



ECONOMIC REGULATION AUTHORITY

Western Australia

Issues Paper:

Proposed Revisions to the Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline (DBNGP)

Submitted by

DBNGP (WA) TRANSMISSION PTY LTD

Economic Regulation Authority

25 January 2005

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INTRODUCTION

The purpose of this Issues Paper is to assist interested parties in making submissions on the proposed revisions to the Access Arrangement (**Proposed Revised Access Arrangement**) and Access Arrangement Information submitted by Dampier Bunbury Natural Gas Pipeline (WA) Transmission Pty Ltd (**DBNGPT**). The issues identified in this paper are not intended to be exhaustive but to indicate a number of matters which the Economic Regulation Authority (**Authority**) has identified as potentially relevant to its assessment of the proposed Access Arrangement.

On 21 January 2005, DBNGPT submitted a Proposed Revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline (**DBNGP**) to the Authority for approval under the *National Third Party Access Code for Natural Gas Pipeline Systems (Code)*.

The Proposed Access Arrangement and Access Arrangement Information documents are available at no cost from the Authority's web site (**www.era.wa.gov.au**). Printed copies of the documentation are also available for \$25.00 per set. Requests for the documents can be made to:

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A notice has been posted on the Authority's website advising that the Proposed Revised Access Arrangement and Access Arrangement Information have been lodged with the Authority.

This Notice and advertisements to be placed in the West Australian and The Australian on 27 January 2005 invite public submissions to be lodged with the Authority by **4pm (Western Standard Time)** on **23 February 2005**.

After considering all public submissions, the Authority is required to issue a Draft Decision. The Code requires that if the Authority proposes to not approve the Proposed Revised Access Arrangement, the Draft Decision must state the amendments (or nature of the amendments) which need to be made for it to be approved.

After publication of the Draft Decision, interested parties will be given a further opportunity to make submissions. The closing date for submissions on the Draft Decision will be specified at the time the Draft Decision is released.

BACKGROUND

THE PIPELINE SYSTEM

The DBNGP consists of the gas pipeline system as described by Western Australian pipeline licences WA: PL 40, WA: PL 41 and WA: PL 47. The pipeline system comprises 1845.3 km of high pressure gas pipeline (including laterals) linking gas suppliers in the north west of Western Australia with markets principally in the south west of the State.

The DBNGP is operated by DBNGP (WA) Transmission Pty Ltd and is owned by DBNGP (WA) Nominees Pty Ltd ("Nominees") as Trustee for the DBNGP WA Pipeline Trust.

THE CURRENT ACCESS ARRANGEMENT

The current Access Arrangement was approved by the then Western Australian Independent Gas Pipelines Access Regulator on 29 December 2003. The functions of the Independent Gas Pipelines Access Regulator passed to the Economic Regulation Authority on establishment of the Authority on 1 January 2004.

Under the current Access Arrangement, revisions to the Access Arrangement were to be submitted on 1 April 2004 however, the Authority granted extensions of time for submission of revisions to 15 January 2005. After the Authority refused to grant a further extension of time beyond this, DBNGPT submitted the Proposed Revised Access Arrangement on 21 January 2005.

ISSUES FOR CONSIDERATION

REQUIRED CONTENTS OF AN ACCESS ARRANGEMENT

As indicated in section 2 of this Issues Paper, the required contents of an Access Arrangement include the following elements:

- a **Services Policy**, which must include a description of one or more Services that the Service Provider will offer to Users and Prospective Users (sections 3.1 and 3.2 of the Code);
- **Reference Tariffs** and a **Reference Tariff Policy**, including one or more tariffs determined according to the Reference Tariff Principles in section 8 of the Code (sections 3.3 to 3.5);
- the **Terms and Conditions** on which the Service Provider will supply each Reference Service (section 3.6);
- a **Capacity Management Policy**, incorporating a statement that the covered pipeline is either a contract carriage or market carriage pipeline (sections 3.7 and 3.8);
- a **Trading Policy**, addressing the transfer between persons of rights to obtain a Service (on a contract carriage pipeline) (sections 3.9 to 3.11);

- a **Queuing Policy**, defining the priority that Prospective Users have to negotiate for specific capacity (sections 3.12 to 3.15);
- an **Extensions/Expansions Policy**, setting out a method for determining whether an extension or expansion to the covered pipeline is or is not to be treated as part of the covered pipeline for the purposes of the Code (section 3.16); and
- a **Review Date**, by which revisions to the Access Arrangement must be submitted, and a date by which the revisions are intended to commence (sections 3.17 to 3.20).

The following sections of this Issues Paper provide an overview of the content of the Proposed Revised Access Arrangement in respect of each of these elements. Major differences to the current Access Arrangement are noted where relevant.

SERVICES POLICY

Sections 3.1 and 3.2 of the Code require an Access Arrangement to include a Services Policy that must include a description of one or more Services that the Service Provider will make available to Users and Prospective Users. The Service Provider is not obliged to provide a Service unless it is one of the Services specified in the Access Arrangement (or an element of such a Service).

The current Access Arrangement for the DBNGP distinguishes between a Reference Service and a range of Non-Reference Services.¹ The Services Policy of the current Access Arrangement commits the owner of the pipeline to making available a single Service (**Firm Service**) to Prospective Users as a Reference Service. The Firm Service has the following general characteristics.

- The pipeline is divided into 11 zones, referred to as Zones 1 to 4, 4a and 5 to 10. The Firm Service is a Service under which gas may be received into the pipeline at a Receipt Point in Zone 1 and delivered to a Delivery Point in any zone, with the tariff payable for the Firm Service dependent upon the zone in which the delivery point is located.
- The Firm Service can involve either forward-haul or back-haul of gas.
- The Firm Service is not subject to interruption or curtailment except as permitted by the Access Contract.
- The minimum contract term is two years, where the application for the Firm Service is for utilisation of spare capacity, or twenty years, where the application for the Firm Service is for utilisation of developable capacity.

The current Access Arrangement also provides for eight Non Reference Services:

- Secondary Market Service;
- Park and Loan Service;

¹ A Reference Service is a Service that is specified in an Access Arrangement and for which a Reference Tariff is specified in that Access Arrangement under section 3.3 of the Code.

- Seasonal Service;
- Peaking Service;
- Metering Information Service;
- Pressure and Temperature Control Service;
- Odourisation Service; and
- Co-Mingling Service.

The Non-Reference Services under the current Access Arrangement also include Services provided by the pipeline owner under contracts entered into prior to commencement of the first Access Arrangement Period.

The Services Policy of the Proposed Access Arrangement describes a different Reference Service, the **Tf Service**. The principal differences of the Tf Service from the Firm Service are:

- The Tf Service is a “full haul” Service for the transport of gas to locations downstream of compressor station CS9 of the pipeline and the same Reference Tariff applies to any location of gas delivery. The Tf Service does not include provision for the “part-haul” transport of gas to locations upstream of compressor station CS9.
- The minimum contract term for the Tf Service where the application for the Firm Service is for utilisation of spare capacity is five years.

The Authority invites submissions as to whether the proposed Tf Service meets the requirements of the Code for a Service to be included in the Services Policy and to be the sole Reference Service provided for under the Access Arrangement. The particular requirements of the Code in this respect are set out in sections 3.2(a) and 3.3 of the Code and include that the Service must be likely to be sought by a significant part of the market.

The Services Policy of the Proposed Revised Access Arrangement makes provision for a similar range of Non-Reference Services as the current Access Arrangement, with changes comprising:

- inclusion of a Part-Haul Service and Back Haul Service (which would no longer be provided as part of the Reference Service);
- a change in the Spot Market Service from the “Secondary Market Service” of the current Access Arrangement to the “Spot Capacity Service” of the Proposed Revised Access Arrangement.

The Authority invites submissions as to whether the Non-Reference Services of the Proposed Revised Access Arrangement include all Services that should appropriately be included in the Services Policy and whether any of these Services should be Reference Services.

REFERENCE TARIFF AND REFERENCE TARIFF POLICY

The Code requires that an Access Arrangement include a Reference Tariff for:

- at least one Service that is likely to be sought by a significant part of the market; and
- each Service that is likely to be sought by a significant part of the market and for which the Authority considers a Reference Tariff should be included.

The principles applied in determining Reference Tariffs are to be stated in the Access Arrangement as a Reference Tariff Policy. Both the Reference Tariff Policy and the Reference Tariffs should be designed with a view to achieving the objectives set out in section 8.1 of the Code:

- providing the Service Provider with the opportunity to earn a stream of revenue that recovers the efficient costs of delivering the Reference Service over the expected life of the assets used in delivering the Service;
- replicating the outcomes of a competitive market;
- ensuring the safe and reliable operation of the pipeline;
- not distorting investment decisions in pipeline transportation systems or in upstream and downstream industries;
- efficiency in the level and structure of the Reference Tariff; and
- providing an incentive to the Service Provider to reduce costs and to develop the market for Reference Services and other Services.

Estimating a revenue level and developing a tariff methodology that meets these objectives is central to striking an appropriate balance between the interests of the Service Provider and Users and in promoting competition and efficiency in upstream and downstream markets.

The Reference Tariff Policy of the proposed revisions to the Access Arrangement is broadly similar to that of the current Access Arrangement, with the following substantive changes having been made.

- Provisions relating to determination of the Capital Base of the pipeline have been amended to make explicit provision for the “roll forward” of the value of the Capital Base from the first Access Arrangement Period to the second Access Arrangement Period (clause 7.3 of the Proposed Revised Access Arrangement).
- The structure of the Reference Tariff for the proposed Tf Service is different to that of the Firm Service. The Reference Tariff for the Firm Service comprises four charges (Pipeline Capacity Charge, Compression Capacity Charge, Compressor Fuel Charge and Delivery Point Charge). The tariff structure for the proposed Tf Service comprises two charges (the Capacity Reservation Tariff and the Commodity Tariff) (clause 7.10 of the Proposed Revised Access Arrangement).
- The formula for escalation of the Reference Tariff with inflation has been changed. The Reference Tariff for the Firm Service is escalated at 67 percent of the rate of inflation. The Reference Tariff for the Tf Service is proposed to be escalated at the full rate of inflation (clause 7.11 of the Proposed Revised Access Arrangement).

- The Proposed Revised Access Arrangement includes provision for an efficiency-carryover incentive mechanism whereby a share of any reductions in Non Capital Costs during the Access Arrangement Period (relative to forecasts used in the determination of the Reference Tariff) is added to the Total Revenue for the next Access Arrangement Period commencing in 2011 (clause 7.12 of the Proposed Revised Access Arrangement), this allows for the Service Provider to retain the benefits of efficiency improvements for a period beyond the Proposed Revised Access Arrangement Period.
- A number of Fixed Principles have been included in the Proposed Revised Access Arrangement. These would have the effect of binding decisions of the Authority for all Access Arrangement Periods to 2031 in respect of:
 - the method of determination of the Rate of Return and assumptions made in determination of the rate of return; and
 - preventing the Authority from taking into account in any Reference Tariff determination the amount of any “additional” revenue earned by the Service Provider by sale of full-haul Services at a tariff greater than the Reference Tariff for the Tf Service (clause 7.13 of the Proposed Revised Access Arrangement).

The Authority invites submissions as to whether the proposed revisions to the Reference Tariff Policy are consistent with the Code, in particular the objectives of section 8.1, and represent an appropriate balance between the interests of the Service Provider and Users.

The Reference Tariff proposed for the Tf Service is indicated in Schedule 1 of the Access Contract Terms and Conditions for the Tf Service and comprises a Capacity Reservation Charge of \$0.9847/GJ and a Commodity Charge of \$0.1077/GJ for the year 2005.

The Authority will review the determination of the Reference Tariff but also invites submissions as to whether the Reference Tariff has been appropriately determined in accordance with the Cost of Service methodology described in section 8.4 of the Code.

TERMS AND CONDITIONS FOR THE Tf SERVICE

An Access Arrangement must include the terms and conditions on which the Service Provider will supply each Reference Service (section 3.6 of the Code). The terms and conditions form the basis of a contract between a User and the Service Provider for provision of a Reference Service. The terms and conditions must, in the Authority’s opinion, be reasonable.

The proposed terms and conditions for supply of the Tf Service have been provided as Annexure A to the Proposed Revised Access Arrangement.

The revised terms and conditions are set out in the same structure as the terms and conditions for the Firm Service under the current Access Arrangement with the following exceptions:

- a new clause 1A has been added, relating to the term of an Access Contract;
- clause 29 of the current terms and conditions, relating to Rebates, has been removed;

- clause 31 of the current terms and conditions, stating that the owner of the DBNGP is not a supplier of gas, has been removed.

The Authority has undertaken a preliminary, but not exhaustive, review of the proposed terms and conditions and identified the following major differences between the proposed terms and conditions of the Tf Service and the terms and conditions of the current Firm Service.

- The gas quality specification for the Tf Service no longer includes the minimum extractable LPG content that applied for the Firm Service, although all other gas quality parameters remain the same (clause 2.1 and Schedule 2 of the proposed revisions to the Access Contract Terms and Conditions).
- Provision is made for a change in law relating to gas quality in the DBNGP (clauses 2.8 and 2.9 of the proposed revisions to the Access Contract Terms and Conditions).
- Provision is made for a User to provide gas to the DBNGP that is outside of the gas quality limits of the designated “operating specification” but within the gas quality limits of a designated “broadest specification”, subject to the Service Provider still being capable of complying with gas quality specifications for delivery of gas to other Users (clause 2.10 of the proposed revisions to the Access Contract Terms and Conditions).
- Provisions have been added in relation to receipt points and delivery points utilised by multiple Users (clauses 3.2, 3.3 of the proposed revisions to the Access Contract Terms and Conditions).
- Provisions have been added in relation to installation, operation and maintenance of receipt points and delivery points (clause 3.6 of the proposed revisions to the Access Contract Terms and Conditions).
- Provisions have been added in relation to contributions by a User to the capital and maintenance costs of receipt points and delivery points (clauses 3.7 and 3.8 of the proposed revisions to the Access Contract Terms and Conditions).
- Provision has been added to allow the Service Provider to recover direct damages suffered by the Service Provider as a result of a User taking delivery of gas in excess of the User’s MHQ (clause 7.2 of the proposed revisions to the Access Contract Terms and Conditions).
- The scope of a permissible interruption to the Tf Service includes a right of the Service Provider to interrupt the Service “in order to comply with obligations under any prior contract or an contract which is subject to curtailment or interruption only after the curtailment or interruption of the Tf Service (clause 14.1 of the proposed revisions to the Access Contract Terms and Conditions).
- The requirement of the Service Provider to give notice of planned maintenance that may give rise to interruptions has been changed from a requirement for 30 days notice to a requirement to give reasonable, but not less than 3 days, notice (clause 14.2 of the proposed revisions to the Access Contract Terms and Conditions).

The Authority invites submissions as to whether the proposed terms and conditions for the Tf Service are reasonable.

CAPACITY MANAGEMENT POLICY

An Access Arrangement must include a capacity management policy that indicates whether the covered pipeline is to be managed as a contract carriage pipeline or a market carriage pipeline.

There is no explicit statement in the Proposed Revised Access Arrangement of a Capacity Management Policy, although it is implied by the description of Services and the Services Policy and by the terms and conditions of the Tf Service that the DBNGP will continue to be managed as a contract carriage pipeline.

The Authority invites submissions as to whether Users consider it appropriate that the DBNGP continue to be managed as a Contract Carriage Pipeline.

TRADING POLICY

Sections 3.9 to 3.11 of the Code set out the requirements of a Trading Policy. If a pipeline is a contract carriage pipeline (as is the case for DBNGP), the Access Arrangement must include a Trading Policy, which explains how Users may trade their rights to a Service with other Users or Prospective Users.

The Trading Policy of the proposed revisions to the Access Arrangement maintains provisions of the current Access Arrangement for bare and conditional transfers of capacity, trading of imbalances and relocation of delivery point MDQ (clause 10 of the Proposed Revised Access Arrangement).

Provisions for a secondary market for capacity have been removed from the Access Arrangement.

The Authority invites submissions as to whether the Trading Policy of the Proposed Revised Access Arrangement adequately provides for Users to trade their rights to a Service with Other Users or Prospective Users.

QUEUEING POLICY

Sections 3.12 to 3.15 of the Code set out the requirements for a Queueing Policy. An Access Arrangement must include a Queueing Policy that explains the priorities of Users and Prospective Users in obtaining access to the covered pipeline.

The Queueing Policy must provide sufficient detail to enable Users and Prospective Users to understand in advance how priority to capacity of the pipeline will be assigned and, to the extent reasonably possible, accommodate the legitimate business interests of the Service Provider, Users and Prospective Users, and generate economically efficient outcomes.

A Queueing Policy is provided in section 5.4 of the proposed revisions to the Access Arrangement. This Queueing Policy is largely the same as the Queueing Policy of the current Access Arrangement with the exceptions that:

- provisions have been added to the Queuing Policy relating to an access request for a Service where the terms and conditions for that Service have to be negotiated between the User and the Service Provider (clause 5.4(f) of the Proposed Revised Access Arrangement); and
- a provision has been added which excludes access to the Spot Capacity Service from the Queuing Policy (clause 5.4(n) of the Proposed Revised Access Arrangement).

The Authority invites submissions as to whether the Queuing Policy of the Proposed Revised Access Arrangement provides sufficient detail for Users and Prospective Users to understand how priorities to access will be determined; accommodates the legitimate business interests of the Service Provider, Users and Prospective Users; and is consistent with economically efficient outcomes in the use of Pipeline Capacity.

EXTENSIONS/EXPANSIONS POLICY

Section 3.16 of the Code requires an Access Arrangement to include an Extensions/Expansions Policy that sets out the method to determine whether any extensions or expansions of the pipeline will be treated as part of the covered pipeline and, if covered, how they will affect Reference Tariffs.

An Extensions/Expansions Policy is provided in Section 11 of the Proposed Revised Access Arrangement. This Extensions/Expansions Policy is largely the same as the Extensions/Expansions Policy of the current Access Arrangement with the exceptions that:

- provisions of the current Access Arrangement (clause 12.1) that set out conditions under which the Service Provider would expand the pipeline have been removed; and
- a new provision has been included in the Extensions/Expansions Policy that sets out a number of factors that the Service Provider may have regard to in considering whether to treat an extension or expansion as part of the covered pipeline (clause 11.4 of the Proposed Revised Access Arrangement).

The Authority invites submissions as to whether the Extensions/Expansions Policy of the Proposed Revised Access Arrangement adequately explains the method by which it will be determined whether any extension or expansion of the DBNGP will become part of the covered pipeline; and adequately specifies how extensions and expansions will affect the Reference Tariff.

REVIEW OF THE ACCESS ARRANGEMENT

Section 3.17 of the Code requires an Access Arrangement to include a date by which the Service Provider must submit revisions to the Access Arrangement (**the Revisions Submission Date**), and a date upon which the revisions to the Access Arrangement are intended to commence (**the Revisions Commencement Date**).

The proposed revisions to the Access Arrangement include provisions for a Revisions Submission Date of 1 July 2010 and a Revisions Commencement Date of 1 January 2011. If the proposed revisions to the Access Arrangement are approved in the latter half of 2005, these dates imply an Access Arrangement Period of up to 5½ years in length.

The Authority invites submissions as to whether the proposed length of the Access Arrangement Period appropriately balances the need to recognise the potential changes in the nature of the natural gas industry and the uncertainty which arises in such an environment (which favour a short Access Arrangement Period) against the desire to reduce uncertainty created by the regulatory process (which favours a longer Access Arrangement Period).

ACCESS ARRANGEMENT INFORMATION

The purpose of the Access Arrangement Information is to permit interested parties to understand the derivation of the “elements” in the Proposed Revised Access Arrangement and to form an opinion as to the compliance of the Access Arrangement with provisions of the Code. The term “elements” refers to Reference Tariffs, Reference Services and other minimum requirements as discussed above.

Attachment A to the Code specifies the information that must be included in the Access Arrangement Information. While there is no requirement for the Access Arrangement Information to be approved, the Service Provider can be asked to provide additional information if the Access Arrangement Information does not meet the purposes or minimum requirements set out in the Code. Any person may request the Authority to consider whether the Access Arrangement Information is sufficient in relation to any particular matter.

The Authority invites submissions on whether the information disclosed in the proposed revisions to the Access Arrangement and the Access Arrangement Information is sufficient to enable interested parties to understand the derivation of the elements in the Proposed Revised Access Arrangement.

MAKING A SUBMISSION

Submissions are invited from all interested parties on the Proposed Revised Access Arrangement which must be received on 23 February 2005 by 4pm Western Standard Time.

Interested parties should note that the proposed timetable for assessment of the revisions to the DBNGP Access Arrangement is very tight with the Authority proposing to complete the assessment process by 1 July 2005. Accordingly, the Authority intends to strictly enforce the deadline for submissions and an application for an extension of time under section 7.19 of the Code will only be granted in exceptional circumstances.

CONFIDENTIALITY

In general, all submissions from interested parties will be treated as in the public domain and placed on the Authority’s website. The receipt and publication of any submission lodged for the purposes of the Code shall not be taken as indicating that the Authority has formed an opinion as to whether or not any particular submission contains any information of a confidential nature.

Where an interested party wishes to make a submission in confidence, it should clearly indicate the parts of the submission in respect of which confidentiality is claimed. Any claim of confidentiality will be considered in accordance with the provisions of sections 7.11 to 7.14 of the Code.

FORMAT FOR SUBMISSIONS

Submissions with comments on the Proposed Revised Access Arrangement should be in both written and electronic form and addressed to:

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Email: annette.watkins@era.wa.gov.au