

Draft Decision on GGT's Proposed Revisions to the Access Arrangement for the Goldfields Gas Pipeline

Submitted by

Goldfields Gas Transmission Pty Ltd

9 October 2009

Economic Regulation Authority



WESTERN AUSTRALIA

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DRAFT DECISION

1. Goldfields Gas Transmission Pty Ltd (**GGT**) submitted its Proposed Revisions to the Access Arrangement for the Goldfields Gas Pipeline (**GGP**) to the Economic Regulation Authority (**Authority**) on 23 March 2009 for approval under the *National Third Party Access Code for Natural Gas Pipeline Systems* (**Code**).
2. The Authority has considered GGT's Proposed Revisions pursuant to the requirements of the Code.
3. The Authority has considered and weighed the factors in section 2.24 of the Code as fundamental elements in making the overall decision whether to approve GGT's Proposed Revisions.
4. The Authority has also considered all of the public submissions received by the Authority in arriving at its decision. The details of the public submissions that were received by the Authority are set out in paragraphs 43 to 49 below.
5. The Authority proposes not to approve GGT's Proposed Revisions on the basis that it does not satisfy the requirements in sections 3.1 to 3.20 of the Code or the principles in section 8 of the Code. The detailed reasons for this decision are set out in this Draft Decision. The Authority requires 45 amendments to approve GGT's Proposed Revisions. Those amendments are listed below.
6. It should be noted that, in some cases this Draft Decision also requires GGT to provide the Authority with further information before the making of the Final Decision in relation to GGT's Proposed Revisions.

List of Amendments

Required Amendment 1

Section 4.2(a) of GGT's Proposed Revisions should be amended to replace the words "will consider the development of" with the words "will offer", as follows:

Should any User or Prospective User have requirements which cannot be satisfied through a Reference Service, including for gas transportation from an inlet point other than the two Inlet Points at Yarraloola, GGT will consider the development will offer Negotiated Services to meet that person's specific requirements. Negotiated Services will be provided on the terms and conditions negotiated between GGT and the User or Prospective User.

Required Amendment 2

Section 4.2 of GGT's Proposed Revisions should be amended to insert a new subparagraph 4.2(c) as follows:

(c) For the avoidance of doubt, the Negotiated Services which GGT will offer include an Interruptible Service for the haulage of gas which is subject to curtailment or interruption by GGT.

Required Amendment 3

In relation to the GGP Capital Base Table 2 and Table 3 of the Access Arrangement Information should be amended to reflect the values in Table 2 and Table 4 of this Draft Decision respectively.

Required Amendment 4

In relation to the GGP Capital Base and Depreciation Table 2 of the Access Arrangement Information should be amended to reflect the values in Table 6 of this Draft Decision.

Required Amendment 5

In relation to the Forecast Capital expenditure Tables 4 of the Access Arrangement Information should be amended to reflect the values in Tables 8 of this Draft Decision.

Required Amendment 6

In relation to Working Capital, Table 7 of the Access Arrangement Information should be amended to reflect the values in Table 10 of this Draft Decision.

Required Amendment 7

In relation to Depreciation Table 6 of the Access Arrangement Information should be amended to reflect the values in Table 13 of this Draft Decision.

Required Amendment 8

In relation to Rate of Return, Table 8 of the Access Arrangement Information should be amended to reflect the values in Table 15 of this Draft Decision

Required Amendment 9

GGT's Proposed Revisions should be amended to adopt a nominal pre-tax Rate of Return of 10.28%.

Required Amendment 10

In relation Non Capital Costs, Table 10 of the Access Arrangement Information should be amended to reflect the values in Table 19 of this Draft Decision.

Required Amendment 11

In relation to Total Revenue Table 1 and Table 14 of the Access Arrangement Information should be amended to reflect the values in Table 22 of this Draft Decision.

Required Amendment 12

Table 12 of the Access Arrangement Information setting out volume forecasts in TJ/day should be amended to include volume forecasts for the Additional Services arising from the Expansions of Capacity as set out in Table 26 of this Draft Decision.

Required Amendment 13

Table 15 of the Access Arrangement Information setting out the Annual Reference Service Revenue for 2010 to 2014 should be amended to include the values set out in Table 28 of this Draft Decision.

Required Amendment 14

The Reference Service Revenue referred to at page 13 of the Access Arrangement Information should be amended from \$15.9 million to \$367.1 million.

Required Amendment 15

Clause 1 of the Fourth Schedule to Appendix 3 to GGT's Proposed Revisions should be amended to delete the Reference Tariff charges and substitute the Authority's Draft Decision Reference Tariff charges shown in Table 29 of this Draft Decision.

Required Amendment 16

The Access Arrangement Information should be amended to delete the forecast annual revenue to be recovered from providing the Reference Service as set out in Table 15 in the Access Arrangement Information, and to substitute the values set out in Table 31 of this Draft Decision.

Required Amendment 17

The Reference Tariff Adjustment Mechanism in Schedule 1 and clause 9.8 to GGT's Proposed Revisions should be deleted.

This Schedule 1 should be replaced by Schedule 1 to GGT's Response to Issues Paper dated 29 May 2009, subject to amending the formula contained therein on the basis of this formula taking account of quarterly tariff adjustments with x being the forecast quarterly inflation rate.

The formula under clause 9.8 also needs to be amended to take account of quarterly tariff adjustments and to include $CPI - x$ in the formula with x being the forecast quarterly inflation rate.

Required Amendment 18

The definition of "Imposts" in Appendix 1 to GGT's Proposed Revisions should be amended as follows:

Impost means any royalty (based on value, but not profit or otherwise), petroleum resource rent tax, environmental tax, excise, sales tax, use tax, consumption tax, levy, ~~impost~~ or duty imposed by or payable to any Government Authority affecting the transportation and supply of Gas at or upstream of the Outlet Point but does not include any income taxes;

Required Amendment 19

Section 5.4(c) of GGT's Proposed Revisions should be amended to:

GGT may submit one or more Impost Notices each Year. This notice may incorporate a number of claims relating to the changes. For the purposes of Section 8.3D(b)(i) of the Code the minimum notice period for an Impost Notice is ~~15~~ 25 Business Days.

Required Amendment 20

A GGT Information Package which contains reasonable terms should be included as part of GGT's Proposed Revisions or all references to this Information Package in GGT's Proposed Revisions should be deleted and replaced with appropriate alternative provisions.

Required Amendment 21

Section 8.1 of GGT's Proposed Revisions should be amended to read:

The terms and conditions on which the Reference Service will be provided by GGT to a Prospective User are those contained in the Service Agreement, which will be constituted by:

- (a) the Order Form executed by the Prospective User and accepted by GGT; and
- (b) the General Terms and Conditions; ~~and~~
- ~~(c) any Conditions under clause 8.3 of this Access Arrangement.~~

Required Amendment 22

Section 8.3(a) of GGT's Proposed Revisions should be amended to make it clear whether the Conditions in section 8.3 of GGT's Proposed Revisions apply to all Services or only Reference Services.

Required Amendment 23

Sub-clause 3.2 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read as follows:

If any additions or enhancements to the Pipeline which are required to provide the Service are not operational following the expiry of 12 Months from the Commencement Date the parties may:

- (a) agree to defer the date for commencement of that Service to another date; or
- (b) agree to the provision of a reduced scope of the Service which is feasible with the available Capacity; and
- (c) if either clause 3.2(a) or 3.2(b) applies, agree the charges that will apply to reflect the new date for commencement or the reduced scope for the Service. ~~and~~
- ~~(d) if the parties are unable to agree in accordance with either clause 3.2(a), (b) or (c) then either party may refer the matter to dispute resolution as provided for in clause 22 of the General Terms and Conditions. In the event that neither party has referred the matter for dispute resolution within 30 days after the expiry of the period of 12 months, the Service Agreement may be terminated by written notice by either party without penalty or cost to either party.~~

If the parties are unable to agree in accordance with either clause 3.2(a), (b) or (c) then either party may refer the matter for dispute resolution as provided for in clause 22 of the General Terms and Conditions. In the event that neither party has referred the matter for dispute resolution within 30 days after the date of expiry of the period of 12 Months, the Service Agreement may be terminated by written notice by either party without penalty or cost to either party.

Required Amendment 24

Sub-clause 4.4(c) of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

The SQO Notice must include the following information:

- (1) the quantities of Gas required to be received at the Inlet Point;
- (2) the quantities of Gas required to be delivered at the Outlet Point;
- (3) the Gas Day the SQO is required; and

- (4) any other information reasonably required by GGT.

Required Amendment 25

Sub-clause 6.1 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read as follows:

GGT will provide for the benefit of the User at the User's cost unless otherwise specified:

- (a) advice in respect of engineering and planning for the connection of the User's facilities to the Pipeline;
- (b) a remotely actuated shut off valve and a remotely actuated flow control valve at the Outlet Facilities at each Outlet Point;
- (c) supervision of connection activities for connection to the Pipeline or to the Outlet Facilities;
- (d) services related to the commissioning of the Outlet Facilities; and
- (e) access to reasonable specified data by GGT from GGT's SCADA and other systems as determined by GGT acting reasonably.

Required Amendment 26

Clause 6 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to:

- (a) restore the provisions that are in clause 6 of the General Terms and Conditions to the current Access Arrangement which give Users and third parties the right to elect to own, operate and maintain Outlet Facilities; and
- (b) remove the references to the Second Schedule and replace them with a reference to the "technical specifications of a reasonable and prudent pipeline operator".

Required Amendment 27

Sub-clause 9.6(e) of the General Terms and Conditions to GGT's Proposed Revisions should be reinserted and read:

GGT will rebate 95 percent of Quantity Variation Charges as defined in the Fourth Schedule in excess of GGT's direct costs and expenses associated with and arising from the User's acts or omissions which cause the overruns or imbalances to occur:

- (1) to any other User of the Reference Service not having caused the particular Quantity Variation Charges to occur; and
- (2) which rebate will be paid to non-offending Users, where relevant, at the end of each calendar year.

For the avoidance of doubt, where there is no other User of the Reference Service at the time at which the overruns or imbalance occur then this rebate mechanism will not be activated.

Required Amendment 28

The minimum value for the Gross Heating Value component in the tables labelled Inlet Gas Specification and Delivery Gas Specification in the Second Schedule to the General Terms and Conditions to GGT's Proposed Revisions should be amended from 37.0 MJ/m³ to 35.5 MJ/m³.

Required Amendment 29

Sub-clause 11.2(a) of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

~~The Outlet Facilities installed by GGT under clause 6.2 will enable GGT to properly establish the quantity and quality of Gas delivered By GGT to the User at the Outlet Point.~~

Except as provided in clauses 6.4(c) and 6.4(f), the User shall install or have installed on its behalf, and GGT shall operate, at or near the Outlet Point, Outlet Facilities necessary for GGT to be able to properly establish the quantity and quality of Gas delivered to the User at the Outlet Point.

Required Amendment 30

Sub-clause 11.3 of the General Terms and Conditions to GGT's Revision Proposal should be amended to read:

The measuring equipment comprised in the Inlet Facilities and in each of the Outlet Facilities shall comply in all respects with ~~good pipeline industry practice~~ the standard of a reasonable and prudent pipeline operator.

Required Amendment 31

Sub-clause 11.4 of the General Terms and Conditions to the current Access Arrangement should be reinstated into the proposed clause 11 of the General Terms and Conditions to GGT's Proposed Revisions as:

Costs to be Bourne by User

The costs of installation, operation and maintenance of facilities not owned by the Owners referred to in clauses 11.1 and 11.2 shall be for the account of the User.

Required Amendment 32

Sub-clause 11.5 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

GGT grants to the User the right to install and maintain check metering equipment ~~within the User's facilities or premises~~ to enable the User to check the bulk measuring equipment located at any site provided that such check metering equipment shall not interfere in any way with any measuring equipment (or other equipment) and that the cost of installing and maintaining any such check metering equipment shall be borne by the User and such equipment shall meet the accuracies contained in the First Schedule.

Required Amendment 33

Sub-clause 19.1 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

The User shall procure and maintain at its own expense throughout the Terms of the Service Agreement the following insurances with reputable insurers:

- (a) workers compensation insurances in accordance with the *Workers Compensation and Rehabilitation Act 1981*;
- (b) all risks property insurance to indemnify it against damage, loss or destruction of Inlet Facilities and Outlet Facilities; and

- (c) public liability insurance for an amount of not less than \$20,000,000 to indemnify it against the risk of damage, death or injury to the property or personnel of third parties.

Required Amendment 34

Sub-clause 19.2 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

The User shall arrange for endorsements on the policies in clauses 19.1(b) and 19.1(c) of the interests of the Owners and GGT such that those interests are effectively insured under those policies and for the insurers to waive rights of subrogation against them.

Required Amendment 35

Sub-clause 20.7(c) of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read as follows:

The User shall be obliged to pay Connection Charges for any new Outlet Facilities to be used by the New User in respect of Transferred Capacity and the administration charges that GGT would apply to any new User entering into a gas transmission agreement with GGT, in accordance with the Statement of Tariffs and Charges prevailing at the time of the transfer. The User shall ensure that any new Outlet Facilities used by the New User shall comply with the technical specifications of a reasonable and prudent pipeline operator.

Required Amendment 36

The definition of Capacity in Appendix 1 to GGT's Proposed Revisions should be amended to correspond with the definition of Capacity in the Code, as follows:

Required Amendment 37

Section 9 of GGT's Proposed Revisions should be amended to include an additional section 9.2 to read as follows:

For the avoidance of doubt, the same terms as those set out in clause 20 of the General Terms and Conditions, which are confined to Reference Services, will apply to a transfer or assignment of Capacity in the Covered Pipeline by Users of a Non-Reference Service.

Required Amendment 38

Sub-section 7.2 of GGT's Proposed Revisions should be amended to include the following section 7.2(e):

For the purpose of sub-clause 7.2(d) above a Prospective User is only obliged to bear those costs of the Investigations that are reasonably incurred.

Required Amendment 39

Sub-section 7.2 of GGT's Proposed Revisions should be amended to include the following section 7.2(i) :

Where a Prospective User bears the costs of an Investigation GGT must provide that Prospective User with an itemisation of the costs incurred by GGT as soon as reasonably practicable following the completion of the Investigations and prior to a Prospective User being obliged to pay those costs.

Required Amendment 40

Appendix 2.1 to GGT's Proposed Revisions should be amended so that Paragraph 16 reads as follows:

Signify by ticking appropriate box below whether or not the Prospective User is prepared to contribute to the reasonable costs of GGT undertaking Investigations and the provision of Developable Capacity as referred to in clause 1.5(b)(2) in the GGT Information Package.

and to insert a new paragraph immediately following the above paragraph as follows:

Signify by ticking appropriate box below whether or not the Prospective User is prepared to contribute to the reasonable costs of GGT providing Developable Capacity as referred to in clause 1.5(b)(2) in the GGT Information Package.

Required Amendment 41

Paragraph 22 of Appendix 2.2 to GGT's Proposed Revisions be amended to read as follows:

Required Amendment 42

Paragraph 23 of Appendix 2.2 to GGT's Proposed Revisions be amended to read as follows:

Signify by ticking appropriate box below whether or not User is prepared to contribute to the reasonable costs of GGT providing Developable Capacity as referred to in clause 1.5(b)(2) of the GGT Information Package.

Required Amendment 43

Prospective User means a person who seeks ~~access to the Covered Pipeline for the purpose of transporting Gas or who is reasonably likely to seek to enter into a contract for a Service and includes a User who seeks or may seek to enter into a contract for an additional Service.~~

Required Amendment 44

Sub-sections 10.2 and 10.3 of GGT's Proposed Revisions should be deleted and replaced with the following sub-sections 10.2, 10.3 and 10.4:

~~If GGT expands the Capacity of the Covered Pipeline, GGT will elect~~

~~(a) that the expanded capacity will be treated as part of the Covered Pipeline for the purposes of this Access Arrangement and GGT will exercise its discretion to submit proposed revisions to the Access Arrangement under section 2 of the Code; or~~

~~(b) that the expanded capacity will not be treated as part of the Covered Pipeline for the purposes of this Access Arrangement and that GGT will lodge a separate Access Arrangement for such expanded capacity; or~~

~~(c) that the expansion will not be covered, subject to GGT notifying the Regulator of this fact prior to the expansion coming into operation.~~

~~GGT may at any time, change an election made under clause 10.2(c) to an election made under clause 10.2(a).~~

~~10.3 Pipeline Extension/Expansion and Tariffs~~

~~(a) Pipeline extension or expansions which GGT elects to cover under clause 10.2 will result in no change to the Reference Tariff applied to a User when those extensions or expansions have been fully funded by that User's capital contributions except to~~

contribute to GGT's non-capital costs in connection with those extensions and expansions. Any change to the Reference Tariffs may occur only pursuant to the process in Section 2 of the Code for revisions to Reference Tariffs.

(b) ~~Incremental Users as defined in the Code which have not made capital contributions towards Incremental Capacity as defined in the Code which they use and which had been funded by others will be liable to pay surcharges as allowed for in Section 8 of the Code.~~

(c) ~~Pipeline extensions or expansions funded by GGT and which GGT elects to cover under clause 10.2 may result in the application of surcharges as allowed for in Section 8 of the Code subject to GGT providing written notice to the Regulator, and the Regulator approving the same, in accordance with section 8.25 of the Code.~~

10.2 Application of Arrangement to Pipeline Extension

If GGT extends the Pipeline GGT will elect:

(a) that the extension will be treated as part of the Pipeline for the purposes of the Access Arrangement and GGT will exercise its discretion to submit proposed revisions to the Access Arrangement under Section 2 of the Code; or

(b) that the extension will not be treated as part of the Pipeline for the purposes of this Access Arrangement and that GGT will lodge a separate Access Arrangement for such extension; or

(c) that the extension will not be covered, subject to GGT notifying the Regulator of this fact prior to the extension coming into operation.

10.3 Application of Arrangement to Pipeline Expansion

If GGT expands the Capacity of the Covered Pipeline the expanded Capacity will be treated as part of the Covered Pipeline for all purposes under the Code.

10.4 Pipeline Extension/Expansion and Tariffs:

(a) Pipeline extension or expansions that are covered under either clause 10.2 or clause 10.3 as the case may be will result in no change to the Reference Tariff applied to a User when those extensions or expansions have been fully funded by that User's capital contributions except to contribute to GGT's non-capital costs in connection with those extensions and expansions. Any change to Reference Tariffs may occur only pursuant to the process in Section 2 of the Code for revisions to Reference Tariffs.

(b) Incremental Users as defined in the Code which have not made capital contributions towards Incremental Capacity as defined in the Code which they use and which has been funded by others will be liable to pay for surcharges as allowed for in Section 8 of the Code.

(c) Pipeline extensions or expansions funded by GGT which are covered under clause 10.2 or 10.3 as the case may be may result in the application of surcharges as allowed for in Section 8 of the Code subject to GGT providing written notice to the Regulator, and the Regulator approving the same, in accordance with Section 8.25 of the Code.

Required Amendment 45

Section 3 of GGT's Proposed Revisions be amended to read as follows:

3.1 Term

This Access Arrangement comes into effect on the Effective Date. The Access Arrangement Period or term of the Access Arrangement ~~will~~ is intended to expire on the Revisions Commencement Date.

3.2 Review of Access Arrangement

In accordance with Section 3.17 of the Code:

- (a) the Revisions Submission Date is ~~1 July~~ February 2014; and
- (b) the intended Revisions Commencement Date is ~~the later of 1 January 2015 and the date a revised Access Arrangement replacing this Access Arrangement approved by the Regulator takes effect.~~

3.3 Delay

In the event that the Access Arrangement Proposed Revisions in relation to the Access Arrangement Period next following this Access Arrangement (**Next Access Arrangement**) does not come into effect on or before the intended Revisions Commencement Date this Access Arrangement will not expire until the date on which the Regulator specifies that the Next Access Arrangement comes into effect.

3.4 Trigger Event

(a) If a Revisions Trigger Event occurs at any time prior to 3 months before the Revisions Submission Date then GGT must submit revisions to this Access Arrangement by no later than the day which is 3 months after the Revisions Trigger Event occurs.

(a) For the purpose of paragraph (a) a Revisions Trigger Event occurs when GGT lodges with the Minister for Mines, Western Australia, an application/s for alteration/s to Pipeline Licence PL24, Goldfields Gas Pipeline, as required under licence condition 10 "Alterations to the Pipeline", under which:

- (i) GGT seeks to vary Pipeline Licence PL24 where the alteration/s relates to the construction and installation of expansion facilities; and
- (ii) the capacity of the GGP will be increased (as measured at the GGP Inlets, noting that in GGT's Access Arrangement Information the current inlets are described in section 12, System Description); and
- (iii) the total amount of all such applications made within the forthcoming Access Arrangement Period increase the capacity of the GGP (as measured at the GGP Inlets) beyond 173 TJ/day.

REASONS FOR THE DRAFT DECISION

Background

Documentation Received from GGT

7. The documentation submitted to the Authority by GGT on 23 March 2009 comprised:
 - a) Proposed Revisions (**GGT's Proposed Revisions**); and
 - b) Access Arrangement Information.
8. On 7 April 2009, GGT provided further confidential information on its revisions consisting of a supporting submission (including a tariff model). On 21 April 2009 GGT also submitted to the Authority a public supporting submission entitled

“Supporting Information to Proposed Revisions to Access Arrangement” (**GGT’s Supporting Information Submission**).

9. Parts of GGT’s Supporting Information Submission were deleted on the basis that GGT stated that the information in those parts was confidential.
10. Copies of the abovementioned documents, other than any confidential information, are available from the Authority or may be downloaded from the Authority’s web site: www.era.wa.gov.au.
11. On 21 September 2009, GGT provided an updated Independent Auditor’s Review Report to the Directors of Goldfields Gas Transmission Pty Ltd and the Economic Regulation Authority (**Updated Auditor’s Report**). This updated report provided audit information, for the first time, on the Non Capital Cost category of Corporate Overheads. Corporate Overheads are discussed at paragraphs 587 to 593. Under Section 2.33 of the Code, the Authority has not taken it into account in this Draft Decision. This is because this Updated Auditors Report was received after relevant submission dates, after the decision had been drafted and consideration of it would have unduly delayed the draft decision. This updated Auditors Report will be taken into account in the Final Decision.

Further Information Requested by the Authority

12. The Authority requested GGT to provide it with further information regarding various matters in GGT’s Proposed Revisions. GGT provided the Authority with further information in response to those requests. GGT also provided the Authority with information which the Authority had not specifically requested from GGT.
13. On 26 May 2009, the Authority issued a section 41 notice to GGT requesting the provision of documents and further information to assist the Authority in the preparation of this Draft Decision (**GGT Section 41 Notice**).
14. In response to the GGT Section 41 Notice, on 5 June 2009, GGT provided the Authority with further information and documents (**Section 41 Information**). The Section 41 Information was provided to the Authority on a confidential basis.

Release of Aggregated Section 41 Information

15. On 7 September 2009, the Authority sought agreement from GGT to release aggregated Section 41 Information on non covered capacity and costs (**Aggregated Information**). GGT responded on 14 September 2009 that it did not agree to such a release. The Authority is of the opinion that, although GGT has submitted that the disclosure of the Aggregated Information may cause detriment to it, the public benefit in disclosing the Aggregated Information outweighs any such detriment.
16. Section 42 of the *Gas Pipelines Access (Western Australia) Act 1998* restricts the disclosure of confidential information obtained under a Section 41 notice. It requires the Authority to issue a Section 42 disclosure notice (**Section 42 Notice**) if it wishes to release such information. The Authority has on the day of the release of the Draft Decision given GGT a Section 42 Notice. GGT has seven days to apply to Gas Review Board to review the Authority’s decision to release the Aggregated Information.

17. Therefore, the Authority is releasing this Draft Decision with Aggregated Information, as supplied under a Section 41 request, removed. A non redacted version of the Draft Decision will be provided to GGT with the release of this Draft Decision.

Legislative Requirements

Requirements of the Code

18. Section 2.46 of the Code provides that:

2.46 The Relevant regulator may approve proposed revisions to an Access Arrangement only if it is satisfied the Access Arrangement as revised would contain the elements and satisfy the principles set out in sections 3.1 to 3.20. The Relevant Regulator must not refuse to approve proposed revisions to the Access Arrangement solely for the reason that the Access Arrangement as revised would not address a matter that sections 3.1 to 3.20 do not require an Access Arrangement to address. In assessing proposed revisions to the Access Arrangement, the Relevant Regulator:

- (a) must take into account the factors described in section 2.24; and
- (b) must take into account the provisions of the Access Arrangement.

19. Section 2.24 of the Code provides that:

2.24 The Relevant Regulator may approve a proposed Access Arrangement only if it is satisfied the proposed Access Arrangement contains the elements and satisfies the principles set out in sections 3.1 to 3.20. The Relevant Regulator must not refuse to approve a proposed Access Arrangement solely for the reason that the proposed Access Arrangement does not address a matter that sections 3.1 to 3.20 do not require an Access Arrangement to address. In assessing a proposed Access Arrangement, the Relevant Regulator must take the following into account;

- (a) the Service Provider's legitimate business interests and investment in the Covered Pipeline;
- (b) firm and binding contractual obligations of the Service Provider or other persons (or both) already using the covered Pipeline;
- (c) the operational and technical requirements necessary for the safe and reliable operation of the Covered Pipeline;
- (d) the economically efficient operation of the Covered Pipeline;
- (e) the public interest, including the public interest in having competition in markets (whether or not in Australia);
- (f) the interests of Users and Prospective Users;
- (g) any other matters that the Relevant Regulator considers are relevant.

20. By section 2.47 of the Code:

- 2.47 The Relevant Regulator must not approve revisions to an Access Arrangement (or draft and approve its own revisions to an Access Arrangement) if a provision of the Access Arrangement as revised would, if applied, deprive any person of a contractual right in existence prior to the date the revisions to the Access Arrangement were submitted (or were required to be submitted), other than an Exclusivity Right which arose on or after 30 March 1995.

Lodgement of Access Arrangement Proposed Revisions and Access Arrangement Information

21. Section 2.28 of the Code requires a Service Provider to submit to the Authority, by the Revisions Submission Date in the current Access Arrangement, a Proposed Revisions together with the applicable Access Arrangement Information.
22. The Revisions Submission Date in the current Access Arrangement is 1 April 2009.
23. GGT submitted GGT's Proposed Revisions and accompanying Access Arrangement Information on 23 March 2009, before the Revisions Submission Date in the current Access Arrangement.

Requirement for Access Arrangement Information

24. As explained in paragraph 21 above, when a Service Provider lodges its Proposed Revisions with the Authority it must also provide the Authority with Access Arrangement Information in relation to those Proposed Revisions. The explanatory commentary to section 2 of the Code states:

An Access Arrangement submitted to the Relevant Regulator for approval must be accompanied by Access Arrangement Information. Access Arrangement Information should enable Users and Prospective Users to understand the derivation of the elements of the proposed Access Arrangement and form an opinion as to the compliance of the Access Arrangement with the Code. The Access Arrangement Information must include the categories of information identified in Attachment A to the Code.

25. Sections 2.5, 2.6, 2.7 and 2.8 of the Code read as follows:
 - 2.5 An Access Arrangement may include any relevant matter but must include at least the elements described in sections 3.1 to 3.20.
 - 2.6 Access Arrangement Information must contain such information as in the opinion of the Relevant Regulator would enable Users and Prospective Users to understand the derivation of the elements in the proposed Access Arrangement and to form an opinion as to the compliance of the Access Arrangement with the provisions of the Code.
 - 2.7 The Access Arrangement Information may include any relevant information but must include at least the categories of information described in Attachment A.
 - 2.8 Information included in Access Arrangement Information, including information of a type described in Attachment A....

26. Access Arrangement Information is defined in the Code to mean “information provided by a Service Provider to the Relevant Regulator pursuant to section 2.2, 2.3, 2.9, 2.28 or 2.30.”

27. Section 2.30 of the Code provides that:

2.30 At any time after receipt of the applicable Access Arrangement Information under section 2.28 and before a decision is made to approve revisions to an Access Arrangement the Relevant Regulator;

(a) may, of its own volition, require the Service Provider to make changes to the Access Arrangement Information if the Relevant Regulator is not satisfied that the Access Arrangement Information meets the requirements of sections 2.6 and 2.7; and

(b) must, if required to do so by any persons, consider whether the Access Arrangement Information meets the requirements of sections 2.6 and 2.7 and decide whether or not to require the Service Provider to make changes to the Access Arrangement Information accordingly.

If the Relevant Regulator requires the Service Provider to make changes to the Access Arrangement Information it must specify the reasons for its decision and must specify a reasonable time by which the proposed Access Arrangement Information that rectifies the matters identified by the Relevant Regulator must be resubmitted. The Relevant Regulator must not require information to be included in the Access Arrangement Information the release of which in the Relevant Regulator’s opinion could be unduly harmful to the legitimate business interests of the Service Provider or a User of Prospective User. If the Relevant Regulator requires the Service Provider to make changes to the Access Arrangement Information, the Service Provider must submit Access Arrangement Information amended as required by the Relevant Regulator, by the date specified by the Relevant Regulator.

28. The reference to both sections 2.6 and 2.7 in section 2.30 indicates that the information described in Attachment A, which is referred to only in section 2.7, is not the only information to be provided as Access Arrangement Information.

29. Section 2.6 provides that regardless of what Access Arrangement Information is lodged by GGT, the Authority has a duty to form an opinion about the information that must be in the Access Arrangement Information to ensure Users and Prospective Users have sufficient information about GGT’s Proposed Revisions. This can only be done after the Access Arrangement is lodged.

30. Section 2.7 uses the word “include”, as do the explanatory comments to section 2 and section 2.8 in relation to the Attachment A information. The word “include” implies that the Attachment A information is not the only information to be contained in the Access Arrangement Information.

31. Section 2.7 sets out, in respect of the information which may be included in Access Arrangement Information, a maximum (i.e. “any relevant information”) and a minimum (i.e. the Attachment A information). The function of the Authority under section 2.6 then is to work out what information within the range of information is required to ensure that Users and Prospective Users have sufficient information.

32. The Attachment A information only goes to the derivation or compliance with the Code of the reference tariff “element”. The Attachment A information does not relate at all to the other seven elements. It cannot have been intended that the Attachment A information would be the only Access Arrangement Information, when the Code expressly requires the Access Arrangement Information to include information relevant to a proper understanding of the derivation and compliance with the Code of all seven other elements.
33. The sufficiency of the Access Arrangement Information provided by GGT is discussed below in relation to each element of GGT’s Proposed Revisions, where necessary.

Initiating Notice

34. Section 2.31 of the Code provides that:

After receiving a proposed revision to an Access Arrangement the Relevant Regulator must:

- (a) inform each persons known to the Relevant Regulator who the Relevant Regulator believes has a sufficient interest in the matter that it has received the proposed revision to the Access Arrangement and Access Arrangement Information; and
- (b) publish a notice in a national daily newspaper which at least:
 - (i) describes the Covered Pipeline to which the proposed revisions to the Access Arrangement relates;
 - (ii) states how copies of the revisions to the Access Arrangement and the Access Arrangement Information may be obtained; and
 - (iii) requests submissions by a date specified in the notice.

35. The notice referred to in section 2.31 is known as an Initiating Notice.
36. The Authority considers that the content of GGT’s Proposed Revisions meets the threshold requirements as to the content of proposed revisions to an Access Arrangement and the requirements in section 2.29 of the Code. Its lodgement was therefore sufficient to enliven the Authority’s powers and functions under the Code and to oblige the Authority to undertake the steps in sections 2.31 of the Code.
37. Submissions regarding GGT’s Proposed Revisions were invited from interested parties on 23 March 2009 by the Authority publishing an Initiating Notice on its web site and in the *West Australian* and *The Australian* newspapers on 2 April 2009. The closing date for submissions was 29 May 2009.

Public Consultation

Requirements of the Code

38. The Authority must consider any submissions received by the date specified in the Initiating Notice and may, but is not obliged to, consider any submissions received after that date (section 2.34 of the Code).

39. Section 2.35 provides that:

2.35 After considering submissions received by the date specified in the notice published under section 2.31 (b) the Relevant Regulator must issue a draft decision which either:

- (a) proposes to approve the revisions to the Access Arrangement; or
- (b) proposes not to approve the revisions to the Access Arrangement and provides reasons why the Relevant Regulator proposes not to approve the revisions to the Access Arrangement (and, if the revisions have been proposed by the Service Provider as required by the Access Arrangement, states the amendments (or nature of the amendments) which would have to be made to the revisions in order for the Relevant Regulator to approve them).

40. This Draft Decision is made in accordance with section 2.35 of the Code.

Issues Paper

41. On 22 April 2009 the Authority published an Issues Paper on GGT's Proposed Revisions (**Authority's Issues Paper**). The purpose of the Authority's Issues Paper was to assist interested parties in making submissions by identifying a number of key areas where GGT has proposed changes to the current Access Arrangement that may affect other parties. Those areas were:

- a) Coverage of Capacity and Service Policy
- b) Reference Tariffs and Reference Tariff Policy
- c) Weighted Average Cost of Capital (**WACC**)
- d) Non-capital Costs
- e) Annual rather than Quarterly Modelling
- f) Tariff Variation Mechanism
- g) Terms and Conditions
- h) Rebate of Quantity Variation Charges
- i) Gas specification

42. A copy of the Authority's Issues Paper dated 22 April 2009 is available from the Authority or may be downloaded from the Authority's web site: www.era.wa.gov.au.

Submissions Received in Response to Initiating Notice

43. On 29 May 2009:

- a) BHPB Billiton Nickel West lodged a submission with the Authority in relation to the proposed changes to the Gas Specification proposed by GGT in GGT's Proposed Revisions (**BHPB NiW Gas Submission**);

- b) Synergy lodged a submission with the Authority in relation to GGT's Proposed Revisions (**Synergy Submission**). Synergy currently supplies gas to one industrial customer in inland WA using the GGP pursuant to a gas transportation agreement with GGT;
 - c) Apex Minerals NL, Jabiru Metals Limited, Murrin Murrin Operations Pty Ltd, St Barbara Limited and Xstrata Nickel Australasia Pty Ltd lodged a joint submission to the Authority prepared by Project Consultancy Services Pty Limited (**PCS**) in relation to GGT's Proposed Revisions (**GGP Users (PCS) Submission**);
 - d) GGT lodged a response to the Authority's Issues Paper (**GGT's Response to Issues Paper**).
44. All of the submissions mentioned in paragraph 43 above were received by the date specified in the Initiating Notice.
 45. On 30 June 2009 BHPB Billiton lodged a submission in response to the GGT's Proposed Revisions (**BHPB Submission**).
 46. On 21 July 2009 the Authority received a confidential submission from GGT dated 17 July 2009 in response to the BHPB Submission dated 30 June 2009 (**GGT Further Submission**).
 47. On 21 July 2009 the Authority also received a confidential submission from Southern Cross Pipeline Australia Pty Limited dated 17 July 2009 in response to the BHPB Submission dated 30 June 2009 (**Southern Cross Pipeline Submission**).
 48. The Authority has exercised its discretion under section 2.34 of the Code and has considered all of the submissions referred to in paragraphs 45 to 47 above, despite their being received after the date specified in the Initiating Notice.
 49. The Authority has considered all of the submissions received. However to the extent that any of those submissions were not relevant to the Authority's assessment of GGT's Proposed Revisions the Authority has not discussed them in this Draft Decision.

Consultants Used by the Authority

50. To assist the Authority in the preparation of this Draft Decision, the Authority engaged Parsons Brinckerhoff and Frontier Economics to review certain aspects of GGT's Proposed Revisions and the public submissions and to provide advice to the Authority. The draft reports prepared by Parsons Brinckerhoff and Frontier Economics are available on the Authority's web site: www.era.wa.gov.au.

Discussion of Issues

Definitions

51. GGT's Proposed Revisions contains a number of definitions (Appendix 1 to GGT's Proposed Revisions). GGT proposes to amend some of those definitions as compared to the same definitions contained in the current Access Arrangement.

52. The Authority discusses any proposed amendment to a definition that it considers is material in the section of this Draft Decision to which that definition relates.
53. Where the Authority does not discuss a proposed amendment to a definition the Authority considers that proposed amendment to be immaterial or a necessary consequential amendment. The Authority approves all such proposed amendments.

Services Policy

Requirements of the Code

54. An Access Arrangement must include a policy on the Service or Services to be offered. This policy is known as a Services Policy (section 3.1 of the Code).
55. Section 3.2 of the Code requires that the Services Policy comply with the following principles:
 - 3.2 (a) The Access Arrangement must include a description of one or more Services that the Service Provider will make available to Users or Prospective Users, including:
 - (i) one or more Services that are likely to be sought by a significant part of the market; and
 - (ii) any Service or Services which in the Relevant Regulator's opinion should be included in the Services Policy.
 - (b) To the extent practicable and reasonable, a User or Prospective User must be able to obtain a Service which includes only those elements that the User or Prospective User wishes to be included in the Service.
 - (c) To the extent practicable and reasonable, a Service Provider must provide a separate Tariff for an element of a Service if this is requested by a User or Prospective User.
56. A Service Provider, therefore, is obliged to provide a Service if it is one of the Services described in the Access Arrangement (or an element of such a Service), but is not otherwise obliged to make Services available to Users or Prospective Users.
57. A Reference Service is a Service that is described in the Access Arrangement (and which the Service Provider, therefore, is obliged to make available) and for which a Reference Tariff is specified.
58. Section 3.3 of the Code sets out which Services are to be Reference Services in the Services Policy:
 - 3.3 An Access Arrangement must include a Reference Tariff for:
 - (a) at least one Service that is likely to be sought by a significant part of the market; and

- (b) each Service that is likely to be sought by a significant part of the market and for which the Relevant Regulator considers a Reference Tariff should be included.
59. Reference Services, therefore, are Services which are likely to be sought by a significant part of the market and for which the Authority considers there should be a Reference Tariff.
60. All other Services described in the Access Arrangement are Non-Reference Services. Unlike Reference Services, there are no requirements in the Code as to the terms and conditions (including price) on which Non-Reference Services are to be made available.
61. The provisions of sections 3.1, 3.2 and 3.3 of the Code regarding the Services Policy only concern the required description in an Access Arrangement of the Services which are to be made available to Users or Prospective Users of the Covered Pipeline.
62. The Services Policy provisions of the Code do not concern the terms and conditions (including price) on which Reference Services are to be made available, which are dealt with by other sections of the Code.

GGT's Proposed Revisions

63. The Services Policy proposed by GGT is set out at pages 3 to 4 of GGT's Proposed Revisions, in section 4.
64. GGT proposes to offer:
- a) a Reference Service, called a Firm Service; and
 - b) a Non-reference Service, called a Negotiated Service.
65. The compliance of the Firm Service and the Negotiated Service with the Services Policy provisions of the Code is considered in turn below.

Firm Service

GGT's Proposed Revisions

Access Arrangement

66. GGT proposes making available a Firm Service for the transportation of energy in the form of natural gas between the Inlet Point and downstream Outlet Point(s). The Firm Service will be provided without curtailment or interruption, except as provided for in the Service Agreement for the Firm Service (Appendix 3 to GGT's Proposed Revisions, clause 4.3(d), page 2).
67. The Firm Service, therefore, is a haulage service which is firm in the sense that it may not be curtailed or interrupted by GGT.
68. In section 4.1(b) of the Services Policy, GGT states that it will make the Firm Service available only where there is sufficient Spare Capacity in the Covered Pipeline.

69. For this purpose, GGT proposes that the Covered Pipeline does not include certain expansions of the Covered Pipeline. Under section 10.3(c) of the current Access Arrangement, GGT could elect to exclude expansions of the Covered Pipeline from coverage under the Code, subject to notification to the Authority.
70. GGT has given three notices to the Authority to exclude expansions from coverage under the Code. First, to exclude the PAC compressor at the Paraburdoo Compressor Station (dated 20 November 2006); second, to exclude the Wyloo West Compressor Station (dated 22 April 2009) and the third, to exclude the capacity created by the Ned's Creek Compressor Station, currently under construction (dated 31 July 2009).
71. The effect of the proposed section 4.1(b) of the Services Policy, if approved, would be to restrict availability of the Firm Service to Spare Capacity excluding the additional capacity attributable to the excluded expansions.

Access Arrangement Information

72. GGT did not provide any Access Arrangement Information in relation to the description of the Firm Service in the Access Arrangement.

Additional GGT Submissions

73. GGT stated, in GGT's Supporting Information Submission, that the "Reference Service is defined by the suite of service characteristics, price and terms and conditions that are included in the Access Arrangement" (section 6.1.2 of GGT's Supporting Information Submission, page 28).
74. In GGT's Supporting Information Submission GGT also proposed, under the Services Policy, restricting availability of the Firm Service to Spare Capacity on the Covered Pipeline (section 6.2 of GGT's Supporting Information Submission, page 29, and at Appendix 5 of GGT's Supporting Submission, page 145). For the reasons set out at paragraph 77 below, the Authority's consideration of this issue is dealt with in the assessment of the terms and conditions on which the Firm Service is to be made available.

Public Submissions

75. The Authority did not receive any public submissions regarding the description of the Firm Service in the Access Arrangement.
76. The GGP Users (PCS) Submission dated 29 May 2009, the Synergy Submission dated 29 May 2009 and the BHPB Submission dated 30 June 2009 all expressed concern over GGT's proposal to restrict the availability of the Firm Service to Spare Capacity on the Covered Pipeline.

Authority's Assessment

77. The proposed restriction on the availability of the Firm Service to Spare Capacity on the Covered Pipeline does not form part of the description of the Firm Service. This proposed restriction is properly characterised as a term or condition upon which the Firm Service will be made available. As such, this matter has been addressed by the Authority under the section of this Draft Decision dealing with the terms and conditions on which the Reference Services are to be made available.

78. The Authority accepts GGT's submission that a Service is defined by its "suite of service characteristics" and that the Services Policy must include a description of the Firm Service by reference to those characteristics. The Authority does not, however, accept GGT's further submission that "the price and terms and conditions that are included in the Access Arrangement" also form part of the description of a Service for the purpose of the Services Policy.
79. The proper question, therefore, is whether the Access Arrangement contains a sufficient description of the Firm Service by reference to its "suite of characteristics" without regard to the price and terms and conditions on which it is to be offered.
80. The Firm Service, as described in GGT's Proposed Revisions, is essentially a standard forward haulage firm service on a transmission pipeline. The Firm Service as described is, in this sense, identical to the Reference Service provided under the current Access Arrangement for the GGP.
81. The Authority notes, further, that the definition of Service in section 10.8 of the Code includes, among other things, a "firm haulage service".
82. In the circumstances, the Authority is satisfied that the Firm Service is a Service for the purposes of the Code and is described in the Services Policy in a manner that satisfies the requirements of the Code.
83. The further question is whether the Firm Service must be a Reference Service. This depends on whether the Authority is satisfied that the Firm Service is a Service "which is likely to be sought by a significant part of the market".
84. It is apparent from the material submitted to the Authority by GGT and Users and the Authority's knowledge of the market that the Firm Service is a Service which is likely to be sought by a significant part of the market. Most of the contracted capacity on the GGP is firm and not interruptible or otherwise subject to curtailment.
85. The Authority, therefore, is satisfied that as proposed by GGT the Firm Service must be a Reference Service in GGT's Proposed Revisions.

Draft Decision

86. The Authority does not require GGT to amend the description of the Firm Service in the Services Policy, and is satisfied that the Firm Service is properly a Reference Service.

Negotiated Services

GGT's Proposed Revisions

Access Arrangement

87. GGT proposes to "consider the development of Negotiated Services" for any User or Prospective User who has requirements which cannot be satisfied through the Firm Service (section 4.2 of GGT's Proposed Revisions, pages 3 and 4). This includes any User or Prospective User who requests the Firm Service on terms which vary from the General Terms and Conditions for the Firm Service (section 4.3 of GGT's Proposed Revisions, page 4).

88. GGT proposes to provide such Services on terms and conditions to be negotiated between GGT and the User or Prospective User. As such, GGT proposes that Negotiated Services are to be Non-Reference Services.

Access Arrangement Information

89. GGT did not provide any Access Arrangement Information in relation to the description of Negotiated Services in the Services Policy.

Additional GGT Submissions

90. In GGT's Supporting Information Submission, GGT stated that "GGT has defined pre-contracted Services as being Non-Reference Services". Further, GGT submitted that the Authority has previously accepted, in relation to the Dampier to Bunbury Natural Gas Pipeline, that pre-contracted Services are to be considered as Non-Reference Services. GGT, therefore, submitted that the Authority should accept GGT's proposal in relation to pre-contracted Services (section 6.1.2 of GGT's Supporting Information Submission, pages 28 and 29).

Public Submissions

91. The Authority did not receive any public submissions concerning the description of Negotiated Services in the Services Policy (other than public submissions concerning the terms and conditions on which such Services will be offered).

Authority's Assessment

92. The Services Policy under the Code does not define pre-contracted Services as Non-Reference Services. However, the Authority considers that pre-contracted services, where such services have terms and conditions (including price) which differ from a Reference Service, are Negotiated Services.
93. In relation to the description of Negotiated Services, the Authority notes GGT's proposed Services Policy only obliges GGT to "consider the development of" Negotiated Services upon receipt of a request for such Services.
94. Under section 3.1 of the Code an Access Arrangement must include a Services Policy on the Services "to be offered". Section 3.2(a) of the Code then requires the Access Arrangement to include a description of one or more Services that the Service Provider "will make available".
95. The Authority considers that the proposal that GGT "will consider the development of" Negotiated Services does not satisfy the requirement that such Services be "offered" or "made available". In order to address this deficiency GGT's Proposed Revisions must contain an express obligation on GGT to offer to supply the Negotiated Services.
96. The terms and conditions (including price) on which Negotiated Services are provided would be negotiated. In the event of any dispute about those terms and conditions (including price) either party may request the Arbitrator under section 6 of the Code to resolve the dispute.

Draft Decision

97. The Authority considers that Negotiated Services should be Non-Reference Services.
98. The Authority is not satisfied that the obligation upon GGT to “consider the development of” Negotiated Services meets the requirement under section 3.1 of the Code that the Services Policy includes a policy on “the Services to be offered”.

Required Amendment 1

Section 4.2(a) of GGT’s Proposed Revisions should be amended to replace the words “will consider the development of” with the words “will offer”, as follows:

Should any User or Prospective User have requirements which cannot be satisfied through a Reference Service, including for gas transportation from an inlet point other than the two Inlet Points at Yarraloola, GGT will consider the development will offer Negotiated Services to meet that person’s specific requirements. Negotiated Services will be provided on the terms and conditions negotiated between GGT and the User or Prospective User.

Interruptible Services

GGT’s Proposed Revisions

99. The description of Negotiated Services in GGT’s Proposed Revisions does not specify whether or not the haulage service that may be negotiated is firm or interruptible or both (section 4.2 of GGT’s Proposed Revisions).

Public Submissions

100. The GGP Users commented that a haulage service that is interruptible (Interruptible Service) should be a Reference Service because of the recent trends for increased liquidity in the Western Australian gas market and increased capacity utilisation/load factors on the GGP (GGP Users (PCS) Submission dated 29 May 2009, page 8).

Authority’s Assessment

101. The definition of a Service in section 10.8 of the Code includes interruptible haulage, that is, a haulage service which is interruptible.
102. The relevant Code requirement is that GGT must include in the Access Arrangement a description of an Interruptible Service if such a Service is likely to be sought by a significant part of the market (section 3.2(a)(i) of the Code) or if such a Service is one which, in the Authority’s opinion, should be included in the Services Policy (section 3.2(a)(ii) of the Code).

103. As to whether an Interruptible Service ought to be a Reference Service, the Authority notes that section 3.3 of the Code requires that a Reference Service is likely to be demanded by a significant part of the market.
104. The GGP Users did not provide the Authority with sufficient information to make an assessment on whether an Interruptible Service is likely to be sought by a significant part of the market.
105. In the absence of evidence of likely demand by a substantial part of the market for an Interruptible Service, the Authority is not satisfied that an Interruptible Service should be a Reference Service.
106. The Authority notes that its view that an Interruptible Service should not be a Reference Service does not prevent Users and Prospective Users applying for arbitration under section 6 of the Code in relation to disputes between GGT and the User or Prospective User as to the terms and conditions (including price) on which Interruptible Services will be made available.
107. In any event, if there is demand for an Interruptible Service on the GGP, it is likely that such demand could be satisfied by the availability of a Negotiated Service. The Authority, therefore, considers that an Interruptible Service should be described in the Services Policy, as a Negotiated Service, pursuant to the Authority's discretion under section 3.2(a)(ii) of the Code.

Draft Decision

108. An Interruptible Service should not be a Reference Service. This Service should be included and described in the Services Policy, as a Negotiated Service.

Required Amendment 2

Section 4.2 of GGT's Proposed Revisions should be amended to insert a new subparagraph 4.2(c) as follows:

- (c) For the avoidance of doubt, the Negotiated Services which GGT will offer include an Interruptible Service for the haulage of gas which is subject to curtailment or interruption by GGT.

Stapled Services

Public Submissions

109. The GGP Users noted that the Service Agreement in GGT's Proposed Revisions entitles a User of a Firm Service to access the following services (termed "stapled" services in these submissions) included as part of the Firm Service (GGP Users (PCS) Submission dated 29 May 2009, pages 6 and 7):
 - a) an Authorised Overrun Service;
 - b) an Authorised Over-delivery Service;

- c) an Authorised Imbalance Service; and
 - d) by implication, a suite of Unauthorised Services
110. The GGP Users also commented that the Authority should consider and clarify the status and appropriate treatment of the stapled services under the Code.

Authority's Assessment

111. These stapled services, as outlined above (paragraph 109), are not properly characterised as Services provided by means of the Covered Pipeline. These services are included in the Reference Tariff for the Firm Service. That is, in the event that these stapled services are utilised the price paid for these services is set out in the terms and conditions of the Firm Service.
112. It follows that the stapled services are properly characterised as terms and conditions upon which the Firm Service will be made available.

Draft Decision

113. The Authority considers that stapled services included as part of the Firm Service, are not Services which must be described in the Services Policy in GGT's Proposed Revisions.

Reference Tariffs and Reference Tariff Policy

Requirements of the Code

114. Section 3.3 of the Code requires that an Access Arrangement must include a Reference Tariff for:
- 3.3 (a) at least one Service that is likely to be sought by a significant part of the market; and
 - (b) each Service that is likely to be sought by a significant part of the market and for which the Relevant Regulator considers a Reference Tariff should be included.
115. Section 3.4 of the Code provides that:
- 3.4 Unless a Reference Tariff has been determined through a competitive tender process as outlined in sections 3.21 to 3.36, an Access Arrangement and any Reference Tariff included in an Access Arrangement must, in the Relevant Regulator's opinion, comply with the Reference Tariff Principles described in section 8.
116. The Reference Tariff has not been determined through a competitive tender process. Therefore, the Reference Tariff described in GGT's Proposed Revisions must comply with the Reference Tariff Principles in section 8 of the Code.
117. Section 3.5 of the Code requires that, in addition to a Reference Tariff, an Access Arrangement must include a Reference Tariff Policy which must also comply with the Reference Tariff Principles in section 8 of the Code:

3.5 An Access Arrangement must also include a policy describing the principles that are to be used to determine a Reference Tariff (a **Reference Tariff Policy**). A Reference Tariff Policy must, in the Relevant Regulator's opinion, comply with the Reference Tariff Principles described in section 8.

118. Section 8.1 of the Code provides that a Reference Tariff and Reference Tariff Policy should be designed with a view to achieving the following objectives:

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

119. Section 8.1 of the Code also provides guidance as to the reconciliation of the objectives set out in that section:

To the extent that any of these objectives conflict in their application to a particular Reference Tariff determination, the Relevant Regulator may determine the manner in which they can best be reconciled or which of them should prevail.

120. Section 8.2 of the Code provides:

The factors about which the Relevant Regulator must be satisfied in determining to approve a Reference Tariff and Reference Tariff Policy are that:

- (a) the revenue to be generated from the sales (or forecast sales) of all Services over the Access Arrangement Period (the **Total Revenue**) should be established consistently with the principles and according to one of the methodologies contained in this section 8;
- (b) to the extent that the Covered Pipeline is used to provide a number of Services, that portion of Total Revenue that a Reference Tariff is designed to recover (which may be based upon forecasts) is calculated consistently with the principles contained in this section 8;
- (c) a Reference Tariff (which may be based upon forecast) is designed so that the portion of Total Revenue to be recovered from a Reference Service (referred to in paragraph (b)) is recovered from the Users of that Reference Service consistently with the principles contained in this section 8;
- (d) Incentive Mechanisms are incorporated into the Reference Tariff Policy wherever the Relevant Regulator considers appropriate and such Incentive Mechanisms are consistent with the principles contained in this section 8; and

- (e) any forecasts required in setting the Reference Tariff represent best estimates arrived at on a reasonable basis.

121. Sections 8.3 to 8.41 of the Code set out specific Reference Tariff Principles in relation to the different components of the Reference Tariff and the Reference Tariff Policy. These principles are discussed in the context of the discussion of each of those components below.

GGT's Proposed Revisions

Access Arrangement

- 122. GGT's Proposal in respect of the Reference Tariff for the only Reference Service, the Firm Service, is set out in section 5.1 of GGT's Proposed Revisions (page 4) and in clause 9 of the General Terms and Conditions to GGT's Proposed Revisions (pages 14 to 20).
- 123. GGT also proposes that the Reference Tariff will be subject to variation in accordance with the provisions of section 5 of GGT's Proposed Revisions (section 5.1 of GGT's Proposed Revisions, page 4).
- 124. GGT's Proposed Revisions also include a Reference Tariff Policy (section 5.2 of GGT's Proposed Revisions, pages 4 to 8).
- 125. That Reference Tariff Policy contains a policy in relation to the general Reference Tariff Principles and a policy in relation to the Reference Tariff Principles which are specific to certain components of the Reference Tariff.
- 126. GGT did not provide the Authority with any Access Arrangement Information or additional submissions relating to this issue.

Public Submissions

- 127. The Authority has not received any public submissions in relation to the proposed Reference Tariff and Reference Tariff Policy generally. However, various public submissions have been received in relation to the components of the Reference Tariff, which are discussed below.

Authority's Assessment

- 128. The Authority is satisfied that GGT has complied with the requirements of section 3.3 of the Code because a Reference Tariff for the Firm Service has been included in GGT's Proposed Revisions. As discussed at paragraphs 80 to 85 above, the Authority is satisfied that the Firm Service is the only Service for which a Reference Tariff need be provided.
- 129. The Authority is also satisfied that GGT's Proposed Revisions comply with the first requirement of section 3.5 of the Code as these Proposed Revisions include a policy which describe the principles that are to be used to determine the Reference Tariff.
- 130. As noted above, a Reference Tariff is derived from the integration of various components. In order to determine if the proposed Reference Tariff and the proposed Reference Tariff Policy comply with the Reference Tariff Principles the Authority must consider GGT's proposal in relation to each component of the

proposed Reference Tariff and whether each such proposal complies with the Reference Tariff Principles.

131. The Authority's assessment of each of the components of the proposed Reference Tariff is set out below.
132. There are both general Reference Tariff Principles which apply to all of the components of the proposed Reference Tariff (section 8.3 of the Code) and specific Reference Tariff Principles which only apply to some of the components of the proposed Reference Tariff (section 8 of the Code). The Authority has considered the general Reference Tariff Principles when assessing each of the components of the Reference Tariff. The Authority discusses the specific Reference Tariff Principles below in the context of the component to which they relate, where necessary.

Draft Decision

133. The Authority approves the proposed Reference Tariff Policy subject to any specific amendments required in the discussion below in relation to the components of the Reference Tariff.

Expansion of Capacity

Introduction

134. The GGP as originally constructed incorporated two compressor stations, at Yarraloola (the Pipeline inlet) and at Ilgarari (near the GGP's half way point). This compression was sufficient to accommodate the original loads of GGT and the early loads of Users.
135. As Users' use of the GGP increased, the Pipeline's utilisation progressively approached maximum Capacity. In order to accommodate new load, GGT installed the Wiluna Compressor Station in 2000-1, and the Paraburdoo Compressor Station in 2003-4. This expansion of Capacity was treated as part of the Covered Pipeline under the Access Arrangement.
136. After approval of the current Access Arrangement in July 2005, GGT further expanded the Capacity of the GGP. These further Capacity expansions were achieved by installing a second compressor at Paraburdoo, and new compressor stations at Wyloo West and Ned's Creek. As a result, the Capacity of the GGP has been further expanded by a total of approximately 49 TJ/day (**Expansions of Capacity**).
137. GGT has elected under the Extensions/Expansions Policy in clause 10.3 of the current Access Arrangement not to treat the Expansion of Capacity as part of the Covered Pipeline.
138. GGT proposes that the additional Services which it can provide by reason of the Expansions of Capacity (**Additional Services**) not be offered as Reference Services. Further, GGT proposes that all costs, revenues and volumes referable to the Expansions of Capacity are not to be taken into account in determining the Total Revenue and the Reference Tariff for the Reference Service (i.e. the Firm Service). This proposal is contested by a number of Users.

139. In order to determine the Total Revenue and the Reference Tariff derived there from, it is, therefore, necessary for the Authority to consider how the costs, revenues and volumes referable to the Expansions of Capacity should be taken into account.

Requirements of the Code

140. Under section 1 of the Code a Pipeline is Covered if:

- a) the Pipeline is listed in Schedule A to the Code (see section 1.1 of the Code);
- b) a person applies to the NCC and after receiving a recommendation from the NCC the Relevant Minister decides that the Pipeline should be Covered (see section 1.2 of the Code);
- c) the Pipeline is subject to an Access Arrangement approved by the Authority under section 2.3 of the Code (see section 1.20 of the Code) (section 2.3 of the Code provides for a Service Provider to lodge an Access Arrangement for approval by the Authority in respect of a Pipeline that is not Covered);
- d) the Pipeline is a new Pipeline the subject of a competitive tender approved by the Authority under section 3.32 of the Code (see section 1.21 of the Code).

141. Coverage of a Pipeline may be revoked by a person applying to the National Competition Council (NCC) for revocation and, after receiving a recommendation from the NCC, the Relevant Minister determining that Coverage of the Covered Pipeline should be revoked (see section 1.24 of the Code).

142. A "Pipeline" for this purpose is defined in section 2 of Schedule 1 to the Gas Pipelines Access (Western Australia) Act 1998 to mean:

...a pipe, or a system of pipes, or part of a pipe, or a system of pipes, for transporting natural gas, and any tanks, machinery or equipment directly attached to the pipe, or system of pipes, but does not include –

- (a) unless paragraph (b) applies, anything upstream of a prescribed exit flange on a pipeline conveying natural gas from a prescribed gas processing plant; or
- (b) if a connection point upstream of an exit flange on such a pipeline is prescribed, anything upstream of that point; or
- (c) a gathering system operated as part of an upstream producing operation; or
- (d) any tanks, reservoirs, machinery or equipment used to remove or add components to or change natural gas (other than odourisation facilities) such as gas producing plant; or
- (e) anything downstream of the connection point to a consumer;

143. A "Covered Pipeline" is defined in section 10.8 of the Code as follows:

‘Covered Pipeline’ means, subject to sections 2.3 and 2.4, the whole or a particular part of a Pipeline which is Covered and any extension to, or expansion of the Capacity of, that Covered Pipeline which is to be treated as a part of the Covered Pipeline in accordance with the Extensions/Expansions Policy contained in the Access Arrangement for that Covered Pipeline and any expansion of that Covered Pipeline required to be installed under section 6.22.

144. “Coverage/Covered” is defined in section 10.8 of the Code to mean “in relation to a Pipeline or part of a Pipeline, that that Pipeline or part of a Pipeline is subject to the provisions of this Code pursuant to sections 1.1, 1.13, 1.20 or 1.21.” Those sections (1.1, 1.13, 1.20 or 1.21 are the sections which provide for Coverage of the Pipeline by the means referred to above).

145. Section 1.40 of the Code addresses the effect on Coverage of extensions to, or expansions of, a Covered Pipeline. This section provides that “[a]n extension to, or expansion of the Capacity of, a Covered Pipeline shall be treated as part of the Covered Pipeline for all purposes under the Code if the Extensions/Expansions Policy contained in the Access Arrangement for that Covered Pipeline provides for that extension or expansion to be treated as part of the Covered Pipeline”.

146. “Capacity” as used in this section is defined in section 10.8 of the Code as follows:

‘Capacity’ means the measure of the potential of a Covered Pipeline as currently configured to deliver a particular Service between a Receipt Point and a Delivery Point at a point in time.

147. If a Pipeline is Covered, under section 2.2 of the Code, a Service Provider is obliged to lodge an Access Arrangement for approval by the Authority. An Access Arrangement is defined in section 10.8 of the Code to mean “an arrangement for access to a Covered Pipeline that has been approved by the Relevant Regulator”.

148. Section 3 of the Code contains provisions regarding the content of an Access Arrangement lodged for approval by the Authority. Section 3.4 of the Code provides that an Access Arrangement must include at least one Reference Service. The effect of this is (as described in the preamble to section 3 of the Code) that the “Reference Tariff operates as a benchmark tariff for a specific Service, in effect giving the User a right of access to the specific Service at the Reference Tariff, and giving the Service Provider the right to charge the Reference Tariff for the Service”.

149. Section 3.16 of the Code requires an Access Arrangement to include an Extensions/Expansions Policy which states:

- (a) the method to be applied to determine whether any extension to, or expansion of the Capacity of, the Covered Pipeline:
 - (i) should be treated as part of the Covered Pipeline for all purposes under the Code; or
 - (ii) should not be treated as part of the Covered pipeline for any purpose under the Code;

(for example, the Extensions/Expansions Policy could provide that the Service Provider may, with the Relevant Regulator’s consent, elect at some point in time whether or not an extension or expansion will be part of the Covered Pipeline or will not be part of the Covered Pipeline);

- (b) specify how any extension or expansion, which is to be treated as part of the Covered Pipeline, will affect Reference Tariffs (for example, the Extensions/Expansions Policy could provide:
- (i) Reference Tariffs will remain unchanged but a Surcharge may be levied on Incremental Users where permitted by sections 8.25 and 8.26; or
 - (ii) specify that a review will be triggered and that the Service Provider must submit revisions to the Access Arrangement pursuant to section 2.28);
- (c) if the Service Provider agrees to fund New Facilities if certain conditions are met, a description of those New Facilities and the conditions on which the Service Provider will fund the New Facilities.
150. A “New Facility” as referred to in section 3.16 of the Code is defined in section 10.8 of the Code as follows:
151. **‘New Facility’** means:
- (a) any extension to, or expansion of the Capacity of, a Covered Pipeline which is to be treated as part of the Covered Pipeline in accordance with the Extensions/Expansions Policy contained in the Access Arrangement for that Covered Pipeline;
 - (b) any expansion of the Capacity of a Covered Pipeline required to be installed under section 6.22; and
 - (c) any capital asset constructed, developed or acquired to enable the Service Provider to provide Services including, but not limited to, assets required for the purposes of facilitating competition in retail markets for Natural Gas.
152. Section 3.4 of the Code provides that unless a Reference Tariff has been determined through a competitive tender process, “an Access Arrangement and any Reference Tariff included in an Access Arrangement must, in the Relevant Regulator’s opinion, comply with the Reference Tariff Principles described in section 8.”
153. Those principles include section 8.4 which sets out the manner in which the Total Revenue should be calculated. The manner of determining the Total Revenue depends upon which method under section 8.4 the Service Provider chooses. GGT has elected to use the Cost of Service method for determining the Total Revenue from which Reference Tariffs are to be determined.
154. Under section 8.4 of the Code the Total Revenue using the Cost of Service method is to be determined as follows:
- 8.4 The Total Revenue (a portion of which will be recovered from sales of Reference Services) should be calculated according to one of the following methodologies:
- Cost of Service:** The Total Revenue is equal to the cost of providing all Services (some of which may be the forecast of such costs), and with this cost to be calculated on the basis of:

- (a) a return (**Rate of Return**) on the value of the capital assets that form the Covered Pipeline or are otherwise used to provide Services (**Capital Base**);
- (b) depreciation of the Capital Base (**Depreciation**); and
- (c) the operating, maintenance and other non-capital costs incurred in providing all Services (**Non-Capital Costs**).

.....

155. In order to determine the Total Revenue under the Cost of Service approach, therefore, it is necessary to determine the “Services” to which the Total Revenue relates. “Services” are defined in section 10.8 of the Code as follows:

‘Service’ means

- (a) a service provided by means of a Covered Pipeline (or when used in section 1 a service provided by means of a Pipeline) including (without limitation):
 - (i) haulage services (such as firm haulage, interruptible haulage, spot haulage and backhaul); and
 - (ii) the right to interconnect with the Covered Pipeline, and
- (b) services ancillary to the provision of such services,

but does not include the production, sale or purchasing of Natural Gas.

156. The “Capital Base” referred to in section 8.4 may be increased to recognise additional capital costs incurred in constructing, developing or acquiring New Facilities for the purpose of providing Services. This is described as New Facilities Investment (see section 8.15 of the Code). The principles relevant to increasing the Capital Base through New Facilities Investment are set out in section 8.16 to 8.19 of the Code.

GGT’s Proposed Revisions

Access Arrangement

157. The Introduction to GGT’s Proposed Revisions states that “[t]his Access Arrangement sets out terms and conditions for the access to the Covered Pipeline.” Similarly, section 1.2 of GGT’s Proposed Revisions provides that “this Access Arrangement sets out the policies required by the Code, including terms and conditions applying to the provision of a Reference Service in the Covered Pipeline.”

158. For the purpose of this section and GGT’s Proposed Revisions generally, GGT proposes to define the Covered Pipeline as follows (section 1.1 of Appendix 1 to GGT’s Proposed Revisions):

Covered Pipeline means that part of the Pipeline as described in the Access Arrangement Information System Description.

159. The term Pipeline (as used in this definition) is defined in section 1.1 of Appendix 1 to GGT’s Proposed Revisions, as follows:

Pipeline or Goldfields Gas Pipeline means the pipeline as defined in Pipeline Licence 24 issued under the Petroleum Pipelines Act 1969 (WA), being the pipeline or pipeline system for the transmission of natural gas from the North-West of Western Australia into the inland Pilbara and Goldfields regions, together with all structures for protecting or supporting the pipeline or pipeline system and associated facilities for the compression of gas, the maintenance of the pipeline and the inlet and outlet of gas and all fittings, appurtenances, appliances, compressor stations, scraper stations, mainline valves, telemetry systems (including communication towers) works and buildings used in connection with the pipeline or pipeline system and includes the lateral pipeline to Newman.

160. The Access Arrangement Information System Description, however, excludes from the Pipeline the assets used to provide the Expansions of Capacity (further discussion below under “Access Arrangement Information” at paragraphs 163 to 165.
161. Section 1.5 of GGT’s Proposed Revisions is headed “Applies to Covered Pipeline”. This section applies the definitions and sets out the scope of the application of GGT’s Proposed Revisions as follows:

The Covered Pipeline has Capacity of approximately 108 TJ/day.

As at 23 March 2009, Spare Capacity in the Covered Pipeline is approximately 4.12 TJ/day and the Reference Service is offered for this Spare Capacity.

162. The net effect is that GGT proposes that approximately 49 TJ/day of Expansions of Capacity will not be offered by GGT to Users as Reference Services at the Reference Tariff.

Access Arrangement Information

163. The Access Arrangement Information System Description which is referred to in the definition of Covered Pipeline, is to be found at section 12 at page 21 of the Access Arrangement Information. This description lists the various assets comprising the Covered Pipeline. The assets listed do not include the second Paraburdoo compressor, nor the Wyloo West or Ned’s Creek compressor stations. The effect of this Access Arrangement Information is that the Covered Pipeline as defined in GGT’s Proposed Revisions excludes the second Paraburdoo compressor and the Wyloo West and Ned’s Creek compressor stations.
164. The Access Arrangement Information, otherwise, sets out information relating to costs, revenue and volumes used to determine the Reference Tariffs proposed in GGT’s Proposed Revisions. This information is drawn from GGT’s confidential tariff model (**GGT’s Model**) provided to the Authority. GGT’s Model shows that the costs, revenues and volumes set out in the Access Arrangement Information and used to determine the proposed Reference Tariffs exclude the costs, revenues and volumes related to the Expansions of Capacity.
165. Apart from the above there is no information in the Access Arrangement Information relevant to the Expansions of Capacity.

Additional GGT Submissions

166. GGT noted that on 20 November 2006, the Authority notified the public of GGT’s election to not include the Paraburdoo compressor expansion in the Covered

Pipeline (GGT's Supporting Information Submission, page 31). This would therefore mean that the compressor would not be included in the capital base for the Access Arrangement to be considered in 2009. Accordingly, GGT has not included the second Paraburdoo compressor in its New Facilities Investment total and its subsequent calculation of the capital base for the forthcoming Access Arrangement. GGT submits that this election is in keeping with clause 10.3(c) of the current Access Arrangement (GGT's Supporting Information Submission, page 31).

167. GGT also noted that it made a similar election to not include the expansion resulting from the compressor stations installations at Wyloo West and Ned's Creek in the Covered Pipeline, thereby excluding them from the calculation of New Facilities Investment. One further planned expansion resulting from the Yarraloola De-bottlenecking project is also to be excluded from the Covered Pipeline. This project is not included in the Forecast Capital Expenditure (GGT's Supporting Information Submission, page 31).

168. GGT also addressed the question of whether the Authority can allocate some of the costs of the Covered Pipeline to Services provided by uncovered expansions. GGT asserts that the Authority cannot allocate any costs from Total Revenue to services provided by Expansions of Capacity (GGT's Supporting Information Submission, page 1). GGT justifies this assertion by pointing out that:

- a) Expansions of Capacity can only be included in the Covered Pipeline if that is allowed under the Extensions/Expansions Policy;
- b) Expansions of Capacity can be treated as separate under the Code;
- c) Access Arrangements only apply to Services provided by a Covered Pipeline;
- d) Section 8.4 of the Code states that Total Revenue must equal the costs of providing Service by the Covered Pipeline; and
- e) The Code makes no provision for allocating costs of Services provided by the Covered Pipeline to services provided through uncovered capacity;

(GGT's Response to Issues Paper, page 2).

Public Submissions

169. BHPB noted that the Code does allow for both a Covered and Uncovered Pipeline but disputes that Capacity can be excluded from within that Covered Pipeline. It believes that GGT's Proposed Revisions should not be approved because of the differentiation between Covered and Uncovered Capacity. Further, it submits, the previous exclusion of compressor expansions should be brought back under the Covered Pipeline which will therefore affect GGT's Proposed Revisions and Reference Tariff calculation (BHPB Submission dated 30 June 2009, page 9).

170. BHPB then examined the objects of the Code and Coverage under clauses 1.9 and 8.1 of the Code to submit that the Code does not make provision for Uncovered Capacity, for a service provided by the Covered Pipeline to not be subject to the

Code nor for a Service Provider to unilaterally decide whether a service provided by the Covered Pipeline is subject to the Code (BHPB Submission dated 30 June 2009, pages 9 to 11). BHPB pointed out that the concept of “Coverage” applies to the Pipeline and not to the Services or potential Services; in effect, that there can be no such thing as “excluded capacity” under the provisions of the Code (BHPB Submission dated 30 June 2009, page 12).

171. BHPB then looked at the effect of “excluded capacity” on the allocation of costs. It submits that the allocation of the Capital Base, Depreciation and Operating Expenses should be across all Services provided by the Covered Pipeline (BHPB Submission dated 30 June 2009, page 19). This effectively means that costs which relate to the Covered Pipeline should be applied fairly and reasonably across all Services provided by the Covered Pipeline. By not allocating costs in this way, the proposed Reference Tariff is distorted, depreciation and operating costs are not equitably allocated, projected revenue from uncovered capacity is not acknowledged, Users of the uncovered capacity may be cross-subsidised at the expense of Users of covered capacity and returns from the uncovered capacity are not reflected in the Rate of Return (BHPB Submission dated 30 June 2009, page 20).
172. Synergy expressed concern that if expanded capacity is negotiated as Uncovered Capacity and therefore falls outside the Access Arrangement then an incorrect allocation of costs may result in Users of covered capacity paying higher Reference Tariffs than they should. Synergy believes it necessary for the Authority to examine GGT’s election to exclude coverage of 42TJ/day capacity to ensure that covered assets are not contributing to uncovered assets (Synergy Submission dated 29 May 2009, page 3).
173. The GGP Users acknowledged that the Code allows a Service Provider to exclude expanded capacity but that the election to exclude should not contradict the Reference Tariff Policy. They asked the Authority to evaluate whether GGT has provided for capacity expansion in GGT’s Proposed Revisions to ensure that what GGT proposes is not inconsistent with the Reference Tariff Policy (GGP Users (PCS) Submission dated 29 May 2009, pages 10 to 11). The GGP Users also urged the Authority to analyse the allocation of capital and non-capital costs across covered and uncovered capacity in GGT’s Proposed Revisions (GGP Users (PCS) Submission dated 29 July 2009, page 12).

Authority’s Assessment

174. The Authority notes and accepts that, under section 10.3 of the current Access Arrangement and section 3.16(a) of the Code, GGT has the ability (subject to notifying the Authority) to elect that expansions of Capacity not be treated as part of the Covered Pipeline. Further, the Authority notes that GGT’s elections not to treat the second Paraburdoo compressor and the Wyloo West and Ned’s Creek expansions (i.e. the Expansions of Capacity as defined above) as part of the Covered Pipeline are effective under the current terms of the Access Arrangement and section 3.16 of the Code.
175. It is necessary, however, to consider the effect of GGT’s election. That is, what does it mean for the Expansions of Capacity not to be “treated as part of the Covered Pipeline”, as those words are used in section 3.16 of the Code and section 10.3 of the current Access Arrangement?

176. The first effect of the election is upon Users of the Expansions of Capacity. As indicated above, section 2.2 of the Code requires a Service Provider to lodge an Access Arrangement in respect of a Covered Pipeline. An Access Arrangement is defined in section 10.8 of the Code to mean “an arrangement for access to a Covered Pipeline that has been approved by the Relevant Regulator”. The Access Arrangement provides a right of access to Users of the Covered Pipeline to acquire the Reference Service at the Reference Tariff.
177. In the Authority’s view if the Expansions of Capacity are not to be “treated as part of the Covered Pipeline” by reason of GGT’s election, then the consequence is that Services provided by virtue of the Expansions of Capacity will not be subject to the Access Arrangement. Therefore, a User of the Additional Services will have no right to demand Services on the terms of the Access Arrangement. Had GGT elected to treat the Expansions of Capacity as part of the Covered Pipeline, the reverse would have been the case, and Users would have had a right to acquire the Additional Services as Reference Services at the Reference Tariff (subject to any adjustment to the Reference Tariff in accordance with section 3.16(b) of the Code).
178. The first consequence, therefore, of GGT’s election is that the Additional Services which GGT is able to provide by virtue of the Expansions of Capacity are not Reference Services which are subject to GGT’s access obligations under the Access Arrangement.
179. It is necessary to consider also the effect of GGT’s election upon the treatment of the capital assets constructed, developed or acquired to enable GGT to provide the Expansions of Capacity. Are these assets to be treated as New Facilities? Are they to be added to the Capital Base for the purpose of determining the Total Revenue? This is a separate question to the question considered above, and requires consideration of other sections of the Code.
180. Looking first at New Facilities, the definition of New Facility in section 10.8 of the Code is relevant:

‘New Facility’ means:

- (a) any extension to, or expansion of the Capacity of, a Covered Pipeline which is to be treated as part of the Covered Pipeline in accordance with the Extensions/Expansions Policy contained in the Access Arrangement for that Covered Pipeline;
 - (b) any expansion of the Capacity of a Covered Pipeline required to be installed under section 6.22; and
 - (c) any capital asset constructed, developed or acquired to enable the Service Provider to provide Services including, but not limited to, assets required for the purposes of facilitating competition in retail markets for Natural Gas.
181. Paragraph (a) of this definition refers to expansions which are to be treated as part of the Covered Pipeline in accordance with the Extensions/Expansions Policy contained in the Access Arrangement. That is not the case here, nor is the expansion referred to in paragraph (b) of the definition.
182. However, paragraph (c) of the definition of New Facility, in the Authority’s view, could apply to assets constructed, developed or acquired for the purpose of the

- Expansions of Capacity, if the Additional Services that GGT is able to supply by virtue of the Expansions of Capacity are “Services” as defined under the Code.
183. Turning then to the definition of Services, as noted above at paragraph 155, Service under the Code is “a service provided by means of a Covered Pipeline ... including ... haulage services (such as firm haulage, interruptible haulage, spot haulage and backhaul)”. Do the Additional Services meet this definition?
184. Prior to the Expansions of Capacity, GGT provided haulage Services to Users, being the transportation of gas “by means of the Covered Pipeline”. The additional haulage Services supplied by virtue of the Expansions of Capacity are no less provided “by means of the Covered Pipeline” than the Services provided prior to the expansion. After the expansion the gas hauled by GGT, regardless of whether the User is supplied at the Reference Tariff or not, is carried “by means of the Covered Pipeline”.
185. The Authority considers, therefore, that in the case of the GGP, the Services referred to in the Code include the Additional Services which GGT is able to provide by virtue of the Expansions of Capacity, even though such Services are not Reference Services which are subject to GGT’s access obligation under the Access Arrangement. It follows that the capital assets constructed, developed or acquired by GGT for the Expansions of Capacity are New Facilities for the purpose of the Code.
186. Turning now to Total Revenue, as noted above, section 8.4 of the Code provides that the Total Revenue is equal to the cost of providing “all Services”. As explained above, in the Authority’s view, “Services” is defined in section 10.8 of the Code to include all Services carried “by means of the Covered Pipeline”. In the Authority’s view, the Additional Services which a Service Provider may supply by reason of an expansion are carried by those means. The capital costs of constructing, developing or acquiring the assets used to provide the Expansions of Capacity, therefore, must fall within the meaning of the “cost of providing all Services” and so are within the Total Revenue.
187. Section 8.4 of the Code provides, further, that this “cost of providing all Services” is to be calculated on the basis of a return on the value of the capital assets that form the Covered Pipeline “or are otherwise used to provide Services (Capital Base)”. Importantly, this paragraph makes it clear that, even if (as is the case here) the capital assets do not form part of the Covered Pipeline, the value of such assets are to be included in the Capital Base for determining Total Revenue and Reference Tariffs, so long as they are assets which “are otherwise used to provide Services”.
188. In the Authority’s opinion, in cases such as the present case, where an expansion of Capacity is not to be treated as part of the Covered Pipeline for the purpose of section 3.16 of the Code (as is the case here), then the capital assets constructed, developed or acquired to provide the expansion of Capacity are, nonetheless, “otherwise used to provide Services” and, therefore, are to be treated as part of the Capital Base as defined.
189. The Authority has noted and taken into account the public submissions on this issue, and recognises that GGT’s Proposed Revisions, to the effect that the capital assets constructed, developed or acquired to provide the Expansions of Capacity be excluded from the Capital Base could, if accepted, result in pricing distortions. Such distortions could result because shared costs of both Reference Services and Expansions of Capacity would be allocated solely to the Reference Services.

190. Further, under GGT's proposed revisions, throughput of the Expansions of Capacity would be excluded in determining Reference Tariffs. If this was to be permitted, this could result in Users of the Reference Tariffs subsidising the Users of the Expansions of Capacity. This would be inconsistent with Reference Tariff Principles in section 8 of the Code, in particular those set out in section 8.1 and section 8.38 of the Code.
191. Such distortions could be avoided by adopting the interpretation of the relevant provisions outlined above in this draft decision, because in determining Reference Services, the Authority could include all costs, including the costs of the capital assets constructed, developed or acquired by GGT for the Expansions of Capacity in the Capital Base, and then allocate such costs across all Services (including the Services provided by virtue of the Expansions of Capacity) to determine a Reference Tariff. This would be an outcome more consistent with the Reference Tariff Principles and the Code than the alternative. The Authority considers, therefore, that the approach to interpretation of the relevant section which it favours is preferable, as it better reflects the intent of the Code.
192. Finally, the Authority refers to its Notice dated 20 November 2006 (**Notice**) in respect of GGT's notification of the exclusion of the expansion through the second compressor at the Paraburdoo Compressor Station. In the final paragraph of that Notice, the Authority stated that it would not include the cost of the new compressor in the Capital Base for the GGP when considering revisions to the Access Arrangement in 2009.
193. The Authority's conclusion above is that capital assets constructed, developed or acquired to expand the Capacity of a Covered Pipeline will be New Facilities and form part of the Capital Base, even if the Service Provider elects not to treat the expansion as part of the Covered Pipeline. The Authority's conclusion in this regard conflicts with the Authority's earlier statement in the Notice. The Authority's conclusion in this draft decision is that the relevant compressor be included in the Capital Base.
194. The statement in the Notice was made in the context of the Authority notifying the market that GGT had made its election. GGT's election did not require the Authority at that time to make a decision about whether or not the compressor would be included in the Capital Base during the 2009 assessment of GGT's proposed revisions, nor did the Authority have the power under the Code to make such a decision at that time, in advance of lodgement of proposed revisions by GGT.
195. At most, the statement was an indication by the Authority of its likely approach to the issue during the current Access Arrangement review process, and was subject to further consideration at this time. Now that the Authority has conducted its assessment of GGT's Proposed Revisions, and has considered submissions from Users, the Authority has revised its view of how to treat the excluded expansion assets from the point of view of the Capital Base.

Draft Decision

196. While the Authority recognises GGT's elections to exclude the Expansions of Capacity from the Covered Pipeline, the Authority considers that the effect of GGT's election to treat the Expansions of Capacity as not being part of the Covered Pipeline is that GGT is not subject to the access obligations that apply to Reference Services by reason of Coverage of the GGP and, therefore, Users have no access

right to demand supply of Services by virtue of the Expansions of Capacity as Reference Services at the Reference Tariff. These Expansions of Capacity total approximately 49TJ / day.

197. However, the Authority considers that having regard to the relevant Code definitions and the objects and principles of the Code, that the capital assets constructed, developed or acquired for the purpose of providing the Expansion of Capacity are “New Facilities” for the purpose of the Code, and are assets which “are otherwise used to provide Services” and, therefore, form part of the Capital Base of the GGP for the purpose of determining Reference Tariffs.
198. The Authority, therefore, does not accept that the capital and other costs incurred in relation to the Expansions of Capacity are to be excluded from the Total Revenue. Rather, all actual and forecast costs, revenues and volumes relating to the Expansions of Capacity must be taken into account in determining the Reference Tariff.
199. The Authority notes that this Draft Decision requires under paragraph 1211 that GGT’s Proposed Revisions be amended such that in relation to any expansion of the capacity of the Covered Pipeline during the Access Arrangement Period, the expansion will be treated as part of the Covered Pipeline for all purposes under the Code.

Modelling Approach

Requirements of the Code

200. To model Reference Tariffs it is necessary to make an assumption about the timing of revenue receipts (inflows) and forecast costs (outflows). For example, it may be assumed that such inflows and outflows will occur at the same time each month, quarter or year, even though in reality, such inflows and outflows occur continuously. The assumption adopted will affect the level of the Reference Tariff and, therefore, the revenue paid by the Users and recovered by Service Providers under the Reference Tariff.
201. There is no express provision of the Code, however, prescribing the assumption which is to be made in determining Reference Tariffs. There are, however, general provisions relating to the Reference Tariffs and Reference Tariff Policy which need to be considered concerning the modelling approach which the Service Provider proposes.
202. Under section 3.4 of the Code, unless a Reference Tariff has been determined through a competitive tender process any Reference Tariff included in an Access Arrangement must, in the Relevant Regulator’s opinion, comply with the Reference Tariff Principles in section 8 of the Code.
203. Section 8.1 of the Code contains the General Principles applicable to a Reference Tariff and a Reference Tariff Policy. It provides:
 - 8.1 A Reference Tariff and Reference Tariff Policy should be designed with a view to achieving the following objectives:
 - (a) providing the Service Provider with the opportunity to earn a stream of revenue that recovers the efficient costs of delivering the

Reference Service over the expected life of the assets used in delivering that Service;

- (b) replicating the outcome of a competitive market;
- (c) ensuring the safe and reliable operation of the Pipeline;
- (d) not distorting investment decisions in Pipeline transportation systems or in upstream and downstream industries;
- (e) efficiency in the level and structure of the Reference Tariff; and
- (f) providing an incentive to the Service Provider to reduce costs and to develop the market for Reference and other Services.

To the extent that any of these objectives conflict in their application to a particular Reference Tariff determination, the Relevant Regulator may determine the manner in which they can best be reconciled or which of them should prevail.

GGT's Proposed Revisions

Access Arrangement

- 204. The Reference Tariffs under the current Access Arrangement were modelled on a quarterly basis. Quarterly modelling assumes all transactions (income, expenditure, depreciation and return) occur at the end of the quarter.
- 205. GGT's Proposed Revisions do not specify the modelling approach adopted. However, it is apparent from GGT's confidential and public tariff models (**GGT's Model**) provided to the Authority that annual modelling is proposed.
- 206. GGT did not provide the Authority with any Access Arrangement Information or additional submissions relating to this issue.

Public Submissions

- 207. The GGP Users submitted that the proposed move from quarterly to annual modelling will deliver a one-off windfall gain to GGT unless a specific correction is made to offset that gain. Further, the GGP Users submitted that a quarterly cash flow, which is summed and analysed annually, can be expected to understate the implicit rate of return and favour GGT with a higher Reference Tariff (GGP Users (PCS) Submission dated 29 May 2009, page 14).
- 208. There were no other public submissions on this issue.

Authority's Assessment

- 209. The current Access Arrangement is the first access arrangement for the GGP, under which the Authority set the Initial Capital Base (**ICB**) for the GGP. The background to the setting of the ICB is relevant to the modelling approach to be adopted by the Authority in the present case.
- 210. The GGP was constructed between mid 1994 and 1996. During the early period of the life of the GGP, loads were relatively low. At GGT's request the Authority

modelled the capital expenditure and revenues of the GGP on a quarterly basis to calculate the ICB.

211. Under the above approach, quarterly expenditure was rolled forward at the Rate of Return until 31 December 1999. This had the effect that the ICB was set at a value of \$513.7 million (as at 31 December 1999). Had the Authority required annual modelling of expenditure (capital and non capital) and revenues, the Rate of Return would have been applied at the beginning of the year following that expenditure rather than the beginning of the quarter subsequent to the expenditure. Under an annual modelling approach the ICB would have been \$490.8 million (as at 31 December 1999), a difference of \$22.9 million.
212. In approving the ICB modelled on a quarterly basis, the Authority required that quarterly modelling would also be continued and used to model the Reference Tariffs for the period 2000 to 2009. The Reference Tariff under the current Access Arrangement reflects that approach.
213. Annual modelling is currently used by all other Australian regulators to model regulated tariffs in gas and other industries. The quarterly modelling approach adopted by the Authority for the current Access Arrangement for the GGP, therefore, is an exception to the general rule.
214. There is nothing in the Code which prohibits the Authority from approving modelling on an annual basis, where a different modelling approach (in this case quarterly modelling) has previously been used. A practical difficulty arises, however, from GGT's proposal to alter the modelling approach.
215. In the usual case, where a consistent modelling approach (ordinarily annual) is used over the life of the Covered Pipeline assets, overall recovery from Reference Tariffs in present value terms will equal the initial investment. However, if the Authority approves GGT's proposed change from quarterly to annual modelling, then GGT will recover more overall in present value terms than the initial investment.
216. The question is whether that outcome is consistent with the Code. Section 3.4 of the Code obliges the Authority to form an opinion whether or not the Reference Tariff as modelled "complies with" the Reference Tariff Principles in section 8, in particular the general principles set out in section 8.1.
217. Section 8.1(a) of the Code requires the Reference Tariff to be designed with a view to achieving the objective of providing the Service Provider with an opportunity to earn a stream of revenue that recovers the efficient costs of delivering the Reference Service "over the life of the assets used in delivering that Service".
218. In the Authority's view, if the design of the Reference Tariff as proposed by GGT would enable GGT to recover more than its initial investment over the life of the Covered Pipeline assets, then that Reference Tariff would not be designed to achieve the objective of efficient cost recovery, as required by section 3.4 and section 8.1(a) of the Code. To the contrary, the Reference Tariff would provide an inefficient mechanism for cost recovery.
219. The Authority notes that with annual modelling, GGT would obtain a gain at the expense of Users. This gain could not be addressed, consistent with the principles in the Code, through a retrospective adjustment to the Capital Base. The Authority

agrees with the GGP Users' submission, in that, without a retrospective adjustment of some kind (which is not possible) GGT would obtain a windfall gain.

220. The above considerations lead the Authority to conclude that a way in which the Reference Tariff may be designed so as to achieve the objective of efficient cost recovery, as provided by section 8.1(a) of the Code, is for the quarterly modelling approach to be continued over the life of the Covered Pipeline assets installed in the period up to 31 December 1999.
221. The Authority also notes that the annual model provided by GGT is inconsistent with Clause 9.8 of Appendix 3 of the proposed revised access arrangement. GGT has modelled the first quarter tariff for whole years, however, the access arrangement requires tariffs to be adjusted (usually upwards) each quarter by CPI. The outcome of the GGT modelling approach is that the calculated reference tariffs are higher than the Authority would approve if the Authority had accepted annual modelling. If the Authority had accepted annual modelling it would have required this to be corrected. The Authority's annual modelling presented in this decision reflects quarterly tariff increases as per Clause 9.8 of Appendix 3 of the Proposed Revised Access Arrangement, details are in Appendix 1- Authority's Reference Tariff Model.

Draft Decision

222. The Authority does not approve GGT's proposal that the Reference Tariff be modelled on an annual basis. The Authority's Draft Decision is that the current approach of modelling Reference Tariffs on a quarterly basis be continued.
223. The adjustments to GGT's Proposed Revisions required as a consequence of this decision are set out in the following sections, which deal with particular components of the calculation of the Reference Tariff. The Authority notes that all figures set out in the tables in the sections following are shown as annual figures for presentation purposes. The Reference Tariffs, as required by this Draft Decision, have been modelled on a quarterly basis, and then these quarterly figures have been annualised for presentation purposes. The public tariff model published as Appendix 1 to this Draft Decision contains the actual quarterly numbers used and should be referred to for the definitive modelling.

Opening Capital Base

Requirements of the Code

224. Under the Cost of Service method, an opening value for the Capital Base at the commencement date of the next Access Arrangement Period must be determined. In the case of a revised Access Arrangement, this is done by taking the Capital Base at the commencement date of the immediately preceding Access Arrangement Period, and adjusting it to take into account New Facilities Investment and Depreciation during the immediately preceding Access Arrangement Period.
225. Sections 8.8 and 8.9 of the Code set out the principles for establishing the Capital Base as follows:
- 8.8 Principles for establishing the Capital Base for the Covered Pipeline when a Reference Tariff is first proposed for a Reference Service (i.e., for the first Access Arrangement Period) are set out in section 8.10 to 8.14.

8.9 Sections 8.15 to 8.29 then describe the principles to be applied in adjusting the value of the Capital Base over time as a result of the additions to the capital assets that are used to provide Services and as a result of capital assets ceasing to be used for the delivery of Services. Consistently with those principles, the Capital Base at the commencement of each Access Arrangement Period after the first, for the Cost of Service methodology, is determined as:

- (a) the Capital Base at the start of the immediately preceding Access Arrangement Period; plus
- (b) subject to section 8.16(b) and sections 8.20 and 8.22, the New Facilities Investment or Recoverable Portion (whichever is relevant) in the immediately preceding Access Arrangement Period less
- (c) Depreciation for the immediately preceding Access Arrangement Period; less
- (d) Redundant Capital identified prior to the commencement of that Access Arrangement Period,

and for the IRR or NPV methodology, is determined as

- (e) subject to sections 8.16(b) and sections 8.20 to 8.22, the Residual Value assumed in the previous Access Arrangement Period, less
- (f) Redundant Capital identified prior to the commencement of that Access Arrangement Period,

subject, irrespective of which methodology is applied, to such adjustment for inflation (if any) as is appropriate given the approach to inflation adopted pursuant to section 8.5A.

226. As the Capital Base under the proposed revised Access Arrangement is for revised (as opposed to first) Reference Tariffs, the principles in section 8.15 to 8.29 apply (as opposed to the principles in section 8.10 to 8.14).

New Facilities Investment

Requirements of the Code

227. The opening Capital Base for the forthcoming Access Arrangement Period includes an amount for actual New Facilities Investment incurred in the prior Access Arrangement Period, subject to such investment passing certain prescribed qualitative tests. New Facilities Investment is defined in section 8.15 of the Code to mean “capital costs incurred in constructing, developing or acquiring New Facilities for the purpose of providing Services”.

228. New Facility is defined in section 10.8 of the Code to mean:

- (a) any extension to, or expansion of the Capacity of, a Covered Pipeline which is to be treated as part of the Covered Pipeline in accordance with the Extensions/Expansions Policy contained in the Access Arrangement for that Covered Pipeline;
- (b) any expansion of the Capacity of a Covered Pipeline required to be installed under section 6.22; and

- (c) any capital asset constructed, developed or acquired to enable the Service Provider to provide Services including, but not limited to, assets required for the purposes of facilitating competition in retail markets for Natural Gas.
- 229. Pursuant to section 8.20 of the Code, Reference Tariffs for the forthcoming Access Arrangement Period may be determined on the basis of New Facilities Investment that is forecast to occur in that period, subject to it being reasonably expected to pass the requirements in section 8.16 when it is forecast to occur.
- 230. Section 8.15 of the Code provides that the Capital Base may be increased from the commencement of a new Access Arrangement Period to recognise additional capital costs incurred by way of New Facilities Investment.
- 231. Section 8.16 of the Code sets out criteria that must be met by any New Facilities Investment if it is to be added to the Capital Base. These criteria are:
 - (a) Subject to section 8.16(b) and sections 8.20 to 8.22, the Capital Base may be increased under section 8.15 by the amount of actual New Facilities Investment in the immediately preceding Access Arrangement Period provided that:
 - (i) that amount does not exceed the amount that would be invested by a prudent Service Provider acting efficiently, in accordance with accepted good industry practice, and to achieve the lowest sustainable cost of providing Services; and
 - (ii) one of the following conditions is satisfied;
 - (A) the Anticipated Incremental Revenue generated by the New Facility exceeds the New Facilities Investment; or
 - (B) the Service Provider and/or Users satisfy the Relevant Regulator that the New Facility has system-wide benefits that, in the Relevant Regulator's opinion, justify the approval of a higher Reference Tariff for all Users; or
 - (C) the New Facility is necessary to maintain the safety, integrity or Contracted Capacity of Services.
 - (b) If pursuant to section 8.20 the Relevant Regulator agrees to Reference Tariffs being determined on the basis of forecast New Facilities Investment, the Capital Base may be increased by the amount of the New Facilities Investment forecast to occur within the new Access Arrangement Period determined in accordance with sections 8.20 and 8.21 and subject to adjustment in accordance with 8.22.
- 232. Section 8.17 of the Code sets out two factors that the Authority must consider in determining whether Capital Expenditure meets the criteria set out in section 8.16:
 - (a) whether the New Facility exhibits economies of scale or scope and the increments in which Capacity can be added; and
 - (b) whether the lowest sustainable cost of delivering Services over a reasonable time frame may require the installation of New Facility with Capacity sufficient to meet forecast sales of Services over that time frame.
- 233. Sections 8.18 and 8.19 provide that:

- 8.18 A Reference Tariff Policy may, at the discretion of the Service Provider, state that the Service Provider will undertake New Facilities Investment that does not satisfy the requirements of section 8.16(a). If the Service Provider incurs such New Facilities Investment, the Capital Base may be increased by that part of the New Facilities Investment which does satisfy section 8.16(a) (the **Recoverable Portion**).
- 8.19 The Reference Tariff Policy may also provide that an amount in respect of the balance of the New Facilities Investment may subsequently be added to the Capital Base if at any time the type or volume of Services provided using the New Facility changes such that any part of the Speculative Investment Fund (As defined below) would then satisfy the requirements of section 8.16(a). The amount of the **Speculative Investment Fund** at any time is equal to:
- (a) the difference between the New Facilities Investment and the Recoverable Portion, less any amount the Service Provider notifies the Relevant Regulator (at the time the expenditure is incurred) that it has elected to recover through a Surcharge under section 8-25 (**Speculative Investment**); plus
 - (b) an annual increase in that amount calculated on a compounded basis at a rate of return approved by the Relevant Regulator which rate of return may, but need not, be different from the rate of return implied in the Reference Tariff; less
 - (c) any part of the Speculative Investment Fund previously added to the Capital Base under this section 8.19.

GGT's Proposed Revisions

Access Arrangement

234. GGT proposes to add to the calculation of Total Revenue, New Facilities Investment that has been forecast to occur during the forthcoming Access Arrangement Period (sub-section 5.2(b)(2) of GGT's Proposed Revisions, page 5).

Access Arrangement Information

235. GGT's proposed Capital Base roll forward, including the actual capital cost of New Facilities Investment for the period from 2000 to 2008 and forecast capital expenditure for 2009, is set out in Table 2 of the Access Arrangement Information (page 3). Table 3 of the Access Arrangement Information sets out the values in the ICB, including as at 31 December 2009, for each asset class.
236. The Authority notes that the Access Arrangement Information in relation to New Facilities Investment does not include assets used to provide the Expanded Capacity, namely the second compressor at Paraburdoo, and the compressor stations at Wyloo West and Ned's Creek.
237. The Authority also notes that the Access Arrangement Information in relation to New Facilities Investment is based upon an annual modelling approach, as opposed to a quarterly modelling approach.

Additional GGT Submissions

238. GGT submitted that its New Facilities Investment for the current Access Arrangement Period passes the New Facilities Investment test in section 8.16 of the Code (GGT's Supporting Information Submission, page 7)
239. GGT relied upon a report prepared by Synergies Economic Consulting (**Synergies**) (Attachment 2 to GGT's Supporting Information Submission) in support of this submission.

Public Submissions

240. The Authority did not receive any public submissions in relation to New Facilities Investment.

Parsons Brinckerhoff's Advice and Auditor's Report

241. The Independent Auditor's Review Report to the Directors of Goldfields Gas Transmission Pty Ltd and the Economic Regulation Authority (**Auditor's Report**) audited the actual capital expenditure for the GGP for the years 2005 to 2008. The Auditor's report identifies the Schedule of Capital Expenditure based on the same asset classes as those used by GGT (Auditor's Report, page 3). The Authority did not exercise its discretion to require audited information for the years 2000 to 2004. The current Access Arrangement was approved in July 2005.
242. At the Authority's request, Parsons Brinckerhoff prepared a draft report relating to two categories of the capital expenditure for the GGP (**PB's Draft Report**). PB's Draft Report is available on the Authority's web site: www.era.wa.gov.au.
243. Parsons Brinckerhoff analysed the capital expenditure for the years 2000 to 2009. For the years 2000 to 2004, it examined the actual capital costs incurred and noted that the expenditure seemed appropriate for the development of a gas pipeline and found that the amount does not exceed the amount that would be invested by a prudent service provider acting efficiently in accordance with good industry practice (PB's Draft Report, page 7). For expenditure over 2005 to 2009 Parsons Brinckerhoff found that expenditure on major items was both necessary and efficient (PB's Draft Report, page 12).

Frontier Economics' Advice

244. Frontier Economics (**Frontier**) provided the Authority with a draft report relating to the application of the New Facilities Investment Test by GGT (**Frontier's Draft NFI Report**). Frontier's Draft NFI Report is available on the Authority's web site: www.era.wa.gov.au.
245. Frontier analysed capital expenditure incurred, or to be incurred, from 1 January 2000 to 31 December 2009 with respect to the operation of section 8.16(a)(ii)(A) and (B) of the Code. While Frontier found that, in respect of the Wiluna compressor station, there was an error in calculating the excess of the Anticipated Incremental Revenue over the New Facilities Investment, the investment in the Wiluna compressor station satisfied section 8.16(a)(ii)(A) of the Code (Frontier's Draft NFI Report, page 10). Frontier also found that the expenditure on the Paraburdoo compressor station satisfied section 8.16(a)(ii)(A) of the Code (Frontier's Draft NFI Report, page 11).

Authority's Assessment

246. Given the Authority's Draft Decision in relation to Expansions of Capacity (paragraphs 134 to 199 above) the Authority does not accept GGT's proposal to exclude from New Facilities Investment the assets used to provide Expanded Capacity. Similarly, the Authority does not accept GGT's proposal to adopt an annual modelling approach instead of the quarterly modelling approach previously adopted in relation to the GGP (paragraphs 200 to 223 above). The Authority therefore considers that GGT's proposal in relation to New Facilities Investment needs to be adjusted so as to include values for the assets used to provide the Expanded Capacity, and to adopt a quarterly modelling approach.
247. On 17 May 2005 the Authority published its Final Decision on the Proposed Access Arrangement for the current Access Arrangement.
248. GGT initially lodged its proposed Access Arrangement for the GGP for the period from 2000 to 2009 on 15 December 1999 (Proposed Access Arrangement). The Access Arrangement Information provided with that proposal included only forecast New Facilities Investment for the period of the Access Arrangement. On 10 April 2001 the Western Australian Independent Gas Pipelines Access Regulator issued a Draft Decision on the Proposed Access Arrangement. This Draft Decision was not to approve the Proposed Access Arrangement.
249. A delay then occurred in the making of the Final Decision in relation to the current Access Arrangement.
250. Therefore, although the Proposed Access Arrangement was lodged on 15 December 1999, the Further Final Decision was not published until 14 July 2005. By that time GGT had actual figures in respect of New Facilities Investment for the period from 2000 to 2004 and forecast figures for the period from 2005 to 2009. Ordinarily, as contemplated by the Code, at the time Reference Tariffs are set or reset New Facilities Investment for the forthcoming Access Arrangement Period would only be forecast not actual.
251. There is, therefore, an issue as to whether at the reset the Authority must determine whether the actual New Facilities Investment for the period from 2000 to 2004 meets the requirements of section 8.16 of the Code and so can be "rolled into" the opening Capital Base, or whether such expenditure has already been "rolled into" the Capital Base by the Further Final Decision of 2005.
252. It is clear from the relevant provisions of the Code that the intention of the Code is for the Capital Base to be reset at the commencement of each Access Arrangement Period according to the actual New Facilities Investment during the previous Access Arrangement Period. This is confirmed by the use of the following words in section 8.15 of the Code:
- The Capital Base for a Covered Pipeline may be increased from the commencement of a new Access Arrangement Period.
253. The test for the inclusion of actual New Facilities Investment in the Capital Base is whether it complies with the requirements of section 8.16 of the Code. The Code contemplates that this question is to be answered at the commencement of each Access Arrangement Period, having regard to the actual New Facilities Investment during the previous Access Arrangement Period. This is confirmed by the terms of section 8.21 of the Code.

254. Section 8.21 provides that:

If the Relevant Regulator agrees to Reference Tariffs being determined on the basis of forecast New Facilities Investment, this need not (at the discretion of the Relevant Regulator) imply that such New Facilities Investment will meet the requirements of Section 8.16 when the Relevant Regulator considers revisions to an Access Arrangement submitted by a Service Provider. However, the Relevant Regulator may, at its discretion, agree (on written application by the Service Provider) at the time at which the New Facilities Investment takes place that it meets the requirements of section 8.16, the effect of which is to bind the Relevant Regulator's decision when the Relevant Regulator considers revisions to an Access Arrangement submitted by the Service Provider...

255. The process provided for in the Code to deal with New Facilities Investment and a determination that it complies with the requirements of section 8.16 prior to the commencement of the next Access Arrangement Period, is by application for a determination of the Authority pursuant to section 8.21 of the Code.

256. The Code also contemplates that at the commencement of each Access Arrangement Period only forecast New Facilities Investment will be available. The Code provides that New Facilities Investment that is forecast to occur within the Access Arrangement Period is to be considered in determining Reference Tariffs at the commencement of each Access Arrangement Period (sections 8.20 and 8.21 of the Code). The test for the inclusion of New Facilities Investment in respect of the calculation of Reference Tariffs is whether the forecast New Facilities Investment is reasonably expected to pass the requirements in section 8.16 "when the New Facilities Investment is forecast to occur".

257. Sections 8.15 and 8.21 of the Code provide a scheme under which the question of whether New Facilities Investment should be rolled into the Capital Base and the question of whether New Facilities Investment should be used in the calculation of Reference Tariffs are separate questions. The first question to be asked, retrospectively, at the commencement of each Access Arrangement (having regard to the actual New Facilities Investment during the previous Access Arrangement Period), is whether the actual New Facilities Investment during the previous period complies with the requirements of section 8.16 of the Code. The second question to be asked, prospectively, at the commencement of each Access Arrangement Period having regard to the forecast New Facilities Investment for that Access Arrangement Period, is whether the forecast New Facilities Investment is reasonably expected to meet the requirements of section 8.16 of the Code. In short, there is a clear distinction between New Facilities Investment being rolled into the Capital Base and New Facilities Investment being used to calculate Reference Tariffs.

258. The scheme of the Code is such that the first question is dealt with under the heading "New Facilities Investment" whereas the second question is dealt with separately under the heading "Forecast Capital Expenditure".

259. The fact that actual New Facilities Investment figures for that Access Arrangement Period were available at the time the Final Decision and Further Final Decision were made in relation to the GGP does not alter the operation of the Code or the nature of the decision made by the Authority when approving the Reference Tariffs for 2000 to 2009. The scheme and intention of the Code is clearly that New Facilities Investment can only be rolled into the Capital Base at the commencement of the next following Access Arrangement Period. However, New Facilities Investment should be taken into account in determining Reference Tariffs for the

- Access Arrangement Period in which it has been incurred, or is forecast to be incurred.
260. The Authority did not have the power to determine that any part of the actual New Facilities Investment for 2000 to 2004 in relation to the GGP was to be rolled into the Capital Base at the commencement of the 2000 to 2009 Access Arrangement Period (i.e. in July 2005).
 261. On 29 July 2004 the Authority issued an amended Draft Decision (**Amended Draft Decision**) in relation to the Proposed Access Arrangement.
 262. In the Amended Draft Decision the Authority took the view that the actual and forecast New Facilities Investment for the period 2000 to 2009 may reasonably be expected to meet the requirements of section 8.16 of the Code, and may therefore be taken into account in the determination of the Reference Tariff for the current Access Arrangement Period.
 263. In the Amended Draft Decision the Authority took the view that it could not conclude whether the actual and forecast New Facilities Investment would meet the requirements of section 8.16 of the Code because it had not been provided with sufficient information to do so. The Authority therefore noted that GGT would need to provide further information before the Authority could determine whether the New Facilities Investment should be added to the Capital Base at the commencement of the next Access Arrangement Period. The Authority did not require any amendments to the Proposed Access Arrangement as regards New Facilities Investment. It was not the task of the Authority to determine whether the actual New Facilities Investment was to be rolled into the Capital Base as at 2005.
 264. GGT lodged a revised Proposed Access Arrangement on 19 November 2004. In a submission made by GGT it provided the Authority with actual New Facilities Investment for 2000 to 2004 and forecast New Facilities Investment for 2005 to 2009. GGT did not provide revised Access Arrangement Information.
 265. The actual New Facilities Investment for 2004 and the forecast New Facilities Investment for 2005 to 2006 provided in that submission were different from the figures provided in March 2004. Accordingly, in the Final Decision the Authority primarily considered whether the amount of the change in that New Facilities Investment should be incorporated in the determination of Reference Tariffs. This was the only issue because the Authority had already decided that the actual and forecast New Facilities Investment provided in March 2004 should be incorporated in the determination of Reference Tariffs.
 266. The Authority determined to include only a portion of the additional forecast New Facilities Investment for the purpose of determining Reference Tariffs. The Final Decision therefore required, by Final Decision Amendment 3 (page 98 of the Final Decision), that the Reference Tariff should be revised so as to reflect the actual New Facilities Investment for 2000 to 2004 as calculated by GGT and the revised forecast New Facilities Investment as calculated by the Authority in the Final Decision.
 267. The Final Decision also differentiates between the issues of the New Facilities Investment rolled into the Capital Base and the forecast New Facilities Investment being used to determine Reference Tariffs.

268. On 14 July 2005 the Authority published a Further Final Decision and Final Approval on the Proposed Access Arrangement in response to a revised Proposed Access Arrangement submitted by GGT on 7 July 2005.
269. The revised Proposed Access Arrangement included a Reference Tariff calculated on the basis of the forecast New Facilities Investment required by the Authority under the Final Decision Amendment 3. Accordingly, the Authority was satisfied in the Further Final Decision that the revised Proposed Access Arrangement incorporated this element of Amendment 3.
270. Despite there being actual figures for 2000 to 2004 at the time when the further Final Decision was made, the time at which the Authority must determine whether that New Facilities Investment complies with the requirements of section 8.16 of the Code (and should therefore be rolled into the Capital Base) is at the commencement of the next Access Arrangement Period, in 2010. For the 2000 to 2009 Access Arrangement Period, the Authority determined that the actual 2000 to 2004 New Facilities Investment was reasonably expected to comply with the requirements in section 8.16 of the Code.
271. The Authority must, therefore, now consider whether the actual New Facilities Investment for 2000 to 2004 complies with the requirements of section 8.16 of the Code and, therefore, whether it should be rolled into the Capital Base for the 2010 to 2014 Access Arrangement Period.
272. The Authority notes PB's Draft Report regarding the capital expenditure for the years 2000 to 2004. In its Draft Report, Parsons Brinckerhoff examined the actual capital costs incurred and noted that the expenditure is appropriate for the development of a gas pipeline. Given the significant passage of time and the difficulty of obtaining rigorous data, and the fact that the amount of the capital expenditure is not material to the overall size of the Capital Base, the Authority considers that it is unnecessary to test strict compliance of the 2000 to 2004 expenditure with the relevant Code criteria. The Authority, therefore, accepts the capital expenditure claimed for the years 2000 to 2004.
273. In relation to the capital expenditure for the years 2005 to 2009 (with the exception of the capital expenditure for the Expanded Capacity, which is discussed below) the Authority is also satisfied, on the material before it, that the expenditure meets the relevant criteria in section 8.16 of the Code. The material which the Authority relies upon for this conclusion is:
- a) The Auditor's Report, which audited the actual capital expenditure for the GGP for the years 2005 to 2008;
 - b) The Parsons Brinckerhoff Report which found that expenditure on major items (Wiluna and Paraburdoo compressor stations) was both necessary and efficient;
 - c) Frontier found that, in respect of the Wiluna compressor station, there was an error in calculating the excess of the Anticipated Incremental Revenue over the New Facilities Investment. However, Frontier concluded that the investment in the Wiluna compressor station satisfied section 8.16(a)(ii)(A) of the Code (Frontier's Draft NFI Report, page 10). Frontier also found that the expenditure on the Paraburdoo compressor station satisfied section 8.16(a)(ii)(A) of the Code (Frontier's Draft NFI Report, page 11).

274. The Authority, therefore, is satisfied that GGT's New Facilities Investment over the period 2000 to 2009 (with the exception of the capital expenditure for the Expanded Capacity) under the current Access Arrangement satisfies the requirements of section 8.16 of the Code and should therefore be included in the Capital Base.
275. The Authority notes that New Facilities Investment in relation to the assets used to provide Expanded Capacity have not been included in GGT's Proposed Revisions (for the reasons discussed above) and that, therefore, the Authority does not have sufficient information from GGT to be able to consider whether such expenditure would meet the requirements of section 8.16 of the Code. Given the Authority's conclusion in relation to Expanded Capacity, the Authority considers that it is necessary for such expenditure to meet the requirements of section 8.16 of the Code.

Draft Decision

276. The Authority's Draft Decision is that GGT's proposal in relation to New Facilities Investment needs to be adjusted to include values for the assets used to provide the Expanded Capacity, and to adopt a quarterly modelling approach, in order to give effect to the Authority's Draft Decision on those matters.
277. The Capital Expenditure included in Table 2 of the Access Arrangement Information (which is repeated in Table 1 of this Draft Decision) is as follows:

Table 1: GGT's Proposed GGP Capital Expenditure 2000 – 2009 (\$m, nominal)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009F
Capital expenditure	3.6	8.4	1.1	10.1	6.1	1.4	2.1	1.8	1.7	7.1

278. The Authority requires the Capital Expenditure row in the Table 2 of the Access Arrangement Information (which is repeated in Table 1 of this Draft Decision) to be adjusted as follows:

Table 2: Authority's Required Amendments to GGT's Proposed GGP Capital Expenditure 2000-2009 (\$m, nominal)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Capital expenditure	3.6	8.4	1.1	10.1	6.1	6.0	12.5	2.6	26.9	59.3

279. The asset values by asset class in Table 3 of the Access Arrangement Information (which is repeated in Table 3 of this Draft Decision) are as follows:

Table 3: GGT's Proposed GGP Capital Base (\$m, 31 December 2009)

Asset class	Value in Initial Capital Base	Value at 31 December 2009 F
Pipeline and laterals	438.7	371.3
Mainline valve and scraper stations	9.2	7.2
Compressor stations	41.6	46.9
Receipt and delivery point facilities	1.5	2.1
SCADA and communications	10.1	1.8
Cathodic protection	1.8	0.4
Maintenance bases and depots	7.7	6.3
Remote accommodation	0.0	3.9
Other assets	0.4	2.3
Linepack	1.1	1.1
Working capital	1.5	2.9
Initial Capital Base	513.7	N/A
Capital Base	N/A	446.2

280. The Authority requires the asset values by asset class in Table 3 of the Access Arrangement Information (which is repeated in Table 3 of this Draft Decision) to be adjusted as follows:

Table 4: Authority's Required Amendments to GGT's Proposed GGP Capital Base (\$m, 31 December 2009)

Asset class	Value in Initial Capital Base	Value at 31 December 2009 F
Pipeline and laterals	438.7	371.3
Main line valve and scraper stations	9.2	7.2
Compressor stations	41.6	140.0
Receipt and delivery point facilities	1.5	2.1
SCADA and communications	10.1	1.8
Cathodic protection	1.8	4.3
Maintenance bases and depots	7.7	6.3
Other assets	0.4	2.3
Sub Total	511.1	535.3
Line Pack	1.1	1.1
Working capital	1.5	7.6
Total	513.7	544.1

281. The Authority notes that for the purpose of this Draft Decision the Authority has assumed that expenditure in relation to the assets used to provide Expanded Capacity meets the requirements of section 8.16 of the Code. However, the Authority will require further information from GGT in relation to this expenditure in order to ensure that this expenditure complies with section 8.16 of the Code prior to the making of the Final Decision.

Required Amendment 3

In relation to the GGP Capital Base Table 2 and Table 3 of the Access Arrangement Information should be amended to reflect the values in Table 2 and Table 4 of this Draft Decision respectively.

Capital Base and Depreciation

GGT's Proposed Revisions

Access Arrangement

282. The ICB as at 31 December 1999 was approved by the Authority in its Further Final Decision and Final Approval of 14 July 2005 to be \$513.7 million (section 5.2(b)(1) of GGT's Proposed Revisions, page 5).
283. GGT proposes to roll the Capital Base forward using a nominal approach for each year after the year 2000, taking into account Depreciation allowed under the current Access Arrangement and New Facilities Investment during the period of the current Access Arrangement (section 5.2(b)(2) of GGT's Proposed Revisions, page 5, and section 3 of the Access Arrangement Information, page 3).
284. New Facilities Investment is discussed at paragraphs 227 to 276 above.

Access Arrangement Information

285. GGT has provided Access Arrangement Information in relation to the roll forward of the Capital Base (section 3 of the Access Arrangement Information, pages 3 and 4). GGT forecasts the closing asset value to be \$446.2 million as at the end of the year 2009. The changes in the value of the asset base over the period from the year 2000 to the year 2009 are set out in the Access Arrangement Information (section 3 of the Access Arrangement information document, page 3 in Table 2).
286. The Authority notes that GGT's proposal in relation to the changes in the value of the Capital Base do not include assets used to provide the Expanded Capacity, namely the second compressor at Paraburdoo, and the compressor stations at Wyloo West and Ned's Creek.
287. The Authority also notes that GGT's proposal in relation to the changes in the value of the Capital Base is based upon an annual modelling approach, rather than a quarterly modelling approach.
288. GGT also provided Access Arrangement Information in relation to the asset classes forming the Capital Base and the amount by which the value of those various asset classes has changed from their value in the ICB to their forecast value as at 31 December 2009 (section 3 of the Access Arrangement Information, page 4 in Table 3).
289. GGT also provided information about linepack and working capital. The information provided about the Capital Base indicates an opening working capital of \$1.5 million in January 2000 and a closing working capital of \$2.9 million at 31 December 2009 (Table 3 of the Access Arrangement Information, page 4). The annual change in

working capital is set out in Table 2 (Access Arrangement Information, page 3). Table 3 sets out the linepack value of \$1.1 million which remains unchanged over the Access Arrangement Period from 2000 to 2009 (Access Arrangement Information, page 4).

Additional GGT Submissions

290. GGT made a specific submission in respect of the value of linepack (section 3 of GGT's Supporting Information Submission, page 7). GGT submitted that the Authority should use the same value of linepack as was adopted in the calculation of the ICB on the basis of the assumption that no further investment was made in linepack after 1 January 2000 despite an increase in throughput which may have led to an understatement of the quantity and value of linepack during the current Access Arrangement Period. As at 31 December 1999, the investment in linepack was estimated to be \$1.125 million.
291. The Capital Base is discussed in section 3 of GGT's Supporting Information Submission, which appears at pages 7 to 10.
292. GGT also submitted that it is not within the Regulator's power to amend the ICB, and the basis upon which the ICB was set is irrelevant to any future revisions to the Access Arrangement (section 2.4 of GGT's Response to Issue Paper, page 8).
293. On 5 June 2009, in response to a request from the Authority, GGT provided further confidential information about expenditure on New Facilities Investment, namely the compressor stations at Wiluna and Paraburdoo prior to 2005. In this response, GGT submitted that its New Facilities Investment expenditure met the test in section 8.16(a)(ii)(A) of the Code.
294. The Authority's proposed treatment of confidential information received from GGT is discussed at paragraphs 578 to 583 below.

Public Submissions

295. The Authority did not receive any public submissions regarding the Capital Base, linepack value or working capital.

Authority's Assessment

296. Given the Authority's Draft Decision in relation to Expanded Capacity (paragraphs 134 to 199vabove) the Authority does not accept GGT's proposal to exclude from the Capital Base the assets used to provide Expanded Capacity. Similarly, the Authority does not accept GGT's proposal to adopt an annual modelling approach instead of the quarterly modelling approach previously adopted in relation to the GGP (paragraphs 200 to 223 above). The Authority therefore considers that GGT's proposal in relation to the Capital Base and Depreciation needs to be adjusted so as to include values for the assets used to provide the Expanded Capacity, and to adopt a quarterly modelling approach.
297. The Authority notes that "Linepack" refers to the value of the stock of gas that is required for pipeline operation. It is a component of the Capital Base and any change in its value would impact on the Capital Base roll forward.
298. The Code does not explicitly contemplate linepack as a component of the Capital Base.

299. GGT has requested that the same value for linepack be adopted in this Access Arrangement as was previously approved in the Authority's Further and Final Decision and Final Approval of 14 July 2005. In that approval, the Authority accepted that the ICB of \$513.7 million included a value of linepack and working capital of \$2.58 million. The Authority considers that it is reasonable to continue to use the same linepack value, \$1.125 million, as was previously used.
300. In determining the proposed allowances for working capital, GGT has determined a "stock" of working capital that is varied from year to year according to the costs and revenues for the purpose of the forthcoming Access Arrangement Period. Changes in working capital are calculated as a change in the value of the funds invested in the stock of working capital in the same manner as other physical assets in the capital base. The Authority considers that the treatment of a stock of working capital as a capital asset of the pipeline business is appropriate.
301. Under section 8.16 of the Code, the Capital Base for a Covered Pipeline can be increased by the value of New Facilities Investment only if the conditions of that section are met. This is discussed more fully at paragraphs 227 to 276 above.

Draft Decision

302. The Authority accepts that the ICB is \$513.7 million (as of December 1999) and approves GGT's proposal that the value of linepack investment is \$1.125 million. The Authority also approves the change in working capital as part of the Capital Base roll forward for the Access Arrangement Period from 2000 to 2009.
303. However, the Authority's Draft Decision is that GGT's proposal in relation to the ICB and Depreciation needs to be adjusted to include values for the assets used to provide the Expanded Capacity, and to adopt a quarterly modelling approach, in order to give effect to the Authority's Draft Decision on those matters.
304. GGT shows its proposed changes in the value of the asset base from 2000 to 2009 in Table 2 of the Access Arrangement Information (which is repeated in Table 5 of this Draft Decision) as follows:

Table 5: GGT's Proposed GGP Capital Base Roll Forward 2000 to 2009 (\$m, nominal)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009F
Opening asset value	513.7	507.3	505.8	495.5	496.1	490.3	480.0	470.5	460.3	450.4
Capital expenditure	3.6	8.4	1.1	10.1	6.1	1.4	2.1	1.8	1.7	7.1
Change in working capital	0.3	0.7	-0.7	1.4	-0.7	-0.2	0.0	-0.2	0.5	0.3
Depreciation	10.4	10.6	10.8	10.9	11.2	11.4	11.6	11.9	12.1	11.6
Closing asset value	507.3	505.8	495.5	496.1	490.3	480.0	470.5	460.3	450.4	446.2

305. The Authority requires the values in Table 2 of the Access Arrangement Information (which is repeated in Table 5 of this Draft Decision) to be adjusted as follows:

Table 6: Authority's Required Amendments to GGT's Proposed GGP Capital Base Roll Forward 2000-2009 (\$m, nominal)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Opening asset value	513.7	507.3	505.8	495.5	496.1	490.3	486.7	486.3	476.5	498.3
Capital expenditure	3.6	8.4	1.1	10.1	6.1	6.0	12.5	2.6	26.9	59.3
Change in working capital	0.3	0.7	-0.7	1.4	-0.7	1.9	-1.3	-0.5	7.0	-2.0
Depreciation	-10.4	-10.6	-10.8	-10.9	-11.2	-11.4	-11.6	-11.9	-12.1	-11.6
Closing asset value	507.3	505.8	495.5	496.1	490.3	486.7	486.3	476.5	498.3	544.1

Required Amendment 4

In relation to the GGP Capital Base and Depreciation Table 2 of the Access Arrangement Information should be amended to reflect the values in Table 6 of this Draft Decision.

Forecast Capital Expenditure

Requirements of the Code

306. The relevant provisions of the Code relating to Forecast Capital Expenditure, or forecast New Facilities Investment, are contained in sections 8.20 to 8.22 of the Code as follows:

8.20 Consistent with the methodologies described in section 8.4, Reference Tariffs may be determined on the basis of New Facilities Investment that is forecast to occur within the Access Arrangement Period provided that the New Facilities Investment is reasonably expected to pass the requirements in section 8.16(a) when the New Facilities Investment is forecast to occur.

8.21 The Relevant Regulator may at any time at its discretion agree (with or without conditions or limitations) that actual New Facilities Investment by a Service Provider meets, or forecast New Facilities Investment proposed by a Service Provider will meet, the requirements of section 8.16(a), the effect of which is to bind the Relevant Regulator's decision when the Relevant Regulator considers revisions to an Access Arrangement submitted by the Service Provider. Before giving any agreement under this section 8.21, the Relevant Regulator must conduct public consultation in accordance with the requirements for a proposed revision to the Access Arrangement submitted by the Service provider. Before giving any agreement under this section 8.21, the Relevant Regulator must conduct public consultation in accordance with the requirements for a proposed revision to the Access Arrangement submitted under section 2.28. For the avoidance of doubt, if the Relevant Regulator does not agree under this section that the New Facilities Investment meets, or (in the case of forecast New Facilities

Investment) will meet, the requirements of section 8.16(a), the Relevant Regulator may consider whether those requirements are met when it considers revision to an Access Arrangement submitted by the Service Provider.

8.22 For the purposes of calculating the Capital Base at the commencement of the subsequent Access Arrangement Period, either the Reference Tariff Policy should describe or the Relevant Regulator shall determine when the Relevant Regulator considers revisions to an Access Arrangement submitted by a Service Provider, how the new Facilities Investment is to be determined for the purposes of section 8.9. This includes how the Capital Base at the commencement of the next Access Arrangement Period will be adjusted if the actual New Facilities Investment or Recoverable Portion (whichever is relevant) is different from the forecast New Facilities Investment (with this decision to be designed to best meet the objectives in section 8.1).

307. In addition, the factors under section 8.16 of the Code, discussed in paragraph 231 above, and section 8.2(e) of the Code are relevant. Section 8.2(e) of the Code provides:

The factors about which the Relevant Regulator must be satisfied in determining to approve a Reference Tariff and Reference Tariff Policy are that:

.....

(e) any forecasts required in setting the Reference Tariff represent best estimates arrived at on a reasonable basis.

GGT's Proposed Revisions

Access Arrangement

308. GGT has proposed two new sub-sections to indicate how Forecast Capital Expenditure (referred to by GGT as New Facilities Investment) forms part of the calculation of Total Revenue. The proposed sub-section 5.2(b)(3) of GGT's Proposed Revisions (page 5) states that Forecast Capital Expenditure forms the basis of the Total Revenue calculation on the expectation that it will meet the requirements of the Code at the time the investment is forecast to occur.

309. The proposed sub-section 5.2(b)(5) of GGT's Proposed Revisions (pages 5 and 6) allows for any balance of the Forecast Capital Expenditure to be added to the Capital Base if the type and volume of the Services using the Forecast Capital Expenditure change such that any part of the Speculative Investment Fund requirements are met for inclusion in the Capital Base.

310. The proposed sub-section 5.2(b)(4) of GGT's Proposed Revisions is the same as sub-section 5.2(f) in the current Access Arrangement.

Access Arrangement Information

311. GGT stated that its Forecast Capital Expenditure covers the replacement of capital equipment, enhancements to capital assets and system upgrades. GGT noted that it has not made any provision for expansion or extension to the Covered Pipeline during the forthcoming Access Arrangement Period (section 4 of the Access Arrangement Information, pages 4 and 5). GGT's proposed Forecast Capital Expenditure is set out in Table 4 of the Access Arrangement Information.

312. The Authority notes that GGT's proposal in relation to forecast Capital Expenditure is based upon an annual modelling approach, as opposed to a quarterly modelling approach.

Additional GGT Submissions

313. GGT submitted that its Forecast Capital Expenditure comprises major capital expenditure projects, minor capital expenditure projects and "Stay-in-Business" capital expenditure. Specific projects have been forecast for 2010 and 2011 with Stay-in-Business capital costs over and above the specific projects calculated for the whole of the forthcoming Access Arrangement Period based on historical actuals from 2005 to 2008 (GGT's Supporting Information Submission, pages 8 and 9, and Appendix 3 to GGT's Supporting Information Submission, pages 73 to 90).
314. GGT does not propose to incur capital costs in relation to the following classes of assets: pipeline and laterals, main line valve and scraper stations, maintenance bases and depots or remote accommodation. Capital costs will be incurred in the following classes of assets: compressor stations, receipt and delivery point facilities, SCADA and communication, cathodic protection and other assets (Appendix 3 to GGT's Supporting Information Submission, page 73). GGT has provided detailed information about the following Forecast Capital Costs projects (Appendix 3 to GGT's Supporting Information Submission):
- a) Compressor stations:
 - i) Yarraloola automatic variable pockets (pages 74 to 76);
 - ii) Yarraloola air fuel ratio controllers (pages 76 to 77);
 - iii) Yarraloola compressor hazardous area declassification (pages 77 to 78);
 - iv) Ilgarari automatic variable pockets (pages 78 to 79);
 - v) Ilgarari air fuel ratio controllers (pages 80 to 81);
 - vi) Ilgarari compressor hazardous area declassification (pages 81 to 82);
 - vii) Ilgarari crankshaft change out at Unit 1 (pages 82 to 83);
 - viii) Ilgarari crankshaft/engine-compressor coupling modes (pages 83 to 84);
 - ix) Yarraloola ESD/fire and gas system replacement (pages 84 to 85);
 - x) Stay-in-business compressor station capital costs (page 85).
 - b) Receipt and delivery point facilities and stay-in-business receipts and delivery point facilities capital costs (page 85);
 - c) SCADA and communications:
 - i) SCADA replacement (pages 85 to 86);

- ii) Stay-in-business SCADA and communications capital costs (page 86);
- iii) Cathodic protection and stay-in-business cathodic protection capital costs (page 87);
- d) Other assets:
 - i) ROW rectification works (page 87);
 - ii) Gas contract management and invoicing system (page 87);
 - iii) Asset management systems, document management systems and other IT (pages 88 to 89);
 - iv) Finance transformation project (page 89);
 - v) Perth office renovations (page 90);
 - vi) Stay-in-Business other assets capital costs (page 90).

315. In response to the Section 41 Notice GGT advised that it intends to spend \$15.3 million on compressor stations in 2010 on uncovered Capacity expansions.

Public Submissions

316. The Authority did not receive any public submissions with respect to GGT's proposed Forecast Capital Expenditure.

Parsons Brinckerhoff's Advice

317. Parsons Brinckerhoff analysed GGT's proposed Forecast Capital Expenditure programme for 2010 to 2014. In its summary of that analysis, Parsons Brinckerhoff noted that GGT planned no expenditure on pipelines and laterals despite incurring unplanned expenditure in this asset category during the period 2005 to 2009. In relation to the Forecast Capital Expenditure over the period 2010 to 2014 Parsons Brinckerhoff discussed the various proposed projects in detail (PB's Draft Report, pages 14 to 26) and concluded that the expenditure satisfied Section 8.16 of the Code and recommended the Authority approve GGT's forecast.

Frontier Economics' Advice

318. Frontier was not required to analyse the Forecast Capital Expenditure for the period 1 January 2010 to 31 December 2014 as GGT did not submit that any of this expenditure met the criteria under section 8.16(a)(ii)(A) of the Code (Frontier's Draft NFI, page 1).

Authority's Assessment

319. Section 8.4 of the Code makes provision for a Cost of Service methodology to be used to calculate Total Revenue. The Cost of Service methodology allows for forecast costs to be included in the Capital Base of the Covered Pipeline. Section 8.20 of the Code further provides that Forecast Capital Expenditure can be included in the determination of the Reference Tariff if such expenditure is reasonably expected to satisfy the requirements of section 8.16 of the Code when this

expenditure is forecast to occur. This principle is incorporated in sub-section 5.2(b)(3) of GGT's Proposed Revisions. The Authority considers that this proposed sub-section is consistent with the Code.

320. Under section 8.18 of the Code, a Service Provider can undertake Forecast Capital Expenditure which does not comply with the requirements of section 8.16 and the Capital Base can be increased by the amount of that investment which represents the proportion of the Forecast Capital Expenditure which does satisfy section 8.16 of the Code. This principle is incorporated into section 5.2(f) of the current Access Arrangement and the Authority notes that this section is included in GGT's Proposed Revisions as section 5.2(b)(4).
321. Section 8.19 of the Code allows for an amount of the balance of the Forecast Capital Expenditure to be assigned to a Speculative Investment Fund and that amount can be added to the Capital base in future should the requirements of section 8.16 be met at some time in the future. The Authority notes that the proposed sub-section 5.2(b)(5) of GGT's Proposed Revisions incorporates the principles set out in section 8.19 of the Code and is therefore a reasonable sub-section to include.
322. In evaluating GGT's proposed Forecast Capital Expenditure, the Authority must consider section 8.20 of the Code. Under section 8.20, the Authority must evaluate whether the Forecast Capital Expenditure is reasonably expected to pass the requirements of section 8.16 at the time when that capital expenditure is forecast to occur.
323. The Authority has considered PB's Draft Report and is satisfied that GGT's Forecast Capital Expenditure is reasonably expected to pass the requirements of section 8.16 of the Code and should therefore be included in the Capital Base for the purpose of the calculation of Reference Tariffs (section 8.4 of the Code).
324. The Authority notes that Forecast Capital Expenditure in relation to the forecast expenditure on assets used to provide Expansions of Capacity have not been included in GGT's Proposed Revisions and that, therefore, the Authority does not have sufficient information from GGT to be able to consider whether such expenditure would reasonably be expected to pass the requirements of section 8.16 of the Code. Given the Authority's conclusion in relation to Expansions of Capacity, the Authority considers that it is necessary for it to consider whether such expenditure would reasonably be expected to pass the requirements of section 8.16 of the Code.

Draft Decision

325. The Authority is satisfied that GGT's Forecast Capital Expenditure is reasonably expected to pass the requirements of section 8.16 of the Code at the time when that capital expenditure is forecast to occur.
326. The Authority's Draft Decision is that GGT's proposal in relation to Forecast Capital Expenditure needs to be adjusted to include forecast expenditure on the assets used to provide the Expansions of Capacity and to adopt a quarterly modelling approach, in order to give effect to the Authority's Draft Decision on these matters.

327. GGT's proposed Forecast Capital Expenditure is set out in Table 4 of the Access Arrangement Information (which is repeated in Table 7 of this Draft Decision) as follows:

Table 7: GGT's Proposed Forecast Capital Expenditure (\$m, nominal)

	2010	2011	2012	2013	2014
Pipeline and laterals	0.0	0.0	0.0	0.0	0.0
Mainline valve and scraper stations	0.0	0.0	0.0	0.0	0.0
Compressor stations	4.0	1.8	0.8	0.9	0.9
Receipt and delivery point facilities	0.1	0.1	0.1	0.1	0.1
SCADA and communications	0.5	1.9	1.9	0.5	0.5
Cathodic protection	0.1	0.0	0.0	0.0	0.0
Maintenance bases and depots	0.0	0.0	0.0	0.0	0.0
Remote Accommodation	0.0	0.0	0.0	0.0	0.0
Other assets	2.3	1.4	0.8	1.2	0.6
Total	7.0	5.2	3.7	2.7	2.1

328. The Authority requires the values in Table 4 of the Access Arrangement Information (which is repeated in Table 7 of this Draft Decision) to be amended as follows:

Table 8: Authority’s Required Amendments to GGT’s Proposed Forecast Capital Expenditure (\$m, nominal)

	2010	2011	2012	2013	2014
Pipeline and laterals	0.0	0.0	0.0	0.0	0.0
Mainline valve and scraper stations	0.0	0.0	0.0	0.0	0.0
Compressor stations	19.3	1.8	0.8	0.9	0.9
Receipt and delivery point facilities	0.1	0.1	0.1	0.1	0.1
SCADA and communications	0.5	1.9	1.9	0.5	0.5
Cathodic protection	0.1	0.0	0.0	0.0	0.0
Maintenance bases and depots	0.0	0.0	0.0	0.0	0.0
Other assets	2.3	1.4	0.8	1.2	0.6
Total	22.3	5.2	3.7	2.7	2.1

Required Amendment 5

In relation to the Forecast Capital expenditure Tables 4 of the Access Arrangement Information should be amended to reflect the values in Tables 8 of this Draft Decision.

Working Capital

Requirements of the Code

329. “Working capital” refers to a stock of funds that must be maintained by a Service Provider to pay costs as they fall due. In circumstances where the costs of providing Services are incurred before the revenues from the provision of Services are received, a stock of working capital may need to be derived from a capital investment in the business. The cost of this stock of working capital; that is, the required return on the capital investment, is a cost to the Service Provider in operating its business and providing Services.
330. The Code does not explicitly address the recovery of a return on working capital through Reference Tariffs. However, the following provisions of the Code provide implicit support for the inclusion of a return on working capital in the Total Revenue:

- (a) Section 8.2(a) provides the definition of Total Revenue as “the revenue to be generated from the sales (or forecast sales) of all Services over the Access Arrangement Period.”
- (b) Section 8.4 provides that Total Revenue should be calculated according to one of several methodologies that include Cost of Service.
- (c) Section 8.4 specifies that under the Cost of Service methodology, Total Revenue is to be equal to the cost of providing all Services where that cost includes as section 8.4(a) “a return (**Rate of Return**) on the value of the capital assets that form the Covered Pipeline or are otherwise used to provide Services (**Capital Base**)”.
- (d) Section 8.4 provides that the methodology to calculate the Cost of Service should be “in accordance with generally accepted industry practice.”

331. On this basis, if a return on working capital is to be included in the calculation of Total Revenue for the determination of the Reference Tariffs under a Cost of Service approach, the quantum of working capital may be calculated using a generally accepted industry practice (if such exists) and be added to the Capital Base.

332. Handled in this manner, working capital would be a non-depreciable component of the Capital Base, the return on which would be calculated based on the WACC.

GGT’s Proposed Revisions

Access Arrangement

333. As with the current Access Arrangement, GGT’s Proposed Revisions makes no specific reference to working capital. However, working capital is included in the Access Arrangement Information tables relating to the Capital Base.

Access Arrangement Information

334. The Authority notes that GGT’s proposal (contained in the tables referred to below) in relation to Working Capital is based upon an annual modelling approach, as opposed to a quarterly modelling approach.

335. The Access Arrangement Information sets out the value for working capital as at 31 December 2009 as \$2.9 million (Table 3, page 4).

336. The Access Arrangement Information includes a change in working capital as part of its Capital Base roll forward (Table 7, page 7).

Additional GGT Submissions

337. GGT made no additional submissions in respect working capital.

Public Submissions

338. No public submissions were received in respect of working capital.

Authority's Assessment

339. Given the Authority's Draft Decision in relation to modelling (paragraphs 200 to 223 above) the Authority does not accept GGT's proposal to adopt an annual modelling approach instead of the quarterly modelling approach previously adopted in relation to the GGP. The Authority therefore considers that GGT's proposal in relation to Working Capital needs to be adjusted so as to adopt a quarterly modelling approach.
340. The Authority recognises that Total Revenue must be determined in accordance with section 8.4 of the Code and that the determination of Total Revenue is sufficient to ensure that the Service Provider has appropriate incentives to continue to invest in the provision of Covered Services. This requires that investors be provided with an expectation that with efficient management that investment will earn a rate of return commensurate with prevailing conditions. The Authority considers that this necessarily includes a return on any amount of capital investment needed to provide working capital.
341. The Authority previously reviewed decisions by the ACCC, Essential Services Commission (Victoria) and the ICRC (ACT)¹ which declined to allow a return on working capital as a component of Total Revenue and decisions by IPART (NSW)² and the previous Relevant Regulator in WA which allowed a return on working capital.
342. The Authority notes that GGT's working capital calculation refers to timing of expenses versus regulatory timing. This approach was approved by the Authority for the purpose of the current Access Arrangement. This approach does not take into account the timing of receivables. The access arrangements on the Mid-West and South-West Gas Distribution Systems and the recent Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network do take into account the timing of receivables as well as creditors.
343. The Authority acknowledges that in its recent Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network (electricity), the Authority commented that the treatment of a stock of working capital as a capital asset of that network business is appropriate and a return on this asset, calculated on the basis of the WACC, is a reasonable estimate of the cost of working capital to the business.
344. In its previous Final Decision for the current Access Arrangement, the Authority recognised that the billing cycle and cash management policies of a Service Provider will impact on the need for working capital. It noted that:
- a) a Service Provider may require working capital to fund periodic shortfalls in incoming revenue streams over outgoing costs;
 - b) working capital may also be required to fund working stock, i.e. linepack, parts and inventories etc; and

¹ ACCC, September 2002, EAPL's application to the NCC for partial revocation of coverage of the Moomba to Sydney Pipeline System, p 10; September 2001, 2003 Review of Gas Access Arrangements – Position Paper, p 47; ICRC October 2004, Final Decision, Review of Access Arrangement for the Actew AGL Natural Gas System in ACT, Queanbeyan and Yarrawlumla, p 74.

² IPART, Draft Decision, Revised Access Arrangement for AGL Gas Network, December 2004, pp 96-97.

- c) the cost to the Service Provider of funds employed as working capital is no different from the cost of funds it uses to invest in the capital assets that form a tangible part of the Covered Pipeline.

345. The Authority accepts that, in principle, an allowance should be included in the Capital Base upon which a return may be earned through the Reference Tariffs and that this allowance is a non-depreciable asset.

346. The Authority considers the value of working capital as the value of 45 days of average daily New Facilities Investment and Non-Capital Costs in each quarterly period. This is consistent with the methodology applied by GGT.

Draft Decision

347. The Authority's Draft Decision is that GGT's proposal in relation to Working Capital needs to be adjusted to adopt a quarterly modelling approach, in order to give effect to the Authority's Draft Decision on those matters.

348. GGT's proposal in relation to Working Capital is included in Table 7 of the Access Arrangement Information (which is repeated in Table 9 of this Draft Decision) as follows:

Table 9: GGT's Proposed Working Capital 2010 to 2014 (\$m, nominal)

	2010	2011	2012	2013	2014
Change in working capital	1.2	-0.2	-0.1	0.3	0.2
Closing working capital	4.2	4.0	3.9	4.3	4.4

349. The Authority requires the values in Table 7 of the Access Arrangement Information (which is repeated in Table 9 of this Draft Decision) to be adjusted as follows:

Table 10: Authority's Required Amendments to GGT's Proposed Working Capital 2010 to 2014 (\$m, nominal)

	2010	2011	2012	2013	2014
Change in working capital	-2.02	-2.05	-0.6	0.34	0.17
Average annual working capital	7.25	5.24	4.67	4.92	5.13

Required Amendment 6

In relation to Working Capital, Table 7 of the Access Arrangement Information should be amended to reflect the values in Table 10 of this Draft Decision.

Depreciation

Requirements of the Code

350. The provisions in the Code relevant to depreciation are sections 10.8 and sections 8.32 to 8.35:

10.8 The following definitions apply unless the context otherwise requires:

.....

'Depreciation' means, in any year and on any asset or group of assets, the amount calculated according to the Depreciation Schedule for that year and for that asset or class of assets.

'Depreciation Schedule' has the meaning given in section 8.32.

8.32 The Depreciation Schedule is a set of depreciation schedules (one of which may correspond to each asset or group of assets that form part of the Covered Pipeline) that is the basis upon which the assets form part of the Capital Base are to be depreciated for the purposes of determining a Reference Tariff (the **Depreciation Schedule**).

8.33 The Depreciation Schedule should be designed:

- (a) so as to result in the Reference Tariff changing over time in a manner that is consistent with the efficient growth of the market for the Services (and which may involve a substantial portion of the depreciation taking place in future periods, particularly where the calculation of the Reference Tariffs has assumed significant market growth and the Pipeline has been sized accordingly);
- (b) so that each asset or group of assets that form part of the Capital Base is depreciated over the economic life of that asset or group of assets;
- (c) so that, to the maximum extent that is reasonable, the depreciation schedule for each asset or group of assets that form part of the Capital Base is adjusted over the life of that asset or group of assets to reflect changes in the expected economic life of that asset or group of assets; and
- (d) subject to section 8.27, so that an asset is depreciated only once (that is, so that the sum of the Depreciation that is attributable to any asset or group of assets over the life of those assets is equivalent to the value of that asset or group of assets at the time at which the value of that asset or group of assets was first included in the Capital Base, subject to such adjustment for inflation (if any) as is appropriate given the approach to inflation adopted pursuant to section 8.5A).

8.34 If the IRR or NPV methodology is used, then the notional depreciation over the Access Arrangement Period for each asset or group that form part of the Capital Base is:

- (a) for an asset that was in existence at the commencement of the Access Arrangement Period, the difference between the value of that asset in the Capital Base at the commencement of the Access Arrangement and the value of that asset that is reflected in the residual value; and
- (b) for a New Facility installed during the Access Arrangement Period, the difference between the actual cost or forecast cost of the Facility (whichever is relevant) and the value of that asset that is reflected in the Residual Value,

and, to comply with section 8.33:

- (c) the Residual Value of the Covered Pipeline should reflect the notional depreciation that meets the principles of section 8.33; and
- (d) the Reference Tariff should change over the Access Arrangement Period in a manner that is consistent with the efficient growth of the market for the Services (and which may involve a substantial portion of the depreciation taking place towards the end the Access Arrangement Period, particularly where the calculation of the Reference Tariffs has assumed significant market growth and the Pipeline has been sized accordingly).

8.35 In implementing the principles in section 8.33 or 8.34, regard must be had to the reasonable cash flow needs for Non Capital Costs, financing cost requirements and similar needs of the Service Provider.

351. There are two aspects of Depreciation relevant to the opening value of the Capital Base as at the commencement of the forthcoming Access Arrangement Period. Firstly, Depreciation of the assets comprising the Initial Capital Base. This is discussed at paragraphs 282 to 303 above. Secondly, Depreciation of New Facilities Investment during the current Access Arrangement Period has been separately calculated. This is discussed at paragraphs 227 to 276 above.

GGT's Proposed Revisions

Access Arrangement

352. GGT has proposed to roll forward its Capital Base using a nominal approach which allows for the recognition of Depreciation allowed for in the current Access Arrangement (section 5.2(b)(2) of GGT's Proposed Revisions, page 6).

353. The method of Depreciation GGT proposes to use is calculated on a straight line basis over the remaining economic life of the pipeline assets (section 5.2(b)(2) of GGT's Proposed Revisions, page 5).

Access Arrangement Information

354. GGT provided a table setting out the life of assets that comprise the Capital Base for the Covered Pipeline which have been depreciated under the current Access Arrangement showing both the life of the assets from new and the remaining life of initial assets (Table 5 of the Access Arrangement Information, page 6).

355. GGT also provided a table setting out the forecast roll forward of the Capital Base showing the nominal dollar value of the depreciation of each class of assets for each year from 2010 to 2014 (Table 6 of the Access Arrangement Information, page 7).
356. The Authority notes that GGT's proposal in relation to Depreciation does not include assets used to provide the Expanded Capacity, namely the second compressor at Paraburdoo, and the compressor stations at Wyloo West and Ned's Creek.
357. The Authority also notes that GGT's proposal in relation to Depreciation is based upon an annual modelling approach, as opposed to a quarterly modelling approach.

Additional GGT Submissions

358. GGT set out the total amount allowed for Depreciation in the roll forward of the Capital Base. No allowance in the Depreciation figure has been made for the difference between the forecast and actual capital expenditure on the grounds that the approved amount of Depreciation was reflected in the approved Reference Tariffs. (Table 3.2, section 3.4 of GGT's Supporting Information Submission, page 8).
359. GGT also noted that, while it has maintained the existing life of the GGP, it may assert its right to seek an amendment to the Access Arrangement if the economic life of the GGP is adversely affected by the impact of the global economy on Users. It then sets out the nominal forecast depreciation in dollar terms for each class of assets for the period from 2010 to 2014 (section 3.7.1, Table 3.4 of GGT's Supporting Information Submission, pages 9 to 10).
360. GGT set out its forecast Capital Base roll forward showing how the figures set out in table 3.5 affect the Capital Base roll forward in each year from 2010 to 2014 (Table 3.6, section 3.8 of GGT's Supporting Information Submission, page 10).
361. On 7 April 2009, GGT provided confidential modelling information to the Authority. This information included an amount for the Depreciation of capital expenditure forecast to occur under the Current Access Arrangement period (2000 to 2009) but which was not incurred.
362. The Authority requested that GGT account for a reduction in the lifespan for SCADA equipment from 15 years to 10 years. On 25 May 2009, GGT provided the Authority with confidential information explaining the reduced life span.
363. The Authority's approach to confidential information is discussed at paragraphs 578 to 583 below.

Public Submissions

364. No public submissions were received by the Authority in respect of GGT's proposed Depreciation.

Authority's Assessment

365. Given the Authority's Draft Decision in relation to Expansions of Capacity (paragraphs 134 to 199 above), the Authority does not accept GGT's proposal not to apply Depreciation to the assets used to provide the Expansions of Capacity. Similarly, the Authority does not accept GGT's proposal to adopt an annual

modelling approach instead of the quarterly modelling approach previously adopted in relation to the GGP (paragraphs 200 to 223 above). The Authority therefore considers that GGT's proposal in relation to Depreciation needs to be adjusted to include values for the assets used to provide the Expansions of Capacity, and to adopt a quarterly modelling approach.

366. Under section 8.5A(a) of the Code, a Service Provider is allowed to use a nominal basis methodology in calculating aspects of Total Revenue. Under this approach, Depreciation is expressed in historical cost terms. In section 5.2(b)(2) of GGT's Proposed Revisions, GGT proposes to use a nominal approach which recognises the Depreciation allowed in the current Access Arrangement .
367. In its Final Decision in relation to the current Access Arrangement, the Authority considered certain depreciation methodologies. It took the view that Depreciation calculated by an historic cost, straight-line methodology was in keeping with the principles set out in section 8.33 of the Code. The Authority notes that GGT proposes to continue with this Depreciation methodology.
368. When making its submission of 17 December 2002, GGT proposed Depreciation over an assumed economic life of assets of 42 years. While the Authority disputed the grounds for GGT nominating this life-span for its assets, it did consider that the assumed economic life of 42 years was not necessarily unreasonable. The Authority notes that GGT subsequently revised its proposal to calculate Depreciation for some of its classes of assets, namely pipeline and laterals and mainline valve and scraper stations over a longer period of time, with a maximum remaining life of 54.5 years at the end of the current Access Arrangement. The Authority took this into account in its Final Decision in relation to the current Access Arrangement.
369. Under GGT's Proposed Revisions, GGT has noted that there is a need for an adjustment to Depreciation due to GGT having spent less in some categories of Capital Expenditure than forecast under its current Access Arrangement. The Reference Tariffs under the current Access Arrangement included this Depreciation, which means that Reference Tariffs were higher than they otherwise would have been.
370. GGT has proposed a method to deal with its overstated Depreciation. For every over depreciated asset in the current Access Arrangement, there is a carried forward constant negative value for the duration of the forthcoming Access Arrangement. This effectively reduces the Depreciation charge which in turn increases the closing and opening cost base values for the forthcoming Access Arrangement. As a result, the return on the asset base is higher than is appropriate.
371. The Authority considers that there are three ways to manage the adjustment for the overstated Depreciation. These are:
 - a) To reduce the Cost of Service for the forthcoming Access Arrangement, which would reduce the Total Revenue;
 - b) To reduce the value of the Capital Base of each affected asset class; or
 - c) To reduce the value of the respective Capital Expenditure amount roll forward for each asset class for the years 2000 to 2009.

372. The Authority considers that the first method of adjustment is the most appropriate to adopt. This method ensures that there is no delay in return to Users by reducing the asset base over the remaining life of the asset class. It also avoids issues arising if the Capital Base or Capital Expenditure roll forward becomes a negative value.
373. The Authority notes that the overstated Depreciation referred to above is \$311,000.
374. The Authority has considered the confidential information provided by GGT with respect to the reduced lifespan for SCADA equipment. The Authority is satisfied that this information justifies the proposed change in the asset life of SCADA equipment. The Authority has not received any public submissions which express concern about the proposal and therefore sees no basis upon which the proposal should be rejected.
375. The Authority notes that Table 5 of the Access Arrangement Information includes a new line item of Remote Accommodation with an asset life of 15 years. This appears reasonable. However, the tariff models provided by GGT do not include this expenditure category and it appears to have been included in Cathodic Protection as this has the same asset life.
376. Table 5 of the Access Arrangement Information is repeated in Table 11 of this Draft Decision below.

Table 11: GGT's Proposed Asset Lives and Remaining Lives

Asset class	Life of new assets (years)	Remaining life of initial assets (years)
Pipeline and laterals	70	54.5
Mainline valve and scraper stations	50	34.5
Compressor stations	30	14.5
Receipt and delivery point facilities	30	14.5
SCADA and communications	10	0
Cathodic protection	15	0
Maintenance bases and depots	50	34.5
Remote accommodation	15	N/A
Other assets	10	0

Draft Decision

377. The Authority requires that the Cost of Service for the forthcoming Access Arrangement be reduced to account for the overstated Depreciation during the current Access Arrangement Period.

378. The Authority approves GGT's proposal to reduce the lifespan for SCADA equipment from 15 years to 10 years.
379. The Authority accepts as reasonable combining the categories of Remote Accommodation and Cathodic Protection but requests GGT to clarify this in any future modelling. The Authority has combined these categories in its modelling and the tables presented in this Draft Decision.
380. The Authority requires that GGT's proposal in relation to Depreciation needs to be adjusted to include values for the assets used to provide the Expanded Capacity, and to adopt a quarterly modelling approach.
381. GGT's proposal in relation to forecast Depreciation is in Table 6 of the Access Arrangement Information (which is repeated in Table 12 of this Draft Decision) as follows:

Table 12: GGT's Proposed Forecast Depreciation (\$m, nominal)

	2010	2011	2012	2013	2014
Pipeline and laterals	6.8	6.8	6.8	6.8	6.8
Mainline valve and scraper stations	0.2	0.2	0.2	0.2	0.2
Compressor stations	2.6	2.8	2.8	2.9	2.9
Receipt and delivery point facilities	0.1	0.1	0.1	0.1	0.1
SCADA and communications	0.1	0.2	0.4	0.6	0.6
Cathodic protection	0.0	0.0	0.0	0.0	0.0
Maintenance bases and depots	0.2	0.2	0.2	0.2	0.2
Remote accommodation	0.3	0.3	0.3	0.3	0.3
Other assets	0.5	0.7	0.8	0.8	0.9
Total	10.8	11.2	11.6	11.9	12.0

382. The Authority requires the values in Table 6 of the Access Arrangement Information (which is repeated in Table 12 of this Draft Decision) to be amended as follows:

Table 13: Authority's Required Amendments to GGT's Forecast Depreciation (\$m, nominal)

	2010	2011	2012	2013	2014
Pipeline and laterals	6.81	6.81	6.81	6.81	6.81
Mainline valve and scraper stations	0.21	0.21	0.21	0.21	0.21
Compressor stations	6.20	6.44	6.49	6.52	6.54
Receipt and delivery point facilities	0.08	0.08	0.08	0.08	0.09
SCADA and communications	0.25	0.35	0.54	0.68	0.71
Cathodic protection	0.29	0.29	0.29	0.30	0.30
Maintenance bases and depots	0.18	0.18	0.18	0.18	0.18
Other assets	0.57	0.72	0.81	0.87	0.87
Total	14.40	15.08	15.41	15.63	15.71

Required Amendment 7

In relation to Depreciation Table 6 of the Access Arrangement Information should be amended to reflect the values in Table 13 of this Draft Decision.

Return on Capital

Requirements of the Code

383. Under the Cost of Service method, the Total Revenue recoverable through Reference Tariffs includes an allowance for a return on the Capital Base.
384. Sections 8.30 and 8.31 of the Code state the principles for establishing the Rate of Return used in determining a Reference Tariff:

8.30 The Rate of Return used in determining a Reference Tariff should provide a return which is commensurate with prevailing conditions in the market for funds and the risk involved in delivering the Reference Service (as reflected in the Terms and Conditions on which the Reference Service is offered and any other risk associated with delivering the Reference Service).

8.31 By way of example, the Rate of Return may be set on the basis of a weighted average of the return applicable to each source of funds (equity,

debt and any other relevant source of funds). Such returns may be determined on the basis of a well accepted financial model, such as the Capital Asset Pricing Model. In general, the weighted average of the return on funds should be calculated by reference to a financing structure that reflects standard industry structures for a going concern and best practice. However, other approaches may be adopted where the Relevant Regulator is satisfied that to do so would be consistent with the objectives contained in section 8.1.

GGT's Proposed Revisions

Access Arrangement

385. GGT proposes that the Rate of Return be a pre-tax nominal weighted average of the returns applicable to debt and equity (section 5.2(b)(7) of GGT's Proposed Revisions, page 6), in which:

- (i) The return on equity has been determined using the Capital Asset Pricing Model.
- (ii) The return on debt has been determined as the sum of a risk free rate of return, an estimate of the corporate debt margin, and an estimate of the costs of raising debt.

Access Arrangement Information

386. The CAPM parameter values that GGT has applied in determining the Rate of Return are in section 7 and Table 8 of the Access Arrangement Information (page 8). Table 8 of the Access Arrangement Information is repeated in Table 14 of this Draft Decision below.

Table 14: GGT's Proposed Parameter Values for Determination of Rate of Return

Parameter	GGT (min)	GGT (max)
Risk free rate (nominal)	4.27%	4.27%
Risk free rate (real)	1.83%	1.83%
Expected Inflation	2.40%	2.40%
Market risk premium	7.00%	7.00%
Equity beta	1.00	1.80
Cost of debt margin	3.60%	3.60%
Cost of raising debt	0.125%	0.30%
Corporate tax rate	30.00%	30.00%
Franking credit value	20%	20%
Debt to total assets ratio	60.00%	60.00%
Equity to total assets ratio	40.00%	40.00%

387. The range of Rate of Return values that GGT derived from these parameters is 10.7% to 13.80% (section 7 and Table 9 of the Access Arrangement Information, page 8).
388. GGT also submitted that it will use a pre-tax nominal WACC in the range of 10.73% to 13.78% (GGT Supporting Information Submission, page 24).
389. GGT has adopted the approach taken by the Authority in relation to the current Access Arrangement (GGT's Supporting Information Submission, 4.2 on page 11), by discounting values within the lower 10% or upper 10% of the range (paragraphs 406 to 410 below). This gives a revised range of 11% to 13.5% for the Rate of Return. GGT has adopted the top of the range, 13.5% pre-tax nominal Rate of Return.
390. GGT submits that the above Rate of Return (13.5%) is appropriate given the imprecise nature of WACC estimation. GGT submitted that the risk of under-investment if the price is too low is worse from an economic perspective than if prices are set too high. GGT also submitted that price cap regulation exposes GGP to greater volume risk in the long-term compared to some companies (GGT's Supporting Information Submission, pages 24 and 25).

391. The current regulated pre-tax nominal Rate of Return for the GGP is 10.6%, which represented the upper bound of the range of 8.4% to 10.6% which the Authority approved in relation to the current Access Arrangement.

Additional GGT Submissions

392. GGT made a number of submissions regarding the proposed Rate of Return (GGT's Supporting Information Submission, pages 11 to 25).

393. GGT referred to the recent AER electricity WACC review, being a review of the parameters which will be used in the determination of the Rate of Return in electricity regulatory decisions over the next five years (GGT's Supporting Information Submission, 4.3 on pages 12 and 13). GGT submitted that:

- a) in the case of WACC parameters which relate to individual assets, GGT's proposed parameters should be considered on their own merits rather than by comparison to east coast electricity networks; and
- b) in the case of WACC parameters which relate to market wide factors and variables, it is reasonable to consider the AER electricity review submissions, while not being bound to the outcomes of the AER's electricity WACC review.

394. GGT also submitted that the Authority should give consideration to the impact of the financial crisis when assessing the proposed Rate of Return. GGT is of the view that the financial crisis is the most important prevailing condition in the market for funds as it impacts on the ability of infrastructure providers to raise capital and it impacts on the prices of Users products (GGT's Supporting Information Submission, 4.4 on pages 13 to 15).

395. Other than these general submissions GGT has made various submissions specific to each of its proposed CAPM parameters. The Authority has assessed each of these parameters separately below. The Authority therefore details GGT's submissions in respect of each parameter as part of the discussion of each parameter below.

396. In GGT's Response to Issues Paper (section 2.3, pages 4 to 8), GGT referred to the fact that the AER electricity WACC review has now been released (following the submission of GGT's Revision Proposal). GGT reiterated its view that the AER electricity WACC review does not directly impact on GGT's proposed WACC for the GGP. GGT also reiterated the effect of the global financial crisis. GGT then went on to discuss various of its proposed WACC parameters (which are discussed further below).

397. GGT responded to BHPB's comments regarding the impact of the global financial crisis (paragraph 399 below) in GGT's Responsive Submission dated 17 July 2009 (pages 2 to 4). GGT submitted that the mining industry is not as untroubled as the BHPB Submission dated 30 June 2009 states.

Public Submissions

398. The GGP Users expressed concern that GGT proposes to increase the Rate of Return by nearly 25% in 2010 (section 2.4.1 of GGP Users (PCS) Submission

dated 29 May 2009, page 12). The GGP Users submitted that the Authority should scrutinise GGT's assessed finance market shifts since 2006.

399. BHPB has also made various submissions in relation to GGT's proposed Rate of Return (sections 8 and 9 of BHPB Submission dated 30 June 2009, pages 23 to 43). BHPB submitted that the 27% increase in the Rate of Return proposed by GGT is "inflated and unjustifiable" because (BHPB Submission dated 30 June 2009, page 29):

- a) of the distorted effects of GGT's assumptions in relation to the impact of the global financial crisis, insolvency risk and the availability of alternative fuels; and
- b) the WACC parameters adopted by GGT are "erroneous".

400. BHPB then made submissions on various components of the WACC parameters. These submissions are dealt with in the discussion of each of those parameters below.

Frontier Economics' Advice

401. The Authority has engaged Frontier to assess GGT's proposal in relation to the Rate of Return. Frontier has prepared a draft report dated 8 July 2009 (**Frontier's Draft WACC Report**). Frontier's Draft WACC Report is available on the Authority's web site: www.era.wa.gov.au.

402. Frontier's assessment in relation to each of the WACC parameters proposed by GGT is set out below as part of the discussion of each of those parameters.

Authority's Assessment

Calculation of Rate of Return

403. The Authority notes that GGT's proposed method of ascertaining a Rate of Return is a method recognised as being consistent with section 8.31 of the Code. The Authority is therefore satisfied that the proposed method of calculating the Rate of Return meets the requirements of the Code.

404. The Authority considers below GGT's proposal in relation to each of the CAPM parameters which form part of the calculation of the Rate of Return.

GGP Users Submission

405. In relation to the GGP Users submission (paragraph 398 above and GGP Users (PCS) Submission dated 29 May 2009, page 12), the Authority notes that it has taken that submission into account in its consideration of the CAPM parameters discussed below.

Range of Values

406. The Authority's task is to consider whether the Rate of Return used for the derivation of Reference Tariffs in GGT's Proposed Revisions falls within the range of rates commensurate with the prevailing market conditions and the relevant risk. This Rate of Return will comply with the Code if the value used by GGT is within the

range of values that different minds acting reasonably might attribute to the Rate of Return, applying the methodology of the CAPM that was chosen by GGT.

407. In doing so, the Authority is required to consider each of the parameters of the CAPM and ranges of values that may reasonably be applied to these parameters. This analysis has been set out in paragraphs 413 to 536 below.
408. The Authority considers that some of those parameters should be determined by reference to what is a reasonable range of values (such as, Equity Beta, Market Risk Premium and Gamma), whilst others should not be so determined (such as Debt Raising Costs, Debt Margin, Risk Free Rate, Debt Ratio and Corporate Tax Rate). Ranges are ordinarily used for parameters where they are not readily observable and evidence in relation to them is uncertain.
409. It is not the role of the Authority to ascribe a single value within the reasonable range of values for each parameter for which a reasonable range is determined. Rather, the Authority is required to determine a reasonable range of values for the Rate of Return as a whole.
410. The Authority's assessment of the reasonable range of values for the Rate of Return is discussed at paragraphs 543 to 546 below.

Global Financial Crisis

411. The impact of the financial crisis is a matter about which GGT and BHPB have expressed their views. (GGT's Supporting Information Submission, pages 13 to 15, and submissions in respect of individual CAPM parameters, BHPB Submission dated 30 June 2009, pages 24 to 27, GGT's Confidential Submission of 17 July). GGT and BHPB do not agree about the magnitude of the effect of the financial crisis on the market and, therefore, on various of the CAPM parameters.
412. Where the financial crisis may have an effect in respect of any particular CAPM parameter, the Authority has considered that effect in relation to that particular parameter (discussed below).

Nominal Risk Free Rate of Return

GGT's Proposed Revisions

Access Arrangement Information

413. GGT proposes a nominal risk free Rate of Return of 4.27% (Access Arrangement Information, page 8). The nominal risk free Rate of Return under the current Access Arrangement is 5.45%.

Additional GGT Submissions

414. GGT's proposed nominal risk free Rate of Return is said to be the 20 working day average of Australian Government ten-year bonds from 2 February 2009 to 27 February 2009. GGT submitted that this is appropriate and in alignment with the Authority's position in relation to the current Access Arrangement (GGT Supporting Information Submission, 4.5.1 on page 15). GGT also submitted that the risk free rate methodology proposed by GGT is essentially the methodology to be used by the AER following the AER electricity WACC review (GGT's Responsive Submission dated 17 July 2009, pages 4 and 5).

415. GGT acknowledged that this parameter will be amended in this Draft Decision and Final Decision to reflect then current market conditions (GGT Supporting Information Submission, 4.5.1 on page 15).
416. GGT has noted that the AER electricity WACC review raised the issue of whether the term of the risk free rate should be five or ten years and submitted that ten years is consistent with market risk premium derivation and that some of the argument relied on to support five years is flawed (GGT Supporting Information Submission, 4.5.1 on page 15).

Public Submissions

417. The Authority did not receive any public submissions in relation to the nominal risk free rate of return.

Frontier Economics' advice

418. Frontier noted that the Authority, the AER and GGT agree that an appropriate estimate of the risk free rate is the yield to maturity on ten-year nominal Commonwealth government bonds, estimated as an average over 20 trading days shortly before the start of the regulatory control period (Frontier's Draft WACC Report, page 7 and 8).
419. Frontier concluded that this is an appropriate method for determining the nominal risk free rate (Frontier's Draft WACC Report, page 8).

Authority's Assessment

420. The Authority agrees that GGT's proposed approach to determining the nominal risk free rate of return is appropriate. It is a method which has been adopted by most Australian economic regulators. Unless there is a demonstrated reason for change, maintaining the conventional practice in determining the risk free rate provides some certainty for regulated businesses in the manner in which the Rate of Return is to be determined, and is thereby consistent with maintaining incentives for investment and with the Code objective.
421. As noted by GGT, the data adopted for the calculation of the nominal risk free rate by GGT, which was current as at 23 March 2009, needs to be updated.
422. For the purpose of this Draft Decision the Authority adopts the updated values, as at 31 July 2009. Adopting these updated values and calculation approach proposed by GGT the nominal risk free rate would be 5.52%.
423. The Authority notes that these values will need to be updated at the time of the Final Decision, so as to be commensurate with prevailing market conditions at the time.

Draft Decision

424. The Authority approves GGT's proposal in relation to the calculation of the nominal risk free Rate of Return.
425. The Authority considers the estimated nominal risk free Rate of Return should be 5.52%, as at 31 July 2009.

Forecast Inflation

GGT's Proposed Revisions

Access Arrangement Information

426. GGT proposes an expected inflation rate of 2.40% (Access Arrangement Information, page 8). The inflation rate adopted for the purpose of the current Access Arrangement is 2.69%.

Additional GGT Submissions

427. GGT noted that historically Australian regulators have based estimates of inflation on the inflation implied by the difference between ten year nominal and indexed bond yields. However, GGT submitted that due to issues in the indexed bond market regulators are now using inflation forecasts based on the RBA's forecasts for the next two years and the mid-point of the target range for inflation, being 2.5%, after that, for a further period of 8 years. GGT adopted this approach and uses the RBA's 6 February 2009 Statement of Monetary Policy as the basis for its forecast (GGT's Supporting Information Submission, 4.5.1, page 16).
428. GGT has obtained a report from Synergies which supports GGT's proposed approach to expected inflation (Attachment 1 to GGT's Supporting Information Submission).
429. On 22 May 2009 GGT also provided the Authority with further information regarding GGT's proposed inflation rate. That information was provided on a confidential basis. How the Authority proposes to deal with confidential information is discussed at paragraphs 578 to 583 below.

Public Submissions

430. The Authority has not received any public submissions specific to GGT's proposed inflation rate.

Frontier Economics' Advice

431. Frontier does not comment on GGT's proposed inflation rate.

Authority's Assessment

432. The Authority agrees with the general approach to determining expected inflation adopted by GGT.
433. In the AER's most recent decisions in relation to Transgrid and the New South Wales electricity distribution businesses, and in the Authority's recent Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network the same general approach was adopted. In both of those decisions a forecast inflation rate of 2.38% was approved.
434. The Authority proposes to adopt the same approach. In doing so, the Authority has calculated the forecast inflation rate as an average rate to be 2.40%, as follows:

$$=\text{ROUND}((1.025*1.015*(1.025^8))^{(1/10)}-1,4)$$

435. There appear to be two reasons why a different inflation rate is derived using the same general approach. Firstly, the Authority is using the RBA's forecasts as at 31 July 2009 where GGT and Synergies adopt the forecasts as at February 2009 (Attachment 1 to GGT's Supporting Information Submission, page 2) because of the date on which GGT's Supporting Information Submission was lodged with the Authority.
436. Secondly, the Authority (as the AER and the Authority have done in the past) has adopted an averaged indexed rate (which takes into account the compounding effect over 10 years) rather than the arithmetic average proposed by GGT (Attachment 1 to GGT's Supporting Information Submission, page 2).
437. Having considered the confidential information provided by GGT in relation to this issue, the Authority is satisfied that adopting the above approach is appropriate.

Draft Decision

438. The Authority does not approve GGT's proposed method to forecast rate of inflation. However the Authority's calculation of inflation for the Draft Decision is 2.40% and therefore no amendment is required. GGT's Proposed Revisions should be amended to allow for a forecast inflation rate to be calculated as above which may result in a changed rate at the time of the Final Decision.
439. Based on an estimated nominal risk free rate of return of 5.52% and an assumed inflation rate of 2.40%, the Authority estimates a real risk free rate of 3.05%. GGT's Proposed Revisions should be amended accordingly.

Market Risk Premium

GGT's Proposed Revisions

Access Arrangement Information

440. GGT proposes a market risk premium (**MRP**) of 7%. The MRP adopted for the purpose of the current Access Arrangement is 6%.

Additional GGT Submissions

441. GGT has based its proposed MRP on the submissions made by the Joint Industry Associations submissions in the AER electricity WACC review. GGT submitted that it is reasonable to consider those submissions in cases where the WACC parameters relate to market wide factors and variables such as the MRP (GGT's Supporting Information Submission, page 17 to 19).
442. GGT submitted that the current economic environment, particularly the financial crisis and the need for higher equity returns, means that the forward-looking MRP is going to be higher than 6%. GGT noted that Officer and Bishop refer to research which shows the range of values for the short to medium terms of 8% to 18%. GGT therefore submitted that maintaining an assumption of 6% MRP "will drive investment away from regulated pipeline infrastructure. Such an approach is clearly inconsistent with providing a return commensurate with prevailing conditions in the market for funds" (GGT's Supporting Information Submission, page 18).
443. In GGT's response to the Issues Paper GGT pointed to the AER's decision in the AER electricity WACC review to adopt an MRP of 6.5%, increased from the

previously accepted regulatory value of 6%. GGT submitted that this increase is recognition that the MRP in respect of the GGP should also be increased. GGT submitted that the AER may have sought to discount some of the financial crisis related issues which are driving a higher MRP because of the long time frame to which the AER electricity WACC review applies. GGT submitted that longer term issues do not apply to the GGP because the relevant Access Arrangement Period is only five years (GGT's Response to Issues Paper, pages 6 and 7).

Public Submissions

444. BHPB submitted that GGT's proposed MRP is too high because it is inconsistent with the average MRP adopted by the market. BHPB suggested that an MRP of 5.75% would be appropriate (BHPB Submission dated 30 June 2009, pages 35 to 39).

Frontier Economics' Advice

445. Frontier noted that a 6% MRP is consistent with regulatory practice across Australia. Frontier also noted the AER's recent decision to adopt an MRP of 6.5% (Frontier's Draft WACC Report, page 8). Frontier noted that although the AER and the Joint Industry Association agree that historical returns represent the best available evidence on the MRP, they reach a different conclusion as to the historical average share market returns (Frontier's Draft WACC Report, page 9).

446. Frontier concluded that the historical data supports an estimate of the MRP of at least 6%, based on a risk-free estimate of the yield on ten year government bonds, and not including any adjustment for the assumed value of dividend imputation franking credits (Frontier's Draft WACC Report, page 9 and 14).

447. Frontier acknowledged that required returns on equity are relatively high in the current market (Frontier's Draft WACC Report, pages 9 to 14).

448. Frontier noted that the present debt spreads, dividend yields and option volatilities are all at abnormally high levels which points towards an increase in the MRP to a value above 6% (Frontier's Draft WACC Report, pages 14 and 15).

449. Frontier concluded that the long-term historical average of 6% will always be within the reasonable range and that the 7% proposed by GGT is not unreasonable in the current market. Frontier therefore adopted a range of 6% to 7% for the MRP (Frontier Draft WACC Report, page 16).

Authority's Assessment

450. This is a parameter for which it is appropriate to take a ranges approach and determine what a reasonable range of values is.

451. In the Authority's recent Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network the Authority noted (page 200) that:

- a) most regulators apply a value of 6% to the MRP;
- b) however, there is evidence of regulators applying values between 4.5% and 6%.

452. The Authority concluded in that Draft Decision, after taking into account all of the evidence of realised equity premia over recent decades and market practice, that a reasonable range of estimates for the MRP was 5% to 7% (page 200).
453. The Authority adopts the same approach as that taken by the Authority in the Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network, for the same reasons. This is consistent with historical regulatory practice and the advice received by the Authority from Frontier, who note that a 6% will always be within the reasonable range of values (Frontier's Draft WACC Report, page 17). It also takes into account the impacts of the financial crisis, which have been recognised by the AER as a relevant concern, and which are also discussed in more detail in Frontier's Draft WACC Report (pages 8 to 17). This approach is also consistent with the submission made by BHPB that an MRP of 5.75% is appropriate.

Draft Decision

454. The Authority considers that a reasonable range of values for the MRP is 5% to 7%.

Equity Beta

GGT's Proposed Revisions

Access Arrangement Information

455. GGT proposes an equity beta value range of 1.0 to 1.8 (Access Arrangement Information, page 8). The range for the purpose of the current Access Arrangement is 0.80 to 1.33.

Additional GGT Submissions

456. GGT's proposed range for equity beta has been based on a report prepared by Synergies (Attachment 4 to GGT's Supporting Information Submission). GGT provided an outline of the approach taken by Synergies in GGT's Supporting Information Submission (pages 21 to 23).
457. Synergies adopted both a first principles analysis and a comparable companies' analysis. The first principles analysis concluded that GGT's systematic risk is higher than other regulated gas pipeline businesses in Australia given its exposure to mining companies (Attachment 4 to GGT's Supporting Information Submission, pages 16 to 27).
458. The comparable companies' analysis was performed by using an appropriate benchmark equity beta for an "average" gas transmission business and then adjusting this equity beta to reflect the unique risk profile of the GGP based on its exposure to the mining sector. GGT submitted that it must be assumed that there is a relationship between GGP's returns and the mining industry risk (GGT's Supporting Submission, pages 22 to 23 and Attachment 4 to GGT's Supporting Submission, pages 37 to 43). In its comparable companies analysis Synergies identified appropriate companies to compare to GGT (Attachment 4 to GGT's Supporting Information Submission, pages 28 to 36).
459. GGT maintained its position in relation to the equity beta following the AER electricity WACC review (GGT's Response to Issues Paper, page 6).

Public Submissions

460. BHPB submitted that an appropriate equity beta for the GGP is 0.7 (BHPB Submission dated 30 June 2009, pages 30 to 35). BHPB is of the view that GGT has (BHPB Submission dated 30 June 2009, page 31):
- a) inappropriately considered and applied the equity betas of mining companies;
 - b) overstated the risks associated with insolvency;
 - c) overstated the availability of economic substitutes for gas in the region; and
 - d) overstated the volatility of consumption.
461. BHPB submitted that GGT's first principles analysis is incomplete because it only considers those characteristics of the GGP that imply higher than average risk and ignores characteristics which imply a lower than average risk (BHPB Submission dated 30 June 2009, pages 33 and 34). BHPB also submitted that the GGT analysis of mining companies was inappropriate and that even if this was an appropriate analysis it was not properly performed (BHPB Submission dated 30 June 2009, pages 31 to 33).

Frontier Economics' Advice

462. Frontier's analysis largely accepts the "conceptual" points made by BHPB in the BHPB Submission dated 30 June 2009.
463. Frontier considered Synergies' first principles analysis (Frontier's Draft WACC Report, pages 25 to 31) and Synergies' comparable companies' analysis (Frontier's Draft WACC Report, pages 31 to 32) and concluded that GGT has not provided sufficient evidence that the systematic risk faced by GGP is any different to that which applies to the average gas pipeline business. Frontier considered that an equity beta of 1.0 was appropriate for the average gas pipeline firm (Frontier's Draft WACC Report, page 32).
464. Frontier expressed the view that it is reasonable to specify a range for the equity beta estimate, as was done in the 2005 GGP determination, in which a range of 0.80 to 1.33 was used (Frontier Draft WACC Report, page 32).
465. Frontier concluded that a range of 0.8 to 1.2 is appropriate for the reasons set out in Frontier's Draft WACC Report on pages 32 to 34. Frontier's view was that a lower bound of 0.8 was appropriate, based on the approach adopted in the AER electricity WACC review. The upper bound of 1.2 was based on Frontier applying GGT's methodology to a larger range of comparator firms compared with those presented by GGT.
466. Frontier noted that in its prior GGP determination the Authority adopted a reasonable range of 0.80 to 1.33. In its recent WACC review the AER assumed a figure of 0.8, but an assumption of 1.0 has been most commonly adopted by regulators for gas distribution businesses. Frontier also noted that the available evidence no longer supports an estimate of 1.33 for the upper bound (Frontier's Draft WACC Report, page 34).

467. Frontier concluded that using the re-levering approach favoured by the Authority and a 60% gearing assumption, the equity beta range of 0.8 to 1.2 corresponds to an asset beta range of 0.3 to 0.5 (Frontier's Draft WACC Report, page 34).

Authority's Assessment

468. The systematic risk (beta) of a firm is the measure of how the changes in the returns to the firm's stock are related to the changes in returns to the market as a whole. It reflects the business's exposure to non-diversifiable risk, which is that portion of the variance in the return on an asset that arises from market-wide economic factors that affect returns on all assets, and which cannot be avoided by holding the assets as part of a diversified portfolio of assets.
469. In the CAPM, the equity beta value is a scaling factor applied to the MRP to reflect the relative risk to equity funds in the particular firm or activity in question.
470. There have been a substantial number of regulatory determinations for electricity and gas networks that have determined WACC values applying an equity beta of 1.0. The first such determination was by the then Office of the Regulator General in Victoria in 2000. Even at that time the value of 1.0 was at or above the upper bound of a range evident from capital market evidence and was adopted recognising the limited debate that had occurred at that time on issues of methodology in considering beta values for regulatory purposes. Since this time, there have been many further empirical studies of beta values that have been subject to considerable scrutiny and debate as part of regulatory processes. This has resulted in greater weight being given by regulators to capital market evidence on beta values and a consequent downward trend in the beta values being applied in regulatory decisions. This has occurred most recently with the Victorian Essential Services Commission determining an (effective) value of 0.8 for the Victorian gas distribution businesses and the AER making a determination for a value of 0.8 for electricity transmission and distribution businesses in the National Electricity Market.
471. The systematic risk of an infrastructure owner does not directly equate to the systematic risk of its customers, given it is also dependent on a number of other factors, including the nature of the contractual arrangements between the infrastructure owner and customers. The Authority has consistently rejected the argument that the systematic risk of an infrastructure owner necessarily reflects the customer base.
472. The Authority's view is that the correct approach to take in relation to equity beta is a reasonable range approach.
473. The Authority notes that Frontier has concluded that a reasonable range of values for equity beta for the GGP is 0.8 to 1.2. In summary, the reasons outlined by Frontier supporting this range were as follows (Frontier's Draft WACC Report, Page 32-33):
- (a) The mid-point estimate for any equity beta is 1.0, the beta for the average firm. One would only adopt an estimate different from 1.0 to the extent supported by reliable empirical analysis.
 - (b) The ACCC has consistently adopted an equity beta of 1.0 for gas pipeline businesses.

- (c) The ERA has previously used a range of 0.8 to 1.33 for the GGP and we are unaware of any reason why its systematic risk is any higher or lower than it was previously.
- (d) After considering a range of equity beta estimates for the available “comparable” firms, the AER has adopted an equity beta estimate of 0.8 for electricity transmission and distribution firms (also with 60% gearing).
- (e) The GGT submission on this point notes that there are some aspects suggesting that the pipeline’s systematic risk is higher than that faced by the average pipeline business and some evidence that systematic risk is below average. There is no compelling evidence to suggest which of these effects might dominate the other.
- (f) Even if the approach that was submitted by GGT was adopted application of the beta estimates using the ERA’s favoured approach for re-levering betas produces an equity beta estimate of 1.23. There is no empirical evidence to support an equity beta higher than this.

474. The Authority accepts Frontier’s advice, that a reasonable equity beta range for the GGP is 0.8 to 1.2.

Draft Decision

475. The Authority does not approve GGT’s proposal in relation to the equity beta. The Authority considers that a reasonable range of values for equity beta is 0.8 to 1.2, at a gearing level of 60% debt to assets.

Debt Margin over Risk Free Rate

GGT’s Proposed Revisions

Access Arrangement Information

476. GGT proposes a cost of debt margin of 3.60% (Access Arrangement Information, page 8).

Additional GGT Submissions

477. GGT’s proposed cost of debt margin is the debt margin for a BBB- corporate bond over the nominal risk free rate.

478. GGT based its proposed cost of debt margin on a report prepared by Synergies (GGT’s Supporting Information Submission, pages 16 and 17, and Attachment 2 to GGT’s Supporting Information Submission). Synergies concluded that an appropriate credit rating for the GGP was BBB- based on Standard and Poor’s credit ratings of companies that own and operate Australian gas pipelines (most of which had a rating of BBB-), credit ratings assumed in previous regulatory determinations and the GGP’s exposure to the mining industry (particularly during the financial crisis), keeping in mind its 60% debt gearing (GGT’s Supporting Information Submission, page 16, and Attachment 2 to GGT’s Supporting Information Submission, pages 1 to 3).

479. Synergies adopted an approach to estimating the debt margin which has been used by the AER and ACCC. That approach is to observe the yield on the longest-dated

BBB bond and add the margin between an A rated 10 year and 8 year bond. There also needs to be an adjustment for the difference between the cost of issuing BBB and BBB- debt, based on one-third of the difference between an 8 year BBB and 8 year A rated bond (Attachment 2 to GGT's Supporting Information Submission, pages 3 to 5).

480. Synergies took an average over 20 business days to 27 February 2009 and concluded that the ten year BBB- margin is 360 basis points (Attachment 2 to GGT's Supporting Information Submission, page 5) based on estimates produced by Bloomberg.

Public Submissions

481. BHPB submitted that there is no basis to support a change in the credit rating for the GGP (BHPB Submission dated 30 June 2009, pages 39 to 41) having regard to previous regulatory determinations, the take-or-pay contractual agreements in place and the current credit ratings of GGT's most significant customers and owners.
482. BHPB submitted that GGP's credit rating should stand at BBB+ such that the cost debt margin should be 3.2% (BHPB Submission dated 30 June 2009, page 40).

Frontier Economics' Advice

483. Frontier considered all of the submissions made by GGT and BHPB in relation to the proposed cost debt margin, the credit rating approved for the purpose of the current Access Arrangement and the credit rating approved for the purpose of the AER's electricity WACC review (Frontier's Draft WACC Report, pages 34 to 39). Frontier concluded that:
- a) credit ratings must be estimated from available market data such that it is more appropriate to consider a reasonable range rather than a single point estimate;
 - b) the credit ratings of regulated energy utilities are relevant;
 - c) the extent to which a gas network might be exposed to volume risk should be considered;
 - d) key financial ratios should be examined to determine whether the allowed return would support the assumed credit rating.
484. On that basis, Frontier concluded that an appropriate range for the credit rating is a lower bound of BBB to an upper bound of BBB+, based on assumptions of 60% gearing and interest coverage ratio of approximately 2.0 (Frontier's Draft WACC Report, pages 38 and 39).
485. As far as the calculation of the debt margin is concerned, Frontier considered in some detail the AER's electricity WACC review and the submissions raised by various parties in that review as well as considering CBASpectrum estimates. Frontier noted that the AER adopts the Bloomberg estimates of yields on 10 year BBB or BBB+ corporate bonds and compares those with the estimates of CBASpectrum. Frontier concluded that GGT's proposed debt margin is conservative. Frontier noted that the AER/Bloomberg approach provides the lower bound of the reasonable range, being 3.7%. Frontier then adopted the approach of taking the average of the AER/Bloomberg estimate and the CBASpectrum estimate

for the upper bound of the debt margin, being 5.1%. This approach appeared to overcome the concern that the CBA Spectrum estimates were an overestimate

486. Frontier also suggested that debt raising costs be included in cash flows rather than by the inclusion of a discount rate. This issue is discussed further at paragraph 509 below.

Authority's Assessment

487. The debt margin (also referred to as the debt premium) is a margin above the risk free rate reflecting the risk in provision of debt finance to the regulated activity.
488. The Authority agrees with BHPB that there does not appear to be justification to change the current credit rating for the GGP. The GGP has expanded capacity significantly to meet increased demand since the current Access Arrangement was approved and is currently operating at close to full capacity.
489. The Authority does not agree with Frontier that the credit rating should be subject to a range considered as reasonable. Regulators typically do not apply a range to credit ratings and the Authority sees no reason for departing from this established approach.
490. As far as the debt margin is concerned the Authority generally agrees with GGT's proposed approach in that it does not consider it appropriate to apply a range to this parameter. An issue also arises as to which yield estimates to use.
491. In relation to the debt margin, the Authority notes that in its recent Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network the Authority adopted the estimates of fair value yields produced by Bloomberg, as GGT proposes. The same approach was taken by the AER in the AER electricity WACC review. The AER concluded that CBASpectrum estimates were not an appropriate data source.
492. Frontier has suggested that estimates produced by CBASpectrum should also be taken into account (Frontier's Draft WACC Report, pages 42 and 43). However, the Authority does not agree with this suggestion.
493. In its Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network, the Authority discussed in detail the methods of deriving estimates for the purpose of calculating the cost of debt margin and the AER's reasons why CBASpectrum estimates should not be used (pages 196 to 199). Those reasons were as follows (AER Final Decision New South Wales Distribution Determination, pages 225 to 232):
- a) estimates of fair value yields from Bloomberg provided a better predictor of observed yields on actual BBB+ rated bonds, with the CBASpectrum fair value yields systematically over-estimating the observed yields;
 - b) a view that Bloomberg estimates of fair value yields are based on a broader data set of traded bonds;
 - c) concern that the CBASpectrum estimates are calculated with out-dated estimates of credit rating; and

- d) CBASpectrum does not publish or otherwise provide the raw data used to estimate fair value yields, limiting the extent to which the estimate method and results can be examined.
494. For these reasons the Authority maintains its view that the CBASpectrum estimates should not be taken into account.
495. The Authority therefore proposes to maintain the approach it has adopted in the Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network and by the AER, except that the Authority does not consider a range of values for the debt margin to be appropriate in this case. The Authority requires GGT to use Bloomberg estimates of the fair value yield for BBB+ rated bonds over a 20 business-day period.
496. For the purpose of this Draft Decision, the Authority has adopted the 20 business-day period to 31 July 2009. The Authority acknowledges that the debt margin will have to be updated for the purpose of the Final Decision to reflect the most up to date estimates available.
497. Past practice of the Authority has been to update market observable parameters including the debt margin using data for the 20 business-day period to the end of the previous Calendar month. As Bloomberg has ceased publishing some data used by the Authority (and other regulators), the Authority is using the data to the 31 July 2009 for the Draft Decision. The Authority and other regulators are examining this issue with a view to coming up with an appropriate solution. A replacement methodology will be in place at the time of the Final Decision.

Draft Decision

498. The Authority does not approve GGT's proposal in relation to the credit rating for the GGP. The Authority considers that an appropriate credit rating for the GGP is BBB+.
499. The Authority does not approve GGT's proposal in relation to the cost of debt margin. The Authority considers that a reasonable cost of debt margin is 2.8% being the debt risk premium for BBB+ at 31 July 2009.

Cost of Raising Debt

GGT's Proposed Revisions

Access Arrangement Information

500. GGT proposes a parameter value range of 0.125% to 0.3% in relation to debt raising costs (Access Arrangement Information, page 8).

Additional GGT Submissions

501. GGT submitted that the financial crisis has increased debt raising costs and that the previous benchmark of 0.125% basis points is likely to be below the costs actually incurred (GGT's Supporting Information Submission, page 21 and Attachment 3 to GGT's Supporting Information Submission).
502. GGT has taken a ranges approach given the uncertainty arising from the financial crisis.

503. GGT relied on a report by Synergies (Attachment 3 to GGT's Supporting Information Submission) in support of its proposal in relation to debt raising costs.
504. Synergies did not examine equity raising costs, on the understanding that GGT is not planning any major capital expansion of the Covered Pipeline (Attachment 3 to GGT's Supporting Information Submission, page 1).
505. As far as debt raising costs are concerned, Synergies noted that an assumption of 12.5 basis points is now consistently applied in regulatory decisions and concludes that this is reasonable in stable debt markets. However, Synergies considered that the financial crisis is likely to mean that the previously accepted benchmark of 12.5 basis points for debt issuance costs is below the costs actually incurred by businesses (Attachment 3 to GGT's Supporting Information Submission, pages 1 to 3).

Public submissions

506. BHPB submitted that there is no justification for the application of a cost of raising debt because the Reference Service customers are not anticipated to participate in any additional capacity expansions and there is no debt raising activity planned. BHPB submitted that the cost of raising debt should be removed from other elements of the Rate of Return for the same reason (BHPB Submission dated 30 June 2009, page 42).

Frontier Economics' Advice

507. Frontier noted that debt raising costs should be included in cash flows rather than a discount rate (Frontier's Draft WACC Report, page 47).

Authority's Assessment

508. The Authority does not agree that it is appropriate to adopt a ranges approach to the cost of raising debt. To do so would be inconsistent with recognised regulatory practice and the Authority's usual approach. The Authority is not satisfied that GGT has established any reason for departing from the approach adopted by most Australian regulators.
509. Similarly, the Authority does not accept Frontier's suggestion to include debt raising costs in cash flows. Again, to do so would be contrary to established regulatory precedent and with the approach traditionally taken by the Authority, and taken in recent times.
510. In its recent Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network the Authority adopted a debt raising cost of 0.125%. The same approach was taken by the AER in the AER electricity WACC review.
511. The Authority notes that it has considered BHPB's submission but is not satisfied that it is appropriate to make no allowance for debt raising costs, again on the basis that such an allowance is ordinarily appropriate and provided for by Australian regulators.

Draft Decision

512. The Authority does not approve GGT's proposal in relation to debt raising costs. The Authority considers that an allowance for debt raising costs of 0.125% is appropriate.

Corporate Tax Rate**GGT's Proposed Revisions**

513. GGT proposes to adopt a statutory corporate tax rate of 30% (Access Arrangement Information, page 8, and GGT's Supporting Information Submission, page 19) in relation to the estimate of company taxation liabilities associated with regulated activities. The Corporate tax rate under the current Access Arrangement is 30.7%, being the average taxation rate for the period 2000 to 2009.

Public Submissions

514. The Authority did not receive any public submissions regarding the proposed corporate tax rate.

Frontier Economics' Advice

515. Frontier did not discuss GGT's proposal in relation to the corporate tax rate. However, it appears to agree with GGT's proposal by adopting 30% in its recommendations (Frontier's Draft WACC Report, page 47).

Authority's Assessment

516. The Authority agrees with GGT's proposal with respect to the corporate tax rate.

Draft Decision

517. The Authority approves GGT's proposal for a corporate tax rate of 30%.

Franking Credit Value**GGT's Proposed Revisions****Access Arrangement Information**

518. GGT proposes that the valuation of imputation credits, or gamma, be set at 20% (Access Arrangement Information, page 8). In the current Access Arrangement the Authority approved an estimate within the range 30% to 60%.

Additional GGT Submissions

519. GGT's proposal is based on the work undertaken by the energy infrastructure industry and consultants to support the Joint Industry Association submission to the AER electricity WACC review. GGT submitted that it is reasonable to consider the AER electricity WACC review submissions in cases where the WACC parameters relate to broader factors and variables, such as the value which shareholders ascribe to imputation credits (GGT's Supporting Information Submission, pages 19 and 20, and GGT's Response to Issues Paper, pages 7 and 8).

520. GGT also submitted that the Draft Decision in the AER electricity WACC review, which applied a value of 65% to gamma, was in error (GGT's Supporting Information Submission, pages 19 and 20, and GGT's Response to Issues Paper, pages 7 and 8).

Public Submissions

521. BHPB submitted that an appropriate gamma range is 50% to 65% based on Australian regulatory precedent of 50% and the estimate approved in the AER electricity WACC review of 65% (BHPB Submission dated 30 June 2009, page 42).

Frontier Economics' Advice

522. Frontier considered GGT's submissions, BHPB's submissions and the assumptions made by the AER in the AER electricity WACC review (which relied upon and data from Beggs and Skeels and Handley and Maheswaran) (Frontier's Draft WACC Report, pages 17 to 24).

523. Frontier expressed the view (Frontier's Draft WACC Report, page 22) that the AER's estimate of gamma is flawed and should not be followed because :

- a) The AER's estimate of gamma is based on an assumed dividend payout policy that bears no resemblance to that which we actually observe from Australian companies;
- b) The AER's estimate of gamma is inconsistent with the observed practice of Australian firms and independent expert valuation professionals; and
- c) The two studies relied upon by AER to measure theta actually measure different concepts. The study by Beggs and Skeels produces estimates that are conditional on dividends being valued at 80% of face value whereas the CAPM-WACC framework requires estimates that are conditional on dividends being fully valued. The study by Handley and Maheswaran provides evidence that around three-quarters of distributed imputation credits are redeemed, and therefore received by Australian resident investors. It does not provide any information whatsoever about how much imputation credit value is reflected in market prices.

524. Frontier concluded that zero must be included within the reasonable range for gamma and should be adopted as the lower bound for the reasonable range. Frontier also concluded that 40% is the upper bound of the reasonable range based on an estimate of 0.57 for theta, an estimate of 0.7 for F and the need for a degree of regulatory stability (Frontier's Draft WACC Report, page 23).

Authority's Assessment

525. The value of dividend imputation is the value of franking credits distributed to shareholders of the regulated business. The value of franking credits, represented in the WACC by the parameter "gamma", depends on the proportion of the franking credits that are created by the firm that are distributed, and the value that the investor attaches to the credit, which depends on the investor's tax circumstances (that is, their marginal tax rate). As these will differ across investors, the value of franking credits may be between nil and full value (i.e. a gamma value between zero and one).

526. The Authority has recently determined a value of gamma in its Draft Decision on Proposed Revision to the Access Arrangement for the South West Interconnected Network.
527. In that Draft Decision the Authority noted that in Australia, regulators of utility infrastructure have generally adopted a value of about 50% for gamma (page 207 of the Draft Decision). The Authority also discussed the detailed consideration given to this issue in the AER electricity WACC review (page 207 and 208 of the Draft Decision). The Authority concluded, consistent with the evidence considered by the AER and the conclusion reached by the AER, that a reasonable range for gamma was 0.57 to 0.81.
528. The Authority adopts the same approach in relation to this Draft Decision, for the same reasons as those expressed by the Authority in the Draft Decision on Proposed Revision to the Access Arrangement for the South West Interconnected Network and by the AER in the AER electricity WACC review.

Draft Decision

529. The Authority does not approve GGT's proposal in relation to gamma. The Authority considers that a reasonable range for gamma is 0.57 to 0.81.

Financial Structure

GGT's Proposed Revisions

Access Arrangement Information

530. GGT proposes a debt to assets of 60% (Access Arrangement Information, page 8), the same ratio adopted for the purpose of the current Access Arrangement.

Additional GGT Submissions

531. GGT submitted that its proposal is consistent with recent regulatory decisions, in particular the decision of the Authority in relation to the current Access Arrangement and the AER electricity WACC review (GGT Supporting Information Submission, page 17, and GGT's Response to Issues Paper, page 6).

Public Submissions

532. The Authority has not received any public submissions in relation to GGT's proposed debt to assets ratio.

Frontier Economics' Advice

533. Frontier did not discuss GGT's proposed debt to assets ratio in detail. However, it agrees with GGT's proposal as part of its conclusions (Frontier's Draft WACC Report, page 47).

Authority's Assessment

534. Financial structure refers to the proportions of the value of the regulated business assumed to be financed by debt and equity. Financial gearing refers to the ratio of debt to total asset value.

535. The Authority agrees that GGT's proposed debt to assets ratio is consistent with the approach taken in relation to the current Access Arrangement and the approach taken in the AER electricity WACC Review, as well as being otherwise consistent with regulatory precedent and with observed levels of gearing of Australian pipeline companies. The Authority has not received any public submissions on this issue.

Draft Decision

536. The Authority approves GGT's proposal that the appropriate debt to total assets ratio is 60% and the equity to total assets ratio is 40%.

Authority's Assessment: Rate of Return

537. Based upon the above assessment of each of the CAPM parameters, the ranges that the Authority considers may reasonably be applied to parameters of the CAPM in estimating the Rate of Return for the GGP are as follows:

Table 15: Authority's Required Amendments to GGT's Proposed Parameter Values for determination of a Rate of Return (at 31 July 2009)

Parameter	Lo	Hi
Nominal Risk Free Rate (Rfn)	5.52%	5.52%
Real Risk Free Rate (Rfr)	3.05%	3.05%
Inflation Rate (I)	2.40%	2.40%
Debt Proportion (D)	60%	60%
Equity Proportion (E)	40%	40%
Cost of Debt; Debt Risk Premium (Drp) (BBB+)	2.80%	2.80%
Cost of Debt; Debt Issuing Cost (Disc)	0.125%	0.125%
Cost of Debt; Risk Margin (DRm)	2.925%	2.925%
Australian Market Risk Premium (Rp)	5.00%	7.00%
Equity Beta (Be)	0.8	1.2
Corporate Tax Rate (T)	30%	30%
Franking Credit (g)	81%	57%
Imputation Adj (G)	74.2%	80.4%
Nominal Cost of Debt (DPn)	8.45%	8.45%
Real Cost of Debt (DPr)	5.90%	5.90%
Nominal Pre Tax Cost of Equity (EPn)	10.10%	15.98%
Real Pre Tax Cost of Equity (EPr)	7.52%	13.26%

Parameter	Lo	Hi
Nominal After Tax Cost of Equity (EAn)	9.52%	13.92%
Real After Tax Cost of Equity (EAr)	6.95%	11.25%

Parameter	Lo	Hi	Lo + 10%	Hi - 10%	Mid of Range
WACC Debt; Pre-tax Officer (Market Practice or Forward Transformation)					
Nominal Pre Tax WACC (WPn)	9.11%	11.46%	9.34%	11.22%	10.28%
Real Pre Tax WACC (WPr)	6.55%	8.85%	6.78%	8.62%	7.70%
WACC; After-tax Vanilla					
Nominal After Tax WACC (WAn)	8.88%	10.64%	9.05%	10.46%	9.76%
Real After Tax WACC (WAr)	6.32%	8.04%	6.50%	7.87%	7.18%

538. The Authority notes that applying the extremes of the Authority's ranges in CAPM parameter gives rise to a wide range in estimates of the Rate of Return.
539. The Authority has previously expressed its view that the range of values that different minds acting reasonably could attribute to the Rate of Return is narrower than the ranges that the extremes of ranges in CAPM parameters would suggest. Accordingly, if GGT were to determine the Rate of Return by adopting the highest value within the reasonable range for each of the relevant CAPM parameters, that Rate of Return would not, in the Authority's view, be a Rate of Return that different minds, acting reasonably, would determine.
540. Similarly it would not be reasonable for the Authority to make a determination based on, or implying, a Rate of Return at the lower extreme of the range.
541. The Authority must, however, consider what would be a reasonable range of estimates of the Rate of Return that would comply with the Code. As discussed above, this range would be a narrower than the range derived by the application of the extremes of values for each of the CAPM parameters.
542. The Authority has noted in previous regulatory decisions that there are no apparent methodologies for determining precisely at which point values close to the extreme values of the range do not reflect a reasonable view of the current market for funds. The Authority has therefore been required to determine subjective limits marked out by the standard of reasonableness and keeping in mind the extent to which difference minds might reach different results.
543. The Authority therefore considers, consistent with the approach taken by the Authority in relation to the current Access Arrangement and other regulatory decisions, that the range of values that would comply with the Code and be considered to be a reasonable range should not include the values that lie within the lower 10% or upper 10% of the range that might be derived by the application of the extremes of values for each of the CAPM parameters. The nominal pre-tax rate of return resulting from the application of the extreme value of the CAPM

parameters as noted above is 9.11% to 11.46%. The range of values that the Authority considers as being reasonable and complying with the Code is therefore 9.34% to 11.22%.

544. Even allowing for the uncertainties associated with forming a judgement as to the range of values, the nominal pre-tax Rate of Return value proposed by GGT (of 13.50%) lies outside of the reasonable range of values that the Authority considers complies with the Code as set out above. A value outside the limits of this reasonable range would result in a value of Total Revenue (and hence a Reference Tariff) that would not comply with the Code. Accordingly, the Authority considers that the Rate of Return proposed by GGT does not meet the requirements of the Code.

Draft Decision

545. The Authority does not approve GGT's proposal in relation to the Rate of Return.
546. Table 8 of the Access Arrangement Information (which is repeated in Table 14 of this Draft Decision) should be amended to reflect the values in Table 15 of this Draft Decision.

Required Amendment 8

In relation to Rate of Return, Table 8 of the Access Arrangement Information should be amended to reflect the values in Table 15 of this Draft Decision

547. The Authority considers that a reasonable range of values for the Rate of Return is 9.34% to 11.22%. For the purpose of this Draft Decision the Authority adopts the mid point of this range, being a nominal pre-tax Rate of Return of 10.28%.

Required Amendment 9

GGT's Proposed Revisions should be amended to adopt a nominal pre-tax Rate of Return of 10.28%.

Non Capital Costs

Requirements of the Code

548. Sections 8.36 and 8.37 of the Code provide for the recovery of Non Capital Costs through the Reference Tariff as follows:
- 8.36 Non Capital Costs are the operating, maintenance and other costs incurred in the delivery of the Reference Service. Non Capital Costs may include, but are not limited to, costs incurred for generic market development activities aimed at increasing long-term demand for the delivery of the Reference Service.
 - 8.37 A Reference Tariff may provide for the recovery of all Non Capital Costs (or forecast Non Capital Costs, as relevant) except for any such costs that

would not be incurred by a prudent Service Provider, acting efficiently, in accordance with accepted and good industry practice, and to achieve the lowest sustainable cost of delivering the Reference Service.

549. In addition, section 8.2(e) of the Code provides:

The factors about which the Relevant Regulator must be satisfied in determining to approve a Reference Tariff and Reference Tariff Policy are that:

....

(e) any forecasts required in setting the Reference Tariff represent best estimates arrived at on a reasonable basis.

GGT's Proposed Revisions

Access Arrangement

550. GGT has calculated the Total Revenue so as to enable GGT to recover the Non Capital Costs attributable to the ownership and operation of the Covered Pipeline “as would be incurred by a prudent Service Provider, acting efficiently, in accordance with accepted and good industry practice, and to achieve the lowest sustainable cost of delivering Services through the Covered Pipeline” (section 5.2(b)(8) of GGT's Proposed Revisions, page 6).
551. More information regarding GGT's proposal in relation to Non Capital Costs is contained in the Access Arrangement Information and in GGT's Supporting Information Submission.
552. GGT's forecast Non Capital Costs for 2009 were \$20.3 million. GGT has advised that the actual Non Capital Costs for 2009 will be \$25.9 million. GGT has then forecast that the Non Capital Costs for the forthcoming Access Arrangement Period are those set out in Table 10 of the Access Arrangement Information. Table 10 of the Access Arrangement information is repeated in Table 16 of this Draft Decision below.

Table 16: GGT's Proposed Goldfields Gas Pipeline Forecast Non Capital Costs (\$m, nominal)

	2010	2011	2012	2013	2014
Operating & Maintenance and Administration & General	20.1	20.3	21.2	24.8	26.7
Corporate Overheads	6.3	6.4	6.5	6.5	6.5
Asymmetric Risk	0.5	0.5	0.5	0.5	0.6
Operating & Maintenance and Administration & General	26.8	27.2	28.2	31.9	33.7

Access Arrangement Information

553. GGT has separated its proposed forecast Non Capital Costs into two different categories (Access Arrangement Information, pages 9 to 10) within which there are various sub-categories of Non Capital Costs.
554. The first category is "Operating and Maintenance and Administration and General". Operating and Maintenance Costs are the costs incurred in relation to the operation and maintenance of the Covered Pipeline. Administration and General Costs are the costs incurred in the management of the Covered Pipeline, including an allowance for insurance and self insurance.
555. The second category of proposed Non Capital Costs is "Corporate Overheads". Corporate Overheads include the costs incurred by the GGT Joint Venture participants in owning and managing their interests in the Joint Venture and the ownership of the GGP, including the provision of Services.
556. GGT has also proposed an allowance for asymmetric risk.
557. The Access Arrangement Information provides further information regarding the types of costs which fall into the two categories mentioned above. The Access Arrangement Information also sets out GGT's proposed forecasts of Non Capital Costs broken down into the abovementioned two categories and including an allowance for asymmetric risk (Table 18 above).
558. The sub-categories of Non Capital Costs are discussed in more detail in GGT's Supporting Information Submission. However, a substantial amount of that information has been provided to the Authority on a confidential basis and is therefore not publicly available. As a consequence Non Capital Costs have been aggregated in Table 16 above.
559. GGT also included benchmarks for Non Capital Costs on page 17 of the Access Arrangement Information.
560. The Authority notes that GGT's proposal in relation to Non Capital Costs does not include assets used to provide the Expansions of Capacity, namely the second compressor at Paraburdoo, and the compressor stations at Wyloo West and Ned's Creek.

561. The Authority also notes that GGT's proposal in relation to Non Capital Costs is based upon an annual modelling approach, as opposed to a quarterly modelling approach.

Additional GGT Submissions

562. GGT's Supporting Information Submission contains further information about GGT's proposed forecast of Non Capital Costs (section 5, pages 26 and 27 and Appendix 4, pages 91 to 144 and Attachments 1 and 5 to GGT's Supporting Information Submission, being reports prepared by Synergies).
563. GGT's Supporting Information Submission also records and explains GGT's actual Non Capital Costs for the period from 2000 to 2009 (GGT's Supporting Information Submission, pages 26 and 27).
564. Some of that information and those tables have been provided to the Authority on a confidential basis such that they have not been made publicly available. The Authority discusses this issue further as part of its assessment at paragraphs 578 to 583 below.
565. GGT submitted that its actual Non Capital Costs for the period from 2005 to 2009 (in respect of which the 2009 figures are forecasts) were 13.5% higher than the Authority approved forecast of the Non Capital Costs for that period. GGT explained the reasons why the actual Non Capital Costs for that period were greater than estimated, by reference to each category and sub-category of Non Capital Costs (Appendix 4 to GGT's Supporting Information Submission, A4.1 on page 91 also see pages 92 to 117).
566. In summary, GGT submitted that Operations and Maintenance costs were 1.1% higher than estimated by reason of the labour shortage, increased labour costs, increased materials costs and major expenditure jobs (Appendix 4 to GGT's Supporting Information Submission, A4.1.1 on pages 93 to 110). GGT's Administration and General costs were 11.7% lower than the Authority approved forecast for various reasons set out in detail in the GGT Supporting Information Submission (Appendix 4 to GGT's Supporting Information Submission, A4.1.2 on pages 110 to 112). That Corporate Overheads were 127.9% higher than the Authority approved forecast by reason of forecasting errors, incorrect forecasting assumptions, changes in what functions are reflected in corporate costs, changes in the size of APA and changes in the general business environment (Appendix 4 to GGT's Supporting Information Submission, A4.1.3 on pages 112 to 115).
567. As regards GGT's proposed forecast Non Capital Costs for the period from 2010 to 2014, GGT submitted, in summary, that labour costs will increase (Appendix 4 to GGT's Supporting Information Submission, A4.3 on pages 117 to 121), material costs will increase (Appendix 4 to GGT's Supporting Information Submission, A4.4 on pages 121 to 122) and costs will rise due to inflation (Appendix 4 to GGT's Supporting Information Submission, A4.6 on pages 123 to 124).
568. GGT acknowledged that its annual forecast of Non Capital Costs for the period from 2010 to 2014 period is 16% higher than GGT's 2009 forecasts. GGT submitted that this increase, which is higher than would be expected due to inflation, can be explained by GGT's plans to undertake an intelligent pigging program in 2013 and 2014, GGT allowing for self insurance, GGT making an allowance for asymmetric risk and another factor which GGT has kept confidential (Appendix 4 to GGT's Supporting Information Submission, A4.7 on pages 125 to 144).

569. More detailed information in respect of GGT's proposed forecast of Non Capital Costs is contained in GGT's Supporting Information Submission.
570. Attachment 1 to GGT's Supporting Information Submission is a report prepared by Synergies which supports GGT's proposed inflation forecast (which is discussed at paragraphs 604 to 606 below).
571. Attachment 5 to GGT's Supporting Information Submission is another report prepared by Synergies in support of GGT's proposal to allow for asymmetric risk. This proposal is discussed at paragraphs 635 to 641 below.
572. On 22 May 2009 GGT provided the Authority with further information in relation to various matters discussed in GGT's Supporting Information Submission. This information was provided following a request by the Authority. It was provided on a confidential basis. Some of that information relates to GGT's proposal regarding Non Capital Costs.
573. On 26 May 2009 the Authority issued the GGT Section 41 Notice in which the Authority required GGT to provide documents and further information in relation to various matters in order to assist the Authority in its preparation of this Draft Decision, including information regarding Non Capital Costs. GGT provided the Section 41 Information on 5 June 2009 on a confidential basis.
574. Again, how the Authority intends to deal with Information provided by GGT on a confidential basis is discussed at paragraphs 578 to 583 below.

Public Submissions

575. The GGP Users submitted that the amount by which GGT proposes to increase Non Capital Costs is well above the assumed level of inflation. They suggested that the Authority should thoroughly test the assumptions behind the estimated increases in Non Capital Costs (GGP Users (PCS) Submission dated 29 May 2009, pages 12 and 13).
576. BHPB has made a submission in relation to asymmetric risk (BHPB Submission dated 30 June 2009, section 13 on pages 41 and 42). BHPB submitted that:
- a) some of the asymmetric risks faced by the GGP may have already been mitigated and shown to be negligible such that the GGT risk profile is approximately symmetric (section 13.2 of the BHPB Submission dated 30 June 2009);
 - b) a number of the assertions made by GGT in relation to asymmetric risk are flawed (section 13.3 of BHPB Submission dated 30 June 2009).

Authority's Assessment

Expansions of Capacity and Modelling

577. Given the Authority's Draft Decision in relation to Expansions of Capacity (paragraphs 134 to 199 above) the Authority does not accept GGT's proposal to exclude from its Non Capital Costs the assets used to provide Expansions of Capacity. Similarly, the Authority does not accept GGT's proposal to adopt an annual modelling approach instead of the quarterly modelling approach previously

adopted in relation to the GGP (paragraphs 200 to 223 above). The Authority therefore considers that GGT's proposal in relation to Non Capital Costs needs to be adjusted so as to include values for the Non Capital Costs associated with the Expansions of Capacity, and to adopt a quarterly modelling approach.

Confidential Information

578. GGT has provided the Authority with various information in relation to Non Capital Costs on the understanding that it will be kept confidential. That information does not form part of GGT's Access Arrangement Information. Rather, it was submitted as additional information in GGT's Supporting Information Submission, in response to requests by the Authority or in response to the GGT Section 41 Notice.
579. The Authority has not received any public submissions which suggest that this confidential information should have formed part of GGT's Access Arrangement Information. The Authority is satisfied that what is provided by GGT as Access Arrangement Information in relation to Non Capital Costs is sufficient and meets the requirements of the Code. In other words, that it allows Users and Prospective Users to understand the derivation of GGT's proposed Non Capital Costs and to form an opinion as to the compliance of the Access Arrangement with the provisions of the Code (section 2.6 of the Code).
580. Where the Authority receives information other than Access Arrangement Information (other than in response to a section 41 Notice) on a confidential basis the Authority must not disclose the contents of any such information or document, or any part of such information or document, to any person except where the Authority is of the opinion that the disclosure of the information or document would not be unduly harmful to the legitimate business interests of the Service Provider or a User or Prospective User (sections 7.11 and 7.12 of the Code).
581. The Authority is satisfied that disclosure of the information that has been provided by GGT on a confidential basis (other than in response to a section 41 Notice) may be unduly harmful to the legitimate business interests of GGT. The Authority is therefore prevented from disclosing any part of, or the contents of, that information.
582. Where information has been received in response to a section 41 Notice the provisions of section 42 and section 43 of the GPAA provides restrictions on the Authority disclosing such information.
583. However, the Authority has taken all of the confidential information into account in assessing the relevant parts of GGT's Proposed Revisions. The Authority has prepared a confidential appendix to this Draft Decision (**Appendix 2**) which discusses the confidential information provided by GGT in relation to various components of GGT's proposal regarding Non Capital Costs. This confidential appendix will only be made available to GGT and will not be published by the Authority. The Authority agrees that disclosure of details of details of non capital costs would cause detriment to GGT and it is not in the public interest to release these details. The non disclosure of this information is not a part of the information the Authority wishes to disclose or which is subject to the section 42 notice issued to GGT.

Compressor Fuel

584. It should be noted that GGT does not include compressor fuel as part of its Non Capital Costs, unlike many other transmission pipelines (Authority's Issues Paper,

page 13, paragraph 59). In the case of the GGP these costs are borne by Users according to the terms of their contract with GGT.

Non Capital Costs Assessment Generally

585. In order for the Authority to approve the recovery of Non Capital Costs through the Reference Tariff, the Authority must be satisfied that the costs are costs which would have been incurred by a prudent Service Provider, acting efficiently, in accordance with good industry practice and to achieve the lowest sustainable costs of delivering the Firm Service, referred to as the prudent Service Provider test (section 8.37 of the Code). The Authority must also be satisfied that all forecasts in relation to Non Capital Costs which GGT proposes to recover through the Reference Tariff represent best estimates arrived at on a reasonable basis, referred to as the best estimates test (section 8.2(e) of the Code).

Historical Non Capital Costs

586. As explained above, the Authority must be satisfied that GGT's proposed forecast Non Capital Costs for the forthcoming Access Arrangement Period include only those Non Capital Costs which meet the prudent Service Provider test. The starting point for the Authority in considering the proposed forecast Non Capital Costs is the level of expenditure in the current Access Arrangement Period. This is because that actual expenditure forms the basis of GGT's proposed forecast.

587. GGT has arranged for an independent audit of the majority of its Non Capital Costs (as well as Capital Costs) for the years ending 31 December 2005, 2006, 2007 and 2008 (previously defined as Auditor's Report in paragraph 241 above). This audit was performed by Deloitte Touché Tomatsu. The Authority has been provided with a copy of the audit report on a confidential basis.

588. The audit did not include the first five years of the GGP Access Arrangement primarily because the Authority had effectively accepted the Non Capital Costs for that period as passing the prudent Service Provider test when it approved the current Access Arrangement.

589. The level of audit undertaken was a review engagement in accordance with the Australian Standard on Review Engagements ASRE 2405 Review of Historical Financial Information Other than a Financial Report.

590. While the audit confirmed that GGT's Non Capital Costs were correctly allocated to the relevant categories, over the reported periods, the audit did not address the issue of whether these Non Capital Costs had been allocated on a reasonable and supportable basis.

591. The audit did not include corporate overhead costs incurred by GGT. The Authority understood that GGT would arrange for such costs to be independently audited and for a reconciliation of those costs provided to the Authority. GGT has not provided the Authority with a reconciliation of these costs. The Authority made further requests of GGT to provide the required reconciliation and audit results during the course of preparing this Draft Decision. However, GGT had not provided the Authority with either a reconciliation or audit of these costs as at the date of drafting of this Draft Decision.

592. GGT's actual Non Capital costs for 2005-2009, except for corporate overheads, are reasonably close to the forecasts approved by the Authority in 2005. This

combined with the GGT's audit report provides the Authority a level of satisfaction that GGT's actual Non Capital Costs meet the prudent Service Provider test (other than corporate overhead costs). This in turn gives the Authority some level of satisfaction as to GGT's forecast Non Capital Costs for the forthcoming Access Arrangement Period, at least to the extent that these costs are derived from the audited figures.

593. There is insufficient evidence upon which the Authority can be satisfied that GGT's actual corporate overhead costs meet the prudent Service Provider test.

Forecast Non Capital Costs

594. As explained in paragraphs 553 to 574 above, GGT has made various submissions regarding particular sub-categories of its forecast Non Capital Costs in GGT's Supporting Information Submission. These are the Non Capital Costs which GGT proposes to recover through the Reference Tariff for the forthcoming Access Arrangement Period.
595. The Authority discusses certain of those sub-categories below. However, the Authority only does so in relation to those sub-categories which it considers need further discussion.
596. In relation to the sub-categories of Non Capital Costs which are not discussed below (namely, APA operational costs, material costs, major expenditure jobs, administration and general costs and the costs of self insurance), the Authority has considered those forecasts, notes that no public submissions have been received about them and that there is therefore no evidence upon which the Authority can conclude that they do not meet the prudent Service Provider test or the best estimates test. On the basis of the available information, the Authority considers that GGT's proposal in relation to those sub-categories of Non Capital Costs satisfy the requirements of the Code.

Labour Costs

597. GGT submits that increased labour costs resulted in GGT's historical forecasts of Non Capital Costs being inaccurate, at least in part, and that increased labour costs have resulted in GGT's forecasts of Non Capital Costs for the forthcoming Access Arrangement Period being greater than the rate of inflation, at least in part (Appendix 4 to GGT's Supporting Information Submission, A4.1.1.2 on pages 95 to 104 and A4.3 on pages 117 to 123).
598. GGT supports this submission by referring to Econtech forecasts which were prepared on a labour costs model developed prior to the international financial downturn. These forecasts also appear to be inconsistent with the inflation forecasts proposed by GGT. GGT's forecasts appear to be based upon a continuing boom period in Western Australia. They therefore predict a significant increase in labour costs for the forthcoming Access Arrangement Period.
599. The GGT Supporting Information Submission shows (page 121) an outline of its forecast wages growth over the forthcoming Access Arrangement period. Table A4.10 is repeated in Table 17 of this Draft Decision below.

Table 17: GGT's Proposed Wages Growth Forecast – 2010 to 2014 (%)

Forecasts	Australian	Western Australian
2008/09	4.90	5.65
2009/10	5.30	6.05
2010/11	5.20	5.95
2011/12	5.10	5.85
2012/13	5.00	5.75
2013/14	4.50	5.25

600. The Authority requested, on an informal basis, that GGT provide the Authority with information justifying the discrepancy between the economic down-turn and inflation forecasts and the labour cost model proposed by GGT. GGT provided the Authority with that further information on 22 May 2009. This information was provided on a confidential basis.
601. The Authority has considered that confidential information and is satisfied that it sufficiently explains the apparent discrepancy.
602. The Authority notes that Users of the GGP would be in a better position than the Authority to determine the reasonableness of GGT's forecast labour costs. However, the Authority has not received any public submissions which express concern about this particular issue (other than the general submission made by the GGP Users). The Authority has no evidence to suggest that GGT's forecasts in respect of labour costs do not meet the prudent Service Provider test or the best estimates test.
603. The Authority, taking into account all the available information, considers that GGT's forecasts in respect of labour costs satisfy the requirements of the Code.

Inflation Rate

604. GGT has forecast some of its costs to rise due to inflation (Appendix 4 to GGT's Supporting Information Submission, A4.6 on pages 123 and 124).
605. The Authority has discussed GGT's proposed inflation rate in the context of the Rate of Return at paragraphs 426 to 439 above. The Authority takes the same position in relation to the inflation rate to be applied to Non Capital Costs.
606. The Authority approves GGT's proposed inflation rate of 2.4%.

Defined Benefit Superannuation Scheme

607. GGT proposes to include costs associated with its defined benefit superannuation scheme as part of its operations and maintenance costs.

608. This aspect of GGT's proposal is not dealt with separately in GGT's Proposed Revisions, the Access Arrangement Information or the public content of GGT's Supporting Information Submission. However, the amount proposed to be allocated to the defined benefit superannuation scheme is set out in parts of GGT's Supporting Information Submission which were provided on a confidential basis and in confidential information provided by GGT in response to the GGT Section 41 Notice.
609. The Authority notes that APA included information regarding its defined benefit superannuation scheme in the APA Group ASX Release dated 25 August 2009 (in particular see page 93 of the APT Annual Report for the Financial Year ended 30 June 2009 which was included as an attachment to the ASX Release). This Annual Report notes that actuarial losses incurred during the year and recognised in the statement of recognised income and expense for 2009 was (\$9,775,000) and for 2008 (\$8,244,000).
610. The Authority notes that it was not satisfied that the information first provided to the Authority in the confidential parts of the GGT Supporting Information Submission was sufficient to support GGT's submission on superannuation. The Authority therefore issued the GGT Section 41 Notice seeking further information from GGT.
611. The Authority has considered the further information provided by GGT (in GGT's Response to Section 41 Notice dated 5 June 2009).
612. A more detailed assessment in relation to the defined benefit superannuation scheme is contained in Appendix 2 to this Draft Decision. In summary the Authority has agreed that addressing the deficit in the Defined Benefit Superannuation Schemes by including an amount in GGP operating costs is appropriate. However, the Authority has reduced the amount of operating costs claimed related to the Defined Benefit Superannuation Schemes.
613. For the purpose of the Draft Decision, the Authority requires that GGT's proposed defined benefit superannuation operating costs be reduced to \$0.137 million for each year of the forthcoming Access Arrangement period.

Marketing

614. The Authority notes that GGT proposes to allocate an amount for marketing costs as a Non Capital Cost. The Authority has not been provided with sufficient information regarding the nature of the marketing costs likely to be incurred. If such costs relate to marketing of new Services the Authority might consider that such costs do not meet the prudent Service Provider test given that GGT has forecast no expansions or extensions of the GGP for the forthcoming Access Arrangement Period. However, marketing of existing Services provided by means of the GGP might be considered to pass the prudent Service Provider test if reasonable.
615. The Authority has not received any public submissions about GGT's proposed forecast of marketing costs. Accordingly, for the purpose of this Draft Decision the Authority approves GGT's proposal in relation to marketing costs. However, the Authority will require further information in respect of these costs before approving the proposal in the Final Decision.

GGT Operating Costs

616. GGT proposes to recover as Non Capital Costs various GGT Operating Costs, which fall into the category of Operations and Maintenance Costs (GGT's Supporting Information Submission, pages 130 to 132).
617. GGT acknowledges that its forecast of those costs is 12.3% higher than GGT's 2009 forecasts (GGT Supporting Information Submission, page 130).
618. As part of those costs GGT proposes the recovery of an APA Operations Management Fee and an APA Commercial Management Fee (Table A4.17 to GGT's Supporting information Submission, page 131).
619. GGT has provided further information in relation to these fees as part of the confidential information in GGT's Supporting Information Submission.
620. The Authority discusses this confidential information and its assessment of GGT's proposal in relation to GGT Operating Costs in confidential Appendix 2 to this Draft Decision.
621. The Authority is satisfied that GGT's proposed forecast of GGT Operating costs meets the prudent Service Provider test and the best estimates test for the reasons set out in confidential Appendix 2.
622. The Authority therefore approves GGT's proposal in relation to the forecast GGT Operating Costs.

Corporate Overheads

623. GGT proposes the recovery of various corporate overhead costs based on the APA Group approved 2008-9 budget adjusted for known major variances. GGT submits that the APA Board approved budget represents a reasonable basis for estimating the future corporate costs of the APA group (Appendix 4 to GGT's Supporting Information Submission, A4.7.5.2, and page 136).
624. GGT proposes that the costs in the APA budget be projected forward by financial years to 2014/2015 based on known and reasonably expected corporate projects (Appendix 4 to GGT's Supporting Information Submission, A4.7.5.3, page 136 and 137). GGT details some of these projects as confidential information within GGT's Supporting Information Submission.
625. GGT proposes to allocate these costs to the APA owned portion of the GGP for each year up to 2015 based on APA's individual assets budgeted revenues. GGT notes that this revenue based methodology of allocating costs has been accepted by the ACCC/AER (Appendix 4 to GGT's Supporting information Submission, A4.7.5.4, pages 137 and 138).
626. The Authority notes that a revenue based allocation of corporate costs is a different approach to that taken in relation to the current Access Arrangement Period, in which costs were allocated on a capital basis. The Authority has not been able to identify any evidence of the ACCC or AER accepting such an approach.
627. The Authority considers that GGT has not provided sufficient information to explain the reason for the change in the approach to allocating corporate overhead costs or to satisfy the Authority that a revenue based approach to the allocation of such

costs is appropriate. Therefore, the Authority does not approve GGT's proposed allocation approach. The Authority requires further substantiation of the proposed allocation approach prior to making the Final Decision.

628. GGT also proposes to adjust corporate overheads for the GGP to take account of the fact that not all of the GGP is covered (Appendix 4 to GGT's Supporting Information Submission, A4.7.5.5, page 139). As discussed at paragraphs 134 to 199 above, the Authority does not accept this approach.
629. The Authority is also not satisfied that the full range of corporate overhead costs included by GGT in its forecast of Non Capital Costs for the forthcoming Access Arrangement Period are necessarily costs that meet the prudent Service Provider test.
630. The corporate overhead costs about which the Authority is concerned were detailed in that part of GGT's Supporting Information Submission which was provided to the Authority on a confidential basis. Therefore, the Authority's assessment of these fees and costs is addressed in confidential Appendix 2 to this Draft Decision.
631. The Authority notes that these costs were above GGT's previous forecasts and GGT proposes to increase these costs further.
632. The Authority also notes (as discussed at paragraphs 586 to 593 above) that GGT's actual corporate overhead costs for the current Access Arrangement Period were not provided in the Auditor's Report. The Authority therefore cannot be satisfied that these costs meet the prudent Service Provider test.
633. For these reasons the Authority is not satisfied that GGT's proposed forecast of corporate overhead costs meet the prudent Service Provider test or the best estimates test for the reasons set out in confidential Appendix 2.
634. The Authority does not approve GGT's proposal in respect of forecast corporate overhead costs.

Asymmetric risk

635. GGT proposes to incorporate an allowance for asymmetric risk into its Non Capital Cost cash flows (Appendix 4 to GGT's Supporting Information Submission, A4.7.6 on pages 141 to 142). The estimate proposed by GGT is \$0.490 million per annum, to be escalated by GGT's forecast for inflation.
636. GGT submits that the existence of asymmetric risk associated with infrastructure asset regulation has been recognised by regulators. GGT's proposal to include an allowance for asymmetric risk, and its estimate of that risk, is supported by a report prepared by Synergies Economic Consulting (Attachment 5 to GGT's Supporting Information Submission).
637. In its Final Decision in relation to the current Access Arrangement, the Authority did not approve a proposed allowance for asymmetric risk. The Authority was not satisfied that such an allowance met the requirements of section 8.37 of the Code. The Authority expressed the view that "a prudent Service Provider, acting efficiently, would incorporate demand risk into a probabilistic forecast of demand taking into account assessments of probabilities of demand for individual Users, Prospective Users and for future gas use in regions of gas delivery" (paragraph 364 of the Final Decision, page 82).

638. The Authority also noted in its Final Decision in relation to the current Access Arrangement that even if an allowance for asymmetric risk met the requirements of section 8.37 of the Code, it considered that GGT's proposed estimate of that allowance was unreasonable for the following reasons (paragraph 365 of the Final Decision, page 82):

- a) The probability distribution of future demand for pipeline services underlying assessment of asymmetric risk in demand is an assumed probability distribution that is not based on any rigorous assessment of future gas demand by current Users, Prospective Users or gas demand in the region serviced by the GGP. GGT has not established that demand risk is "fundamentally asymmetric in character" or that, if it is, there is a greater risk of decreases rather than increases in demand.
- b) The assessment of risks to GGT associated with deviations of demand from current forecasts does not take into account periodic re-sets of the Reference Tariff taking into account changes in gas forecasts, including revisions that may occur at any time at the instigation of the Service Provider.

639. The Authority maintains this view.

640. The Authority also notes the submission made by BHPB regarding the proposal for an allowance for asymmetric risk (detailed at paragraph 576 above). The Authority generally agrees with the submission made by BHPB regarding asymmetric risk.

641. The Authority does not approve GGT's proposal to include an allowance for asymmetric risk in its forecast Non Capital Costs.

Draft Decision

642. Taking into account the above analysis of GGT's proposal regarding forecast Non Capital Costs, the Authority has determined the Reference Tariff on the basis of Non Capital Costs as set out in Table 18 below.

643. The Authority's also requires GGT's proposal in relation to Non Capital Costs to be adjusted to include values for the Non Capital Costs associated with the Expansions of Capacity, and to adopt a quarterly modelling approach, in order to give effect to the Authority's Draft Decision on those matters.

644. GGT's proposal in relation to Non Capital Costs is contained in Table 10 of the Access Arrangement Information (which is repeated in Table 18 of this Draft Decision) as follows:

Table 18: GGT's Proposed Non Capital Costs (\$m, nominal)

	2010	2011	2012	2013	2014
Operating & Maintenance and Administration & General	20.1	20.3	21.2	24.8	26.7
Corporate Overheads	6.3	6.4	6.5	6.5	6.5
Asymmetric Risk	0.5	0.5	0.5	0.5	0.6
Total	26.8	27.2	28.2	31.9	33.7

645. The Authority requires the values in Table 10 of the Access Arrangement Information (which is repeated in Table 18 of this Draft Decision) to be adjusted as follows:

Table 19: Authority's Required Amendments to GGT's Proposed Non Capital Costs (\$m, nominal)

	2010	2011	2012	2013	2014
Pipeline operating and maintenance costs	21.3	21.6	22.6	26.3	28.2
Corporate Overheads	2.4	2.4	2.5	2.5	2.6
Asymmetric Risk	0.0	0.0	0.0	0.0	0.0
Total Non Capital Costs	23.7	24.0	25.0	28.8	30.7

646. It should be noted that the figures outlined under Table 19 of this Draft Decision for corporate overheads have been primarily derived from the current Access Arrangement corporate overheads plus an allowance for inflation. Under the current Access Arrangement the Authority approved a forecast of \$2.2 million in relation to corporate overheads for 2009 (GGT Supporting Information Submission, page 26).

Required Amendment 10

In relation Non Capital Costs, Table 10 of the Access Arrangement Information should be amended to reflect the values in Table 19 of this Draft Decision.

Total Revenue

Requirements of the Code

647. GGT has elected to use the Cost of Service method for determining the Total Revenue from which Reference Tariffs are to be determined. The Total Revenue for this purpose is defined in section 8.4 of the Code, as follows:

8.4 The Total Revenue (a portion of which will be recovered from sales of Reference Services) should be calculated according to one of the following methodologies:

Cost of Service: The Total Revenue is equal to the cost of providing all Services (some of which may be the forecast of such costs), and with this cost to be calculated on the basis of:

- (a) a return (**Rate of Return**) on the value of the capital assets that form the Covered Pipeline or are otherwise used to provide Services (**Capital Base**);
- (b) depreciation of the Capital Base (**Depreciation**); and
- (c) the operating, maintenance and other non-capital costs incurred in providing all Services (**Non-Capital Costs**).

.....

648. Section 8.5A of the Code provides that:

8.5A Any of the methodologies described in section 8.4 or permitted under section 8.5, may be applied:

- (a) on a nominal basis (under which the Capital Base and Depreciation are expressed in historical cost terms and all other costs and revenue are expressed in current prices and a nominal Rate of Return is allowed); or
- (b) on a real basis (under which the Capital Base, Depreciation and all costs and revenues are expressed in constant prices and a real Rate of Return is allowed); or
- (c) on any other basis in dealing with the effects of inflation.

provided that the basis used is specified in the Access Arrangement, is approved by the Relevant Regulator and is applied consistently in determining the Total Revenue and Reference Tariffs.

649. Section 8.6 of the Code recognises that a range of values may be attributed to the Total Revenue. It provides that, in order to determine an appropriate value within

this range, the Authority may have regard to any financial and operational performance indicators considered by the Authority to be relevant in order to determine the level of costs within the range under section 8.4 of the Code that is most consistent with the objectives in section 8.1 of the Code. If the Authority has considered financial and operational performance indicators for the purpose of section 8.6 of the Code, section 8.7 of the Code requires the Authority to identify the indicators and provide an explanation of how they have been taken into account.

GGT's Proposed Revisions

Access Arrangement

650. GGT proposes to apply the Cost of Service method using a nominal approach.
651. GGT has calculated its proposed Total Revenue having regard to its proposals regarding the roll forward of the Capital Base, Forecast Capital Expenditure, Depreciation, the Rate of Return and Non Capital Costs (section 5.2(b) of GGT's Proposed Revisions, pages 5 to 6).

Access Arrangement Information

652. GGT has modelled its proposed Total Revenue on an annual basis. GGT's proposed Total Revenue is set out in Table 1 in the Access Arrangement Information (page 2, also see GGT's Supporting Information Submission, page 36 in Table 6.4).
653. As explained above, GGT's proposals in relation to a number of the components which make up the calculation of Total Revenue do not include assets used to provide the Expansions of Capacity, namely the second compressor at Paraburdoo, and the compressor stations at Wyloo West and Ned's Creek.

Public Submissions

654. The Authority has not received any public submissions relating specifically to GGT's proposed Total Revenue. As discussed above, the Authority has received various public submissions in relation to the components used to calculate the Total Revenue.

Authority's Assessment

655. Given the Authority's Draft Decision in relation to Expansions of Capacity (paragraphs 134 to 199 above) the Authority does not accept GGT's proposal to exclude, from Total Revenue, assets used to provide Expansions of Capacity. Similarly, the Authority does not accept GGT's proposal to adopt an annual modelling approach instead of the quarterly modelling approach previously adopted in relation to the GGP (paragraphs 200 to 223 above).
656. The Authority therefore considers that GGT's proposal in relation to Total Revenue needs to be adjusted to include values for the assets used to provide the Expansions of Capacity, and to adopt a quarterly modelling approach.
657. The Authority is otherwise satisfied that GGT has adopted an appropriate method for determining the Total Revenue which is consistent with the requirements of the Code.

658. The Authority has considered above each of the components making up the calculation of Total Revenue. The Authority has not approved GGT's proposal in relation to all of those components, including on the basis of the exclusion of Expansions of Capacity from the Covered Pipeline and the adoption of annual modelling and Rate of Return. The Authority has therefore made a Draft Decision requiring an amendment to each of those components.
659. Section 8.6 of the Code recognises that there might be a range of values for one or more of the inputs used to determine Total Revenue. If one of those inputs is a range of values then this results in a range of values for Total Revenue. In such a situation section 8.6 of the Code provides that the Authority may have regard to any financial and operational performance indicators it considers relevant in order to determine what single value within the range of values for the Total Revenue is most consistent with the objectives in section 8.6 of the Code.
660. In this Draft Decision, the Authority has determined a single value in respect of all of the inputs used to determine Total Revenue, namely Rate of Return, the Depreciation Schedule and Non Capital Costs. In the case of the Rate of Return, the Authority determined a single value having regard to a reasonable range of values that may be attributed from CAPM parameters used in determining an appropriate Rate of Return. Given that there is no range of values carried forward into the determination of Total Revenue, the Authority has determined the Total Revenue as a single value for the purpose of the Draft Decision. There is therefore no range for Total Revenue. This means that the Authority is not required to determine an appropriate single value within a range of values for Total Revenue under section 8.6 of the Code. It follows that the Authority is not required to consider, and therefore has not considered any financial and operational performance indicators in order to determine a single value for the Total Revenue.

Draft Decision

661. The Authority does not approve GGT's proposal in relation to Total Revenue.
662. GGT's proposal in relation to Total Revenue is in Table 1 and Table 14 of the Access Arrangement Information (which are repeated as Table 20 and Table 21 of this Draft Decision, respectively) as follows:

Table 20: GGT's Proposed Total Revenue (\$m, nominal)

	2010	2011	2012	2013	2014
Return	60.2	59.9	59.1	58.0	56.8
Depreciation	10.8	11.2	11.6	11.9	12.0
Non Capital costs	26.8	27.2	28.2	31.9	33.7
Total Revenue	97.9	98.3	98.8	101.7	102.5

663. Table 1 of the Access Arrangement Information (which is repeated in Table 20 of this Draft Decision) represents the Total Revenue for the total Capacity of the Covered Pipeline (108 TJ/day).

Table 21: GGT's Proposed Annual Reference Service Revenue (\$m, nominal)

	2010	2011	2012	2013	2014
Revenue	4.6	4.0	4.0	4.9	5.7

664. Table 14 of the Access Arrangement Information (which is repeated in Table 21 of this Draft Decision) represents Reference Service revenue for the 4 TJ/day of spare Capacity in the Covered Pipeline.
665. The Authority required Reference Service Revenue to be derived based on the entire 157TJ/day Capacity of the Pipeline rather than the 4 TJ/day of spare Capacity that GGT proposed be used as the basis for Reference Service Revenue.
666. Adopting the Authority's Draft Decision in relation to each of the components making up the Total Revenue, the Authority requires Table 1 and Table 14 of the Access Arrangement Information (which are repeated in Table 20 and Table 21 of this Draft Decision) to reflect the values in Table 22 of this Draft Decision.

Table 22: Authority's Required Amendments to GGT's Proposed Total Cost of Service

	2010	2011	2012	2013	2014
Non Capital Cost	23.7	24.0	25.0	28.8	30.7
AA1 Excess Revenue Compensation	-	-	-	-	-
Over Depreciation AA1	- 0.3	-	-	-	-
Depreciation	14.4	15.1	15.4	15.6	15.7
Return on Plant Value	53.4	53.5	52.4	51.2	49.9
Return on Non-Depreciable	0.7	0.5	0.5	0.5	0.5
Total Cost of Service	91.8	93.1	93.3	96.1	96.9

667. Table 22 of this Draft Decision represents the Total Revenue for the total Capacity of the GGP (including the Expansions of Capacity), being 157 TJ/day.
668. Table 22 of the Draft Decision incorporates the Authority's requirement that GGT's proposal in relation to each of the components of Total Revenue be adjusted to include values for the assets used to provide the Expansions of Capacity, and to adopt a quarterly modelling approach, in order to give effect to the Authority's Draft Decision on those matters.

Required Amendment 11

In relation to Total Revenue Table 1 and Table 14 of the Access Arrangement Information should be amended to reflect the values in Table 22 of this Draft Decision.

Volume Forecasts

Requirements of the Code

669. Section 8.1(a) of the Code provides that a Reference Tariff should be designed with a view to achieving the objective of providing the Service Provider with the opportunity to earn a stream of revenue that recovers the efficient costs of delivering the Reference Service over the expected life of the assets used in delivering that Service.
670. In order to determine a Reference Tariff that will be designed to achieve this objective, it is necessary for the Service Provider to forecast volumes of Services to be provided using the Covered Pipeline. These are used to derive a Reference Tariff from the Total Revenue.
671. There are no specific provisions of the Code setting out principles governing the forecasting of volumes by the Service Provider. However section 8.2 of the Code, which sets out the factors about which the Authority must be satisfied in determining to approve a Reference Tariff, includes the following relevant provision:
- (e) any forecasts required in setting the Reference Tariff represent best estimates arrived at on a reasonable basis.

GGT's Proposed Revisions

Access Arrangement

672. The forecast volumes used to calculate the Reference Tariff are not set out in GGT's Proposed Revisions.

Access Arrangement Information

673. Section 9 of the Access Arrangement Information sets out information concerning volumes of Services.
674. Table 11 at page 10 of the Access Arrangement Information shows the historical average annual throughput (2009 values are forecast) reflecting the composite load factor of the currently contracted Users. These data are shown as Average Daily Throughput in TJ/day and Total Annual Throughput in PJ.
675. Peak demand and load profile information over the period 2000 to 2009 is provided in graphical form at page 11 of the Access Arrangement Information.
676. The Access Arrangement Information at page 11 states that the current capacity of the Covered Pipeline is 108 TJ/day for the current load distribution. Further, that the Covered Pipeline is currently contracted near capacity, with an average of 4.12

TJ/day forecast to be available over the Access Arrangement Period as at 23 March 2009.

677. Table 12 of the Access Arrangement Information (page 11) sets out GGT's forecast Maximum Daily Quantities (**MDQ**) and average throughput (terajoules per day).

Additional GGT Submissions

678. GGT provided detailed confidential information in response to the GGT Section 41 Notice in relation to volumes.

Public Submissions

679. No public submissions were received by the Authority in relation to GGT's volume forecasts.

Authority's Assessment

680. It is not necessary for the purpose of this Draft Decision for the Authority to assess the historical volumes presented in Table 11 of the Access Arrangement Information for the period 2000 to 2009. These data have no bearing on the determination of Reference Tariffs. They do, however, provide relevant background to the volume forecasts presented by GGT in support of GGT's Proposed Revisions.
681. The Authority notes that the historical data for 2000 to 2009 presented by GGT exclude the throughput referable to the Expansions of Capacity of the GGP by reason of the second Paraburdoo compressor and the Wyloo West and Ned's Creek compressors.
682. Using data provided to the Authority by GGT, the following Tables set out the Capacity and Average Throughput, including the throughput for the Expansions of Capacity, for the period 2000 to 2009.

Table 23: Historical Volumes

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009 F
Capacity (MDQ, TJ/day)	90.5	91.3	94.6	93.5	97.0	118.7	120.5	130.0	142.1	149.2
Average daily Throughput (TJ/day)	81.4	83.0	82.2	83.3	86.1	95.8	105.6	108.5	105.8	118.2
Total Annual Throughput (PJ)	29.8	30.3	30.0	30.4	31.5	35.0	38.5	39.6	38.7	43.1

683. This data may be compared with the throughput forecasts presented by GGT in support of the current Access Arrangement for the period 2000 to 2009, as follows:

Table 24: 2005 Access Arrangement Forecast Volumes

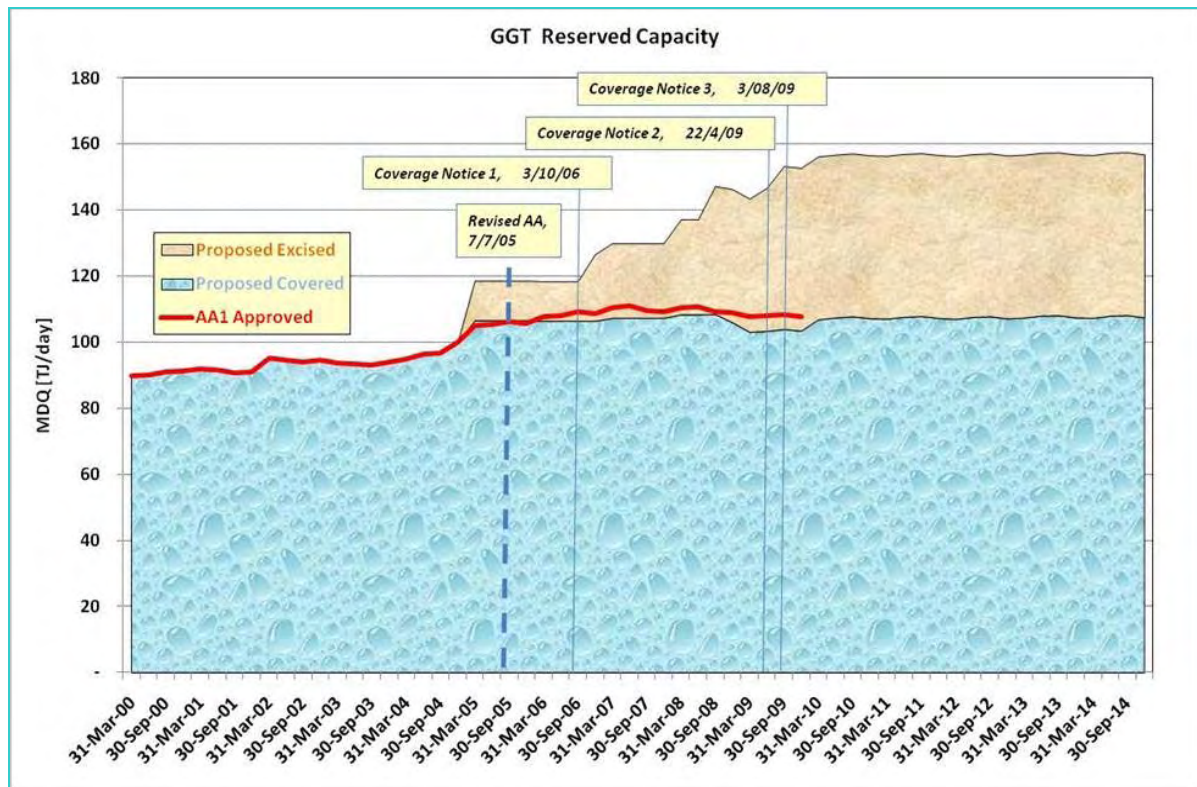
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Capacity (MDQ, TJ/day)	90.5	91.3	94.6	93.5	97.0	105.6	108.4	110.0	109.8	107.9
Average daily Throughput (TJ/day)	81.4	83.0	82.2	83.3	86.1	89.8	96.4	97.7	97.3	95.7
Total Annual Throughput (PJ)	29.8	30.3	30.0	30.4	31.4	32.8	35.2	35.7	35.5	34.9

684. The following figure (**Figure 1**) presents the above data showing the Capacity of the GGP in graphical form. Figure 1 shows the MDQ of gas delivered for the GGP in TJ/day:

- a) as approved by the Authority for the period 2000 to 2009, upon which the current Reference Tariff is based (**AA1 Approved**);
- b) the Covered Capacity of the GGP in TJ/day for the period 2000 to 2009 (actual) and 2010 to 2014 (forecast) (**Proposed Covered**);
- c) the Expansions of Capacity of the GGP (i.e. excluded from Coverage in accordance with the Extensions/Expansions Policy) for the period 2000 to 2009 (actual) and 2010 to 2014 (forecast) (**Proposed Excised**).

685. Figure 1 also presents additional data regarding the GGT's forecasts of the Capacity of the GGP. In addition, Figure 1 shows the dates upon which GGT submitted its volume forecasts for the period 2005 to 2009, and the dates of the notices to the Authority electing to exclude three expansions in accordance with clause 10.3 of the current Access Arrangement.

Figure 1: GGT Reserved Capacity 2000 to 2014 (TJ/day)



686. As can be seen from Figure 1, the current Access Arrangement for the GGP was based on volume forecasts provided by GGT, as part of its Proposed Revisions, on 7 July 2005. The Authority released its Further Final Decision shortly afterwards, on 14 July 2005.
687. It appears that the volume forecasts provided by GGT on 7 July 2005 did not include contracted Capacity totalling approximately 12 TJ/day. This contracted Capacity was not excluded from Coverage at the time GGT submitted its volume forecasts.
688. Had the additional 12 TJ/day contracted Capacity been included in those forecasts, the Capacity forecast would have been 117.4 TJ/day instead of 105.4 TJ/day. The additional volume of 12 TJ/day, had it been taken into account, is likely to have increased the total contracted volume figures used to determine Reference Tariffs by 11 per cent. This is likely to have produced lower reference tariffs over the access arrangement period 2000 to 2009.
689. The impact on the total revenue over the 2000 to 2009 period (in present value \$2009) is likely to have been approximately \$25 million or 2 per cent of the total revenue figure over this period (89% of revenue is distance based so there is not a one-to-one relationship between contracted capacity and reference tariff revenue). Similarly, Reference Tariffs are likely to have been 2 per cent lower if this additional volume had been taken into account.
690. In addition to the omission of contracted Capacity from forecasts under the current Access Arrangement, GGT has progressively expanded the Capacity of the pipeline to a significant extent. These expansions were not forecast at the time the volume forecasts were submitted to the Authority in July 2005.

691. In summary, as appears from Tables 23 and 24 and Figure 1 of this Draft Decision, GGT's actual volumes have proven to be substantially and materially above the volumes forecast by GGT over the period 2005 to 2009, with the effect that Reference Tariffs under the current Access Arrangement will have been above those which would have been approved had forecasting been more accurate, based on the entire Capacity of the GGP.
692. The Authority notes that the throughput for 2010 to 2014 upon which GGT's Reference Tariff proposal is based, forecasts no increase in current average daily and total throughputs over the entire five year period. The Authority is concerned to ensure that under the forthcoming Access Arrangement GGT's forecast volumes are as accurate as possible in order to minimise the risk of a substantial under-estimation of volume forecasts (as has occurred under the current Access Arrangement). This is because such an under-estimate would result in Reference Tariffs being substantially above the level that they should be if more accurate forecasts were to be provided.
693. The Authority has no information either by way of submission from any party, or based on its current knowledge, to suggest that GGT's forecasts on this occasion, do not represent a "best estimate arrived at on a reasonable basis" as required by section 8.2(e) of the Code.
694. Given the lack of any information upon which the Authority reasonably could conclude that the forecasts are not reasonable, the appropriate course to address the Authority's concern (in relation to an under-estimation of volume forecasts) is for the Authority to set a nominated increase in volumes as a trigger event (under section 3.17 of the Code). Upon such an increase occurring GGT will be obliged to lodge revisions to the Access Arrangement at which time the Authority can set Reference Tariffs consistent with the volume information at that time. This is discussed further, below (paragraphs 1243 to 1259).
695. The forecast throughput data for the 2010 to 2014 period, like the historical data, excludes the throughputs related to the Expansions of Capacity by reason of the second Paraburdoo compressor and the Wyloo West and Ned's Creek compressor stations.

Draft Decision

696. The Authority's Draft Decision (paragraphs 134 to 199 above) is that the Services provided over the Covered Pipeline include the Additional Services. Therefore, the Authority's Draft Decision is that Total Revenue includes the costs of all Services. Consequently, in order for Reference Tariffs to be determined in accordance with the Reference Tariff principles in section 8 of the Code, the forecasts must include the throughput for the Expansions of Capacity.

697. In calculating Reference Tariffs, the Authority has assumed that the approximate 4 TJ/day of spare Capacity is fully contracted by 1 January 2010.

698. GGT's proposed volume forecasts are set out in Table 12 of the Access Arrangement Information (which is repeated in Table 25 of this Draft Decision) as follows:

Table 25: GGT's Proposed Volume Forecasts TJ/day

Forecast	2010	2011	2012	2013	2014
Capacity (MDQ, TJ/day)	108.0	108.0	108.0	108.0	108.0
Contracted capacity (MDQ, TJ/day)	103.73	103.81	103.73	103.04	104.08
Available Capacity (MDQ, TJ/day)	4.27	4.19	4.27	3.96	3.92

Average daily throughput (TJ/day)	88.8	88.8	88.9	88.8	88.8
Total throughput (PJ)	32.4	32.4	32.5	32.4	32.4

699. The Authority requires Table 12 of the Access Arrangement Information (which is repeated in Table 25 of this Draft Decision) to be amended to reflect the values in Table 26 of this Draft Decision.

Table 26: Authority's Required Amendments to GGT's Proposed Volume Forecasts TJ/day

Forecast	2010	2011	2012	2013	2014
Capacity (MDQ, TJ/day)	156.8	157.0	156.9	157.2	157.2
Average daily Throughput (TJ/day)	127.4	127.4	127.4	127.4	127.4
Total Annual Throughput (PJ)	46.6	46.5	46.5	46.5	46.6

Required Amendment 12

Table 12 of the Access Arrangement Information setting out volume forecasts in TJ/day should be amended to include volume forecasts for the Additional Services arising from the Expansions of Capacity as set out in Table 26 of this Draft Decision.

Reference Tariff Structure

Requirements of the Code

700. In designing a Reference Tariff for gas haulage, there is a potentially unlimited range of charging structures which may be proposed by the Service Provider, using variables relating to capacity, distance, throughput, time and so forth.
701. There are no specific provisions of the Code prescribing the charging structure of Reference Tariffs. The Service Provider in each case is at liberty to propose a charging structure which the Service Provider regards as the most effective means of recovering costs through the Reference Tariff.
702. The Code simply requires that the chosen structure is consistent with the general principles regarding the design of Reference Tariffs set out in sections 8.1 and 8.2 of the Code (the terms of which have been set out previously).

GGT's Proposed Revisions

Access Arrangement

703. Section 5.2(c) of GGT's Proposed Revisions provides that the Reference Tariff is to be structured in three parts:
- a) a Toll Charge (capacity based);
 - b) a Capacity Reservation Charge (capacity and distance based); and
 - c) a Throughput Charge (throughput and distance based),
- as described in the proposed clauses 9.4(a), (b) and (c) respectively of the General Terms and Conditions in Appendix 3.
704. The proposed Reference Tariff structure, including the definitions of the charges in the proposed clause 9.4 of the General Terms and Conditions, is unchanged from that applying under the current Access Arrangement.

Access Arrangement Information

705. Section 10 of the Access Arrangement Information (page 12) presents information concerning the Reference Tariff structure.
706. The Access Arrangement Information notes (page 12) that the three components of the Firm Service have been designed to broadly reflect the fixed and variable components of transportation costs through the Covered Pipeline.

707. GGT noted further that the Reference Tariff is modelled such that the revenue from the Reference Service will be allocated to the three charges in the following proportions:
- a) Toll Charge: 11.3%
 - b) Capacity Reservation Charge: 72.2%
 - c) Throughput Charge: 16.5%

Additional GGT Submissions

708. GGT did not make any further submissions in relation to the Reference Tariff structure.

Public Submissions

709. No public submissions were received by the Authority in relation GGT's proposed Reference Tariff structure.

Authority's Assessment

710. The proposed Reference Tariff structure under GGT's Proposed Revisions is unchanged from the structure under the current Access Arrangement. The Authority has no information before it, either from GGT or any other party, or from its own knowledge, to suggest that the Reference Tariff structure is not consistent with the Code, in particular the general principles under sections 8.1 and 8.2 of the Code which a Reference Tariff must be designed to achieve.

Draft Decision

711. The Authority accepts the Tariff Structure proposed in GGT's Proposed Revisions.

Cost Allocation

Requirements of the Code

712. Sections 8.38 to 8.42 of the Code set out the principles for the allocation of Total Revenue when determining Reference Tariffs.
713. Section 8.38 requires that Reference Tariffs should be designed to recover only that portion of Total Revenue which includes:
- (a) all of the Total Revenue that reflects costs incurred (including capital costs) that are directly attributable to the Reference Service; and
 - (b) a share of the Total Revenue that reflects costs incurred (including capital costs) that are attributable to providing the Reference Service jointly with other Services, with this share to be determined in accordance with a methodology that meets the objectives set out in section 8.1 of the Code and is otherwise fair and reasonable.
714. Section 8.39 of the Code provides that the Authority can require a different methodology for the allocation of costs than that proposed by a Service Provider.

However, if the Authority exercises this power, it must provide a detailed explanation of the methodology that it requires to be used.

715. Section 8.40 of the Code addresses the allocation of revenue between Reference Services and Rebatable Services. A Rebatable Service is defined in section 10.8 of the Code as a Service where:
- (a) there is substantial uncertainty regarding expected future revenue from sales of that Service due to the nature of the Service and/or the market for that Service; and
 - (b) the nature of the Service and the market for that Service is substantially different to any Reference Service and the market for that Reference Service.
716. Under section 8.40 of the Code, if a Reference Service is provided jointly with a Rebatable Service, then all or part of the Total Revenue that would have been recovered from the Rebatable Service under section 8.38 of the Code (if that Service was a Reference Service) may be recovered from the Reference Service provided that an appropriate portion of any revenue realised from sales of any such Rebatable Service is rebated to Users of the Reference Service (either through a reduction in the Reference Tariff or through a direct rebate to the relevant User or Users). The structure of such a rebate mechanism should be determined having regard to the following objectives set out in section 8.40 of the Code:
- (a) providing the Service Provider with an incentive to promote the efficient use of capacity, including through the sale of Rebatable Services; and
 - (b) Users of the Reference Service sharing in the gains from additional sales of Services, including from sales of Rebatable Services.
717. A Service Provider has the discretion to adopt alternative approaches to revenue allocation, subject to any approach adopted having substantially the same effect as the approach outlined in sections 8.38 and 8.40 of the Code (section 8.41).
718. Section 8.42 addresses the issue of the allocation of revenue between Users. This section provides that, subject to provisions for Prudent Discounts in section 8.43 of the Code, the Reference Tariff should be designed such that the proportion of Total Revenue recovered from actual or forecast sales of a Reference Service to a particular User of that Service is consistent with the principles described in section 8.38 of the Code.

GGT's Proposed Revisions

Access Arrangement

719. Section 5.2 of GGT's Proposed Revisions, sets out GGT's Reference Tariff Policy. Section 5.2(c) sets out GGT's Reference Tariff Policy concerning the design of the Reference Tariff, with sections 5.2(c)(2) and (3) relating to the allocation of costs.
720. Section 5.2(c)(2) of GGT's Proposed Revisions (page 6) provides that the Total Revenue is to be allocated between the Reference Service and other Services. This allocation is to occur in a manner designed to ensure that the Reference Tariff reflects:

- a) costs incurred (including capital costs) that are directly attributable to the provisions of the Reference Service; and
- b) a share of the Total Revenue that reflects costs incurred (including capital costs) that are attributable to providing the Reference Service jointly with other Services.

721. Section 5.2(c)(3) provides that the Reference Tariff is designed to recover the Reference Service Revenue from the Users of the Reference Service.

Access Arrangement Information

722. Access Arrangement Information in relation to the Reference Tariff and Cost Allocation is contained in section 10.2 of the Access Arrangement Information, at pages 12 to 13.

723. The Access Arrangement Information states that the Reference Tariff is calculated according to a cost allocation methodology consistent with section 8.38 of the Code. Under this methodology, the Reference Tariff is designed to recover:

- that portion of the Total Revenue that reflects the costs incurred that are directly attributable to the Reference Service; and
- that portion of the Total Revenue that reflects costs incurred that are attributable to providing the Reference Service jointly with other Services, with this share determined in accordance with a methodology that meets the objectives in section 8.1 and is otherwise fair and reasonable.

724. The Access Arrangement Information then addresses the specific issue of the allocation of jointly incurred costs (i.e. the costs incurred jointly in providing Reference and Non-Reference Services.) GGT divides the jointly incurred costs into regulatory and non-regulatory costs for cost allocation purposes:

- a) all costs other than regulatory costs are to be allocated to the Reference and Non-Reference Services pro rata on the pipeline capacity applicable to each service.
- b) regulatory costs are assigned to the Reference and Non-Reference Services based on the applicability of the regulatory framework and the current Access Arrangement to the Service.

725. Applying these rules, GGT presented the portion of Total Revenue allocated to the Reference Service (the **Reference Service Revenue** – which is now defined in Appendix 1) for 2010 to 2014 in Table 14 of the Access Arrangement Information (page 13). GGT noted that the present value of the Reference Service Revenue (using a discount rate equal to a pre-tax nominal Rate of Return of 13.5%) is \$15.9 million at 31 December 2009 for the 4 TJ/day of Spare Capacity.

Additional GGT Submissions

726. GGT discussed the Reference Tariff cost allocation process at pages 30 to 36 of GGT's Supporting Information Submission, in section 6.3. This discussion provides greater detail of the general cost allocation approach set out in GGT's Proposed Revisions and Access Arrangement Information. The total costs allocated to Reference Services are set out in section 6.4 at page 36.

727. In GGT's response to the Issues Paper dated 29 May 2009 GGT submitted that the Authority is not empowered to allocate any costs from the Total Revenue for the Covered Pipeline to Services provided by means of the uncovered capacity (pages 1 and 2 of GGT's Response to Issues Paper dated 29 May 2009 at section 2.1).

Public Submissions

728. Synergy made a submission in relation to reference tariffs and the allocation of costs at pages 3 and 4 of the Synergy Submission dated 29 May 2009.

729. That submission expresses concern that retail gas market competition in central WA will be reduced if reference tariffs are elevated by reason of any incorrect allocation of costs. Synergy suggested that there needs to be a proper examination of GGT's election to exclude 42TJ/day from coverage and that Reference Tariffs need to be fair and transparent to all pipeline users.

730. Allocation of costs is discussed in the GGP Users (PCS) Submission at page 13. It is submitted that it is not possible to ascertain from GGT's Proposed Revisions, the Access Arrangement Information or GGT's Supporting Information Submission dated 21 April 2009 the extent to which all Services draw on the Capital Base or add to Non Capital Costs or to ascertain how costs have been allocated between Reference Services and Non-Reference Services.

731. Allocation of costs is also discussed at page 12 of the GGP Users (PCS) Submission (section 2.3.5) in the context of the amount of Covered Capacity. It is submitted that the allocation of Capital and Non Capital Costs across all pipeline Capacity needs to be carefully scrutinised.

732. In the BHPB Submission dated 30 June 2009, BHPB made submissions about this issue in section 6 at pages 18 to 22 under the heading "Allocation of costs across 'uncovered capacity'". A large proportion of this submission addresses the matter discussed earlier in this Draft Decision, namely, the effect of exclusion of an expansion from the Covered Pipeline (paragraphs 134 to 199). This part of BHPB's submission also argues that the allocation of a share of the costs of providing the Expansions of Capacity (i.e. a share of the costs of the jointly used Pipeline) to Reference Services, is inconsistent with the Code generally and the principles of the Code, in particular the Reference Tariff Principles in section 8.1.

Authority's Assessment

733. The approach to cost allocation proposed by GGT uses a narrow concept of Total Revenue to be allocated, that is, the costs of the Covered Pipeline, excluding the direct costs of the Expansions of Capacity of 49 TJ/day (i.e. the direct costs of the second Paraburdoo compressor, and the Wyloo West and Ned's Creek compressor stations).

734. Under GGT's approach the Total Revenue so defined is then allocated as follows:

- a) the non-regulatory costs are allocated pro rata to the Reference Services and the Non Reference Services in accordance with the Pipeline Capacity applicable to each (that is approximately 4 TJ/day for the Reference Service, being the Spare Capacity, and approximately 104 TJ/day being the Contracted Capacity)

- b) regulatory costs are to be allocated between the Reference Services and the Contracted Capacity signed since the Code commenced (so that regulatory costs in relation to pre-Code contracts fall on the Reference Service and post-Code Contracts).
735. The Authority does not accept GGT's proposed approach, for two reasons.
736. First, as the Authority has set out above, the concept of Total Revenue applied by GGT is narrower than the Total Revenue which the Authority has decided in this Draft Decision should be defined more broadly. That is, the Total Revenue is all of the costs of supplying "Services" which includes all Services provided by means of the Covered Pipeline, which must include the costs of providing the Expansions of Capacity (paragraphs 134 to 199 above).
737. Second, even if the Authority was to accept GGT's definition of Total Revenue, the approach proposed by GGT does not provide cost allocations which meet the Reference Tariff principles, in particular the general Reference Tariff Principles in section 8.1 and 8.2 and the specific cost allocation principles in sections 8.38 to 8.42 of the Code.
738. Under GGT's cost allocation approach, the joint cost of providing gas transportation, which is incurred in supplying the Reference Services, Non Reference Services and the Expansions of Capacity, are recovered disproportionately from Users of Reference Services (4 TJ/day) and the Negotiated Services (104 TJ/day). This has the effect that Users of Reference Services and Negotiated Services, in addition to bearing the direct and shared costs of providing the Services, would also bear disproportionately the joint costs of providing Services by means of the Expansions of Capacity. On the other hand, the Users of the Services provided by means of the Expansions of Capacity would only be required to bear the direct cost of providing such Capacity and few of the shared costs of doing so.
739. The Authority considers that such an arrangement would not provide for economically efficient recovery of costs incurred in providing Reference Services, nor would it provide a fair and reasonable outcome, as required specifically by section 8.38 of the Code.
740. To allocate costs on a proper basis in accordance with the Code, the starting point is the Authority's Draft Decision (paragraphs 134 to 199 above) that the Services provided over the Covered Pipeline include the Additional Services. Consistent with that Draft Decision, the Total Revenue to be allocated should include the costs of all Services.
741. The Authority's past practice is that costs are allocated equally, across all modelled Capacity with no regard to the actual contracts in place for this Capacity, whether based on the Reference Service or other Services.
742. A significant previous example where the Authority set Reference Tariffs (i.e. allocated costs) without regard to the tariffs actually being paid under contracts in place for that capacity is on the Dampier to Bunbury Natural Gas Pipeline (**DBNGP**). In the DBNGP case Alcoa, up until June 2005, paid significantly above the Reference Tariff and after June 2005 paid significantly below the Reference Tariff. Other users on the DBNGP have agreed under the Standard Shipper Contract (**SSC**) to pay significantly above the Reference Tariff from 2004 until 2016.

The Authority modelled the Reference Tariffs for the DBNGP on the basis that all capacity and throughput is at Reference Tariffs.

743. The Authority considers that this approach is appropriate in the case of the GGP.

Draft Decision

744. GGT's proposal in relation to the forecast annual revenue to be recovered from providing the Reference Service is shown in Table 15 of the Access Arrangement Information (which is repeated in Table 27 of this Draft Decision) as follows:

Table 27: GGT's Proposed Annual Revenue from Reference Tariffs (\$m, nominal)

	2010	2011	2012	2013	2014
Revenue	4.4	4.5	4.6	4.7	4.8

745. Table 15 of the Access Arrangement Information (which is repeated in Table 27 of this Draft Decision) represents Reference Service revenue for the 4 TJ/day of spare Capacity in the Covered Pipeline.

746. In determining Reference Tariffs, costs should be allocated equally, across all Capacity (whether or not excluded from Coverage) with no regard to the actual contracts in place for this Capacity, and whether based on the Reference Service or other Services.

747. The Authority requires Table 15 of the Access Arrangement Information (which is repeated in Table 27 of this Draft Decision) to be amended to reflect the values in Table 28 of this Draft Decision. Table 28 of this Draft Decision has been derived on the basis of this approach (Total Revenue allocated to the Reference Service).

Table 28: Authority's Required Amendments to GGT's Proposed Annual Revenue from Reference Tariffs (\$m, nominal)

	2010	2011	2012	2013	2014
Total Revenue	93.9	93.9	94.1	94.1	94.1

748. Table 28 of this Draft Decision represents Reference Service revenue for the 157 TJ/day, being the total Capacity of the Pipeline (whether or not excluded from coverage).

749. Based on the values in Table 28 of this Draft Decision and using the quarterly modelling approach in this Draft Decision, the present value of the Reference Service revenue (using a discount rate equal to a pre-tax nominal Rate of Return of 10.28% in accordance with the Authority's Draft Decision on the Rate of Return (paragraphs 383 to 546 above)) is \$367.1 million at 31 December 2009.

Required Amendment 13

Table 15 of the Access Arrangement Information setting out the Annual Reference Service Revenue for 2010 to 2014 should be amended to include the values set out in Table 28 of this Draft Decision.

Required Amendment 14

The Reference Service Revenue referred to at page 13 of the Access Arrangement Information should be amended from \$15.9 million to \$367.1 million.

Incentive Mechanism

Requirements of the Code

750. Sections 8.44 to 8.46 of the Code make provision for the Service Provider to establish an Incentive Mechanism within the Reference Tariff Policy as follows:

8.44 The Reference Tariff Policy should, wherever the Relevant Regulator considers appropriate, contain a mechanism (an ***Incentive Mechanism***) that permits the Service Provider to retain all, or any share of, any returns to the Service Provider from the sale of the Reference Service:

- (a) during an Access Arrangement Period, that exceed the level of returns expected for that Access Arrangement Period; or
- (b) during a period (commencing at the start of an Access Arrangement and including two or more Access Arrangement Periods) approved by the Relevant Regulator, that exceed the level of returns expected for that period,

particularly where the Relevant Regulator is of the view that the additional returns are attributable (at least in part), to the efforts of the Service Provider. Such additional returns may result, amongst other things, from lower Non Capital Costs or greater sales of Services than forecast.

8.45 An incentive mechanism may include (but is not limited to) the following:

- (a) specifying the Reference Tariff that will apply during each year of the Access Arrangement Period based on forecasts of all relevant variables (and which may assume that the Service Provider can achieve defined efficiency gains) regardless of the realised values for those variables;
- (b) specifying a target for revenue from the sale of all Services provided by means of the Covered Pipeline, and specifying that a certain proportion of any revenue received in excess of that target shall be retained by the Service Provider and that the remainder must be used to reduce the Tariffs for all Service provided by means of the

Covered Pipeline (or to provide a rebate to Users of the Covered Pipeline); and

- (c) a rebate mechanism for Rebatable Services pursuant to section 8.40 that provides for less than a full rebate of revenues from the Rebatable Services to the Users of the Reference Service.

8.46 An Incentive Mechanism should be designed with a view to achieving the following objectives:

- (a) to provide the Service Provider with an incentive to increase the volume of sale of all Services, but to avoid providing an artificial incentive to favour the sale of one Service over another;
- (b) to provide the Service Provider with an incentive to minimise the overall costs attributable to providing those Services, consistent with the safe and reliable provision of such Services;
- (c) to provide the Service Provider with an incentive to develop new Services in response to the needs of the market for Services;
- (d) to provide the Service Provider with an incentive to undertake only prudent New Facilities Investment and to incur only prudent Non Capital Costs, and for this incentive to be taken into account when determining the prudence of New Facilities Investment and Non Capital Costs for the purposes of sections 8.16(a) and 8.37; and
- (e) to ensure that Users and Prospective Users gain from increased efficiency, innovation and volume of sales (but not necessarily in the Access Arrangement Period during which such increased efficiency, innovation or volume of sales occur).

GGT's Proposed Revisions

Access Arrangement

751. GGT proposes to adopt an Incentive Mechanism in the calculation of the Reference Tariff as follows (sub-section 5.2(d) of GGT's Proposed Revisions, page 7):

- (1) the Reference Tariff will apply during each Year of the Access Arrangement Period regardless of whether the forecasts on which the Reference Tariff was determined are realised;
- (2) the prospect of retaining improved returns for the period to 31 December 2014 provides an incentive to GGT to achieve the forecast volume of sales and to minimise the overall cost of providing Services; and
- (3) in determining Reference Tariffs after 31 December 2014, Users will benefit from the increased efficiencies achieved by GGT up to that date through the recovery through the subsequent Access Arrangement Period of non-capital costs reflecting the efficiencies gained during the Access Arrangement Period.

752. Sub-section 5.2(d) of GGT's Proposed Revisions is generally the same as sub-section 5.2(e) in the current Access Arrangement, with the following amendments:

- a) revised dates in subsections 5.2(d)(2) and (3); and

- b) the incentive is now said in section 5.2(d)(2) to encourage GGT to “achieve the forecast” rather than “increase the volume” of sales.

Access Arrangement Information

753. GGT submitted that the proposed form of Reference Tariff regulation provides GGT with an incentive to develop the market for the Reference Service as GGT will be able to retain the benefit of volumes generated in excess of those forecast. The right to retain improved returns means GGT has an incentive to minimise the costs of providing Services (section 10.4 of the Access Arrangement Information, page 14)

Public Submissions

754. The Authority did not receive any public submissions about GGT’s proposed Incentive Mechanism.

Authority’s Assessment

755. The Authority notes that GGT’s Proposed Revisions are consistent with the current Access Arrangement. The Authority acknowledges that an efficiency carryover mechanism is contemplated by the Code and recognises that such a mechanism has effective incentive properties. The proposed carryover period is a maximum of the length of the forthcoming Access Arrangement Period; that is, 5 years, with any benefit to Users available only after 2014.
756. In its Final Decision in relation to the current Access Arrangement, the Authority considered the Incentive Mechanism then proposed by GGT and found that the Incentive Mechanism inherent in the Reference Tariff specification to be generally in accordance with the relevant provisions of the Code.
757. The Authority has not received any public submissions in relation to the proposed change to the function of the incentive under GGT’s proposed Incentive Mechanism. The Authority therefore has no reason to believe that this proposed change is unreasonable or inconsistent with the provisions of the Code.
758. The Authority notes that forecast volumes were significantly exceeded (Figure 1 of this Draft Decision) and whilst it may be reasonable that some benefit be retained should volumes grow, it is considered appropriate that there be limits beyond which it would be appropriate to review the Access Arrangement through a Trigger Event mechanism (paragraphs 1243 to 1262 below).
759. The Authority considers that GGT’s proposed change satisfies the objectives in section 8.46 of the Code in respect of forecast costs.

Draft Decision

760. The Authority approves GGT’s proposed Incentive Mechanism.
761. The Authority notes its Draft Decision to require a Trigger Event mechanism in relation to a material increase in volumes during the forthcoming Access Arrangement Period.

Reference Tariff Variations

Requirements of the Code

762. Section 8.3 of the Code provides:

8.3 Subject to section 8.3A and the Relevant Regulator being satisfied that it is consistent with the objectives contained in section 8.1, the manner in which a Reference Tariff may vary within an Access Arrangement Period through the implementation of a Reference Tariff Policy is within the discretion of the Service Provider. For example, the Reference Tariff Policy may specify that Reference Tariffs will vary within an Access Arrangement Period through the implementation of:

- (a) a Cost of Service Approach;
- (b) a Price Path Approach;
- (c) a Reference Tariff Control Formula Approach;
- (d) a Trigger Event Adjustment Approach; or
- (e) any variation or combination of the above.

763. A Reference Tariff Variation Method is defined in section 10.8 of the Code to mean a method of varying a Reference Tariff during an Access Arrangement Period, including, without limitation the four approaches referred to in section 8.3(a) to (d) of the Code.

764. The four Reference Tariff Variation Methods are defined in section 10.8 of the Code.

765. The Cost of Service Approach is defined to mean “a Reference Tariff Variation Method whereby initial Reference Tariffs are set on the basis of the anticipated costs of providing the Reference Services and are adjusted continuously in light of actual outcomes (such as sales volumes and actual costs) to ensure that the Reference Tariffs recover the actual costs of providing the Reference Services.”

766. A Price Path Approach is defined to mean “a Reference Tariff Variation Method whereby Reference Tariffs are determined in advance for the Access Arrangement Period to follow a path or paths over time forecast to deliver a revenue stream, with that price path or paths not being adjusted to account for subsequent events until the commencements of the next Access Arrangement Period.”

767. A Reference Tariff Control Formula Approach is defined to mean “a Reference Tariff Variation Method whereby an initial set of Reference Tariffs may vary over the Access Arrangement Period in accordance with a specified formula or process.”

768. Finally, a Trigger Event Adjustment Approach is defined to mean “a Reference Tariff Variation Method whereby Reference Tariffs are varied in the manner specified in a Reference Tariff Policy upon the occurrence of a Specified Event.

769. Section 8.3A of the Code provides that a Reference Tariff “may vary within an Access Arrangement Period only through implementation of the Approved Reference Tariff Variation Method as provided for in section 8.3B to 8.3H.”

770. Section 8.3B of the Code provides that:

- (a) If a Specified Event occurs the Service Provider must, within the time provided in the Reference Tariff Policy, provide a notice to the Relevant Regulator containing the information set out in section 8.3C.
- (b) If the Service Provider otherwise wishes to vary a Reference Tariff in accordance with the Approved Reference Tariff Variation Method, the Service Provider must provide a notice to the Relevant Regulator containing the information set out in section 8.3C.

771. Sections 8.3C to 8.3H set out the details of the procedure to be followed once a notice is given under section 8.3B to vary the Reference Tariffs in accordance with the Approved Reference Tariff Variation Mechanism.

GGT's Proposed Revisions

772. Section 5.3 of GGT's Proposed Revisions provides that the Reference Tariff and other charges applicable in respect of the Reference Service are not subject to variation or modification during the Access Arrangement Period other than for:

- a) CPI adjustment in accordance with clause 9.8 of the General Terms and Conditions, which determines the Price Path of the Reference Tariffs over the Access Arrangement Period;
- b) A Reference Tariff Adjustment Mechanism as described in Schedule 1 to GGT's Proposed Revisions, under which individual Reference Tariffs components (i.e. the Toll Charge, Capacity Reservation Charge and Throughput Charge) are to be adjusted annually, by inflation, by rebalancing charges for individual components up to a 2% cap, and to take account of variations between forecast and actual regulatory costs; and
- c) Adjustment for Change in Imposts in accordance with clause 5.4 of GGT's Proposed Revisions, under which Reference Tariffs may be adjusted in accordance with changes in regulatory burdens arising by reason, for example, of carbon emissions legislation.

773. The Authority considers each of these three Reference Tariff Adjustment Mechanisms separately below.

First Proposed Mechanism - Inflation Adjustment

Requirements of the Code

774. The adjustment of Reference Tariffs, or component charges of a Reference Tariff, over an Access Arrangement Period to account for inflation is an example of the variation of Reference Tariffs under section 8.3 of the Code using a Price Path Approach.

775. The definition of a Price Path Approach in section 10.8 of the Code is set out above at paragraph 766.

GGT's Proposed Revisions

Access Arrangement

776. The Fourth Schedule of GGT's Proposed Revisions contains the statement of tariffs and charges. The Fourth Schedule provides for the following charges to be subject to adjustment for inflation under the proposed Price Path Approach.
777. First, clause 1 of the Fourth Schedule provides for the Transportation Tariffs to be adjusted for inflation. There are three component charges of the Transportation Tariffs in clause 1 of the Fourth Schedule namely the Toll Charge (\$0.311318/GJ), the Capacity Reservation Charge (\$0.001915/GJ) and Throughput Charge (\$0.000515/GJ). These Charges are to be adjusted "in accordance with clause 5 of the Access Arrangement." Clause 5.3(a) of GGT's Proposed Revisions, in turn, provides for CPI adjustment in accordance with the proposed clause 9.8 of the General Terms and Conditions.
778. Second, clause 4(b) the Fourth Schedule provides for inflation adjustment of the Accumulated Imbalance Charge. One of the variables in the formula for this Charge (the Accumulated Imbalance Tariff) is to be "adjusted by the CPI in accordance with clause 9.8 of the General Terms and Conditions."
779. Proposed clause 9.8 of the General Terms and Conditions sets out the mechanism for the adjustment for inflation. This clause provides that for the purpose of clause 9, the component charges of the Reference Tariff, when applicable, are to be determined in accordance with a formula.
780. GGT's proposal for adjustment of the Reference Tariff in line with inflation is a continuation of the approach under the current Access Arrangement as approved by the Authority. Under this approach the initial charges for all component charges of the Reference Tariffs are adjusted quarterly in line with inflation.
781. The inflation adjustment formula in the proposed clause 9.8 of the General Terms and Conditions is in the same form as the formula in the current Access Arrangement that is, CPI-X with X specified as zero. The CPI-X formula is commonly used in regulatory decisions to provide a smooth Price Path over the life of a regulatory tariff having regard to forecast inflation.

Access Arrangement Information

782. Section 10.3 of the Access Arrangement Information – Derivation of Reference Tariffs – concerns the initial charges for the Reference Service, and the Price Path for the Reference Tariff.
783. In this section GGT stated that the Reference Tariff has been designed to recover the Reference Service Revenue as described in section 10.2 of the Access Arrangement Information. The present value of the Reference Service Revenue (for 4 TJ/day of Spare Capacity) in section 10.2 of the Access Arrangement Information is \$15.9 million at 31 December 2009.
784. GGT stated that the Reference Tariff is derived so that the present value of the forecast annual revenue (obtained by applying the Reference Tariff, adjusted quarterly to reflect movements in expected inflation, to the forecast volumes for the Reference Service) is \$15.9 million.

785. Table 15 of the Access Arrangement Information then sets out the annual revenue from Reference Tariffs, to be recovered from providing the Reference Service, using the Reference Tariffs adjusted for inflation.

Additional GGT Submissions

786. GGT did not make any additional submissions about the Reference Tariff Price Path (except in relation to changes to the reference tariff adjustment mechanism discussed in paragraphs 806 to 818 below).

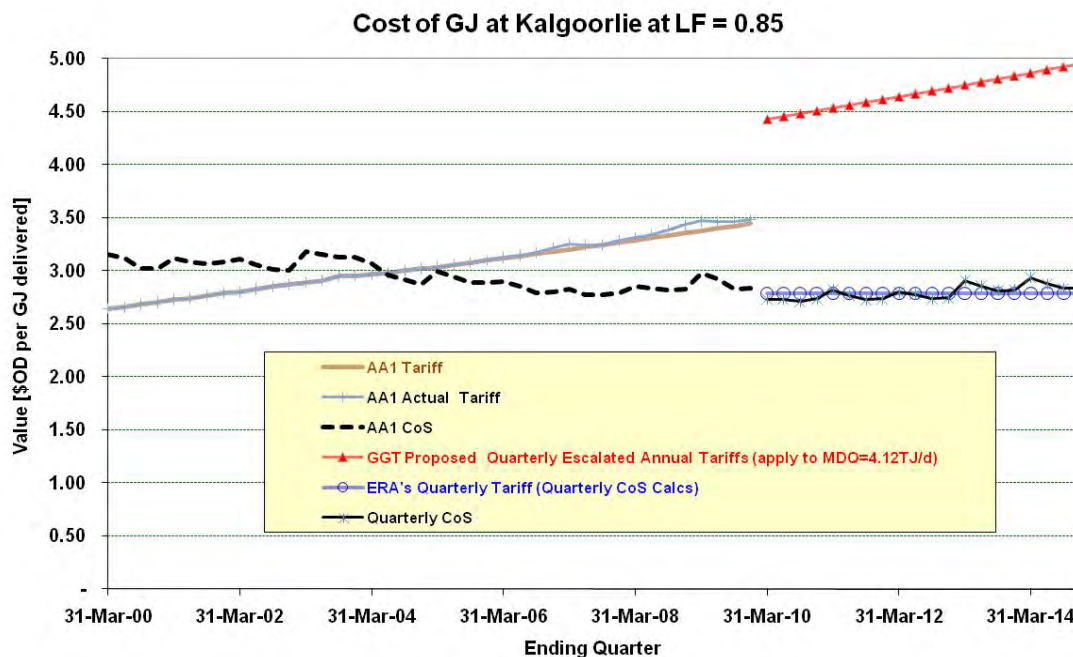
Public Submissions

787. No public submissions were made in respect of the Price Path proposed by GGT.

Authority's Assessment

788. Under the current Access Arrangement the charges for Reference Services have gradually increased in line with inflation over the period 2000 to 2009. To illustrate this, the following chart (**Figure 2**) shows (among other things) the increase in the Reference Tariff price per GJ of gas delivered at Kalgoorlie, at a load factor of 0.85, during 2000 to 2009. The prices in Figure 2 are expressed in dollars of the day (**\$OD**), or nominal, terms.

Figure 2: Reference Tariff price per GJ of gas delivered at Kalgoorlie (\$OD)



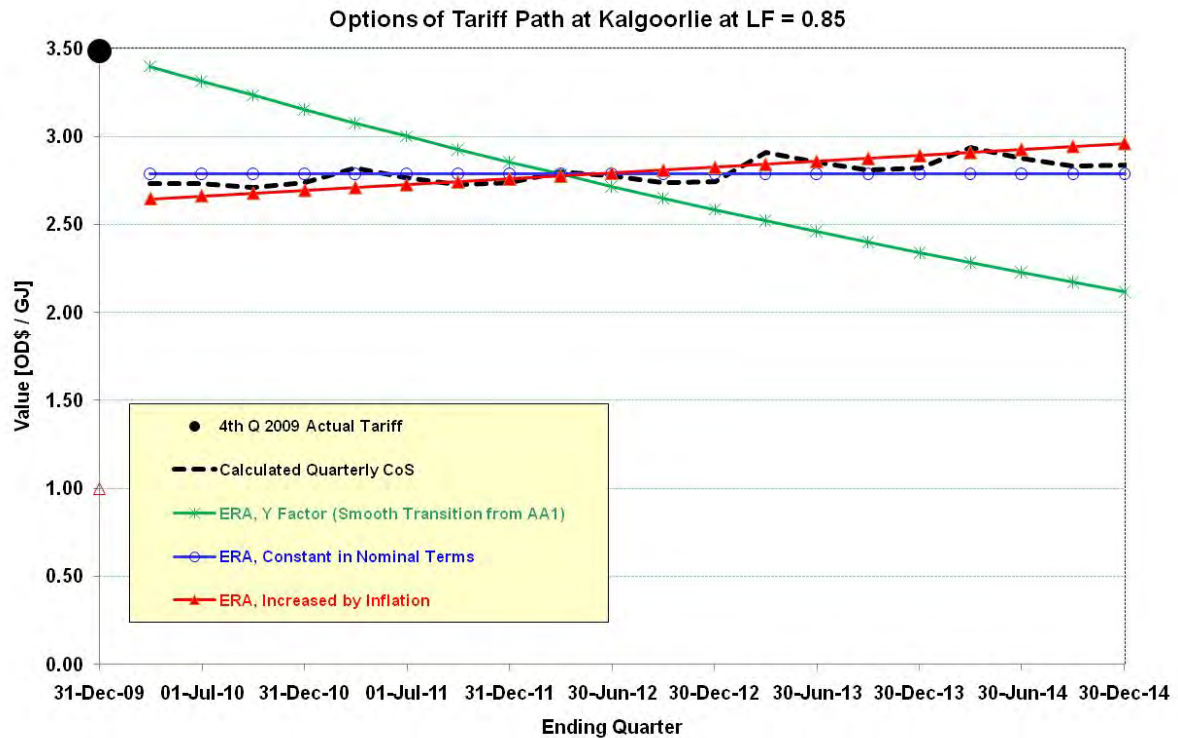
789. Figure 2 shows both the forecast Reference Tariff price (**AA1 Tariff**) and the actual Reference Tariff price (**AA1 Actual Tariff**), the latter being the Reference Tariff price after actual CPI increases, over the current Access Arrangement Period. As is shown, the Price Path of forecast and actual Reference Tariffs prices are very close, and show a gradually increasing price over this period.

790. Figure 2 also shows the Cost of Service per GJ of gas delivered at Kalgoorlie, at a load factor of 0.85 per GJ over the current Access Arrangement Period from 2000 to 2009 (**AA1 CoS**). The Cost of Service is derived by dividing the forecast Total Revenue by the forecast volume of gas delivered, for each quarter. As is shown,

the Cost of Service per GJ has decreased gradually over 2000 to the 2009 subject to some fluctuations.

791. Figure 2 illustrates that, because the Reference Tariff has been linked to inflation in an environment where the Cost of Service per GJ has been falling gradually, by the end of the current Access Arrangement Period (31 December 2009) the Reference Tariff will be substantially (more than 21%) above the Cost of Service per GJ as at that date. That is, the Reference Tariff as at 31 December 2009 will be \$3.48 per GJ compared with a Cost of Service at the same date of \$2.84 per GJ.
792. The tariff path under the current Access Arrangement was proposed by GGT in 1999 and was approved by the Authority in its Final Decision in relation to the current Access Arrangement in 2005. The Access Arrangement proposal lodged in 1999 was intended to have a life of five years. However, when this Access Arrangement was approved in 2005 the time period was revised in GGT's proposal to operate for a 10 year period from the year 2000. Therefore, the difference shown in Figure 2 between GGT's Cost of Service and tariff in 2009 is significantly greater than it would have been had the current Access Arrangement had a life of five years only.
793. Further, the Authority's Draft Decision means that the Cost of Service per GJ for the forthcoming Access Arrangement Period will be lower than the Cost of Service per GJ as at the end of the current Access Arrangement Period and will increase very slightly over the period 2010 to 2014. This is illustrated in Figure 2 (**Quarterly CoS**) which shows a Cost of Service as at 31 March 2010 of \$2.73 per GJ increasing to a Cost of Service of \$2.84 per GJ as at 31 December 2014.
794. The consequence of the above is that if the Reference Tariff is increased by inflation each quarter, as proposed by GGT, then in order to equalise the present value of the Reference Service revenue with the Total Revenue over the period 2010 to 2014 as is required under the Code, it would be necessary for there to be a very substantial step decrease in Reference Tariffs with effect from 1 January 2010. Further, as at the end of the Access Arrangement Period on 31 December 2014, the Reference Tariffs would have increased to an amount substantially above the Cost of Service as at 31 December 2014, so that a further substantial step decrease in Reference Tariffs may be necessary in the next Access Arrangement Period commencing on 1 January 2015.
795. The Authority considers that it is generally undesirable and inconsistent with the principles in the Code, for the Authority to determine Reference Tariffs under which there are material step increases or decreases at the date of transition between Access Arrangements. That is, the Authority considers it preferable, wherever practicable, to determine Reference Tariffs with a smooth Price Path, including between Access Arrangements, rather than a Price Path which has significant and sudden changes in tariffs.
796. In the present case it is necessary for the Authority to consider whether there is an alternative Price Path under which Reference Tariffs would have a smoother path than if GGT's proposal for inflation-based increases in Reference Tariffs is accepted.
797. The following chart (**Figure 3**) illustrates a range of Price Path options which the Authority has considered in order to address this issue.

Figure 3: Possible Price Paths for Reference Tariffs 2010 to 2014 (\$OD/GJ)



798. The Price Path options set out in Figure 3 are to set a Reference Tariff at 1 January 2010 that:

- a) equals the Reference Tariff as at 31 December 2009 and is then adjusted in accordance with a CPI-X formula (**ERA, X Factor**);or
- b) remains constant in nominal terms (**ERA, Constant in Nominal Terms**);or
- c) increases by the Draft Decision forecast inflation rate (**ERA, Increased by Inflation**).

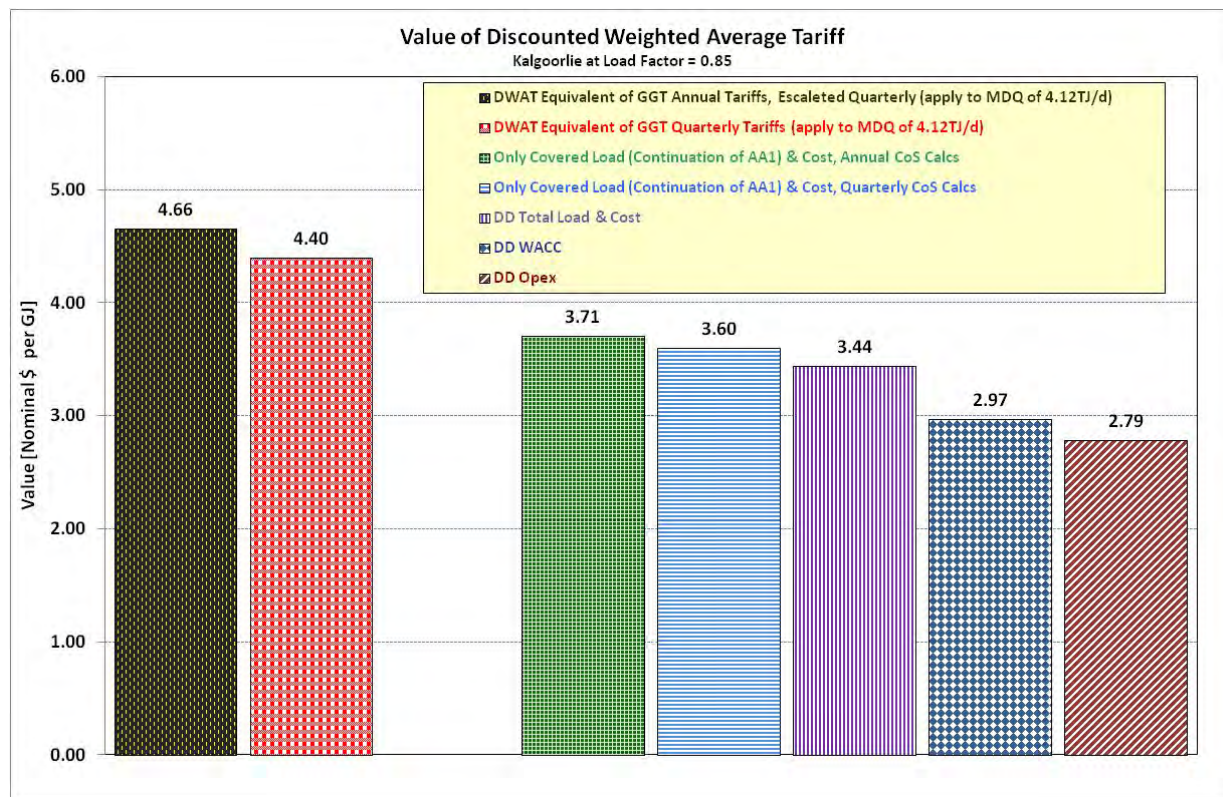
799. It is apparent from Figure 3 that it is not possible to design a Price Path which avoids step changes at both the start and end of the Access Arrangement Period. It is possible however, to avoid a step change at either the start or end of the period. It also appears from Figure 3 that if one chooses to avoid the problem of a step change at the start of the period (ERA, X Factor), the size of the step change at the end of the period is likely to be larger than the step change at the start.

800. The Authority considers, therefore, that in the interests of minimising the disruptive effect of step changes to the Reference Tariff, over future years, the Price Path should be constant in nominal terms over the Access Arrangement Period (ERA, Constant in Nominal Terms), and the initial Reference Tariffs should be set accordingly. Under the "ERA, Constant in Nominal Terms" tariff path the "X-Factor" in the Access Arrangement will equal the forecast inflation in the Draft Decision. When tariffs are adjusted each quarter the actual inflation may be different from forecasts which may result in a variation in tariffs.

801. Figure 4 shows the impact of the Authority's Draft Decisions affecting the reference tariff on the GGP. To illustrate the key tariff decisions, the Discounted Weighted

Average Tariff (**DWAT**) of the indicative tariff at Kalgoorlie (\$/GJ, 1378 km, 85% load factor) is used. The DWAT is a measure of cost of energy transport through the GGP paid by users and it enables comparison of different costs over time.

Figure 4: Value of Discounted Weighted Average Tariff (Kalgoorlie at Load Factor = 0.85)



802. Figure 4 shows GGT's Proposed Tariff (DWAT Equivalent) of \$4.66/GJ. The reasons for the reductions in this tariff to the levels shown in the six columns in Figure 4 are described below:

- \$4.66 to \$4.40/GJ – Modelling of GGT's proposed covered pipeline load (based on a cost allocation to 4TJ/day) on a quarterly rather than annual basis
- \$4.66 - \$3.71 - Modelling of GGT's proposed covered pipeline load (108TJ/day) using all costs and the WACC proposed by GGT.
- \$3.71 to \$3.60 – Modelling of GGT's proposed covered pipeline load (108TJ/day) on a quarterly rather than annual basis.
- \$3.60 to \$3.44 - Modelling of the entire pipeline load (157TJ.day) using all costs (including those for uncovered Capacity) and the WACC provided by GGT.
- \$3.44 to 2.97/GJ – Application of the Authority's Draft Decision on the WACC to the Capital Base of the entire pipeline.
- \$2.97 to \$2.79/GJ – Application of the Authority's Draft Decision on Non-Capital costs.

Draft Decision

803. The Authority does not accept the Price Path (to adjust the Reference Tariff in accordance with inflation) proposed by GGT. The Authority considers that Reference Tariff charges should remain constant in nominal terms throughout the Access Arrangement Period, subject to adjustment where actual quarterly CPI does not equal forecast quarterly CPI. The Reference Tariff charges should be set in accordance with Table 29 of this Draft Decision:

Table 29: Reference Tariffs Charges

Tariff Component	GGT Proposal ³	Draft Decision
Toll charge [\$ per GJ of MDQ]	0.311318	0.185260
Reservation charge [\$ per GJ*km of MDQ]	0.001915	0.001278
Throughput charge [\$ per GJ*km of Q]	0.000515	0.000362

804. GGT's proposal in relation to Forecast Reference Service Revenue (from the 4 TJ/day of Spare Capacity) is contained in Table 14 of the Access Arrangement Information (which is repeated in Table 30 of this Draft Decision) as follows:

Table 30: GGT's Proposed Annual Reference Service Revenue (\$m, nominal)

	2010	2011	2012	2013	2014
Revenue	4.6	4.0	4.0	4.9	5.7

805. The forecast annual revenue to be derived from the Reference Service (from the 157 TJ/day of total Capacity), from applying the Authority's Draft Decision as to Total Revenue and from applying the Authority's decision that Reference Tariffs should stay constant in nominal terms, is set out in the following Table 31 of this Draft Decision:

Table 31: Authority's Required Amendments to GGT's Proposed Annual Reference Service Revenue (\$m, nominal)

	2010	2011	2012	2013	2014
Reference Service Revenue	93.9	93.9	94.1	94.1	94.1

³ GGT proposed quarterly CPI based tariff increases. The Authority Draft Decision is that tariffs are to remain constant in nominal terms for the period of the forthcoming Access Arrangement.

Required Amendment 15

Clause 1 of the Fourth Schedule to Appendix 3 to GGT's Proposed Revisions should be amended to delete the Reference Tariff charges and substitute the Authority's Draft Decision Reference Tariff charges shown in Table 29 of this Draft Decision.

Required Amendment 16

The Access Arrangement Information should be amended to delete the forecast annual revenue to be recovered from providing the Reference Service as set out in Table 15 in the Access Arrangement Information, and to substitute the values set out in Table 31 of this Draft Decision.

Second Proposed Mechanism - Reference Tariff Adjustment Mechanism

Requirements of the Code

806. The provisions of sections 8.3 to 8H of the Code relevant to this proposal are set out at paragraphs 762 to 771 above.

GGT's Proposed Revisions

Access Arrangement

807. Schedule 1 to GGT's Proposed Revisions sets out a proposed Reference Tariff Adjustment Mechanism.

808. GGT's Proposed Revisions at page 16 describes this as a "tariff basket price cap" approach in which Reference Tariff Components, namely the Toll Charge, Capacity Reservation Charge and Throughput Charge are to be adjusted each year.

809. Schedule 1 of GGT's Proposed Revisions at pages 16 to 19 set out formulae and definitions to give effect to this proposal.

810. There are three distinct parts of the Reference Tariff Adjustment Mechanism:

- a) Tariff Components increase annually in accordance with movements in the CPI;
- b) Variations in Regulatory Costs from forecasts are reflected in annual variations to Reference Tariffs which thereby are passed through to Users; and
- c) Tariff Components may be varied individually in accordance with the overall Price Path, subject to a $(1+Y)$ cap on variances, with Y set at 2%.

Access Arrangement Information

811. GGT did not submit any Access Arrangement Information in relation to the Reference Tariff Adjustment Mechanism.

Additional GGT Submissions

812. On 22 May 2009, GGT provided a Response to the Authority's Issues Paper dated 22 April 2009. In this Response, GGT recognised that there were three errors in the Reference Tariff Adjustment Mechanism in GGT's Proposed Revisions (GGT Response to Issues Paper, page 9).
813. GGT, therefore, submitted an amended version of the proposed Reference Tariff Adjustment Mechanism in Schedule 1 to:
- a) clarify that movement in individual Tariff Components are subject to the overall limitation on movement in Total Revenue;
 - b) clarify that the annual adjustment will occur for the January price change in lieu of the quarterly CPI adjustment proposed in section 5.3(a) of GGT's Proposed Revisions;
 - c) remove an inflation adjustment that was not required because GGT's non-capital cost forecasts are in "dollars of the day" actual costs when incurred.

Public Submissions

814. The GGP Users submitted that the Reference Tariff Adjustment Mechanism should be rejected on a number of grounds, including that the variations under the Mechanism were "uncapped", the costs which could be passed through to Users were "unbounded and there is no incentive on GGT to mitigate these costs, Users have no way of mitigating costs faced under the Mechanism, the Regulatory Cost pass through is contrary to public policy and the Mechanism is inconsistent with the ERA's role under clauses 8.3 to 8.3H of the Code (clause 2.4.5 of GGP Users (PCS) Submission dated 29 May 2009, pages 14 to15).

Authority's Assessment

815. Generally, the Authority considers that the Reference Tariff Adjustment Method (as revised in GGT's Response to Issues Paper) is consistent with the Reference Tariff Principles in the Code. In particular, the Authority accepts that a tariff basket form of price control can promote efficiency by allowing the Service Provider the freedom to restructure individual Reference Tariff Components to meet variations in User demand. Likewise, the Authority considers that a cost pass-through to Users of Regulatory Costs variations is appropriate given that unlike other costs which are subject to Incentive Mechanisms Service Providers only have limited influence over Regulatory Costs.
816. The Authority notes that the Reference Tariff Adjustment Method proposed by GGT is almost identical with that proposed and accepted by the Authority for the South-West and Mid-West Gas Distribution Systems in mid-2005. The Authority confirms the reasons given on that occasion as to why the mechanism proposed is consistent with the Code and should be approved; that is, the incentive properties, minimal complexity and ease of introducing new tariffs and tariff components.

817. The third component of the Reference Tariff Adjustment Mechanism, the adjustment of individual Reference Tariff components for inflation is inconsistent with the Authority's Draft Decision above which is to require Reference Tariffs to be constant in nominal terms, subject to adjustment where actual CPI does not equal forecast CPI and is not accepted for that reason.

Draft Decision

818. The Authority does not approve the proposed Reference Tariff Adjustment Mechanism in relation to the adjustment for inflation.

819. Otherwise, the Authority approves the proposed Reference Tariff Adjustment Mechanism for individual Reference Tariff components.

Required Amendment 17

The Reference Tariff Adjustment Mechanism in Schedule 1 and clause 9.8 to GGT's Proposed Revisions should be deleted.

This Schedule 1 should be replaced by Schedule 1 to GGT's Response to Issues Paper dated 29 May 2009, subject to amending the formula contained therein on the basis of this formula taking account of quarterly tariff adjustments with x being the forecast quarterly inflation rate.

The formula under clause 9.8 also needs to be amended to take account of quarterly tariff adjustments and to include $CPI - x$ in the formula with x being the forecast quarterly inflation rate.

Third Proposed Mechanism - Changes in Imposts

Requirements of the Code

820. The requirements of the Code are found in sections 8.3 to 8.3H which are discussed at paragraphs 762 to 771 above.

GGT's Proposed Revisions

Access Arrangement

821. No Change in Impost provision is in the current Access Arrangement. The proposed Change in Impost provision in part replaces the Approved Reference Tariff Variation Methods set out in section 5.3 of the current Access Arrangement.

822. GGT's Proposed Revisions provides for adjustments to be made to the Reference Tariff if there is a change in impost (section 5.4 of GGT's Proposed Revisions, page 8). GGT seeks to retain the discretion to adjust the Reference Tariff if impost change during the forthcoming Access Arrangement Period (section 5.4(a) of GGT's Proposed Revisions, page 8). Section 5.4(b) of GGT's Proposed Revisions outlines the process that GGT will adhere to before the Transportation Tariff is adjusted. GGT sets out that it may submit more than one Impost notice each Year and that each notice may make more than one claim. The minimum notice period for an Impost Notice is 15 days (section 5.4(c) of GGT's Proposed Revisions, page

- 8). Section 5.4(d) of GGT's Proposed Revisions states that GGT must comply with the Reference Tariff variation procedure set out in section 8.3B to 8.3H of the Code.
823. The term "Change in Imposts" and the word "Impost" have been added to the Definitions in Appendix 1 to GGT's Proposed Revisions (pages 2 and 5). "Change in Imposts" is defined as a change in an existing Impost or a new Impost which increases GGT's costs of owning or operating the GGP. The word "Impost" is broadly defined and includes royalties, taxes (excluding income tax), levies and an impost or duty imposed by a Government Authority affecting the transportation or supply of gas.
824. Appendix 3 to GGT's Proposed Revisions states that Users may be required to pay GGT as amount for any Change in Impost. (clause 9.9, Appendix 3, page 18) This clause is discussed at paragraphs 991 to 1007 below.

Access Arrangement Information

825. The Access Arrangement Information does not contain any further detail about the Change in Imposts.

Additional GGT Submissions

826. GGT did not make any additional submissions about the change in Imposts.

Public Submissions

827. BHPB commented about the proposed pass-through of all Imposts, including an environmental tax (i.e. carbon tax), as allowed for in section 5.4(a) of GGT's Proposed Revisions and the proposed clause 9.9 of the General Terms and Conditions. BHPB is of the opinion that such a pass-through will go against the spirit of a carbon tax which aims to modify the behaviour of asset owners not end Users. BHPB does not believe that GGT should be allowed to use the escalation mechanisms of the Access Arrangement to pass-through impost which are not the responsibility of Users (BHPB Submission dated 30 June 2009, page 45).
828. The GGP Users commented on GGT's change to the definition of Change in Imposts, particularly as it only allows for an upward ratchet of price (GGP Users (PCS) Submission dated 29 May 2009, page 16). They expressed concern that GGT can make more than one tariff adjustment, of which Change in Imposts is one example, in a year (GGP Users (PCS) Submission dated 29 May 2009, page 15). The GGP Users are also concerned that a number of regulatory costs which should be borne by the Pipeline Owner, and which are designed to impact on the Owner's behaviour, will be inappropriately passed onto Users (GGP Users (PCS) Submission dated 29 May 2009, page 15).

Authority's Assessment

829. The Authority notes the concerns expressed in the public submissions regarding GGT's discretion to vary the Reference Tariff because of a Change in Imposts. It is noted that GGT's ability to control the level of Regulatory Costs is limited as it may be affected by regulatory events outside of GGT's control. In regards to a Change in Imposts arising out of a carbon tax, or other such legislative impost, the Authority believes that it is not its role to determine whether such a tax or impost is passed through.

830. GGT proposes that it must comply with the Reference Variation procedure set out in sections 8.3B to 8.3H of the Code (section 5.4 of GGT's Proposed Revisions, page 8). The Authority believes that its powers under section 8.3E to disallow a variation that is inconsistent with or not permitted under the Approved Reference Tariff Variation Method will provide sufficient protection to Users.
831. The Authority is concerned that the minimum notice period for an Impost Notice has been set at 15 Business Days (section 5.4(c) of GGT's Proposed Revisions). While a minimum notice period can be specified in a Reference Tariff Policy, the Authority believes that 15 days does not allow the Authority time to evaluate the variation. The Authority notes that the Code uses a default minimum of 35 days. The Authority believes that the minimum notice period should therefore be 25 Business Days.
832. The Authority considers the definition of "Imposts" to be unreasonable because it includes a reference to "imposts" and is therefore a circular definition. It is therefore uncertain as to the nature of the costs that GGT would pass on to Users through the Reference Tariff Adjustment Mechanism.

Draft Decision

833. The Authority does not approve the proposed definition of "Imposts" in Appendix 1 to GGT's Proposed Revisions and requires the term "imposts" in that definition to be deleted.
834. The Authority also requires GGT to amend the minimum notice period in section 5.4(c) in GGT's Proposed Revisions to 25 Business Days.
835. The Authority otherwise approves section 5.4 of GGT's Proposed Revisions.

Required Amendment 18

The definition of "Imposts" in Appendix 1 to GGT's Proposed Revisions should be amended as follows:

Impost means any royalty (based on value, but not profit or otherwise), petroleum resource rent tax, environmental tax, excise, sales tax, use tax, consumption tax, levy, ~~impost~~ or duty imposed by or payable to any Government Authority affecting the transportation and supply of Gas at or upstream of the Outlet Point but does not include any income taxes;

Required Amendment 19

Section 5.4(c) of GGT's Proposed Revisions should be amended to:

GGT may submit one or more Impost Notices each Year. This notice may incorporate a number of claims relating to the changes. For the purposed of Section 8.3D(b)(i) of the Code the minimum notice period for an Impost Notice is ~~45~~ 25 Business Days.

Other Revenue

Requirements of the Code

836. The Code specifically allows for a Service Provider to recover Non Capital Costs.
837. Section 8.4 sets out the basis upon which Cost of Service is calculated. The third factor in this calculation is “the operating, maintenance and other non-capital costs incurred in providing all Services (Non-Capital Costs)”.
838. Section 8.37 allows a Service Provider to recover all Non-Capital Costs except for any costs that “would not be incurred by a prudent Service Provider, acting efficiently, in accordance with accepted and good industry practice”.

GGT's Proposed Revisions

Access Arrangement

839. GGT's Proposed Revisions makes only one reference to Other Revenue. Because of its proposed deletion of clause 9.6(e) of the General Terms and Conditions to the current Access Arrangement, GGT will retain any revenue which arises out of the Quantity Variation Charge. The proposed deletion of this clause is discussed at paragraphs 991 to 1007 below.

Access Arrangement Information

840. The Access Arrangement Information states that the Reference Tariff does not include an allowance for other revenue that may accrue from charges Users may be required to pay for the Reference Service as this revenue is not expected to be material. A non-exhaustive list states these charges include: used gas charges, supplementary quantity option charge and connection charge (section 10.5 of the Access Arrangement Information, page 14).
841. These charges are defined in Appendix 3 to GGT's Proposed Revisions. The Used Gas Charge is defined in clause 9.4(d) with further detail provided at item 2 in the Fourth Schedule. The Supplementary Quantity Charge is included in clause 9.4(e) and the formula for its calculation is set out at item 4 the Fourth Schedule. The Connection Charge is defined in clause 9.5(a) and further detail is provided at item 3 in the Fourth Schedule. These charges are discussed below at paragraphs 991 to 1007.

Public Submissions

842. Apart from submissions received by the Authority in relation to the proposed deletion of clause 9.6(e) of the General Terms and Conditions to the current Access Arrangement (paragraphs 991 to 1007 below), the Authority has not received any public submissions in respect of Other Revenue.

Authority's Assessment

843. The Authority has assessed the Other Revenue in the context of the proposed clause 9 of the General Terms and Conditions at paragraphs 991 to 1007 below.

844. GGT has proposed that the Other Revenue not be included in the calculation of the Reference Tariff on the basis that the amount collected is not expected to be material. This is the same as the current Access Arrangement. The Authority notes that no public submissions were received on this issue despite Users being exposed to these charges over the current Access Arrangement Period. The Authority therefore assumes that the Users agree with GGT's statement that these charges are not material.

845. The Authority has no reason to doubt that these charges are not ones that would not be incurred by a prudent Service Provider, acting efficiently, in accordance with accepted and good industry practice.

Draft Decision

846. While the Authority accepts GGT's proposal in relation to Other Revenue, it does require the reinstatement of clause 9.6(e) of the General Terms and Conditions to the current Access Arrangement which is set out in Required Amendment 27 (and discussed in paragraphs 998 to 1007).

Key Performance Indicators

Requirements of the Code

847. Section 2.7 of the Code provides that:

The Access Arrangement Information may include any relevant information but must include at least the categories of information described in Attachment A.

848. One of the categories of information in Attachment A to the Code is information regarding Key Performance Indicators, being:

- a) Industry KPIs used by the Service Provider to justify "reasonably incurred" costs; and
- b) the Service Provider's KPIs for each pricing zone, service or category of asset.

GGT's Proposed Revisions

Access Arrangement Information

849. GGT included information about Key Performance Indicators in its Access Arrangement Information (section 11, pages 14 to 17).

850. GGT did not make any submission in relation to these Key Performance Indicators.

Authority's Assessment

851. The only relevant Code requirement in relation to Key Performance Indicators is that they be included in the Access Arrangement Information.

852. GGT has included Key Performance Indicators in the Access Arrangement Information. The Authority is therefore satisfied that GGT has satisfied the Code requirement in this regard.

Terms and Conditions

Requirements of the Code

853. Section 3.6 of the Code requires that:

3.6 An Access Arrangement must include the Terms and Conditions on which the Service Provider will supply each Reference Service. The Terms and Conditions included must, in the Relevant Regulator's opinion, be reasonable.

854. The Terms and Conditions governed by section 3.6 of the Code are the non-price Terms and Conditions for the Firm Service.

855. To satisfy itself that the non-price Terms and Conditions for the Firm Service are reasonable under section 3.6 of the Code, the Authority has given consideration to:

- a) the effect of each of the non-price Terms and Conditions contained in GGT's Proposed Revisions;
- b) submissions on the proposed Terms and Conditions;
- c) the factors set out in section 2.24 of the Code, as far as they are applicable; and
- d) the current Access Arrangement.

GGT's Proposed Revisions

856. The non-price Terms and Conditions for Services are set out in a number of different places in GGT's Proposed Revisions as follows:

- a) Spare Capacity (section 4.1(b) of GGT's Proposed Revisions);
- b) Application for Service (section 6 and Appendix 2.1 and 2.2 of GGT's Proposed Revisions);
- c) Conditions Precedent to Service availability (sections 8.3 and 8.4 of GGT's Proposed Revisions);
- d) General Terms and Conditions for Reference Service (Appendix 3 to GGT's Proposed Revisions).

857. The General Terms and Conditions in Appendix 3 to GGT's Proposed Revisions are the Terms and Conditions on which GGT proposes to make the Firm Service available to Users and Prospective Users.
858. The non-price Terms and Conditions which are not contained in Appendix 3 to GGT's Proposed Revisions relate to the provision of all Services by GGT.
859. The Authority notes that in some instances GGT's Proposed Revisions refers to the General Terms and Conditions in Appendix 3 to GGT's Proposed Revisions as reflecting the terms on which all Services will be provided (despite the General Terms and Conditions being in themselves confined to the provision of the Firm Service). Where the Authority considers that such referencing might cause uncertainty, the Authority has required an amendment to make it clear that despite the reference to the General Terms and Conditions, GGT's Proposed Revisions refers to all Services (where this is required by the Code).
860. Each category of the non-price Terms and Conditions is considered below.

Spare Capacity

GGT's Proposed Revisions

Access Arrangement

861. Under the current Access Arrangement GGT's obligation to make the Reference Service (i.e. the Firm Service) available to Users is subject to a condition that there must be sufficient Spare Capacity in the Pipeline (sub-section 4.1(b) of the current Access Arrangement).
862. GGT proposes to amend the condition to refer to Spare Capacity in the "Covered Pipeline" instead of in the "Pipeline". GGT also proposes to define Covered Pipeline in Appendix 1 to GGT's Proposed Revisions so as not to refer to the second compressor at Paraburdoo, and new compressor stations at Wyloo West and Ned's Creek respectively. As mentioned above, these expansions (defined earlier in the Draft Decision as Expansions of Capacity) have increased the Capacity of the GGP by approximately 49 TJ/day
863. The effect of GGT's Proposed Revisions is that the Expansions of Capacity do not fall within the definition of Spare Capacity, and sub-section 4.1(c) of GGT's Proposed Revisions as amended, if accepted, will relieve GGT of any obligation to offer the Services provided by means of the Expansions of Capacity as Firm Services at the Reference Tariff.

Access Arrangement Information

864. GGT did not provide any Access Arrangement Information in relation to the condition in sub-section 4.1(b) of GGT's Proposed Revisions relating to Spare Capacity.

Additional GGT Submissions

865. GGT did not make any specific submissions concerning the condition in sub-section 4.1(b) of GGT's Proposed Revisions relating to Spare Capacity. GGT, however, did make submissions in relation to the issue of the Expansions of Capacity more

generally. These submissions have been considered by the Authority above in its discussion of Expansions of Capacity at paragraphs 134 to 199.

Public Submissions

866. The Authority did not receive any public submissions which commented about the condition in sub-section 4.1(b) of GGT's Proposed Revisions restricting availability of the Firm Service. A number of parties, however, made submissions in relation to the issue of Expanded Capacity more generally. These submissions have been considered by the Authority above in its discussion of Expanded Capacity at paragraphs 134 to 199 .

Authority's Assessment

867. The condition in sub-section 4.1(b) of the current Access Arrangement simply acknowledges that if there is no Spare Capacity because the Covered Capacity is fully contracted, GGT cannot be obliged to make the Spare Capacity available.

868. Under the Authority's Draft Decision on the Extensions/Expansions Policy any expansions of Capacity during the forthcoming Access Arrangement period will be treated as part of the Covered Pipeline for all purposes under the Code. In relation to any such future expansion of Covered Capacity, the Authority considers that sub-section 4.1(b) remains appropriate. If the expansion is fully contracted, there is no Spare Capacity which GGT can or should be required to offer at the Reference Tariff.

869. Further, the Authority is satisfied that the exclusion of the Expansions of Capacity from Spare Capacity is appropriate. In the Authority's Draft Decision, the Authority concluded that GGT has no access obligation in relation to the Additional Services provided by reason of the Expansions of Capacity. It is appropriate for such Expansions of Capacity, therefore, to be excluded from the definition of Spare Capacity, as has been proposed by GGT. In this way, if the Expansions of Capacity is not fully contracted, sub-clause 4(b) will not make it obligatory for GGT to offer such Services at the Reference Tariff, which is consistent with the Authority's Draft Decision.

Draft Decision

870. The Authority approves the condition in sub-section 4.1(b) of GGT's Proposed Revisions.

Application for Service

GGT's Proposed Revisions

Access Arrangement

871. It is necessary for there to be a process for a Prospective User to follow when it first wants to obtain access to a Service on the GGP. In other words, a Prospective User must apply to GGT for access to a Service. This is referred to as making an Application for Service. Usually the process involves, at least, the lodgement of a written application in the manner, and containing the information, required by the Service Provider and set out in the Access Arrangement.

872. GGT proposes that a Prospective User that wishes to apply for a Service on the Covered Pipeline must observe the process outlined in the GGT Information Package (section 6(a) of GGT's Proposed Revisions).
873. The only amendments in section 6(a) of GGT's Proposed Revisions, as compared to the same section in the current Access Arrangement, restrict the operation of the section to Services on the Covered Pipeline.
874. GGT also proposes that if a Prospective User fails to follow the process outlined in the GGT Information Package then GGT is not obliged to accept the Application (section 6(b) of GGT's Proposed Revisions). The current Access Arrangement does not contain such a provision.
875. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

876. The Authority has not received any public submissions which comment on section 6 of GGT's Proposed Revisions.

Authority's Assessment

877. In relation to the proposed amendment to sub-section 6(a) of GGT's Proposed Revisions, as discussed at paragraph 873 above, the Authority considers that this is consistent with the requirements of the Code.
878. The Authority notes that section 8.1 of GGT's Proposed Revisions provides that the Order Form, General Terms and Conditions and any Conditions under sub-section 8.3 of GGT's Proposed Revisions constitute the Service Agreement.
879. The Order Form is contained in Appendix 2.2 to GGT's Proposed Revisions. It requires a Prospective User that wishes to apply for a Service to observe the process outlined in the GGT Information Package. The Order Form also refers to various clauses of the GGT Information Package (paragraphs 20, 21, 22, 23 and 26).
880. In addition to section 6 and section 8.1, section 7.1(e) of GGT's Proposed Revisions refers to conditions precedent contained in the GGT Information Package.
881. Section 24.1 of the General Terms and Conditions, which relates to Notices, refers to the requirements in the GGT Information Package.
882. The GGT Information Package is also referred to in Appendix 2.1 to GGT's Proposed Revisions (opening and paragraph 16) and in Appendix 1 to GGT's Proposed Revisions (definitions of Enquiry Form, GGT Information Package and Order Form).
883. GGT Information Package is defined in Appendix 1 to GGT's Proposed Revisions as:
- the information published by GGT, which describes amongst other things the procedure for application by a Prospective User for a Service under the GGT Access Arrangement.

884. The GGT Information Package does not form part of GGT's Proposed Revisions. However, the operation of the various sections of and Appendices to GGT's Proposed Revisions set out above have the effect that the GGT Information Package would govern the supply of Services to Users and Prospective Users under GGT's Proposed Revisions, particularly in relation to the Application for the supply of those Services.
885. The Authority cannot assess the appropriateness of the terms of the GGT Information Package and approve or not approve them, as the case may be, by reference to the requirements in the Code, because the GGT Information Package does not form part of GGT's Proposed Revisions. Therefore, the Authority cannot assess the appropriateness of, or approve, those of GGT's proposals which rely upon the terms of the GGT Information Package.
886. In the context of section 6 of GGT's Proposed Revisions, the Authority cannot assess, or approve, the proposed new section 6(b) in circumstances where the GGT Information Package does not form part of GGT's Proposed Revisions.
887. Further, any amendment to the GGT Information Package would have the effect of amending the manner in which Services are provided under GGT's Proposed Revisions, thereby amending GGT's Proposed Revisions and ultimately the Access Arrangement which arises from that proposal. The Authority has obtained a copy of the current version of the GGT Information Package, which is published on GGT's website. The Authority notes that there is nothing in the GGT Information Package or elsewhere which would prevent GGT from amending the GGT Information Package from time to time and nothing which would restrict the way in which it could be amended.
888. If the GGT Information Package governs, to any extent, the supply of Services to Users and Prospective Users, then any amendment of the GGT Information Package should be made in accordance with the procedure for amending an Access Arrangement under section 2 of the Code. Nothing in GGT's Proposed Revisions, in the GGT Information Package or elsewhere requires the section 2 amendment process to be followed.
889. The Authority considers that a proposal which does not include the GGT Information Package, which refers to and adopts procedures set out in the GGT Information Package and which allows the amendment of the GGT Information Package without the procedure in section 2 of the Code being followed is contrary to the requirements of the Code.
890. The Authority notes that the amendments which GGT proposes to make to the Enquiry Form (Appendix 2.1 to GGT's Proposed Revisions) and the Order Form (Appendix 2.2 to GGT's Proposed Revisions), other than those mentioned immediately above and those mentioned in the context of the Queuing Policy, appear to be grammatical or drafting amendments, or necessary because there is now more than one inlet point on the GGP. The Authority is satisfied that these amendments are appropriate.

Draft Decision

891. The Authority does not approve those sections of and Appendices to GGT's Proposed Revisions that refer to or adopt parts of the GGT Information Package.

892. The Authority considers that GGT should include as part of GGT's Proposed Revisions a GGT Information Package which contains reasonable terms.
893. If a GGT Information Package containing reasonable terms is not included in GGT's Proposed Revisions then all of the references to the GGT Information Package in GGT's Proposed Revisions, namely:
- a) section 6 of GGT's Proposed Revisions;
 - b) section 7.1(e) of GGT's Proposed Revisions;
 - c) section 8.1 of GGT's Proposed Revisions;
 - d) section 24.1 of the General Terms and Conditions to GGT's Proposed Revisions;
 - e) Appendix 2.1 to GGT's Proposed Revisions (opening and paragraph 16);
 - f) Appendix 2.2 to GGT's Proposed Revisions (paragraphs 20, 21, 22, 23 and 26);
 - g) Appendix 1 to GGT's Proposed Revisions (definitions of Enquiry Form, GGT Information Package and Order Form);

should be deleted and replaced with appropriate alternative provisions.

Required Amendment 20

A GGT Information Package which contains reasonable terms should be included as part of GGT's Proposed Revisions or all references to this Information Package in GGT's Proposed Revisions should be deleted and replaced with appropriate alternative provisions.

Conditions Precedent to Service

GGT's Proposed Revisions

Access Arrangement

894. GGT proposes that the terms and conditions on which the Reference Service will be provided be contained in the Service Agreement. The Service Agreement is constituted by the Order Form, the General Terms and Conditions and any Conditions under section 8.3 of GGT's Proposed Revisions (section 8.1 of GGT's Proposed Revisions).
895. GGT also proposes that the Service Agreement will become binding on GGT and the Prospective User from the date mutually agreed by both of those parties (section 8.2 of GGT's Proposed Revisions). The Toll Tariff and Capacity Reservation Tariff will apply from the later of the Date of Service Agreement or satisfaction or waiver of any Conditions in the nature of conditions precedent (section 8.4 of GGT's Proposed Revisions).

896. GGT proposes only to make a Service available on certain conditions, which are set out in section 8.3 of GGT's Proposed Revisions.
897. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

898. The Authority did not receive any public submissions relating to section 8 of GGT's Proposed Revisions.

Authority's Assessment

Terms of Reference Service

899. Section 8.1 of GGT's Proposed Revisions has been amended as compared to the same section in the current Access Arrangement. Section 8.1 now sets out what constitutes the Service Agreement. Service Agreement is also defined in Appendix 1 to GGT's Proposed Revisions as a Reference Service Agreement. The definition of what constitutes the Reference Service Agreement is in somewhat different terms to what section 8.1 of GGT's Proposed Revisions now defines as the Service Agreement. However, the Authority is satisfied that the effect of those definitions is the same.
900. Section 8.1 of GGT's Proposed Revisions has also been amended to include as part of the Service Agreement the Conditions in section 8.3 of GGT's Proposed Revisions. GGT's proposal in relation to section 8.1 of the current Access Arrangement also provided for Conditions other than those in the Order Form and the General Terms and Condition to form part of the terms and conditions on which the Firm Service was to be provided.
901. The Authority did not agree in its 2005 Access Arrangement decision to this proposal on the basis of a concern that the proposed clause 8.1 provided for the inclusion of "conditions precedent" or "conditions subsequent" to the Firm Service being provided. The Authority took the view that a provision for inclusion of additional terms and conditions is not permitted by section 3.6 of the Code. Section 3.6 of the Code requires the Authority to come to a view on whether the proposed terms and conditions set out in GGT's Proposed Revisions are reasonable. A discretionary provision allowing GGT to attach additional conditions to Service Agreements for the provision of the Firm Service which are over and above those stated in the Access Arrangement, particularly those in the General Terms and Conditions, is inconsistent with the requirements of section 3.6 of the Code.
902. In the Authority's view, section 3.6 of the Code implies that any terms and conditions for the provision of the Firm Service must be stated in the terms and conditions that comprise part of the Access Arrangement. They are not a matter for future determination. The reasonableness or otherwise of those conditions will be a matter for the Authority to assess. Accordingly, the Authority considers that clause 8.1(c) of GGT's Proposed Revisions is inconsistent with the requirements of the Code and is therefore not reasonable.
903. Otherwise, section 8.1 of GGT's Proposed Revisions is in the same terms as the same section in the current Access Arrangement. When considering the terms of the current Access Arrangement the Authority was satisfied that section 8.1 should be approved. No public submissions have been received about this section of

GGT's Proposed Revisions and there is no evidence before the Authority to suggest that a different approach is more appropriate.

Service Agreement

904. GGT proposes to amend section 8.2 of GGT's Proposed Revisions, as compared to the terms of that section in the current Access Arrangement. GGT no longer differentiates between a situation where Spare Capacity exists and a situation where it does not. It appears that this deletion was made because of the new provisions of the proposed Queuing Policy (section 7 of GGT's Proposed Revisions, paragraphs 1140 to 1182 below). The Authority therefore considers that the proposed amendments to section 8.2 of GGT's Proposed Revisions are reasonable.

Conditions

905. GGT proposes to amend the heading to section 8 in GGT's Proposed Revisions from "Terms and Condition for Providing Service" to "Terms and Conditions of Reference Service". However, the Conditions in section 8.3 of GGT's Proposed Revisions are said to apply in relation to the availability of all Services under section 8.3(a) of GGT's Proposed Revisions, not only Reference Services. It appears that GGT intends the provisions of the proposed clause 8 of the General Terms and Conditions to apply only to the provision of the Firm Services. If this is the case then the references to Service in clause 8.3 should be amended to be references to the "Reference Service".

906. Given that the proposed clause 8.3 refers to all "Services" it is unclear whether the Conditions in section 8.3 are also intended to apply to an application for a Non-Reference Service.

907. The Authority considers that this uncertainty needs to be rectified in GGT's Proposed Revisions.

908. Given that the Authority has determined that the Conditions in section 8.3 of GGT's Proposed Revisions should not form part of the conditions on a User and GGT entering into a Service Agreement, they will have the effect of being terms and conditions on which the Service will be provided. On this basis the Authority was satisfied, when considering the current Access Arrangement, that the Conditions in section 8.3 of the current Access Arrangement should be approved.

909. GGT has proposed some amendments to the Conditions in section 8.3 in GGT's Proposed Revisions. The Authority has considered the proposed amendment to section 8.3(b)(1) of GGT's Proposed Revisions at paragraph 1179 below. The Authority agrees with GGT that this amendment is appropriate and therefore reasonable.

910. GGT also proposes to amend section 8.3(b)(2) of GGT's Proposed Revisions to require a Surety to be provided by the Prospective User or any other person acceptable to GGT rather than a Performance Security being provided by the Prospective User, any of its Related Corporations or any other person on terms acceptable to GGT. The current Access Arrangement does not include a definition of Performance Security. Surety is defined in GGT's Proposed Revisions in the proposed sub-clause 9.13 of the General Terms and Conditions.

911. The Authority has not received any public submissions in relation to this proposed amendment to section 8.3(b)(2) of GGT's Proposed Revisions and it appears to have been made in order to fix a deficiency in the definitions in the current Access Arrangement. It also does not appear to have a significant material affect on the operation of this term. The Authority therefore considers this proposed amendment to be reasonable.

Alternative Date of Agreement

912. GGT proposes to delete section 8.4 of the current Access Arrangement so that it does not appear in GGT's Proposed Revisions. The proposed section 8.2 of GGT's Proposed Revisions now deals with the same issue as section 8.4 of the current Access Arrangement. The Authority is therefore satisfied that this proposed deletion is reasonable.

Toll and Capacity Reservation Charge

913. GGT does not propose to amend the terms of section 8.5 of the current Access Arrangement, now section 8.4 of GGT's Proposed Revisions.
914. The Authority was satisfied that a section in these terms was appropriate when considering the current Access Arrangement. The Authority has not received any public submissions about section 8.4 of GGT's Proposed Revisions and there is no evidence before the Authority to suggest that an amendment is necessary. The Authority therefore considers section 8.4 of GGT's Proposed Revisions to be reasonable.

Draft Decision

915. The Authority does not approve:
- a) section 8.1 of GGT's Proposed Revisions; or
 - b) section 8.3(a) of GGT's Proposed Revisions.
916. Otherwise, the Authority approves section 8 of GGT's Proposed Revisions.

Required Amendment 21

Section 8.1 of GGT's Proposed Revisions should be amended to read:

The terms and conditions on which the Reference Service will be provided by GGT to a Prospective User are those contained in the Service Agreement, which will be constituted by:

- (a) the Order Form executed by the Prospective User and accepted by GGT; and
- (b) the General Terms and Conditions; and
- ~~(c) any Conditions under clause 8.3 of this Access Arrangement.~~

Required Amendment 22

Section 8.3(a) of GGT's Proposed Revisions should be amended to make it clear whether the Conditions in section 8.3 of GGT's Proposed Revisions apply to all Services or only Reference Services.

General Terms and Conditions

GGT's Proposed Revisions

- 917. GGT proposes that the General Terms and Conditions contained in Appendix 3 to GGT's Proposed Revisions form part of the Service Agreement for the supply of the Firm Service (section 8.1 of GGT's Proposed Revisions).
- 918. Some of the clauses of the General Terms and Conditions to GGT's Proposed Revisions have been amended as compared to the General Terms and Conditions in the current Access Arrangement, while others have not.

Amended Clauses of the General Terms and Conditions

Public Submissions

- 919. BHPB has made a general submission that any of the proposed changes to the General Terms and Conditions for which GGT has not provided any, or any sufficient, supporting information should not be approved until GGT is able to provide information to support the proposed change (BHPB Submission dated 30 June 2009, page 44).

Authority's Assessment

- 920. The Authority does not agree that GGT must necessarily provide supporting information, or sufficient supporting information, in relation to every proposed amendment in the General Terms and Conditions to GGT's Proposed Revisions. It

follows that the Authority does not agree that it must refuse to approve any proposed amendment in the General Terms and Conditions to GGT's Proposed Revisions for which no, or insufficient, supporting information has been provided by GGT.

921. However, the Authority has taken BHPB's submission into account in its assessment of each of the proposed clauses of the General Terms and Conditions by considering, in respect of each proposed clause, whether any, or sufficient, information has been provided and whether any, or further, information is needed. Where the Authority considers that information, or further information, must be provided by GGT before the proposed amendment is approved, the Authority has required the provision of such information as part of its Draft Decision in relation to that proposed amendment.

Unamended Clauses of the General Terms and Conditions

Unamended Clauses

922. Of the clauses in the General Terms and Conditions, there are a number:
- a) which are unamended from the current Access Arrangement;
 - b) for which no Access Arrangement Information was provided; and
 - c) for which no submissions were received from GGT or any other party.

Authority's Assessment

923. For each of the clauses of the type mentioned in paragraph 922 above the Authority has no evidence to suggest that the clause is not reasonable.
924. The Authority considers that each of the clauses of the type mentioned in paragraph 922 are reasonable and should therefore be approved.
925. The clauses of this type in the General Terms and Conditions are:
- Clause 1: Introduction
 - Clause 2: Agreement to Provide and Accept Service
 - Clause 8: Interruption of Service
 - Clause 12: Representations and Warranties of the User
 - Clause 14: Possession, Responsibility and Title
 - Clause 15: Records and Information
 - Clause 17: Force Majeure
 - Clause 21: Confidential Information
 - Clause 22: Dispute Resolution

- Clause 23: Arbitration
- Clause 25: Waiver
- Clause 26: Entire Agreement
- Clause 27: Severability
- Clause 28: Governing Law

926. The Authority also notes that various clauses of the proposed General Terms and Conditions have sub-clauses which GGT proposes not to amend as well as sub-clauses which GGT proposes to amend. The Authority primarily discusses below those sub-clauses which GGT proposes to amend. In circumstances where the Authority does not discuss any particular sub-clause below (whether approved or otherwise) the Authority is satisfied that it is reasonable and should be approved.

927. The Authority discusses each of the other clauses in the General Terms and Conditions separately below.

Clause 3: Term of Service Agreement

GGT's Proposed Revisions

Access Arrangement

928. GGT proposes the following revisions to the Term of Service Agreement clause, which is the proposed clause 3 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, pages 1 and 2):

- a) the heading of the clause (which was previously "Term of Agreement") be amended to "Term of Service Agreement";
- b) the reference to sub-clause 16.1 in sub-clause 3.1 be amended to a reference to sub-clause 16.1(b); and
- c) the word "and" be added to the end of paragraph (c) in sub-clause 3.2, and the following paragraph be numbered (d).

929. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

930. The Authority did not receive any other public submissions relating to the proposed clause 3 of the General Terms and Conditions.

Authority's Assessment

931. The Authority considers that the proposed change to the heading of the proposed clause 3 of the General Terms and Conditions is reflective of the language used in that clause and is, therefore, reasonable. The change to the reference to sub-clause 16.1(b) in sub-clause 3.1 of the General Terms and Conditions is to make the reference more specific. The Authority considers this change to be reasonable.

932. The amendment in the proposed sub-clause 3.2 of the General Terms and Conditions to number the final paragraph (d) has the effect that the proposed sub-clause 3.2 of the General Terms and Conditions does not read properly. The Authority therefore considers that this proposed amendment is not reasonable. Otherwise, the amendments in the proposed sub-clause 3.2 of the General Terms and Conditions appear to improve the drafting of the proposed sub-clause 3.2 of the General Terms and Conditions and are therefore reasonable.

Draft Decision

933. The Authority does not approve the proposed sub-clause 3.2 of the General Terms and Conditions.
934. Otherwise, the Authority approves the proposed clause 3 of the General Terms and Conditions.

Required Amendment 23

Sub-clause 3.2 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read as follows:

If any additions or enhancements to the Pipeline which are required to provide the Service are not operational following the expiry of 12 Months from the Commencement Date the parties may:

- (a) agree to defer the date for commencement of that Service to another date; or
- (b) agree to the provision of a reduced scope of the Service which is feasible with the available Capacity; and
- (c) if either clause 3.2(a) or 3.2(b) applies, agree the charges that will apply to reflect the new date for commencement or the reduced scope for the Service. ~~and~~
- ~~(d) if the parties are unable to agree in accordance with either clause 3.2(a), (b) or (c) then either party may refer the matter to dispute resolution as provided for in clause 22 of the General Terms and Conditions. In the event that neither party has referred the matter for dispute resolution within 30 days after the expiry of the period of 12 months, the Service Agreement may be terminated by written notice by either party without penalty or cost to either party.~~

If the parties are unable to agree in accordance with either clause 3.2(a), (b) or (c) then either party may refer the matter for dispute resolution as provided for in clause 22 of the General Terms and Conditions. In the event that neither party has referred the matter for dispute resolution within 30 days after the date of expiry of the period of 12 Months, the Service Agreement may be terminated by written notice by either party without penalty or cost to either party.

Clause 4: Service

GGT's Proposed Revisions

Access Arrangement

935. GGT proposes to amend the Service clause, which is the proposed clause 4 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, pages 2 and 3). This proposed amendment is to require a User to provide GGT with a notice (**SQO Notice**) if the User wants to take up a Supplementary Quantity Option (proposed sub-clauses 4.4(b) and (c) of the General Terms and Conditions).
936. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

937. The Authority did not receive any public submissions in relation to the proposed clause 4 of the General Terms and Conditions.

Authority's Assessment

938. The proposed sub-clause 4.4(c)(4) of the General Terms and Conditions requires that a SQO Notice must include "any other information required by GGT". The Authority considers that this requirement is too broad and uncertain. It would allow GGT to impose any information requirement it wished on Users, regardless of whether the information that was required related to the Supplementary Quantity Option or was otherwise reasonable.

939. Otherwise, the amendments in the proposed sub-clause 4.4 of the General Terms and Conditions appear to be reasonable.

940. The remainder of the amendments in the proposed clause 4 of the General Terms and Conditions are not material. The Authority therefore considers those proposed amendments to be reasonable.

Draft Decision

941. The Authority does not approve the proposed sub-clause 4.4(c)(4) of the General Terms and Conditions.

942. Otherwise, the Authority approves the proposed clause 4 of the General Terms and Conditions.

Required Amendment 24

Sub -clause 4.4(c) of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

The SQO Notice must include the following information:

- (1) the quantities of Gas required to be received at the Inlet Point;
- (2) the quantities of Gas required to be delivered at the Outlet Point;
- (3) the Gas Day the SQO is required; and
- (4) any other information reasonably required by GGT.

Clause 5: Forecasts and Nomination Procedure

GGT's Proposed Revisions

Access Arrangement

943. GGT proposes some minor amendments to the Forecasts and Nomination Procedure clause, which is the proposed clause 5 of the General Terms and

Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, pages 3 to 5).

944. GGT proposes to add an additional paragraph (b) in the proposed sub-clause 5.2 of the General Terms and Conditions. This proposed new paragraph provides for the use of a Nomination Form where a User wishes to make a nomination under the proposed sub-clause 5.2(a) of the General Terms and Conditions.
945. GGT also proposes an amendment to the proposed sub-clause 5.6 of the General Terms and Conditions to exclude measurements that exceed the prescribed limits of accuracy of the meters set out in the First Schedule to the General Terms and Conditions to GGT's Proposed Revisions.
946. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

947. The GGP Users have submitted that the proposed clause 5 of the General Terms and Conditions should conform to GGT's current nomination methods and practices (GGP Users (PCS) Submission dated 29 May 2009, page 16).
948. Otherwise, the Authority has not received any public submissions which relate to the proposed clause 5 of the General Terms and Conditions.

Authority's Assessment

949. The Authority notes that the amendments that GGT has proposed in the proposed clause 5 of the General Terms and Conditions are minor or consequential amendments.
950. The Authority is also satisfied that these proposed amendments are consistent with GGT's current nomination methods and practices.
951. The Authority therefore considers that the amendments in the proposed clause 5 of the General Terms and Conditions are reasonable.

Draft Decision

952. The Authority approves the proposed clause 5 of the General Terms and Conditions.

Clause 6: Connection, Inlet and Outlet Points

GGT's Proposed Revisions

Access Arrangement

953. GGT proposes to amend the Connection, Inlet and Outlet Points clause, which is the proposed clause 6 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3, pages 6 to 9).
954. GGT proposes to amend the proposed sub-clause 6.1 of the General Terms and Conditions so that:

- a) the proposed sub-clause 6.1(b) refers to “remotely actuated” shut off and flow control valves; and
 - b) the data made accessible to the User by GGT under the proposed sub-clause 6.1(e) is limited to “specified data by GGT from GGT’s SCADA and other systems as determined by GGT acting reasonably”.
955. GGT also proposes to amend the proposed sub-clause 6.2 of the General Terms and Conditions to include reference to additional Inlet Facilities at the DBNGP. Consequently, GGT proposes to remove sub-clause 6.2(d) of the General Terms and Conditions to the current Access Arrangement.
956. Sub-clause 6.2(c) of the General Terms and Conditions to the current Access Arrangement has been deleted from the proposed clause 6 of the General Terms and Conditions. Sub-clause 6.2(c) of the General Terms and Conditions to the current Access Arrangement requires the Inlet Facilities to comply with technical requirements set out in the First Schedule to the General Terms and Conditions of the current Access Arrangement. These technical requirements for the Inlet Facilities, previously contained in the First Schedule, have been removed from the General Terms and Conditions to GGT’s Proposed Revisions.
957. GGT proposes to amend the proposed sub-clause 6.4 of the General Terms and Conditions to remove the right for a User or a third party to elect for the User or a third party to own, operate and maintain Outlet Facilities. This right is contained in sub-clause 6.4(c) of the General Terms and Conditions to the current Access Arrangement. There are numerous other changes to the proposed sub-clause 6.4 of the General Terms and Conditions which are all consequential upon the removal of this right for Users.
958. Amendments to sub-clause 6.6 of the General Terms and Conditions to the current Access Arrangement are also proposed. These amendments are consequential to the removal of the right in sub-clause 6.4(c) of the General Terms and Conditions to the current Access Arrangement for the Users or a third party to elect for the User or a third party to own, operate and maintain Outlet Facilities. GGT also proposes to remove the reference to the Second Schedule from the proposed sub-clause 6.6(c) of the General Terms and Conditions. The Second Schedule to the General Terms and Conditions of the current Access Arrangement contained the technical requirements for Outlet Facilities. It has been removed from the proposed General Terms and Conditions to GGT’s Proposed Revisions.
959. GGT proposes to remove sub-clause 6.7 of the General Terms and Conditions to the current Access Arrangement, which set out compliance measures for Users which are required to be met prior to GGT delivering Gas to Outlet Facilities owned, operated and maintained by Users or third parties. This is another change consequential to the removal of the right for Users to elect for the User or a third party to own, operate and maintain Outlet Facilities in sub-clause 6.4(c) of the General Terms and Conditions to the current Access Arrangement.
960. GGT proposes to amend the reference to Outlet Points in the proposed sub-clause 6.7 of the General Terms and Conditions to a reference to Outlet Facilities. GGT also proposes to remove references to the Second Schedule (which has been removed from the General Terms and Conditions to GGT’s Proposed Revisions) and replace it with a requirement that GGT “will” (as opposed to previously “must”)

comply with the technical specifications “required by a reasonable and prudent pipeline operator”.

961. GGT also proposes a change to the heading of the proposed sub-clause 6.9 of the General Terms and Conditions from “Response by the Owners” to “Response by GGT”.
962. Other amendments in the proposed clause 6 of the General Terms and Conditions consequential to the removal of the right for Users to elect for the User or a third party to own, operate and maintain Outlet Facilities have also been proposed.
963. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

964. The GGP Users have submitted that the base level temperatures and pressure levels for the Outlet Points should be set out in the proposed sub-clause 6.4 of the General Terms and Conditions, similarly to the levels specified for the Inlet Points in the proposed sub-clause 6.3 of the General Terms and Conditions, to allow proper planning and design of facilities (GGP Users (PCS) Submission dated 29 May 2009, page 17).
965. The GGP Users have also submitted that the amendments in the proposed clauses 6.6 and 6.7 of the General Terms and Conditions confuse or contrive to give GGT the exclusive role as provider of Outlet Facilities for Users. The GGP Users have expressed the view that the extension of GGT’s monopoly position should not be extended by the General Terms and Conditions to GGT’s Proposed Revisions (GGP Users (PCS) Submission dated 29 May 2009, page 17).
966. Similarly, BHPB has submitted that the amendments in the proposed clauses 6.6 and 6.7 of the General Terms and Conditions give GGT exclusive rights in the provision of Outlet Facilities and that there is no reasonable justification for granting GGT this monopoly position (BHPB Submission dated 30 June 2009, page 45).
967. The Authority has not received any other public submissions relating to the proposed clause 6 of the General Terms and Conditions.

Authority’s Assessment

968. The Authority recognises that the amendments in the proposed sub-clause 6.1(b) of the General Terms and Conditions are as a result of GGT having the ability to control the pipeline from Perth and operate valves remotely. The Authority accepts that this is a necessary safety and operational mechanism. The Authority, therefore, considers this amendment to be reasonable.
969. The proposed sub-clause 6.1(e) of the General Terms and Conditions allows Users to access only the data from the SCADA and other systems which is specified by GGT acting reasonably. Previously, Users had access to all data from GGT’s SCADA systems. The Authority considers that it is reasonable that the access to data from GGT’s systems is limited in some way as Users do not require access to all of the information which GGT gathers through SCADA and other systems in conducting their operations. It is, however, the Authority’s view that access should be limited to data which is “reasonably” specified by GGT.

970. The amendment to the proposed sub-clause 6.2 of the General Terms and Conditions and the removal of sub-clause 6.4 of the General Terms and Conditions of the current Access Arrangement are to account for the new inlet facilities at the DBNGP interconnection point. Accordingly, the Authority considers the changes are reasonable.
971. The Authority notes the removal of sub-clause 6.2(c) of the General Terms and Conditions of the current Access Arrangement requiring Inlet Facilities to comply with technical requirements contained in the First Schedule to the General Terms and Conditions of the current Access Arrangement (which has also been removed). The Authority considers that the specified technical requirements for the Inlet and Outlet Facilities contained in the First and Second Schedules to the General Terms and Conditions to the current Access Arrangement were too inflexible to be included in the General Terms and Conditions to an Access Arrangement. The Authority considers the amendments to be reasonable.
972. The Authority considers that the amendments to the proposed sub-clause 6.4 of the General Terms and Conditions, removing the right for Users to elect for the User or a third party to own, operate and maintain Outlet Facilities, are not reasonable. The Authority also considers that the consequential amendments to the proposed sub-clauses 6.6 and 6.8 of the General Terms and Conditions and the removal of sub-clause 6.7 of the General Terms and Conditions to the current Access Arrangement are not reasonable.
973. In the Authority's Final Decision in relation to the current Access Arrangement, the Authority decided that it was necessary for third parties and Users to have the option to own, operate and maintain their own Outlet Facilities. By deleting any provision for parties other than GGT to own, operate and maintain Outlet Facilities, GGT is in a monopoly position that unreasonably restricts competition. The Authority accepts the GGP Users (PCS) Submission dated 29 May 2009 and the BHPB Submission dated 30 June 2009 on this point.
974. The Authority notes that GGT has not sought to justify the removal of the right for Users to elect for the User or a third party to own, operate and maintain Outlet Facilities provided for in sub-clause 6.4(c) of the General Terms and Conditions to the current Access Arrangement. by demonstrating any manner in which provisions in the current Access Arrangement are causing or likely to cause operational or technical difficulties in the safe and reliable operation of the Pipeline. Nor has GGT sought to show that if such difficulties had arisen that they could only be rectified by the proposed amendments. The Authority considers that the need for economic efficiency and the interests of Users are better met by allowing Users and third parties the option to own, operate and maintain Outlet Facilities.
975. The amendments in the proposed clause 6 of the General Terms and Conditions removing the right for Users to elect for the User or a third party to own, operate and maintain Outlet Facilities also impact on the proposed sub-clauses 11.2(a) and 20.7(c) of the General Terms and Conditions and sub-clauses 11.4 and 19.1(b) of the General Terms and Conditions to the current Access Arrangement. The Authority's assessment of the proposed changes to those sub-clauses is set out within the discussion concerning these clauses below.
976. The Authority notes that the changes in the proposed sub-clause 6.7 of the General Terms and Conditions to require compliance for Outlet Facilities with "technical" specifications "required by a reasonable and prudent pipeline operator" are as a consequence of the removal of the Second Schedule to the General Terms and

Conditions to the current Access Arrangement which previously contained technical specifications for Outlet Facilities (paragraph 959 above). The Authority considers these amendments allow the flexibility in technical specifications that the current Access Arrangement lacks and that they are, therefore, reasonable. The Authority considers that the other amendments in the proposed sub-clause 6.7 of the General Terms and Conditions are not material changes and that they are therefore reasonable.

977. The Authority accepts as reasonable the change to the heading of the proposed sub-clause 6.9 of the General Terms and Conditions.

Draft Decision

978. The Authority approves the proposed amendments in sub-clauses 6.1(b) and (e), 6.2, (b) and (c), 6.7 and 6.9 (except for the change to the reference) of the General Terms and Conditions and the proposed removal of sub-clauses 6.3 and 6.4 of the General Terms and Conditions to the current Access Arrangement.
979. The Authority approves the removal of the First and Second Schedule to the General Terms and Conditions to the current Access Arrangement.
980. The Authority does not approve the proposed amendment in sub-clause 6.1(e) of the General Terms and Conditions.
981. The Authority does not approve the removal of the provisions in clause 6 of the General Terms and Conditions to the Current Access Arrangement which give Users and third parties the right to elect to own, operate and maintain outlet facilities. The Authority therefore requires such provisions to be reinstated into the proposed clause 6 of the General Terms and Conditions and for consequential amendments to be made giving effect to such reinstatement including the definition of "Outlet Facilities" in Appendix 1.

Required Amendment 25

Sub-clause 6.1 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read as follows:

GGT will provide for the benefit of the User at the User's cost unless otherwise specified:

- (a) advice in respect of engineering and planning for the connection of the User's facilities to the Pipeline;
- (b) a remotely actuated shut off valve and a remotely actuated flow control valve at the Outlet Facilities at each Outlet Point;
- (c) supervision of connection activities for connection to the Pipeline or to the Outlet Facilities;
- (d) services related to the commissioning of the Outlet Facilities; and
- (e) access to reasonable specified data by GGT from GGT's SCADA and other systems as determined by GGT acting reasonably.

Required Amendment 26

Clause 6 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to:

- (a) restore the provisions that are in clause 6 of the General Terms and Conditions to the current Access Arrangement which give Users and third parties the right to elect to own, operate and maintain Outlet Facilities; and
- (b) remove the references to the Second Schedule and replace them with a reference to the "technical specifications of a reasonable and prudent pipeline operator".

Clause 7: Quantity Variations

GGT's Proposed Revisions

Access Arrangement

982. GGT proposes some minor amendments to the Quantity Variations clause, which is the proposed clause 7 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, pages 8 to 13).

983. The amendment in the proposed sub-clause 7.3(d) of the General Terms and Conditions specifies how the User's Maximum Daily Quantity increase will be

calculated in situations where the Service Agreement has been in force for less than 12 months.

984. Otherwise, the amendments in the proposed clause 7 of the General Terms and Conditions are not material.
985. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

986. The GGP Users have submitted that the imposition of a variance charge (incorporated by the proposed sub-clauses 7.5, 9.4 and 9.6 of the General Terms and Conditions) is a penalty on users who incorrectly estimate their daily gas use and the charge cannot be justified on “safety and efficiency” grounds (GGP Users (PCS) Submission dated 29 May 2009, page 17).
987. The Authority has not received any other public submissions in relation to the proposed clause 7 of the General Terms and Conditions.

Authority’s Assessment

988. The Authority considers that the amendments in the proposed clause 7 of the General Terms and Conditions are only minor amendments and that they are reasonable.
989. The Authority has dealt with the issues raised in the submissions made by the GGP Users in the Authority’s assessment of the amendments in the proposed clause 9 of the General Terms and Conditions (paragraphs 991 to 1005 below).

Draft Decision

990. The Authority approves the proposed clause 7 of the General Terms and Conditions.

Clause 9: Transportation Tariff and Charges

GGT’s Proposed Revisions

Access Arrangement

991. GGT proposes a number of amendments to the Transportation Tariff and Charges clause, which is the proposed clause 9 of the General Terms and Conditions to GGT’s Proposed Revisions (Appendix 3 to GGT’s Proposed Revisions, pages 14 to 20). GGT proposes:
- a) to delete both the Account Establishment Charge and the Annual Account Management Charge in sub-clauses 9.5(a) and 9.5(c) of the General Terms and Conditions to the current Access Arrangement;
 - b) to delete the reference, in sub-clause 9.5 of the General Terms and Conditions to the current Access Arrangement, to charges payable under sub-clause 10.4 for delivering or tendering Non-Specification

Gas into the Pipeline, as an illustration of other relevant charges payable by a User;

- c) to delete sub-clause 9.6(e) of the General Terms and Conditions to the current Access Arrangement under which GGT is obliged to return 95% of the Quantity Variation Charges to any User who did not cause the particular Quantity Variation Charges to occur, at the end of each calendar year;
 - d) to amend sub-clause 9.7 of the General Terms and Conditions to the current Access Arrangement to delete the obsolete reference to the only Inlet Point to the Pipeline being located at Yarraloola, and to provide for the distance calculation for the Transportation Tariff to be based upon the distance from the current Inlet Facilities described in the proposed sub-clause 6.2(b) of the General Terms and Conditions;
 - e) to amend sub-clause 9.9 of the General Terms and Conditions to the current Access Arrangement, which requires a User to pay adjusted Reference Tariffs under sub-clause 5.3(c) upon the occurrence of a Specified Event, to refer instead to a Change in Imposts which GGT proposes replace the Specified Event as a basis for a Reference Tariff adjustment.
992. The proposed clause 9.8 of the General Terms and Conditions also includes a proposal to amend the formula for adjusting component charges of the Reference Tariff for inflation.
993. Finally, GGT proposes a number of amendments in the proposed clause 9 of the General Terms and Conditions which are purely consequential upon proposed amendments to other clauses cross-referred to in the proposed clause 9 of the General Terms and Conditions. These consequential amendments are to the proposed sub-clauses 9.2, 9.3, 9.4(e), 9.6(c) and 9.13(e) of the General Terms and Conditions.
994. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

995. The GGP Users have submitted that the imposition of a variance charge is a means by which GGT can penalise Users who incorrectly estimate their gas usage. They point out that Users are paying for a right to use Capacity, including that which they do not use, and are then penalised if their estimate is wrong even if that error is below the MDQ. Further, Users' gas usage is dependant upon factors outside the Users' control (eg weather, plant availability) and this has an impact on how accurate their estimates can be. The GGP Users have submitted that Users pay for the privilege to use Capacity so should not be subject to additional charges when they erroneously estimate their gas usage. The GGP Users do not believe the variance charge can be justified on safety and efficiency grounds (GGP Users (PCS) Submission dated 29 May 2009, page 17).
996. BHPB has also submitted against the proposed removal of sub-clause 9.6(e) of the General Terms and Conditions to the current Access Arrangement. BHPB submitted this would enable GGT to retain all of the Quantity Variation Charges.

BHPB noted that this results in an unreasonable form of revenue to GGT (BHPB Submission dated 30 June 2009, page 45).

997. The Authority has not received any other public submissions in relation to the proposed clause 9 of the General Terms and Conditions.

Authority's Assessment

998. The Authority notes the importance of nominations in the operation of a transmission pipeline, particularly in efficient operation of the pipeline (management of compressor configuration and linepack) and in efficient utilisation of the pipeline (the possibility of making unutilised pipeline capacity available to Users on a spot or short-term basis). As such, the Authority acknowledges the need to have in place mechanisms to motivate accurate nominations.

999. In relation to GGT's proposal to amend the formula for adjusting component charges of the Reference Tariff or inflation, this formula is relevant to the tariff path of Reference Tariffs and, therefore, has been addressed by the Authority in its determination of Reference Tariffs. For the reasons set out there, the Authority has required an amendment to the inflation adjustment formula contained in the proposed sub-clause 9.8 of the General Terms and Conditions (Required amendment 17). It is not necessary, therefore, to repeat the Authority's discussion of GGT's proposal in relation to this clause and of the submissions relevant to the proposal.

1000. The Authority has not received any submissions or other comment from any party, including GGT, in relation to GGT's proposals:

- a) to delete both the Account Establishment Charge and the Annual Account Management Charge in the proposed sub-clauses 9.5(a) and 9.5(c) of the General Terms and Conditions;
- b) to delete the reference in sub-clause 9.5 of the General Terms and Conditions to the current Access Arrangement, as an illustration of other relevant charges payable by a User, of charges payable under sub-clause 10.4 for delivering or tendering Non-Specification Gas into the Pipeline;
- c) to amend the proposed sub-clause 9.7 of the General Terms and Conditions to delete the obsolete reference to the only Inlet Point to the Pipeline being located at Yarraloola, and to provide for the distance calculation for the Transportation Tariff to be based upon the distance from the current Inlet Facilities described in section 6.2(b) of GGT's Proposed Revisions;

1001. In the absence of any submissions or other comment, the Authority considers GGT's proposed amendments to these clauses to be reasonable.

1002. In relation to the proposed deletion of the rebate to Users of Quantity Variation Charges in the proposed sub-clause 9.6(e) of the General Terms and Conditions the Authority:

- a) notes that in the Authority's Final Decision on the proposed Access Arrangement for the GGP dated 17 May 2005 the Authority considered it was not reasonable for GGT to retain revenue from

the Quantity Variation Charges if this revenue is not taken into account when determining the Reference Tariff;

- b) notes that GGT has not made any submissions in support of this proposed deletion;
- c) considers that the BHBP submission objecting to the deletion of the rebate mechanism has merit, as the deletion would enable GGT to unreasonably retain all of the Quantity Variation Charges rather than them being shared between GGT and the User as is provided under the current Access Arrangement;
- d) does not see merit in the GGP Users submission, under which GGT would not be able to recover any of the Quantity Variation Charges, as this would not strike a reasonable balance between Service Provider and User; and
- e) notes that the efficiency of operating a gas pipeline is improved by accurate estimates of volumes being provided by Users.

1003. The Authority considers that GGT's proposal to delete the rebate mechanism in the proposed sub-clause 9.6(e) of the General Terms and Conditions, and thereby to allow GGT to retain all of the Quantity Variation Charges, is not reasonable. The Authority concludes, therefore, that the rebate mechanism under sub-clause 9.6(e) of the General Terms and Conditions to the current Access Arrangement should remain in place.

1004. In relation to the amendment in the proposed sub-clause 9.9 of the General Terms and Conditions, the Authority is satisfied that the amendment is reasonable. Under the current Access Arrangement, a Reference Tariff adjustment is triggered upon the occurrence of a Specified Event. GGT's proposes to include an amendment to replace a "Specified Event" with a "Change in Imposts" as the basis for a Reference Tariff adjustment. The Authority has accepted GGT's proposal that Change in Imposts provide a basis for a Reference Tariff adjustment (paragraphs 820 to 833 above). It follows that the amendment in the proposed sub-clause 9.9 of the General Terms and Conditions is reasonable, as a consequential amendment upon the Authority's acceptance of the Change of Imposts as a basis for a Reference Tariff adjustment.

1005. Otherwise, GGT's proposed amendments to this clause are purely consequential and are appropriate.

Draft Decision

1006. The Authority does not approve the proposed deletion of sub-clause 9.6(e) of the General Terms and Conditions in the current Access Arrangement.

1007. Otherwise, the Authority approves the amendments in the proposed clause 9 of the General Terms and Conditions.

Required Amendment 27

Sub-clause 9.6(e) of the General Terms and Conditions to GGT's Proposed Revisions should be reinserted and read:

GGT will rebate 95 percent of Quantity Variation Charges as defined in the Fourth Schedule in excess of GGT's direct costs and expenses associated with and arising from the User's acts or omissions which cause the overruns or imbalances to occur:

(1) to any other User of the Reference Service not having caused the particular Quantity Variation Charges to occur; and

(2) which rebate will be paid to non-offending Users, where relevant, at the end of each calendar year.

For the avoidance of doubt, where there is no other User of the Reference Service at the time at which the overruns or imbalance occur then this rebate mechanism will not be activated.

Clause 10: Quality and Delivery Conditions

GGT's Proposed Revisions

Access Arrangement

1008. GGT proposes some amendments to the Quality and Delivery Conditions clause, which is the proposed clause 10 of the General Terms and Conditions (Appendix 3 to GGT's Proposed Revisions, pages 20 and 21).

1009. The specification of gas quality for the purpose of clause 10 of the General Terms and Conditions to the current Access Arrangement is set out in the Gas Quality Specification in Schedule 2 of Appendix 3 to the current Access Arrangement.

1010. Under the current Access Arrangement there is a single Gas Quality Specification for Inlet and Outlet Points. GGT proposes an amendment in the proposed clause 10 of the General Terms and Conditions and the proposed Gas Quality Specification in Schedule 2 of the General Terms and Condition to provide separate Inlet and Outlet Gas Specifications.

1011. GGT also proposes amendment in the proposed Gas Specification in Schedule 2 to the General Terms and Conditions by increasing:

- a) the maximum carbon dioxide (**CO2**) component in the gas from 3.6 percent to 4 percent by volume of carbon dioxide; and
- b) the minimum Gross Heating Value (**GHV**) from 35.5 MJ/m³ to 37.0 MJ/m³.

1012. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

Synergy Submission

1013. Synergy has submitted that it supports, in principle, the WA Government's current proposal to broaden the State's gas specifications, which is aimed at reducing barriers to entry for new gas fields and facilitating gas flow between major pipelines which currently impose different specifications.
1014. Synergy also supported GGT's proposal to align the gas specification of the GGP with the gas specification of the DBNGP except to the extent that it acts to lessen competition in the gas market (Synergy Submission dated 29 May 2009, page 4).

BHPB NiW Gas Submission

1015. In relation to the proposed amendment to the GHV under the Gas Specification, BHPB NiW Gas has submitted as follows:

- a) The amendment would deprive existing shippers operating under a Gas Transportation Agreement (**GTA**) of their contractual right under the GTA to inject gas into the GGP in the range of 35.5 MJ/m³ to less than 37.0 MJ/m³. The GTA incorporates the General Terms and Conditions which form part of the current Access Arrangement for the GGP. By virtue of the definition of the term "Gas Specification" in Appendix 1, the GHV Amendment would cause an amendment to the GTA. BHPB NiW Gas submits that the requirements of section 2.25 of the Code, therefore, require the Authority to refuse to approve the proposed changes to the Gas Specifications for the GGP.
- b) BHPB NiW Gas relies on the current GHV specification in at least one of its gas supply contracts. If the GHV Amendment were to flow through to BHPB NiW Gas's GTA (a matter BHPB NiW Gas were still assessing) then BHPB NiW would be adversely impacted.
- c) BHPB NiW is in negotiation for future gas supply with a requirement by the supplier of a current minimum specification of 35.5 MJ/m³.
- d) BHPB NiW also delivers gas to other shippers on the GGP and if those shippers are subjected to the GHV Amendment, it may be unable to supply those shippers

(BHPB NiW Gas Submission dated 29 May 2009, pages 1 to 2).

1016. BHPB NiW has also submitted that it supports the CO₂ Amendment for the GGP as it represents a broadening of that specification (BHPB NiW Gas Submission dated 29 May 2009, page 2).

BHPB Submission

1017. In relation to the proposed amendment to the GHV, BHPB has made the following submissions:

- a) The WA Government is proposing to release a draft bill dealing with broadening the gas specification on gas transmission pipelines in

WA that is the Gas Supply (Gas Quality Specification) Bill 2009 (WA).

- b) It is inappropriate to narrow the specification of the GGP prior to this legislation; and
- c) GGT should not be in a position to profit from the GHV Amendment by enlivening a right to compensation or other processes under the draft bill (BHPB Submission dated 30 June 2009, page 44).

Authority's Assessment

Inlet and Outlet Specifications

1018. The current Access Arrangement provides for the Gas Specification for the gas delivered to Outlet Point(s) to be "modified to reflect any change in the odourisation, compression or transmission of the Gas or the injection of other additives necessary for the operation of the Pipeline" (sub-clause 10.2 of the General Terms and Conditions to the current Access Arrangement).

1019. Under the amendment proposed by GGT, there will be separate Gas Specifications for Inlet and Outlet Point(s). However, the Gas Specifications for Inlet and Outlet Point(s) are identical (proposed Schedule 2 to the General Terms and Conditions). Further, the (separate) Gas Specification for Outlet Point(s) remains subject to modification under the proposed sub-clause 10.2 of the General Terms and Conditions.

1020. The proposed amendment in relation to inlet and outlet specifications, therefore, only alters the Gas Specification for the GGP in form and not in substance. For that reason, the Authority considers that the proposed amendment is reasonable.

Maximum CO₂ Specification

1021. The proposed CO₂ Amendment would broaden the Maximum CO₂ Specification for the GGP. The proposal would align the Maximum CO₂ Specification for the GGP with the broader Specification for this component for the Dampier to Bunbury Natural Gas Pipeline (**DBNGP**) which is presently 4.0%.

1022. The GGP is fully interconnected with the DBNGP. The alignment of the Maximum CO₂ Gas Specification for the two pipeline systems facilitates the transfer of CO₂ rich gas between them. This enhances competition for the supply of haulage of CO₂ rich gas by providing a wider range of haulage options to Users.

1023. Further, the broadening of the Maximum CO₂ Gas Specification enhances competition between Users of the two pipeline systems in the market for the acquisition of CO₂ rich gas from upstream producers.

1024. These features of the proposed amendment promote the public interest in having competition in markets. This is a matter which under section 2.24(e) of the Code the Authority must take into account when assessing GGT's Proposed Revisions.

1025. GGT's Proposed Revisions were supported by two Users, Synergy and BHBPP NiW Gas. No other User submitted either in support or opposition to the amendment.

1026. In the circumstances, the Authority considers that the amendment is reasonable.

Minimum GHV Specification

1027. The proposed amendment would narrow the Gas Specification for the GGP by raising the Minimum GHV from 35.5 MJ/m³ to 37.0 MJ/m³.

1028. The narrowing of the Minimum GHV Specification for the GGP would align the Specification with that for the DBNGP which currently has a Minimum GHV of 37.0 MJ/m³. However, the current Minimum GHV Specification for the DBNGP may restrict competition in both upstream and downstream markets for lower GHV gas. The alignment of the Minimum GHV Specifications for the two pipelines may, therefore, also restrict competition.

1029. For example, if the Minimum GHV Specification for the GGP is narrowed to align it with that for the DBNGP, producers of lower GHV gas in upstream markets might be restricted in their ability to sell lower GHV gas into downstream markets served by the GGP, without there being any competitive alternative gas or other energy source.

1030. Likewise, consumers of lower GHV gas in downstream markets served by the GGP would have their supply restricted by GGT's Proposed Revisions without any competitive alternative gas or other energy source.

1031. There is evidence before the Authority that the proposed amendment could adversely affect competition. BHPB NiW Gas submitted that it is negotiating future gas supply with a current minimum specification of 35.5 MJ/m³ required by the supplier. Further, BHPB NiW Gas submitted that BHPB NiW may be unable to supply shippers on the GGP to whom it currently delivers gas if those shippers are subjected to the proposed revision to the Minimum GHV Specification.

1032. The Authority is satisfied that the proposed amendment could adversely affect competition in relevant gas markets. The public interest in having competition in markets is a matter which under section 2.24(e) of the Code the Authority must take into account when assessing GGT's Proposed Revisions.

1033. In the circumstances, the Authority does not consider that the amendment is reasonable.

1034. Two other issues arose about which it is appropriate for the Authority to comment:

- a) BHPB NiW Gas submitted that GGT's proposed amendment to the Minimum GHV Specification, if accepted, would deprive existing shippers operating under GTAs from their contractual right to supply gas in the range of 35.5 MJ/m³ to 37.0 MJ/m³. The Authority does not have sufficient information to express an opinion on BHPB NiW's submission. In any event, in view of the Authority's decision not to approve the proposed revision on competition grounds, it is unnecessary for the Authority to give further consideration to this aspect of the BHPB NiW Gas submission by obtaining copies of the relevant contracts at this stage.
- b) BHPB submitted that it is inappropriate to narrow the specification of the GGP in advance of the Gas Supply (Gas Quality Specification) Bill 2009 (WA). BHPB submitted that GGT should not

be in a position to profit from the GHV Amendment by enlivening a right to compensation or other processes under the Bill which would not otherwise exist. The changes which may or may not be introduced, and the compensation which GGT may or may not receive, are matters of conjecture. They are not relevant to whether GGT's proposed revision to the Minimum GHV Specification is reasonable having regard to the objectives of the Code.

Draft Decision

1035. The Authority approves the proposed clause 10 of the General Terms and Conditions so far as it concerns the Maximum CO₂ Specification and for the provision of separate Inlet and Outlet Specifications.
1036. The Authority does not approve the proposed clause 10 of the General Terms and Conditions so far as it concerns the increase in the Minimum GHV Specification from 35.5 MJ/m³ to 37.0 MJ/m³.
1037. The Authority otherwise approves the proposed clause 10 of the General Terms and Conditions.

Required Amendment 28

The minimum value for the Gross Heating Value component in the tables labelled Inlet Gas Specification and Delivery Gas Specification in the Second Schedule to the General Terms and Conditions to GGT's Proposed Revisions should be amended from 37.0 MJ/m³ to 35.5 MJ/m³.

Clause 11: Measurement of Gas

GGT's Proposed Revisions

Access Arrangement

1038. GGT proposes to amend the Measurement of Gas clause, which is the proposed clause 11 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, pages 21 to 23).
1039. GGT's also proposes amendments in the proposed sub-clause 11.2(a) of the General Terms and Conditions and the deletion of sub-clause 11.4 of the General Terms and Conditions in the current Access Arrangement. These amendments are consequential upon the removal of the right of Users and third parties to own, operate and maintain Outlet Facilities.
1040. The amendment in the proposed sub-clause 11.3 of the General Terms and Conditions is to replace the references to the First and Second Schedules to the General Terms and Conditions of the current Access Arrangement (which have been proposed to be removed) with the phrase "good pipeline industry practice".
1041. The proposed sub-clause 11.5 of the General Terms and Conditions has been amended to limit Users' rights to install metering equipment to installation within the User's facilities or premises only. A further amendment to this clause provides for

the measurement equipment to comply with the accuracy requirements of the First Schedule to the General Terms and Conditions to GGT's Proposed Revisions.

1042. All of the other amendments in the proposed clause 11 of the General Terms and Conditions are minor amendments to references.
1043. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1044. The GGP Users have submitted that the proposed sub-clauses 6.6, 6.7 and 11.2 of the General Terms and Conditions give GGT the exclusive role as the provider of Outlet Facilities and that the extension of GGT's monopoly should not be so extended (GGP Users (PCS) Submission dated 29 May 2009, page 17)
1045. BHPB has also submitted that the amendments in the proposed sub-clauses 6.6, 6.7 and 11.2 of the General Terms and Conditions result in GGT having exclusive rights to provide Outlet Facilities and that the extension of GGT's monopoly position cannot be reasonably justified (BHPB Submission dated 30 June 2009, page 45).

Authority's Assessment

1046. The Authority has determined that GGT's amendments in the proposed sub-clause 6 of the General Terms and Conditions are not reasonable (paragraphs 978 to 981 above). For the same reasons the Authority considers the consequential amendments in the proposed sub-clause 11.2(a) of the General Terms and Conditions and the removal of sub-clause 11.4 of the General Terms and Condition to the current Access Arrangement are not reasonable.
1047. The Authority accepts the need for an amendment in the proposed sub-clause 11.3 of the General Terms and Conditions as a consequence of the deletion of the First and Second Schedules to the General Terms and Conditions to the current Access Arrangement. However, the Authority considers that the amendment in the proposed sub-clause 11.3 is inconsistent with other clauses in the General Terms and Conditions which provide for facilities to comply with the technical specifications required by a reasonable and prudent pipeline operator. The Authority is therefore not satisfied that the amendment is reasonable.
1048. The Authority considers the first amendment in the proposed sub-clause 11.5 of the General Terms and Conditions is not reasonable as it seeks to exclude the Users right to install and maintain metering equipment within GGT's facilities or premises. The Authority also notes that GGT has not explained the reason for this amendment.
1049. The Authority considers that the second amendment in the proposed sub-clause 11.5 of the General Terms and Conditions, which specifies the standard of accuracy required for metering equipment, to be reasonable.
1050. The Authority notes the other minor amendments to the references in the proposed clause 11 of the General Terms and Conditions and considers these amendments to be reasonable.

Draft Decision

1051. The Authority does not approve the proposed sub-clause 11.2(a) of the General Terms and Conditions.
1052. The Authority does not approve the proposed sub-clause 11.3 of the General Terms and Conditions.
1053. The Authority does not approve the deletion of sub-clause 11.4 of the General Terms and Conditions to the current Access Arrangement.
1054. The Authority does not approve the first amendment in the proposed sub-clause 11.5 of the General Terms and Conditions.
1055. The Authority approves the remainder of the proposed clause 11 of the General Terms and Conditions.

Required Amendment 29

Sub-clause 11.2(a) of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

~~The Outlet Facilities installed by GGT under clause 6.2 will enable GGT to properly establish the quantity and quality of Gas delivered By GGT to the User at the Outlet Point.~~

Except as provided in clauses 6.4(c) and 6.4(f), the User shall install or have installed on its behalf, and GGT shall operate, at or near the Outlet Point, Outlet Facilities necessary for GGT to be able to properly establish the quantity and quality of Gas delivered to the User at the Outlet Point.

Required Amendment 30

Sub-clause 11.3 of the General Terms and Conditions to GGT's Revision Proposal should be amended to read:

~~The measuring equipment comprised in the Inlet Facilities and in each of the Outlet Facilities shall comply in all respects with good pipeline industry practice~~ the standard of a reasonable and prudent pipeline operator.

Required Amendment 31

Sub-clause 11.4 of the General Terms and Conditions to the current Access Arrangement should be reinstated into the proposed clause 11 of the General Terms and Conditions to GGT's Proposed Revisions as:

Costs to be Borne by User

The costs of installation, operation and maintenance of facilities not owned by the Owners referred to in clauses 11.1 and 11.2 shall be for the account of the User.

Required Amendment 32

Sub-clause 11.5 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

GGT grants to the User the right to install and maintain check metering equipment ~~within the User's facilities or premises~~ to enable the User to check the bulk measuring equipment located at any site provided that such check metering equipment shall not interfere in any way with any measuring equipment (or other equipment) and that the cost of installing and maintaining any such check metering equipment shall be borne by the User and such equipment shall meet the accuracies contained in the First Schedule.

Clause 13: Invoicing and Payment**GGT's Proposed Revisions**

Access Arrangement

1056. GGT proposes to amend the Invoicing and Payment clause, which is the proposed clause 13 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, pages 26 to 27).

1057. The following amendments are proposed:

- a) the proposed sub-clause 13.2(e) be amended to allow for adjustments to be made pursuant to the proposed sub-clause 9.3 of the General Terms and Conditions, instead of the proposed sub-clause 9.4 of the General Terms and Conditions;
- b) the words "for that Billing Period" be deleted from the proposed sub-clause 13.2(g); and

- c) a proposed sub-clause 13.2(i) be added to allow invoices to include the additional amount of GST referred to in the proposed sub-clause 9.11 of the General Terms and Conditions.

1058. GGT also proposes to change the definition of Interest Rate in Appendix 1 to GGT's Proposed Revisions. As a consequence of this proposed change, the interest payable under the proposed sub-clauses 13.6 and 13.8 of the General Terms and Conditions has been increased from 2% to 5% above the Bill rate. .

1059. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1060. As a consequence of a proposed change to the definition of Interest Rate in Appendix 1 to GGT's Proposed Revisions, the interest payable under the proposed sub-clauses 13.6 and 13.8 of the General Terms and Conditions has been increased from 2% to 5% above the Bill rate. The BHPB Submission argued that this increase is unreasonable and is unjustified (BHPB Submission dated 30 June 2009, page 44).

1061. Similarly, the GGP Users have submitted that any change to the Interest Rate must be justified in more detail rather than as just part of the working capital provision of GGT's Capital Base (GGP Users (PCS) Submission dated 29 May 2009, page 16).

Authority's Assessment

1062. The Authority notes that the amendments in the proposed sub-clause 13.2 of the General Terms and Conditions are minor and that no public submissions were received in relation to this proposed sub-clause. The Authority therefore considers those amendments to be reasonable.

1063. The Authority also notes that GGT has not sought to justify the proposed 3% increase in the interest rate payable pursuant to the proposed sub-clauses 13.6 and 13.8 of the General Terms and Conditions.

1064. The Authority also notes BHPB's concern that the increase is unjustified.

1065. The Authority acknowledges that the cost of debt has increased as a result of recent volatility in global markets.

1066. The Authority considers that the change in the definition of Interest Rate in Appendix 1 to GGT's Proposed Revisions is reasonable.

Draft Decision

1067. The Authority approves the proposed clause 13 of the General Terms and Conditions including the definition of Interest in Appendix 1 to GGT's Proposed Revisions.

Clause 16: Termination

Access Arrangements Proposed Revisions

Access Arrangement

1068. GGT proposes to make a minor amendment to the Termination clause, which is clause 16 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, pages 29 to 31).
1069. That amendment is to replace the term "Date of Termination" with the term "Termination Date" in the proposed sub-clause 16.6 of the General Terms and Conditions.

Access Arrangement Information

1070. GGT did not provide any Access Arrangement Information in relation to the proposed clause 16 of the General Terms and Conditions.

Additional GGT Submissions

1071. GGT did not make any submissions in relation to the proposed clause 16 of the General Terms and Conditions.

Public Submissions

1072. The Authority did not receive any public submissions in relation to the proposed clause 16 of the General Terms and Conditions.

Authority's Assessment

1073. The amendment in the proposed sub-clause 16.6 of the General Terms and Conditions changes the terminology used in order to be consistent with the definitions set out in Appendix 1 to GGT's Proposed Revisions. The Authority therefore considers that this amendment is reasonable.

Draft Decision

1074. The Authority approves the proposed clause 16 of the General Terms and Conditions.

Clause 18: Liabilities

GGT's Proposed Revisions

Access Arrangement

1075. GGT proposes to make some minor amendments to the Liabilities clause, which is the proposed clause 18 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, pages 33 to 36)
1076. An amendment in the proposed sub-clause 18.5 of the General Terms and Conditions inserts references to the proposed sub-clauses 8.2, 8.4 and 8.5 of the General Terms and Conditions.

1077. An amendment in the proposed sub-clause 18.5(b) of the General Terms and Conditions changes the way that a refund or credit is calculated.

1078. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1079. The Authority did not receive any public submissions in relation to the proposed clause 18 of the General Terms and Conditions.

Authority's Assessment

1080. The amendment in the proposed sub-clause 18.5 of the General Terms and Conditions to include references to the proposed sub-clauses 8.2, 8.4 and 8.5 of the General Terms and Conditions corrects an inconsistency in the current Access Arrangement. The Authority therefore considers it to be reasonable.

1081. The amended formula for the calculation of a refund or credit in the proposed sub-clause 18.5(b) of the General Terms and Conditions will give rise to a similar result to the use of the formula contained in the current Access Arrangement. The Authority notes that this amendment will not materially affect the amount of the refund or credit such that the Authority considers it to be reasonable.

Draft Decision

1082. The Authority approves the proposed clause 18 of the General Terms and Conditions.

Clause 19: Insurances

GGT's Proposed Revisions

Access Arrangement

1083. GGT proposes to amend the Insurances clause, which is the proposed clause 19 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, page 36)

1084. The proposed amendments are:

- a) to delete the word "Service" from the proposed sub-clause 19.1;
- b) to delete sub-clause 19.1(b) of the General Terms and Conditions to the current Access Arrangement, which requires Users to procure and maintain all risks property damage insurance indemnifying GGT;
- c) to increase the minimum amount of public liability insurance required in the proposed sub-clause 19.1(b) to \$20,000,000; and
- d) consequential amendments to the proposed sub-clause 19.2 following the amendments in the proposed sub-clause 19.1.

1085. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1086. The Authority did not receive any public submissions in relation to the proposed clause 19 of the General Terms and Conditions.

Authority's Assessment

1087. The proposed deletion of sub-clause 19.1(b) of the General Terms and Conditions in the current Access Arrangement and the amendments to the proposed sub-clause 19.2 of the General Terms and Conditions are a consequence of GGT's proposed amendments to sub-clause 6.4 of the General Terms and Conditions to the current Access Arrangement. The Authority has not approved that amendment and therefore does not consider the consequential amendments in the proposed sub-clauses 19.1(b) and 19.2 of the General Terms and Conditions to be reasonable. .

1088. The Authority notes that it did not receive any public submissions about the proposed increase in the amount of public liability insurance in the proposed sub-clause 19.1(b) of the General Terms and Conditions and that GGT did not seek to justify this increase. However, as it is in line with industry norms, the Authority considers this increase to be reasonable.

Draft Decision

1089. The Authority does not approve the amendments:

- a) in the proposed sub-clause 19.1 to delete sub-clause 19.1(b) of the General Terms and Conditions in the current Access Arrangement;
- b) in the proposed sub-clause 19.2 of the General Terms and Conditions.

1090. The Authority otherwise approves the proposed clause 19 of the General Terms and Conditions.

Required Amendment 33

Sub-clause 19.1 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

The User shall procure and maintain at its own expense throughout the Terms of the Service Agreement the following insurances with reputable insurers:

- (a) workers compensation insurances in accordance with the *Workers Compensation and Rehabilitation Act 1981*;
- (b) all risks property insurance to indemnify it against damage, loss or destruction of Inlet Facilities and Outlet Facilities; and
- (c) public liability insurance for an amount of not less than \$20,000,000 to indemnify it against the risk of damage, death or injury to the property or personnel of third parties.

Required Amendment 34

Sub-clause 19.2 of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read:

The User shall arrange for endorsements on the policies in clauses 19.1(b) and 19.1(c) of the interests of the Owners and GGT such that those interests are effectively insured under those policies and for the insurers to waive rights of subrogation against them.

Clause 20: Assignment and Transfers of Capacity

GGT's Proposed Revisions

Access Arrangement

1091. GGT proposes to amend the Assignment and Transfers of Capacity clause, which is the proposed clause 20 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, pages 37 to 40).
1092. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1093. The Authority did not receive any public submissions in relation to the proposed clause 20 of the General Terms and Conditions.

Authority's Assessment

1094. The proposed clause 20 of the General Terms and Conditions sets out the terms and conditions on which a User may transfer or assign all or part of their rights to Capacity and is therefore referred to in the proposed Trading Policy (section 9 of GGT's Proposed Revisions).
1095. The Code prescribes different tests in relation to the terms of a proposed Trading Policy (sections 3.9 to 3.11 of the Code), which are to be measured against the principles in section 3.10 of the Code, as compared to the content of the General Terms and Conditions, which are to be measured using a reasonableness test (section 3.6 of the Code).
1096. The Authority considers that the proposed clause 20 of the General Terms and Conditions properly forms part of the proposed Trading Policy and should therefore be measured against the principles in section 3.10 of the Code. The Authority therefore discusses the proposed clause 20 of the General Terms and Conditions when assessing the proposed Trading Policy at paragraphs 1113 to 1139 below.

Clause 24: Notices

GGT's Proposed Revisions

Access Arrangement

1097. GGT proposes a minor amendment to the Notices clause, which is the proposed clause 24 of the General Terms and Conditions to GGT's Proposed Revisions (Appendix 3 to GGT's Proposed Revisions, page 45).
1098. The amendment is in the proposed sub-clause 24.1 of the General Terms and Conditions. It is proposed to replace the phrase "Applicable Terms" with the phrase "GGT Information Package", which is a term defined in Appendix 1 to GGT's Proposed Revisions.
1099. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1100. The Authority did not receive any public submissions in relation to the proposed clause 24 of the General Terms and Conditions.

Authority's Assessment

1101. In relation to the amendment in the proposed sub-clause 24.1 of the General Terms and Conditions, the Authority has previously required under Required Amendment 22 that this sub-clause be deleted and replaced with an appropriate alternative provision if a GGT Information Package which contains reasonable terms is not included as part of GGT's Proposed Revisions.

Draft Decision

1102. The Authority does not approve the proposed sub-clause 24.1 of the General Terms and Conditions unless a GGT Information Package which contains

reasonable terms is included as part of GGT's Proposed Revisions (refer to Required Amendment 22)

1103. Otherwise, the Authority approves the proposed clause 24 of the General Terms and Conditions.

Other Requirements

Capacity Management Policy

Requirements of the Code

1104. Sections 3.7 and 3.8 of the Code require an Access Arrangement to include a Capacity Management Policy as follows:

3.7 An Access Arrangement must include a statement (a **Capacity Management Policy**) that the Covered Pipeline is either:

- (a) a Contract Carriage Pipeline; or
- (b) a Market Carriage Pipeline.

3.8 The Relevant Regulator must not accept an Access Arrangement which states that the Covered Pipeline is a Market Carriage Pipeline unless the Relevant Minister of each Scheme Participant in whose Jurisdictional Area the Pipeline is wholly or partly located has given a notice to the Relevant Regulator permitting the Covered Pipeline to be a Market Carriage Pipeline.

1105. Contract Carriage is a system of managing third party access whereby (see section 10.8 of the Code):

- (a) the Service Provider normally manages its ability to provide Services primarily by requiring Users to use no more than the quantity of Service specified in the Contract;
- (b) Users are normally required to enter into a Contract that specifies a quantity of Service;
- (c) charges for use of a Service are normally based, at least in part, upon the quantity of Service specified in a Contract; and
- (d) a User normally has the ability to trade its right to obtain a Service to another User.

1106. Market Carriage is a system of managing third-party access whereby (see section 10.8 of the Code):

- (a) the Service Provider does not normally manage its ability to provide Services primarily by requiring Users to use no more than the quantity of Service specified in a Contract;
- (b) Users are not normally required to enter into a Contract that specifies a quantity of Services;

- (c) charges for use of Services are normally based on actual usage of Services; and
- (d) a User does not normally have the ability to trade its right to obtain a Service to another User.

GGT's Proposed Revisions

Access Arrangement

1107. GGT proposes to manage the GGP as a Contract Carriage Pipeline, which is the way it is being managed under the current Access Arrangement (section 11 of GGT's Proposed Revisions, page 15).
1108. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1109. The Authority has not received any public submissions which comment on the proposed Capacity Management Policy.

Authority's Assessment

1110. The Code only requires GGT's Proposed Revisions to include a statement that the GGP will be a Contract Carriage Pipeline or a Market Carriage Pipeline (subject to Ministerial approval in respect of a Market Carriage Pipeline).
1111. As GGT's Proposed Revisions states that GGT will manage the GGP as a Contract Carriage Pipeline, the requirements of the Code are met.

Draft Decision

1112. The Authority approves the proposed Capacity Management Policy.

Trading Policy

Requirements of the Code

1113. Section 3.9 of the Code requires an Access Arrangement for a Covered Pipeline that is a Contract Carriage Pipeline to include a policy that explains the rights of a User to trade its right to obtain a Service to another person (a **Trading Policy**).
1114. Section 3.10 of the Code requires that the Trading Policy must comply with the following principles:
- 3.10 (a) A User must be permitted to transfer or assign all or part of its Contracted Capacity without the consent of the Service Provider concerned if:
 - (i) the User's obligations under the contract with the Service Provider remain in full force and effect after the transfer or assignment; and

- (ii) the terms of the contract with the Service Provider are not altered as a result of the transfer or assignment (a **Bare Transfer**).

In these circumstances the Trading Policy may require that the transferee notify the Service Provider prior to utilising the portion of the Contracted Capacity subject to the Bare Transfer and of the nature of the Contracted Capacity subject to the Bare Transfer, but the Trading Policy must not require any other details regarding the transaction to be provided to the Service Provider.

- (b) Where commercially and technically reasonable, a User must be permitted to transfer or assign all or part of its Contracted Capacity other than by way of a Bare Transfer with the prior consent of the Service Provider. The Service Provider may withhold its consent only on reasonable commercial or technical grounds and may make its consent subject to conditions only if they are reasonable on commercial and technical grounds. The Trading Policy may specify conditions in advance under which consent will or will not be given and conditions that must be adhered to as a condition of consent being given.
- (c) Where commercially and technically reasonable, a User must be permitted to change the Delivery Point or Receipt Point from that specified in any contract for the relevant Service with the prior written consent of the Service Provider. The Service Provider may withhold its consent only on reasonable commercial or technical grounds and may make its consent subject to conditions only if they are reasonable on commercial and technical grounds. The Trading Policy may specify conditions in advance under which consent will or will not be given and conditions that must be adhered to as a condition of consent being given.

1115. Section 3.11 of the Code contains examples of things that would be reasonable for the purposes of sections 3.10(b) and (c). They are:

- 3.11 (a) the Service Provider refusing to agree to a User's request to change its Delivery Point where a reduction in the amount of the Service provided to the original Delivery Point will not result in a corresponding increase in the Service Provider's ability to provide that Service to the alternative Delivery Point; and
- (b) the Service Provider specifying that, as a condition of its agreement to a change in the Delivery Point or Receipt Point, the Service Provider must receive the same amount of revenue it would have received before the change.

GGT's Proposed Revisions

Access Arrangement

1116. GGT's proposed Trading Policy is in very similar terms to the Trading Policy under the current Access Arrangement (section 9 of GGT's Proposed Revisions, page 14, and clause 20 of the General Terms and Conditions to GGT's Proposed Revisions, pages 37 to 40).

1117. GGT proposes that any User of a Service may transfer or assign all or part of its rights to Capacity in the Covered Pipeline. Any such transfer or assignment must

comply with the requirements in the proposed clause 20 of the General Terms and Conditions (subject to pre-existing contractual rights).

1118. The proposed clause 20 of the General Terms and Conditions provides for:

- a) Bare Transfers of capacity (sub-clause 20.6);
- b) other transfers of capacity (sub-clause 20.7); and
- c) assignment of rights of a User under a Service Agreement (sub-clauses 20.1 to 20.5).

1119. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1120. The Authority has not received any public submissions which comment on the proposed Trading Policy.

Authority's Assessment

1121. The proposed Trading Policy allows for the transfer or assignment of rights to Capacity in the Covered Pipeline. Capacity is defined in Appendix 1 to GGT's Proposed Revisions to mean:

... the capacity of the Pipeline, as determined from time to time by GGT for the Pipeline as configured and subject to the operating conditions in effect at the time.

1122. Capacity is defined in section 10.8 of the Code to mean;

... the measure of the potential of a Covered Pipeline as currently configured to deliver a particular Service between a Receipt Point and a Delivery Point at a point in time.

1123. The primary difference between these definitions is that Capacity for the purpose of GGT's Proposed Revisions is determined by GGT. Whereas Capacity for the purposes of the Code is the actual measure of the potential of the Covered Pipeline. The Authority considers that the definition of Capacity in GGT's Proposed Revisions should correspond with the definition of Capacity in the Code.

1124. The Code requires an Access Arrangement to have a Trading Policy in relation to Contracted Capacity (section 3.10 of the Code). Contracted Capacity is defined in section 10.8 of the Code to mean:

... Capacity which has been reserved by a User or Users pursuant to a contract entered into with the Service Provider.

1125. This would include contracts for the provision of Non-Reference Services.

1126. The proposed Trading Policy gives a User of a Service, which includes a Negotiated, Service, the right to transfer or assign Capacity "as contemplated" by the proposed clause 20 of the General Terms and Conditions. The proposed clause 20 of the General Terms and Conditions appear to be restricted to transfers and assignments of Capacity arising under a Service Agreement, which is defined

in GGT's Proposed Revisions as a Reference Service Agreement, which is in turn defined as an agreement in relation to Reference Services only.

1127. Accordingly, it is not clear from the proposed Trading Policy whether it is proposed to apply to Negotiated Services (being Non-Reference Services) as well as the Firm Service (being a Reference Service). The Code requires a Trading Policy to apply to both Reference and Non-Reference Services. The Authority therefore requires GGT's Proposed Revisions to be amended in order to make it clear that the proposed Trading Policy applies to both Reference and Non-Reference Services.

1128. The Code also requires that a Trading Policy must provide for:

- a) the transfer or assignment of capacity without the Service Provider's consent (section 3.10(a) of the Code); and
- b) conditional transfers or assignments of capacity (section 3.10(b) of the Code).

1129. GGT proposes (proposed sub-clause 20.6 of the General Terms and Conditions) that a User will be permitted to transfer or assign capacity to a third party (**New User**), without the need for GGT's consent, if:

- a) the User's obligations under the Service Agreement remain in full force and effect after the transfer or assignment of the Transferred Capacity; and
- b) the terms of the Service Agreement are not otherwise altered as a result of the transfer or assignment to the New User (a "**Bare Transfer**");

1130. To this extent GGT has adopted the terms of section 3.10 (a) of the Code and has used essentially the same definition of Bare Transfer as that contained in the Code.

1131. In the case of a Bare Transfer, the proposed Trading Policy also requires the New User to notify GGT of the transfer prior to utilising the Transferred Capacity and to notify GGT of the nature of the Transferred Capacity (proposed sub-clause 20.6(a)(2) of the General Terms and Conditions).

1132. These provisions of the proposed Trading Policy are consistent with the relevant requirements of the Code.

1133. The Code also provides that a Trading Policy cannot require a New User to provide GGT with any other information regarding a Bare Transfer. The proposed Trading Policy would allow GGT to request certain information from a New User where capacity has been transferred to that New User by a Bare Transfer (proposed sub-clause 20.6(b) of the General Terms and Conditions). However, the New User is not required to provide GGT with that information.

1134. Since the proposed Trading Policy does not require the provision of that further information, the Authority considers that this term of the proposed Trading Policy complies with the requirements of the Code, as it did when assessing the Trading Policy under the current Access Arrangement.

1135. The Authority notes that the proposed Trading Policy described above (paragraphs 1116 to 1118), so far as it concerns Bare Transfers, is the same in all material respects to the Trading Policy under the current Access Arrangement.

1136. For capacity transfers other than Bare Transfers, GGT's consent is required under the proposed Trading Policy (proposed sub-clause 20.7 of the General Terms and Conditions). GGT proposes that it can withhold its consent to the transfer or assignment on reasonable commercial or technical grounds or make approval of the transfer subject to conditions that are reasonable on commercial or technical grounds. These conditions may include the requirement that a "New User" enter into a Deed of Covenant "under which it agrees to be bound by the Service Agreement" or to pay a bond. There are also several other requirements imposed upon a New User by the proposed sub-clause 20.7 of the General Terms and Conditions.
1137. The only difference between the proposed Trading Policy, so far as it concerns capacity transfers other than Bare Transfers, and the Trading Policy under the current Access Arrangement is the deletion of the requirement for a User who transfers its capacity to ensure that any new Outlet Facilities used by the New User comply with the technical requirements set out in the Access Arrangement (proposed sub-clause 20.7(c) of the General Terms and Conditions). This proposed amendment is consequential to GGT's proposed deletion of sub-clause 6.4(c) of the General Terms and Conditions to the current Access Arrangement which are discussed at paragraphs 978 to 981 above. The Authority has determined that this proposed deletion is not reasonable. It follows that the amendment in the proposed sub-clause 20.7(c) of the General Terms and Conditions cannot be approved. The Authority notes that the deletion in the proposed clause 20.7(c) of the General Terms and Conditions refers to the Second Schedule which the Authority has determined should be deleted from the General Terms and Conditions to GGT's Proposed Revisions (paragraph 979 above). The Authority requires this reference to be deleted and replaced with the reference consistent with the proposed sub-clause 6.7 of the General Terms and Conditions.

Draft Decision

1138. The Authority does not approve the amendment in the proposed sub-clause 20.7 of the General Terms and Conditions. Otherwise, the Authority approves the proposed Trading Policy and the proposed clause 20 of the General Terms and Conditions.
1139. The Authority requires the definition of Capacity in GGT's Proposed Revisions should be amended to correspond with the definition of Capacity in the Code.

Required Amendment 35

Sub-clause 20.7(c) of the General Terms and Conditions to GGT's Proposed Revisions should be amended to read as follows:

The User shall be obliged to pay Connection Charges for any new Outlet Facilities to be used by the New User in respect of Transferred Capacity and the administration charges that GGT would apply to any new User entering into a gas transmission agreement with GGT, in accordance with the Statement of Tariffs and Charges prevailing at the time of the transfer. The User shall ensure that any new Outlet Facilities used by the New User shall comply with the technical specifications of a reasonable and prudent pipeline operator.

Required Amendment 36

The definition of Capacity in Appendix 1 to GGT's Proposed Revisions should be amended to correspond with the definition of Capacity in the Code, as follows:

Capacity means ~~the capacity of the Pipeline as determined from time to time by GGT for the pipeline as configured and subject to the operating conditions in effect at the time, which is available for the transmission of Gas between an Inlet Point and an Outlet Point~~ the measure of the potential of the Covered Pipeline as currently configured to deliver a Service between a Receipt Point and a Delivery Point at a point in time.

Required Amendment 37

Section 9 of GGT's Proposed Revisions should be amended to include an additional section 9.2 to read as follows:

For the avoidance of doubt, the same terms as those set out in clause 20 of the General Terms and Conditions, which are confined to Reference Services, will apply to a transfer or assignment of Capacity in the Covered Pipeline by Users of a Non-Reference Service.

Queuing Policy

Requirements of the Code

1140. Section 3.12 of the Code requires an Access Arrangement to include a policy for determining the priority that a Prospective User has, as against any other Prospective Users, to obtain access to Spare Capacity and Developable Capacity.

Section 3.12 also makes provision for a Prospective User to seek dispute resolution under section 6 of the Code, where relevant.

1141. Section 3.13 of the Code provides that a Queuing Policy must:

- (a) set out sufficient detail to enable Users and Prospective Users to understand in advance how the Queuing Policy will operate;
- (b) accommodate, to the extent reasonably possible, the legitimate business interests of the Service Provider and of Users and Prospective Users; and
- (c) generate, to the extent reasonably possible, economically efficient outcomes.

1142. Section 3.14 of the Code provides for the Authority to require the Queuing Policy to deal with any other matter the Authority thinks fit, taking into account the matters listed in section 2.24 of the Code.

GGT's Proposed Revisions

Access Arrangement

1143. GGT's proposed Queuing Policy (section 7 of GGT's Proposed Revisions, pages 9 to 12) is different to the Queuing Policy under the current Access Arrangement. In particular, GGT has proposed a procedure for Investigations to determine if Capacity or Developable Capacity is available (section 7.2 of GGT's Proposed Revisions) and a procedure for situations where Capacity is only available with investment (section 7.3 of GGT's Proposed Revisions).

1144. Otherwise, the proposed Queuing Policy is in substantially the same terms as the Queuing Policy under the current Access Arrangement. GGT proposes that, subject to certain exceptions discussed in detail below at paragraphs 1156 to 1179, Spare Capacity and Developable Capacity be made available to Prospective Users on a first-come, first served basis (section 7.1(a) of GGT's Proposed Revisions). Priority will be given according to the receipt date of the Order Form.

1145. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1146. Synergy has submitted that any costs that are passed on to Prospective Users under the proposed Queuing Policy must be transparent, fair and reasonable (Synergy Submission dated 29 May 2009, page 4).

1147. The Authority has not received any other public submissions concerning the proposed Queuing Policy.

Authority's Assessment

First Come, First-Served Principle

1148. The Authority notes that the first-come, first-served principle is a common basis for Queuing Policies in other Access Arrangements for Australian transmission pipelines.

1149. When considering the Queuing Policy under the current Access Arrangement the Authority determined that the first-come, first-served basis for the Queuing Policy was consistent with the requirements of the Code. Given that no public submissions have been received relating to this aspect of the proposed Queuing Policy, the Authority remains of the view that a Queuing Policy which is based on the first-come, first served principle is appropriate.

Definitions

1150. A Queuing Policy must also explain the priority that Prospective Users have to obtain access to Spare Capacity and Developable Capacity (section 3.12 of the Code).

1151. The definition of Prospective User in GGT's Proposed Revisions (Appendix 1 to GGT's Proposed Revisions) is more limited than the definition of Prospective User in the Code (section 10.8 of the Code). The definition of Prospective User in GGT's Proposed Revisions is limited to any person who seeks access to the Covered Pipeline for the purpose of transporting Gas. In the Code a Prospective User includes a person who is reasonably likely to seek to enter into a contract for a Service.

1152. The definition of Prospective User in the Code also specifically includes Users who seek an additional Service, where the definition in GGT's Proposed Revisions does not specifically include such Users.

1153. The Authority considers that the definition of Prospective User in GGT's Proposed Revisions should correspond with the definition of Prospective User in the Code.

1154. Some minor amendments have been made to the definition of Developable Capacity in GGT's Proposed Revisions (Appendix 1 to GGT's Proposed Revisions) compared to that definition in the current Access Arrangement. However, those changes only have the effect of confining Developable Capacity for the purpose of GGT's Proposed Revisions to Capacity in the Covered Pipeline, making the definition consistent with the definition of Developable Capacity in the Code (section 10.8 of the Code).

1155. The definition of Spare Capacity, and other related definitions, in GGT's Proposed Revisions (Appendix 1 to GGT's Proposed Revisions) has also been amended compared to that definition in the current Access Arrangement. Again, these amendments provide that Spare Capacity is defined by reference to Capacity in the Covered Pipeline, which is consistent with the provisions of the Code (see definitions of Spare Capacity and Capacity in section 10.8 of the Code). These amendments therefore have the effect that the definition of Spare Capacity in GGT's Proposed Revisions (Appendix 1 to GGT's Proposed Revisions) is the same as the definition of Spare Capacity in the Code, so far as it concerns a Contract Carriage Pipeline (section 10.8 of the Code).

Section 7.1 of GGT's Proposed Revisions

1156. The Authority agrees with GGT's proposal to delete the reference to "Reference Services" from section 7.1(a) of GGT's Proposed Revisions. A Queuing Policy must apply to all Services and not be restricted to Reference Services (section 3.12 of the Code).

1157. The Authority notes that section 7.1(e)(2) of GGT's Proposed Revisions refers to the satisfaction of the conditions precedent in clauses 1.5(e) and 1.5(f) of the GGT Information Package. In paragraphs 879 to 893 above the Authority expressed its view that a GGT Information Package, containing reasonable terms, should be included in GGT's Proposed Revisions (for the reasons set out in those paragraphs). In the event that a GGT Information Package which is in reasonable terms is not included in GGT's Proposed Revisions the Authority considers that the requirement in section 7.1(e)(2) of GGT's Proposed Revisions should be deleted and an appropriate alternative inserted.
1158. Otherwise, there are no other material changes to section 7.1 of the proposed Queuing Policy as compared to section 7.1 of the Queuing Policy in the current Access Arrangement. The Authority was satisfied that section 7.1 of the Queuing Policy under the current Access Arrangement complied with the requirements of the Code. The Authority has not received any public submissions regarding this section of the proposed Queuing Policy. The Authority therefore remains of the view that the remainder of section 7.1 of the proposed Queuing Policy complies with the requirements of the Code.

Section 7.2 of GGT's Proposed Revisions

1159. Section 7.2 of GGT's Proposed Revisions does not appear in the Queuing Policy under the current Access Arrangement. A section dealing with the same issue appears at section 10.2 of the current Access Arrangement. However, section 7.2 of GGT's Proposed Revisions is quite different in its content from section 10.2 of the current Access Arrangement. The Authority has therefore considered section 7.2 of GGT's Proposed Revisions in its own right.
1160. Section 7.2 of GGT's Proposed Revisions sets out a procedure for situations where Investigations are required to determine if Capacity or Developable Capacity is available to a Prospective User in the Queue. The Code does not specifically require such a procedure to be set out in a Queuing Policy.
1161. The Authority considers that it is consistent with section 3.13(a) of the Code for Users and Prospective Users to be made aware in advance of the procedure to be adopted when Investigations as to Capacity are required. It is a detail which is required to enable Users and Prospective Users to understand in advance how the Queuing Policy will operate in this regard.
1162. However, the Authority must also consider whether the procedure that is proposed complies with the requirements of the Code.
1163. Section 7.2 of GGT's Proposed Revisions forms part of the Queuing Policy. This is because it provides, amongst other things, for a change in the priority in the Queue for Spare or Developable Capacity where a Prospective User declines to meet the costs of the Investigations (section 7.2(e) of GGT's Proposed Revisions). However, GGT does not propose to qualify in any way the type or amount of the costs that are payable by the Prospective User.
1164. Synergy has submitted that any costs that are passed on to Prospective Users under the proposed Queuing Policy must be transparent, fair and reasonable (page 4 of the Synergy Submission dated 29 May 2009).
1165. The Authority notes that GGT has proposed to delete from paragraph 16 of the Service Enquiry Form (Appendix 2.1 to GGT's Proposed Revisions) and from

paragraphs 22 and 23 of the Service Order Form (Appendix 2.2 to GGT's Proposed Revisions) the reference to the "reasonable" costs towards the Investigations.

1166. The Authority notes that these paragraphs of the Service Enquiry Form and the Service Order Form require a User or Prospective User to indicate, by simply ticking a box, whether it is prepared to contribute to the costs of GGT undertaking Investigations and the provision of Developable Capacity. By this simple process a User or Prospective User will essentially be determining their place in the queue.
1167. The Authority considers that it is consistent with GGT's legitimate business interests to require a User or Prospective User to pay the costs incurred by GGT in relation to Investigations which are made, and the provision of Developable Capacity which is for are made for the benefit of the Prospective User. However, that does not mean that GGT's legitimate business interests require a User or Prospective User to meet all of those costs without itemisation or qualification of those costs. A User or Prospective User should only be liable to meet those costs that are reasonably incurred. A User or Prospective User should also have the opportunity to consider the reasonableness of those costs by being provided with an itemisation of those costs, as soon as reasonably practical after the Investigations are complete and prior to being obliged to pay them.
1168. The Authority considers that by imposing requirements of this nature the legitimate business interests of GGT and Users or Prospective Users have been properly considered and balanced.
1169. GGT has also proposed that in the event that Investigations are necessary and the Prospective User does not agree to paying the cost of those Investigations then that Prospective User loses its place in the Queue (section 7.2(e) of GGT's Proposed Revisions). This is contrary to the first-come, first-served basis for the proposed Queuing Policy. However, section 7.2 of GGT's Proposed Revisions forms part of the Queuing Policy.
1170. A Queuing Policy need only set out a policy for determining the priority that a Prospective User has as against other Prospective Users to obtain access to Spare Capacity and Developable Capacity (section 3.12 of the Code). It is therefore consistent with the Code for GGT to qualify the underlying first-come, first-serve principle in the way contemplated by section 7.2(e) of GGT's Proposed Revisions. It is also necessary for GGT to include the detail of this proposal in the proposed Queuing Policy (section 3.13(a) of the Code).
1171. However, the Authority must be satisfied that what is proposed is also consistent with the Code. The proposal in section 7.2(e) of GGT's Proposed Revisions must accommodate, to the extent reasonably possible, the legitimate business interests of GGT and of Users and Prospective Users (section 3.13(b) of the Code). It must also generate, to the extent reasonably possible, economically efficient outcomes (section 3.13(c) of the Code).
1172. In circumstances where GGT will incur costs to conduct Investigations which are for the benefit of Users or Prospective Users it is reasonable for GGT to give priority to Users or Prospective Users who will meet those costs. The Authority also considers that such a policy is consistent with the legitimate business interests of Prospective Users, provided that the costs that they might incur are transparent and reasonable. There is no reason why a User or Prospective User who is not willing to meet those costs should retain their priority in the Queue. Indeed, the effect of this would be for all Users or Prospective Users to refuse to meet the costs of

Investigations, in which case it would be unreasonable to require GGT to undertake the necessary Investigations and bear the cost of doing so.

1173. For these reasons the Authority also considers that the proposal by GGT is economically efficient (Section 3.13(c) of the Code). It promotes Investigations which in turn promotes an increase in the Capacity of the GGP and its utilisation by Users and Prospective Users.
1174. Otherwise, the Authority considers that the procedure that is proposed in section 7.2 of GGT's Proposed Revisions complies with the requirements of the Code.

Section 7.3 of GGT's Proposed Revisions

1175. Section 7.3 of GGT's Proposed Revisions does not form part of the Queuing Policy in the current Access Arrangement. By section 7.3(a) of GGT's Proposed Revisions, GGT proposes a procedure for situations where Capacity is only available following investment in the Pipeline. Section 7.3(b) of GGT's Proposed Revisions addresses those situations where a Prospective User is only offered part of the Capacity sought in their Application.
1176. The Authority has not received any public submissions about section 7.3 of GGT's Proposed Revisions.
1177. The Authority considers that the proposed Queuing Policy should set out the procedure for situations where investment in the Pipeline is necessary in order to make Capacity available. This is consistent with the requirement in section 3.13(a) of the Code that a Queuing Policy must set out sufficient detail to enable Users and Prospective Uses to understand in advance how the Queuing Policy will operate.
1178. The Authority is also satisfied that the proposed procedure which is set out in section 7.3 of GGT's Proposed Revisions meets the requirements of sections 3.13(b) and (c) of the Code.
1179. The Authority notes that the words "Developable Capacity" have been deleted from section 8.3(b)(1) of GGT's Proposed Revisions, as compared to that section in the current Access Arrangement. Given that the new sections 7.2 and 7.3 of GGT's Proposed Revisions propose a procedure for the installation and commissioning of Developable Capacity, the Authority is satisfied that this deletion from section 8.3(b)(1) is appropriate.

Draft Decision

1180. The Authority requires section 7.2 of GGT's Proposed Revisions to be amended as follows:
- a) in the event that a GGT Information Package, in reasonable terms, is not included in GGT's Proposed Revisions section 7.1(e)(2) of GGT's Proposed Revisions should be deleted;
 - b) to require only the reasonable costs of Investigations and Developable Capacity to be met by Users or Prospective Users in order for them to retain their priority in the Queue; and

- c) to require GGT to provide Users and Prospective Users with information as to all of the costs incurred as soon as reasonably practicable after the Investigations are complete.

1181. The Authority requires the definition of Prospective User in GGT's Proposed Revisions to correspond with the definition of Prospective User in the Code.

1182. Otherwise, the Authority approves the proposed Queuing Policy.

Required Amendment 38

Sub-section 7.2 of GGT's Proposed Revisions should be amended to include the following section 7.2(e):

For the purpose of sub-clause 7.2(d) above a Prospective User is only obliged to bear those costs of the Investigations that are reasonably incurred.

Required Amendment 39

Sub-section 7.2 of GGT's Proposed Revisions should be amended to include the following section 7.2(i) :

Where a Prospective User bears the costs of an Investigation GGT must provide that Prospective User with an itemisation of the costs incurred by GGT as soon as reasonably practicable following the completion of the Investigations and prior to a Prospective User being obliged to pay those costs.

Required Amendment 40

Appendix 2.1 to GGT's Proposed Revisions should be amended so that Paragraph 16 reads as follows:

Signify by ticking appropriate box below whether or not the Prospective User is prepared to contribute to the reasonable costs of GGT undertaking Investigations ~~and the provision of Developable Capacity~~ as referred to in clause 1.5(b)(2) in the GGT Information Package.

and to insert a new paragraph immediately following the above paragraph as follows:

Signify by ticking appropriate box below whether or not the Prospective User is prepared to contribute to the reasonable costs of GGT providing Developable Capacity as referred to in clause 1.5(b)(2) in the GGT Information Package.

Required Amendment 41

Paragraph 22 of Appendix 2.2 to GGT's Proposed Revisions be amended to read as follows:

Signify by ticking appropriate box below whether or not the User is prepared to contribute to the reasonable costs of GGT undertaking Investigations referred to in clause 1.5(b)(2) of the GGT Information Package.

Required Amendment 42

Paragraph 23 of Appendix 2.2 to GGT's Proposed Revisions be amended to read as follows:

Signify by ticking appropriate box below whether or not User is prepared to contribute to the reasonable costs of GGT providing Developable Capacity as referred to in clause 1.5(b)(2) of the GGT Information Package.

Required Amendment 43

The definition of Prospective User in GGT's Proposed Revisions should be amended to correspond with the definition of Prospective User in the Code as follows:

Prospective User means a person who seeks ~~access to the Covered Pipeline for the purpose of transporting Gas~~ or who is reasonably likely to seek to enter into a contract for a Service and includes a User who seeks or may seek to enter into a contract for an additional Service.

Extensions/Expansions Policy

Requirements of the Code

1183. Section 3.16 of the Code requires an Access Arrangement to include a policy (an ***Extensions/Expansions Policy***) which states:

- (a) the method to be applied to determine whether any extension to, or expansion of the Capacity of, the Covered Pipeline:

- (i) should be treated as part of the Covered Pipeline for all purposes under the Code; or
- (ii) should not be treated as part of the Covered pipeline for any purpose under the Code;

(for example, the Extensions/Expansions Policy could provide that the Service Provider may, with the Relevant Regulator's consent, elect at some point in time whether or not an extension or expansion will be part of the Covered Pipeline or will not be part of the Covered Pipeline);

- (b) specify how any extension or expansion, which is to be treated as part of the Covered Pipeline, will affect Reference Tariffs (for example, the Extensions/Expansions Policy could provide:
 - (i) Reference Tariffs will remain unchanged but a Surcharge may be levied on Incremental Users where permitted by sections 8.25 and 8.26; or
 - (ii) specify that a review will be triggered and that the Service Provider must submit revisions to the Access Arrangement pursuant to section 2.28);
- (c) if the Service Provider agrees to fund New Facilities if certain conditions are met, a description of those New Facilities and the conditions on which the Service Provider will fund the New Facilities.

1184. Section 3.16 further provides that the Authority may not require the Extensions/Expansions Policy to state that the Service Provider will fund New Facilities, unless the Service provider agrees.

1185. Pipeline is defined in section 2 of Schedule 1 to the GPAA to mean:

...a pipe, or a system of pipes, or part of a pipe, or a system of pipes, for transporting natural gas, and any tanks, machinery or equipment directly attached to the pipe, or system of pipes, but does not include –

- (a) unless paragraph (b) applies, anything upstream of a prescribed exit flange on a pipeline conveying natural gas from a prescribed gas processing plant; or
- (b) if a connection point upstream of an exit flange on such a pipeline is prescribed, anything upstream of that point; or
- (c) a gathering system operated as part of an upstream producing operation; or
- (d) any tanks, reservoirs, machinery or equipment used to remove or add components to or change natural gas (other than odourisation facilities) such as gas producing plant; or
- (e) anything downstream of the connection point to a consumer;

1186. Covered Pipeline is defined in section 10.8 of the Code to mean:

...subject to sections 2.3 and 2.4, the whole or a particular part of a Pipeline which is Covered and any extension to, or expansion of the Capacity of, that Covered Pipeline which is to be treated as part of the Covered Pipeline in accordance with the Extensions/Expansions Policy contained in the Access

Arrangement for that Covered Pipeline and any expansion of that Covered Pipeline required to be installed under section 6.22.

1187. Under section 1.40 of the Code, any Extension or Expansion of the Capacity of a Covered Pipeline becomes part of the Covered Pipeline if the Extensions/Expansions Policy under the approved Access Arrangement so provides.

GGT's Proposed Revisions

Access Arrangement

1188. GGT proposes the following in relation to the Extensions/Expansions Policy under section 10 of the current Access Arrangement:

- a) to delete section 10.2 regarding investigations as to Developable Capacity, and to insert the existing section 10.2 in an amended form in the proposed Queuing Policy, as clauses 7.2 of GGT's Proposed Revisions;
- b) to make minor amendments to the language in a number of places, to clarify that the proposed Extensions/Expansions Policy concerns Extensions/Expansions to the Covered Pipeline, and not to uncovered Capacity;
- c) otherwise, that the current Extensions/Expansions Policy remains unamended.

1189. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1190. The GGP Users submitted that an Extensions/Expansions Policy which allows GGT to elect to exclude expanded capacity may be contrary to the Reference Tariff Principles. The GGP Users submitted that the Authority should consider:

- a) the validity of the election by GGT to exclude expanded capacity from regulated capacity in the context of GGT's behaviour and its own Reference Tariff Policy; and
- b) the role of expansion capital from 2006 to 2010 and after in setting tariffs.

(GGP Users (PCS) Submission dated 29 May 2009, pages 10 and 11).

1191. BHBP submitted as follows (BHBP Submission dated 30 June 2009):

- a) an Extensions/Expansions Policy must apply to extension to or expansion of Covered Pipeline to create additional Capacity (page 13);
- b) additional Capacity can only be created by an extension or expansion (page 13);

- c) the Extensions/Expansions Policy must relate to the extension to or expansion of Covered Pipeline (page 13);
- d) as an example, the addition of a compressor to the Covered Pipeline may result in expanded Capacity but is not a Pipeline providing service in its own right; it is "an integral and inseverable part of the Covered Pipeline" (page 14);
- e) If infrastructure is added to the Covered Pipeline is "integral and inseverable" and can't provide a relevant Service then it cannot be considered as an "uncovered" part of a Covered Pipeline (page 15);
- f) the current Access Arrangement provides for Extensions/Expansions Policy that relates to Capacity not expansion of or extension to the Covered Pipeline itself and that this does not meet the Extensions/Expansions Policy requirements of the Code (page 16);
- g) GGT's Proposed Revisions purports to confer on GGT an election of how it will treat expanded capacity but the Code doesn't allow a Service Provider to opt out of the Code in respect of a Service provided by increased capacity resulting from extension/expansion (page 16);
- h) GGT's proposal to give itself the discretion/option to decide if extension/expansion is covered may be inconsistent with the WA government's original requirements and policy relating to the GGP (page 17);
- i) in the past the Paraburdoo Compressor Station was factored into the tariffs set for the 2005-2009 period, this being because it is "integral and inserverable" (page 17); and
- j) extended/expanded capacity created by the addition of compressors cannot be seen as separate from the Covered Pipeline (page 18).

Authority's Assessment

1192. Section 3.16(a) of the Code says that an Access Arrangement must contain an Extensions/Expansion Policy which sets out the method to be applied to determine whether any extension to, or expansion of the Capacity of, the Covered Pipeline should or should not be treated as part of the Covered Pipeline for the purpose of the Code.

1193. This requirement is addressed by Section 10.3 of the current Access Arrangement. Section 10.3, as approved by the Authority by its Further Final Decision and Approval dated 14 July 2005, was in the following terms:

If GGT expands the capacity of the Pipeline, GGT will elect:

- (a) that the expanded capacity will be treated as part of the Pipeline for the purposes of the Access Arrangement and GGT will exercise its discretion to submit proposed revisions to the Access Arrangement under Section 2 of the Code; or

- (b) that the expanded capacity will not be treated as part of the Pipeline for the purposes of this Access Arrangement and that GGT will lodge a separate Access Arrangement for such expanded capacity; or
 - (c) that the expansion will not be covered, subject to GGT notifying the Regulator of this fact prior to the expansion coming into operation.
1194. By a decision dated 17 December 2008 the Authority exercised its discretion pursuant to section 2.33 of the Code to approve amendments to section 10.3 of the access arrangement, so as to add to the end of that clause the following:
- GGT may at any time, change an election made under clause 10.3(c) to an election made under clause 10.3(a).
1195. The effect of these provisions is that the decision as to whether or not an expansion of the Capacity of the GGP will be subject to an Access Arrangement is currently a matter completely within GGT's discretion. GGT is free to elect on the one hand that the Services provided by means of an expansion of Capacity will be subject to an Access Arrangement (either by variation to the existing Access Arrangement or a new Access Arrangement) or on the other that they will not be subject to any Access Arrangement.
1196. If GGT elects that the Service provided by means of an expansion of Capacity will not be subject to any Access Arrangement under section 10.3(c) it must notify the Authority of that fact. This does not restrict GGT's discretion in any way
1197. Since approval of the current Access Arrangement in July 2005, GGT on three occasions has further expanded the Capacity of the GGP (previously defined as Expansions of Capacity) which it has elected not to be treated as a part of the Covered Pipeline. The Expansions of Capacity were achieved by the installation of a second compressor at Paraburdoo, and new compressor stations at Wyloo West and Ned's Creek respectively. The Expansions of Capacity have increased the Capacity of the GGP considerably, by approximately 49 TJ/day, without expanding the Covered Capacity of the GGP.
1198. GGT's Proposed Revisions provides for section 10.3 to remain as it is in the current Access Arrangement, subject only to:
- a) renumbering section 10.2 (by reason of the proposed deletion of section 10.2 of the current Access Arrangement); and
 - b) amending the language of the clause to clarify that the clause refers to expansions to the Covered Pipeline.
1199. The Authority notes that section 10.3 of the current Access Arrangement, and proposed section 10.2 of GGT's Proposed Revisions, only refer to expansions of the Covered Pipeline. Neither provision refers to extensions to the Covered Pipeline. Further, there is no provision under either the current Access Arrangement or under GGT's Proposed Revisions which addresses the requirement under section 3.16(a) of the Code for a method to determine whether future extensions to the Covered Pipeline will be covered by the Code.
1200. Under section 2.46 of the Code, in considering Proposed Revisions to an Access Arrangement, the Authority must take into account the factors described in section 2.24 of the Code, and must take into account the provisions of the Access Arrangement.

1201. Under section 2.46 of the Code the Authority may only approve proposed revisions to an Access Arrangement if it is satisfied that the Access Arrangement as revised would contain the elements and satisfy the principles set out in sections 3.1 to 3.20 (including section 3.16). GGT's Proposed Revisions do not satisfy this requirement because they do not specify a method to determine whether future extensions to the Covered Pipeline will be covered by the Code.
1202. The Authority, therefore, considers it necessary for the Access Arrangement to include a method, as required by section 3.16(a) of the Code to determine whether any extension to, or expansion of the Capacity of, the Covered Pipeline should or should not be treated as part of the Covered Pipeline for all or any purposes under the Code.
1203. In considering an appropriate method in the case of extensions (as distinct from expansions), the Authority notes the general approach of the ACCC. (ACCC 2003, Final Decision: Moomba to Sydney Pipeline System Access Arrangement, page 294)

In relation to extensions, the Commission has in previous decisions acknowledged that the barriers to entry for constructing extensions are lower than that for expansions. This may in effect limit the market power that a service provider may otherwise have. The distinction between the market power a service provider may have when constructing extensions or expansions lies in the differences in the economies of scale and scope available to the service provider in each situation. That is, a service provider's economies of scale and scope will be substantially greater when expanding a pipeline than when extending a pipeline. Lower economies of scale and scope may reduce the barriers to entry which in turn enables competition and diminishes the potential for market power to be exercised.

1204. In relation to future extensions of the Covered Pipeline, there is no material before the Authority, either from GGT, any User or any other party, or from the Authority's own knowledge, suggesting that the exclusion of future extensions from coverage would not be consistent with the factors described in section 2.24 of the Code. In particular, based on the discussion in paragraph 1203 above GGT's market power is likely to be more limited in the case of extensions to the Covered Pipeline as opposed to expansions. This would have the effect that an exclusion from coverage of extensions to the Covered Pipeline may be consistent with the economically efficient operation of the Covered Pipeline (section 2.24(d) of the Code), the public interest (section 2.24(e) of the Code) and the interests of Users and Prospective Users (section 2.24(f) of the Code).
1205. In the circumstances, the Authority concludes that a method should be included in the Access Arrangement to determine whether any future extension will be treated as part of the Covered Pipeline, and that it will be appropriate for that method to provide for GGT to elect either that the extension will be treated as part of the Covered Pipeline or (subject to notification to the Authority) that the extension not be treated as part of the Covered Pipeline.
1206. In the case of expansions (as distinct from extensions), the Authority notes and endorses the general approach of the ACCC, namely that where a pipeline is operating at or near capacity, pipeline expansions should be Covered. (ACCC 2003, Final Decision: Moomba to Sydney Pipeline System Access Arrangement, page 293)

In the case of expansions, the Commission has in previous decisions, such as the MAPS Access Arrangement and more recently in the ABDP Access Arrangement, outlined its concerns in relation to the potential for a service provider to exercise a degree of market power when the expansion does not form part of the covered pipeline. Specifically, these decisions have noted that in cases where a pipeline is operating at or near capacity a service provider may, in the absence of regulation and competition, be able to extract monopoly rents by pricing expansion just below the point where it would no longer be commercially viable for a user or prospective user to continue with its proposal.

This ability to exercise a degree of market power in setting the terms and conditions, including tariffs, may in turn discourage investment and entry into downstream markets and in so doing produce an outcome that would be contrary to the public interest (section 2.24(f)). Where entry into downstream markets does occur, new entrants facing higher gas transportation costs may be unable to act as a competitive constraint on incumbents. The ability to extract monopoly rents will operate to limit effective competition in downstream markets and in turn limit any efficiency gains obtained. In addition to these factors, the ability of a service provider to capture monopoly rents that would otherwise be passed onto households and businesses in the form of lower prices, may impact on the economic growth of the region.

The culmination of these factors has led the Commission to conclude in previous decisions that where a pipeline is operating at or near capacity the: economically efficient operation of the covered pipeline (section 2.24(d)); the public interest, including the public interest in having competition in markets (section 2.24(e)); and the interests of users and prospective users (section 2.24(f)) requires that expansions to the pipeline should be covered, unless the regulator considers otherwise.

1207. The material before the Authority indicates that the GGP currently is operating at or near capacity, and that this situation is likely to continue throughout the forthcoming Access Arrangement Period. The various capacities and expansions that GGT is presently undertaking, are summarised on the GGT web site (see <http://www.ggt.com.au/html/02doi2.htm> (30/3/2009)):

Pipeline capacity

The Goldfields Gas Pipeline (GGP) was constructed and currently operates under the Goldfields Gas Pipeline Agreement Act 1994.

The majority of GGT's customers have opted for firm capacity arrangements, secured by a gas transportation agreement for an agreed duration.

Pipeline capacity agreed to under the contract is expressed in terms of MDQ (Maximum Daily Quantity) in terajoules per day (TJ/d).

Total pipeline capacity is divided into two tranches - Covered and Uncovered. The Gas Pipelines Access (Western Australia) Act 1998 applies to the Covered Tranche of the total pipeline capacity.

The current total pipeline capacity of the GGP is approximately 130 TJ/d based on existing delivery profiles. GGT is presently installing additional compressor stations at Wyloo West and Ned's Creek and upon completion, the total pipeline capacity is expected to be approximately 150 TJ/d. The nominal fully expanded capacity of the GGP is around 167 TJ/d.

Public Register of Capacity of the Covered Tranche of the Pipeline

Spare Capacity

Currently there is approximately 4 TJ/d of spare capacity available for firm transportation services on the Covered Tranche of the pipeline.

Developable Capacity

The current capacity of the Covered Tranche of the pipeline is approximately 108 TJ/d based on existing delivery profiles. At present there are no expansions planned for the Covered Tranche of the pipeline.

1208. By a decision dated 2 July 2004 pursuant to section 1.34 of the Code, the Minister for Energy decided not to revoke Coverage of the GGP subject to the licence WA:PL24 issued under the Petroleum Pipelines Act 1969. In that decision, the Minister for Energy considered an application by GGT for revocation and reached conclusions, including that:

- a) Access (or increased access) to Services provided by means of the Pipeline would promote competition in at least one market other than the market for the Services provided by means of the Pipeline (see pages 3-6 of the decision).
- b) It would be uneconomic for anyone to develop another Pipeline to provide the Services provided by means of the Pipeline (see page 6 of the decision).
- c) Access (or increased access) to the services provided by means of the pipeline would not be contrary to the public interest (see page 7 of the decision).

1209. The factors referred to by the Minister for Energy in support of the conclusions reached in the decision, in the Authority's opinion, remain relevant to the structure of, and degree of market power exercisable by GGT in, relevant markets. In particular, the Authority considers that this is a case in which the pipeline is operating at or near capacity and the service provider may, in the absence of regulation and competition, be able to extract monopoly rents by pricing expansion just below the point where it would no longer be commercially viable for a user or prospective user to continue with its proposal.

1210. In the circumstances, the Authority is not satisfied that it is appropriate, having regard to the factors in section 2.24 of the Code, to accept GGT's proposal that it continue to have the discretion to elect whether or not future expansions of capacity (as opposed to extensions) are or are not to be treated as part of the Covered Pipeline. In the Authority's view, the appropriate provision to be included in the revised Access Arrangement would provide for any Services provided by means of Expansions of Capacity during the forthcoming Access Arrangement Period to be covered.

1211. In relation to the effect on Reference Tariffs of any extension or expansion, the Authority notes that GGT has the discretion under section 2 of the Code to submit proposed revisions to the Access Arrangement at any time during the Access Arrangement Period, including to address the effect of an extension or expansion of the Covered Pipeline.

1212. The Authority notes the risk of the demand forecasts upon which the terms of the Access Arrangement are based being materially understated by reason of an

unanticipated expansion, thereby resulting in Reference Tariffs paid by Users of the GGP being materially higher than would otherwise be the case. The Authority considers that this issue is appropriately dealt with by a trigger event mechanism (paragraphs 1243 to 1259 below) rather than through the Extensions/Expansions Policy.

1213. Otherwise, the amendments to the Extensions/Expansions proposed by GGT are minor and not material.

Draft Decision

1214. The Extensions/Expansions Policy in GGT's Proposed Revisions should be amended, in order to comply with the requirements of section 3.16(a) of the Code, to provide:

- a) In relation to any extension to the Covered Pipeline during the Access Arrangement Period, GGT may elect either that the extension be treated as part of the Covered Pipeline for all purposes under the Code or (subject to notification to the Authority) that the extension not be treated as part of the Covered Pipeline for any purpose under the Code.
- b) In relation to any expansion of the capacity of the Covered Pipeline during the Access Arrangement Period, the expansion will be treated as part of the Covered Pipeline for all purposes under the Code (with the effect that Services provided by means of the Expansions of Capacity must be made available by GGT to Users in accordance with the terms of the Access Arrangement) .

1215. Otherwise, GGT's Proposed Revisions in relation to the Extensions/Expansions Policy is approved by the Authority.

Required Amendment 44

Sub-sections 10.2 and 10.3 of GGT's Proposed Revisions should be deleted and replaced with the following sub-sections 10.2, 10.3 and 10.4:

~~10.2 Application of Arrangement to Pipeline Extension/Expansion~~

~~If GGT expands the Capacity of the Covered Pipeline, GGT will elect~~

- ~~(a) that the expanded capacity will be treated as part of the Covered Pipeline for the purposes of this Access Arrangement and GGT will exercise its discretion to submit proposed revisions to the Access Arrangement under section 2 of the Code; or~~
- ~~(b) that the expanded capacity will not be treated as part of the Covered Pipeline for the purposes of this Access Arrangement and that GGT will lodge a separate Access Arrangement for such expanded capacity; or~~
- ~~(c) that the expansion will not be covered, subject to GGT notifying the Regulator of this fact prior to the expansion coming into operation.~~

~~GGT may at any time, change an election made under clause 10.2(c) to an election made under clause 10.2(a).~~

~~10.3 Pipeline Extension/Expansion and Tariffs~~

- ~~(a) Pipeline extension or expansions which GGT elects to cover under clause 10.2 will result in no change to the Reference Tariff applied to a User when those extensions or expansions have been fully funded by that User's capital contributions except to contribute to GGT's non-capital costs in connection with those extensions and expansions. Any change to the Reference Tariffs may occur only pursuant to the process in Section 2 of the Code for revisions to Reference Tariffs.~~
- ~~(b) Incremental Users as defined in the Code which have not made capital contributions towards Incremental Capacity as defined in the Code which they use and which had been funded by others will be liable to pay surcharges as allowed for in Section 8 of the Code.~~
- ~~(c) Pipeline extensions or expansions funded by GGT and which GGT elects to cover under clause 10.2 may result in the application of surcharges as allowed for in Section 8 of the Code subject to GGT providing written notice to the Regulator, and the Regulator approving the same, in accordance with section 8.25 of the Code.~~

10.2 Application of Arrangement to Pipeline Extension

If GGT extends the Pipeline GGT will elect:

- (a) that the extension will be treated as part of the Pipeline for the purposes of the Access Arrangement and GGT will exercise its discretion to submit proposed revisions to the Access Arrangement under Section 2 of the Code; or
- (b) that the extension will not be treated as part of the Pipeline for the purposes of this Access Arrangement and that GGT will lodge a separate Access Arrangement for such extension; or
- (c) that the extension will not be covered, subject to GGT notifying the Regulator of this fact prior to the extension coming into operation.

10.3 Application of Arrangement to Pipeline Expansion

If GGT expands the Capacity of the Covered Pipeline the expanded Capacity will be treated as part of the Covered Pipeline for all purposes under the Code.

10.4 Pipeline Extension/Expansion and Tariffs:

- (a) Pipeline extension or expansions that are covered under either clause 10.2 or clause 10.3 as the case may be will result in no change to the Reference Tariff applied to a User when those extensions or expansions have been fully funded by that User's capital contributions except to contribute to GGT's non-capital costs in connection with those extensions and expansions. Any change to Reference Tariffs may occur only pursuant to the process in Section 2 of the Code for revisions to Reference Tariffs.
- (b) Incremental Users as defined in the Code which have not made capital contributions towards Incremental Capacity as defined in the Code which they use and which has been funded by others will be liable to pay for surcharges as allowed for in Section 8 of the Code.
- (c) Pipeline extensions or expansions funded by GGT which are covered under clause 10.2 or 10.3 as the case may be may result in the application of surcharges as allowed for in Section 8 of the Code subject to GGT providing written notice to the Regulator, and the Regulator approving the same, in accordance with Section 8.25 of the Code.

Review and Expiry of the Access Arrangement

Requirements of the Code

1216. Section 3.17 of the Code provides as follows:

3.17 An Access Arrangement must include:

- (a) a date upon which the Service Provider must submit revisions to the Access Arrangement (a **Revisions Submission Date**); and
- (b) a date upon which the next revisions to the Access Arrangement are intended to commence (a **Revisions Commencement Date**).

In approving the Revisions Submission Date and Revisions Commencement Date, the Relevant Regulator must have regard to the objectives in section 8.1, and may in making its decision on an Access Arrangement (or revisions to an Access Arrangement), if it considers it necessary having regard to the objectives in section 8.1:

- (i) require an earlier or later Revisions Submission Date and Revisions Commencement Date than proposed by the Service provider in its proposed Access Arrangement;
- (ii) require that specific major events be defined that trigger an obligation on the Service Provider to submit revisions prior to the Revisions Submission Date.

1217. Sections 3.18 and 3.19 of the Code provide that:

3.18 An Access Arrangement Period accepted by the Relevant Regulator may be of any length; however, if the Access Arrangement Period is more than five years, the Relevant Regulator must not approve the Access Arrangement without considering whether mechanisms should be included to address the risk of forecasts on which the terms of the Access Arrangement were based and approved proving incorrect. These mechanisms may include:

- (a) requiring the Service Provider to submit revisions to the Access Arrangement prior to the Revisions Submissions Date if certain events occur, for example:
 - (i) if a Service Provider's profits derived from a Covered Pipeline are outside a specified range or if the value of Services reserved in contracts with Users are outside a specified range;
 - (ii) if the type or mix of Services changes in a certain way; or
- (b) a Service Provider returning some or all revenue or profits in excess of a certain amount to Users, whether in the form of lower charges or some other form.

Where a mechanism is included in an Access Arrangement pursuant to section 3.18(a), the Relevant Regulator must investigate no less frequently than once every five years whether a review event identified in the mechanism has occurred.

- 3.19 Nothing in section 3.18 shall be taken to imply that the Relevant Regulator may not approve an Access Arrangement Period longer than 5 years if the Relevant Regulator considers this appropriate, having regard to the objectives of section 8.1.

1218. Section 2.48 of the Code is relevant and is in the following terms:

- 2.48 A decision by the Relevant Regulator under section 2.42 or 2.45 is subject to review by the Relevant Appeal Body under the Gas Pipelines Access Law. Subject to the Gas Pipelines Access Law, revisions to an Access Arrangement come into effect on the date specified by the Relevant Regulator in its decision to approve the revisions (which date must not be earlier than either a date 14 days after the day the decision was made or, except where the Service Provider submitted the revisions voluntarily or because a mechanism of a type referred to in section 3.18(a) included in the Access Arrangement was triggered, the Revisions Commencement Date).

GGT's Proposed Revisions

1219. In relation to the Review and Expiry of Access Arrangement provisions, GGT proposes that:

- a) GGT's Proposed Revisions comes into effect on a date specified by the Authority (the Effective Date) (section 3.1 of GGT's Proposed Revisions, page 3, and definition of Effective Date in Appendix 1 to GGT's Proposed Revisions);
- b) the Revisions Submission Date be 1 July 2014 (section 3.1 of GGT's GGT's Proposed Revisions, page 3);
- c) GGT's Proposed Revisions will expire on a Revisions Commencement Date which is the later of 1 January 2015 and the date a replacement Access Arrangement approved by the Authority takes effect (sections 3.1 and 3.2(b) of GGT's Proposed Revisions, page 3); and
- d) there be no requirement under section 3.17(ii) of the Code for GGT to submit revisions prior to the Revisions Submission Date upon the happening of a specified major event, nor any adjustment mechanism under either section 3.18(a) or (b) of the Code to address the risk of forecasts proving incorrect.

1220. GGT's proposal is the same in all material respects to the position under the current Access Arrangement, other than in respect of the dates that have been proposed.

1221. GGT did not provide the Authority with any Access Arrangement Information or any further submissions in relation to this issue.

Public Submissions

1222. The Authority has not received any public submissions about GGT's Review and Expiry of Access Arrangement proposal.

Authority's Assessment

Effective Date

1223. GGT's proposal in relation to the Effective Date of GGT's Proposed Revisions is consistent with section 2.48 of the Code and with the approach taken in respect of the current Access Arrangement.

Revisions Submission Date

1224. GGT's proposal is consistent with section 3.17 of the Code in that it includes a date upon which GGT must submit revisions to the Access Arrangement and a date upon which those revisions are intended to commence.

1225. However, the Authority must also consider the appropriateness of the dates that have been proposed by GGT as the Revisions Submission Date and the Revisions Commencement Date, having regard to the objectives in section 8.1, and may require an amendment to those dates (section 3.17(b)(i) of the Code).

1226. The Revisions Submission Date and Revisions Commencement Date under the current Access Arrangement allow for a period of 9 months for the assessment and approval of the next following Access Arrangement Proposed Revisions.

1227. The Revisions Submission Date and Revisions Commencement Date proposed by GGT in GGT's Proposed Revisions only allow 6 months for the assessment and approval of the next following Access Arrangement Proposed Revisions.

1228. For the reasons set out at paragraphs 1232 to 1242 below, the Authority is satisfied that an intended Revisions Commencement Date of 1 January 2015 is appropriate. However, the Authority considers that a 6 month time period for the Authority and stakeholders to consider the proposed revisions to the Access Arrangement and for the Authority to approve, or otherwise, the proposed revisions to the Access Arrangement is not an adequate period, having regard to the objectives in section 8.1 of the Code.

1229. The Authority's experience is that more than 6 months, and often more than 9 months, is required in order to conduct the assessment and approval process. The Authority therefore considers that a period of more than 9 months is appropriate.

1230. The Authority also notes that a longer period for the assessment and approval of the next following Access Arrangement reduces the risk that the next following Access Arrangement will not be approved before the Revisions Commencement Date proposed by GGT in GGT's Proposed Revisions (paragraphs 1232 to 1242 below).

1231. The Authority is of the view that an appropriate period for the assessment and approval process is 11 months, such that the Revisions Submission Date should be 1 February 2014.

Revisions Commencement Date

1232. GGT's proposal in relation to define the Revisions Commencement Date by reference to the date of 1 January 2015 is consistent with the position taken in the current Access Arrangement. It provides for an Access Arrangement Period of

approximately 5 years, given that the intended Revisions Commencement Date under the current Access Arrangement is 1 January 2010.

1233. However, section 3.1 of GGT's Proposed Revisions provides that the Access Arrangement will expire on the Revisions Commencement Date when the Code provides that a Revisions Commencement Date is the date upon which the next revisions to the Access Arrangement are intended to commence. In this way GGT's proposal is inconsistent with the requirements of the Code.
1234. Further, it is possible that, for a number of possible reasons, the next following revisions to the Access Arrangement will not be approved prior to the Revisions Commencement Date in GGT's Proposed Revisions. It appears that for this reason GGT has proposed that the Revisions Commencement Date be the later of 1 January 2015 and the date a revised Access Arrangement replacing this Access Arrangement approved by the Regulator takes effect.
1235. There are a number of difficulties with this approach.
1236. Firstly, the Code requires that an Access Arrangement include a date upon which the next revisions to the Access Arrangement are intended to commence. This raises the question of whether the Code permits the adoption of alternative dates and the question of whether an undetermined date can be used.
1237. Secondly, it leads to uncertainty as to the length of the Access Arrangement Period for the purposes of the Code, and therefore uncertainty as to whether the obligation imposed on the Authority by section 3.18 of the Code (requiring the Authority to consider trigger mechanisms in the event that an Access Arrangement Period is longer than 5 years) is enlivened.
1238. Access Arrangement Period is defined in section 10.8 of the Code to mean:
- ...the period from when an Access Arrangement or revisions to an Access Arrangement take effect (by virtue of a decision pursuant to section 2) until the next Revisions Commencement Date.
1239. The Authority is of the view that the most appropriate way in which to address this issue is for the intended Revisions Commencement Date to be included in GGT's Proposed Revisions as a specific date, without alternatives. As noted at paragraph 1228 above, the Authority is of the view that 1 January 2015 is the appropriate date, resulting in a 5 year Access Arrangement Period. This approach is consistent with the requirement of the Code that a Revisions Commencement date is a date upon which the next revisions to the Access Arrangement are intended to commence.
1240. Given that the current Access Arrangement provides for the current Access Arrangement to expire on the later of 1 January 2015 and the date a revised Access Arrangement takes effect, the current Access Arrangement will not expire before the commencement of the Access Arrangement currently under assessment.
1241. The Authority notes that by providing for an earlier Revisions Submission Date the risk of the next following Access Arrangement not being approved by the Revisions Commencement Date is reduced.
1242. To clarify the position, and as a mechanism that may be adopted for the purpose of future revisions of the Access Arrangement, the Authority considers that specific provision should be made in GGT's Proposed Revisions to address any delay in

approval of revisions to the Access Arrangement to the effect that if approval is not given prior to the intended Revisions Commencement Date then the Access Arrangement will not expire until the date specified by the Authority as the date upon which the next following revisions to the Access Arrangement are to take effect.

Trigger Events

1243. The Authority notes that GGT has not proposed any Trigger Event which requires GGT to lodge proposed revisions prior to the Revisions Submission Date.
1244. Under the Code, there are two circumstances in which an obligation to lodge proposed revisions may be triggered.
1245. The first is under section 3.18 of the Code, which requires the Authority to consider mechanisms, including a Trigger Event, to address the risk of forecasts on which the terms of the Access Arrangement were based and approved proving incorrect.
1246. However, this obligation only arises if the Access Arrangement Period is more than five years. In this case, on the basis of the Authority's Draft Decision to require an intended Revisions Commencement Date of 1 January 2015, the duration of the proposed Access Arrangement is not intended to exceed 5 years. Accordingly, the Trigger Event under section 3.18 the Code does not arise for consideration by the Authority.
1247. The second means by which a Trigger Event mechanism may arise is under section 3.17(ii) of the Code. Under that section if, having regard to the objectives in section 8.1, the Authority considers it necessary it may require that specific major events be defined that trigger an obligation on the Service Provider to submit revisions prior to the Revisions Submission Date.
1248. The objectives in section 8.1 of the Code include providing the Service Provider with the opportunity to earn a stream of revenue that recovers the efficient costs of delivering the Reference Service (section 8.1(a) of the Code); replicating the outcome of a competitive market (section 8.1(b) of the Code); efficiency in the level and structure of the Reference Tariff (section 8.1(e) of the Code) and providing an incentive to the Service Provider to reduce costs and to develop the market for Reference and other Services (section 8.1(f) of the Code).
1249. These objectives may not be achieved if the volume forecasts for the Access Arrangement Period are substantially under-stated. In such a case, where the volume of actual throughput materially exceeds forecasts, Reference Tariffs paid by Users in accordance with the Authority's Draft Decision may be materially higher than would otherwise have been the case had the forecasts been more accurate (which may have reduced the unit cost of the Reference Service).
1250. GGT's most recent Pipeline Licence amendment dated 14 August 2008 at section 2.1 stated:

Reasons for variation

Gas demand from the GGP is continually increasing and forecast future demand data indicates that a compressor station is required to increase the pressure downstream of the Ned's Creek Scraper Station. This will enable sufficient gas to be supplied to all existing and future customers.

1251. Under GGT's Proposed Revisions, the forecast throughput remains constant at current levels throughout the Access Arrangement Period (Access Arrangement Information, page 11 and information provided by GGT under the GGT Section 41 Notice).
1252. While these forecasts may accurately reflect lower current demand for energy in the economy generally, and while this state of affairs may continue through the Access Arrangement Period, the experience of the past 5 years has been that the capacity and throughput of the GGP has expanded substantially (Figure 1 of this Draft Decision).

Total Pipeline Volumes

	2004	2009	2010	2014
Reserved Capacity (MDQ) TJ/day	97	108	157	157
Average daily Throughput TJ/day	86	96	127	127

- Sources:
- a) 2004-2009 Access Arrangement Information
 - b) 2010 & 2014 Includes uncovered capacity information obtained from GGT via a section 41 Information request

1253. For example, over the period 2004 to 2010 the Maximum Daily Quantity (**MDQ**) of the GGP will have increased from 97 TJ/day to 157 TJ/day through expansions to the Pipeline.
1254. Further, by reason of these expansions of capacity, actual throughput has exceeded forecast substantially. For example the average throughput in 2004 was 68 TJ/day and is forecast to be 127 TJ/day in 2010.
1255. In view of this experience the Authority is satisfied that, having regard to the objectives in section 8.1 of the Code, it is appropriate for the Authority to require a Trigger Event to be included in the Access Arrangement. This Trigger Event will address the risk of forecasts on which the terms of the Access Arrangement are based and approved proving incorrect, by reason of demand for an unanticipated expansion or expansions materially increasing the capacity of the GGP.
1256. By reason of the Authority Draft Decision in relation to the Extensions/Expansions Policy above (paragraphs 134 to 199), any such expansion or expansions will provide covered Capacity.
1257. Under such a Trigger Event it will be desirable for the obligation upon GGT to lodge revisions to precede the commissioning of the expansion facilities, to provide the Authority sufficient time to assess GGT's proposed revisions before the expansion takes effect.
1258. Under any material expansion of capacity, it will be necessary for GGT to first lodge and obtain approval to alter its Pipeline Licence PL24, Goldfields Gas Pipeline, as required under licence condition No 10. "Alterations to Pipeline".

1259. The Authority considers that an appropriate Trigger Event will be the lodgement by GGP of a licence alteration application or applications, where the alteration or alterations relate to the construction and installation of expansion facilities which will increase the capacity of the GGP in total by in excess of a suitable materiality threshold. The Authority considers that a suitable materiality threshold in total is 10% of the expected capacity of the GGP as at 1 January 2010. Based on information available to the Authority the capacity of the GGP as 1 January 2010 is expected to be 157 TJ/day.

Draft Decision

1260. The Authority, in accordance with its discretion under section 3.17(b)(i) of the Code, requires the Revisions Submission Date in GGT's Proposed Revisions to be amended to 1 February 2014.

1261. The Authority also requires the Revisions Commencement Date in GGT's Proposed Revisions to be amended to 1 January 2015 and for section 3.2 of GGT's Proposed Revisions to be amended to provide for a situation where the next following Access Arrangement Proposed Revisions is not approved by the Revisions Commencement Date.

1262. The Authority requires a Trigger Event under section 3.17(b)(ii) of the Code to be included in the Access Arrangement by which GGT must submit revisions to the Authority.

Required Amendment 45

Section 3 of GGT's Proposed Revisions be amended to read as follows:

3.1 Term

This Access Arrangement comes into effect on the Effective Date. The Access Arrangement Period or term of the Access Arrangement ~~will~~ is intended to expire on the Revisions Commencement Date.

3.2 Review of Access Arrangement

In accordance with Section 3.17 of the Code:

- (a) the Revisions Submission Date is 1 ~~July~~ February 2014; and
- (b) the intended Revisions Commencement Date is the ~~later of~~ 1 January 2015 ~~and the date a revised Access Arrangement replacing this Access Arrangement approved by the Regulator takes effect.~~

3.3 Delay

In the event that the Access Arrangement Proposed Revisions in relation to the Access Arrangement Period next following this Access Arrangement (**Next Access Arrangement**) does not come into effect on or before the intended Revisions Commencement Date this Access Arrangement will not expire until the date on which the Regulator specifies that the Next Access Arrangement comes into effect.

3.4 Trigger Event

- (a) If a Revisions Trigger Event occurs at any time prior to 3 months before the Revisions Submission Date then GGT must submit revisions to this Access Arrangement by no later than the day which is 3 months after the Revisions Trigger Event occurs.
- (a) For the purpose of paragraph (a) a Revisions Trigger Event occurs when GGT lodges with the Minister for Mines, Western Australia, an application/s for alteration/s to Pipeline Licence PL24, Goldfields Gas Pipeline, as required under licence condition 10 "Alterations to the Pipeline", under which:
 - (i) GGT seeks to vary Pipeline Licence PL24 where the alteration/s relates to the construction and installation of expansion facilities; and
 - (ii) the capacity of the GGP will be increased (as

measured at the GGP Inlets, noting that in GGT's Access Arrangement Information the current inlets are described in section 12, System Description); and

(iii) the total amount of all such applications made within the forthcoming Access Arrangement Period increase the capacity of the GGP (as measured at the GGP Inlets) beyond 173 TJ/day.

APPENDICES

Appendix 1 – Authority’s Reference Tariff Model

Appendix 2 – Confidential Appendix