Your Ref: Gas Access - DBNGP
Our Ref: GR/65/2(146)V3
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20 July 2011

Economic Regulation Authority
PO Box 8469
Perth BC WA 6849

Attention: Executive Director Access

Dear Sir/Madam

PROPOSED REVISED ACCESS ARRANGEMENT FOR THE DBNGP

We refer to the Economic Regulation Authority's (**ERA**) notice dated 26 May 2011 inviting further submissions in relation to the proposed Revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline for the period 2011 to 2015.

Please find attached with this letter (as Annexure 1) further submissions by the Electricity Generation Corporation trading as Verve Energy in response to:

(a) the draft decision by the ERA dated 14 March 2011 on the (**Draft Decision**) in relation to the proposed Revised Access Arrangement;

(b) the Amended Revised Access Arrangement Proposal lodged by DBPNG (WA) Transmission Pty Ltd (**DBP**) and published by the ERA on 19 April 2011 (**DBP Response**); and

(c) submissions made by DBP in support of the DBP Response, published in stages by the ERA during the period from 19 May 2011 to 23 June 2011 (**DBP's Submissions**).

Verve Energy notes that it made comprehensive submissions dated 20 May 2011 in relation to the Draft Decision and the DBP Response (**Verve Energy 20 May 2011 Submissions**). Those submissions are not repeated in full in the attachments to this letter, but Verve Energy maintains its positions as evidenced in the Verve Energy 20 May 2011 Submissions (as supplemented by the attached submissions).

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While Verve Energy has referred to specific elements of the Verve Energy 20 May 2011 Submissions in relation to certain issues in the attachments, any failure to mention the Verve Energy 20 May 2011 Submissions in response to any of the issues addressed in DBP's Submissions should not be seen by the ERA as Verve Energy changing or otherwise resiling from the position taken in the Verve Energy 20 May 2011 Submissions. To the extent necessary to maintain the force and currency of the submissions, Verve Energy should be taken to have repeated the Verve Energy 20 May 2011 Submissions in full in the attached submissions.

Terms and conditions of the Reference Contract

The submissions in Annexure 2 relate specifically to the terms and conditions of the Reference Contract, the ERA's comments and required amendments from the Draft Decision, the amended version included in the DBP Response and relevant comments made in DBP's Submissions.

Verve Energy provided comments on the Reference Contract in the Verve Energy 20 May 2011 Submissions. The table in Annexure 2 is a cumulative update of the 20 May 2011 version, and contains all of Verve Energy's comments on the Reference Contract. It is not necessary for the ERA to consult both tables.

Please do not hesitate to contact Frank Tanner on (08) 9424 1924 with any queries.

Yours faithfully

[redacted]

JASON WATERS
GENERAL MANAGER
TRADING AND FUEL

Annexure 1

Further submissions on the ERA's Draft Decision, the DBP Response and DBP's Submissions

Draft Decision paragraph number and Access Arrangement (AA) or Access Arrangement Information (AAI) Section Number (where applicable)	Provision / Issue	Comment
N/A	Definitions of terms used in these submissions	Relevant capitalised terms in these submissions have the following meanings unless the context requires otherwise: **Access Arrangement** means the access arrangement in relation to the DBNGP. **Access Arrangement Information** means the document required by rule 43 in relation to the Access Arrangement proposal. **DBNGP** means the Dampier to Bunbury Natural Gas Pipeline. **DBP** means DBNGP (WA) Transmission Pty Ltd, the operator of the DBNGP. **DBP Response** means DBP's response dated 18 April 2011 to the Draft Decision and published by the ERA on 19 April 2011, which included the amended Access Arrangement and Access Arrangement Information proposals. **Draft Decision** means the ERA's draft decision in relation to the Initial Proposed Revisions published on 14 March 2011. **ERA** means the Economic Regulation Authority. **Initial Proposed Revisions** means DBP's initial proposed revisions to the Access Arrangement (including the Access Arrangement Information) dated 1 April 2010 and published by the ERA on 15 April 2010. **National Gas Code** means the National Third Party Access Code for Natural Gas Pipeline Systems. **NGL** means the National Gas Law as contained in the *National Gas Access (WA) Act* 2009 as the *National Gas Access (Western Australia) Law*. **NGR** means the National Gas Rules made and published under the NGL, as amended from time to time, and

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		reference to a **rule** is to a rule of the NGRs. **Original Submissions** means Verve's submissions in relation to the Proposed Revisions lodged with the ERA dated 9 July 2010. **Reference Service** means a reference service for the DBNGP to be included in the Access Arrangement as required by rules 48 and 101. **Standard Shipper Contract** means the form of standard shipper contract for the T1 service available on DBP's website and negotiated between shippers and DBP as part of the re-commercialisation of the DBNGP in 2004. **Verve 20 May Submissions** means Verve's submissions dated 20 May 2011 in relation to the DBP Response.
N/A	DBP Response and DBP 20 May Submissions	The Draft Decision was published on 14 March 2011. The ERA provided DBP with a revision period until 18 April 2011 in which to respond to the Draft Decision and provide an amended proposal. DBP lodged the DBP Response on 18 April 2011, which was published by the ERA on 19 April 2011. Interested parties were invited to make submissions in relation to the Draft Decision and the DBP Response by 20 May 2011. Verve notes that it has made comprehensive submissions in relation to the Draft Decision and the DBP Response in the Verve 20 May Submissions. Those submissions are not repeated in full below, but Verve maintains its positions as evidenced in the Verve 20 May Submissions. While Verve has referred to specific elements of the Verve 20 May Submissions in relation to certain issues below, any failure to mention the Verve 20 May Submissions in response to any of the issues addressed by DBP in its submissions in support of the DBP Response should not be seen by the ERA as Verve changing or otherwise resiling from the position taken in the Verve 20 May Submissions. To the extent necessary to maintain the force and currency of the Verve 20 May Submissions, Verve should be taken to have repeated its 20 May Submissions in full in these submissions. On 26 May 2011, the ERA invited further submissions from interested parties in relation to the Draft Decision on the basis that DBP had itself delayed lodgement of its supporting submissions for the DBP Response until 20 May 2011, which was the same date by which other parties (including Verve) were required to lodge submissions in response.

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		DBP's approach to providing submissions in support of the DBP Response at the same time as submissions were lodged by other parties, thereby depriving those parties of the opportunity to prepare and provide submissions based on DBP's complete response to the Draft Decision, has required all interested parties to incur significant additional time and cost in considering and responding to the DBP Response twice. A process where third parties are responding to an incomplete proposal, in particular where that proposal represents such a fundamental shift in a number of aspects of the Access Arrangement for the DBNGP (including, without limitation, Reference Services, the size of the capital asset base and the rate of return) is simply unacceptable. Verve does not agree with DBP's contention that the DBP Response (lodged on 18 April 2011) complied with the NGRs (and rules 42, 43 and 60 in particular) in terms of the sufficiency of the DBP Response and the Access Arrangement Information in particular. Verve submits that without the very extensive supporting submissions provided by DBP in the DBP 20 May Submissions it was impossible to understand the background, basis and derivation of the various elements of the DBP Response (and the amended Access Arrangement proposal in particular) – which means that the Access Arrangement Information in the DBP Response was insufficient, and did not comply with rules 42, 43 and 60. This is particularly the case because some of the key financial information (historical capital expenditure etc) changed significantly between the Proposed Revisions and the DBP Response, but without adequate explanation in the DBP Response at all. Verve considers that DBP's approach in relation to the Initial Proposed Revisions, where it lodged a very short form Access Arrangement Information document accompanied with many volumes of separate submissions was inconsistent with the requirements of the NGRs, and rules 42 and 43 in particular, which require the Access Arrangement Information document itself to contain sufficient explanatory information for users to understand the basis and derivation of the various aspects of the proposal. At least in relation to the Initial Proposed Revisions all of the material was published by the ERA and available for review at the same time (even if they were lodged by DBP at different times). In relation to the DBP Response, lodging submissions a month after the amended Access Arrangement Information, and in a way that deprived other parties from considering the submissions preparing their own responses to the Draft Decision and DBP Response, is an unacceptable breach of the revisions and review

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		mechanism established by the NGRs, and compromises the entire revisions process (and has necessitated a 2 stage process, at significant cost to users, prospective users and other interested parties (including the ERA)). The fact that DBP amended its proposed Access Arrangement and Access Arrangement Information between 19 April 2011 and 20 May 2011 exacerbates Verve's concerns with the process. Amendments to the Access Arrangement proposal are permitted under rule 60 during the "revision period" fixed by the ERA. The revision period for DBP expired on 18 April 2011. Not only did DBP's approach result in third parties considering and responding to a proposal devoid of material explaining the amendments, it also involved further amendment of the proposal in breach of rule 60.
Draft Decision paragraph numbers 35 - 75	Reference Services	Verve has previously made detailed submissions in the Original Submissions and the Verve 20 May Submissions in relation to DBP's proposal that the T1, P1 and B1 Reference Service be replaced with a single full haul R1 Service. Verve supports the ERA's required amendments 2 and 3 in the Draft Decision and its conclusion that the T1 Reference Service in particular should be retained, and DBP's proposal for a single, lesser, R1 Reference Service be rejected. Verve does not propose to set out its previous comments in relation to the special circumstances of the DBNGP and reference services again in full in these submissions, but notes that its submissions in relation to the Initial Proposed Revisions apply equally to the DBP Response. DBP has maintained its proposal for revisions that are completely inconsistent with its obligations under the NGL and NGRs and to shippers who are party to a Standard Shipper Contract (or similar contracts) in particular. DBP's Submission 50 dated 20 May 2011 deals with the Reference Service issue in particular, and Verve's submissions below deal specifically with DBP's contentions contained in Submission 50. **Pre-existing contracts and the "market" in rule 101** Verve supports the ERA's finding in the Draft Decision that pre-existing contracts are an important indicator of the relevant market for pipeline services.

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		Verve considers that DBP's submissions that "likely to be sought" refers to services likely to be applied for by prospective shippers and which can become the subject of an executed access contract during the Access Arrangement period import an unjustified gloss on the plain meaning of the words and unnecessarily and unreasonably limit the actual wording of rule 101. DBP's approach in disregarding the services (T1, P1 and B1) for existing users that provide it with almost all of its revenue is simply not supported by the wording of rule 101. On any assessment the T1, P1 and B1 services comprise the vast majority of the market for pipeline services on the DBNGP. Nominations for capacity under these services on a daily basis are a clear (even if not the only) indicator of the market for services on an on-going basis, including for the duration of the 2011-2015 Access Arrangement period. The similarities between the contractual T1, P1 and B1 services used each day on the DBNGP and the T1, P1 and B1 Reference Services are such that the argument to maintain the existing Reference Services (as services likely to be sought by a significant part of the market) is irrefutable. This was a key determinant in the ERA's approval of the Reference Services in 2005, which has been maintained in the Draft Decision. The requirement to have regard to the core existing services as being services which could be (and in this case are) required by a significant part of the market is particularly critical here because DBP is trying to replace the existing Reference Services with a new service that contains far less of the features and characteristics of significant value to existing and prospective shippers. Verve simply disagrees with DBP's submission that for a service to be "sought" for the purposes of rule 101(2) it must also be able to be provided by the service provider, over and above existing services. **Relevance of what the service provider proposes to offer** DBP states, in paragraph 2.15 of Submission 50, that: "The ERA also concluded, at paragraph 57, that Rule 101 is concerned with pipeline services that are likely to be sought by users of the pipeline…". Verve submits that the ERA reached this conclusion because that is what rule 101(2) actually says. Rule 101(2) provides: "*A **reference service** is a pipeline service that is likely to be sought by a significant part of the market*".

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		Rule 101(2) is not in any way limited to the services that the service provider actually proposes to offer. This interpretation of the wording would unnecessarily and unreasonably limit the fundamental test in rule 101(2) that reference services are services *likely to be sought* by a significant part of the market. The test does not mean that the service provider is required to be completely reactive, but it does mean that the reference services must be of such nature, with such characteristics, that it is likely to be sought by a significant part of the market. Purely speculative services, particularly in replacement of long accepted and widely utilised required services, do not and can not meet the test in rule 101(2). Verve does not agree with DBP's submissions in paragraphs 2.19 to 2.26 of Submission 50. DBP's example of the mobile telephony market is simply incongruous with the market for natural gas pipeline services, which is underpinned by very large, long term contracts, and in relation to the DBNGP in particular, is dominated by large users with stable businesses whose requirements for pipeline services do not change from year to year or from access arrangement period to access arrangement period. To use such an example as supporting an argument that existing Reference Services, including the T1 service in particular which is essentially the full haul service that has been required by users since third party access to the DBNGP commenced in 1995, should be replaced by the inferior and more expensive R1 service is just not tenable. Verve also submits that even prospective users are unlikely to seek to use a service that is inferior to the current Reference Services (and services available under the Standard Shipper Contracts), at a tariff that is proposed to be substantially higher than for the current Reference Services. Paragraphs 2.26 and 2.30 of Submission 50 makes DBP's intentions clear – it is seeking to remove features from the current Reference Services, charge a higher tariff for the R1 Reference Service and then levy additional tariffs for the features that have been removed, as ancillary services. Verve considers this completely unacceptable and supports the ERA's rejection of the proposal. For the avoidance of doubt, Verve rejects DBP's assertions in paragraph 2.30 of Submission 50 that if the ERA insists on the inclusion of a T1 Reference Service then the ERA will need to reflect the added risk of providing the features removed in the R1 Reference Service by a higher rate of return. The ERA has rejected DBP's proposed rate of return in the Draft Decision, and also rejected the proposed R1 Reference Service. The ERA has required a lower rate of return than proposed by DBP, and that the lower rate applies to the T1 Reference Service. Verve supports the ERA's decision in this regard.

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		What services should be offered as Reference Services In paragraphs 3.1 to 3.10 of Submission 50, DBP makes the argument that in considering the pipeline services that should be offered as reference services, it is necessary to take a broad view of "pipeline services", referring to the general characteristics of the service only (eg firm or interruptible), rather than considering the differences in precise terms and conditions (such as the key differences between the R1 and T1 services). DBP suggests, on that basis, all DBP needs to assess in proposing its reference services is whether a significant part of the market is likely to seek a pipeline service that provides for continuous capacity except in the case of extraordinary or exceptional circumstances, i.e. a firm forward haul service. By extension, DBP seems to be suggesting that any firm service (including the R1 service) will do. Verve disagrees with DBP's view that a very broad interpretation of pipeline services is appropriate in the context of rule 101(2). Verve does not accept this proposition as to the meaning of rule 101(2) as at its broadest level this would require a service provider to offer only to do one basic thing a pipeline does. This defeats the clear intention that different gas market participants are likely to have different requirements for pipeline services and if there is a significant part of the market that wants one or more of those different pipeline services, it or they should be approved and priced as a reference service or reference services. In the present circumstances, where accepted full haul, part haul and back haul services (on largely the same terms) are to be replaced with a single, full haul service without the characteristics of the existing services, Verve considers that it is necessary and appropriate for the ERA to consider the specific differences in the services in determining which service/s should be reference services. This is particularly the case where the specific terms and conditions are likely to be the very determinants of whether the services are likely to be sought by a significant part of the market. Verve disagrees with DBP's view in paragraph 3.13 of Submission 50 that there is nothing to suggest that the R1 service would not likely be sought by a significant part of the market during the proposed Access Arrangement Period. As noted by the ERA several times in the Draft Decision, a very large number of shippers made submissions to the ERA that the R1 services is an inferior service and is not likely to be sought by a significant part of the market. Existing users, who are the primary stakeholders in terms of access to the DBNGP, have overwhelmingly rejected the proposed introduction of the R1 service as a Reference Service, and to the extent that

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		DBP has (even in its submissions of 20 May 2011) still not provided any evidence whatsoever that any user or prospective user would seek to use the R1 service, the relevant test under rule 101(2) is not satisfied under the Access Arrangement in the DBP Response. **The T1 Reference Service** Verve's Original Submissions and the Verve 20 May Submissions sets out in detail Verve's view that there are very important historical and contractual reasons why DBP is required to offer a T1 Reference Service. The substantial expansion of the DBNGP in the period from 2005 to 2010, representing almost a doubling of the capital asset base, has only been possible due to the re-capitalisation and re-commercialisation of the pipeline approved and commercially underwritten by shippers in 2004. The arrangements in 2004, which feature in the terms of the Standard Shipper Contracts, and which were approved and required by the ACCC and the State of Western Australia, include as a fundamental feature the existence of a T1 Reference Service, properly priced and approved under the National Gas Code and now the National Gas Law. DBP, in paragraph 3.19 of Submission 50, simply dismisses the obligation to have a T1 Reference Service as irrelevant. For the reasons set out above and in the Original Submissions and Verve's 20 May Submissions, Verve considers the obligations on DBP are enforceable and should compel the ERA to maintain its decision to reject the R1 service and require a T1 (and P1 and B1) Reference Services.
Draft Decision paragraphs 88-92	Pipeline Services – Mondarra Reference Service	Verve refers to the Original Submissions and the Verve 20 May Submissions in relation to having a specific Reference Service for transport from the Mondarra Gas Storage Facility (**MGSF**). Verve notes that it has entered into a substantial long term arrangement with APA that is underwriting a major expansion of the MGSF (the total storage capacity is to increase to 15PJ). There is therefore no doubt that a significant part of the market will be seeking a service for transport of gas from the MGSF to the DBNGP and downstream, and therefore a separate Reference Service (P2) is required.
Draft Decision – paragraphs 183 - 187	Audit of capital expenditure	Verve notes that DBP has stated it has complied with the ERA's requirements that its capital expenditure information be audited by an independent auditor. The audit reports, scope of engagement and the like have not been published, so Verve is not able to consider and

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		determine whether the scope is appropriate, nor whether the reports give rise to further issues. Verve requests that the ERA carefully consider the conclusions of the auditor, particularly in light of the fact that DBP has made several changes to financial information throughout the review process, and that the DBP Response was very different to the ERA's view on capital expenditure in the Draft Decision. The ERA is requested to pay particular attention to the differences (and DBP's explanation of the differences) between the reported information, verified figures and numbers included in DBP's various submissions (contained in DBP's Submission 52).
Draft Decision paragraph 248 - 250	Justification of capital expenditure under rule 79(2) – regulatory undertaking	Verve has previously commented (in the Original Submissions in particular) on DBP's proposal that capital expenditure was justified under rule 79(2)(c)(iii) as it was required to satisfy a regulatory obligation or requirement (namely DBP's ACCC Undertaking dated 22 October 2004). As previously submitted, clause 5.6(a) of the ACCC Undertaking required DBP to offer "Prospective Shippers" a Standard Shipper Contract with expansion rights not materially less favourable than the expansion rights contained in "any other Shipper Contract for a T1 Service". As such, clause 5.6(a) is an obligation to offer a particular form of Standard Shipper Contract, it is not a regulatory obligation to undertake capital expenditure that would satisfy rule 79(2)(c)(iii). The actual obligation on DBP to expand the DBNGP is a contractual one only, and there are many conditions that must be satisfied before the expenditure obligation actually arises. DBP's original submission that expenditure that may (ultimately and indirectly) result from the inclusion of clause 5.6(a) satisfies rule 79(2)(c)(iii) remains incorrect, and the ERA should maintain its rejection of the argument as set out in the Draft Decision. Nothing in paragraphs 6.1 to 6.11 of DBP's Submission 52 provides any reason for the ERA to change its mind. Verve does not consider that clause 5.7(a) of the ACCC Undertaking is a regulatory obligation for the purposes of rule 79(2); it may be an "undertaking" but it is an undertaking extraneous to the regulatory regime in which the obligation is relevant. This obligation should be distinguished from an obligation incurred, for example, in a competitive tender process to construct a pipeline system or expansion. Even if the clause 5.7 obligation is a regulatory obligation it can have application only to the maximum extent of the $400M. Rule 79(1)(a) obviously remains a threshold test to be satisfied before the expenditure can be approved as conforming by the ERA.
Draft Decision – paragraphs	Justification of capital expenditure under rule	Verve notes the ERA's comments in paragraphs 251-257 of the Draft Decision in relation to DBP's contention that the expansion capital expenditure could be justified on the basis that the overall economic value of the expenditure

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257 - 270	79(2) – economic value is positive	is positive. The ERA stated in paragraph 264 of the Draft Decision that the consultant's analysis is too simplistic and inexact to be relied on as an indication of the values of economic benefits. DBP has attempted to address the ERA's concerns, but in doing so has not provided any further substantive or compelling information that justifies its proposal, or that would justify the ERA's acceptance of the proposal. DBP provides arguments as to why its analysis is simplistic, why the relevant assumptions were made, and why there are difficulties with the approach, but does not ultimately provide any stronger arguments than were initially made in relation to the Initial Proposed Revisions. DBP argued that it does not need to quantify the economic value; it must just satisfy the ERA that the value is positive. Verve submits that in the absence of sufficient, robust quantification it is impossible to reach the conclusion as to whether there is any positive value at all. To the extent that DBP's consultant's (Marsden Jacob Associates) report has not been amended or supplemented, Verve submits that the ERA has no new information before it, and should maintain its view as stated in the Draft Decision that the expenditure has not been justified so as to satisfy the requirements of rule 79(2)(a).
Draft Decision paragraphs 266-269	Justification of capital expenditure – existing contractual arrangements	Verve has made detailed submissions in the Verve 20 May Submissions in relation to the ERA's conclusion that capital expenditure on the expansion of the DBNGP can be classified as conforming because of the contractual arrangements entered into by shippers and DBP in 2004. Verve reiterates its submission that the ERA's alternative justification is fundamentally flawed for several irrefutable reasons. DBP has provided no further information on this point, and therefore Verve maintains its position that the ERA's conclusion is an abrogation of its duties to require the service provider to satisfy it that the overall economic value of the capital expenditure is positive. DBP argues (paragraph 6.34 of Submission 52) that the 2004 arrangements were entered into by businesses that can be assumed to be acting rationally, and is evidence of an expectation of positive economic benefits. Verve submits again that the bespoke tariff from 2004 – 2016 was designed to meet the requirements of the financiers of the DBNGP in 2004 for the purposes of the term of the initial financing by those financiers so that the financiers could get a return on all money invested in the DBNGP to expand the pipeline so long as it was actually spent,

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		regardless of whether the investment is prudent or efficient. It was not designed to meet the requirements of the shippers, nor was it designed to give the purchasers (or the service provider) any relief from full compliance with the capital expenditure justification requirements of the Relevant Regime. Future capital expenditure, provided it was shown by audit to have been spent, was agreed to be automatically rolled into the asset capital base for the calculation of the bespoke tariff only. It was intentionally and initially separate from the additions to the regulated asset base, which are to have the approval of the ERA applying the properly mandated tests, in a regulatory process to be undertaken over the same period but without reference to the adjustments to the bespoke tariff in the period to 2016. If shippers had been asked to commit to paying the contractual tariff from 2004 to the expiration of their shipper contracts on the basis that the contractual tariff was calculated on an asset base where unregulated capital expenditure subject to no financial discipline other than an audit confirming the money had actually been spent was automatically rolled into the capital asset base, they would not have done so. They would have found other more prudent and economically efficient ways to debottleneck the DBNGP. As previously submitted a significant incentive for shippers agreeing to pay the higher, bespoke tariff from 2004 to 2015 was that it would be paid only for that period. From 2016 shippers would pay a regulated, Reference Tariff. This regulation includes ensuring that the regulated asset base, at every regulatory reset, is only increased by capital expenditure which meets the tests in the Applicable Regime. The ERA has merged the two distinct processes without any basis for doing so under the NGL and the NGRs. To clothe the process for calculating the bespoke tariff with any regulatory status at all, let alone use it as an alternative justification to satisfy a critical threshold test, or a proxy for a full and thorough regulatory assessment and approval (or rejection) is a fundamental mistake.
Draft Decision paragraphs 278-293	Roll forward of capital base – forecast capital expenditure	In the Draft Decision, the ERA highlighted various deficiencies in DBP's proposal in relation to forecast capital expenditure for the 2011-2015 Access Arrangement period. To the extent forecast costs were found by the ERA to be excessive or unsubstantiated, and therefore not in compliance with the NGRs, Verve supports such conclusion and the requirement that DBP's forecast capital expenditure be amended to reflect the ERA's Table 17 in the Draft Decision. Verve requests that the ERA carefully review DBP's proposals in Submission 53 dealing with the various identified deficiencies. Verve notes in particular that movement of expenditure between Access Arrangement periods due to changing categorisation of the expenditure for accounting purposes has added to the overall confusion of the

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		financial information presented by DBP, and makes proper review and consideration of the Access Arrangement proposal difficult. In relation to DBP's arguments in paragraphs 2.109 – 2.138 of Submission 53 in relation to the OSA Project Management Retainer Fee, Verve maintains its support for the ERA's position and reasoning in the Draft Decision that the fee should not be accepted as conforming. Verve does not agree with DBP's arguments attempting to justify the retainer fee.
Draft Decision paragraphs 787 – 919	Operating expenditure	Verve supports the ERA's approach in the Draft Decision in relation to assessing DBP's operating expenditure. In relation to the assessment of prudence and efficiency by the ERA in general, Verve submits that the ERA must be satisfied that the specific forecast expenditure is prudent and efficient in accordance with the NGRs, whether based on an assessment of historical/benchmark expenditure or otherwise. Any suggestion by DBP that in assessing prudence and efficiency it will be sufficient for the ERA to just consider DBP's internal financial planning and budgeting is not correct – a broader, objective assessment is required. In relation to DBP's submissions in paragraphs 3.1 to 3.8 of Submission 54, Verve refers to its submissions above regarding assessment of expenditure under the Standard Shipper Contract and how expansion expenditure is rolled into the contractual tariff. Verve disagrees with DBP that the contractual arrangements provide a sufficient incentive for prudent and efficient expenditure or a constraint on DBP to limit their expenditure accordingly that the ERA should accept those arrangements as justifying DBP's forecast operating expenditure.
Draft Decision paragraphs 325-759	Rate of Return	Verve notes and reiterates its previous submissions (in the Original Submissions and the Verve 20 May Submissions) in relation to the Rate of Return issues. Verve maintains its support of the ERA's position on the Rate of Return discussed in detail (and required under) the Draft Decision.
Draft Decision paragraphs 933 – 945	Other tariff matters – rebate mechanism	The ERA proposed a rebate mechanism in the Draft Decision to rebate some of the revenue earned on non-reference services to users of services in the nature of reference services. DBP made submissions in relation to the proposed rebate mechanism in section 2 of Submission 56.

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		DBP claims that the ERA is prohibited from implementing the rebate mechanism because of a fixed principle of the 2006 Access Arrangement for the DBNGP. DBP states that the relevant fixed principle is mandated by law as a result of section 21(5) of the National Gas Access (WA) Act 2005 *(sic)* and clause 26 of Part 4 of the Schedule to the NGL. DBP is not correct. Section 21(5) provides that regulations may be made in relation to the fixed principle referred to by DBP – but those regulations have not been made. The text referred to by DBP is therefore not a fixed principle (as that term is used in rule 99) at all. The principle is not mandated by s 21(5), but has merely been used as a base for a new fixed principle proposed by DBP as part of the Initial Proposed Revisions. Verve has previously submitted that the proposed fixed principle has no application to an R1 service. Clause 26 of Part 4 of Schedule 4 to the NGL is not relevant to the ERA's assessment of proposed revisions to an Access Arrangement. Verve therefore disagrees with DBP's first argument as to why the rebate mechanism is invalid. DBP's second argument refers to rule 93(3)(a), which provides that costs of rebateable services can be allocated to reference services if the service provider will rebate a portion of the revenue to users of the reference service. The ERA's proposed mechanism provides for the rebate to be paid to users of services in the nature of reference services. Verve submits that the ERA's proposal is practical and sensible in all the circumstances, and interprets rule 93(3)(a) in a way that gives effect to the provision in the specific context of the DBNGP arrangements. DBP's argument is unnecessarily pedantic, and inconsistent with other aspects of the Access Arrangement proposal where DBP is happy to treat the T1, P1 and B1 contractual services as "reference services" (eg in revenue allocation for setting the R1 tariff). DBP's third argument is that the mechanism would fundamentally alter the 2004 contractual arrangements made with existing shippers as to the revenue DBP could earn. Verve disagrees with DBP's argument; shippers under the 2004 contracts will continue to pay the same contractual tariff that they are already bound to pay. The rebate mechanism is just a rebate of part of the revenue of the relevant non-reference services to users of services in the nature of the reference services. DBP's fourth argument is that the rebate mechanism is uncertain and unworkable. Verve disagrees, and submits

Draft Decision paragraph number and Access Arrangement (AA) or Access Arrangement Information (AAI) Section Number (where applicable)	Provision / Issue	Comment
		that the ERA's proposal is a simple but practical approach to dealing with the revenue from the relevant "non-reference services". If the ERA considers any changes are required to make the mechanism clearer or more certain then such changes can be implemented in the ERA's Final Decision.
Draft Decision paragraph 956	Other tariff matters - Allocation of revenue to reference tariff	Verve maintains its support of the ERA's requirement that expenditure that fluctuates with throughput should be included as part of the commodity charge, and such expenditure should not be limited to fuel gas only. Verve reiterates its previous submissions (in the Original Submissions and the Verve 20 May Submissions) in relation to DBP's incorrect approach to allocating revenue to the R1 Reference Tariff, notwithstanding all costs and revenue should be allocated to the T1, P1 and B1 services actually provided by DBP.
Draft Decision paragraphs 972-973	Tariff Variation Mechanism – tax pass through	Verve supports the ERA's required amendment 14 in the Draft Decision. DBP's submission that the ERA is requiring the tax itself to be prudent and efficient is plainly incorrect. The ERA's requirement is that the manner and extent to which DBP passes the tax through to users is prudent and efficient, and Verve supports this approach. Verve also supports the ERA's requirement that any tax pass through must first be approved by the ERA.
Draft Decision paragraphs 1596 – 1617	Non-tariff matters – queuing requirements	**Required amendment 105 – executed application forms** The ERA has required DBP amend the proposed Access Arrangement to include the option for the user or prospective user to choose between lodging a non-refundable deposit for the submissions of an access request or an executed application form. Verve does not consider that DBP's submissions in section 2 of Submission 57 justifies its rejection of the ERA's requirement. In relation to DBP's arguments in paragraphs 2.6 and 2.7 of Submission 57, if the decision to proceed with funding an expansion (if required) takes months, and the prospective shipper has "plenty of time to withdraw its access request" then Verve submits that DBP is in exactly the same position (if not less secure) than if the applicant had provided a non-refundable deposit rather than an executed application form. A non-refundable deposit at least provides DBP with certainty that some of its costs will have been covered in the event the

Draft Decision paragraph number and Access Arrangement (AA) or Access Arrangement Information (AAI) Section Number (where applicable)	Provision / Issue	Comment
		application is withdrawn, and seems a preferable position for DBP. In relation to the argument that requiring a binding application form reduces the risk of spurious access requests, Verve submits that requiring a non-refundable deposit is likely to be equally effective (if not more so) in stopping such behaviour. Verve supports the ERA's required amendments 105.
Draft Decision 1625 - 1635	Non-tariff matters – extension and expansion requirements	**Required amendment 108 – expansion requirements and gas quality** The ERA required DBP to delete cl 7.4(f) of the proposed Access Arrangement, which expressly permitted DBP to have regard to the extent to which an expansion is undertaken in order to eliminate or reduce the effect of the introduction of inert gas as facilitated under the *Gas Supply (Gas Quality Specifications) Act 2009* (WA) (**Gas Supply (GQS) Act**) in considering whether to treat the expansion as part of the covered pipeline. The ERA's deletion has the result that the coverage status of any expansion undertaken under the Gas Supply (GQS) Act would be dealt with under the ordinary application of the NGL and NGR. Verve does not consider that DBP's reasons for keeping cl 7.4(f) justify its rejection of the required amendment. Verve notes that while the position may be clarified by amendments to the *Gas Supply (Gas Quality Specifications) Regulations 2010* (WA) as suggested by the ERA in paragraph 1634 (which may or may not be made), it is incumbent on the ERA to ensure it does not approve any proposal by DBP to recover costs from users where those costs had been incurred by a third party. That is a fundamental obligation on the ERA under the NGL and NGRs. Verve agrees with DBP (paragraph 3.5(a) of Submission 57) that it would never be consistent with the national gas objective for the ERA to approve a part of an Access Arrangement proposal which would have the effect of allowing DBP to recover its investment more than once.

Annexure 2 - Response to Draft Decision and DBP's Further Submissions on Terms and Conditions

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
1 Interpretation Draft Decision at [995 – 1000]	The definition of **B1 Service** is inconsistent with the ranking of the B1 service in the Curtailment Plan in Schedule 6.	Required amendment 16 The ERA required that this definition be amended to be the B1 Service described as a reference service in the access arrangement (**PRAA**), as amended by the Draft Decision. The B1 Service included in the PRAA was to be as described in the current access arrangement (**CAA**).	Required amendment not incorporated. DBP has removed the B1 Service as a reference service and replaced it with a reference to any negotiated Back Haul service which, under its terms and conditions, is specified to rank equally to a R1 Service in the Curtailment Plan. DBP submits that the retention of the B1 Service as a reference service would cause inconsistency between the order of priority between the reference services and existing Standard Shipper Contracts (**SSC**) for the B1 Service, which provide for the B1 SSC to have priority over the B1 reference service.	Verve supports the ERA's required amendment and reiterates its previous submissions. Verve submits that DBP's submissions are flawed for the following reasons: (i) DBP's proposed non-reference, negotiated "B1 Service" would not clarify any inconsistency over priority between existing SSCs and the reference services. No existing SSCs will specify that the Back Haul service provided under those SSCs ranks equally to a R1 Service, as the R1 service did not previously exist; and (ii) if the R1 Service is supposed to replace the T1 Service and be a service of equivalent value, then it would not be inconsistent for an existing B1 SSC service to rank after the R1 Service as the T1 service ranked in priority to any B1 service. Separately, Verve notes that Schedule 6 does not work as drafted by DBP due to inconsistent references to T1 (which is not a defined term) and R1 services.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
1 Interpretation Draft Decision at [1005 – 1009]		Required amendment 18 The ERA required that the definition of Contracted Firm Capacity be amended to have the same meaning as in the existing terms and conditions (**ET&Cs)**.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
1 Interpretation Draft Decision at [1010 – 1013]	The inclusion of an Insolvency Event in relation to a third party supplier of the Operator in the definition of **Force Majeure** should be rejected as the Operator should be able to, and required to, take steps in those circumstances to ensure its ability to perform its obligations under the Contract is not affected.	The ERA accepted DBP's amendments.		Verve submits that an Insolvency Event in respect of a third party supplier to DBP will not prevent DBP from sourcing supplies from another supplier and such actions are always reasonably within its control. This is an unnecessary expansion of an already broad list of events.
1 Interpretation Draft Decision at [1019 – 1022]		Required amendment 20 The ERA required that the definition of Overrun Gas be amended to have the same meaning as in the ET&Cs for the T1 service.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
1 Interpretation Draft Decision at [1027 – 1030]	Definitions of a **Related Body Corporate** and **Related Entity** should incorporate the meanings given to those terms in the Corporations Act as apply from time to time.	Required amendment 22 The ERA required that this definition be amended so that the definitions in the Corporations Act apply as defined from time-to-time, not as limited to a point in time.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
1 Interpretation Draft Decision at [1033 – 1037]	The definition of **T1 Service** should be retained as it is still a term used in the Terms and Conditions (including in the Curtailment Plan).	Required amendment 24 The ERA required that the definition of T1 Service be amended to have the same meaning as in the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions that the T1 Service should be the service the subject of the Terms and Conditions.
1 Interpretation Draft Decision at [1038 – 1041]	**Tp Service** should be amended so that it is identified by its essential characteristics, and so that it is only available to Stage 5A shippers.	Required amendment 25 The ERA required that the definition of Tp Service be amended to identify the characteristics of the service.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions that the Tp Service should only be available to Stage 5A shippers. Further, the failure of the definition of Tp Service to identify the characteristics of the service adds ambiguity and inconsistency to the Curtailment Plan as it is unclear why the Tp Service, which is defined as an Other Reserved Service, should rank in priority to the Other Reserved Service.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
3.2(a) Capacity Service Draft Decision at [1054 – 1064]	Clause 3.2(a)(i): The R1 Service is a different type of Capacity Service and is lower in priority in the Curtailment Plan than the P1 and B1 Services. It is incorrect to say the R1 Service is "treated the same in the Curtailment Plan". Clause 3.2(a)(ii): It is incorrect to say that the R1 Service is treated the same in the Nominations Plan as all other shippers with a R1, P1 or B1 Service, as the Nominations Plan is based on the Curtailment Plan.	Required amendment 29 The ERA required that this clause be amended to be materially the same as clause 2 of the current terms and conditions for the T1 service.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions.
3.2(b) Capacity Service – R1 Capacity Draft Decision at [1054 – 1064]	There is no support for the quantification methodology. The term "critical" should be clarified.	Required amendment 29 See above.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
3.5 Spot Capacity Draft Decision at [1065 – 1072]	The Spot Capacity service does not offend Rule 109 of the National Gas Rules and should be retained. Spot Capacity should be available on the same terms as under the ET&Cs where the Shipper only pays when it uses capacity unless the Operator would have sold the Spot Capacity to another shipper.	The ERA approved the deletion of clause 3.5 on the basis that: (i) access to a spot capacity service is provided in clause 3.6 of the PRAA; and (ii) the use of spot capacity is a separate service from reference services and the ERA did not have any evidence that access to spot capacity would be routinely required as part of the reference service or that spot capacity is a necessary or intrinsic element of the reference service.		Verve submits that the terms governing the Spot Capacity Service should be set out in the Terms and Condition and those terms should be substantially the same as the ET&Cs. DBP's amendments to the terms of the Spot Capacity Service have substantially changed the nature of the service. DBP has provided no justification for why the shipper should have to pay for Spot Capacity that it had bid for but not used in circumstances where no other shipper has bid for Spot Capacity for that Gas Day. This undermines the nature of the service and removed the shipper's access to a true spot capacity service.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
4.1 Capacity Start Date and 4.2 Term Draft Decision at [1076 – 1086]	The term "Access Request Form" is the form in the Schedule, which does not specify dates and does not link with R1 Service contract. The date requested in the form on which the request is made may not be the date agreed by the Operator for the start of Capacity. The terminology is inconsistent between this clause and the form; the form refers to "Reference Services" and the clause refers to "Capacity".	Required amendment 30 Clause 4.1(a) in relation to the capacity start date, should be amended to include the words "as the Requested Reference Service Start Date" at the end of the sentence. The definition of Access Request Form is to be amended to read "means the access request form in the form set out in Schedule 1 entered into between the Operator and the Shipper to which these Terms and Conditions are appended". Required amendment 31 Clause 4.2(b) in relation to the term should be amended to include the words "as the Requested Reference Service End Date" at the end of the sentence.	DBP adopted the ERA's required amendment.	Verve submits that the words ", unless otherwise agreed in writing between the operator and the shipper" should be added to the end of clauses 4.1(a) and 4.2(a). Further, Verve submits that required amendment 31 should refer to clause 4.2(a). The addition of these words to the end of clause 4.2(b) does not make sense.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
4.3 to 4.7 Option provisions Draft Decision at [1087 – 1100]		Required amendment 32 Clause 4.5 in relation to a shipper exercising an option to renew its contract should be amended to state "not later than 12 months before the capacity end date, a shipper may give written notice to the operator that it wishes to exercise an option".	DBP deleted clauses 4.3 to 4.7. DBP submits that anything less than a 30 month notice period would expose it to an unacceptable risk regarding funding of expansions if a shipper did not wanting to take requested expansion capacity, so it will only offer an option to renew if there is a minimum 30 month notice period.	Verve supports the ERA's required amendment. Verve submits that DBP's deletion of the option provisions is unacceptable and they should be reinstated in substantially the same form as the ET&Cs. The option provisions are integral for the shipper's long term planning. The deletion of the option provisions undermines the shipper's ability to manage its business and its commercial stability. This will deter investment and result in inefficiencies. Further, Verve submits that DBP has not provided any reasonable justification for a ten fold increase in the notice period. DBP is in a better position than the shipper to be able to estimate the total capacity requirements of the DBNGP when assessing the need for any expansions. The shipper should not have to bare the risks associated with having to commit to its capacity requirements 30 months out from the Capacity End Date.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
5.2 Operator must Receive and Deliver Gas Draft Decision at [1103 – 1106]		Required amendment 33 The ERA required that clause 5.2(b) be amended to require DBP to deliver gas at the nominated outlet points in the quantities required by the shipper at each point, up to a maximum across all points of the shipper's contracted capacity.	DBP amended clause 5.2(b) to provide that the Operator "must deliver to the Shipper at a Nominated Outlet Point a quantity of Gas up to the Shipper's Contracted Capacity at that Outlet Point".	Verve supports the ERA's required amendment. Verve submits that DBP's amendment do not implement required amendment 33. DBP's amendments do not accommodate the required concept of "Aggregated T1 Capacity". This is discussed further in relation to Required Amendment 52.
5.3 Operator may refuse to Receive Gas Draft Decision at [1107 – 1113]	Clause 5.3(e): This clause is now a basis on which the Operator can refuse to accept/deliver Gas rather than Curtail. It is now outside the 2% allowance of Curtailments. The provision should be deleted from clause 5.3 and reinstated in clause 17.2. Clause 5.3(g): The words "the following" should be deleted and the words "all of the Shipper's Contracted Capacity" moved up to replace those words.	Required amendment 34 Clause 5.3(e) should be deleted and clause 17.2(c) of the ET&Cs should be reinstated. Clause 5.3(g): ERA required that this clause be amended as recommended by Verve.	DBP adopted the ERA's required amendment in relation to clause 5.3(g) but it has not incorporated the amendments relating to clause 5.3(e).	Verve supports the ERA's required amendment and reiterates its previous submissions. Clause 5.3(e) should be deleted.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
5.5 No liability for refusal to Receive Gas Draft Decision at [1118 – 1124]	Clauses 5.5 and 5.9 from the T1 Contract have been deleted. These clauses provided that, in certain circumstances where the Operator could have taken steps to avoid or minimise the magnitude and duration of a refusal to Receive and/or Deliver Gas, the refusal constitutes a Curtailment. The provisions are important in protecting against the impact of an unreasonable refusal by Operator to Receive and/or Deliver Gas and should be reinstated.	Required amendment 36 Clause 5 should be amended to include terms and conditions that are materially the same as clause 5.5 and 5.9 of the ET&Cs for the T1 Service.	Required amendment not incorporated. DBP submits that the ERA is applying inconsistent reasoning by allowing changes which mean that DBP is not liable for a refusal to receive gas but also requiring that certain refusals be considered a curtailment.	Verve supports the ERA's required amendment and reiterates its previous submissions. Further, Verve submits that it is not in any way inconsistent to provide for some refusals to be considered Curtailments where there is also a general principle that the Operator is not liable for a permitted refusal to receive gas. There may be circumstances where the Operator has failed to act as a reasonable and prudent person in refusing to accept gas and the exclusion of liability should not apply.
5.6(b) Operator may refuse to Deliver Gas Draft Decision at [1125 – 1129]	This clause is now a basis on which the Operator can refuse to accept/deliver Gas rather than Curtail. It is now outside the 2% allowance of Curtailments. The provision should be deleted from clause 5.6, or deleted and reinstated in clause 17.2.	Required amendment 37 Clause 5.6(b) should be deleted.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions. Verve's comments immediately above apply to this amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
5.9 No change to Contracted Capacity Draft Decision at [1134 – 1139]	This clause provides that a refusal to Deliver Gas under clause 5.6 does not affect the calculation of Charges payable by the Shipper. Clause 5.9(a) should be subject to the reinstated clause 5.9 (from the T1 Contract) where refusal to Deliver Gas is a Curtailment in certain circumstances. Clause 5.9 should also be amended to reflect situations where the Capacity Reservation Charge must be refunded under clause 17.4 for a refusal to Deliver.	Required amendment 38 Clause 5.9 should be amended to: (i) include provisions that are materially the same as those in clause 5.9 of the ET&Cs; and (ii) reflect situations where the capacity reservation charge must be refunded under clause 17.4 for a refusal to deliver gas.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
5.10 System Use Gas Draft Decision at [1140 – 1158]	The auditor should be nominated by the Shipper (& agreed by the Operator) and required to hand down his or her decision within 30 days of receiving all relevant information from the Operator under clause 5.10(g). It should be clarified that the verification process in clause 5.10 is not a dispute over a Tax Invoice and no interest is payable by the Shipper for the period prior to the auditor's decision. "Share of System Use Gas" as defined in clause 5.10(c) has no role in clause 5.10. The indemnity over and above the obligation to pay "Other Charges" and Direct Damages is contentious, unnecessary and unreasonable and should be deleted. Clause 5.10(a): It should be clarified that the Operator must supply the Shipper's share of System Use Gas for no charge, as the SUG cost is included in the R1 Reference Tariff.	Required amendment 39 Clause 5.9 should be amended by: (i) deleting sub-clauses 5.10(a) and (b) and replace these with a clause to the effect that the operator will provide such system use gas as is reasonably necessary to provide the service; and (ii) deleting clauses 5.10(c) to (h).	DBP adopted the ERA's required amendment.	Verve supports the ERA's required amendment. Verve submits that further amendments could be made to clarify that the Operator must supply all System Use Gas **for no additional charge**.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
5.11 Additional Rights to Refuse to Receive or Deliver Gas Draft Decision at [1159 – 1163]	An additional paragraph has been added referring to the *Emergency Management Act 2005* (WA) which refers to the Minister or other persons declaring a state of emergency. This paragraph should be amended by replacing the reference to "the Minister or any other person, regulatory authority or body" with "a hazard management agency", and "a state of emergency" with "an emergency event"; and by deleting "or any successor, supplementary or similar Law" which is superfluous in the light of clause 2.1(e).			Verve reiterates its previous submissions as the ERA appear to have overlooked Verve's submissions on this clause.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
5.12 Shipper's gas installations Draft Decision at [1164 – 1165]	The words "to which Gas is supplied directly from the DBNGP" should be added after the words "gas installations" in 3 places in clause 5.12(b). The Operator should only be interested in policing the statutory requirement where gas is supplied directly to the gas installation from the DBNGP, as provided in section 13(1) of the Gas Standards Act 1972 (WA).	Required amendment 40 The ERA required that this clause be amended from it being mandatory for a shipper, at its cost, to inspect its facilities to ensure it complies with applicable legislation to it being at the request of DBP acting reasonably.	Required amendment not incorporated.	Verve reiterates its previous submissions as it is unclear whether the ERA has taken its submission on this clause into consideration. DBP should only be able to require the inspection of gas installations to which Gas is supplied directly from the DBNGP.
6.4(d) Allocation of Gas at Inlet Points Draft Decision at [1173 – 1177]	This provision provides that R1 Service will, in the absence of a Shipper specification, be treated as a priority to the T1 Service, which is not acceptable as a Shipper may have contracts for T1 and R1 Services.	Required amendment 41 Clause 6.4 should be amended to include provisions that are substantially the same as those in clause 6.4(c) and (d) of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
6.8 Design and installation of Outlet Stations Draft Decision at [1186 – 1189]		Required amendment 43 Clause 6.8(a) should be amended by: (i) inserting the words "Subject to clause 6.13" at the commencement of the second sentence; and (ii) 6.8(a)(i) reading "to pay the costs reasonably incurred by the Operator in accordance with good industry practice…".	DBP adopted the first but not the second limb of the ERA's required amendment 43.	Verve supports the ERA's required amendment. Further, Verve submits that there is no reason why a reasonableness requirement should not be incorporated. If (as DBP submits) there is an increase in costs due to aspects of the design and installation that have been requested by the shipper, then these costs would be reasonably incurred and recoverable by the Operator.
6.11 Design and installation of Gate Stations	DBP has deleted clause 6.11 in its amended terms and conditions.	Clause 6.11 was not addressed by the ERA in the Draft Decision.		Verve does not understand how shippers with capacity at a Sub network will be able to obtain necessary physical connection to the Sub network if it became necessary to accommodate additional loads on the Sub network in the absence of clause 6.11. Verve submits that it should be reinstated.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
6.12(a) (now 6.11(a)) Maintenance Charge for Inlet Stations and Outlet Stations Draft Decision at [1194 – 1199]	"…across all shippers who pay a charge for substantially the same purpose" should be replaced with "…across all shippers who use the Inlet Station, Outlet Station or Gate Station associated with a Sub-network…"	Required amendment 45 Clause 6.12(a) should be amended to: (i) include a mechanism to enable a shipper to ensure that only necessary refurbishments and upgrades are carried out; (ii) include a provision allowing a shipper to obtain a breakdown of the maintenance charge; (iii) replace the words "pay a charge for substantially the same purpose" with "use the inlet station, outlet station or gate station associated with a sub-network"; and (iv) delete sub-clauses (iii) and (iv).	DBP has only partially incorporated the required amendment.	Verve supports the ERA's required amendment and reiterates its previous submissions. Further, Verve submits that the Shipper should not have to pay a maintenance charge for refurbishments or upgrades required by the Operator to meet contractual obligations with a third party.
8.9 Scheduling of Daily Nominations Draft Decision at [1231 – 1235]	The clause refers to "Capacity Services for" and "Capacity Services in respect of the Shipper's Daily Nomination for". As the only Capacity Service being scheduled under clause 8.9 is the R1 Services, these references are confusing, redundant and should be deleted.	Required amendment 49 Clause 8.9 should be amended to replace references to a R1 Service with references to a T1 Service.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
8.10 Scheduling where there is insufficient available Capacity Draft Decision at [1236 – 1239]	A new clause 8.10(c) should be inserted where the Operator must endeavour as a Reasonable and Prudent Person to ensure that, where the scheduled Capacity Services in respect of Daily Nominations are less than the Initial Nomination (calculated across all of the Shipper's R1 Contracts), the difference is kept to the smallest amount possible.	Required amendment 50 Clause 8.10 should be amended by inserting a new clause 8.10(c) to read "the Operator shall use its best endeavours to minimise the extent of any Curtailment required under clause 8.10(b)".	Required amendment not incorporated.	Verve supports the ERA's required amendment. Verve further submits that this obligation is necessary and does not already exist in clause 17 as the obligation in that clause for the Operator to use its best endeavours to minimise the magnitude and expected duration of any Curtailment only applies to the R1 Service.
8.15 and 8.16 (ET&Cs) Draft Decision at [1240 – 1248]	There is no "Aggregated R1 Service" for Services above Contracted Capacity at specific Inlet Points and Outlet Points, or provisions which govern the nomination, scheduling and curtailment of the R1 Service at Outlet Points where the Shipper does not have Contracted Capacity. The value of the R1 Service is, on this characteristic alone, significantly less than the T1 Service, which must be reflected in the R1 tariff being lower than the T1 tariff.	Required amendments 51 and 52 Clause 8 should be amended to include provisions that are substantially the same as: (i) clauses 8.15 and 8.16 in the ET&Cs in relation to an aggregated T1 service; and nominations at inlet points and outlet points where a shipper does not have sufficient contracted capacity; and (ii) clause 8.16 in the ET&Cs in relation to full haul capacity upstream of CS9.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
9.5 Accumulated Imbalance Limit Draft Decision at [1255 – 1262]	The threshold requirement for a material adverse impact on the integrity or operation of the DBNGP, or an adverse impact (or likely adverse impact) on any shipper's entitlement to its Daily Nomination for Capacity, before the shipper may incur an excess imbalance charge or the operator may refuse to accept or deliver gas should be reinstated. There should be a qualification on the operator's discretion in clause 9.5(c). The obligation to cooperate to ameliorate the impact of exceeding the Accumulated Imbalance Limit, and the concept of the Outer Accumulated Imbalance Limit of 20% should be reinstated. Curtailment must remain an exception to the imposition of the Excess Imbalance Charge, and the Daily and Accumulated Imbalances must be calculated.	Required amendment 53 Clause 9 should be amended to include provisions that are substantially the same as those in clause 9.5 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions. Verve further submits that the required amendment does not prevent the Operator taking necessary steps to protect the integrity of the pipeline. The threshold requirements, the discretion qualification, the obligation to cooperate, the Outer Accumulated Imbalance Limit and the Curtailment exception are all vital concepts to protect the shipper from refusals to accept or deliver gas or unreasonable charges that are not connected with any material adverse impact on the provision of services to T1 Shippers or the operation or integrity of the DBNGP.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
9.6 Balancing in particular circumstances Draft Decision at [1263 – 1267]		Required amendment 54 Clause 9.6(c) should be amended to remove the requirement that the agreement be in writing.	Required amendment not incorporated.	Verve supports the ERA's required amendment. Verve further submits that any requirement that such be in writing should be limited to where it reasonably practicable to do so. If this qualification is not incorporated the shipper may be prevented from taking mitigating actions where a failure of the shipper's gas supply is imminent.
9.9 Cashing out imbalances at the end of each Gas Month Draft Decision at [1268 – 1275]	Cashing out imbalances on a monthly basis penalises the Shipper by mandating a sale of gas to the Operator at a hugely discounted price, unless the Shipper takes a Storage Service. On the other hand, the price at which the Shipper must buy the imbalance quantity is a commercial price, and the Shipper may have no capability (within the physical constraints of the DBNGP) to deliver Gas to the Operator at a sufficient rate to restore the imbalance to zero.	Required amendment 55 Clause [9.9] in relation to cashing out imbalances at the end of each gas month should be amended to be substantially consistent with the ET&Cs. It appears that the ERA's required amendment refers to clause 9.6 instead of clause 9.9.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions. Verve also notes that DBP has provided no reasonable justification for its proposed change.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
10.3 Consequences of exceeding Hourly Peaking Limit Draft Decision at [1284 – 1287]	The provisions governing Hourly Peaking Limits and Hourly Peaking Charges have been amended in much the same way as the Imbalance provisions in relation to clause 9 above. The provisions requiring adverse impacts on the integrity and operation of the DBNGP before Hourly Peaking Charges can be levied should be reinstated. A charge for breaching the Hourly Peaking Limit should not be imposed if it does not in any way impact on the integrity nor operation of the DBNGP, nor on any Capacity Services provided to any other Shipper. Such a charge cannot be a genuine pre-estimate of the loss or damage resulting from breaching the relevant threshold and should not be approved.	Required amendment 56 Clause 10.3 should be amended to be substantially consistent with clause 10.3 of the ET&Cs, and the words "Shipper must use best endeavours to comply with a notice issued under clause 10.3" should be reinstated.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions on clauses 9 and 10. Verve also notes that DBP has provided no reasonable justification for not incorporating the required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
10.4 (ET&Cs) Outer hourly peaking limit Draft Decision at [1288 – 1291]	The Outer Hourly Peaking Limit should be reinstated as its removal result in the Hourly Peaking regime being penal in nature.	Required amendment 57 A provision should be inserted that is substantially consistent with clause 10.4 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions on clauses 9 and 10.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
10.7 (ET&Cs) Permissible peaking excursion Draft Decision at [1292 – 1295]		Required amendment 58 A provision should be inserted that is substantially consistent with clause 10.7 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions on clauses 9 and 10. Further, Verve submits that it is inconsistent with the national gas objective to allow a situation where the Operator may discriminate between shippers and impose penal charges for peaking excursions that do not affect the integrity or operation of the DBNGP. Contracts between the Operator and other shippers or third parties do not operate to protect the Shipper from discrimination and are not enforceable by the Shipper. The Shipper should not be reliant on the enforcement of undertakings to stop discrimination, the potential for which is against the national gas objective and should not be allowed to exist. These rights are a vital protection for the Shipper and DBP has provided no reasonable justification for their removal.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
11.1(b) Overrun Charge Draft Decision at [1298 – 1303]	There has been a dramatic, unjustified increase in the percentage in clause 11.1(b)(i). The Overrun Rate is twice the Unavailable Overrun Charge, which purports to deal with behaviour more detrimental to the pipeline. Without any justification, a more than four-fold increase in the Overrun Rate is completely unacceptable. Paying 750% of the reference tariff on the same quantity of Gas must be considered a penalty.	Required amendment 59 Clause 11.1 should be replaced by provisions that are substantially consistent with clause 11.1 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions. Verve also notes that DBP has provided no substantiation for how the increase, which makes the rate 750% of the reference tariff on the same quantity of gas, reflects the current market price for gas.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
11.2(a) Unavailability Notice Draft Decision at [1304 – 1309]	The Operator's ability to give an Unavailability Notice to the Shipper should be limited to the extent that the Shipper's overrun will impact or is likely to impact on any other shipper's entitlement to its Daily Nomination for T1 Capacity, Firm Service, any Other Reserved Service or scheduled Spot Capacity. Where penalties for breaching certain thresholds are not related at all to the actual impact on the DBNGP or other shippers' capacity, they cannot be accepted as a genuine pre-estimate of damage or loss suffered by Operator due to the relevant Gas usage.	Required amendment 60 Clause 11.2 should be replaced by provisions that are substantially consistent with clause 11.2 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions. DBP has provided no reasonable justification for removing the qualification in clause 11.2.
11.7(c) Saving and damages Draft Decision at [1314 – 1318]		Required amendment 61 Clause 11.7(c) should be amended to reinstate the word "not".	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its submission in relation to clause 11.1(b).

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
12.4 Delivery of Gas Draft Decision at [1325 – 1329]	The requirement that the Operator may use any means other than the DBNGP for Delivery only where there is no extra cost or risk to the Shipper in doing so should be reinstated.	Required amendment 62 Clause 12.4 should be amended to include a provision that is substantially the same as clause 12.4(b) of the ET&Cs. Clause 12 should provide that the Operator may satisfy its obligation to enable gas to be delivered to the Shipper by using any means other than the DBNGP provided that it otherwise meets its obligations under the contract and only where there is no extra cost or risk to the Shipper in doing so.	Required amendment not incorporated.	Verve supports the ERA's required amendment. Verve notes that DBP's justification for removing the qualification that a substitution can only be made where "there is no extra cosk or risk to the Shipper" appears to relate solely to the issue of being able to ascertain with certainty that there will be no additional risk. This issue could be addressed by the insertion of the words "reasonably foreseeable" before the word "risk" in clause 12.4(b) of the ET&Cs. The Operator should not be able to impose substituted means on the Shipper where there will be material additional costs or where there is additional risk that a reasonable and prudent operator would have identified.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
14.2(d)(i) Assessment of Requested Relocation Draft Decision at [1332 – 1344]	A New Outlet Point should be an Authorised Relocation if the New Outlet Point is upstream of the Existing Outlet Point or no greater than 2kms downstream of the Existing Outlet Point.	Required amendment 63 Clause 14.2 should be amended to include provisions that are substantially consistent with clause 14.2(d)(i) of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment. Verve also notes that DBP has not provided sufficient justification for removing the 2km downstream threshold. DBP's submitted justifications relate to the configuration of the pipeline and the capacity of the pipeline and related facilities (such as metering facilities) to accommodate the proposed load. These issues are already addressed by clause 14.2(b) which provides that a Requested Relocation is not an Authorised Relocation if it would cause the New Outlet Point to exceed its Total Current Physical Capacity (which means the total physical Gas throughput Capacity having regard to all associated facilities), or the Operator reasonably believes that it would not be Operationally Feasible (which includes a consideration of the configuration and status of the DBNGP at the relevant time).
15.3(a)(i)(A) Metering uncertainty Draft Decision at [1355 – 1360]	The previous maximum uncertainty of 1% should be retained.	Required amendment 64 Clause 15.3 should be amended to be substantially the same as the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
15.5(e) & 15.5(f) Provision of information to Shipper Draft Decision at [1366 – 1370]	The provisions which relate to the availability of information for Distribution Network Shippers should be reinstated.	Required amendment 66 Clause 15.5 should be amended to reinstate sub-clauses (e), (f) and (g).	Required amendment not incorporated.	Verve supports the ERA's required amendment.
15.13(b) & 15.13(c) Inaccurate equipment Draft Decision at [1373 – 1374]	Clause 15.13(a)(i) is referred to twice in clauses 15.13(b) and (c) – one of the references in each clause should be deleted.		DBP agreed that this should be amended but has not done so.	DBP should make the agreed change.
17.2(c) Curtailment Generally Draft Decision at [1380 – 1384]	The existing approach should be retained otherwise the R1 Service is devalued, which must be reflected in a lower tariff than the T1 tariff.	Required amendment 67 Clause 17.2 should be amended to reinstate sub-clauses (c) and (d) of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
17.3(b)(ii) Curtailment without liability Draft Decision at [1385 – 1388]	Planned Maintenance should not be included in Major Works for the purposes of Curtailments without liability.	Required amendment 68 Clause 17.3(b) should be amended to be substantially the same as clause 17.3(b) of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
17.5 Operator's rights to refuse to Receive or Deliver Gas Draft Decision at [1389 – 1390]		Required amendment 69 Clause 17.5 should be amended so that the words "Subject to clauses 5.5 and 5.9," are reinstated at the beginning of clause 17.5.	Required amendment not incorporated.	Verve supports the ERA's required amendment. Verve supports the reinstatement of clauses 5.5 and 5.9 as set out above. Clause 17.5 should also remain subject to these important clauses.
17.7(b) Content of a Curtailment Notice and Initial Notice Draft Decision at [1395 – 1400]	An Initial Notice should include the reasons for the Curtailment.	Required amendment 71 Clause 17.7(b) should be amended to require an Initial Notice to specify the Operator's reasons for, and a description of, the Major Works that has initiated the need for an initial notice to be issued under clause 17.6(b)(i)(A).	DBP has incorporated a requirement for reasons for the Curtailment. This does not implement the required amendment.	Verve supports the ERA's required amendment. DBP's amendment does not reflect the required amendment as a reason for the Curtailment may be as uninformative as "Major Works". The Operator should be required to provide reasons for, and a description of, any Major Works giving rise to an Initial Notice.
17.9 Priority of Curtailment Draft Decision at [1406 – 1409]		Required amendment 73 Clause 17.9 should be amended to be substantially the same as clause 17.9 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
17.10 Appointment of Shipper's Curtailments Draft Decision at [1410 – 1415]	17.10(a): apportionments should be made as determined by the Shipper, unless standing requirements under clause 17.10(b) have been proposed by the Shipper. Amendments to 17.10(a) suggested above make 17.10(e) redundant and it should be deleted.	Required amendment 74 Clause 17.10 should be amended to be substantially consistent with clause 17.10 of the ET&Cs. An additional requirement should also be included requiring the Operator to notify the Shipper of apportionment as soon as practicable after the end of the relevant Gas Day.	Required amendment not incorporated.	Verve supports the ERA's required amendment but reiterates its previous submissions.
18 Maintenance and Major Works Draft Decision at [1416 – 1419]	Any information provided by the Operator following a request under clause 18(d) should not limit the Operator's obligation to give an Initial Notice within the timeframes required by clause 17.6(b)(i)(A).	Required amendment 75 Clause 18 should be amended by: (i) inserting "17.6(b)(i)(A)" after "clauses" in (g) (not (d) as referred to by the ERA); and (ii) including terms that are substantially the same as clause 18(e) of the ET&Cs.	DBP has only incorporated the first limb of required amendment 75.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
20.4(b) Other Charges Draft Decision at [1423 – 1430]	See above in relation Excess Imbalance Charge, Hourly Peaking Charge and Overrun Rate. Clause 20.4(b) should be deleted unless the imbalance, peaking and overrun regimes are returned to the position under the ET&Cs.	Required amendment 76 Clause 20.4 should be amended to: (i) be substantially consistent with clause 17.10 of the ET&Cs; and (ii) include a provision for all of the other charges to be rebateable to shippers.	Required amendment not incorporated.	It is unclear why the amendment refers to 17.10. Should this be a reference to clause 20.4 of the ET&Cs? If so, Verve supports the ERA's required amendment and reiterates its previous submissions. Further, Verve submits that the requirement for the Other Charges to be rebateable is designed to ensure that any amount that DBP receives as an Other Charge, which is in excess of the actual costs incurred by the Operator as a result of the relevant conduct, should be rebateable as any excess would properly be considered revenue. If the Other Charges are a true reflection of DBP's actual costs then no amount will be rebateable. DBP should not be allowed to artificially inflate the Other Charges so that they act as a source of profit. A provision for the rebate of charges in excess of actual costs will ensure that the Operator is not profiting over and above the regulated return, contrary to the national gas objective.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
20.5 Adjustment to R1 Tariff Draft Decision at [1431 – 1436]		Required amendment 77 Clause 20.5 should be amended to be consistent with the structure of the reference tariff and reference tariff variation mechanism of the PRAA as required to be amended under the Draft Decision.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
20.7 (ET&Cs) Other taxes Draft Decision at [1437 – 1439]		Required amendment 78 Clause 20.7 of the ET&Cs should be reinstated.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
21.4(a) Default in Payment and 21.6(a) Correction of payment errors Draft Decision at [1445 – 1448]	Interest should not be compounded.	Required amendment 79 Clauses 21.4 and 21.6 should be amended to remove the words "and compounded".	Required amendment not incorporated.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
22.2 Notice of Shipper's default and 22.6 Notice of Operator's default Draft Decision at [1453 – 1456]	Given their importance, the requirement to give Default Notices by certified mail should be reinstated.	The ERA has not required DBP to reinstate this requirement.		Verve submits that it is important that Default Notices are required to be given by certified mail (delivery by courier where confirmation of receipt is given would also be acceptable). Given that time periods for remedying defaults and commencing disputes are dependent on the giving of a Default Notice, it is extremely important that Default Notices are not able to be sent by facsimile or email as these may not be brought to the attention of the Shipper.
22.3 When Operator may exercise remedy Draft Decision at [1457]		Required amendment 80 Clause 22.3 should be amended by replacing the reference to "20 Working Days" with a reference to "40 Working Days".	Required amendment not incorporated. DBP has accepted but not incorporated the required amendment.	The ERA's required amendment should be incorporated.
22.9 No Indirect Damages Draft Decision at [1458 – 1462]	The blanket exclusion of liability for Indirect Damage is unreasonable and should be deleted.	Required amendment 81 Clause 22.9 should be deleted.	Required amendment not incorporated.	Verve supports the ERA's required amendment and reiterates its previous submissions.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
23.6 Shipper responsible for contractors' personnel and property and 23.7 Operator responsible for contractors' personnel and property Draft Decision at [1463 – 1466]	The exception for liability for acts or omissions of the other Party is an appropriate allocation of liability and should be reinstated.	Required amendment 82 Clauses 23.6 and 23.7 should be amended to reinstate the liability for death or injury to a party's personnel or damage to a party's property.	Required amendment not incorporated.	Verve supports the ERA's required amendment but reiterates its previous submissions.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
25.3(a) Assignment Draft Decision at [1476 – 1480]	There is no reason for the treatment of liability following assignment to be different between the Shipper and the Operator. If the Operator, as assignor, is to be released from liability, then it must be by way of a formal deed of assumption or novation which the Shipper has approved or is a party to.	Required amendment 85 Clause 25.3 should be amended to be substantially the same as the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment. Verve submits that DBP's amendments to clause 25.3(a) are not necessary to protect against risks associated with an assignment to a non-creditworthy Related Body Corporate as the assignor is not released from liability. The Operator continues to have the security of the assignor's creditworthiness. Verve reiterates its submissions that DBP has not provided any reasonable justification for its changes which unilaterally affect the treatment of liability following assignment in favour of the Operator.
25.4 Assignment: deed of assumption Draft Decision at [1481 – 1484]		Required amendment 86 Clause 25.4 should be amended to be substantially consistent with the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
25.5 Pipeline Trustee's Acknowledgements and undertakings Draft Decision at [1485 – 1488]		Required amendment 87 Clause 25 should be amended to include terms and conditions that are substantially the same as clauses 25.5 and 25.6 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
25.6 Utilising other shipper's Daily Nominations Draft Decision at [1491 – 1495]	The provision should be reinstated as previously drafted, or this is a further devaluation of the R1 Service from the T1 Services which must be reflected in a lower R1 tariff.	Required amendment 88 Clause 25.6 should be amended to include terms and conditions that are substantially the same as clause 25.6 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment. Verve submits that the Shipper should be entitled to utilise other shipper's daily nomination and the form of any such agreement should be determined by the shippers. There is no reasonable justification for the Operator to be able to dictate this and to allow it to do so is likely to reduce competition. Further, it is for the Shipper to determine how it can best manage its risk of imbalances.
26 (ET&Cs) General Right of Relinquishment Draft Decision at [1496 – 1499]	The provision enabling the Shipper to offer to relinquish Contracted Capacity should be reinstated.	Required amendment 89 Clause 26 should be amended to be substantially the same as clause 26 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment. Verve submits that allowing relinquishments can only serve to better utilise capacity by freeing unutilised capacity to be utilised. DBP's desire for increased certainty does not justify the inefficiencies that will result.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
27.1(b) No transfer of Contracted Capacity other than by this clause Draft Decision at [1501 – 1503]	The reference to clause 25.6 should be deleted.	The ERA is of the view that clause 27 is consistent with the capacity trading requirements of the rules and provisions of the PRAA.		Verve submits that: • clause 25.6 should be amended to delete the requirement for an Inlet Sales Agreement; • clause 27.1(b) and 25.6 are then practically in identical form. There is no need to make clause 27.1(b) subject to clause 25.6 and it is confusing and unhelpful to do so.
27.4(a) Transfer of Capacity by Shipper – Approval of transfer terms Draft Decision at [1504 – 1507]	Under the ET&Cs, the Shipper can request that a transfer be for a duration less than, or equal to, the remaining duration of the Period of Supply. This should be reinstated.	Required amendment 90 Clause 27.4 should be amended to be substantially consistent with the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
28.3 Permitted Disclosure Draft Decision at [1523 – 1526]		Required amendment 92 Clause 28.3 should be amended to expressly incorporate the Operator's obligations to comply with ring fencing provisions under the NGL and NGR.	Required amendment not incorporated.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
30.1(a)(i) Operator's Representations and Warranties Draft Decision at [1532 – 1536]	The Operator's warranty that it has complied with Environmental and Safety laws should be reinstated.	Required amendment 93 Clause 30.1 should be amended to be substantially consistent with the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
30.2 Shipper's Representations and Warranties Draft Decision at [1537 – 1538]		Required amendment 94 Clause 30.2 should be amended to be substantially consistent with the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
30.4 (ET&Cs) Draft Decision at [1541 – 1544]	The representations and warranties given by the DBNGP Trustee should be reinstated.	Required amendment 95 Clause 30 should be amended to be substantially the same as the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
31(b) (ET&Cs) Draft Decision at [1545 – 1548]	The shipper's right to request information on planned expansions should be reinstated.	Required amendment 96 Clause 31 should be amended to be substantially the same as the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
38 Revocation, Substitution and Amendment Draft Decision at [1552 – 1555]		Required amendment 97 Clause 38 should be amended to be substantially the same as the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
45 (ET&Cs) Arm's length dealings Draft Decision at [1556 – 1561]		Required amendment 98 Clause 45 should be amended to be substantially the same as clause 45 of the ET&Cs, which establish terms for non-discrimination.	Required amendment not incorporated.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
Schedule 2 Charges Draft Decision at [1570 – 1574]		Required amendment 99 Schedule 2 should be amended to detail the: (i) "T1 Capacity Reservation Tariff" and "T1 Commodity Tariff", as determined under this Draft Decision; and (ii) rates at which other charges are determined under the proposed terms and conditions, being the: a) "Excess Imbalance Charge" at 200% of the T1 Reference Tariff; b) "Hourly Peaking Charge" at 200% of the T1 Reference Tariff; c) "Overrun Charge" at the rate specified in clause 11.1(b); and d) "Unavailable Overrun Charge" at the greater of: 1. 250% of the T1 Reference Tariff; and 2. the highest price bid for spot capacity that was accepted for that gas day, other than when the highest price bid was not a bona fide bid, in which case the highest bona fide bid.	Required amendment not incorporated.	Verve supports the ERA's required amendment.

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
Schedule 3 Operating Specifications Draft Decision at [1575 – 1578]		Required amendment 100 Schedule 3 should be amended to: (i) delete the table at Item 1 – Gas Specifications, and instead provide that the Operating Specifications are those as specified in the Gas Supply (Gas Quality Specifications) Regulations 2010; and (ii) amend Item 2 – Gas Temperature and Pressure so that it is the one measurement applying to all Inlet Points.	DBP has amended item 1 but not item 2 in accordance with required amendment 100.	Verve has no objection to the Gas temperature at Inlet Point I1-O1 being at 60 degrees Celsius, higher than other Inlet Points.
Schedule 4 Pipeline Description Draft Decision at [1579 – 1581]		Required amendment 101 Schedule 4 should be amended to include the pipeline description that is referenced in, and appended to, the PRAA.	Required amendment not incorporated.	Verve supports the ERA's required amendment.
Schedule 6 Curtailment Plan Draft Decision at [1589 – 1591]		Required amendment 102 Schedule 6 should be amended to be substantially consistent with Schedule 8 of the ET&Cs.	Required amendment not incorporated.	Verve supports the ERA's required amendment. See further submissions on B1 Service and Tp Service in Verve's submissions on clause 1 (Definitions).

Clause and Draft Decision paragraph #	Issue	ERA's Draft Decision	DBP Amendments	Verve's Further Submissions
Draft Decision at [1594 – 1595]		Required amendment 104 The PRAA should be amended to include terms and conditions for the part haul service (i.e. the P1 Service) and back haul service (i.e. the B1 Service), as reference services, that are substantially the same as the terms and conditions established under existing contracts for part haul and back haul pipeline services negotiated with shippers.	Required amendment not incorporated.	Verve supports the ERA's required amendment.