



**SUBMISSION 36: Response to ERA Information Request
of 17 November 2010**



Date Submitted: 8 December 2010

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1. INTRODUCTION

1.1. On 17 November 2010 DBP received an information request from the Economic Regulation Authority (**ERA**) querying 3 aspects of DBP's proposed revisions to the Terms & Conditions for the proposed reference service included in the access arrangement proposal.

1.2. The ERA's 3 part query is outlined below:

Clause 25.5 Pipeline Trustee's acknowledgement and undertakings and DBNGP Trustee's acknowledgement and undertakings

DBP proposes changes to this clause that vary the pipeline trustee's acknowledgements and remove the acknowledgments and undertakings of the DBNGP Trustee.

DBP indicates that these changes are for reason of what works in practice and/or in recognition of the type of service that is the R1 Service. The Secretariat seeks an explanation of what are the 'practical reasons' for this change.

Clause 30.3 – Pipeline Trustee's representations and warranties

DBP proposes changes to clause 30.3 to remove the warranties of the Pipeline Trustee to the shipper. DBP submits that this change is for practical reasons. The Secretariat understands that DBP inserted these warranties into the existing terms and conditions and is seeking clarification of the role of the Pipeline Trustee in relation to the shipper and an explanation of what are the practical reasons for this change.

Schedule 5 – Existing Stations

DBP proposes to include at Schedule 5 of the proposed revised terms and conditions a list of existing stations and their designations. DBP indicates that the inclusion of Schedule 5 is for practical reasons.

The Secretariat notes that the proposed list of existing stations in Schedule 5 are stations that are contained in the pipeline description document as at 22 September 2009 on DBP's website. However, the Secretariat also notes that there are slight inconsistencies, i.e. Schedule 5 groups several outlet points into 'north' and 'south' metro, the designation for 'W LPG' appears to have a typo, and 'TiWest Cogen' appears to be listed in Schedule 5 as Thomas Rd. Can DBP please clarify?

1.3. This submission addresses the ERA's request as follows:

- (a) Section 2 addresses the ERA's query regarding Clause 25.5 of the proposed Terms and Conditions.
- (b) Section 3 addresses the ERA's query regarding Clause 30.3 of the proposed Terms and Conditions.
- (c) Section 4 addressed the ERA's query regarding Schedule 5 of the proposed Terms and Conditions.

2. CLAUSE 25.5 QUERY

2.1. The ERA's first query is in regard to Clause 25.5. it has two parts:

- (a) Why has DBP varied the Pipeline Trustee's acknowledgement and undertakings that were contained in the terms and conditions in the reference service of the existing access arrangement.
- (b) Why has DBP removed the DBNGP Trustee's acknowledgement and undertakings that are presently contained in the terms and conditions in the reference service of the existing access arrangement.

Variations to Pipeline Trustee's acknowledgment and undertakings

2.2. DBP notes that the changes made in relation to clause 25.5 are the deletion of paragraphs (e) - (g) relating to entering a into an assignment/assumption deed if the Pipeline Trustee disposes of its interest in the DBNGP.

2.3. However, DBP submits that there has been no change to the acknowledgment and undertakings that the Pipeline Trustee is providing in this regard because the obligations relating to entering into a deed for the disposal/assignment of the DBNGP have been relocated to clause 25.4(c). Although fewer words have been used, the obligation is the same.

Removal of DBNGP Trustee's acknowledgments

2.4. The reason that the DBNGP Trustee's acknowledgements have been deleted is that the DBNGP Trustee is not a party to the R1 Contract.

2.5. DBP has previously provided reasons for why DBNGP Trustee is not a party to this contract.

3. CLAUSE 30.3 QUERY

- 3.1. The ERA's second query is in regard to Clause 30.3. The query relates to the removal of some of the Pipeline Trustee's warranties to shippers.
- 3.2. DBP's has submitted that the proposed change brings the terms and conditions into alignment with practise and/or in recognition of the type of service that is the R1 Service.
- 3.3. The proposed revisions are the deletion of two warranties:
 - (a) that the Pipeline Trust is registered under section 601EB of the Corporations Act (registration of a Managed Investment Scheme (MIS)); and
 - (b) that the Pipeline Trustee holds the dealers licence authorising it to operate the Pipeline Trust.
- 3.4. This reflects the fact that The Pipeline Trust is not so registered nor is it required to be so registered.
- 3.5. DBP notes that it has overlooked another revision – clause 30.3 refers to section 601GA(2) of the Corporations Act. That reference should also be removed, although DBP notes that the reference has no effect as currently drafted.

4. SCHEDULE 5 QUERY

- 4.1. The ERA's third query is in regard to Schedule 5 which is inclusive of a table outlining designations of existing stations.
- 4.2. The ERA notes that the proposed list of existing stations in Schedule 5:
 - (a) are stations that are contained in the pipeline description document as at 22 September 2009 on DBP's website; and
 - (b) appear to be slightly inconsistent, in that Schedule 5 groups several outlet points into 'north' and 'south' metro, the designation for 'WLPG' appears to have a typo, and 'TiWest Cogen' appears to be listed in Schedule 5 as Thomas Rd.
- 4.3. Schedule 5 groups several outlet points into 'North' and 'South' metro. This is not an inconsistency because the access contract provides that delivery occurs at the notional outlet point for these 2 sites.
- 4.4. DBP confirms that inconsistencies do exist between Schedule 5 and the pipeline description document as at 22 September 2009 insofar as the designation for 'WLPG' should be 'OPLPGI-O1' not 'OPLPG-O1'.
- 4.5. Additionally, in Schedule 5 existing station 'TiWest Cogen' should be updated to Thomas Rd to be consistent with the 22 September 2009 pipeline description document.
- 4.6. DBP provides the table with corrections below and will insert this updated table in response to the draft decision.

Existing Station	Designation
Nangetty Road	O81-01
Eneabba	O83-01
Pinjar Power Station	OP2-01
Ellenbrook	OP3-01
North Metro	OP4-01 OP5-01 OP9-01
South Metro	OP4-01 OP6-01 OP7-01
WLPG	OPLPGI-01
AGR	OPLPGOSO-01
Kwinana Power Station	OKW-02
Barter Road	OKW-03
BP Cogen	ORK-01
Mason Road	ORK-02
Rockingham	ORK-03
Thomas Road	ORK-05
WMC	ORK-04
Pinjarra Town	OS1-01
Alcoa Pinjarra Cogen	OS2-01
Harvey	OS4-01
Worsley	OS4-02
Rhone Poulenc (Oakley Road)	OS2-02

Existing Station	Designation
Kemerton	OS5-01
Clifton Road	OS6-01

5. CONFIDENTIALITY

