

Dampier to Bunbury Natural Gas Pipeline: Proposed Revisions to the Access Arrangement

Issues Paper

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Economic Regulation Authority

 WESTERN AUSTRALIA

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Summary of key issues

- On 1 April 2010, DNBGP (WA) Transmission Ltd (**DBP**) submitted to the Economic Regulation Authority (**Authority**) proposed revisions to the access arrangement for the Dampier to Bunbury Natural Gas Pipeline. The role of the Authority is to determine whether the proposed revisions comply with the requirements of the National Gas Law and National Gas Rules, as implemented in Western Australia by the *National Gas Access (WA) Act 2009*.
- DBP has proposed substantial revisions to the reference services offered under the access arrangement and has proposed to only offer one reference service, the “R1 Service”. Under the Rules, all pipeline services that are likely to be sought by a significant part of the market must be specified as reference services in the access arrangement (rule 101).
- The proposed reference tariff for the new R1 Service is approximately 40 per cent higher than the existing reference tariff for the current T1 Service. This increase is the result of DBP’s proposed target revenue requirement, which is approximately 85 per cent higher than the current target revenue requirement under the existing access arrangement (2005-2010).
- The proposed increase to the revenue requirement can be attributed to:
 - a proposed pre-tax real rate of return (**WACC**) of 10.76 per cent, compared to 7.24 per cent under the current access arrangement;
 - actual capital expenditure of \$1.8 billion undertaken during the current access arrangement period (2005-10), and forecast capital expenditure of \$137 million for the next access arrangement period (2011-2015); and
 - increased operating expenditure from \$435 million over the current access arrangement period (2005-10) to \$584 million over the next access arrangement period (2011-15).

A key consideration of the Authority in assessing actual expenditure undertaken during the current access arrangement period and forecast expenditure to be undertaken during the next access arrangement period is whether the expenditure meets the requirements of the Rules (rules 79 and 91).

- DBP has also proposed numerous revisions to other (non-tariff) parts of the access arrangement, including changes to the terms and conditions for reference services, as well as changes to the requirements for queuing, capacity trading, and extension and expansion of the pipeline. In assessing these proposed revisions, the Authority will be interested in user’s experiences with the practical application of these aspects of the access arrangement and views about whether the proposed revisions meet the various requirements of the legislation.

Introduction

1. The proposed revised access arrangement for the Dampier to Bunbury Natural Gas Pipeline (**DBNGP**), together with access arrangement information and confidential supporting information were submitted to the Authority on 1 April 2010 by DBNGP (WA) Transmission Ltd (**DBP**). The proposed revised access arrangement, access arrangement information and public versions of the supporting information are available from the Authority's website.¹
2. **DBP** is the trading name of the DBNGP group of entities², ultimately owned by the consortium comprising DUET (Diversified Utilities and Energy Trusts) - 60%; Alcoa - 20%; and Prime Infrastructure - 20%.
3. The DBNGP consists of the high pressure gas pipeline system (including laterals) as described by Western Australian pipeline licences WA PL 40, 41, 47 and 69 (see Table 1 below). The pipeline system is the main transmission pipeline to the more populous south west of Western Australia, supplying around 90 per cent of the gas.³ The DBNGP is fully interconnected with the Goldfields Gas Pipeline and is therefore of relevance to the supply of gas to the Goldfields region.

Table 1 DBNGP pipeline system

Licence	Title Holder	Date of Issue	Length (km)
WA PL 40 - DBNGP Main Pipeline	DBNGP (WA) Nominees Pty Limited	24 March 1998	1,788.515
WA PL 41 - Tiwest Lateral	DBNGP (WA) Transmission Pty Limited	13 August 1998	0.58
WA PL 47 - Interconnection Lateral	DBNGP (WA) Transmission Pty Limited	28 July 1999	0.14
WA PL 69 - Kemerton Lateral	DBNGP (WA) Nominees Pty Limited	8 April 2005	5
Total length			1,794.235

Source: WA PL 40, 41, 47 and 69. WA pipeline licences can be obtained from the Department of Petroleum and Mines Petroleum and Geothermal Register (<http://www.dmp.wa.gov.au/3976.aspx>)

4. In addition, DBP submits that the DBNGP assets will include leased assets of the Burrup Extension Pipeline (**BEP**), if DBP has commenced to lease capacity by the time the access arrangement commences.⁴ WA PL 69 and leased BEP capacity are not included in the pipeline description of the current access arrangement (2005-2010).
5. The purpose of an access arrangement is to provide details about the terms and conditions, including price, upon which an independent third party (**user**) can gain access to a pipeline.
6. The access arrangement process is governed by the *National Gas Law (NGL)*, implemented in Western Australia by the *National Gas Access (WA) Act 2009 (NGA)* that became fully operational on 1 January 2010. The resulting *Western Australian National Gas Access Law* is provided for as a note to the NGA. The NGA also provides for the *National Gas Rules (NGR)*, the *National Gas Access (WA) (Part 3) Regulations 2009* and the *National Gas Access (WA) (Local Provisions) Regulations 2009*.

¹ http://www.erawa.com.au/3/938/48/proposed_access.pm

² Dampier to Bunbury Natural Gas Pipeline DBNGP Holdings Pty Ltd (ABN 16 110 721 081) (DBNGP Trustee DBNGP; (WA) Nominees Pty Ltd (ABN 78 081 609 289) (Pipeline Trustee); and DBNGP (WA) Transmission Pty Ltd (ABN 69 081 609 190) (Operator).

³ The Parmelia Pipeline also supplies gas to this area from the northwest gas fields.

⁴ Proposed DBNGP Revised Access Arrangement, clause 2.1(b).

7. The NGL has replaced the previous national *Gas Pipeline Access Law (GPAL)* including the *National Third Party Access Code for Natural Gas Pipeline Systems (Gas Code)* implemented in Western Australia by the *Gas Pipeline Access (WA) Act 1998 (GPA)*.
8. A key objective of the new legislation is to implement a uniform national access regime. However, there are important differences between the NGL as administered by the Australian Energy Regulator in jurisdictions other than Western Australia and the legislation that governs the Authority in Western Australia. In order to assist interested parties, the Authority has issued a notice providing guidance to the access arrangement process under the NGL, which includes a summary of the Authority's understanding of these differences. This notice is available on the Authority's website.⁵
9. This issues paper is intended to assist parties in making submissions on the proposed revisions to the DBNGP access arrangement. This issues paper is not an exhaustive review of the content of the proposed revised access arrangement for the DBNGP or the matters that the Authority will address in making its decision.

Invitation to make submissions

10. DBP submitted a proposed revised access arrangement for the DBNGP on 1 April 2010. The Authority invited submissions from interested parties on the proposed revisions by publishing a notice on its website on 15 April 2010 and in *The Australian* and *West Australian* newspapers on 16 April 2010.
11. Submissions on any matters raised in DBP's proposed access arrangement or access arrangement information, including reference to the matters highlighted in this issues paper, should be submitted by 4PM (WST) on 11 June 2010 to:
publicsubmissions@erawa.com.au
or addressed to:

Access – Dampier to Bunbury Natural Gas Pipeline
Economic Regulation Authority
PO Box 8469
PERTH BC WA 6849
12. In general, all submissions from interested parties will be treated as being in the public domain and placed on the Authority's website. Where an interested party makes a submission in confidence, it should clearly indicate the parts of the submission for which confidentiality is claimed and specify in reasonable detail the basis upon which the claim is made. The Authority will consider confidentiality in accordance with the requirements set out under sections 324 to 329 of the NGL as amended and implemented in Western Australia (hereafter all **section references** are to the NGL implemented in Western Australia unless otherwise indicated).
13. The receipt and publication of any submission on the Authority's website shall not be taken as indicating that the Authority has knowledge, either actual or constructive, of the contents of a particular submission and, in particular, whether the submission in whole or in part contains information of a confidential nature and no duty of confidence will arise for the Authority in these circumstances.

⁵ ERA (15 Jan 2010) Notice - Gas Access Arrangement Guideline - National Gas Law. Go to www.erawa.com.au and follow the link "Third Party Access", "Gas", "Gas Notices".

14. The Authority's assessment process will involve consideration of the entire access arrangement for the DBNGP (both those areas for which DBP has proposed changes and those for which no changes have been proposed). Interested parties are invited to provide comments on issues important to them even where these issues relate to parts of the access arrangement for which no changes are proposed.

Consultation process

15. Rule 59(1) of the NGR (hereafter all **rule references** are to the NGR unless otherwise indicated) provides that after taking into account all public submissions received by the due date on the proposed revisions to the access arrangement for the pipeline, the Authority is required to issue a draft decision.
16. Rule 59(2) requires that if the Authority proposes to not approve the proposed revisions to an access arrangement, the draft decision must state the nature of the amendments that are required in order to make the proposal acceptable to the Authority.
17. Interested parties will be given a further opportunity to make submissions on the Authority's draft decision, with the closing date of submissions to be specified at the time of the draft decision. Following this round of consultation the Authority must issue a final decision to approve or not approve the proposed revised access arrangement (rule 62). If the decision is to not approve the proposed revised access arrangement, the Authority is required to make and issue its own revised access arrangement.⁶

Contextual issues

New regulatory framework

18. An essential feature of the NGL is the introduction of a national gas objective (section 23):

23. National gas objective

The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.

19. The focus on economic efficiency is reinforced in the revenue and pricing principles of the law (section 24). Consistent with the national gas objective, the revenue and pricing principles focus on economic considerations, such as achieving a return commensurate with the regulatory and commercial risks involved in providing the reference service to which that tariff relates.

⁶ It should be noted that the new regime imposes time limits for the approval of access arrangement proposals. The final decision on an access arrangement is required to be made within six months (rule 62(7)) of the date of receipt of the access arrangement proposal excluding clock-stopping time such as public consultation periods (rule 11). There is also an absolute time limit of 13 months between the date of receipt of an access arrangement proposal and the date of the final decision (rule 13). Should the 13 month timeline not be achieved, however, it does not invalidate the final decision (rule 14).

20. The NGL provides that the Authority must perform or exercise its economic regulatory functions or powers in a manner that will or is likely to contribute to the achievement of the national gas objective. Further, under rule 100 all provisions of an access arrangement are required to be consistent with the national gas objective.
21. The NGL also incorporates six revenue and pricing principles (section 24). The Authority must take these principles into account when exercising discretion in approving or making those parts of an access arrangement relating to a reference tariff (section 28(2)). The Authority may also take these principles into account when performing or exercising any other economic regulatory functions or powers, where the Authority considers it appropriate to do so (section 28(2)(b)).
22. The six revenue and pricing principles are as follows.
 - A service provider should be provided with a reasonable opportunity to recover at least the efficient costs that the service provider incurs in providing reference services and complying with regulatory obligations or requirements or making a regulatory payment.
 - A service provider should be provided with effective incentives in order to promote the economically efficient investment in and provision and use of the pipeline services.
 - The relevant regulator should have regard to previous determinations of the capital base of a pipeline.
 - A reference tariff should allow for a return commensurate with the regulatory and commercial risks involved in providing the reference service to which that tariff relates.
 - The relevant regulator should have regard to the economic costs and risks of the potential for under and over investment by a service provider in a pipeline with which the service provider provides pipeline services.
 - The relevant regulator should have regard to the economic costs and risks of the potential for under and over utilisation of a pipeline with which a service provider provides pipeline services.
23. The national gas objective and the revenue and pricing principles are important because they are critical to the content of an access arrangement and the Authority's decision making. They are also important to assist the service provider in drafting its access arrangement and interested parties when making their submissions.
24. In addition to these overarching principles, the NGR have specific requirements for the content of a full access arrangement (rules 48 and 101) and access arrangement information (rule 42).

42 General requirements for access arrangement information

- (1) Access arrangement information for an access arrangement or an access arrangement proposal is information that is reasonably necessary for users and prospective users:
 - (a) to understand the background to the access arrangement or the access arrangement proposal; and
 - (b) to understand the basis and derivation of the various elements of the access arrangement or the access arrangement proposal.
- (2) Access arrangement information must include the information specifically required by the Law.

...

48 Requirements for full access arrangement (and full access arrangement proposal)

- (1) A full access arrangement must:
- (a) identify the pipeline to which the access arrangement relates and include a reference to a website at which a description of the pipeline can be inspected; and
 - (b) describe the pipeline services the service provider proposes to offer to provide by means of the pipeline; and
 - (c) specify the reference services; and
 - (d) specify for each reference service:
 - (i) the reference tariff; and
 - (ii) the other terms and conditions on which the reference service will be provided
 - (e) if the access arrangement is to contain queuing requirements – set out the queuing requirements; and
 - (f) set out the capacity trading requirements; and
 - (g) set out the extension and expansion requirements; and
 - (h) state the terms and conditions for changing receipt and delivery points; and
 - (i) if there is to be a review submission date – state the review submission date and the revision commencement date; and
 - (j) if there is to be an expiry date – state the expiry date.
- (2) This rule extends to 'an access arrangement proposal consisting of a proposed full access arrangement.

...

101 Full access arrangement to contain statement of reference services

- (1) A full access arrangement must specify all reference services.
- (2) A reference service is a pipeline service that is likely to be sought by a significant part of the market.

Special Circumstances applying to the DBNGP

25. The DBNGP shipper contracts are currently substantially independent of the terms of the access arrangement, including reference tariffs. However, on 1 January 2016, tariffs payable under the long term gas transportation contracts with the major shippers (except Alcoa) are scheduled to revert to the reference tariffs that apply under the access arrangement. Subsequently, it is understood that the terms and conditions of the DBNGP shipper contracts will revert to the terms and conditions for reference services under the access arrangement. It is understood that current contracts extend to at least 2019.⁷

⁷ Clause 20.5(b) of the SSC: "With effect from 08:00 hours on 1 January 2016, the Base T1 Tariff must be adjusted so that the Base T1 Tariff, T1 Capacity Reservation Tariff and T1 Commodity Tariff is at any time the same as the Firm Service Reference Tariff (or equivalent) at that time".

[DUET \(June 2007\) Product Disclosure Statement and Prospectus](#) (p. 50):

"The tariffs are set above the regulated tariff and are adjusted annually to reflect Western Australian general price inflation until 2011. From 2012 until 2016, tariffs will be adjusted annually by CPI-2.5%. After 2016, Standard Shipper Contract tariffs will revert to the Reference Tariff determined by the Regulator."

26. While the revised access arrangement (2011-15) may not significantly affect users that currently receive services under the DBNGP shipper contracts, parameters of the revised access arrangement will affect the subsequent access arrangement, including the approved building block components that determine the total revenue requirement and reference tariffs under the access arrangement.

Issue 1 Special Circumstances

Submissions are invited from interested parties on whether, and in what manner, the special circumstances of the DBNGP should have a bearing on the Authority's assessment of the proposed revised access arrangement, having regard to the NGL including the national gas objective.

Pipeline Services

Regulatory Requirements

27. A full access arrangement is required to include a statement of reference services, in accordance with the requirements of rules 101 and 109.

101 Full access arrangement to contain statement of reference services

- (1) A full access arrangement must specify all reference services.
- (2) A reference service is a pipeline service that is likely to be sought by a significant part of the market.

...

109 Prohibition of bundling of services

- (1) A scheme pipeline service provider must not make it a condition of the provision of a particular pipeline service to a prospective user that the prospective user accept another non-gratuitous service from the service provider unless the bundling of the services is reasonably necessary.
- (2) The description of pipeline services in an access arrangement must conform with this principle.

Current access arrangement and proposed revisions

28. A range of pipeline services are offered by DBP under the terms of the current access arrangement.
29. Reference services under the current access arrangement comprise the full haul T1 service (T1 Service), the part haul T1 service (P1 Service), and back haul service (B1 Service).

[DBP \(February 2006\) REQUEST FOR THE REGULATOR'S AGREEMENT UNDER SECTION 8.21 OF THE CODE.](#)

"The existing Standard Shipper Contracts provide that the contractual tariff reverts to the nearest equivalent Reference Tariff as at 2016." (paragraph 6.55 (h))

"After 2019, existing Standard Shipper Contract shippers will be free to switch to regulated contracts – at whatever gas quality applies to reference services at that time." (paragraph 6.61)

30. Non-reference services listed under the current access arrangement comprise spot capacity service, park and loan service, seasonal service, peaking service, metering service, pressure and temperature control service, odourisation service and co-mingling service. Non-reference services also include services provided under contracts entered into prior to commencement of the 2005-2010 access arrangement period.
31. The key differences proposed by DBP as revisions to the current access arrangement are:
- to offer only one reference service (the proposed R1 Service) instead of the existing three reference services, where the R1 Service differs from the existing T1 Service in relation to reliability and priority under the curtailment plan;
 - to not include part haul or back haul services as reference services; and
 - to include the T1 Service, P1 Service and B1 Service as non-reference services.
32. The existing and proposed pipeline services are outlined in Table 2 below.⁸

Table 2 DBNGP pipeline services⁹

Current Access Arrangement (2005-2010)	Proposed Access Arrangement Revisions
Reference Services	Reference Services
Full Haul T1 Service (T1 Service)	Full Haul R1 Service (R1 Service)
Part Haul T1 Service (P1 Service)	
Back Haul T1 Service (B1 Service)	
Non-Reference Services	Non-Reference Services
<i>Subject to the availability of Capacity (clause 6(1)(b)(ii)):</i>	<i>Subject to availability of Capacity (clause 3(1)(b)(i) and (ii)):</i>
Spot Capacity Service	Full Haul T1 Service (T1 Service)
Park and Loan Service	Part Haul T1 Service (P1 Service)
Seasonal Service	Back Haul T1 Service (B1 Service)
<i>Subject to Operational Availability (clause 6(1)(b)(iii)):</i>	Spot Capacity Service
Peaking Service	Park and Loan Service
Metering Information Service	Seasonal Service
Pressure and temperature control service	Peaking Service
Odourisation service	Metering Information Service
Co-mingling service	Pressure and temperature control service
	Odourisation service
	Co-mingling service
	Pipeline impact agreement service
	Interconnection service

33. In addition to the pipeline services included in the current access arrangement, the Standard Shipper Contract includes an “Other Reserved Service” (which includes the **Ty**, **Tx**¹⁰ and **Tp** Services).

⁸ The Alcoa Exempt Contract is an exempt contract under section 19 of the NGA.

⁹ DBNGP Revised Access Arrangement (2005-10), Part 6 Services Policy, page 13. DBP proposed revised access arrangement, clause 3, page 4.

¹⁰ DBNGP Standard Shipper Contract (p. 21): Tx Service has the meaning given in the Diversified Utility and Energy Trust (DUET) Product Disclosure Statement for the issue of 164.6 million New Stapled Units dated November 2004. Tx and Ty Services are capacity services in the Western Power Standard Shipper Contract (DUET Product Disclosure Statement (2004), p. 154).

34. The Tp service offers shippers access to interruptible capacity at times when the actual heating value of gas distribution in the pipeline is higher than the minimum specification. The tariff for the Tp service includes a small capacity reservation charge and a commodity charge based on the additional costs to provide the Tp service.¹¹ DBP's access arrangement revisions do not propose to include this service in the access arrangement.

Key Issues

35. Rule 101 requires all pipeline services that are likely to be sought by a significant part of the market to be reference services. DBP has substantially revised its proposed reference services and has proposed to only offer one reference service, the R1 Service.¹² It will need to be demonstrated whether this new service is likely to be sought by a significant part of the market.
36. Importantly, if pipeline services other than the proposed reference service are sought or likely to be sought by a significant part of the market then these services will also need to be offered as reference services.
37. In considering what pipeline services are likely to be sought by a significant part of the market, interested parties should have regard to the terms and conditions for those services and whether they are consistent with the guiding principles of the NGL.

Issue 2 Reference Services

Submissions are invited from interested parties on:

- whether the proposed reference service (R1 Service) is likely to be sought by a significant part of the market;
- whether there are any pipeline services not currently proposed as reference services that are likely to be sought by a significant share of the market;
- whether the proposed reference service imposes any constraints on users that are inconsistent with the regulatory requirements;
- whether information about reference services is easily understood by the market; and
- any other matters in relation to the pipeline services proposed to be provided under the proposed revised access arrangement.

Part A – Total Revenue (Building Block Components)

38. The existing access arrangement determines a level of target revenue by a “building block” approach, whereby target revenue is calculated as the sum of component costs. The proposed revisions to the access arrangement apply the same approach, in accordance with rule 76.

¹¹ DUET (p. 50) http://www.duet.net.au/duet/duet_pds_australia_jun07.pdf

¹² DBP proposed revised access arrangement, section 3.

76 Total revenue

Total revenue is to be determined for each regulatory year of the access arrangement period using the building block approach in which the building blocks are:

- (a) a return on the projected capital base for the year (See Divisions 4¹³ and 5¹⁴); and
- (b) depreciation on the projected capital base for the year (See Division 6); and
- (c) if applicable - the estimated cost of corporate income tax for the year; and
- (d) increments or decrements for the year resulting from the operation of an incentive mechanism to encourage gains in efficiency (See Division 9)¹⁵; and
- (e) a forecast of operating expenditure for the year (See Division 7).

39. In addition, the NGR contain specific requirements in relation to forecasts and estimates.

74 Forecasts and estimates

- (1) Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.
- (2) A forecast or estimate:
 - (a) must be arrived at on a reasonable basis; and
 - (b) must represent the best forecast or estimate possible in the circumstances.

40. The discussion below addresses each of the parameters relevant to the building blocks that make up total cost (i.e. capital expenditure, rate of return, depreciation and operating expenditure).

Capital Expenditure

Regulatory requirements

41. Under rule 77, capital expenditure must be 'conforming capital expenditure' in order to be added to the capital base. Similarly, under rule 78, only forecast conforming capital expenditure over the access arrangement period may be included in the projected capital base.

42. Conforming capital expenditure is defined under rule 79.

79 New capital expenditure criteria

- (1) Conforming capital expenditure is capital expenditure that conforms with the following criteria:
 - a) The capital expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of providing services;
 - b) The capital expenditure must be justifiable on a ground stated in subrule (2).
- (2) Capital expenditure is justifiable if:
 - (a) the overall economic value of the expenditure is positive; or

¹³ The NGR Division 4 deals with the capital base (including the opening capital base and new capital expenditure).

¹⁴ The NGR Division 5 deals with the rate of return.

¹⁵ The NGR Division 9 deals with the incentive mechanism.

- (b) the present value of the expected incremental revenue to be generated as a result of the expenditure exceeds the present value of the capital expenditure; or
 - (c) the capital expenditure is necessary:
 - (i) to maintain and improve the safety of services; or
 - (ii) to maintain integrity of services; or
 - (iii) to comply with a regulatory obligation or requirement; or
 - (iv) to maintain the service provider's capacity to meet levels of demand for services existing at the time the capital expenditure is incurred (as distinct from projected demand that is dependent on an expansion of pipeline capacity); or
 - (d) The capital expenditure is an aggregate amount divisible into 2 parts, one referable to incremental services and the other referable to a purpose referred to in paragraph (c), and the former is justifiable under paragraph (b) and the latter under paragraph (c).
- (3) In deciding whether the overall economic value of capital expenditure is positive, consideration is to be given only to economic value directly accruing to the service provider, gas producers, users and end users.
- (4) In determining the present value of expected incremental revenue:
- (a) a tariff will be assumed for incremental services based on (or extrapolated from) prevailing reference tariffs or an estimate of the reference tariffs that would have been set for comparable services if those services had been reference services; and
 - (b) incremental revenue will be taken to be the gross revenue to be derived from the incremental services less incremental operating expenditure for the incremental services; and
 - (c) a discount rate is to be used equal to the rate of return implicit in the reference tariff.
- (5) If capital expenditure made during an access arrangement period conforms, in part, with the criteria laid down in this rule, the capital expenditure is, to that extent, to be regarded as conforming capital expenditure.
- (6) The ERA's discretion under this rule is limited.

Transitional rule for new capital expenditure

43. Rule 7 of the Transitional Provisions, NGR Schedule 1, details additional criteria related to capital expenditure for Western Australian transmission pipelines. In particular, transitional rule 7(2) states that:

In making a relevant decision under rule 79(3) on whether the overall economic value of capital expenditure is positive, the ERA must consider not only economic value directly accruing to the service provider, gas producers, users and end users (as required by rule 79(3)) but also material economic value that is likely to accrue directly to electricity market participants and end users of electricity from additional gas fired generation capacity.

Current access arrangement and proposed revisions

44. The proposed revised access arrangement includes:
- an amount of capital expenditure for the 2005 to 2010 access arrangement period to be added to the capital base of the DBNGP; and

- a forecast amount of capital expenditure for the 2011 to 2015 access arrangement period that is to be included in the projected capital base.
45. The initial capital base of the DBNGP was approved as \$1.6 billion as at 31 December 2004. Subsequently, the capacity of the DBNGP has expanded significantly as part of the Stage 4 expansion and the planned Stage 5 expansion of which the first two phases, Stage 5A and B, have been completed. DBP is yet to make an announcement about Stage 5C.
46. The Authority notes that the last access arrangement revisions were approved on 15 December 2005, and that DBP shortly afterwards on 26 February 2006 submitted to the Authority a 310 TJ expansion project estimated to cost up to a maximum of \$1.521 billion. This project received conditional draft approval by the Authority prior to being withdrawn.¹⁶
47. Table 3 and Table 4 below include the forecast and actual capital expenditure during the current access arrangement.

Table 3 Forecast new capital expenditure by investment category 2005-10¹⁷

Year ending 31 December	2005	2006	2007	2008	2009	2010	Total
Nominal \$million (values at end of year)¹⁸							
Expansion							
Pipeline	4.62	6.06	275.28	304.62	95.42	169.53	855.54
Compression	3.79	72.53	127.02	44.93	0.47	0.72	249.47
Metering	1.16	1.30	0.17	0.00	0.00	0.00	2.62
Other	4.12	3.35	1.72	6.09	7.44	7.08	29.80
Total	13.69	83.24	404.19	355.64	103.33	177.34	1,137.43

Table 4 Actual new capital expenditure by investment category 2005-10¹⁹

Year ending 31 December	2005	2006	2007	2008	2009	2010	Total
Nominal \$million (values at end of year)							
Expansion							
Pipeline	0.65	2.72	230.70	493.38	9.78	450.00	1,187.23
Compression	0.00	50.45	153.66	116.33	9.53	171.70	501.67
Metering	1.94	0.05	0.08	0.00	11.66	14.71	28.43
Other	0.04	3.18	2.15	5.56	8.23	67.24	86.39
Total	2.63	56.39	386.58	615.27	39.20	703.65	1,803.73

¹⁶ ERA (27 April 2006) Draft Decision Dampier to Bunbury Natural Gas Pipeline Application for Agreement Under Section 8.21 of the Code – Stage 5 Expansion
<http://www.erawa.com.au/cproot/3832/2/DraftDecisionFinal.pdf>.

It is also noted that a range of historical information is in the public arena about capital expenditure for the DBNBP including in DUET Annual and Financial Reports (various), DBP media statements (various) and the AER (2008) State of the Energy Market 2007, AER (2010) State of the Energy Market 2009.

¹⁷ ERA (15 December 2005) Access Arrangement Information for the Dampier to Bunbury Natural Gas Pipeline, http://www.era.wa.gov.au/cproot/3672/2/Approved_AAI_December_2005%20final.pdf

¹⁸ Nominal values are derived from the real values with an assumed inflation rate of 2.74 per cent per annum. The nominal values differ slightly from values indicated in the Access Arrangement Information due to a different assumed inflation rate. Total Revenue is determined on the basis of the real values.

¹⁹ DBP (1 April 2010) Proposed Revised DBNGP Access Arrangement Submission.

48. Under the proposed revised access arrangement, DBP is seeking a total capital expenditure of \$1.8 billion (December 2009 dollars) to be added to the capital base.²⁰ The capital expenditure sought to be rolled into the capital base is significantly higher than the forecast taken into account in determination of total revenue under the current access arrangement.
49. DBP's justification for its actual capital expenditure conforming to rule 79 is provided in its supporting information. DBP submits that:
- a prudent service provider would have undertaken the expenditure;
 - the expenditure was subject to regulatory expansion requirements or obligations to meet contracted capacity; and
 - the expenditure was required for the maintenance and replacement of assets, or to meet reliability and safety standards.²¹
50. The forecasts of capital expenditure in the proposed revisions total \$137 million²² during the next access arrangement period, of which \$133 million is stated as being conforming capital expenditure. DBP expects limited growth in gas transmission due to gas price increases, an emerging carbon price, and a generally stagnant gas market (refer to Part B of this issues paper at paragraph 85 and following).
51. DBP states that there will be no expansion of the DBNGP and that forecast conforming capital expenditure is broadly related to maintenance, safety and reliability and meeting regulatory obligations. Table 5 summarises DBP's proposed forecast conforming capital expenditure.

**Table 5 Proposed Revised Access Arrangement:
Forecast conforming capital expenditure²³**

Year ending 31 December	2011	2012	2013	2014	2015	Total
Nominal \$million (values at end of year)						
Expansion						
Pipeline	15.40	8.39	3.88	4.62	7.81	40.11
Compression	8.27	0.49	2.66	2.66	0.16	14.22
Metering	5.57	4.35	4.71	0.62	0.82	16.06
Other	40.86	4.74	4.15	6.75	6.15	62.67
Total	70.11	17.97	15.39	14.64	14.93	133.06

Key Issues

52. The Authority will make an assessment of whether the actual capital expenditure proposed to be added to the capital base, and forecast capital expenditure to be included in the projected capital base, is conforming capital expenditure.
53. DBP has provided supporting information for the claimed amounts of conforming capital expenditure in its supporting submission 11.
54. The key issues for the Authority in making this assessment will include:
- verifying the claimed amount of capital expenditure in the 2005 to 2010 access arrangement period;

²⁰ Proposed revised access arrangement, section 3, p. 6-9.

²¹ DBP Supporting Submission No. 10, Sections 3 and 7.

²² Proposed revised access arrangement, section 7, p. 13-14.

²³ DBP (1 April 2010) Proposed Revised DBNGP Access Arrangement Information, Table 12.

- determining whether the capital expenditure in the 2005 to 2010 access arrangement period conforms to rule 79(1)(a) as expenditure that would be incurred by a prudent service provider acting efficiently, in accordance with good industry practice, to achieve the lowest sustainable cost of providing services (including whether consideration of DBP's commercial incentives for efficiency of capital expenditure can form a basis for a determination);
- determining whether DBP has adequately demonstrated that the capital expenditure in the 2005 to 2010 access arrangement period is justifiable under the terms of rule 79(2); and
- determining whether DBP has adequately demonstrated that the forecast of conforming capital expenditure for the 2011 to 2015 access arrangement period meets the requirements of rule 74 (arrived at on a reasonable basis and represents the best possible forecast or estimate possible in the circumstances) and meets the requirements for conforming capital expenditure under rule 79.

55. The Authority invites interested parties to make submissions on capital expenditure and refers interested parties to the section relating to demand in Part B of this issues paper (paragraph 85 and following). Demand is a critical driver for expenditure, the timing of expenditure and the determination of reference tariffs.

Issue 3 Capital Expenditure

Submissions are invited from interested parties on whether:

- the capital expenditure in the 2005 to 2010 access arrangement period conforms to Rule 79(1)(a) as expenditure that would be incurred by a prudent service provider acting efficiently, in accordance with good industry practice, to achieve the lowest sustainable cost of providing services;
- DBP has adequately demonstrated that capital expenditure in the 2005 to 2010 access arrangement period is justifiable under the terms of rule 79(2);
- the forecast of conforming capital expenditure for the 2011 to 2015 access arrangement period has been arrived at on a reasonable basis and represents the best possible forecast or estimate possible in the circumstances; and
- the forecast of conforming capital expenditure for the 2011 to 2015 access arrangement period has been adequately demonstrated to meet the requirements for conforming capital expenditure under rule 79.

Capital contributions

Regulatory requirements

56. The treatment of capital contributions in determining the capital base is guided by rule 82.

82 Capital contributions by users to new capital expenditure

- (1) A user may make a capital contribution towards a service provider's capital expenditure.

- (2) Capital expenditure to which a user has contributed may, with the ERA's approval, be rolled into the capital base for a pipeline but, subject to subrule (3), not to the extent of any such capital contribution.
- (3) The ERA may approve the rolling of capital expenditure (including a capital contribution made by a user, or part of such a capital contribution) into the capital base for a pipeline on condition that the access arrangement contain a mechanism to prevent the service provider from benefiting, through increased revenue, from the user's contribution to the capital base.

Current access arrangement and proposed revisions

57. The current access arrangement does not include provisions relating to the treatment of capital contributions.
58. Under the proposed revised access arrangement, DBP proposes a treatment of capital contributions to:
 - roll amounts of capital expenditure financed by capital contributions into the capital base (clause 12.3);
 - seek to prevent the pipeline owners benefiting from the roll-in of user funded assets by excluding any return on and of the amounts of expenditure from the amount of total revenue to be recovered by reference tariffs (clause 12.4(a)); and
 - compensate a user that has funded a piece of infrastructure when other users use the asset by means of a charge that the operator may charge (clause 12.4(b)).

Key issues

59. When capital contributions are added to the capital base, this affects the regulated capital base and regulated revenue and therefore rule 82 explicitly requires a mechanism to be included to prevent a service provider to benefit from this. Interested parties are invited to consider if the mechanism submitted by DBP is sufficient for the purpose of not allowing DBP to benefit from capital expenditure financed by capital contributions.
60. Interested parties may wish to make submissions to the Authority in relation to capital contributions, including any capital contributions provided for the new extension of the regulated pipeline (WA PL 69 (Kemerton)).

Issue 4 Capital Contributions

Submissions are invited from interested parties on:

- aspects of the proposed revised access arrangement that deal with capital contributions;
- DBP's supporting information about capital contributions;
- information from interested parties about capital contributions actually made; and
- any other matters in relation to capital contributions under the proposed revisions.

Rate of Return

Regulatory requirements

61. Division 5 of the NGR guides the rate of return, with rule 87 specifying particular requirements.

87 Rate of return

- (1) The rate of return on capital is to be commensurate with prevailing conditions in the market for funds and the risks involved in providing reference services.
- (2) In determining a rate of return on capital:
 - (a) it will be assumed that the service provider:
 - (i) meets benchmark levels of efficiency; and
 - (ii) uses a financing structure that meets benchmark standards as to gearing and other financial parameters for a going concern and reflects in other respects best practice; and
 - (b) a well accepted approach that incorporates the cost of equity and debt, such as the Weighted Average Cost of Capital, is to be used; and a well accepted financial model, such as the Capital Asset Pricing Model, is to be used.

62. Rule 87 is a full discretion rule. Under rule 40(3), full discretion allows the Authority to consider if a preferable alternative to the proposed rate of return exists.

Current access arrangement and proposed revisions

63. The rate of return, weighted average cost of capital (**WACC**), in the current access arrangement is 7.24 per cent real pre-tax. DBP has proposed a real pre-tax rate of return of 10.76 per cent, based on estimates of the costs of equity and debt.

Table 6 Rate of return – current and proposed revised access arrangement

	Current access arrangement 2005-10 ²⁴	Proposed revised access arrangement 2011-15 ²⁵
Nominal pre tax WACC	9.98%	13.55%
Real pre Tax WACC	7.24%	10.76%

64. In arriving at its proposed revised rate of return, DBP has considered a range of different methods for estimating the cost of equity. The proposed revised access arrangement information and supporting submission 8 details DBP's proposed approach.

Key issues

65. The Authority notes that the approach used to estimate the cost of equity is a key driver for the proposed increase in the rate of return. The Authority also notes that methodologies for calculating cost of equity are currently a key issue for gas access arrangements nationally under the NGL.²⁶

²⁴ ERA (2 November 2005) Final Decision on Proposed Revisions to the Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline.

²⁵ DBP proposed revised access arrangement information, section 11 including Table 20.

²⁶ See the NSW Gas Networks proposed revised access arrangement proposal 2010-15: <http://www.aer.gov.au/content/index.phtml/itemId/730676>

66. DBP's supporting submission 8 provides the rationale for the proposed rate of return methodology, including:
- details of DBP's interpretation of the legislative provisions that guide the determination of rate of return;
 - consideration of four models for determining the cost of equity (the CAPM; Black's zero beta capital asset pricing model; the Fama-French three factor model; and the zero beta version of the Fama-French three factor model) and makes use of all of the models in making the proposal, with the proposed value greater than what would be derived from the standard CAPM approach; and
 - a proposal that the value of imputation credit is zero.
67. As a result, the proposed rate of return is greater than values in recent determinations by the Authority. DBP has proposed a real pre-tax WACC of 10.76 per cent, compared to the Authority's determinations of (equivalent to) 7.70 per cent for the Goldfields Gas Pipeline and 7.98 per cent for the Western Power electricity networks.²⁷
68. Rule 87 provides the Authority with full discretion in making a determination on the proposed rate of return that requires it to have regard to prevailing market conditions, benchmark levels of efficiency and standards as well as what is considered a well accepted approach. The Authority will also have regard to the reasonableness of estimates and forecasts under rule 74.

Issue 5 Rate of Return

Submissions are invited from interested parties on:

- the proposed rate of return (WACC);
- the proposed cost of debt;
- the proposed cost of equity including the methods used for calculating the proposed cost of equity;
- DBP's supporting information to justify its approach and proposed rate of return; and
- any other matters in relation to the rate of return under the proposed revisions.

Depreciation

Regulatory requirements

69. Division 6 of the NGR guides depreciation of the pipeline assets with rules 88 to 90 specifying particular requirements.

88 Depreciation schedule

- (1) The depreciation schedule sets out the basis on which the pipeline assets constituting the capital base are to be depreciated for the purpose of determining a reference tariff.

²⁷ ERA (9 October 2009) Draft Decision on GGT's Proposed Revisions to the Access Arrangement for the Goldfields Gas Pipeline. ERA (19 January 2010) Further Final Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network.

- (2) The depreciation schedule may consist of a number of separate schedules, each relating to a particular asset or class of assets.

89 Depreciation criteria

- (1) The depreciation schedule should be designed:
- (a) so that reference tariffs will vary, over time, in a way that promotes efficient growth in the market for reference services; and
 - (b) so that each asset or group of assets is depreciated over the economic life of that asset or group of assets; and
 - (c) so as to allow, as far as reasonably practicable, for adjustment reflecting changes in the expected economic life of a particular asset, or a particular group of assets; and
 - (d) so that (subject to the rules about capital redundancy), an asset is depreciated only once (ie that the amount by which the asset is depreciated over its economic life does not exceed the value of the asset at the time of its inclusion in the capital base (adjusted, if the accounting method approved by the ERA permits, for inflation)); and
 - (e) so as to allow for the service provider's reasonable needs for cash flow to meet financing, non-capital and other costs.
- (2) Compliance with subrule (1)(a) may involve deferral of a substantial proportion of the depreciation, particularly where:
- (a) the present market for pipeline services is relatively immature; and (b) the reference tariffs have been calculated on the assumption of significant market growth; and
 - (c) the pipeline has been designed and constructed so as to accommodate future growth in demand.
- (3) The ERA's discretion under this rule is limited.

90 Calculation of depreciation for rolling forward capital base from one access arrangement period to the next

- (1) A full access arrangement must contain provisions governing the calculation of depreciation for establishing the opening capital base for the next access arrangement period after the one to which the access arrangement currently relates.
- (2) The provisions must resolve whether depreciation of the capital base is to be based on forecast or actual capital expenditure.

Current access arrangement and proposed revisions

70. The approved current access arrangement sets out depreciation in clauses 4.3 and 4.6 of the access arrangement information. The proposed revised access arrangement sets out depreciation in clause 9 of the access arrangement and clauses 6.7 to 6.8 and 7.7 to 7.14. The proposed revised access arrangement includes a general statement of method indicating that depreciation allowances are determined consistent with previous financial modelling applied under the access arrangement for the DBNGP (including the same asset classes and use of a straight line depreciation method).

Key issues

71. The Authority notes that the proposed revised access arrangement appears to comply with the requirements of the law and rules, but depreciation is a key building block component for the determination of total revenue, hence the Authority welcomes any submissions about depreciation from interested parties.

Issue 6 Depreciation

Submissions are invited from interested parties on:

- whether the proposed methodology for calculating depreciation is consistent with the NGR (Division 6); and
- any other matters in relation to depreciation under the proposed revisions.

Operating expenditure

Regulatory requirements

72. Rules 72 and 91 contain provisions relevant to the consideration and approval of operating expenditure.²⁸

72 Specific requirements for access information relevant to price and revenue regulation

- (1) The proposed access arrangement information for a full access arrangement proposal (other than an access arrangement variation proposal) must include:
- (a) if the access arrangement period commences at the end of an earlier access arrangement period:
...
 - (ii) Operating expenditure by category over the earlier access arrangement period.
...
 - (e) a forecast of operating expenditure over the access arrangement period and the basis on which the forecast has been derived.
...

91 Criteria governing operating expenditure

- (1) Operating expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of delivering pipeline services.
- (2) The ERA's discretion under this rule is limited.

²⁸ The Gas Code had equivalent provisions under the cost of service (COS) methodology. Non-capital costs are included in the COS methodology for calculating Total Revenue. The Gas Code referred to 'non-capital costs' whereas the NGR uses the term 'operating expenditure' to refer to the same category of costs in the total revenue calculation.

Current access arrangement and proposed revisions

73. Forecast operating expenditure under the current access arrangement was \$462 million (unadjusted) over the period of the access arrangement period (Table 7). DBP submits that actual operating expenditure for the current access arrangement period was lower than the forecast due to lower demand and cost of fuel gas (Table 8).

Table 7 Forecast operating expenditure 2005-10²⁹

Year ending 31 December	2005	2006	2007	2008	2009	2010	Total
Nominal \$million (values at end of year)							
Wages and salaries	5.38	5.63	5.89	6.17	6.46	6.76	36.29
Materials and services	35.83	34.33	47.94	46.44	44.82	46.69	256.05
Corporate overheads	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Fuel gas	19.84	20.38	30.04	32.24	33.07	33.98	169.54
Total	61.05	60.34	83.87	84.85	84.35	87.43	462.26

Table 8 Actual operating expenditure investment category 2005-10³⁰

Year ending 31 December	2005	2006	2007	2008	2009	2010	Total
Nominal \$million (values at end of year)							
Other	36.27	39.41	44.40	52.46	65.60	66.42	304.56
Fuel gas	24.12	21.43	30.59	15.15	18.62	21.51	131.42
Total	60.39	60.84	74.99	67.61	84.22	87.93	435.97

74. DBP proposes forecast operating expenditure for 2011-2015 as outlined in Table 9, below.

Table 9 Proposed Revised Access Arrangement: Forecast operating expenditure 2011-15³¹

Year ending 31 December	2011	2012	2013	2014	2015	Total
Nominal \$million (values at end of year)						
Recurrent costs						
Wages & Salaries	27.0	28.3	29.5	30.9	32.3	148
Non-Field Expense	18.4	18.9	19.4	20.5	21.0	98.2
Field Expense	19.1	19.6	20.1	20.6	21.1	100.5
Government Charges	20.0	21.3	22.1	23.3	24.5	111.2
Reactive Maintenance	1.2	1.2	1.3	1.3	1.3	6.3
Fuel gas (full haul)	20.9	22.7	23.1	26.1	27.3	120.1
Total	106.8	112.0	115.5	122.6	127.4	584.3

²⁹ ERA (15 December 2005) Access Arrangement Information for the Dampier to Bunbury Natural Gas Pipeline. http://www.era.wa.gov.au/cproot/3672/2/Approved_AAI_December_2005%20final.pdf

³⁰ DBP (1 April 2010) Proposed Revised DBNGP Access Arrangement Submission

³¹ DBP (1 April 2010) Proposed Revised DBNGP Access Arrangement Information, Section 9 including Table 18 and Supporting Submission No. 12.

75. It appears that there is a step increase in operating expenditure between the current and the forecast access arrangement periods. While fuel gas costs are lower in the forecast period, wages and salaries and government charges have increased. The increase in wages and salaries appear to be associated with the internalisation of services previously contracted out.

Key issues

76. The Authority must determine whether the forecast operating expenditure for the 2011 to 2015 access arrangement period complies with the requirement of rule 91 – that the operating expenditure is such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of delivering pipeline services. The Authority will also have regard to information provided that will allow it to assess the forecast against rule 74.
77. DBP has provided only two categories of actual operating expenditure data for 2005-2010, stating that the nature of the pipeline has changed so much that a historical comparison is inappropriate.
78. In making a determination about forecast operating expenditure under rule 91, the Authority will need to consider all levels of actual expenditure. DBP has provided less detailed actual operating expenditure information for 2005-2010 than the categories of operating expenditure provided historically and for the forecast period.³² The appropriate categorisation of historic operating expenditure is considered necessary for a proper assessment of the proposed revisions.

Issue 7 Operating Expenditure

Submissions are invited from interested parties on:

- whether the arrangements for fuel gas are reasonable and reflect existing arrangements in place;
- whether the level of operating expenditure (actual and forecast) and detail of the information provided by DBP is reasonable having regard to the legislation;
- DBP's supporting information to justify operating expenditure; and
- any other matters in relation to operating expenditure under the proposed revisions.

Total Revenue

Regulatory requirements

79. Rule 76 sets out the requirements relating to the determination of target revenue.

76 Total revenue

Total revenue is to be determined for each regulatory year of the access arrangement period using the building block approach in which the building blocks are:

- (a) a return on the projected capital base for the year (See Divisions 4 and 5); and

³² The Authority notes that information provided for the Authority's final decision included information about standard categories of operating expenditure beyond fuel gas. In the past, issues have been raised about some categories of operating expenditure including management fees and self insurance. Refer to: http://www.erawa.com.au/cproot/4000/2/Marked_up_DBNGP_Final_Decision_11_November_2005.pdf

- (b) depreciation on the projected capital base for the year (See Division 6); and
- (c) if applicable – the estimated cost of corporate income tax for the year; and
- (d) increments or decrements for the year resulting from the operation of an incentive mechanism to encourage gains in efficiency (See Division 9); and
- (e) a forecast of operating expenditure for the year (See Division 7).

80. The Authority does not have discretion over the determination of total revenue as a whole under the NGR, since the total revenue is the sum of the building block components. However, the Authority does have discretion over each of the individual building block components (as discussed above).

Current access arrangement and proposed revisions

81. Total revenue in the current access arrangement and the forecast of total revenue for the proposed revised access arrangement is summarised in Table 10 and Table 11 below. DBP did not provide a summary of its actual total revenue for the current access arrangement period (2005-10).

**Table 10 Approved access arrangement 2005-10:
Forecast value of total revenue³³**

Year ending 31 December	2005	2006	2007	2008	2009	2010
Real \$million (dollar values at 31 December 2004)						
Return on Projected Capital Base	117.13	114.90	117.39	141.01	160.21	162.41
Depreciation on the Projected Capital Base	44.19	44.48	46.99	54.58	60.03	74.57
Forecast Operating Expenditure	59.45	57.22	77.46	76.31	73.87	74.57
Total	220.78	216.60	241.84	271.90	294.10	298.43

**Table 11 Proposed Revised Access Arrangement 2011-15:
Forecast total revenue³⁴**

Year ending 31 December	2011	2012	2013	2014	2015
Real \$million (dollar values at 31 December 2009)					
Return on Projected Capital Base	356.66	354.37	346.25	337.82	329.27
Depreciation on the Projected Capital Base	91.39	93.36	93.74	94.12	94.51
Incentive Mechanism	10.22	9.97	0	0	0
Forecast Operating Expenditure	101.64	103.96	104.60	108.37	109.87
Total	559.90	561.65	544.60	540.31	533.65

82. Supporting information for DBP's proposed forecast total revenue is provided in its supporting information (supporting submission 4).

³³ ERA (15 December 2005) Access Arrangement Information for the Dampier to Bunbury Natural Gas Pipeline. http://www.era.wa.gov.au/cproot/3672/2/Approved_AAI_December_2005%20final.pdf

³⁴ DBP (1 April 2010) Proposed Revised DBNGP Access Arrangement Information, Section 17 including Table 22.

Key issues

83. The Authority notes the substantial increase in total revenue, driven largely by; capital expenditure over the 2005 to 2010 access arrangement period (and consequent increase in the capital base); the higher rate of return; and higher amounts of operating expenditure.
84. The Authority also notes that \$20 million has been carried over from the incentive mechanism under the current access arrangement and notes that DBP has proposed to remove the incentive mechanism in the revised access arrangement.

Issue 8 Total Revenue

Submissions are invited from interested parties on:

- the proposed total revenue and its building block components;
- DBP's supporting information to justify actual expenditure undertaken during the 2005-10 access arrangement period and forecast expenditure for the 2011-15 access arrangement period; and
- any other matters in relation to total revenue under the proposed revisions.

Part B – Tariffs

Demand

Regulatory requirements

85. The NGR contain requirements for the provision of information relating to demand.
 - 72 Specific requirements for access arrangement information relevant to price and revenue regulation**
 - (1) The access arrangement information for a full access arrangement proposal (other than an access arrangement variation proposal) must include the following:
 - (a) if the access arrangement period commences at the end of an earlier access arrangement period:
...
 - (iii) usage of the pipeline over the earlier access arrangement period showing:
 - (A) for a distribution pipeline, minimum, maximum and average demand and, for a transmission pipeline, minimum, maximum and average demand for each receipt or delivery point; and
 - (B) for a distribution pipeline, customer numbers in total and by tariff class and, for a transmission pipeline, user numbers for each receipt or delivery point;
 - (d) to the extent it is practicable to forecast pipeline capacity and utilisation of pipeline capacity over the access arrangement period, a forecast of pipeline capacity and utilisation of pipeline capacity over that period and the basis on which the forecast has been derived; ...

86. In addition, rule 74 contains specific requirements for the provision of forecasts and estimates.

74 Forecasts and estimates

- (1) Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.
- (2) A forecast or estimate:
- (a) must be arrived at on a reasonable basis; and
 - (b) must represent the best forecast or estimate possible in the circumstances.

87. Information about actual and forecast demand by user and pipeline services is important for the Authority to undertake its economic regulatory functions and powers (section 27) in relation to the assessment of expenditure and tariffs.

Current access arrangement and proposed revisions

88. Capacity reservation and throughput in the approved access arrangement (2005-10) and the proposed revised access arrangement are summarised in Table 12 and Table 13 below.
89. DBP submits that it is not practical to forecast part haul capacity (clause 8.6 of the proposed revised access arrangement information) and so the submitted information is taken to be a scenario based on the current use of part haul services.

**Table 12 Approved access arrangement 2005-10:
Forecast demand for services (TJ/day)³⁵**

	2005	2006	2007	2008	2009	2010
Full Haul						
Capacity reservation	593.2	613.2	689.0	743.9	761.1	798.7
Throughput	572.0	590.7	658.5	712.5	729.0	763.6
Part Haul						
Capacity reservation	73.9	73.8	73.5	62.7	62.7	62.7
Throughput	54.6	54.5	54.1	43.8	43.8	43.8
Back Haul						
Capacity reservation	66.1	109.2	112.2	112.2	112.2	112.2
Throughput	62.7	109.2	112.2	112.2	112.2	112.2

90. DBP has not provided actual demand for services over the current access arrangement period (2005-10).

³⁵ http://www.erawa.com.au/cproot/3672/2/Approved_AAI_December_2005%20final.pdf, Table 15.

**Table 13 Proposed Revised Access Arrangement 2011-15:
Forecast demand for services (TJ/day)³⁶**

	2011	2012	2013	2014	2015
Full Haul					
Capacity reservation	851.3	860.3	860.3	860.3	860.3
Throughput	703.1	718.8	719.7	725.8	732.5
Part Haul					
Capacity reservation	215.4	215.4	215.4	215.4	215.4
Throughput	215.4	189.7	189.7	189.7	189.7
Back Haul					
Capacity reservation	130.0	130.0	130.0	130.0	130.0
Throughput	112.3	112.3	112.3	112.3	112.3

Key issues

91. The Authority notes that forecast demand for the current access arrangement (2005-2010) may have underestimated actual demand based on the total actual expenditure for the same period (refer to paragraph 46).
92. Underestimated demand leads to reference tariffs being greater than what they should be, in so far as the cost of service is distributed across a smaller demand base. This means that too much revenue would be recovered based on actual demand. It also means that the service provider is likely to underestimate capital and operating expenditure.
93. A key issue is the rigour of demand forecast by pipeline service, having regard to the requirements of the legislation. DBP's supporting submission 9 provides information on actual capital expenditure for 2005-10. Supporting submission 11 provides information about forecast capital expenditure, while supporting submission 7 contains information about capacity and throughput forecast.
94. The Authority encourages interested parties to make submissions on this issue. The Authority notes that while the regulated regime currently does not affect shipper contracts, it understands that the tariffs under current shipper contracts will revert to the reference tariff under the access arrangement on 1 January 2016.³⁷

Issue 9 Demand

Submissions are invited from interested parties on:

- future demand including future demand for each pipeline service;
- DBP's supporting information that seeks to justify the demand information; and
- any other matters in relation demand under the proposed revisions.

³⁶ <http://www.era.gov.au/cproot/8466/2/20100415%20DBNGP%20-%20REVISED%20AAI%20-%20PUBLIC%20VERSION%20-%20Date%20Submitted%201%20April%202010.pdf> , Table 16 and 17.

³⁷ Refer to paragraph 25 (and associated footnote) of this issues paper.

Tariffs for Transmission Pipelines

Regulatory requirements

95. The NGR detail provisions relating to tariffs. Specifically, rules 92 and 93 detail provisions relating to revenue equalisation and the allocation of total revenue and costs.

92 Revenue equalisation

- (1) A full access arrangement must include a mechanism (a reference tariff variation mechanism) for variation of a reference tariff over the course of an access arrangement period.
- (2) The reference tariff variation mechanism must be designed to equalise (in terms of present values):
 - (a) forecast revenue from reference services over the access arrangement period; and
 - (b) the portion of total revenue allocated to reference services for the access arrangement period.
- (3) However, if there is an interval (the interval of delay) between a revision commencement date stated in a full access arrangement and the date on which revisions to the access arrangement actually commence:
 - (a) reference tariffs, as in force at the end of the previous access arrangement period, continue without variation for the interval of delay; but
 - (b) the operation of this subrule may be taken into account in fixing reference tariffs for the new access arrangement period.

93 Allocation of total revenue and costs

- (1) Total revenue is to be allocated between reference and other services in the ratio in which costs are allocated between reference and other services.
- (2) Costs are to be allocated between reference and other services as follows:
 - (a) costs directly attributable to reference services are to be allocated to those services; and
 - (b) costs directly attributable to pipeline services that are not reference services are to be allocated to those services; and
 - (c) other costs are to be allocated between reference and other services on a basis (which must be consistent with the revenue and pricing principles) determined or approved by the ERA.
- (3) The ERA may, however, permit the allocation of the costs of rebateable services, in whole or part, to reference services if:
 - (a) the ERA is satisfied that the service provider will apply an appropriate portion of the revenue generated from the sale of rebateable services to provide price rebates (or refunds) to the users of reference services; and
 - (b) any other conditions determined by the ERA are satisfied.
- (4) A pipeline service is a rebateable service if:
 - (a) the service is not a reference service; and
 - (b) substantial uncertainty exists concerning the extent of the demand for the service or of the revenue to be generated from the service; and
 - (c) the market for the service is substantially different from the market for any reference service.

96. Further to rules 92 and 93, rule 95 specifically relates to tariffs for transmission pipelines.

95 Tariffs – transmission pipelines

- (1) A tariff for a reference service provided by means of a transmission pipeline must be designed:
 - (a) to generate from the provision of each reference service the portion of total revenue referable to that reference service; and
 - (b) as far as is practicable consistently with paragraph (a), to generate from the user, or the class of users, to which the reference service is provided, the portion of total revenue referable to providing the reference service to the particular user or class of users.
- (2) The portion of total revenue referable to a particular reference service is determined as follows:
 - (a) costs directly attributable to each reference service are to be allocated to that service; and
 - (b) other costs attributable to reference services are to be allocated between them on a basis (which must be consistent with the revenue and pricing principles) determined or approved by the ERA.
- (3) The portion of total revenue referable to providing a reference service to a particular user or class of users is determined as follows:
 - (a) costs directly attributable to supplying the user or class of users are to be allocated to the relevant user or class; and
 - (b) other costs are to be allocated between the user or class of users and other users or classes of users on a basis (which must be consistent with the revenue and pricing principles) determined or approved by the ERA.
- (4) The ERA's discretion under this rule is limited.

Current access arrangement and proposed revisions

97. The reference tariff for the approved access arrangement (2005-10) and the proposed revised access arrangement (2011-15) are summarised below. Due to the proposed revisions to the reference services offered, DBP has not submitted part and back haul tariffs. While the current T1 and the proposed R1 reference services differ, the Authority notes that the proposed R1 reference tariff is approximately 40 per cent higher than the existing T1 reference tariff.

Table 14 Reference tariff (\$/GJ)

	T1 (\$2004) ³⁸ Current access arrangement 2005-10	T1 (\$2010) ³⁹ Current access arrangement 2005-10	R1 (\$2010) ⁴⁰ Proposed revised access arrangement 2011-15
Capacity reservation	0.899899	1.069105	1.605
Commodity tariff	0.103122	0.122512	0.078
Total	1.003201	1.191617	1.683

98. DBP's proposed reference tariff and methodology is outlined in sections 3 and 11 of the proposed revised access arrangement, sections 14 and 15 of the proposed revised access arrangement information and public version of its tariff model.

Key issues

99. The Authority notes the difference between the existing and proposed reference tariff and seeks interested parties' views on whether the proposed revision is consistent with the NGL. The existing and proposed reference services are discussed in paragraphs 35 to 37 of this issues paper.
100. In setting tariffs, the proportion of cost recovered by each component is important, as is the allocation of cost between reference services and other pipeline services.
101. DBP is allocating costs as if all users with existing access contracts were users of the proposed reference service (R1), and is proposing to recoup all of its total revenue from the reference tariff of the proposed reference service through a two part tariff structure.⁴¹
102. Interested parties views on the proposal and its compliance with the law, including rules 93 and 95 are sought.

Issue 10 Tariffs

Submissions are invited from interested parties on:

- the proposed increase in the reference tariff;
- the proportion of cost of service to be recovered by each component of the reference tariff;
- the allocation of costs between reference and other services;
- DBP's supporting information to justify the tariffs; and
- any other matters in relation to tariffs under the proposed revisions.

³⁸ http://www.erawa.com.au/cproot/3672/2/Approved_AAI_December_2005%20final.pdf

³⁹ <http://www.erawa.com.au/cproot/8308/2/20100122%20Notice%20-%20Dampier%20to%20Bunbury%20Natural%20Gas%20Pipeline%20-%20Annual%20Reference%20Tariff%20Variation%202010.pdf>

⁴⁰ <http://www.erawa.com.au/cproot/8464/2/20100415%20DBNGP%20-%20REVISED%20AA%20-%20PUBLIC%20VERSION%20-%20Date%20Submitted%20April%201%202010.pdf>

⁴¹ DBP (1 April 2010) Proposed Revised Access Arrangement Information, section 14 incl. Table 21.

Tariff variation mechanism

Regulatory requirements

103. A full access arrangement is required to include a reference tariff variation mechanism (rule 92(1)). Rule 97 makes provision for variation of the reference tariff.

97 Mechanics of reference tariff variation

- (1) A reference tariff variation mechanism may provide for variation of a reference tariff:
 - (a) in accordance with a schedule of fixed tariffs; or
 - (b) in accordance with a formula set out in the access arrangement; or
 - (c) as a result of a cost pass through for a defined event (such as a cost pass through for a particular tax); or
 - (d) by the combined operation of 2 or more of the above.
- (2) A formula for variation of a reference tariff may (for example) provide for:
 - (a) variable caps on the revenue to be derived from a particular combination of reference services; or
 - (b) tariff basket price control; or
 - (c) revenue yield control; or
 - (d) a combination of all or any of the above.
- (3) In deciding whether a particular reference tariff variation mechanism is appropriate to a particular access arrangement, the ERA must have regard to:
 - (a) the need for efficient tariff structures; and
 - (b) the possible effects of the reference tariff variation mechanism on administrative costs of the ERA, the service provider, and users or potential users; and
 - (c) the regulatory arrangements (if any) applicable to the relevant reference services before the commencement of the proposed reference tariff variation mechanism; and
 - (d) the desirability of consistency between regulatory arrangements for similar services (both within and beyond the relevant jurisdiction); and
 - (e) any other relevant factor.
- (4) A reference tariff variation mechanism must give the ERA adequate oversight or powers of approval over variation of the reference tariff.
- (5) Except as provided by a reference tariff variation mechanism, a reference tariff is not to vary during the course of an access arrangement period.

Current access arrangement and proposed revisions

104. The tariff variation mechanism in the current access arrangement uses the annual increases in Perth CPI (all groups, Perth). DBP proposes that the reference tariff variation mechanism continues to be based on Perth CPI, but allowing for the cost pass through of changes in taxes and certain additional costs.

Key issues

105. The Authority notes the expansion in scope for reference tariff variations and seeks interested parties views on whether the proposed variation is consistent with rule 97, the national gas objective (section 23) and revenue and pricing principles (section 24).
106. DBP proposes to pass through the cost of any future emission trading scheme. This will affect forecast operating expenditure. The Authority notes that the legislation for an emissions trading scheme is not currently in place and seeks interested parties submissions on DBP's proposal.

Issue 11 Tariff Variation Mechanism

Submissions are invited from interested parties on:

- the proposed reference tariff variation mechanism including the inflation index and the expanded scope for variation;
- the proposed reference tariff variation mechanism in the context of the national gas objective and the revenue and pricing principles;
- DBP's supporting information to justify the tariff level and methodology; and
- any other matters in relation to the tariff variation mechanism under the proposed revisions.

Part C – Non-Tariff Components

Terms and Conditions

Regulatory requirements

107. The NGR require an access arrangement proposal to detail the price and terms and conditions for each reference service.

48 Requirements for full access arrangement (and full access arrangement proposal)

- (1) A full access arrangement must:

...

- (d) specify for each reference service:

- (i) the reference tariff; and
- (ii) the other terms and conditions on which the reference service will be provided;

...

- (h) state the terms and conditions for changing receipt and delivery points; ...

108. It is noted that rule 109 prohibits the bundling of pipeline services, unless the bundling of services is reasonably necessary. The description of pipeline services is required to contain reasons for any bundling of services.

Current access arrangement and proposed revisions

109. Notwithstanding the requirements of the NGL and that DBP is proposing a different full haul reference service (the R1 Service) to the existing full haul reference service (the T1 Service), the Authority notes that DBP proposes substantial changes to the existing terms and conditions of the T1 Service.⁴²
110. The changes appear to include amendments to the rights and obligations of the operator and shippers, as well as other drafting amendments.
111. Interested parties are invited to consider the proposed amendments in full. Significant proposed amendments include the following:⁴³
- the quantity of gas delivered to the Burrup Extension Pipeline (**BEP**) Inlet Point is deemed to be no more than the BEP Inlet Point Capacity (clause 2.6);
 - amendments to provisions for curtailment of the service under the Curtailment Plan (clause 3.2);
 - deletion of provisions for use of Spot Capacity (clause 3.5);
 - provision of options for the shipper to renew the contract for two terms of five years, rather than two terms of 1 year under the 2005 to 2010 terms and conditions (clause 4.3).
 - shippers are required to give 30 months notice for renewal of contracts rather than the existing 3 months (clause 4.5);
 - an obligation on a shipper to pay capacity related transmission charges in certain events where the operator refuses to deliver gas (clauses 5.6, 5.9);
 - more detailed terms relating to the shipper's obligation to pay for system use gas (clause 5.10);
 - additional rights of the operator to refuse to deliver or receive gas in circumstances of emergencies (clause 5.11);
 - obligations on the shipper to have gas installations and appliances inspected in accordance with the *Gas Standards Act 1972 (WA)* (clause 5.12);
 - more detailed terms relating to operation of multi shipper agreements at inlet and outlet points (clauses 6.4, 6.5);
 - more detailed terms relating to design and installation of inlet stations, inlet point connection facilities, outlet stations and gate stations (clauses 6.6, 6.7, 6.8, 6.10);
 - more detailed terms relating to treatment of "notional gate points" for delivery of gas from the DBNGP to sub-networks (clause 6.10);
 - more detailed terms relating to maintenance charges for inlet stations, outlet stations and gate stations (clause 6.12);
 - more detailed terms dealing with allocation/scheduling of daily nominations (clauses 8.9, 8.10);
 - deletion of terms relating to nominations for "aggregated" services (clauses 8.15, 8.16);

⁴² http://www.erawa.com.au/3/938/48/proposed_access.pm. Interested parties may particularly find the marked-up version useful.

⁴³ References to 'clauses' are to clauses the proposed revised terms and conditions, unless where DBP has deleted clauses in which case reference is to the 2005-10 terms and conditions.

- deletion of terms relating to use of a full haul service for delivery of gas at an outlet point upstream of compressor station 9 (clause 8.18);
- changed terms for notification of imbalances to the shipper (clause 9.4);
- changed terms for dealing with accumulated imbalances in excess of the accumulated imbalance limit and hourly peaks in excess of hourly peaking limits (clause 9.5 and 10.3);
- changed terms in relation to charges and cashing out imbalances (clause 9.6 and 9.9);
- changed terms for peaking including changes to hourly peaking limits (clause 10.3) and deletion of hourly peaking limits and permissible peaking excursions (clauses 10.4 and 10.6);
- inclusion of additional gas parameters in metering requirements (clause 15.4);
- inclusion of additional terms for providing notice of curtailment (clause 17.6);
- changes to terms relating to priority of curtailment of services (clause 17.9);
- changes to terms relating to apportionment of a shipper's curtailments across outlet points of curtailment of services (clause 17.10);
- inclusion of more detailed terms for assignment (clause 25.3 to 25.7);
- deletion of terms for a general right of relinquishment by a shipper (clause 26);
- deletion of terms for the operator to carry out functions as a broker in transfer of contracted capacity (clauses 27.11 and 27.12);
- inclusion of additional exceptions to requirements for confidentiality of information (clause 28.2);
- deletion of audit requirements in relation to the ACCC Undertaking (clause 28.10);
- deletion of warranties of the operator and DBNGP Trustees to the shipper (clauses 30.1(a)(i), 30.4);
- deletion of provision for the shipper to require the operator to provide information on planned expansions in capacity of the DBNGP (clause 31(b));
- insertion of a new provision to limit amendments (clause 38(b));
- deletion of a non-discrimination clause relating to provision of information by the operator to shippers, and treating of all shippers on an arms' length basis (clause 45); and
- deletion of terms limiting liability of the DBNGP Trustee (clause 47).

112. In addition, DBP is proposing a new clause dealing with changes to inlet and outlet points (clause 8 of the proposed revised access arrangement) that replace references to the Gas Code in the current access arrangement (2005-10).

Key Issues

113. Rule 100 requires that an access arrangement be consistent with the national gas objective and the rules and procedures in force when the terms and conditions of the access arrangement proposal are determined or revised. This is different to section 3.6 of the Gas Code that simply required terms and conditions to be assessed against a reasonableness criterion.

114. The Authority understands that the reference service terms and conditions of access arrangement may be of greater significance to shippers after:
- 2016 when the Standard Shipper Contract tariffs revert to the Reference Tariff determined under the approved access arrangement; and
 - 2019 when, shippers on an existing Standard Shipper Contract will be free to switch to regulated contracts under the access arrangement.⁴⁴
115. In forming a view on the DBP's revised terms and conditions, the Authority seeks interested parties' views on the need to substantially amend the terms and conditions of the current access arrangement (2005-2010), the proposed revised amendments, and any other amendments or issues interested parties may consider appropriate having regard to the NGL.

Issue 12 Terms and Conditions

Submissions are invited on:

- whether the terms and conditions should vary from current approved terms and conditions under existing access contracts for full haul services negotiated with shippers, which go beyond amendments required to accommodate changed legislative requirements;
- any issues interested parties have with existing access arrangement terms and conditions (2005-2010) and the proposed revised terms and conditions;
- whether the proposed terms and conditions are consistent with the national gas objective and, if appropriate, the revenue and pricing principles, including comments on DBP's supporting information to justify the terms and conditions; and
- any other matters in relation to the terms and conditions under the proposed revisions.

Queuing Requirements

Regulatory requirements

116. Rule 103 details the queuing requirements for transmission pipelines.

103 Queuing requirements

- (1) An access arrangement must contain queuing requirements if:
 - (a) the access arrangement is for a transmission pipeline;
- (3) Queuing requirements must establish a process or mechanism (or both) for establishing an order of priority between prospective users of spare or developable capacity (or both) in which all prospective users (whether associates of, or unrelated to, the service provider) are treated on a fair and equal basis.
- (4) Queuing requirements might (for example) provide that the order of priority is to be determined:
 - (a) on a first-come-first-served basis; or

⁴⁴ Refer to paragraph 25 (and associated footnote) of this issues paper.

- (b) on the basis of a publicly notified auction in which all prospective users of the relevant spare capacity or developable capacity are able to participate.
 - (5) Queuing requirements must be sufficiently detailed to enable prospective users:
 - (a) to understand the basis on which an order of priority between them has been, or will be, determined; and
 - (b) if an order of priority has been determined – to determine the prospective user's position in the queue.
117. The queuing requirements must also be consistent with the national gas objective (rule 100).

Current access arrangement and proposed revisions

118. DBP proposes changes to the queuing requirements of the access arrangement, including changes that:
- refer to documents, such as customer requirements, on the DBP website (clause 5.2(b)(v)); and
 - amend the provisions allowing the operator to reject an access request (clause 5.3(f) to (g)).

Key issues

119. Queuing requirements must allow users to understand the basis of priority for access to the DBNGP and must be consistent with the national gas objective.
120. While the queuing requirements do not appear to be materially changed from the current access arrangement (2005-10), several drafting changes are proposed. The Authority notes that interested parties may have views on the practical application of the queuing requirements under the existing access arrangement.

Issue 13 Queuing Requirements

Submissions are invited from interested parties on:

- the queuing requirements, including whether they comply with the national gas objective;
- whether the information provided allows users (including prospective users) to understand the queuing requirements;
- interested parties' practical experiences with the existing queuing policy; and
- any other matters in to relation the proposed queuing requirements.

Capacity Trading Requirements

Regulatory requirements

121. The NGR provides for capacity trading requirements.

105 Capacity trading requirements

- (1) Capacity trading requirements must provide for transfer of capacity:
- (a) if the service provider is registered as a participant in a particular gas market – in accordance with rules or Procedures governing the relevant gas market; or

- (b) if the service provider is not so registered, or the relevant rules or Procedures do not deal with capacity trading – in accordance with this rule.
 - (2) A user may, without the service provider’s consent, transfer, by way of subcontract, all or any of the user’s contracted capacity to another (the third party) with the following consequences:
 - (a) the transferor’s rights against, and obligations to, the service provider are (subject to paragraph (b)) unaffected by the transfer; but
 - (b) the transferor must immediately give notice to the service provider of:
 - (i) the subcontract and its likely duration; and
 - (ii) the identity of the third party; and
 - (iii) the amount of the contracted capacity transferred.
 - (3) A user may, with the service provider’s consent, transfer all or any of the user’s contracted capacity to another (the third party) with the following consequences:
 - (a) the transferor’s rights against, and obligations to, the service provider are terminated or modified in accordance with the capacity trading requirements; and
 - (b) a contract arises between the service provider and the third party on terms and conditions determined by or in accordance with the capacity trading requirements.
 - (4) The service provider must not withhold its consent under subrule (3) unless it has reasonable grounds, based on technical or commercial considerations, for doing so.
 - (5) An adjustment of rights and liabilities under subrule (3) does not affect rights or liabilities that had accrued under, or in relation to, the contract before the transfer took effect.
 - (6) The capacity trading requirements may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.
122. Under rule 100, the capacity trading requirements must also be consistent with the national gas objective.

Current access arrangement and proposed revisions

123. DBP proposes revisions to capacity trading requirements, including new provisions:
 - to comply with the queuing requirements (clause 6.3(a));
 - to reimburse costs to the operator for a transfer (clause 6.3(b)); and
 - that on transfer of contracted capacity existing rights and obligations will be terminated and give rise to a new access contract (clause 6.4).

Key issues

124. The changes to the capacity trading arrangements do not appear to be significant relative to the current access arrangement (2005-10). However, interested parties may wish to comment on the proposed amendments including clause 6.4. In addition, interested parties may have views on the practical application of the capacity trading requirements under the existing access arrangement.
125. The Authority also notes that the trading arrangements do not appear to explicitly deal with additional capacity that arises as a result of the difference between the quality of the gas flowing through the DBNGP and the minimum gas specification.

Issue 14 Capacity Trading Requirements

Submissions are invited from interested parties on:

- the capacity trading requirements including whether they are consistent with rule 105 and the national gas objective;
- practical experience with the current capacity trading requirements; and
- any other matters in relation to capacity trading under the proposed revisions.

Extension and expansion policy

Regulatory requirements

126. The NGR provides for extension and expansion requirements.

104 Extension and expansion requirements

- (1) Extension and expansion requirements may state whether the applicable access arrangement will apply to incremental services to be provided as a result of a particular extension to, or expansion of the capacity of, the pipeline or may allow for later resolution of that question on a basis stated in the requirements.
- (2) Extension and expansion requirements included in a full access arrangement must, if they provide that an applicable access arrangement is to apply to incremental services, deal with the effect of the extension or expansion on tariffs.
- (3) The extension and expansion requirements cannot require the service provider to provide funds for work involved in making an extension or expansion unless the service provider agrees.

127. Under rule 100, the extension and expansion policy must also be consistent with the national gas objective.

Current access arrangement and proposed revisions

128. DBP proposes changes to the extensions and expansions requirements including:

- a new test be included for expansion of capacity that imports provisions from the Gas Code, which the current access arrangement (2005-2010) refers to (clause 7.1); and
- inclusion of consideration of the new *Western Australian Gas Supply (Gas Quality Specifications) Act 2009* for the purpose of considering whether to treat an extension, expansion or enhancement as a part of the Covered Pipeline (clause 7.4(f)).

Key issues

129. Extension and expansion requirements are an important pre-requisite for access to new capacity on the pipeline. Having regard to the NGL (rather than the Gas Code), interested parties should consider if the proposed revisions are appropriate. A key issue in this regard is DBP's proposed new test incorporating Gas Code requirements that the NGR has since replaced.

Issue 15 Extension and Expansion Requirements

Submissions are invited from interested parties on:

- the extension and expansion policy including whether it complies with the national gas objective; and
- any other matters in relation to the extension and expansion policy under the proposed revisions.

Part D – Other issues

130. DBP is not proposing to include a capital redundancy mechanism. Rule 85 makes it optional for the service provider to include a capital redundancy mechanism. However, rule 85 is a full discretion rule, which allows the Authority discretion to include such a mechanism.
131. DBP does not propose to include a trigger mechanism which the Authority may require under rule 51. Having regard to the uncertainty about forecasts, including demand forecasts, the Authority invites interested parties to make submissions about the need for trigger mechanisms.
132. DBP is proposing to remove the current incentive mechanism from the proposed revised access arrangement (clause 7.12). Rule 91 makes it optional for the service provider to include an incentive mechanism, however, the rule is a full discretion rule which allows the Authority the discretion to include such a mechanism. DBP has advised that the current incentive mechanism led to an additional \$20 million of revenue that is to be added to total revenue in the 2011-15 access arrangement period. Without an explicit incentive mechanism, DBP still benefits from cost savings within an access arrangement period, albeit there is no carry over between access arrangement periods.
133. The *Gas Supply (Gas Quality Specifications) Act 2009*⁴⁵ provides for the gas specifications to be set in accordance with the *Gas Supply (Gas Quality Specifications) Regulations 2010*.⁴⁶ The proposed revised access arrangement links to the new *Gas Supply (Gas Quality Specifications) Act 2009* through the following clauses of the proposed access arrangement:
 - a pipeline impact agreement service as a non-reference service (clause 3.6(j)); and
 - determining whether an enhancement, expansion, or extension is a part of the covered pipeline (clause 7.4(f)).
134. DBP's proposed revised access arrangement raises a range of issues, particularly in the context of the new regulatory framework under the NGL. This issues paper only raises some key issues in regard to the proposal. Therefore, interested parties are encouraged to give consideration to the new regulatory framework when making submission on the proposed revisions.

⁴⁵ http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_11249_homepage.html

⁴⁶ [http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:17704P/\\$FILE/GasSplyGasQltySpecificationsRegs2010_00-a0-00.pdf?OpenElement](http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:17704P/$FILE/GasSplyGasQltySpecificationsRegs2010_00-a0-00.pdf?OpenElement)

Issue 16 Other Issues

Submissions are invited from interested parties on:

- any of the issues raised in this section, including capital redundancy, trigger mechanisms, incentive mechanisms, and gas quality regulation; and
- any other matters in relation to the proposed revised access arrangement that interested parties wish to bring to the Authority's attention.