



**DRAFT DECISION:**  
**WAIVER OF RING FENCING OBLIGATIONS**  
**TUBRIDGI PIPELINE SYSTEM**

Application Submitted by:

**Origin Energy Resources Ltd**

On behalf of:

SAGASCO South East Inc (ARBN: 002 382 023)

Origin Energy Petroleum Pty Ltd (ACN: 010 728 962)

Origin Energy Amadeus NL (ACN: 010 137 121)

Pan Pacific Petroleum NL (ACN: 000 749 799)

Tubridgi Petroleum NL (ACN: 076 850 881)

**INDEPENDENT GAS PIPELINES ACCESS REGULATOR**  
**WESTERN AUSTRALIA**

**22 May 2000**



## PREFACE

On the 31 March 2000, Origin Energy Resources Ltd (Origin Energy) made application for waivers of certain ring fencing obligations under section 4.15 of the *National Gas Pipelines Access Code for Natural Gas Pipeline Systems* (the Code). The application was lodged in respect of the Tubridgi Pipeline System (Pipeline Licence Numbers WA: PL 16 and WA: PL 19).

The procedures for considering the waiver of ring fencing obligations require that a Draft Decision be issued within 14 days after the last day of submissions. The Regulator has no discretion to extend this time period. Submissions were called on 7 April and closed on 8 May 2000. This Draft Decision is therefore required to be issued by 22 May 2000.

However, there are a number of issues requiring additional information from the applicant before these issues can be adequately addressed under the Code in respect of relevance and impact. The Code does not provide sufficient time for this information to be provided prior to issuing this Draft Decision. Accordingly, the required information is being obtained and will be made publicly available during the public consultation period that commences with the issuing of this Draft Decision.

On the basis of the available information, the Regulator assessed the application for waiver of ring fencing obligations against the requirements and principles of the *Gas Pipelines Access (WA) Law 1998* which includes the Code and the *National Gas Pipelines Access Agreement*. In addition, the Regulator sought to consider issues raised in submissions. However, no submissions were received in response to the invitation issued on 7 April 2000.

Further submissions are now invited from interested parties in respect of this Draft Decision. Submissions must be delivered to the Office of Gas Access Regulation by 4 pm (WST) Thursday 31 August 2000, and should be addressed to:

Mr Michael Jansen  
Office of Gas Access Regulation  
6<sup>th</sup> Floor  
197 St Georges Terrace  
PERTH WA 6000

All submissions must be in writing and should be provided in both hard copy and in electronic format.

Copies of the Draft Decision are available from the Office of Gas Access Regulation by contacting Mr Mike Jansen on telephone +61 8 9213 1925 or facsimile +61 8 9213 1999, or through the Office's web site ([www.offgar.wa.gov.au](http://www.offgar.wa.gov.au)).

KEN MICHAEL  
GAS ACCESS REGULATOR

## **DRAFT DECISION**

In accordance with section 4.20 of the Code, this Draft Decision is that the Regulator does not intend issuing a notice under section 4.15 of the Code granting a waiver of the ring fencing obligations under sections 4.1(b), 4.1(h) or 4.1(i) of the Code in respect of the Tubridgi Pipeline System.

However, additional information is being sought from the applicant. The Code does not provide sufficient time for this information to be taken into consideration within the time available for issuing this Draft Decision. The information being sought will be made public via the Regulator's web site ([www.offgar.wa.gov.au](http://www.offgar.wa.gov.au)) during the public consultation period that commences with the issuing of this Draft Decision. The additional information will be taken into account in preparing the Final Decision.

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## **1 INTRODUCTION**

Origin Energy on behalf of SAGASCO South East Inc (SAGASCO) and the other Tubridgi Joint Venture Parties submitted an application for a waiver of certain ring fencing requirements for the Tubridgi Pipeline System. This application was made under *the National Third Party Access Code for Natural Gas Pipeline Systems* (“the Code”) to the Independent Gas Pipelines Access Regulator (the Regulator) on 31 March 2000.

## **2 PROCEDURES FOR A WAIVER OF RING FENCING OBLIGATIONS**

The Code (sections 4.16 to 4.24) sets out the procedures to be followed by the Regulator in considering a request for a waiver. In this particular case the application was received on 31 March 2000, and the actions taken or to be taken are:

- A notice was issued to interested parties on Friday 7 April 2000 and advertisements were placed in the *West Australian* and the *Australian* newspapers on Wednesday 12 April 2000. Included in the advertisements was a call for public submissions.
- The closing date for public submissions was set at 4pm WST Monday 8 May 2000.
- An Issues Paper to assist with the submissions was placed on the Office of Gas Access Regulation web site on 20 April 2000.
- No submissions were received in respect of this call for submissions.
- This Draft Decision was issued on 22 May 2000.
- A copy of the Draft Decision was forwarded to the Service Provider on 22 May 2000.
- Submissions are invited on the Draft Decision to be received by the Office of Gas Access Regulation (*OffGAR*) no later than at 4pm WST Thursday 31 August 2000.
- A Final Decision will be issued by 21 September 2000.

## **3 THE OBJECTIVE OF RING FENCING REQUIREMENTS**

A natural gas pipeline Service Provider that has an Access Arrangement under the Code transports natural gas on behalf of third parties such as gas producers, gas marketers, and gas consumers. If the pipeline Service Provider is also a participant in the gas production or the gas sales businesses, then the legislators believed that a potential for anti-competitive behaviour might exist.

The Report by the Independent Committee of Inquiry into National Competition Policy (1993), (The Hilmer Report), examined this problem and reported that (p241):

...the preferred response to this concern is usually to ensure that natural monopoly elements are fully separated from potentially competitive elements through appropriate structural reforms. In this regard it is important to stress that mere “accounting separation” will not be sufficient to remove the incentives for misuse of control over access to an essential facility. Full separation of ownership or

control is required. In fact, failure to make such separation despite deregulation and privatisation is seen as a major reason why infrastructure reform in the UK has been disappointing.

Where such structural reforms have not occurred, the challenge from a Competition Policy perspective is to provide a mechanism that will support competitive market outcomes by protecting the interests of potential new entrants while ensuring the owner of the natural monopoly element is not unduly disadvantaged.

Ring fencing is part of that mechanism. With ring fencing particular emphasis is placed on the separation of business activities, marketing information, and accounting details and staff between the natural monopoly (gas transport) activity and the competitive activity (gas production or gas sales).

The concern of the legislators that gave rise to ring fencing was that if a third party approached a pipeline Service Provider who was also a competitor in the gas production/gas sales business, information supplied to the gas transport activity, as a condition of seeking access, may be provided to the gas production/gas sales activity and used to the detriment of the third party. The object of ring fencing is to prevent this happening.

## 4 CODE REQUIREMENTS

Section 4.1 of the Code sets out the minimum requirements for ring fencing.

- 4.1 A person who is a Service Provider in respect of a Covered Pipeline (regardless of whether they are also a Service Provider in respect of a Pipeline that is not Covered) must comply with the following (but in the case of paragraphs (a), (b), (h) and (i), as from the date that is 6 months after the relevant Pipeline became Covered):
- (a) be a legal entity incorporated pursuant to the Corporations Law, a statutory corporation, a government or an entity established by royal charter;
  - (b) not carry on a Related Business;
  - (c) establish and maintain a separate set of accounts in respect of the Services provided by each Covered Pipeline in respect of which the person is a Service Provider;
  - (d) establish and maintain a separate consolidated set of accounts in respect of the entire business of the Service Provider;
  - (e) allocate any costs that are shared between an activity that is covered by a set of accounts described in section 4.1(c) and any other activity according to a methodology for allocating costs that is consistent with the principles in section 8.1 and is otherwise fair and reasonable;
  - (f) ensure that all Confidential Information provided by a User or Prospective User is used only for the purpose for which that information was provided and that such information is not disclosed to any other person without the approval of the User or Prospective User who provided it, except:
    - (i) if the Confidential Information comes into the public domain otherwise than by disclosure by the Service Provider; or
    - (ii) to comply with any law, any legally binding order of a court, government, government or semi-government authority or administrative body or the listing rules of any relevant recognised Stock Exchange;
  - (g) ensure that all Confidential Information obtained by the Service Provider or by its servants, consultants, independent contractors or agents in the course of conducting its business and which might reasonably be expected to affect materially the commercial interests of a User or

Prospective User is not disclosed to any other person without the approval of the User or Prospective User to whom that information pertains, except:

- (i) if the Confidential Information comes into the public domain otherwise than by disclosure by the Service Provider; or
  - (ii) to comply with any law, any legally binding order of a court, government, government or semi-government authority or administrative body or the listing rules of any relevant recognised Stock Exchange;
- (h) ensure that its Marketing Staff are not also servants, consultants, independent contractors or agents of an Associate that takes part in a Related Business and, in the event that they become or are found to be involved in a Related Business contrary to this section, must procure their immediate removal from its Marketing Staff; and
- (i) ensure that none of its servants, consultants, independent contractors or agents are Marketing Staff of an Associate that takes part in a Related Business and, in the event that any servants, consultants, independent contractors or agents are found to be the Marketing Staff of such an Associate contrary to this section, must procure their immediate removal from their position with the Service Provider.

## **5 PROVISIONS FOR THE WAIVER OF RING FENCING OBLIGATIONS**

The legislators also recognised that the ring fencing obligations may not always be appropriate, either because of the particular circumstances for a given pipeline with respect to the potential for the misuse of information, or the cost of meeting the ring fencing obligations relative to the benefits. Provision was made by section 4.15 of the Code for the Regulator to waive certain of the ring fencing requirements as follows:

- 4.15 The Relevant Regulator may by notice to a Service Provider waive any of a Service Provider's obligations under:
- (a) section 4.1(b) where the Relevant Regulator is satisfied that:
    - (i) either the Covered Pipeline is not a significant part of the Pipeline system in any State or Territory in which it is located or there is more than one Service Provider in relation to the Covered Pipeline and the Service Provider concerned does not have a significant interest in the Covered Pipeline and does not actively participate in the management or operation of the Covered Pipeline; and
    - (ii) the administrative costs to the Service Provider and its Associates of complying with that obligation outweighs any public benefit arising from the Service Provider meeting the obligation, taking into account arrangements put in place by the Service Provider (if any) to ensure that Confidential Information the subject of sections 4.1(f) and (g) is not disclosed to the Service Provider or is not disclosed to the servants, consultants, independent contractors or agents of the Service Provider who take part in a Related Business; and
    - (iii) an arrangement has been established between the Service Provider and the Relevant Regulator which the Relevant Regulator is satisfied replicates the manner in which section 7.1 would operate if the Service Provider complied with section 4.1(b); and
  - (b) sections 4.1(h) and (i) where the Relevant Regulator is satisfied that the administrative costs to the Service Provider and its Associates of complying with that obligation outweigh any public benefit arising from the Service Provider meeting the obligation.

In section 4.15(a)(iii) above, mention is made of Section 7.1 that reads:

- 7.1 A Service Provider must not enter into an Associate Contract without first obtaining the approval of the Relevant Regulator. The Relevant Regulator must not refuse to approve a proposed Associate Contract

unless it considers that the contract would have the effect, or would be likely to have the effect, of substantially lessening, preventing or hindering competition in a market.

An “Associate Contract” is defined in Section 10.8 as:

- (a) a contract, arrangement or understanding between the Service Provider and an Associate in connection with the provision of a Service; or
- (b) a contract, arrangement or understanding between the Service Provider and any person in connection with the provision of a Service which provides a direct or indirect benefit to an Associate and which is not an arm's length transaction.

By only allowing a waiver to be considered with respect to the ring fencing requirements under sections 4.1(b), 4.1(h), and 4.1(i) the legislation clearly intends that the ring fencing requirements are not to be taken lightly. In particular, no waiver is possible with respect to:

- the requirements to be a legal entity (sections 4.1(a));
- the requirements for separate accounts (Sections 4.1(c), 4.1(d), and 4.1(e)); and
- the requirements for non-disclosure of confidential information (Sections 4.1(f) and 4.1(g)).

## **6 TESTS FOR CONSIDERING AN APPLICATION FOR A WAIVER**

The waiver provisions set out above impose a series of tests for the Regulator to consider in assessing an application for a waiver of the ring fencing obligations.

For a waiver of section 4.1(b) (“not carry on a Related Business”) there are three separate tests required by section 4.15(a) of the Code, all of which must be met before the Regulator can approve a waiver of this requirement.

The first test is:

*Whether the Pipeline is not a significant part of the Pipeline System in the State in which it is located or whether the Service Provider seeking the waiver does not have a significant interest in the Pipeline, and does not actively participate in the management or operation of the Pipeline.*

The second test is:

*Whether the administrative costs to the Service Provider and its Associates of complying with the obligation not to carry on a Related Business outweighs any public benefit arising from the Service Provider meeting the obligation. In making this judgement the Regulator is required to take into account any arrangements put in place by the Service Provider to ensure that confidential information is not disclosed to those in the Related Business.*

The third test is:

*Whether an arrangement has been established between the Service Provider and the Regulator that satisfies the Regulator that it replicates the manner in which section 7.1 would operate if the Service Provider complied with section 4.1(b).*



For a waiver of the separated staff requirement (sections 4.1(h) and 4.1(i)) there is only one test required by section 4.15(b) of the Code for the Regulator to consider:

*Whether the administrative costs outweigh any public benefit from the obligation to maintain separated staff.*

For the purposes of the above tests, the Code has not defined ‘significant’ or ‘public benefit’, leaving these to the judgement of the Regulator.

## **7 CONSIDERATION OF THE TESTS FOR THE TUBRIDGI PIPELINE SYSTEM**

This section gives consideration to each of the tests set out in section 4.15 of the Code in the light of the claims made in the application by the applicant.

No submissions from the public were made in respect of this application.

### **7.1 THE “NOT CARRY ON A RELATED BUSINESS” REQUIREMENT**

The “not carry on a Related Business” requirement is a provision of section 4.1(b).

#### **7.1.1 The First Test**

The first test is a provision of section 4.15(a)(i):

*The Pipeline is not a significant part of the Pipeline System in the State.*

Origin Energy indicated that the two pipelines that comprise the Tubridgi Pipeline System have a total capacity of 120TJ/day and on average transport 30TJ/day. The gas transported is claimed to represent only 5 percent of the total gas transported in south west of the State. Hence, the claim is made that the Tubridgi Pipeline System is insignificant on the basis of both capacity and throughput. Elsewhere in the application by Origin Energy for a waiver (p6) it is indicated that 63TJ/day is the current capacity required to meet existing gas supply contracts.

#### **Consideration of the Regulator**

The Tubridgi Pipeline System is strategically located onshore at the south-west corner of the Carnarvon Basin. The system transports gas for a number of current offshore and onshore gas producers, and is the means by which the gas is transported to the Dampier to Bunbury Natural Gas Pipeline (DBNGP) for delivery to major consumers in the south-west of the State and for gas storage at Dongara in the depleted Mondarra gas field.

In the same region, there have been other discoveries of natural gas, though as yet not developed. These include the Macedon/Pyrenees discoveries. The Western Australian Oil and Gas Review 1998 prepared by the State Department of Resources Development commented that (p.32):

The strategic position of the Tubridgi facilities and the substantial spare capacity may assist in the transport of gas from new offshore oil and gas fields in the highly prospective southern area of the

Carnarvon Basin. The Tubridgi facilities are capable of delivering around 120TJ/d of gas to the Western Australian market, and further increases are possible with additional compression.

The fact that the pipeline is currently under utilised is not a consideration that gives rise to insignificance. The natural gas market and its associated institutional structures and practices in this State are still at what could be termed an immature level. The gas market has yet to develop comprehensive depth, in terms of the number of participants, and breadth in terms of the types of activities carried out in the market to meet the needs of consumers. Of particular significance for the Tubridgi Pipeline System is the possibility that in the future new discoveries of natural gas will seek to use the pipeline to transport gas to the DBNGP. Potentially the Tubridgi Pipeline System could also be connected directly to the Goldfields Gas Pipeline.

In these circumstances, it would be unwise to assume that what is the case at present will continue indefinitely into the future. For the gas industry in Western Australia to mature, the appropriate institutional structures need to be in place to give confidence to gas producers, marketers and consumers that they will have access to the gas transport networks on fair and competitive terms. An important component of those structures is the isolation of the gas transport business from any gas marketing interests that may be associated with the owner/operator of the pipeline. Otherwise, there may be a deterrent to these future developments in the natural gas industry in Western Australia.

A further element of this first test based on section 4.15(a)(i) is that:

*The Service Provider concerned does not have a significant interest in the pipeline.*

This was not used by Origin Energy as a claim for the waiver. While on the basis of ownership interest at least two of the Joint Venturer Parties (SAGASCO South East P/L and Pan Pacific Petroleum NL) have a significant interest in the pipeline. On the other hand, the other Joint Venture Parties may be assessed as not having a significant interest. As a result, there is unlikely to be justification for a claim for a waiver under this test for at least two of the Joint Venture Parties.

### **Regulator's Finding**

In terms of its potential capacity to transport gas, and because of its interconnection into the DBNGP, the Regulator finds that the Tubridgi Pipeline System is a significant pipeline system in Western Australia. In addition, at least two of the Tubridgi Joint Venture Parties (SAGASCO South East P/L and Pan Pacific Petroleum NL) are assessed to have a significant interest in the pipeline.

#### **7.1.2 The Second Test**

The second test is a provision of section 4.15(a)(ii):

*Whether the administrative costs to the Service Provider and its Associates of complying with the obligation not to carry on a Related Business outweighs any public benefit arising from the Service Provider meeting the obligation. In making this judgement the Regulator is required to take into account any arrangements put in place*

*by the Service Provider to ensure that confidential information is not disclosed to those in the Related Business.*

Origin Energy has argued that the “not to carry on a Related Business” requirement would force it to separate the gas production business from the gas transportation business. That indeed is the purpose of the ring fencing requirements. Origin Energy then argues that this would require renegotiation of existing contracts and a consequent set of new contracts, an effort that would be costly and time consuming. Unbundling is also claimed to have adverse tax consequences.

As the current bundled gas sales contracts are due to expire in 2004, Origin Energy argues that there is little public benefit from separation at this time.

### **Consideration of the Regulator**

The public benefits of the ring fencing requirements cannot be quantified in the same way that the costs of ring fencing may be quantified. The purpose of the ring fencing requirements is to put in place institutional structures that will deliver benefits through their potential to generate not only competition in the natural gas industry, but also the growth and development of that industry. As long as these outcomes are possible, the costs of ring fencing to a service provider would have to be demonstrated to be significant.

The costs indicated by Origin Energy are with respect to the assumed required renegotiation of existing contracts. This concern with existing contracts implies that the legislation is retrospective. There does not appear to be anything in the legislation that explicitly requires such retrospectivity.

On the question of the handling of confidential information, Origin Energy has made a specific offer of an arrangement to provide a structure for the appropriate treatment of such information. The ring fencing arrangements need to engender confidence that when the existing contracts expire in 2004, or when any new contracts are negotiated, confidential information will be used appropriately, and that concern is of overwhelming public interest.

Origin Energy has proposed that of the two commercial staff in Adelaide, one will be responsible for gas production and gas trading matters and the other for gas transportation matters. Both of these staff will report directly to the Manager, Exploration and Production (WA). Origin Energy claims that confidential information provided by a User or Prospective User or any other confidential information obtained by the staff member responsible for gas transportation will therefore be separate from the information associated with the gas production and gas trading activities of the Tubridgi pipeline.

The Manager, Exploration and Production (WA) who receives information from the two commercial officers in Adelaide will also be required to treat the information received on a confidential basis.

If the Adelaide-based officer responsible for gas transportation believes it is necessary for information regarding a User or Proposed User to be disclosed to other members of staff, or other participants in the Tubridgi Joint Venture, formal approval will first be sought from the User or the Proposed User prior to any disclosure.

The Regulator's concern, however, with the arrangements proposed by Origin Energy is that the Manager, Exploration and Production (WA) who receives information on gas transport will also be receiving information on gas marketing. The Manager, Exploration and Production (WA) will therefore be placed in a conflict of interest situation through the receipt of information from both gas marketing staff and gas transport staff. That outcome is considered not to sufficiently address the requirements of section 4.15(a)(ii).

### **Regulator's Finding**

The Regulator considers that Origin Energy has not demonstrated that the costs of complying with section 4.1(a) outweigh any public benefit, and that the arrangements proposed for dealing with confidential information do not sufficiently address the requirements of section 4.15(a)(ii). The grounds for a waiver under this test are therefore not considered to be substantiated.

### **7.1.3 The Third Test**

The third test is a provision of section 4.15(a)(iii):

*Whether an arrangement has been established between the Service Provider and the Regulator that satisfies the Regulator that it replicates the manner in which section 7.1 would operate if the Service Provider complied with section 4.1(b).*

If the Service Provider complied with section 4.1(b) and did not carry on a related business then all of the gas transport arrangements would be in the form of distinct contracts between business entities. Section 7.1 is designed to cover the situation where those contracts are with a business entity that is an Associate, and hence may have the potential to lessen, prevent or hinder competition in the market by offering terms and conditions not offered to third party users. Section 7.1 requires that a contract with an Associate of the transport Service Provider has the approval of the Regulator.

If the "not carry on a Related Business" requirement were to be waived for a Service Provider, the legislation still seeks to ensure that the gas transport arrangements on behalf of the Related Business are carried on under terms and conditions that do not lessen, prevent or hinder competition in the market. In other words, an arrangement should be in place to provide for the Regulator's approval of the gas transport terms and conditions for the Related Business.

Origin Energy proposes that it will provide the Regulator with evidence demonstrating that the Tubridgi Parties as gas shippers are not acting in an anti-competitive manner should the gas production or gas trading businesses of the Tubridgi Parties increase their capacity allocation on the Pipeline System. The Tubridgi Parties would, Origin Energy claims, not increase their own booked capacity in the pipeline system without justification for doing so, and hence could not be seen to be using this as a method of denying third party access.

### **Regulator's Finding**

The Origin Energy offer falls short of an arrangement that would meet the requirements of section 7.1. It only offers to provide information dealing with booked capacity. That is considered by the Regulator to be insufficient. Section 7.1 envisages that the whole of the

terms and conditions under which gas is transported in the Related Business should be subject to the approval of the Regulator.

## **7.2 REQUIREMENTS RELATING TO MARKETING STAFF**

The requirements that the Marketing staff of the Service Provider are not also in a Related Business and that the staff of the Service Provider are not in the marketing staff of the Related Business are provisions of sections (4.1(h)) and (4.1(i)) of the Code.

The only test in relation to section 4.15(b) is:

*Whether the administrative costs outweigh any public benefit from the obligation to maintain separated staff.*

Origin Energy argues that the relatively small size of the load carried through the Tubridgi Pipeline System means that there would be minimal, if any, public benefits from complying with the Code.

At the same time, the argument is made that the ring fencing requirements would involve each of the Tubridgi Parties having to employ an additional staff member, with all the associated costs that would involve.

The Code intends that the granting of a waiver of the ring fencing requirements should only occur where the circumstances meet the tests that are imposed. The Introduction to the Code sets out the public benefits that are expected to flow from the Code as follows:

The objective of this Code is to establish a framework for third party access to gas pipelines that:

- (a) facilitates the development and operation of a national market for natural gas; and
- (b) prevents abuse of monopoly power; and
- (c) promotes a competitive market for natural gas in which customers may choose suppliers, including producers, retailers and traders; and
- (d) provides rights of access to natural gas pipelines on conditions that are fair and reasonable for both Service Providers and Users; and
- (e) provides for resolution of disputes.

### **Consideration of the Regulator**

The separation of marketing staff is clearly an important requirement of the Code by assisting in the pursuit of objectives (b), (c), and (d) above. The costs of compliance are required to outweigh the public benefit that may flow from the requirement before a waiver may be given. It is not sufficient to indicate that this requirement has a cost. It is also necessary to demonstrate that the cost outweighs the public benefit.

Origin Energy has argued that the public benefit is small because the load carried through the Tubridgi Pipeline System is relatively small. Current load, however, is not a sufficient argument to demonstrate that the public interest is minimal. As has been argued above, the Tubridgi Pipeline System is a significant pipeline and it has the potential to be associated with new developments in the gas industry in Western Australia. The public interest is

served by ensuring that the appropriate structures are in place to encourage these new developments.

### **Regulator’s Finding**

The ring fencing requirements would not oblige each of the participants in the Tubridgi Pipeline System to employ an additional staff member. While it is clear that the Tubridgi Pipeline System has a complex ownership structure, what is required is a separate gas transport business whose responsibility is to market pipeline capacity to all that seek capacity on terms associated with the Access Arrangement. It is up to the Tubridgi Pipeline System Joint Venture Parties to create the appropriate structure to meet this requirement.

## **8 GLOSSARY**

Terms used in the Draft Decision have the meanings ascribed to them under the *Gas Pipelines Access (WA) Act 1998* or as otherwise defined in the documents pertaining to the application by Origin Energy for a waiver of ring fencing obligations. In order to assist understanding, summary definitions of several terms that may be relevant to this Draft Decision are provided below.

Access Arrangement	A statement of policies and the basic terms and conditions that apply to third party access to a covered pipeline.
Access Arrangement Information	Additional and/or supplemental information pertaining to the Access Arrangement.
Access Request	A request for access to a Service made in accordance with the Access Arrangement.
Associate	Has the meaning given in the Gas Pipelines Access Law.
Capacity	The potential of a pipeline, as currently configured and operated in a prudent manner consistent with good pipeline industry practice, to deliver a particular service between a Receipt Point and a Delivery Point at a point in time.
Code	The <i>National Third Party Access Code for Natural Gas Pipeline Systems</i> .

Confidential Information	<p>Information that is by its nature confidential or is known by the other party to be confidential and includes:</p> <ul style="list-style-type: none"><li>(a) any information relating to the financial position of the party and in particular includes information relating to the assets or liabilities of the party and any other matter that affects or may affect the financial position or reputation of the party;</li><li>(b) information relating to the internal management and structure of the party or the personnel, policies and strategies of the party;</li><li>(c) information of the party to which the other party has access, other than information referred to in paragraphs (a) and (b), that has any actual or potential commercial value to the first party or to the person or corporation which supplied that information; and</li><li>(d) any information in the party's possession relating to the other party's clients or suppliers and like information.</li></ul>
Contracted Capacity	<p>The nominal quantity of gas transportation to be undertaken under a service agreement between a User and the Service Provider.</p>
Covered Pipeline	<p>The whole or particular part of a pipeline which is regulated under the Code.</p>
Grandfathered Contract	<p>A contract for the provision of gas transportation services by Origin Energy, whether or not in conjunction with other services, entered into before the date for complying with the ring fencing provisions of the Code.</p>
National Gas Pipelines Access Agreement	<p>A national agreement endorsed by CoAG and signed by all Australian Heads of State on 7 November 1997 to introduce a national gas pipelines access regime.</p>
Prospective User	<p>A person who seeks or who is reasonably likely to seek to enter into a Service Agreement with a Service Provider and includes a User who seeks or may seek to enter into a Service Agreement for an additional Service.</p>
Reference Services	<p>A Service that is specified as a Reference Service in an Access Arrangement.</p>
Reference Tariff	<p>A tariff specified in an Access Arrangement as corresponding to a Reference Service.</p>
Regulator	<p>Independent Gas Pipelines Access Regulator in Western Australia established under the <i>Gas Pipelines Access (WA) Act 1998</i>.</p>

Related Business	<p>The business of producing, purchasing or selling Natural Gas, but does not include purchasing or selling of Natural Gas to the extent necessary:</p> <ul style="list-style-type: none"><li>(a) for the safe and reliable operation of a Covered Pipeline; or</li><li>(b) to enable a Service Provider to provide balancing services in connection with a Covered Pipeline.</li></ul>
Ring Fencing	<p>A requirement on a Service Provider to establish arrangements to segregate or “ring fence” its business of providing Services using a covered pipeline from other business activities.</p>
Service	<p>A Reference Service or Non-Reference Service relating to the transportation of gas by a Service Provider, and in the case of a Service Agreement means the particular reference Service or Non-Reference Service the subject of that Service Agreement.</p>
Service Agreement	<p>An agreement between a Service Provider and a User for the provision of a Service.</p>
Service Provider	<p>In relation to a pipeline or proposed pipeline, means the person who is, or who is to be, the owner or operator of the whole or any part of the pipeline or proposed pipeline.</p>
Tubridgi Pipeline System	<p>Comprises the Tubridgi Pipeline (Licence Number WA: PL 16), and the Griffin Pipeline (Licence Number WA: PL 19)</p>
User	<p>A person who has a current Service Agreement or an entitlement to a Service as a result of arbitration under Section 6 of the Code.</p>



## 9 ABBREVIATIONS

AA	Access Arrangement
AAI	Access Arrangement Information
ACCC	Australian Competition and Consumer Commission
CoAG	Council of Australian Governments
DBNGP	Dampier to Bunbury Natural Gas Pipeline
GJ	Gigajoules ( $10^9$ joules)
OffGAR	Office of Gas Access Regulation
Origin Energy	Origin Energy Resources Ltd (ACN 007 845 338)
PJ	Petajoules ( $10^{15}$ joules)
TJ	Terajoules ( $10^{12}$ joules)