAN: Under clause 22(2), the altered circumstances clause, would you become aware of altered circumstances by asking questions, or is there some requirement for the partners to notify you?

Dr MURPHY: There is no requirement for them to notify us of changed circumstances. That would be a value judgment as to what was an altered circumstance. For instance, we could decide that the assumptions that we saw when the tariffs were put together were no longer relevant, and that would be an altered circumstance. There is no rule to guide us.

The CHAIRMAN: Have you be made aware of any altered circumstances which would affect the tariffs that have been set?

Dr MURPHY: That is a difficult question - made aware by whom? We are not aware in a broad sense of major changes that would change the tariffs, but we are now asking our consultants to advise us whether that is the situation and whether changes need to be made to the tariff. Many people have said things to us about the tariff over the past 18 months. I am not sure whether that qualifies for what you are talking about.

The CHAIRMAN: Do you think this fictional treatment of tariffs, where they are based on notional parameters rather than actual costs, would be accepted by the National Competition Council or the Australian Competition and Consumer Commission?

Dr MURPHY: I do not know.

The CHAIRMAN: I refer to page 7. Would not a discount of 7.5 per cent to initial customers be considered discriminatory, particularly when the initial customers were also the owners? Is it not an opportunity available to third parties who have not finalised studies or discovered new ore bodies? We are getting back to the foundation partners and then third parties. It appears from the discussions that I have had that the idea of giving foundation partners preferential treatment is not considered appropriate in most countries that have well developed gas pipeline systems.

Dr MURPHY: The agreement calls for two periods of calling for bids. The first period is the open season under clause 8, which is a preliminary testing of the market and is also a means of testing the tariff setting principles. That is the period to which you are referring, where a discount is offered. The second period is the clause 9 arrangement, where the proposal is actually approved. There was a lot of discussion between us and the joint venturers about how the discount was arrived at, and agreement was reached between them and the State about what should be put out in the clause 8 period. When that period closed and we saw the response of the market to the tariff setting principles and the tariffs that were then on offer, there were further negotiations, and proposals were approved under clause 9. That was done within the agreement and it did not, in a sense, pay direct attention to the issues that you are raising. It was done specifically according to how things would be done under the agreement.

The CHAIRMAN: You refer at page 9 to the cost of service alternative compared with the net present value approach. Why would the cost of service alternative provide unstable pricing in an environment where three of Australia's major companies have agreed to book an initial capacity of 98 terajoules a day for a 20 year period?

Dr MURPHY: Cost of service tariffs are unstable compared with net present value or levelled tariffs, just by the nature of the calculation, and that is what the statement is meant to mean. We have not calculated whether the fact that there was a fair amount of uptake by the three joint venturers would level out that fluctuation, but the statement in general about the two approaches remains true.

The CHAIRMAN: In your view, has GGT lost any potential business through not being allowed to consider incremental pricing, which is a fairly normal economic activity?

Dr MURPHY: The whole basis of the agreement was non discriminatory. The concept has always been that marginal and incremental costing arrangements were not available, but if there were opportunities to do a special deal for somebody, everybody should share in that special deal.

The CHAIRMAN: Does the net present value method provide tariff stability by generating artificially high tariffs?

Dr MURPHY: We do not believe it generates artificially high tariffs; if it did, we would not have selected that method. We accepted it as a preferable method of cost of service because it gave lower tariffs at the start of the pipeline than would a cost of service tariff. It was a preferred approach with regard to getting tariffs down to a good level from the start.

The CHAIRMAN: Was the net present value method sought by the proponents or by the DRD?

Dr MURPHY: I was not part of the negotiations that lead to the proposals that came in. The first set of proposals that was received, which was in the clause 8 period, contained a levellised tariff, and that was examined closely at that time by independent consultants and was also looked at closely within government, and it was decided to accept the approach put forward by the joint venturers. I do not know whether there was previous discussion with the joint venturers that lead to their putting in that levellised tariff. The assessment that we did at that time persuaded us that that was the best way to derive the tariffs. It provided a low up front tariff compared with a cost of service tariff.

The CHAIRMAN: In hindsight, have you learnt any lessons from the Goldfields Gas Agreement Act about the way in which you would structure the Act?

Dr MURPHY: I have not turned my mind to that matter. We could think about it, but in this environment I will not try.

The CHAIRMAN: I have a number of other questions. It might be better if I put them to you in writing. I do not think we will progress those issues in this setting. Thank you.

[The witness retired]

THE COMMITTEE ADJOURNED
