



Western Australia

Economic Regulation Authority

Issues Paper:

Proposed Access Arrangement for the Goldfields Gas Pipeline

Submitted by

GOLDFIELDS GAS TRANSMISSION

Revised Access Arrangement and Associated Submissions

**Economic Regulation Authority
Western Australia**

1 December 2004

Introduction

The purpose of this Issues Paper is to assist interested parties in making submissions on the proposed revised Access Arrangement and Supplementary Submission and associated documents submitted by Goldfields Gas Transmission for the Goldfields Gas Pipeline (GGP). The issues identified in this paper are not intended to be exhaustive but to indicate a number of matters which the Authority has identified as potentially relevant to its assessment of the proposed revised Access Arrangement.

Background

On 15 December 1999, Goldfields Gas Transmission Pty Ltd (GGT) submitted a proposed Access Arrangement for the GGP to the then Western Australian Independent Gas Pipelines Access Regulator (the Regulator) for approval under the *National Third Party Access Code for Natural Gas Pipeline Systems* (the Code). The function of approval of the proposed Access Arrangement moved to the Economic Regulation Authority (the Authority) on the establishment of the Authority on 1 January 2004.

The Authority is assessing the proposed Access Arrangement against the requirements and principles of the *Gas Pipelines Access (Western Australia) Act 1998*, which gives effect to the *Gas Pipelines Access (Western Australia) Law*, including the Code.

On 29 July 2004 the Authority issued its Amended Draft Decision under which it proposed to not approve the proposed Access Arrangement.

Under section 2.15A of the Code, after the date of a Draft Decision, a Service Provider is entitled to resubmit a proposed Access Arrangement, revised so as to incorporate or substantially incorporate the amendments specified by the relevant Regulator in its Draft Decision or otherwise address the matters the relevant Regulator identified in the Draft Decision as being the reasons for requiring the amendments.

In a confidential submission made on 8 October 2004, GGT indicated to the Authority that it intended to submit a revised proposed Access Arrangement to the Authority:¹

GGT submitted a revised proposed Access Arrangement to the Authority on 17 November 2004 and a range of supporting documents on 23 November 2004.

Submitted Documents

GGT has submitted the following documents to the Authority. These documents comprise revised public versions of the proposed revised Access Arrangement and submissions and supporting documents from GGT providing explanatory information in relation to the revisions.

¹ While this submission was made on 8 October 2004, a “corrected” version was submitted on 11 October 2004. The corrected version is still dated 8 October 2004.

Document Title	Document Content
Revised Access Arrangement 17 November 2004	Marked-up version of revised Access Arrangement.
Access Arrangement Appendix 1 - Definitions and Interpretation	Marked-up version of Appendix 1 to the revised Access Arrangement comprising “definitions and interpretation”.
Access Arrangement Appendix 2.1 - Enquiry Form	Marked-up version of Appendix 2.1 to the revised Access Arrangement comprising the “service enquiry form” for the GGP.
Access Arrangement Appendix 3 – General Terms and Conditions	Marked-up version of Appendix 3 to the revised Access Arrangement comprising the terms and conditions for the Firm Service.
Supplementary Submission Regarding Amended Draft Decision 23 November 2004	Supporting documentation to GGT’s re-determination of residual value for the GGT from a capital-recovery model. Submission on the rate of return, proposing a higher rate of return than determined by the Authority in the Amended Draft Decision. Forecast Non-Capital Costs for 2005 to 2009, including additional cost items of “owners costs” and “asymmetric risk” not previously included in forecasts. Discussion of other elements of the proposed Access Arrangement that have been revised including asset depreciation, demand forecasts and tariff structure.
Attachment to Supplementary Submission Regarding Amended Draft Decision – Weighted Average Cost of Capital (KPMG Report)	Discussion of appropriate value for the pre tax nominal and pre tax real rate of return.
Attachment to Supplementary Submission Regarding Amended Draft Decision – Estimated Replacement Cost (Venton & Associates Report)	Provides estimated cost to replace the GGP and Newman Lateral as at December 1999 and 3 rd quarter 2004.
Attachment to Supplementary Submission Regarding Amended Draft Decision	Submission on legitimate business interests and reasonable expectations under the Goldfields Gas Pipeline Agreement Act 1994, including claims of errors by the Authority in the Amended Draft Decision.
Supplementary Submission Regarding Amended Draft Decision: Summary of Key Information 25 November 2004	Summary tables of Initial Capital Base, Rate of Return, Non Capital Costs (2005 to 2009), Capital Costs (2005 to 2009), forecast MDQ (2005 to 2009).

Issues

The Authority intends to consider GGT’s revised proposed Access Arrangement in accordance with sections 2.16(b) and 2.16A of the Code. Under these provisions, the Authority may approve the revised Access Arrangement only if it is satisfied that it:

- (a) incorporates or substantially incorporates the amendments specified by the Authority in the Amended Draft Decision; or
- (b) otherwise addresses to the Authority's satisfaction the matters the Authority identified in its Amended Draft Decision as being the reasons for requiring the amendments specified.

In making a determination whether to approve the revised proposed Access Arrangement under section 2.16(b) of the Code, the Authority will consider whether GGT has incorporated or substantially incorporated the amendments required in its Amended Draft Decision. In addition, the Authority will consider those elements of the Access Arrangement and the determination of the Reference Tariff for which GGT has not incorporated the amendments specified in the Amended Draft Decision, and whether GGT has otherwise addressed to the Authority's satisfaction the matters the Authority identified in its Amended Draft Decision as being the reasons for requiring the amendments.

The Authority has also exercised its discretion under section 2.15 of the Code to accept GGT's supporting submissions and additional material as late submissions.

On the basis of the revised Access Arrangement and supporting material, the Authority has identified changes to the proposed Access Arrangement which do not appear to incorporate or substantially incorporate amendments in the Amended Draft Decision but which may "otherwise address" the Authority's reasons for requiring the amendments. These matters include, but are not limited to, the following.

- Access Arrangement Period

GGT has revised the proposed Access Arrangement such that the Access Arrangement will come into effect on the later of 1 January 2005 and the date on which the Access Arrangement is approved by the Authority, and the Access Arrangement Period will extend for 5 years from the date of commencement.²

- Approved Reference Tariff Variation Method

GGT has included in the revised Access Arrangement an Approved Reference Tariff Variation Method under sections 8.3A to 8.3H that provides for GGT to alter the Reference Tariff if there is a change in taxation regimes or a change in the regulatory environment for the GGP that affects the management and operation of the Pipeline and has a material financial impact on GGT.³

- Ownership of Outlet Points

GGT has revised the Terms and Conditions for the Reference Service to indicate that all Outlet Points will be installed, owned, operated and maintained by GGT, and to exclude provision for ownership of Outlet Points by Users or third parties.⁴

² Revised Access Arrangement, §3.1.

³ Revised Access Arrangement, §5.3; Appendix 3 General Terms and Conditions §9.9.

⁴ Revised Access Arrangement, Appendix 3 General Terms and Conditions §6.4.

- Initial Capital Base

GGT has revised its calculation of the Reference Tariff to reflect an Initial Capital Base at 1 January 2000 of \$672 million, rather than \$480 million as required by the Authority, and contends that the Authority made errors in its determination of historical capital recovery by the owners of the GGT and errors in other aspects of its consideration of the Initial Capital Base.⁵

- Rate of Return

GGT has revised its calculation of the Reference Tariff to reflect a nominal pre-tax rate of return of 13.5 percent, rather than the 10.81 percent as required by the Authority. GGT maintains use of the Capital Asset Pricing Model (CAPM) in determination of the rate of return but proposes different values of CAPM parameters than used by the Authority for the purpose of the Amended Draft Decision, in particular, in respect of the market risk premium, assumed capital structure, value of imputation credits and equity beta.⁶

- Non Capital Costs

GGT has revised its calculation of the Reference Tariff to reflect revised forecasts of Non Capital Costs for the period 2005 to 2009. The revised forecasts provided by GGT include costs associated with “corporate overheads” incurred by the joint venture owners of the GGP and costs arising in respect of “asymmetric risks” borne by GGT. These costs have not been included in previous forecasts of Non Capital Costs provided to the Authority.⁷

- Depreciation

GGT has revised its calculation of the Reference Tariff to reflect straight-line depreciation of assets over an assumed asset life of 70 years, rather than 42 years as originally proposed.⁸

- Forecast demand

GGT has revised its calculation of the Reference Tariff to reflect a revised forecast of demand representing an increase from demand forecasts previously submitted to the Authority.⁹

⁵ GGT Supplementary Submission Regarding Amended Draft Decision; GGT Supplementary Submission Regarding Amended Draft Decision: Summary of Key Information; Venton and Associates Pty Ltd, Goldfields Gas Transmission Joint Venture: Goldfields Gas Pipeline Estimated Replacement Cost.

⁶ GGT Supplementary Submission Regarding Amended Draft Decision; GGT Supplementary Submission Regarding Amended Draft Decision: Summary of Key Information; KPMG, Goldfields Gas Transmission Pty Ltd Weighted Average Cost of Capital.

⁷ GGT Supplementary Submission Regarding Amended Draft Decision.

⁸ GGT Supplementary Submission Regarding Amended Draft Decision.

⁹ GGT Supplementary Submission Regarding Amended Draft Decision.

- Tariff Structure

GGT has revised its specification of the Reference Tariff to remove provision for the Reference Tariff to vary with the contract duration under a Service Agreement.¹⁰

Submissions

Pursuant to sections 2.1 and 2.10 of the Code, the Authority invites interested parties to make submissions on GGT's revised proposed Access Arrangement and the revised Access Arrangement Information by close of business on 24 December 2004. Submissions should only address the proposed changes to the Access Arrangement and Access Arrangement Information.

¹⁰ GGT Supplementary Submission Regarding Amended Draft Decision.