

Proposed revisions to the Dampier to Bunbury Natural Gas Pipeline access arrangement 2021 to 2025

Position paper on pipeline and reference services

20 November 2020

Economic Regulation Authority

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Invitation to make submissions

Submissions are due by 4:00 pm WST, Friday, 4 December 2020

The ERA invites comment on this paper and encourages all interested parties to provide comment on the matters discussed in this paper and any other issues or concerns not already raised in this paper.

We would prefer to receive your comments via our online submission form <https://www.erawa.com.au/consultation>

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Please note that submissions provided electronically do not need to be provided separately in hard copy.

All submissions will be made available on our website unless arrangements are made in advance between the author and the ERA. This is because it is preferable that all submissions be publicly available to facilitate an informed and transparent consultative process. Parties wishing to submit confidential information are requested to contact us at info@erawa.com.au.

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Introduction

1. The Economic Regulation Authority has prepared this position paper to inform interested parties of its views on pipeline and reference services and seek further comment prior to publishing its final decision on proposed revisions to the Dampier to Bunbury Natural Gas Pipeline (DBNGP) access arrangement for 2021 to 2025.
2. On 14 August 2020, the ERA published its draft decision on proposed revisions to the DBNGP access arrangement. The decision set out 53 required amendments, one of which required the provision of a “trigger event” in the access arrangement if there was a re-direction of the flow of natural gas through the pipeline. The trigger event would accelerate the next review of the access arrangement and allow the effect of the re-direction of gas flow in the pipeline to be assessed and reflected in the access arrangement.
3. Following the publication of the ERA’s draft decision, on 17 August 2020, the Western Australian Government announced changes to the State’s Domestic Gas Policy, preventing the export of local gas. The Waitsia Stage 2 gas project was given an exemption to this policy. Under this exemption, the Waitsia project is expected to fill available capacity at the Karratha Gas Plant and export some of its gas as Liquefied Natural Gas (LNG) for a short period of time.
4. In response to the ERA’s draft decision, DBNGP (WA) Transmission Pty Ltd (DBP) proposed a new pipeline service, the Ullage Service, and revised treatment of additional non-reference services as rebateable non-reference services. DBP submitted that its revised proposal for pipeline and reference services made the ERA’s requirement for a trigger event unnecessary.
5. The ERA received submissions from interested parties on its draft decision and DBP’s revised proposal for pipeline and reference services. Several submissions indicated support for DBP’s revised proposal for the new Ullage Service.
6. Having considered these developments and submissions, the ERA has provisionally revised its views as set out in this position paper. The ERA expects to publish its final decision in early 2021, and that decision will take into account stakeholder views, including submissions addressing issues in this position paper. However, the ERA considers that this position paper will provide some guidance to DBP and current and prospective shippers to facilitate discussion on pipeline services prior to the commencement of the fifth access arrangement period.
7. This position paper sets out the ERA’s views on DBP’s proposed pipeline services and classification of these services as reference and non-reference services. The paper does not address other related provisions, such as the allocation of costs between reference and other services including, where services are rebateable services, what portion of revenue generated from the sale of rebateable services would be used to reduce reference tariffs. These matters will be considered and addressed in the ERA’s final decision.

Background

8. On 2 January 2020, DBP submitted proposed revisions to the access arrangement for the Dampier to Bunbury Natural Gas Pipeline (DBNGP). DBP is the operator of the DBNGP and submitted the proposed revisions on its own behalf and on behalf of DBNGP (WA) Nominees Pty Ltd (the Pipeline Trustee) as the complying service provider.
9. DBP's proposal comprised a proposed revised access arrangement, access arrangement information and other supporting information.^{1, 2} The proposal covers the five-year period from 1 January 2021 to 31 December 2025 (otherwise known as the fifth access arrangement period or AA5). DBP's current access arrangement covering the fourth access arrangement period (AA4), 1 January 2016 to 31 December 2020, applies until a revised access arrangement is approved.
10. The purpose of an access arrangement is to set out the terms and conditions, including price, upon which an independent third-party user is entitled to obtain access to a regulated pipeline to transport gas and to provide a starting point for parties to negotiate access on reasonable commercial terms.
11. The role of the ERA is to consider DBP's proposed revisions to the access arrangement for the DBNGP. The National Gas Law (NGL) and National Gas Rules (NGR) set out the requirements for what should be included in the access arrangement, as well as the processes the ERA must follow when considering whether to approve DBP's proposal.
12. The ERA invited submissions from interested parties on DBP's proposal by publishing an initiating notice on 23 January 2020.
13. On 17 March 2020, the ERA published an issues paper to assist interested parties to prepare submissions and understand some of the issues the ERA would address when determining whether to approve DBP's proposal.³ Interested parties were invited to make their submissions by 31 March 2020.⁴ Submissions were received from seven parties:
 - Australian Gas Infrastructure Group (AGIG)
 - CITIC Pacific Mining Management Pty Ltd (CPM)
 - Gas Trading Australia Pty Ltd (gasTrading)
 - NewGen Power Kwinana Pty Ltd (NewGen)
 - Perth Energy Pty Ltd
 - Synergy
 - Wesfarmers Chemicals, Energy & Fertilisers Ltd (WesCEF).

¹ DBP, *DBNGP Access Arrangement 2021-25*.

² DBP, *2021-2025 Final Plan*, January 2020. This document is DBP's access arrangement information and is otherwise referred to as DBP's Final Plan.

³ ERA, *Proposed revisions to the access arrangement for the Dampier to Bunbury Natural Gas Pipeline for 2021 to 2025, Issues Paper*, 17 March 2020.

⁴ The ERA extended the original closing date for submissions from 24 March 2020 to 31 March 2020. The ERA also subsequently decided to accept submissions that were received after the closing date.

14. The ERA published its draft decision on 14 August 2020.⁵ The decision did not approve DBP's proposal and detailed 53 required amendments. DBP was allowed until 7 October 2020 to submit a revised access arrangement proposal that addressed the draft decision requirements.⁶
15. DBP's revised proposal was received on 7 October 2020, consisting of a proposed revised access arrangement, revised access arrangement information and other supporting information. The revised proposal was published on the ERA's website on 8 October 2020.
16. Interested parties had until 4 November 2020 to make submissions on the ERA's draft decision and DBP's revised proposal.⁷ Submissions were received from seven parties:
 - Alinta Energy
 - Beach Energy Ltd
 - CPM
 - gasTrading
 - Mitsui E&P Australia Pty Ltd (Mitsui)
 - NewGen
 - Wesfarmers Energy (Gas Sales) Ltd (WEGS).⁸

⁵ ERA, *Draft decision on proposed revisions to the Dampier Bunbury Pipeline access arrangement 2021 to 2025*, 14 August 2020.

⁶ The original date for DBP to submit a revised proposal was 25 September 2020. This date was extended by the ERA to 7 October 2020.

⁷ The original date for interested parties to make submissions was 26 October 2020. This date was extended by the ERA to 4 November 2020.

⁸ Wesfarmers Energy (Gas Sales) Ltd (ABN 27 058 451 997) is a part of Wesfarmers Chemicals, Energy & Fertilisers.

Pipeline and reference services

17. “Pipeline service” is defined in section 2 of the NGL as follows:

Pipeline service means

- (a) a service provided by means of a pipeline, including—
 - (i) a haulage service (such as firm haulage, interruptible haulage, spot haulage and backhaul); and
 - (ii) a service provided for, or facilitating, the interconnection of pipelines; and
- (b) a service ancillary to the provision of a service referred to in paragraph (a), but does not include the production, sale or purchase of natural gas or processable gas.

18. Modified rules 48(1)(b), (c) and (d) of the NGR detail the requirements for identifying pipeline and reference services in the access arrangement.⁹ The modified rules state:

48 Requirements for full access arrangement (and full access arrangement proposal)

- (1) A full access arrangement must:
 - ...
 - (b) describe all of the pipeline services that the service provider can reasonably provide on the pipeline, which must be described having regard to the characteristics of different pipeline services, including those listed in subrule 47A(2) of the Amending Rule; and
 - (c) from the pipeline services identified under subrule (b), specify the services the service provider proposes to specify as reference services having regard to the reference service factors including any supporting information required by the [ERA]; and
 - (d) if the service provider has engaged with pipeline users and end users in identifying the reference services under subrule (c), describe any feedback received from those users about which pipeline services should be specified as reference services; and

19. Subrule 47A(2) of the Amending Rule states:

A pipeline service is to be treated as distinct from another pipeline service having regard to the characteristics of different pipeline services, including:

- (a) the service type (for example, forward haul, backhaul, connection, park and loan);
- (b) the priority of the service relative to other pipeline services of the same type; and
- (c) the receipt and delivery points.

20. The reference service factors are specified in rule 47A(15) of the NGR:

47A(15) The reference service factors are:

- (a) actual and forecast demand for the pipeline service and the number of prospective users of the service;

⁹ As set out in schedule 1 (rule 62) of the NGR.

- (b) the extent to which the pipeline service is substitutable with another pipeline service to be specified as a reference service;
- (c) the feasibility of allocating costs to the pipeline service;
- (d) the usefulness of specifying the pipeline service as a reference service in supporting access negotiations and dispute resolution for other pipeline services, such that:
 - (i) reference services serve as a point of reference from which pipeline services that are not reference services can be assessed by a user or prospective user for the purpose of negotiating access to those other pipeline services;
 - (ii) a reference tariff serves as a benchmark for the price of pipeline services that are not reference services; and
 - (iii) reference service terms and conditions serve as a benchmark for the terms and conditions of pipeline services that are not reference services;
- (e) the likely regulatory cost for all parties (including the [ERA], users, prospective users and the service provider) in specifying the pipeline service as a reference service.

DBP's initial proposal

21. For AA5, DBP proposed to continue providing the three reference services offered under the current (AA4) access arrangement. As set out in clause 3.1(a) of the proposed revised access arrangement, these reference services are the full haul T1 Service, part haul P1 Service and back haul B1 Service.
22. Descriptions of the proposed reference services are set out in clauses 3.3, 3.4 and 3.5 of the revised access arrangement for the T1 Service, P1 Service and B1 Service, respectively. DBP amended the drafting of these clauses to align the clauses with:
 - The proposed amendments to the terms and conditions for each of the reference services.
 - The proposed reference tariff for each of the reference services.
 - The pipeline description document provided as Attachment 1 to the proposed revised access arrangement.
23. For non-reference services that are subject to the availability of capacity, DBP proposed to delete the Seasonal Service and add the following pipeline services: Other Reserved Service; Pipeline Impact Agreement Service; Data Services; and Inlet Sales Service (clause 3.1(b)(i) of the revised access arrangement).
24. DBP further deleted all pipeline services that were subject to operational availability (that is, DBP deleted existing clause 3.1(b)(ii) from the revised access arrangement). Under amended clause 3.1(b) of the revised access arrangement:
 - Non-reference services that are subject to availability of capacity include the following pipeline services: Spot Capacity Service; Park and Loan Service; Other Reserved Service; Pipeline Impact Agreement Service; Data Services; and Inlet Sales Service (clause 3.1(b)(i)).

- Non-reference services will continue to include pipeline services that are not reference services under contracts entered into prior to AA5 (clause 3.1(b)(ii)).¹⁰
 - DBP will continue to negotiate with prospective shippers to provide any other non-reference pipeline service (clause 3.1(b)(iii)).¹¹
25. To prepare its submission to the ERA, DBP sought feedback from its customers and stakeholders. DBP provided a summary of the customer and stakeholder feedback it received on pipeline and reference services and how it responded to the feedback.¹²
- Stage 1 and 2 engagement – developing the plan:
 - DBP held two shipper roundtable meetings where information on available pipeline services was provided and later published on DBP’s website.
 - Based on agreement at the meetings, DBP proposed to offer full haul, part haul and back haul reference services consistent with the current (AA4) reference services, noting that it would continue to negotiate bespoke services with customers.
 - Stage 3 engagement – consultation on the draft plan:
 - DBP provided more information on the proposed reference services at another shipper roundtable meeting, including information on the importance of reference and non-reference services to DBP’s revenues.
 - DBP identified proposed changes to the reference service terms and conditions and advised customers of the changes.
 - Stage 4 engagement – refining the draft plan:
 - DBP provided a summary of proposed changes to the reference service terms and conditions, including marked-up copies of the terms and conditions, to customers for comment.
 - DBP noted that the consultation period for customer feedback was “tight” and offered to continue to engage with customers (shippers) after submitting its access arrangement proposal to the ERA.

Draft decision

Proposed pipeline and reference services

26. Table 1 reproduces Table 6.2 of DBP’s initial proposal, which details the pipeline services provided by means of the DBNGP.

¹⁰ Existing clause 3.1(b)(iii) in the current access arrangement.

¹¹ Existing clause 3.1(b)(iv) in the current access arrangement.

¹² DBP, *2021-2025 Final Plan*, January 2020, p. 52, Table 6.1.

Table 1: DBP's proposed pipeline services for AA5

Pipeline service name	Service type	Category of service
Full haul T1 Service	Forward Full Haul (subject to available capacity) with outlet point south of CS9, regardless of the location of inlet point	Reference
Part haul P1 Service	Forward Part Haul (subject to available capacity) with outlet point upstream of CS9, regardless of the location of inlet point	Reference
Back haul B1 Service	Back Haul (subject to available capacity) service where the inlet point is downstream of the outlet point.	Reference
Seasonal Service	A gas transportation service where the profile of reserved capacity can be customised to suit the monthly requirement of the Shipper (subject to available capacity)	NA – not a stand-alone service
Metering and Temperature Service	A pipeline service where particular metering and temperature specifications can be set (subject to available capacity)	NA – not a stand-alone service
Odourisation Service	A pipeline service where particular odorant requirement can be specified (subject to available capacity)	NA – not a stand-alone service
Pilbara Service	The Pilbara Service is an interruptible transportation service on the DBNGP where deliveries are within the Pilbara Zone (subject to available capacity)	Non-reference
Spot Capacity Service	Allows access to gas transmission capacity on a day ahead basis where available via auction (subject to available capacity)	Non-reference
Peaking Service	A pipeline service where a shipper can obtain additional peaking limits to those set in standard terms (subject to operational availability)	Non-reference
Pipeline Impact Agreement (PIA)	An agreement specified under the Gas Supply (Gas Quality Specifications) Act 2009 developed to compensate PIA Pipelines (including AGIG) for costs incurred when producers wish to bring broader quality gas into the relevant pipeline	Non-reference
Inlet Sales Agreement	A pipeline service that facilitates the trading of gas between shippers at a single inlet point on the DBNGP (subject to operational availability)	Non-reference
Data Services	A service developed to assist gas marketers providing gas allocations on Shippers' behalf on the DBNGP (subject to operational availability)	Non-reference
Storage Service	A service designed to allow shippers to store gas in the pipeline. Forecast to decline substantially due to rise of competitive storage market (Tubridgi and Mondarra)	Non-reference
Other Reserved Service	A suite of interruptible services offered on a bespoke basis to shippers with new projects and/or uncertain demand, often ahead of a firm service	Non-reference

Source: DBP, 2021-2025 Final Plan, January 2020, p. 53, Table 6.2.

27. DBP categorised three pipeline services as *reference services* for AA5, being the same three reference services offered under the current (AA4) access arrangement. Descriptions of the reference services are set out in clauses 3.3, 3.4 and 3.5 of the proposed revised access arrangement for the T1 Service, P1 Service and B1 Service, respectively.
28. To determine the reference services, DBP assessed each of the identified pipeline services against the reference service factors as required by modified rule 48(1)(c) of the NGR. DBP's assessment was provided as an attachment to its Final Plan.¹³ The assessment determined that the T1, P1 and B1 Services:
- are in high demand;
 - are non-substitutable with other services (meaning there is no other way shippers can obtain the service);
 - form the foundation of [DBP's] demand forecasts and cost allocation;
 - provide prospective users with an aid for use in access negotiations; and
 - minimise the cost and regulatory burden.¹⁴

Non stand-alone services

29. The ERA clarified the classification of "NA – not a stand-alone service" with DBP, which applies to the Seasonal Service, Metering and Temperature Service and Odourisation Service. DBP confirmed the following:

Three services have been identified as non stand-alone services in the Final Plan. These services are largely legacy ancillary services that have been offered since the original 2000 to 2004 AA period. These services were referred to as 'non stand-alone' services because they form part of the existing reference services.

That is, full haul, part haul or back haul services contain metering, odourisation and an ability to include a seasonal profile. The services can therefore only be offered in conjunction with a reference/transportation service. The three services are:

- Metering and temperature services – this service provides the shipper with the ability to obtain non-standard metering or gas temperature arrangements.
 - Odourisation services – as noted in clause 7.12 of the reference service terms and conditions, odourisation is currently provided as part of the reference service at outlet points that required odourisation as at 24 October 2004 in compliance with the specifications set out in the Gas Standards (Gas Supply and System Safety) Regulations 2000 (WA).
 - Seasonal services – this service provides the shipper with the ability to obtain additional capacity (i.e. over and above the capacity provided for in its full haul, part haul or back haul service) from the incremental capacity that may be available when ambient temperatures are lower (e.g. in winter). The provision of this service is subject to operational availability and DBP meeting its obligations under other contracts entered into prior to the AA period.¹⁵
30. DBP further confirmed that no revenue was earned from these services in AA4 and that no revenue was forecast for AA5. The inclusion of these services was for completeness and consistency with previous access arrangements. However, given

¹³ DBP, *2021-2025 Final Plan, Attachment 6.1: Pipeline Service and Reference Services Supporting Information*, January 2020.

¹⁴ DBP, *2021-2025 Final Plan*, January 2020, p. 54.

¹⁵ DBP, *Response to information request ERA13*, 5 June 2020.

that the services exist within the existing contractual rights of reference services, DBP suggested that the services be removed from the list of services provided.¹⁶

31. As submitted by DBP, the ERA considered that the Seasonal Service, Metering and Temperature Service and Odourisation Service should not be specified as individual pipeline services to be offered in AA5, if they are, and can only be, provided with other pipeline services. Removing references to these services in the access arrangement information (that is, DBP's Final Plan) would clarify the stand-alone pipeline services that are available to all prospective users.¹⁷
32. The draft decision set out the following required amendment:

Draft Decision Required Amendment 2

DBP must amend the access arrangement information to clarify the pipeline services that are available to prospective users by deleting references to the Seasonal Service, Metering and Temperature Service and Odourisation Service, which are services that exist within the contractual rights of reference services and cannot be provided as individual (stand-alone) pipeline services.

The term "Seasonal Service" in clause 16 (Definitions) of the proposed revised access arrangement must also be deleted.

Changes to existing pipeline services

33. Submissions in response to the ERA's issues paper suggested that existing reference services may be affected by future gas projects and that additional pipeline services could be offered as reference services, and/or were focused on the proposed terms and conditions for the proposed reference services. In particular:
- GasTrading suggested that the development of gas projects in the north-west of Western Australia would affect the provision of the proposed reference services, including the application of the terms and conditions for those reference services. GasTrading submitted that one such project was the "much-rumoured export of onshore gas to the North West Shelf Project for 'back fill' or export as LNG."¹⁸
 - While CPM did not specifically mention the North West Shelf, it did refer to the increasing possibility of bi-directional gas flows on the DBNGP to accommodate gas projects taking place in the north-west of Western Australia.¹⁹ Such gas projects may include the project specifically identified by gasTrading.
34. DBP noted that the regulated tariffs were the same for full haul, part haul and back haul customers on a per kilometre basis and that these tariffs were not related to physical gas flows. Given this, DBP did not consider that there would be any reason to change tariffs due to a re-direction of gas flow. However, the ERA noted that tariffs were calculated on a full haul equivalent basis and that any change to the kilometre distance of full haul would affect the calculation of reference tariffs as the share of capacity and throughput would change.

¹⁶ DBP, *Response to information request ERA13*, 5 June 2020.

¹⁷ The Seasonal Service is also defined in clause 16 (Definitions) of the proposed revised access arrangement.

¹⁸ Liquefied Natural Gas (LNG).

Gas Trading Australia Pty Ltd submission in response to issues paper, 30 March 2020, p. 4.

¹⁹ CITIC Pacific Mining Management Pty Ltd submission in response to issues paper, 31 March 2020, p. 3.

35. The ERA considered the information provided in gasTrading’s submission and concluded that the gas flow scenarios presented could occur in the future and affect the provision of pipeline services offered by the DBNGP. However, the ERA decided not to take into consideration any scenarios based on projects with uncertain timing. While there was information that confirmed proponents were considering a Waitsia Stage 2 project, which would further develop the Waitsia gas field with additional production wells and a new 250 TJ/day processing plant, there was no confirmation of expected timing other than a statement advising that: “Waitsia Stage 2 is in design stage and subject to a joint venture Financial Investment Decision.”²⁰ Additionally, while the media reported on negotiations between Waitsia and the North West Shelf that would see Waitsia supply gas from the Perth Basin to the North West Shelf to be shipped overseas as LNG, these negotiations were still ongoing.²¹ In the absence of more certain information on timing and contractual arrangements, the ERA considered that this matter should not be addressed as part of the access arrangement review.
36. In any case, rule 51 of the NGR provides for the acceleration of the review submission date, with rule 51(2) providing three examples of trigger events:

51 Acceleration of review submission date

- (1) The review submission date fixed in an access arrangement advances to an earlier date if:
- (a) the access arrangement provides for acceleration of the review submission date on the occurrence of a trigger event; and
 - (b) the trigger event occurs; and
 - (c) the review submission date determined, in accordance with the access arrangement, by reference to the trigger event, is earlier than the fixed date.
- (2) A trigger event may consist of any significant circumstance or conjunction of circumstances.

Examples:

- 1 A re-direction of the flow of natural gas through the pipeline.
- 2 A competing source of natural gas becomes available to customers served by the pipeline.
- 3 A significant extension, expansion or interconnection occurs.

- (3) The [ERA] may require the inclusion in an access arrangement of trigger events and may specify the nature of the trigger events to be included.

37. The matters raised in submissions concerning gas projects in the north-west of Western Australia would be covered by the trigger event in the first example. That is, should the gas project identified by gasTrading proceed and/or additional gas projects emerge that cause a re-direction of the flow of gas through the DBNGP, and provided that the access arrangement specified the necessary trigger event, the review submission date would advance to an earlier date. However, if there was no re-direction of the flow of gas through the DBNGP the trigger event would not activate, and the access arrangement would be reviewed at the (original) review submission date.

²⁰ Mitsui E&P Australia, ‘Waitsia Stage 2’, ([online](#)) [accessed July 2020].

²¹ Thompson S, Macdonald A and Boyd T, 20 January 2020, ‘M&A dominoes from potential Waitsia, North West Shelf gas deal’, Financial Review, ([online](#)) [accessed July 2020].

38. The ERA considered that, given the uncertainty concerning the timing of and contractual arrangements for gas projects in the north-west of Western Australia, the inclusion of a trigger event in the access arrangement for the DBNGP for AA5 would be beneficial. Should circumstances change during AA5 that affect the operations of the DBNGP, the review submission date for the access arrangement would accelerate at this point in light of this operational change.
39. Pursuant to rule 47A of the NGR, which will apply for the next access arrangement period (AA6), DBP must submit a reference service proposal to the ERA at least 12 months before the review submission date. That is, the submission of DBP's reference service proposal must precede the submission of DBP's access arrangement revision proposal for the next access arrangement period. Pursuant to rule 52(1) of the NGR, DBP's access arrangement revision proposal must be submitted on or before the review submission date.
40. Given the regulatory costs involved for all parties, the ERA considered that the review submission date of an access arrangement should only be accelerated by a trigger event if the period of the acceleration caused a meaningfully earlier review submission date – for example, if the review submission date was accelerated by at least six months. The new (accelerated) review submission date must also allow DBP to comply with rule 47A of the NGR, which requires the submission of a reference service proposal at least 12 months before the review submission date. Consequently, the accelerated review submission date must be more than 12 months after the trigger event.
41. Under normal circumstances (that is, no trigger event occurring) a service provider would commence preparing its reference service proposal some time before the required submission date, with the actual length of preparation time dependent on the individual service provider and its planning approach. Given the variations in preparation time and purpose of establishing a trigger event, the ERA considered it was reasonable to allow the service provider at least two months from the trigger event to prepare its reference service proposal.²² Allowing the service provider two months to prepare its reference service proposal means that the accelerated review submission date should be 14 months after the trigger event.²³
42. As indicated above, the period by which the review submission date is accelerated should be meaningful. The ERA considered such a period to be at least six months, and based on this, a trigger event should accelerate the review submission date only if it occurs more than 20 months before the review submission date (if the accelerated review submission date is 14 months after the trigger event).
43. Based on the considerations outlined above, the ERA required DBP to include a trigger event for a re-direction of the flow of natural gas through the DBNGP in the proposed revised access arrangement.
44. The draft decision set out the following required amendment:

²² Two months is the period by which the ERA may extend the review submission date under rule 52(3) of the NGR.

²³ An accelerated review submission date that is *14 months* after a trigger event allows *2 months* for the service provider to prepare its reference service proposal, which must be submitted 12 months before the accelerated review submission date.

Draft Decision Required Amendment 3

DBP must amend the proposed revised access arrangement to include the following trigger event (new clause 14A) to accelerate the review submission date specified in clause 14.2 of the access arrangement if the trigger event occurs.

14A. TRIGGER EVENT

- 14A.1 Subject to clause 14A.2, the review submission date specified in clause 14 accelerates on the occurrence of the Trigger Event to the date that is 14 months after the Trigger Event.
- 14A.2 The Trigger Event accelerates the review submission date if the Trigger Event occurs prior to 1 May 2023.
- 14A.3 Trigger Event means the execution by Operator of a binding agreement (whether conditional or unconditional) for the transport of gas through the DBNGP, the performance of which requires a re-direction of the flow of gas through the DBNGP.

*Reference and non-reference services**Non-reference services*

45. In its initial proposal, DBP classified the following pipeline services as non-reference services based on its assessment of the services against the reference service factors:²⁴
- Pilbara Service
 - Spot Capacity Service
 - Peaking Service
 - Pipeline Impact Agreement
 - Inlet Sales Agreement
 - Data Services
 - Storage Service
 - Other Reserved Service.
46. DBP's assessment identified the following matters with these pipeline services that supported the continuation of these services as *non-reference services* for AA5:
- varying degrees of demand and revenue forecastability;
 - high substitutability with reference services where the pricing applied to reference services provides an appropriate basis on which to consider the reasonableness of prices for non-reference services (e.g. using the Part Haul reference service to understand the Pilbara service);
 - costs which are in general separable from the costs of providing reference services and thus not included in the cost base which makes up [DBP's] regulatory services;
 - minimal usefulness as an aid to negotiations for other services because the service is unique and does not provide a useful benchmark in considering the reasonableness of other services; and

²⁴ DBP, *2021-2025 Final Plan*, January 2020, p. 53, Table 6.2.

- imposes a high regulatory cost-burden relative to the share of the service in [DBP's] revenue, specifically where revenues generated are small relative to the likely regulatory costs.²⁵
47. Subject to DBP describing the non-reference services to be offered for AA5 in the revised access arrangement as required by the ERA (see draft decision required amendment 4 at paragraph 52 of this paper), the ERA considered that DBP's assessment of these pipeline services against the reference service factors supported the continuing provision of these services as non-reference services for AA5.

Reference services

48. DBP retained the current (AA4) reference service classifications for the T1 Service, P1 Service and B1 Service for AA5. The ERA considered that DBP's proposal to retain the current reference services for AA5 met the requirements of the NGR. As submitted by DBP, an assessment of the reference services against the reference service factors supported the continuing provision of the T1, P1 and B1 Services as reference services.
- Actual and forecast demand for the pipeline services:
 - Actual and forecast demand for reference services formed part of the ERA's draft decision considerations of DBP's demand forecast.²⁶ While demand for reference services over AA5 is forecast to reduce, demand for these services relative to other pipeline services remains high.
 - Extent to which the pipeline services are substitutable:
 - The reference services, being full haul, part haul and back haul pipeline services, are not substitutable with each other or any other pipeline service.
 - Feasibility of allocating costs to the pipeline services:
 - The allocation of costs for the reference services are feasible and formed part of the ERA's draft decision considerations of revenue and tariffs.²⁷
 - Usefulness as a reference service:
 - The reference services and their respective tariffs and terms and conditions can form the basis for negotiations for other pipeline services.
 - Likely regulatory cost for all parties:
 - Being established, the reference services minimise the regulatory cost for parties (that is, the services have an established tariff setting process and terms and conditions in respect of which revisions can be proposed and considered).
49. Additionally, there were no submissions from interested parties objecting to DBP's initial proposal to continue to provide the T1, P1 and B1 Services as reference services.

²⁵ DBP, *2021-2025 Final Plan*, January 2020, p. 54.

²⁶ ERA, *Draft decision on proposed revisions to the Dampier Bunbury Pipeline access arrangement 2021 to 2025*, 14 August 2020, pp. 45-57.

²⁷ ERA, *Draft decision on proposed revisions to the Dampier Bunbury Pipeline access arrangement 2021 to 2025*, 14 August 2020, pp. 58-276.

Descriptions of services

50. The proposed revised access arrangement lists the reference and non-reference services in clause 3.1(a) and 3.1(b), respectively. Clause 3.2 states that a description of each of the pipeline services follows. However, there was no description of the following non-reference services in the revised access arrangement initially proposed by DBP:
- Other Reserved Service
 - Data Services
 - Inlet Sales Service.
51. Consistent with the statement made at clause 3.2 of the proposed revised access arrangement, the ERA considered that DBP should include descriptions of each of the non-reference services in the access arrangement for completeness. Some of the required descriptions were included in Table 6.2 of DBP's Final Plan (reproduced as Table 1 in this paper). However, this information was inconsistent with the information in the revised access arrangement. For example:
- The Final Plan described Data Services as being a service that was "subject to operational availability." The description for Inlet Sales Service (which the ERA assumed to be the same as the "Inlet Sales Agreement") was also described as "subject to operational availability." However, DBP's proposed amendments to clause 3 of the access arrangement included amendments to delete all pipeline services that were subject to operational availability. In any case, the revised access arrangement described Data Services and Inlet Sales Service as being "subject to availability of capacity."
 - The Pilbara Service, Storage Service and Peaking Service were listed as non-reference services in the Final Plan but were not listed, or described, in the revised access arrangement.
 - The Park and Loan Service was not listed in the Final Plan but was listed and described in the revised access arrangement (at clause 6.3(c)) as a non-reference service.
52. The ERA considered that the information on reference and non-reference services in both the access arrangement and access arrangement information (that is, DBP's Final Plan) should be accurate and consistent. The ERA noted that, in addressing the required amendment, DBP may need to make corrections to the access arrangement and/or access arrangement information.
53. The draft decision set out the following required amendment:

Draft Decision Required Amendment 4

DBP must amend the pipeline services information in clause 3 of the access arrangement to include descriptions of the reference and non-reference services that are listed in clause 3.1 (as per the statement in clause 3.2 of the proposed revised access arrangement).

The list of non-reference services in clause 3.1(b) must include the Pilbara Service, Storage Service and Peaking Service (in addition to the non-reference services already listed in the proposed revised access arrangement).

Additional reference services

54. In its initial proposal, DBP identified the Spot Capacity Service and Pilbara Service as pipeline services that are provided by means of the DBNGP. Based on its assessment of these services against the reference service factors, DBP proposed to classify both services as non-reference services for AA5, which was consistent with the current (AA4) access arrangement. As noted at paragraph 51, the Pilbara Service was not listed in clause 3.1 of the revised access arrangement as a pipeline service being offered as a non-reference service, despite the information in Table 6.2 of DBP's Final Plan.
55. In response to the ERA's issues paper, WesCEF and gasTrading submitted that the Spot Capacity Service and Pilbara Service, respectively, should be reclassified and offered as reference services under the access arrangement for AA5.^{28, 29} The ERA considered these submissions in turn.

Spot Capacity Service

56. Clause 3.6(a) of the revised access arrangement describes the Spot Capacity Service as follows:

Spot Capacity Service: a Spot Capacity Service is a pipeline service available on an interruptible basis (and at varying levels of interruptibility), subject to availability of Capacity in accordance with the following principles.

57. The principles applying to spot capacity and spot transactions are detailed in clauses 3.6(b)(i) to (viii) of the revised access arrangement and form the basis of the spot market rules. Clause 16 (Definitions) of the revised access arrangement sets out the following definitions for the terms "Spot Capacity", "Spot Transactions" and "Spot Market Rules":

Spot Capacity means any capacity on the DBNGP on a Gas Day (being the capacity available after all Nominations for Reserved Capacity for that Gas Day have been allocated by the Operator for that Gas Day), which capacity, is, according to the Operator (acting in good faith) available for purchase.

Spot Transaction means a transaction for a Spot Capacity Service between the Operator and Shipper in accordance with the Spot Transaction Terms and Conditions.

Spot Market Rules means the rules published by the Operator from time to time to apply to Spot Capacity Service and the market for Spot Capacity, which the Operator will make available on its website.

58. DBP assessed the Spot Capacity Service against the reference service factors and determined that the service should not be offered as a reference service (instead it should be offered as a non-reference service). DBP's assessment is reproduced in Table 2.

²⁸ Wesfarmers Chemicals, Energy & Fertilisers Ltd submission in response to issues paper, 30 March 2020, pp. 8-9.

²⁹ Gas Trading Australia Pty Ltd submission in response to issues paper, 30 March 2020, pp. 12-14.

Table 2: DBP's assessment of the Spot Capacity Service against the reference service factors

Reference service factor (NGR 47A)	DBP assessment
Actual and forecast demand and number of prospective customers (rule 47A(15)(a))	Can be forecast but has high variability Low demand and revenue in the current period
Substitutability (rule 47A(15)(b))	No reference service substitutes, but capacity swaps between shippers are a direct substitute
Feasibility of allocating costs (rule 47A(15)(c))	Difficult to allocate costs due to variability
Usefulness in supporting negotiations and dispute resolution for other pipeline services (rule 47A(15)(d))	An adjunct to other services, so limited use in its own right to support negotiations
Likely regulatory cost (rule 47(A)(15)(e))	High regulatory cost to specify a regulatory version of service which is consistent with what shippers want and other regulatory services

Source: 2021-2025 Final Plan, Attachment 6.1: Pipeline Service and Reference Services Supporting Information, January 2020, p. 3.

59. In its submission, WesCEF acknowledged DBP's assessment of the Spot Capacity Service against the reference service factors. WesCEF was of the opinion that DBP's assessment that the service was: (1) in low demand in the current period and (2) substitutable to the extent that capacity swaps may be entered into between shippers, would be likely to change based on the forecast presented by DBP in its Final Plan. WesCEF submitted that the Spot Capacity Service would satisfy more criteria of the reference service factors going forward. Also, converting the service into a reference service would improve the transparency of the floor price determination as well as the daily availability of the service.³⁰
60. The ERA requested additional information from DBP about the Spot Capacity Service. DBP confirmed that the Spot Capacity Service was "made available through a day-ahead auction of spare capacity as part of the T1 Standard Shipper Contract (T1 SCC) negotiated with shippers in 2004, with the price payable for this service determined by the market (subject to the floor price) rather than through negotiation."³¹ The governing rules for the DBNGP spot capacity market are published on DBP's website.³²
61. DBP further confirmed that:

The Spot Capacity service is not available in its own right, but rather as an adjunct to the T1 SSC transportation service. Shippers with firm SSC transportation services, for example, who find they have an unplanned need for more capacity on a given day, will sometimes enter the spot market to purchase that capacity.

It is important to note that shippers do not need to obtain a Spot Capacity service in order to gain access to more capacity on a given day (or to have additional gas supplied to a location on a day). Rather, there are substitutes for this service that

³⁰ Wesfarmers Chemicals, Energy & Fertilisers Ltd submission in response to issues paper, 30 March 2020, p. 8.

³¹ DBP, *Response to information request ERA14*, 5 June 2020.

³² DBP, *Governing Rules for the market for the Spot Capacity*, ([online](#)) [accessed June 2020].

provide shippers a firmer (i.e. a better quality) product than the Spot Capacity service provides. A shipper may, for example:

- procure firm capacity from other shippers that are not using their capacity on a day through a bilateral capacity trade (secondary capacity), where the contractual rights are outlined in clause 27 of the SSC;
- enter into an agreement with a shipper (or other market intermediaries) that have spare capacity to transport gas on its behalf to the location it requires the gas; or
- enter into a transportation service on the DBNGP.

Consistent with rule 105(2) of the NGR and the terms of existing services on the DBNGP, shippers can enter into bilateral capacity trades without obtaining our consent. We are aware that this is a fairly well used feature of existing contracts.

The ability of our shippers to use these substitute services places a constraint on the floor price that we can set for the day-ahead auction and the price that shippers are willing to pay for the Spot Capacity service through the day-ahead auction.³³

62. Actual and forecast demand and revenue for the Spot Capacity Service for AA4 and AA5, respectively, are shown in Table 3.

Table 3: Spot Capacity Service demand and revenue for AA4 and AA5

AA4	2016 (actual)	2017 (actual)	2018 (actual)	2019 (actual)	2020 (forecast)
Demand (avg TJ/day)	█	█	█	█	█
Revenue (\$ million)	█	█	█	█	█
% of reference service equivalent revenue	█	█	█	█	█ (estimate)
AA5	2021 (forecast)	2022 (forecast)	2023 (forecast)	2024 (forecast)	2025 (forecast)
Demand (avg TJ/day)	█	█	█	█	█
Revenue (\$ million)	█	█	█	█	█

Source: DBP, Response to information request ERA14, 5 June 2020.

63. DBP noted the difficulty in developing forecasts given the nature of the service which catered for unplanned changes in demand. For this reason, the forecasts for AA5 are based on a simple average of the most recent years. DBP submitted the following explanation for the increase in demand that occurred in 2019:

█
 █
 █
 █
 █³⁴

64. DBP considered it to be inappropriate to assess the Spot Capacity Service against the reference service factors, given the service was only offered as an adjunct to the full haul T1 Service. Nevertheless, DBP provided further information on its assessment of the Spot Capacity Service against the reference service factors and

³³ DBP, Response to information request ERA14, 5 June 2020.

³⁴ DBP, Response to information request ERA14, 5 June 2020.

concluded that the assessment supported the continuing provision of the service as a non-reference service.³⁵

65. The ERA considered DBP's additional information and, having regard to the reference service factors set out in rule 47A(15) of the NGR, did not consider that the Spot Capacity Service could be offered as a reference service for the following reasons.

Actual and forecast demand for the pipeline service

66. Average demand for the Spot Capacity Service is low when compared with average demand for full haul, part haul and back haul services. DBP submitted that demand for the Spot Capacity Service was unplanned and variable, making it difficult to forecast. DBP expected demand for the Spot Capacity Service to decrease over AA5, as some shippers made use of the Peaking Service under recently renegotiated contracts.³⁶
67. WesCEF submitted that it had observed a significant increase in bidding activity in the past 12 months and reduced availability of the service. It suggested that DBP analyse expected daily and hourly usage to determine if there had been sufficient growth in demand to warrant including the service as a reference service.³⁷ Given the nature of the service, the modelling of such usage would not necessarily provide any certainty as to whether there will be sustained demand for the service over a longer period of time. In any case, even if there was a demonstrated increase in demand for the Spot Capacity Service, the market-determined price for spot capacity is not a sufficiently certain method for determining the reference tariff, which must be specified if the service becomes a reference service.

Extent to which the pipeline service is substitutable

68. The Spot Capacity Service has competitive substitutes and shippers do not need a Spot Capacity Service to gain access to more capacity on a given day or to have additional gas supplied to a location. Consistent with rule 105(2) and the terms of existing contracts, shippers can enter into bilateral capacity trades without obtaining consent from DBP.³⁸ The Peaking Service is also a substitute for the Spot Capacity Service, with DBP expecting demand for the Peaking Service to increase following contract renegotiations with shippers.

Feasibility of allocating costs to the pipeline service

69. The primary purpose of allocating costs to a pipeline service is to determine the tariff that should be paid for that service. While costs may be allocated to the Spot Capacity Service, it is not possible to determine a reference tariff using a market bidding (auction) process. The NGR require a reference tariff to be specified for each reference service, with the overarching requirement being that when reference tariffs are determined and reviewed, the tariffs should be based on the efficient cost (or anticipated efficient cost) of providing the associated reference services.³⁹ The auction process that results in a "market price on a day" for spot capacity is not a

³⁵ DBP, *Response to information request ERA14*, 5 June 2020.

³⁶ The Peaking Service is described in DBP's Final Plan as "a pipeline service where a shipper can obtain additional peaking limits to those set in standard terms (subject to operational availability)" (Table 6.2, which is reproduced at paragraph 26 of this paper).

³⁷ Wesfarmers Chemicals, Energy & Fertilisers Ltd submission in response to issues paper, 30 March 2020, p. 8.

³⁸ See clause 6.2 of the proposed revised access arrangement.

³⁹ See Division 8 (Tariffs) of the National Gas Rules.

sufficiently certain method to determine the reference tariff for the Spot Capacity Service.

70. Additionally, the established bidding process for available spot capacity and the prices that are subsequently paid by shippers reflect the willingness of shippers to obtain additional capacity to meet their operational needs on any given day.⁴⁰ A set reference tariff would distort this willingness to pay.

Usefulness as a reference service for access negotiations and dispute resolution

71. The Spot Capacity Service is made available to shippers that have an existing transportation service (for example, a full haul T1 Service) through a day-ahead auction and is subject to competition from bilateral capacity trades. The price paid by shippers for spot capacity is determined by the market and not through negotiations with DBP. Given this, the usefulness of specifying the Spot Capacity Service as a reference service, with a reference tariff and reference service terms and conditions, to support access negotiations and dispute resolution for other services would be limited.

Likely regulatory cost for all parties

72. The likely regulatory costs in specifying the Spot Capacity Service as a reference service would exceed any benefits. The likely benefits would be minimal given the availability of other competitive substitutes and the small amount of revenue derived from the service (less than ██████████ of reference service equivalent revenue). The likely regulatory costs that would be incurred, however, could be significant given the complexities that would be involved in establishing and reviewing the required reference tariff.
73. While the ERA did not require any amendments to the Spot Capacity Service, the ERA required DBP to amend clause 3.6 of the proposed revised access arrangement to correct a cross-referencing error. The principles applying to spot capacity and spot transactions, set out in clauses 3.6(b)(i) to (viii) of the revised access arrangement, are substantively consistent with the principles set out in clause 3.5 of the Standard Shipper Contracts published on DBP's website.⁴¹ This confirms that the words "(subject to clause 5.3(g)(i))" in clause 3.6(b)(ii) are in error and should read "(subject to clause 3.6(b)(iv))".
74. The draft decision set out the following required amendment:

Draft Decision Required Amendment 5

DBP must amend the information for the Spot Capacity Service in clause 3.6(b)(ii) of the proposed revised access arrangement to correct a referencing error by deleting the reference to "clause 5.3(g)(i)" and replacing it with a reference to "clause 3.6(b)(iv)".

⁴⁰ The prices payable for spot capacity are determined, subject to a floor price, by the market via a bidding (auction) process. The floor price ("Minimum Bid Price") is set in accordance with clause 3.5(f) of the Standard Shipper Contract. Clause 3.6(b)(iv) of the proposed revised access arrangement is the equivalent clause for shippers accessing spot capacity with a reference service.

⁴¹ DBP, *Standard Shipper Contracts*, ([online](#)) [accessed June 2020].

Pilbara Service

75. As noted at paragraph 51, the Pilbara Service was not listed or described in the revised access arrangement initially proposed by DBP. However, in DBP’s Final Plan the Pilbara Service was described as follows:

The Pilbara Service is an interruptible transportation service on the DBNGP where deliveries are within the Pilbara Zone (subject to available capacity).⁴²

76. On DBP’s website, the “Pilbara Zone” is identified as the zone between and inclusive of inlet point “I1-01” and main line valve “MLV31” as follows:

The Pilbara Service is an interruptible transportation service on the DBNGP where deliveries are within the Pilbara Zone (between I1-01 and MLV31 includes I1-01 and MLV31)).⁴³

77. DBP assessed the Pilbara Service against the reference service factors and determined that the service should be not be offered as a reference service (instead it should be offered as a non-reference service). DBP’s assessment is reproduced in Table 4.

Table 4: DBP’s assessment of the Pilbara Service against the reference service factors

Reference service factor (NGR 47A)	DBP assessment
Actual and forecast demand and number of prospective customers (rule 47A(15)(a))	Can be forecast Low customer numbers (8 in the current period)
Substitutability (rule 47A(15)(b))	Part Haul / Back Haul Reference Service is a suitable and close substitute
Feasibility of allocating costs (rule 47A(15)(c))	Difficult to allocate costs because it can be Part Haul one day and Back Haul the next
Usefulness in supporting negotiations and dispute resolution for other pipeline services (rule 47A(15)(d))	Limited use in its own right to support negotiations due to readily available substitutes (part haul and back haul)
Likely regulatory cost (rule 47(A)(15)(e))	High regulatory cost to specify a regulatory version of service which is substitutable with other reference services

Source: 2021-2025 Final Plan, Attachment 6.1: Pipeline Service and Reference Services Supporting Information, January 2020, p. 2.

78. In its submission, gasTrading submitted that it had noticed “an increasing preference for the Pilbara Service” despite DBP’s assessment “that the service has low revenues and customer numbers and is easily substituted with an alternate reference service (being a Part or Back haul).”⁴⁴ GasTrading further submitted that:

The Pilbara Service provides a valuable option for gas shippers to purchase gas from sellers with diverse supply portfolios and leverage the supply security offered by gas sellers who have access to multiple production locations whilst avoiding being locked

⁴² DBP, 2021-2025 Final Plan, January 2020, p. 53, Table 6.2.

⁴³ DBP, ‘Customer Access’ ([online](#)) (accessed May 2020).

⁴⁴ Gas Trading Australia Pty Ltd submission in response to issues paper, 30 March 2020, p. 12.

into a long-term arrangement. With the move to equity marketing shippers are being pushed to consider the use of the Pilbara Service.

The Pilbara Service also provides flexibility to participate more actively in short term or spot opportunities, a necessary precursor for the growth in a liquid spot and/or secondary market. With the continued development of spot gas markets, gas transport arrangements that are flexible, increase the ability of shippers to trade gas at different Inlet Points, knowing they have in place gas transport. ...

Finally, the Pilbara Service includes gas supply from the Perth Basin. With increasing production from the Perth Basin, and much of the growth in gas demand being in the Pilbara region, it is likely that customers will be seeking gas supply from the Perth Basin and gas producers in the Perth Basin, such as Mitsui, may like to provide gas from their portfolio of gas projects.

In GasTrading's view it is likely we will see increased demand for this service. Indeed, this service could become more common than point to point Part Haul or Back Haul services over the Access Period.⁴⁵

79. As stated in DBP's assessment of the Pilbara Service against the reference service factors, there are eight customers with a Pilbara Service in the current (AA4) period. GasTrading considered this number of customers, which represents 27 per cent of customers (based on an estimate of 30 unique shippers), was a reasonable basis for considering coverage of the service.⁴⁶
80. The ERA requested additional information from DBP about the Pilbara Service. DBP confirmed the following:

The Pilbara Service provides shippers with the ability to ship gas from any inlet point to any outlet point within a prescribed zone (the Pilbara, between and including I1-01 and MLV31)) for [REDACTED]. The service is priced at [REDACTED] (escalated from the 1 January price set out in the terms and conditions). When first established, the negotiated price was based on [REDACTED]. [REDACTED] The Pilbara Service has the same position in the curtailment plan as "other reserved services", making it less firm than reference services.

The Pilbara Service emerged to meet the needs of shippers responding to changing market dynamics in the Pilbara. With the entry of new gas producers in the Pilbara, shippers in the region could secure gas from different sources, which would require both part haul services and back haul services. In response to these market developments, the Pilbara Service was developed to reduce administrative complexity (one contract to replace a combination of part haul and back haul contracts) and provide the flexibility of a service that is less firm but with a lower associated fixed cost. Importantly, shippers in the Pilbara remain able to, and continue to, make use of part haul and back haul services where there is a requirement for firm services. The part haul and back haul reference services can therefore be viewed as substitutes for this service.⁴⁷

81. Actual and forecast demand and revenue for the Pilbara Service for AA4 and AA5, respectively, are shown in Table 5.
82. In the additional information provided to substantiate its assessment against the reference service factors, DBP noted that demand for the Pilbara Service had grown, but the quantum of revenue remained low relative to existing reference services. The growth in demand during 2018 to 2019 resulted from shippers moving from the firm part haul service and other reserved services to the Pilbara Service. With the

⁴⁵ Gas Trading Australia Pty Ltd submission in response to issues paper, 30 March 2020, pp. 13-14.

⁴⁶ Gas Trading Australia Pty Ltd submission in response to issues paper, 30 March 2020, p. 13.

⁴⁷ DBP, *Response to information request ERA15*, 5 June 2020.

transition between these services completed, demand for 2020 and beyond was forecast to remain stable at an average [REDACTED].⁴⁸

Table 5: Pilbara Service demand and revenue for AA4 and AA5

AA4	2016 (actual)	2017 (actual)	2018 (actual)	2019 (actual)	2020 (forecast)
Demand (avg TJ/day)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Revenue (\$ million)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
% of reference service equivalent revenue	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] (estimate)
AA5	2021 (forecast)	2022 (forecast)	2023 (forecast)	2024 (forecast)	2025 (forecast)
Demand (avg TJ/day)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Revenue (\$ million)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Source: DBP, Response to information request ERA15, 5 June 2020.

83. The ERA considered DBP's additional information and, having regard to the reference service factors set out in rule 47A(15) of the NGR, did not consider that the Pilbara Service should be offered as a reference service for AA5 for the following reasons.

Actual and forecast demand for the pipeline service

84. Average demand for the Pilbara Service is low when compared with the average demand for full haul, part haul and back haul services. As set out above, DBP forecasts average demand for the service during AA5 to be [REDACTED], with forecast revenue from the provision of the service being less than [REDACTED] per year.

Extent to which the pipeline service is substitutable

85. The Pilbara Service was designed as a substitute for part haul and back haul reference services in the Pilbara region of Western Australia (that is, the "Pilbara Zone"). DBP submitted that the service was therefore substitutable with part haul and back haul reference services. The ERA considered that, while shippers could substitute the Pilbara Service with separate part haul and back haul services, they were unlikely to do so, unless a firm transportation service was required.
86. As submitted by DBP, the Pilbara Service was introduced to meet the specific needs of shippers in the Pilbara region. Given this, the service is not necessarily substitutable as it provides unique benefits to these shippers. In particular, the Pilbara Service enables shippers to secure gas from different sources in the Pilbara Zone using flexible (less firm) part haul and back haul transportation services with a lower fixed cost under a single contract. Without the Pilbara Service, shippers would need to contract for separate part haul *and* back haul services, respectively, and pay the associated tariffs for each of these services. Based on these considerations the ERA considered that the extent to which the Pilbara Service is substitutable was somewhat limited.

⁴⁸ DBP, Response to information request ERA14, 5 June 2020.

Feasibility of allocating costs to the pipeline service

87. The Pilbara Service provides a flexible (less firm) alternative to the existing part haul and back haul reference services and is not charged on a distance basis. Unlike the part haul and back haul reference services, which are charged on a distance basis, the Pilbara Service is charged [REDACTED] (adjusted yearly in line with the Pilbara Service terms and conditions). DBP submitted that, given this pricing structure, it was not clear how pipeline costs could be allocated to the Pilbara Service.
88. The ERA considered that it was feasible for the costs for the Pilbara Service to be allocated given that the demand and costs for providing the service can be reasonably forecast. The Pilbara Service is essentially a hybrid of the existing part haul and back haul reference services which, as reference services, must have reference tariffs that are determined in accordance with the requirements of the NGR. The overarching requirement of the NGR is that when reference tariffs are determined and reviewed, the tariffs should be based on the efficient cost (or anticipated efficient cost) of providing the associated reference services.⁴⁹ The base costs for providing part haul and back haul services are therefore known, which can be used as a basis to determine and allocate costs for the Pilbara Service. Once allocated, the costs can be used to determine an associated reference tariff for the service.

Usefulness as a reference service for access negotiations and dispute resolution

89. The Pilbara Service is derived from the part haul and back haul reference services. As such, the terms and conditions for the service have been derived from the terms and conditions for the part haul and back haul reference services and are limited in their usefulness for access negotiations and dispute resolution.

Likely regulatory costs for all parties

90. Given the relatively low demand for, and revenue received from, the Pilbara Service, the likely regulatory costs as a result of specifying the service as a reference service would exceed any benefits. As firm substitutes for the Pilbara Service, the part haul and back haul reference services place a constraint on the price that can be paid for Pilbara services. For AA4, the Pilbara Service accounted for less than [REDACTED] of reference service equivalent revenue. For AA5, DBP forecast an average of [REDACTED] of revenue per year from the Pilbara Service, which accounts for [REDACTED] of forecast reference service equivalent revenue for AA5.⁵⁰

Rebateable services

91. In May 2020, DBP advised the ERA that it had completed contract renegotiations with shippers. The renegotiations affected the demand and pipeline services information previously provided by DBP in its Final Plan. Concerning changes to pipeline services, DBP advised that some shippers would now use the Peaking Service during AA5 and that this service should be specified as a *rebateable service*. DBP submitted:

In our Final Plan, we did not propose any services as rebateable services. However, as set out above, since the submission of our Final Plan we have finalised a renegotiation of contractual arrangements with [REDACTED] shippers. [REDACTED]

⁴⁹ See Division 8 (Tariffs) of the National Gas Rules.

⁵⁰ Based on DBP's updated forecast of reference service revenue. DBP, 'Information Requests – ERA17 to ERA20', [email] 29 May 2020.

manner which is consistent with the way they are allocated for other reference services.⁵²

94. The ERA considered that, on balance, DBP's assessment of the Peaking Service against the reference service factors supported the continuation of the service as a non-reference service for AA5. The ERA also considered that DBP's proposal to specify the Peaking Service as a *rebateable service* was consistent with the requirements of the NGR for rebateable services.
95. Consistent with DBP's proposal and the ERA's decision to include the Peaking Service as a rebateable service for AA5, the ERA required DBP to include the Peaking Service as a non-reference service and to include a description of the service in clause 3 of the revised access arrangement (similar to the description provided for the Spot Capacity Service at clauses 3.6(a) and (b)). The draft decision set out the following required amendment:

Draft Decision Required Amendment 6

Consistent with [Draft Decision] Required Amendment 4, DBP must amend clause 3 of the proposed revised access arrangement to include a reference to, and a description of, the Peaking Service, which is a non-reference service that is to be specified as a rebateable service for AA5 pursuant to rule 94(4) of the NGR.

96. The ERA further considered the allocation of costs for the Peaking Service as a rebateable service as part of its considerations of the allocation of total revenue.⁵³ The rebate mechanism for the Peaking Service, which will rebate a portion of the revenue generated from the service to reduce reference tariffs, was considered as part of the ERA's considerations of the reference tariff variation mechanism.⁵⁴

DBP's response to the draft decision

97. DBP accepted the ERA's draft decision required amendments 2, 4, 5 and 6 (reproduced in Table 6) to amend the access arrangement to address the matters concerning the identification and description of pipeline services. DBP's revised proposed amendments included:
- Amendments to clause 3 (Pipeline Services) and 16 (Definitions) of the revised access arrangement to include only the pipeline services that can be provided as individual (stand-alone) services (that is, there are no references to the Seasonal Service, Metering and Temperature Service and Odourisation Service).
 - Amendments to clause 3 (Pipeline Services) of the revised access arrangement to include descriptions of the reference and non-reference services that are listed in clause 3.1.
 - An amendment to the information for the Spot Capacity Service in clause 3.6(b)(ii) of the revised access arrangement to correct a cross referencing error.

⁵² DBP, 'Demand and Services Update', [email] 22 May 2020, Attachment: Further information on our demand and services, p. 7.

⁵³ ERA, *Draft decision on proposed revisions to the Dampier Bunbury Pipeline access arrangement 2021 to 2025*, 14 August 2020, pp. 257-261, paragraphs 1176-1191.

⁵⁴ ERA, *Draft decision on proposed revisions to the Dampier Bunbury Pipeline access arrangement 2021 to 2025*, 14 August 2020, pp. 268-276, paragraphs 1217-1238.

- An amendment to clause 3 (Pipeline Services) of the revised access arrangement to include a reference to, and description of, the Peaker Service (previously referred to as the “Peaking Service”).⁵⁵

Table 6: ERA’s draft decision required amendments 2, 4, 5 and 6

ERA draft decision required amendment

Draft Decision Required Amendment 2

DBP must amend the access arrangement information to clarify the pipeline services that are available to prospective users by deleting references to the Seasonal Service, Metering and Temperature Service and Odourisation Service, which are services that exist within the contractual rights of reference services and cannot be provided as individual (stand-alone) pipeline services.

The term “Seasonal Service” in clause 16 (Definitions) of the proposed revised access arrangement must also be deleted

Draft Decision Required Amendment 4

DBP must amend the pipeline services information in clause 3 of the access arrangement to include descriptions of the reference and non-reference services that are listed in clause 3.1 (as per the statement in clause 3.2 of the proposed revised access arrangement).

The list of non-reference services in clause 3.1(b) must include the Pilbara Service, Storage Service and Peaking Service (in addition to the non-reference services already listed in the proposed revised access arrangement).

Draft Decision Required Amendment 5

DBP must amend the information for the Spot Capacity Service in clause 3.6(b)(ii) of the proposed revised access arrangement to correct a referencing error by deleting the reference to “clause 5.3(g)(i)” and replacing it with a reference to “clause 3.6(b)(iv)”.

Draft Decision Required Amendment 6

Consistent with Required Amendment 4, DBP must amend clause 3 of the proposed revised access arrangement to include a reference to, and a description of, the Peaking Service, which is a non-reference service that is to be specified as a rebateable service for AA5 pursuant to rule 94(4) of the NGR.

Source: ERA, *Draft decision on proposed revisions to the Dampier Bunbury Pipeline access arrangement 2021 to 2025*, 14 August 2020, p. iii.

98. DBP rejected the ERA’s draft decision required amendment 3 to include a trigger event in the access arrangement to provide for the acceleration of the review submission date if a gas transportation agreement requires a re-direction of the flow of gas through the DBNGP. DBP submitted:⁵⁶

In considering gas market developments in Western Australia that might result in a change in direction of the flow of the DBNGP, we have not accepted the ERA’s proposed trigger mechanism. We outline proposed alternatives in discussing the access arrangement document and rebateable non-reference services.

99. DBP’s revised proposal to address the matters concerning gas development projects, as raised by interested parties in submissions and the ERA’s draft decision, was to

⁵⁵ DBP’s Final Plan, and consequently ERA’s draft decision, refer to the “Peaking Service”. DBP has in its Revised Final Plan renamed the Peaking Service as the “**Peaker Service**” to align with the terminology used in negotiated contracts with shippers.

⁵⁶ DBP, *2021-2025 Revised Final Plan, Attachment 1.5: Required Amendments*, October 2020, amendment number 3.

introduce a new rebateable non-reference service – the Ullage Service.⁵⁷ DBP submitted that this new service would avoid the need for a trigger event (as required by the ERA’s draft decision required amendment 3) for the following reasons:

- (a) As a non-reference rebateable service, if the proposed Ullage Service is provided during AA5, there will be no requirement for consequential amendment to the Access Arrangement to account for the revenue received from, or to specify the terms of, the provision of such service and therefore no need to accelerate the review submission date.
- (b) The rebate under NGR 93(3) will be automatically applied by the tariff variation mechanism (see Attachment 13.2 and Access Arrangement Document mark-ups).
- (c) The proposed Ullage Service has now been identified and described in the revised Access Arrangement as a non-reference pipeline service that may be offered.⁵⁸

100. DBP’s assessment of the proposed Ullage Service is detailed in Attachment 6.2 of DBP’s Revised Final Plan.⁵⁹ Based on this assessment, DBP submitted that the Ullage Service should be specified as a *non-reference service* (as opposed to a reference service). Furthermore, based on its assessment of total revenue allocation and rebateable services, DBP submitted that the Ullage Service should be further specified as a non-reference *rebateable* service.⁶⁰

101. DBP’s preferred approach to address the ERA’s draft decision required amendment 3 is to remove the need for a trigger event. However, DBP submitted that if the ERA concludes that a trigger event is still required, the trigger event must be redrafted as follows:⁶¹

[Definition of “Trigger Event” in clause 16 of the access arrangement]

Trigger Event means that all of the following have occurred (the date on which the Trigger Event occurs being the date on which the last of the following occur):

- (a) the Operator has executed a binding agreement for transport of gas from the Perth Basin through the DBNGP and that agreement has become unconditional;
- (b) the Operator determines (acting reasonably) that there is a real and not fanciful risk that performance of the agreement described in (a) will result in a re-direction of the flow of gas through the DBNGP in a manner that significantly changes the operation of the DBNGP, prior to 1 January 2026; and
- (c) gas transportation begins to occur under the agreement in (a).

[Clauses 14.2 to 14.7 of the access arrangement]

⁵⁷ DBP’s proposed description of the Ullage Service is set out in new clause 3.7(d) of the revised proposed access arrangement as: “A service for ullage to the Karratha gas plant from the Perth basin for variable contracted capacity and term, with specific conditions relating to reliability of service and behaviour charges (subject to available capacity).”

⁵⁸ DBP, *2021-2025 Revised Final Plan, Attachment 14.1B: Response to Draft Decision on Pipeline Access*, October 2020, p. 12.

⁵⁹ DBP, *2021-2025 Revised Final Plan, Attachment 6.2: Pipeline and Reference Services (Confidential)*, October 2020.

⁶⁰ DBP, *2021-2025 Revised Final Plan, Attachment 13.2: Allocation of total revenue (Confidential)*, October 2020.

⁶¹ DBP, *2021-2025 Revised Final Plan, Attachment 14.1B: Response to Draft Decision on Pipeline Access*, October 2020, pp. 13-16.

Revision and Commencement Date

...

- 14.2 Subject to clauses 7.4(d) and 14.4, the review submission date for the Current Access Arrangement is 1 January 2025.
- 14.3 Subject to clause 14.5, the revision commencement date for the Next Access Arrangement is 1 January 2026.
- 14.4 If the Trigger Event occurs prior to 1 May 2023, the review submission date determined under clause 14.2 shall be accelerated and brought forward to the date which is 14 months after the Trigger Event.
- 14.5 If the review submission date determined under clause 14.2 is accelerated and brought forward pursuant to either of clauses 7.4(d) or 14.4, then the revision commencement date for the Next Access Arrangement is accelerated and brought forward to a date which is 12 months after the accelerated and brought forward review submission date.
- 14.6 For the avoidance of doubt, in no case can clause 7.4(d) or clause 14.4 result in the review submission date being delayed to a date later than the pre-existing review submission date.
- 14.7 The Operator must notify the Regulator of the occurrence of each of (a), (b) and (c) of the definition of Trigger Event (in clause 16).
102. Further to accepting draft decision required amendments 2, 4, 5 and 6, and addressing draft decision required amendment 3, DBP proposed to specify the Pilbara Service and Other Reserved Service as additional non-reference rebateable services in the access arrangement for AA5.

Submissions to the ERA

103. Several submissions in response to the ERA's issues paper addressed the matter of pipeline and reference services and were considered as part of the ERA's draft decision.⁶² In particular, WesCEF and gasTrading both suggested that the access arrangement should include additional reference services.
- WesCEF submitted that the Spot Capacity Service should become a reference service under the access arrangement.⁶³
 - GasTrading submitted that it had noticed an increase in demand for the Pilbara Service and was of the view that demand would continue to increase, which could make the Pilbara Service more common than point-to-point part haul or back haul services over the access arrangement period.⁶⁴
104. GasTrading further submitted that, while the development of gas projects in Western Australia was generally good for the availability of domestic gas, such projects could raise concerns for the DBNGP access arrangement. One such gas project included the proposal to export gas via the North West Shelf joint venture. In support of its submissions concerning the North West Shelf, gasTrading provided additional information, including three gas flow scenarios covering: (1) existing gas arrangements; (2) a situation where the North West Shelf ceases producing domestic

⁶² Submissions in response to the issues paper from WesCEF, gasTrading, CPM and AGIG.

⁶³ Wesfarmers Chemicals, Energy & Fertilisers Ltd submission in response to issues paper, 30 March 2020, p. 8.

⁶⁴ Gas Trading Australia Pty Ltd submission in response to issues paper, 30 March 2020, pp. 13-14.

gas; and (3) a situation where the North West Shelf ceases production and becomes a gas consumer of domestic gas for conversion to LNG for export.⁶⁵

105. While CPM was primarily concerned with the proposed terms and conditions for reference services rather than the proposed reference services themselves, CPM (like gasTrading) referred to the increasing possibility of bi-directional gas flows on the DBNGP to accommodate gas projects taking place in the north-west of Western Australia.⁶⁶

106. AGIG's submission in response to the ERA's issues paper advised of DBP's ongoing engagement with customers and stakeholders, including the continuation of shipper roundtable meetings. The most recent roundtable meeting presentation and responses to questions raised by shippers at the meeting were provided as Attachments B and C to AGIG's submission, respectively.⁶⁷ These documents:

- Reiterated DBP's proposal to continue with the reference services that are currently offered, being the T1, P1 and B1 Services.
- Confirmed the direction of gas flows on the DBNGP and effect on tariffs. In particular:

[AGIG's] demand forecasts and assumed pipeline use for 2021 to 2025 period are based on actual information provided by our Shippers, with a focus on current contractual arrangements in place.

The DBNGP already has bi-directional capabilities, in sections of the pipeline, which are used to manage flows from upstream producers in ad hoc instances when operationally required to meet our obligations to deliver each Shipper's contracted capacity. AGIG has not proposed any forecast capex in AA5 specifically related to bi-directional flow of the pipeline.

...

In terms of the tariff impact of bi-directional flows, the regulated tariffs are the same for full haul, part haul and back haul on a per km basis. In other words, they do not relate to physical flows but instead are a fair and equitable way of dividing up the regulated revenues by Shipper. Therefore, there would be no reason to change the tariff principles just because physical flows change.⁶⁸

107. In response to the ERA's draft decision, submissions from Mitsui, Beach Energy, CPM and gasTrading addressed matters relating to pipeline and reference services.

108. Mitsui and Beach Energy (as equal participants in the Waitsia Joint Venture) both supported DBP's revised proposal to include the new Ullage Service as a non-reference rebateable service for AA5. These parties submitted the following reasons why the proposed service should *not* be specified as a reference service:

- the opportunity for WJV [Waitsia Joint Venture] to backfill the Karratha Gas Plant is limited to a specified, government approved period and volume;

⁶⁵ Gas Trading Australia Pty Ltd submission in response to issues paper, 30 March 2020, pp. 20-31 (Attachment 2).

⁶⁶ CITIC Pacific Mining Management Pty Ltd submission in response to issues paper, 31 March 2020, p. 3.

⁶⁷ Australian Gas Infrastructure Group submission in response to ERA issues paper, 31 March 2020 – Attachment B: Shipper Roundtable #10, 25 March 2020, slide 9 and Attachment C: Shipper Roundtable #10 Issues Response Paper, March 2020, p. 2.

⁶⁸ Australian Gas Infrastructure Group submission in response to ERA issues paper, 31 March 2020, Attachment B: Shipper Roundtable #10, 25 March 2020, slide 9; and Attachment C: Shipper Roundtable #10 Issues Response Paper, March 2020, p. 2.

- the proposed Ullage Service contains elements that are unique to the WJV and reflects the specific requirements of the WJV (as the Shipper) and the Karratha Gas Plant (as the end user);
- the WJV has been requested to fund certain capital works (as shipper-funded works) to enable the Ullage Service to be performed and those works are specific to the unique nature of the Ullage Service; and
- [Mitsui / Beach] believes it is in the interests of all shippers on the DBNGP that the proposed Ullage Service proceeds as it promotes the efficient operation and use of the DBNGP, increases the security of supply of natural gas and will benefit Shippers by lowering the Reference Tariffs.^{69, 70}

109. Noting the ERA's draft decision considerations concerning gas development projects in the north west, CPM submitted that:

There is now evidence to confirm a change in the direction of gas flows is occurring and northern flows are 'expected' to grow in the future. That evidence is the recent announcement by the Beach AWE (Mitsui) JV on their plans to toll Waitsia gas through the North West Shelf (NWS) LNG production facilities, in addition; actual flow directions in the north part of the DBNGP (loop and main lines) are currently being impacted by reduced volumes being delivered into the DBNGP by the NWS with gas now believed to be flowing north rather than south. For clarity, this submission is not seeking to change the positions taken in the Draft Decision or to amend any further T&Cs to address gas flow directions, as CPM is comfortable with the P1 and B1 structures and how they operate, CPM is simply pointing out that there appear to have been a number of decisions made by the Authority that were based on not having evidence to support a change in flow direction and that such may or may not now be relevant when developing the Authorities Final Decision and will most likely have been known by AGIG on them providing their Revised Final Plan.⁷¹

110. While gasTrading was supportive of the ERA's draft decision required amendment 3 (requiring the inclusion of a trigger event), it submitted that:

DBP's proposal to include the "Ullage Service" as a non-reference rebateable service is a superior outcome as it provides Shippers with certainty for the Access Arrangement Period that significant non-reference revenue received by DBP will be considered through the rebate mechanism.⁷²

111. However, gasTrading recommended further amendments to DBP's proposed Ullage Service to make it less prescriptive, and amendments to other shipper contracts to clarify the use of the word "downstream", which is ambiguous with a bidirectional pipeline. GasTrading submitted:

Whilst gasTrading recognises that currently only Waitsia has approval to export onshore gas as LNG, it is not incomprehensible that a similar service be used for other onshore gas reserves or for other LNG export projects. The service is also not a "ullage service" for ullage related to DBNGP. In the interest of robustness and of market clarity, gasTrading would propose to define the service as such:

"LNG Export Service: A service for transport of gas to an LNG export project with specific conditions related to the export of pipeline gas as LNG."

⁶⁹ Mitsui E&P Australia Pty Ltd submission in response to draft decision, 2 November 2020.

⁷⁰ Beach Energy Ltd submission in response to draft decision, 2 November 2020.

⁷¹ CITIC Pacific Mining Management Pty Ltd submission in response to draft decision, 4 November 2020, p. 2.

⁷² Gas Trading Australia Pty Ltd submission in response to draft decision, 4 November 2020, p. 2.

gasTrading agrees the “ullage service” is most likely a non-reference service... Given the Western Australian Premier’s comments regarding the Waitsia Stage 2 Project and the State’s Domestic Gas Policy, we are further convinced.⁷³

...

The inclusion of the “ullage service” proposed by DBP needs to carefully consider the impact on contractual clauses in other Shipper contracts as gas flow from CS1 to KGP will be predominantly north in one or both of the DBP pipelines based on the announcements by Beach Energy and known gas flows north of CS1.

The current definition of Back Haul is:

“Back Haul means a pipeline service where the inlet point for acceptance of gas into the DBNGP from the customer is downstream of the outlet point for delivery of gas to the customer.”

In the above definition downstream is not defined, but it could be interpreted to be a point that is “south of the inlet”. However, in the case that the “Ullage Service” proceeds, as per gasTrading’s previous submission, “downstream” may well be north of the inlet.⁷⁴

112. GasTrading also commented on the availability of pipeline service contracts and that DBP should be required to make available on its website sample contracts for all commonly used services.⁷⁵

113. Wesfarmers Energy (Gas Sales) Ltd (WEGS) considered that the Peaking Service (now referred to as the Peaker Service – see footnote 55) may be considered as a reference service when the contribution of the service to pipeline costs was considered. WEGS submitted:

While the Peaking Service may not necessarily be classified yet as a Reference Service, the estimated contracted capacity under this service should be counted as if it were equivalent to the capacity and throughput for each relevant reference service on the pipeline so that the users of the Peaking Service equally share the costs of providing services on the pipeline with Reference Service users. This would ensure consistency with Rule 93 of the NGR. WEGS would however agree to AGIG’s point that, should this service be included in the forecasted demand, AGIG should not be required to rebate the revenues derived from this service to its Reference Service customers.⁷⁶

114. WEGS further considered that a similar argument applies to the proposed Pilbara Service.

115. The ERA has considered the specific matters raised in each of the above submissions as part of its assessment below.

ERA assessment

116. DBP accepted draft decision required amendments 2, 4, 5 and 6.

- Draft decision required amendment 2
 - DBP has removed references to the Seasonal Service, Metering and Temperature Service and Odourisation Service in the access arrangement

⁷³ Gas Trading Australia Pty Ltd submission in response to draft decision, 4 November 2020, pp. 7-8.

⁷⁴ Gas Trading Australia Pty Ltd submission in response to draft decision, 4 November 2020, p. 8.

⁷⁵ Gas Trading Australia Pty Ltd submission in response to draft decision, 4 November 2020, p. 2.

⁷⁶ Wesfarmers Energy (Gas Sales) Limited submission in response to draft decision, 4 November 2020, p. 9.

so that only pipeline services that can be provided as individual pipeline services are listed in clause 3.1 of the access arrangement.

- Draft decision required amendment 4
 - DBP has included descriptions of each of the pipeline services listed in clause 3.1 in clauses 3.3 to 3.7 of the access arrangement.
 - Draft decision required amendment 5
 - DBP has amended clause 3.6(b)(ii) of the access arrangement to delete and replace the cross reference to “clause 5.3(g)(i)” with a cross reference to “clause 3.6(b)(iv)”.
 - Draft decision required amendment 6
 - Consistent with draft decision required amendment 4, DBP has amended clause 3 of the access arrangement to include a reference to, and description of, the Peaker Service, which is to be specified a non-reference service rebateable service for AA5.
117. There were no submissions from interested parties on DBP’s revised proposal to accept draft decision required amendments 4 and 5. Given this, the ERA maintains its draft decision positions concerning the matters that needed to be addressed. The ERA considers that DBP’s revised proposal implements the required amendments as intended, and that the amendments are consistent with the requirements of the NGR for pipeline and reference services.⁷⁷
118. There were no submissions from interested parties on DBP’s revised proposal to accept draft decision required amendment 2. However, the ERA has further considered the required amendment to remove reference to the Seasonal Service, Metering and Temperature Service and Odourisation Service from the access arrangement and considers that this would be inconsistent with the requirements for DBP to specify all pipeline services in the access arrangement.⁷⁸
119. As noted at paragraph 17, pipeline services are defined in the NGL to include a service ancillary to the provision of haulage services. DBP noted that the Seasonal Service, Metering and Temperature Service and Odourisation Service were ancillary services.⁷⁹ There is no requirement that pipeline services must be stand-alone or that they cannot be ancillary to other pipeline services. As a result, the ERA considers that draft decision required amendment 2 should be withdrawn and these services should be included in the access arrangement as ancillary pipeline services.
120. As these services are included as pipeline services, an assessment against the reference service factors is required.⁸⁰ The ERA has reviewed the Seasonal Service, Metering and Temperature Service and Odourisation Service against the reference service factors and considers that these services should be specified as non-reference ancillary services given that there was no actual or forecast demand for the services and the likely regulatory costs would be disproportionate to any benefit.
121. Related to draft decision required amendments 2 and 4, gasTrading submitted that:

⁷⁷ Rules 48(1)(b), (c) and (d) of the NGR.

⁷⁸ Rule 48(1)(b) of the NGR.

⁷⁹ DBP, *Response to information request ERA13*, 5 June 2020.

⁸⁰ Rule 48(1)(c)

In the interest of an efficient market, and transparency, DBP should be required to make available on its website example contracts for all “common” services. Currently DBP only makes available the Standard Shipper Contract (not the Reference Service Contracts). DBP does not make available the Pilbara Service, Peaking Service, Pipeline Impact Agreement, Inlet Sales Agreement, Data Services, Storage Service or Operational Balancing Agreement.

Whilst we recognise some of these will be bespoke, a standard/template contract should be made available, especially for services like the Reference Service Contracts, the Pilbara Service and Inlet Sales Agreement which are widely used and almost standard amongst shippers.⁸¹

122. While ERA considers that the public availability of ‘standard/template contracts’ for all pipeline services would be beneficial for prospective and existing shippers, the ERA cannot require DBP to make such contracts available. The provisions of the NGR only require DBP to specify for each reference service the terms and conditions on which each reference service will be provided (rule 48). The reference services for AA5 are the T1, P1 and B1 Services, with the terms and conditions for these services provided as attachments to the access arrangement.
123. In response to the ERA’s draft decision and DBP’s revised proposal, WEGS addressed the proposed Peaker Service (draft decision required amendment 6), which will be specified as a non-reference rebateable service for AA5. The ERA has considered the submissions made by WEGS at paragraph 170.
124. DBP rejected draft decision required amendment 3, which required the inclusion of a trigger event to provide for the acceleration of the review submission date if a gas transportation agreement requires a re-direction of the flow of gas through the DBNGP. DBP instead proposed revised amendments to the access arrangement to address the matters raised in the draft decision. The ERA has considered DBP’s revised amendments to address the requirement for a trigger event at paragraph 126.
125. Further to DBP’s revised amendments to address the requirement for a trigger event, DBP proposed to specify the Pilbara Service and Other Reserved Service, both of which are classified as non-reference services in the revised access arrangement, as *rebateable services* for AA5. The ERA has considered DBP’s revised proposal for additional rebateable services at paragraph 163.

Requirement for a trigger event

126. DBP submitted that its revised proposed amendments to the access arrangement to establish a new non-reference rebateable service – the “Ullage Service” – made the ERA’s requirement for a trigger event unnecessary.

Proposed Ullage Service

127. The proposed Ullage Service is described in revised new clause 3.7 of the access arrangement as: “A service for ullage to the Karratha gas plant from the Perth basin for variable contracted capacity and term, with specific conditions relating to reliability of service and behaviour charges (subject to available capacity).”
128. DBP submitted that it did not include an Ullage Service in its Final Plan because, as identified by the ERA in the draft decision, the scenarios leading to such a service were based on projects with uncertain timing. However, since the publication of the

⁸¹ Gas Trading Australia Pty Ltd submission in response to draft decision, 4 November 2020, p. 2.

draft decision the Western Australian Government has made a public statement concerning gas projects.⁸² Given this statement, which provides support for the Waitsia Stage 2 project to proceed, and that the matter was raised in submissions to the ERA and subsequently addressed in the ERA’s draft decision, DBP considered it now appropriate to address the issue in its revised proposal.

129. Based on its assessments, DBP has submitted that the proposed Ullage Service should be included in the access arrangement as a non-reference service (instead of a reference service). DBP further submitted that, as a non-reference service, the Ullage Service should be specified as a *rebateable* service for AA5.⁸³
130. Several submissions in response to the draft decision and DBP’s revised proposal addressed the proposed Ullage Service (as set out at paragraph 107 and following):
 - Submissions from Mitsui and Beach Energy (as equal participants in the Waitsia Joint Venture) supported DBP’s assessment of the Ullage Service as a non-reference rebateable service.
 - GasTrading also supported the proposed Ullage Service, noting that it was a “superior outcome” to the ERA’s proposed trigger event. However, gasTrading recommended further amendments to the way the service was defined.
 - CPM acknowledged the recent announcements concerning the Waitsia Stage 2 project, which it submitted was evidence that confirmed changes to the direction of gas flow on the DBNGP.

Background to the Ullage Service

131. In its revised proposal, DBP confirmed that it has been in discussions with a prospective shipper about a gas development project that requires a pipeline service on the DBNGP to deliver gas from the Perth Basin to the Karratha Gas Plant. DBP refers to the required service as the “proposed Ullage Service” (or “Ullage Service”).
132. The proposed Ullage Service will be a specific pipeline service designed to meet the requirements of the end user. DBP submitted:

[Redacted text block containing multiple lines of blacked-out content]

⁸² Government of Western Australia media statement, 17 August 2020, ‘Revised policy to secure domestic gas supply and create jobs’ ([online](#)) (accessed October 2020).

⁸³ DBP, *2021-2025 Revised Final Plan, Attachment 6.2: Pipeline and Reference Services (Confidential)*, October 2020, p. 1.

[REDACTED]

[REDACTED]

[REDACTED]⁸⁴

133. DBP further submitted that the Ullage Service takes into account the State Government's *Domestic Gas Policy*, which states that "the Western Australian Government will not agree to export of gas via the WA pipeline network other than in exceptional circumstances".⁸⁵ However, recent announcements have confirmed "in-principle support to allow the Waitsia project in the Mid-West to fill available capacity at the Karratha Gas Plant and export some of its gas as LNG for a short period of time."⁸⁶

Assessment against reference service factors

134. DBP assessed the proposed Ullage Service against the reference service factors detailed in rule 47A(15) of the NGR (and reproduced at paragraph 20 of this paper). Based on its assessment, DBP submitted that the service should not be specified as a reference service for AA5. Rather, the Ullage Service should be specified as a non-reference service.
135. The ERA has considered DBP's assessment of the proposed Ullage Service against each of the reference service factors below (paragraphs 138 to 149). On balance, the ERA considers that DBP's assessment of the Ullage Service against the reference service factors supports the specification of the service as a non-reference service for AA5.
136. Further to considering the reference service factors, the ERA has considered gasTrading's recommendation for the definition of the Ullage Service to be less prescriptive and redefined as:

LNG Export Service: A service for transport of gas to an LNG export project with specific conditions related to the export of pipeline gas as LNG.⁸⁷

137. GasTrading submitted that while it "recognises that currently only Waitsia has approval to export onshore gas as LNG, it is not incomprehensible that a similar service be used for other onshore gas reserves or for other LNG export projects." The ERA considers that, while this may be the case, it is unlikely that there will be other LNG export projects during the access arrangement period (AA5) given the State Government's revised *Domestic Gas Policy*, and that the approval for the Waitsia Stage 2 project was announced as "in-principle support ... to export some of its gas as LNG for a short period of time."⁸⁸ For these reasons, the ERA considers that there is no real benefit to redefining DBP's proposed Ullage Service, even though (as highlighted by gasTrading) 'ullage' in this instance is actually referring to ullage at the Karratha Gas Plant.

⁸⁴ DBP, *2021-2025 Revised Final Plan, Attachment 6.2: Pipeline and Reference Services (Confidential)*, October 2020, pp. 1-2.

⁸⁵ Government of Western Australia, Department of Jobs, Tourism, Science and Innovation, 'WA Domestic Gas Policy' ([online](#)) (accessed October 2020).

⁸⁶ Government of Western Australia media statement, 17 August 2020, 'Revised policy to secure domestic gas supply and create jobs' ([online](#)) (accessed October 2020).

⁸⁷ Gas Trading Australia Pty Ltd submission in response to draft decision, 4 November 2020, p. 8.

⁸⁸ Government of Western Australia media statement, 17 August 2020, 'Revised policy to secure domestic gas supply and create jobs' ([online](#)) (accessed October 2020).

Actual and forecast demand for the Ullage Service

138. DBP submitted that the Ullage Service was likely to be a service that was limited to a single shipper for the following reasons:

- the ullage opportunity that exists is limited in terms of volume and term;
- the service is bespoke and has been tailored to the requirements of the particular producer and end-user which are specific to their circumstance; and
- the Western Australian Government's revised Domestic Gas Policy has all but ruled out any other potential export of gas from Western Australia via the state's pipeline network.⁸⁹

139. DBP further submitted that demand for the service was difficult to quantify because of factors that cannot be controlled by the prospective shipper and/or DBP. Specifically:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁹⁰

140. The announcements concerning Western Australia's Domestic Gas Policy confirm that the number of prospective users of the Ullage Service will be limited. As submitted by DBP, the limited availability of the service and uncertainty in demand for the service supports the specification of the service as a non-reference service in the access arrangement.

Extent to which the Ullage Service is substitutable

141. DBP submitted that the Ullage Service was notionally like a back haul service. However, because of the following factors the Ullage Service has no direct substitute:

- The Ullage Service will from time to time require the actual physical flow of natural gas north of [REDACTED]
- The Ullage Service is expected to require capital works, which will be requested to be funded by the prospective shipper.
- The Ullage Service will include specific features to allow the service to be responsive to the temporary opportunity to export gas under Western Australia's Domestic Gas Policy.

142. While there is no direct substitute, DBP submitted that the prospective shipper may be able to negotiate bilateral gas swaps with other upstream producers and/or shippers. Given this, a market substitute for the Ullage Service was available.⁹¹

143. The ERA considers that, as submitted by DBP, bilateral gas swaps could be negotiated by the prospective shipper to meet its operational needs on any given day.

⁸⁹ DBP, 2021-2025 Revised Final Plan, Attachment 6.2: Pipeline and Reference Services (Confidential), October 2020, p. 3.

⁹⁰ DBP, 2021-2025 Revised Final Plan, Attachment 6.2: Pipeline and Reference Services (Confidential), October 2020, p. 3.

⁹¹ DBP, 2021-2025 Revised Final Plan, Attachment 6.2: Pipeline and Reference Services (Confidential), October 2020, p. 3.

While this market substitute is available, it is unlikely to be a sufficient substitute to sustain the prospective shipper's ongoing operational needs.

Feasibility of allocating costs to the Ullage Service

144. DBP submitted that capital works to the DBNGP were required to provide the Ullage Service and that these capital works would be treated as a shipper-funded project, with the associated capital costs paid for directly by the prospective shipper. DBP further submitted that "there will be shared costs with other services which cannot be allocated directly to the proposed Ullage Service".⁹² DBP considered how to address the allocation of these shared costs as part of its proposal to specify the Ullage Service as a rebateable service (see paragraph 151 of this paper).
145. The ERA considers that it may be feasible to allocate some costs for shared infrastructure to the Ullage Service given that the service will use existing pipeline infrastructure that is used to provide other pipeline services. As submitted by DBP, the Ullage Service is notionally like a back haul service. The base costs for providing back haul services are known and could be used as a basis to determine and allocate costs for the Ullage Service.

Usefulness in supporting negotiations and dispute resolution

146. While the Ullage Service is like a back haul service, DBP submitted that the service included specific and unique features that were required by the end user. The terms and conditions for the Ullage Service are therefore limited in their usefulness for access negotiations and dispute resolution.⁹³
147. The submissions from Mitsui and Beach Energy confirmed that the Ullage Service contained elements that were unique to the Waitsia Joint Venture. Given the specific requirements of the shipper (Waitsia Joint Venture) and end-user (Karratha Gas Plant), the ERA considers that any terms and conditions for the service will be limited in their usefulness in supporting access negotiations and dispute resolution for other pipeline services.

Likely regulatory costs

148. DBP submitted that the likely regulatory costs in specifying the Ullage Service as a reference service would exceed any benefits for the following reasons:
- There are substitutable services available (for example, back haul services and bilateral gas swaps) so there is no incremental benefit in having regulatory oversight of the Ullage Service.
 - The end use market is temporary because the ullage opportunity at the Karratha Gas Plant exists only for a limited period.
 - Given the Western Australian Domestic Gas Policy, there are unlikely to be any additional shippers seeking to use the Ullage Service.

⁹² DBP, *2021-2025 Revised Final Plan, Attachment 6.2: Pipeline and Reference Services (Confidential)*, October 2020, pp. 3-4.

⁹³ DBP, *2021-2025 Revised Final Plan, Attachment 6.2: Pipeline and Reference Services (Confidential)*, October 2020, p. 4.

149. DBP further submitted that the costs of regulation were likely to be high because of the specific and unique service features of the Ullage Service, which were materially different to the reference service contracts.⁹⁴
150. As a reference service, the Ullage Service would need to have reference terms and conditions and a reference tariff. As submitted by DBP, the Ullage Service has specific and unique service features, which would need to be incorporated into the terms and conditions and tariff. The likely regulatory costs for all parties to develop these components would exceed the likely benefit in having the Ullage Service as a reference service, given that the service is currently restricted in its use to a single shipper and is forecast to operate for a limited period of time.

Specification as a rebateable service

151. DBP submitted that, further to the proposed Ullage Service being specified as a non-reference service in the access arrangement, the service should be specified as a non-reference *rebateable* service.
152. Rule 93 of the NGR sets out the requirements for the allocation of total revenue and costs between reference services and other services, including rebateable services. Rule 93(4) states that a pipeline service is a rebateable service if:
- (a) the service is not a reference service; and
 - (b) substantial uncertainty exists concerning the extent of the demand for the service or of the revenue to be generated from the service.
153. DBP submitted that the Ullage Service meets the criteria to be a rebateable service given the following circumstances:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁹⁵

154. The ERA considers that, given the nature of the proposed Ullage Service and unique circumstances surrounding the availability and usage of the service, there is substantial uncertainty concerning the extent of demand for the service and/or the revenue to be generated from the service. DBP's proposal to specify the Ullage Service as a non-reference rebateable service is therefore consistent with the requirements of the NGR for rebateable services.
155. As submitted by DBP, rule 93(3) of the NGR permits the allocation of the costs of providing rebateable services to reference services if there is a mechanism, to apply an appropriate portion of the revenue generated from the sale of rebateable services, to reduce the reference tariff. The rebate mechanism for the Ullage Service, which will rebate a portion of the revenue generated from the service to reduce reference

⁹⁴ DBP, 2021-2025 Revised Final Plan, Attachment 6.2: Pipeline and Reference Services (Confidential), October 2020, p. 4.

⁹⁵ DBP, 2021-2025 Revised Final Plan, Attachment 13.2: Allocation of total revenue (Confidential), October 2020, p. 7.

tariffs, will be assessed as part of the ERA’s consideration of the reference tariff variation mechanism in the final decision.

Alternative trigger event

156. While DBP’s preference was to remove the need for a trigger event in the access arrangement with the introduction of the Ullage Service, DBP submitted that if the ERA “does not accept this position and concludes that a relevant Trigger Event is required [to provide for the acceleration of the review submission date if a gas transportation agreement requires a re-direction of the flow of gas through the DBNGP] ... different drafting [for the trigger event] is required”.⁹⁶

157. DBP’s alternative revised proposed definition for “trigger event” is reproduced below (shown in mark-up against the ERA’s required definition).

~~14A.3 **Trigger Event** means the execution by Operator of a binding agreement (whether conditional or unconditional) for the transport of gas through the DBNGP, the performance of which requires a re-direction of the flow of gas through the DBNGP.~~

Trigger Event means that all of the following have occurred (the date on which the Trigger Event occurs being the date on which the last of the following occur):

- (a) the Operator has executed a binding agreement for transport of gas from the Perth Basin through the DBNGP and that agreement has become unconditional;
- (b) the Operator determines (acting reasonably) that there is a real and not fanciful risk that performance of the agreement described in (a) will result in a re-direction of the flow of gas through the DBNGP in a manner that significantly changes the operation of the DBNGP, prior to 1 January 2026; and
- (c) gas transportation begins to occur under the agreement in (a).

158. DBP submitted the following reasons for its alternative revised drafting:⁹⁷

- The binding agreement must be “unconditional” (rather than “conditional or unconditional”) and the transportation of gas under that agreement must begin.
 - Conditional contracts are often executed early to lower projects risks. Periods of more than 12 months are generally allowed from execution to the start date for services under the contract.
 - It is common for conditional contracts to terminate without the services ever commencing because the conditions precedent are never satisfied. Further to the uncertainty surrounding conditions precedent, there are other ‘unknowns’ (for example, unknown timings and quantities) when such contacts are executed.

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⁹⁶ DBP, 2021-2025 Revised Final Plan, Attachment 14.1B: Response to Draft Decision on Pipeline Access, October 2020, p. 13.

⁹⁷ DBP, 2021-2025 Revised Final Plan, Attachment 14.1B: Response to Draft Decision on Pipeline Access, October 2020, pp. 13-15.

- The ERA acknowledged in the draft decision that the matter of potential gas projects (including the Waitsia Stage 2 project) should not be addressed in the access arrangement review process without more certain information on timing and arrangements. The ERA further acknowledged that a trigger event to accelerate the review submission date should be linked to an actual change in operations.
 - It is not practicable or economically efficient, or consistent with the ERA’s draft decision considerations, to accelerate the review submission date for a trigger event that is based on the execution of a conditional contract with an unknown date for the start of gas transportation services. Issues related to timing and uncertainty, together with regulatory costs, would remain if the trigger event was triggered on the execution of a conditional contract.
 - A redirection of the flow of gas through the DBNGP must be a “real and not fanciful risk” and must significantly change the operation of the pipeline.
159. Further to the alternative revised amendments to the definition of “trigger event”, DBP submitted that amendments to clause 14 (Revision and Commencement Date) of the access arrangement were needed, to facilitate and explain how the trigger event interacts with the review submission and revision commencement dates. The revised amendments also incorporate the ERA’s proposed clauses 14A.1 and 14A.2 that were set out in draft decision required amendment 3.
160. DBP’s alternative revised proposed amendments to clause 14 are reproduced below (shown in mark-up against DBP’s initial proposal). The amendments shown include revised proposed amendments related to the extension and expansion requirements, which will be considered by the ERA in its final decision.
- 14 Revision and Commencement Date**
- 14.1 The Current Access Arrangement Period commences on 1 January 2021.
- 14.2 Subject to clauses 7.4(d) and 14.4, the~~The~~ review submission date for the Current Access Arrangement is 1 January 2025.
- 14.3 Subject to clause 14.5, the~~The~~ revision commencement date for the Next Access Arrangement is 1 January 2026.
- 14.4 If the Trigger Event occurs prior to 1 May 2023, the review submission date determined under clause 14.2 shall be accelerated and brought forward to the date which is 14 months after the Trigger Event.
- 14.5 If the review submission date determined under clause 14.2 is accelerated and brought forward pursuant to either of clauses 7.4(d) or 14.4, then the revision commencement date for the Next Access Arrangement is accelerated and brought forward to a date which is 12 months after the accelerated and brought forward review submission date.
- 14.6 For the avoidance of doubt, in no case can clause 7.4(d) or clause 14.4 result in the review submission date being delayed to a date later than the pre-existing review submission date.
- 14.7 The Operator must notify the Regulator of the occurrence of each of (a), (b) and (c) of the definition of Trigger Event (in clause 16).
161. The ERA considers that DBP’s alternative proposed amendments to include a redrafted trigger event in the access arrangement would address draft decision required amendment 3. However, as submitted by DBP, these alternative proposed amendments are only relevant if the ERA considers that a trigger event is still required after considering DBP’s revised proposed amendments for the new Ullage Service.

162. The ERA has considered DBP's revised proposal to include the Ullage Service in the access arrangement at paragraphs 127 to 155. Having considered these matters, including the temporary nature of the end use market because the ullage opportunity at the Karratha Gas Plant exists only for a limited period and the unlikelihood of any additional shippers seeking to use the Ullage Service during AA5 given the Western Australian Domestic Gas Policy, the ERA has concluded that the Ullage Service should be specified as a non-reference rebateable service in the access arrangement for AA5, and has decided not to require inclusion of a trigger event. On this basis, DBP's alternative proposed amendments for a trigger event are not necessary at this time although this position may be re-considered in AA6 should circumstances change.

Additional rebateable non-reference services

163. In the draft decision, the ERA considered that the Pilbara Service and Other Reserved Service should remain as non-reference services for AA5.⁹⁸ In its revised proposal, DBP has submitted that these services should be further specified as non-reference *rebateable* services.
164. Rule 93 of the NGR sets out the requirements for the allocation of total revenue and costs between reference services and other services, including rebateable services. Rule 93(4) states that a pipeline service is a rebateable service if:
- (a) the service is not a reference service; and
 - (b) substantial uncertainty exists concerning the extent of the demand for the service or of the revenue to be generated from the service.
165. DBP submitted that the Pilbara Service and Other Reserved Service met the requirements for specification as a rebateable service for the following reasons.⁹⁹
- Both services are non-reference services.
 - As noted in the ERA's draft decision, average demand for the Pilbara Service and Other Reserved Service is low when compared with average demand for full haul, part haul and back haul services.¹⁰⁰ While revenue from these services has increased in recent years, a long term trend cannot be determined. The demand for these services remains substantially uncertain.
 - The Other Reserved Service is inherently uncertain given the nature of the service – the service represents a suite of interruptible services that are offered on a bespoke basis and is used by shippers with new projects and/or uncertain demand. When demand certainty increases, these shippers move their Other Reserved Service to a firm service.
166. As part of its draft decision consideration of whether the Pilbara Service should be specified as a reference or non-reference service, the ERA considered actual and forecast demand and revenue for the Pilbara Service for AA4 and AA5, respectively. As submitted by DBP in its revised proposal, the ERA's draft decision considered that average demand for the Pilbara Service was low when compared with the average demand for full haul, part haul and back haul services (see paragraph 84). However, the requirement for a pipeline service to be a rebateable service is that "substantial

⁹⁸ ERA, *Draft decision on proposed revisions to the Dampier Bunbury Pipeline access arrangement 2021 to 2025*, 14 August 2020, pp. 30-32, paragraphs 101-108.

⁹⁹ DBP, *2021-2025 Revised Final Plan, Attachment 13.2: Allocation of total revenue*, October 2020, p. 7

¹⁰⁰ ERA, *Draft decision on proposed revisions to the Dampier Bunbury Pipeline access arrangement 2021 to 2025*, 14 August 2020, p. 47, Table 10.

uncertainty exists concerning the extent of demand for the service or of the revenue to be generated from the service” (rule 93(4)(b) of the NGR), not whether demand and/or revenue is low relative to other services. The ERA considers that, while there is some uncertainty concerning the extent of demand for, and the revenue to be generated from, the Pilbara Service, the uncertainty is not substantial for the following reasons:

- DBP has actual (AA4) demand and revenue data for the Pilbara Service and can explain anomalies for this data. That is, in response to the ERA’s information request as part of the draft decision process, DBP submitted that the growth in demand from 2018 to 2019 resulted from shippers moving from the firm part haul service and other reserved services to the Pilbara Service, and, with the transition between these services completed, demand for 2020 and beyond was forecast to remain consistent at an average [REDACTED]¹⁰¹
- Based on DBP’s understanding of actual data for the Pilbara Service, DBP can (and has) forecast demand and revenue data for AA5. DBP considered that the forecasts would remain at a consistent average over the access arrangement period.

167. Unlike the Pilbara Service, the ERA considers that there is substantially more uncertainty concerning the extent of demand for and the revenue to be generated from the Other Reserved Service. As submitted by DBP, the Other Reserved Service enables shippers with new projects and/or uncertain demand to obtain an interruptible service ahead of obtaining a firm service.¹⁰² For this reason, the ERA considers that the use of actual (AA4) demand and revenue data for the Other Reserved Service would be limited in its use to forecast demand and revenue for AA5. That is, the demand for the Other Reserved Service, and consequently the revenue generated from the service, is dependent on new projects with uncertain gas demand profiles, rather than established projects with more certain gas demand profiles.
168. Given the considerations above, the ERA’s position is that only the Other Reserved Service should be further specified as a rebateable service in the access arrangement for AA5. The Pilbara Service should be specified as a non-reference service (and not a non-reference rebateable service) for AA5.
169. As submitted by DBP, the provisions for rebateable services in the NGR allow for the cost of non-reference rebateable services to be allocated to reference services provided there is a rebate mechanism to adjust reference tariffs. The rebate mechanism for the Other Reserved Service, which will rebate a portion of the revenue generated from the service to reduce reference tariffs, will be assessed as part of the ERA’s consideration of the reference tariff variation mechanism in the final decision.

Peaker service

170. Consistent with the ERA’s draft decision required amendment 6, in its revised proposal, DBP amended clause 3 of the access arrangement to include a reference to, and description of, the Peaker Service. The Peaker Service is:

¹⁰¹ DBP, *Response to information request ERA14*, 5 June 2020.

¹⁰² The “Other Reserved Service” is describe in the revised proposed access arrangement as: “A suite of interruptible services offered on a bespoke basis to shippers with new projects and/or uncertain demand, often ahead of a firm service.”

- Specified in clause 3.1(b)(i)(h) of the access arrangement as a non-reference rebateable service.
 - Described in clause 3.7(c) as “a pipeline service where a shipper can obtain additional peaking limits to those set in the standard terms (subject to available capacity)”.
171. In response to the ERA’s draft decision and DBP’s revised proposal, WEGS addressed the Peaker Service based on its understanding that:¹⁰³
- The tariff for the service would be set at a premium to the T1 reference tariff (at around 115 per cent) and would be largely based on throughput (and based on this, it is assumed that the reservation component would be 20 per cent of the tariff and the commodity (throughput) component would be 80 per cent of the tariff).
 - The service would rank the same level as “Other Reserved Services” in priority and curtailment.
 - While primarily requested by gas fired power generators, the service may be available on a stand-alone basis to any shipper that requests the service.
172. WEGS submitted that the Peaker Service may be considered as a reference service when the contribution of the service to pipeline costs is considered. WEGS set out the following reasoning for its submission.

[DBP] proposes to distinguish this service from the reference services on the basis that it does not meet the [Reference] Service Factors. More specifically, it becomes apparent that the distinction of this service from the T1 service is on the basis that this service is not offered on the same firmness.

However, WEGS submits that at times where [DBP] has been able to demonstrate that forecast demand for Full Haul Services during AA5 is highly unlikely to reach anywhere near the pipeline’s rated capacity and given the obligations of [DBP] under section 133 of the NGL to not prevent or hinder access to a pipeline service by means of a covered pipeline, consideration of firmness of a service, at least for the duration of AA5, becomes a theoretical distinction rather than an operational one. Further to this point (and to WEGS’s concern), WEGS notes in [DBP’s] Final Plan that under the queuing requirements, [DBP] proposes to “maintain a single queue for access to Reference Services and Non-Reference Services that are Haulage Services (Queue)”. On this basis, WEGS believes that the Peaking Service may reasonably be considered a firm service for the purpose of AA5 determination.

...

Under its rebate proposal, [DBP] suggests that the “costs associated with providing this service [are] likely incremental costs only because the service [does] not require new capital expenditure”.... WEGS strongly disagrees and believes instead that this service may only be delivered by [DBP] to its customers by operating and maintaining the required capacity of the pipeline.

... WEGS believes that, should the pipeline be rightly sized to the *average throughput* of its shippers as presented by [DBP], it would become apparent that users which are now forecasted to request access to the Peaking Service from [DBP] would instead secure the corresponding reference service and thereby contribute to the full costs (capital and operating expenses) of the pipeline. In WEGS’s view, this supports the argument that, while the Peaking Service may not necessarily be classified yet as a Reference Service, the estimated contracted capacity under this service should be counted as if it were equivalent to the capacity and throughput for each relevant reference service on the pipeline so that the users of the Peaking Service equally share

¹⁰³ Wesfarmers Energy (Gas Sales) Limited submission in response to draft decision, 4 November 2020, p. 8.

the costs of providing services on the pipeline with Reference Service users. This would ensure consistency with Rule 93 of the NGR. WEGS would however agree to [DBP's] point that, should this service be included in the forecast demand, [DBP] should not be required to rebate the revenues derived from this service to its Reference Service customers.

Finally, WEGS believes that a similar argument applies to the Pilbara Service proposed by [DBP].¹⁰⁴

173. In its draft decision, the ERA considered that, on balance, DBP's assessment of the Peaking Service against the reference service factors supported the continuation of the service as a non-reference service for AA5. The ERA further considered that DBP's proposal to specify the Peaking Service as a *rebateable service* was consistent with the requirements for rebateable services, as set out in rule 93(4) of the NGR:
- (4) A pipeline service is a **rebateable service** if:
 - (a) the service is not a reference service; and
 - (b) substantial uncertainty exists concerning the extent of the demand for the service or of the revenue to be generated from the service.
174. The ERA maintains the position in its draft decision that the Peaker Service should be specified as a non-reference rebateable service for AA5. The Peaker Service (or Peaking Service) has been offered as a non-reference service in the access arrangement since the first access arrangement period (AA1). As advised by DBP, utilisation of the Peaker Service is expected to increase during AA5, following contract renegotiations with shippers in May 2020. While DBP has forecast demand for and revenue from the service for AA5, there is substantial uncertainty concerning these forecasts. The ERA considers that this uncertainty should reduce over the course of the access arrangement period as shippers continue to operate under their renegotiated contracts and refine their operational needs. As the pipeline operator, over the access arrangement period, DBP will be able to record and use actual demand and revenue data to refine its forecasts for the Peaker Service going forward (that is, for the next (AA6) and subsequent access arrangement periods). As such, the Peaker Service may not satisfy the criteria for being specified as a non-reference rebateable service when the access arrangement is next reviewed, noting that the review and assessment of pipeline and reference services will follow the process set out in rule 47A of the NGR (see paragraph 177).
175. While the ERA maintains the position in its draft decision that the Pilbara Service should be offered as a non-reference service for AA5, the ERA's position in this paper is that the Pilbara Service cannot be further specified as a rebateable service for the reasons set out at paragraphs 163 to 169. The ERA notes that an assessment of the Pilbara Service for AA6, under the process set out in rule 47A of the NGR, may result in changes to how the service is offered and specified in the access arrangement.
176. The ERA will consider the allocation of pipeline costs, including the rebate mechanism (to rebate a portion of the revenue generated from rebateable services to reduce reference tariffs) as part of its final decision.

¹⁰⁴ Wesfarmers Energy (Gas Sales) Limited submission in response to draft decision, 4 November 2020, pp. 8-10.

Reference services for next access arrangement period

177. As set out in the draft decision, the Australian Energy Market Commission made a final determination in March 2019 to change the regulatory framework for covered transmission and distribution natural gas pipelines in Australia. One of the changes introduced new rule 47A, which created a new assessment process for reference services.¹⁰⁵ However, transitional provisions were also introduced that provided for exemptions. Under transitional rule 62(2) in schedule 1 of the NGR, DBP is exempt from having to comply with new rule 47A for AA5. Instead modified rules 48(b), (c) and (d) of the NGR apply.

178. For AA6, reference services must be proposed and assessed under rule 47A of the NGR, which requires DBP to submit a “reference service proposal” to the ERA at least 12 months before the review submission date for the access arrangement. The required content of the reference service proposal is set out in rule 47A(1):

47A Reference services

- (1) A service provider in respect of a full regulation pipeline must, whenever required to do so under subrule (3), submit to the [ERA] a reference service proposal in respect of a forthcoming full access arrangement proposal that:
- (a) identifies the pipeline and includes a reference to a website at which a description of the pipeline can be inspected;
 - (b) sets out a list of all the pipeline services that the service provider can reasonably provide on the pipeline and a description of those pipeline services having regard to the characteristics in subrule (2);
 - (c) from the list referred to in subrule (1)(b), identifies at least one of those pipeline services that the service provider proposes to specify as reference services having regard to the reference service factors including any supporting information required by the [ERA]; and
 - (d) if the service provider has engaged with pipeline users and end users in developing its reference service proposal, describes any feedback received from those users about which pipeline services should be specified as reference services.

179. The ERA considers that the amended process for reference services in the NGR has the potential to better support the national gas objective. Rule 47A of the NGR essentially creates a separate assessment process for identifying, proposing and assessing pipeline and reference services. A process that is focused on one specific aspect of an access arrangement is potentially more manageable for interested parties, including the service provider, and may result in better access arrangement outcomes, such as, for example, the identification of further reference services that had not been considered in the past. Rule 47A provides for:

- The submission of a reference service proposal, by the service provider to the ERA, 12 months before the review submission date for the access arrangement. In developing the proposal, rule 47A(1)(d) contemplates the service provider engaging with pipeline and end users.
- An initial assessment of the service provider’s reference service proposal to ensure compliance with the rules. For example, rule 47A(1), sets out the required content of a reference service proposal.

¹⁰⁵ ERA, *Draft decision on proposed revisions to the Dampier Bunbury Pipeline access arrangement 2021 to 2025*, 14 August 2020, pp. 6-8, paragraphs 19-24.

- Public consultation on the reference service proposal submitted to the ERA (for a period of at least 15 business days) and, at the discretion of the ERA, opportunities for further consultation.
 - A decision by the ERA on the reference service proposal that is made no later than six months before the review submission date for the access arrangement.
180. Based on a review submission date of 1 January 2025 for the access arrangement for AA5, DBP would be required to submit a reference service proposal (for AA6) on or before 1 January 2024.