



**FINAL DECISION  
AND  
FINAL APPROVAL**

**ACCESS ARRANGEMENT  
TUBRIDGI PIPELINE SYSTEM**

Submitted by

**The Tubridgi Parties:**

SAGASCO South East Inc

Boral Energy Petroleum Pty Ltd (now Origin Energy Petroleum Pty Ltd)

Boral Energy Amadeus NL (now Origin Energy Amadeus NL)

Pan Pacific Petroleum NL

Tubridgi Petroleum Pty Ltd

**INDEPENDENT GAS PIPELINES ACCESS REGULATOR  
WESTERN AUSTRALIA**

19 October 2001



## OVERVIEW

### FINAL DECISION AND FINAL APPROVAL

On 21 October 1999, a proposed Access Arrangement for the Tubridgi Pipeline System was submitted by the joint owners of the pipeline system to the Independent Gas Pipelines Access Regulator in Western Australia (the Regulator) for approval under *the National Third Party Access Code for Natural Gas Pipeline Systems* (the Code).

The Access Arrangement sets out the terms and conditions including transmission charges on which the Tubridgi Parties would provide third parties access to the Tubridgi Pipeline System.

The Regulator assessed the proposed Access Arrangement against the requirements and principles of the *Gas Pipelines Access (WA) Law* which incorporates the Code as set out in the *Gas Pipelines Access (WA) Act 1998* (the Act) and released a Draft Decision on 7 August 2000. The Draft Decision of the Regulator was to not approve the proposed Access Arrangement as originally submitted.

The Tubridgi Parties submitted a revised Access Arrangement and Access Arrangement Information on 28 September 2001. The Regulator examined the revisions and is satisfied that the revised Access Arrangement is now in accordance with the requirements of section 2.16A of the Code. The Regulator therefore approves the revised Access Arrangement.

The revisions to the Access Arrangement made by the Tubridgi Parties in response to the Regulator's Draft Decision are summarised in the following table.

#### Final Decision and Approval at a glance

Element	Tubridgi Initial Proposed AA	Regulator's Draft Decision	Regulator's Final Decision	Page Ref.
<b>Reference Tariff</b>	\$0.322 per GJ (excl GST*) Capacity charge \$0.105 per GJ (excl. GST) Throughput charge	\$0.190 per GJ (incl GST) Capacity charge \$0.062 per GJ (incl GST) Throughput charge	\$0.223 per GJ (incl GST) Capacity charge \$0.074 per GJ (incl GST) Throughput charge	<b>p. 33</b>
<b>Initial Capital Base</b>	\$23.755 million as at 1 July 1999	\$16.943 million as at 1 July 1999	\$18.471 million as at 1 July 1999	<b>p. 28</b>
<b>Rate of Return</b>	8.75% real pre-tax WACC	8.2% real pre-tax WACC	8.2% real pre-tax WACC	<b>p. 30</b>
<b>Non Capital Costs</b>	\$0.495 million equivalent annual cost	\$0.495 million equivalent annual cost	\$0.590 million equivalent annual cost	<b>p. 29</b>
<b>Forecast Revenue</b>	\$3.694 million (equivalent annual revenue)	\$2.610 million (equivalent annual revenue)	\$2.872 million (equivalent annual revenue)	<b>p. 31</b>

\* Goods and Services Tax

## Reference Tariff

The Reference Tariff applicable for access to the Tubridgi Pipeline System has been determined at \$0.297 per GJ (GST inclusive) comprising a capacity charge of \$0.223 per GJ and a throughput charge of \$0.074 per GJ. This represents an increase of 17.9% to the Reference Tariff of \$0.252 per GJ (GST inclusive) determined in the Draft Decision. The change in the tariff results from a higher Initial Capital Base and consequent higher depreciation charges, higher non capital costs and higher gas throughput than presented in the Draft Decision.

## Initial Capital Base

The Initial Capital Base applicable to the Tubridgi Pipeline System has been determined to be \$18.471 million compared to a value of \$16.943 million presented in the Draft Decision. The increase resulted from a more detailed review of the asset cost structure and includes an allowance for working capital, which was inadvertently omitted from the initial asset valuation in the proposed Access Arrangement.

In determining the Initial Capital Base, the Regulator acknowledged that there was significant spare capacity in the Tubridgi Pipeline System. As an incentive for the Tubridgi Parties to increase the gas throughput in the pipeline system, the pipeline value was determined on the pipeline system's existing capacity on the condition that a Redundant Capital Policy was included in the Access Arrangement.

A Redundant Capital Policy has been included whereby the asset base will be reduced, at the commencement of the next Access Arrangement Period, if the average pipeline system throughput in the next Access Arrangement Period is less than 20.5 TJ/d. The application of the Redundant Capital Policy provides the opportunity to stabilise tariffs should average throughput decrease below 20.5 TJ/d in the next Access Arrangement Period with an expectation that throughput would increase in the longer term.

## Rate of Return

The rate of return for the Tubridgi Pipeline System based on a real pre-tax weighted average cost of capital has been determined at 8.2% per annum. This rate was unchanged from the Draft Decision and compares with a real pre-tax weighted average cost of capital of 8.75% per annum as initially proposed by the Tubridgi Parties. The rate of 8.2% is consistent with a nominal post-tax rate of return on equity of 13.9% per annum.

## Non Capital Costs

The non capital costs were reviewed following the Draft Decision. The review recognised that regulatory costs had been inadvertently omitted in the proposed Access Arrangement. The Regulator accepted that under the Code, regulatory costs are considered a legitimate business expense to be taken into consideration in the calculation of the Reference Tariff. As a consequence, the non capital costs were adjusted to include regulatory costs to be incurred during the Access Arrangement Period.

## Gas Throughput

The gas throughput forecast for the Tubridgi Pipeline System has been increased by 730 TJ/annum for a period of 2 years on the advice of the Tubridgi Parties.

### **Non Tariff Issues**

In addition to the above changes to the Reference Tariff, a number of other changes have been made including to the Terms and Conditions for access to the Tubridgi Pipeline System. These changes are discussed in pages 9 to 27 of the Final Decision.

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**TABLE OF CONTENTS**

	<b>FINAL DECISION AND FINAL APPROVAL</b>	<b>6</b>
<b>1</b>	<b>REVISIONS TO THE ACCESS ARRANGEMENT</b>	<b>7</b>
1.1	Introduction	7
<b>2</b>	<b>NON TARIFF MATTERS</b>	<b>9</b>
2.1	Services Policy	9
2.2	General Terms and Conditions	11
2.3	Trading Policy	25
2.4	Queuing Policy	25
2.5	Review Date	26
<b>3</b>	<b>REFERENCE TARIFFS</b>	<b>27</b>
3.1	Initial Capital Base	29
3.2	Non Capital Costs	30
3.3	Rate of Return	31
3.4	Depreciation	32
3.5	Revenue, Cost/Revenue Allocation & Reference Tariff	32
3.6	Gas Throughput	33
3.7	Reference Tariff	34
<b>4</b>	<b>FEES AND CHARGES</b>	<b>37</b>
<b>5</b>	<b>OTHER MATTERS</b>	<b>38</b>
5.1	Contact Details	38

## FINAL DECISION AND FINAL APPROVAL

On 21 October 1999, a proposed Access Arrangement for the Tubridgi Pipeline System was submitted by the joint owners of the pipeline system to the Independent Gas Pipelines Access Regulator in Western Australia (the Regulator) for approval under *the National Third Party Access Code for Natural Gas Pipeline Systems* (the Code).

The Tubridgi Pipeline System consists of two pipelines. These are the Tubridgi Pipeline, which is a 150 mm diameter pipeline constructed in 1991, and the Griffin Pipeline, which is a 250 mm pipeline that became operational in 1994. Both are 87 km in length and occupy the same easement, from the Tubridgi gas field to Compression Station 2 of the Dampier to Bunbury Natural Gas Pipeline (DBNGP).

The Regulator assessed the proposed Access Arrangement against the requirements and principles of the *Gas Pipelines Access (WA) Law* which incorporates the Code as set out in the *Gas Pipelines Access (WA) Act 1998* (the Act) and issued a Draft Decision on 7 August 2000.

The Draft Decision of the Regulator was to not approve the proposed Access Arrangement in its current form. The reasons for this decision were detailed in the Draft Decision along with requirements for 46 Amendments to be made to the Access Arrangement and Access Arrangement Information before approval would be granted.

Only one submission was received in response to the Draft Decision, which gave general support to the positions taken by the Regulator.

The Tubridgi Parties re-submitted a revised Access Arrangement and Access Arrangement Information on 28 September 2001. The Regulator examined the revisions and is satisfied that the revised Access Arrangement is now in accordance with the requirements of section 2.16A of the Code. The Final Decision of the Regulator is therefore to approve the revised Access Arrangement and Access Arrangement Information. The revisions to the Access Arrangement and Access Arrangement Information as agreed by the Tubridgi Parties in response to the Regulator's Draft Decision are described in this approval document below.

Section 1.2 of the Access Arrangement provides for the Access Arrangement to have effect from the date on which its approval takes effect under section 2 of the Code. Accordingly, pursuant to section 2.26 of the Code, the Regulator advises that the Access Arrangement has effect on 2 November 2001, being 14 days after the day that the Access Arrangement and Access Arrangement Information were approved.

The Tubridgi Parties are required to make the Access Arrangement and Access Arrangement Information available to any bona fide Prospective User as part of an Information Package in accordance with the requirements of sections 5.1 to 5.3 of the Code. Copies of the approved Access Arrangement and Access Arrangement Information are also available from the Office of Gas Access Regulation and from the OffGAR website at <http://www.offgar.wa.gov.au/>.

**KEN MICHAEL**  
**GAS ACCESS REGULATOR**

19 October 2001

# 1 REVISIONS TO THE ACCESS ARRANGEMENT

## 1.1 INTRODUCTION

Sections 3.1 to 3.20 of the Code require that an Access Arrangement address the following non-tariff matters.

- A **Services Policy**, describing services to be offered (section 3.1).
- **Reference Tariffs** and a **Reference Tariff Policy** (sections 3.3 to 3.5).
- **General Terms and Conditions** for the provision of Reference Services (section 3.6).
- A **Capacity Management Policy**, indicating whether the covered pipeline is to be administered as a Contract Carriage Pipeline or a Market Carriage Pipeline (section 3.7).
- A **Trading Policy**, addressing the transfer of contracted capacity between Users (section 3.9).
- A **Queuing Policy**, defining the priority that Prospective Users have to negotiate for specific capacity (section 3.12).
- An **Extensions/Expansions Policy**, setting out a method for determining whether an extension or expansion to the covered pipeline is or is not to be treated as part of the covered pipeline for the purposes of the Code (section 3.16).
- A **Review Date**, indicating a date on or by which revisions to the Access Arrangement must be submitted and a date on which the revised Access Arrangement is intended to commence (section 3.17).

The Draft Decision, which was issued on the 7 August 2000, required 46 amendments to the Access Arrangement and/or Access Arrangement Information for these documents to be approved by the Regulator.

Following public consultation and detailed discussions with the Service Provider and other interested parties, all of the amendments required by the Draft Decision have been addressed.

The approach adopted in this Final Decision and Final Approval document is to list each of the amendments required by the Draft Decision (in bold) followed by the agreed revisions to the Access Arrangement and/or Access Arrangement Information together with any necessary explanatory discussion.

These amendments and revisions are described under the following main headings:

1. Non Tariff Matters;
2. Reference Tariffs;
3. Fees and Charges; and
4. Other Matters

The revisions to the Access Arrangement and/or Access Arrangement Information, in respect of each required amendment, are shown in italics with “~~strikethrough~~” signifying words that have been deleted and “underline” signifying words that have been added.

As only one submission was received in response to the Draft Decision, which gave general support to the positions taken in the Draft Decision, there is no discussion of issues raised in submissions.

Copies of the proposed and approved Access Arrangement and Access Arrangement Information, Draft Decision, submissions, and this document are available from the Office of Gas Access Regulation and the OffGAR website at <http://www.offgar.wa.gov.au/>.



## 2 NON TARIFF MATTERS

### 2.1 SERVICES POLICY

#### Amendment 1

**Clause 2 of the Access Arrangement should be amended to include a back-haul service as a Non-Reference Service.**

The Tubridgi Parties revised clause 2 of the Access Arrangement by including a new clause 2.3 as follows.

#### **Clause 2.3 Non-Reference Service (AA):**

*A Non-Reference Service comprising a back-haul from the DBNGP to a Transmission Delivery Point will be provided by the Tubridgi Parties subject to this Negotiated Service being able to be provided, in the reasonable opinion of the Tubridgi Parties, on a technical, practical and commercial basis.*

This revision meets the requirements of the Regulator.

#### Amendment 2

**Clause 2.2 of the Access Arrangement and clause 6.2 of the General Terms and Conditions should be amended to incorporate, in the definition of the Haulage Reference Service, the provision of metering information to Users on a daily basis.**

The Tubridgi Parties revised clause 2.2 of the Access Arrangement and clause 6.2 of the General Terms and Conditions as follows.

#### **Clause 2.2 Haulage Reference Service (AA) fifth dot point**

*Readings of Metering Equipment at ~~the~~ Transmission ~~Receipt~~ Delivery Points ~~once each Pipeline Day~~, with readings provided to Pipeline Users on a ~~monthly~~ daily basis.*

#### **Clause 6.2 Readings (GT&C)**

*The Tubridgi Parties jointly must ensure that the Metering Equipment they provide at ~~each~~ the User Delivery Point is read at least once on each Pipeline Day where practicable and ~~The readings taken for the purposes of this sub-clause during any month will be the meter readings are provided to the Pipeline User on a daily basis. with the invoice related to that month.~~*

These revisions meet the requirements of the Regulator.

### Amendment 3

**Clause 2 of the Access Arrangement should be amended to clarify whether the Haulage Reference Service provides for multiple receipt points and delivery points in a single service agreement.**

To address Amendment 3, the Tubridgi Parties have amended clause 4.1 (a) and (b) instead of clause 2.2 of the Access Arrangement as follows.

#### **Clause 4.1 Haulage Reference Service (AA)**

*The Specific Terms and Conditions that form part of an Agreement between the Tubridgi Parties and a Pipeline User will comprise:*

- (a) the details of ~~each~~ the Transmission Receipt Point at which Gas is to be delivered to the Tubridgi Parties by or for the account of that Pipeline User pursuant to the Agreement;*
- (b) the details of ~~each~~ the Transmission Delivery Point at which Gas is to be delivered by the Tubridgi Parties to or for the account of that Pipeline User pursuant to the Agreement;*

These revisions meet the requirements of the Regulator.

### Amendment 4

**Clause 4.3(g) of the Access Arrangement should be amended to read “(if the pipeline service is a Non-Reference Service, and if required by the Tubridgi Parties) the prospective pipeline user must execute a document setting out or incorporating the terms and conditions on which the Tubridgi Parties are to provide the prospective pipeline user with the pipeline service.”**

The Tubridgi Parties revised clause 4.3 (g) of the Access Arrangement as follows.

#### **Clause 4.3 (g) Pre-conditions to Pipeline Services (AA)**

*(if required by the Tubridgi Parties) the Prospective Pipeline User must execute a document setting out or incorporating the terms and conditions on which the Tubridgi Parties are to provide the Prospective Pipeline User with the Pipeline Service, where those terms and conditions may comprise the General Terms and Conditions for the Haulage Reference Service or additional or other terms and conditions for a Negotiated Service.*

This revision meets the requirements of the Regulator.

## Amendment 5

**Clause 4.3 of the Access Arrangement should be amended to delete reference to the owner or operator of the DBNGP in relation to the requirements for a prospective pipeline user to enter into apportionment arrangements.**

The Tubridgi Parties revised clause 4.3 of the Access Arrangement as follows.

### **Clause 4.3 Pre-conditions to Pipeline Service (AA) Last Paragraph**

*The arrangements mentioned in clause 4.3(c) must include apportionment arrangements between the Prospective Pipeline User and other Pipeline Users, together with the Tubridgi Parties ~~and the owner or operator of the DBNGP~~ to apportion Gas delivered through each Transmission Receipt Point and each Transmission Delivery Point amongst the Prospective Pipeline User and other Pipeline Users.*

This revision meets the requirements of the Regulator.

## 2.2 GENERAL TERMS AND CONDITIONS

### Amendment 6

**Clause 2.2 of the General Terms and Conditions should be amended such that the clause provides authority to the Tubridgi Parties for delivery of gas through transmission delivery points on behalf of a User only in accordance with the service agreement with the User.**

The Tubridgi Parties revised clause 2.2 of the General Terms and Conditions as follows.

### **Clause 2.2 Delivery Quantities (GT & C)**

*The Pipeline User irrevocably authorises the Tubridgi Parties during the Term to deliver through each Transmission Delivery Point whatever Gas is taken through that Transmission Delivery Point. ~~(whether the taking of that Gas is or is not specifically authorized by the Pipeline User or any other person)~~*

The Regulator notes that under normal operating conditions the Pipeline User is responsible for withdrawing quantities of gas from the relevant Delivery Point. Accordingly, the Regulator considers that a Pipeline User has deemed to authorise the Tubridgi Parties to deliver, through the Transmission Delivery Point, quantities of gas equal to the withdrawn quantities. Consequently, the Regulator has accepted the revision.

This revision meets the requirements of the Regulator.

### Amendment 7

**Clause 4.4 of the General Terms and Conditions should be amended to provide for a less punitive arrangement for adjustments to a User's maximum daily quantity than the**

current provisions whereby the maximum daily quantity for a User may be increased after a single day overrun by that User.

The Tubridgi Parties addressed the amendment by the following change to clause 4.4 of the General Terms and Conditions.

**Clause 4.4 MDQ Increase (GT & C)**

~~Whenever~~ *If the Quantity of Gas delivered through any User Delivery Point to or for the account of the Pipeline User exceeds the MDQ for that User Delivery Point on any Pipeline Day either three times in a Month or six times in a Year, then the MDQ for that User Delivery Point will be increased effective from the next Pipeline Day with the effect from the end of that Pipeline Day, so that it is equal to the average Quantity of Gas delivered through that User Delivery Point for those Pipeline Days on which MDQ was exceeded. to or for the account of the Pipeline User on that Pipeline Day.*

This revision meets the requirements of the Regulator.

**Amendment 8**

**Clause 7.9 of the General Terms and Conditions should be amended to the effect that the Tubridgi Parties will not correct readings taken from any metering equipment more than one year prior to the relevant test other than if agreed to with the User or if the Tubridgi Parties are required to do so by law.**

The Tubridgi Parties revised clause 7.9 of the General Terms and Conditions as follows.

**Clause 7.9 Maximum Correction (GT & C)**

*The Tubridgi Parties will not ~~correct~~ ~~have to correct~~ the readings taken from any Metering Equipment more than one year prior to the date of the relevant test unless the Tubridgi Parties are required to do so by law.*

This revision meets the requirements of the Regulator.

**Amendment 9**

**Clause 8.1 of the General Terms and Conditions should be amended to indicate the range of gas quality specifications within which gas can be delivered to the Tubridgi Pipeline System.**

The Tubridgi Parties revised clause 8.1 and inserted a new clause 8.2 of the General Terms and Conditions as follows.

**Clause 8.1 Specifications (GT & C)**

*The Pipeline User will ensure that Gas delivered to the Tubridgi Parties by or for the account of the Pipeline User meets the specifications listed below. However, if the gas specifications for the pipeline at which a Transmission Delivery Point is located are*

more stringent, then the specifications of that pipeline will apply, and the Tubridgi Parties will reserve the discretion to transport gas which may not meet the following specifications: reasonably specified from time to time by the Tubridgi Parties by notice given to the User.

- (a) be free by normal commercial standards from objectionable odours, dust, gum, gum-forming constituents, waxes, other solid or liquid matters, aromatic hydrocarbons which might cause injury to, or interfere with the proper operation of all equipment through which it flows;
- (b) have a hydrocarbon dewpoint below 0<sup>0</sup>C over the pressure range 2.5 to 8.72 Mpa;
- (c) contain not more than 3.6 mole % carbon dioxide;
- (d) contain not more than 6.5 mole % inert gases;
- (e) contain not more than 0.2 mole % of oxygen;
- (f) contain not more than 10 mg/m<sup>3</sup> of total sulphur;
- (g) contain not more than 2 mg/m<sup>3</sup> of hydrogen sulphide;
- (h) contain not more than 48 mg/m<sup>3</sup> of water; and
- (i) have a Wobbe Index of between 46.0 MJ/m<sup>3</sup> and 51.5 MJ/m<sup>3</sup>;
- (j) have a Heating Value of between 35.5 and 42.3 MJ/m<sup>3</sup>;
- (k) contain not more than 600 Bequerals per cubic meter of radioactive materials; and
- (l) contain LPG of at least 1.45 tonnes/TJ, subject to any changes that may occur in the future to the LPG requirements on the DBNGP.

## **Clause 8.2 Specification Testing (GT & C)**

The Tubridgi Parties will determine reasonable methods and procedures and instruments to be used for making tests to determine whether Gas conforms to the Gas specifications as set out in this clause.

These revisions meet the requirements of the Regulator.

## **Amendment 10**

**Clause 9.1 of the General Terms and Conditions should be amended to indicate the pressure range within which gas can be delivered to the Tubridgi Pipeline System.**

The Tubridgi Parties have revised clause 9.1 of the General Terms and Conditions as follows.

### **Clause 9.1 Receipt Pressures (GT & C)**

The Pipeline User will ensure that Gas delivered at any User Receipt Point by or for the account of the Pipeline User is delivered at a pressure which ~~is within the limits specified for that User Receipt Point from time to time by the Tubridgi Parties by notice given to the User,~~ will not exceed the Maximum Allowable Operating Pressure (MAOP) in the Tubridgi Pipeline or the MAOP of the Griffin Pipeline and will be at all times at a

sufficient pressure to enable the delivery of gas into the Tubridgi Pipeline System at the prevailing pressure.

This revision meets the requirements of the Regulator.

#### **Amendment 11**

**The Access Arrangement should be amended to the effect that, for any period in which provision of a Reference Service is interrupted or reduced by a failure of the Tubridgi Parties to carry out any of their obligations under a service contract for reasons of force majeure, the fixed charges of the Reference Tariff are waived to the extent to which the provision of the service is reduced.**

The Tubridgi Parties have addressed the Amendment by inserting a new clause 23.3 in the General Terms and Conditions as follows.

#### **Clause 23.3 Effect of Force Majeure on Charges (GT & C)**

If Force Majeure prevents the Tubridgi Parties from performing their obligations to deliver Gas to or for the account of the Pipeline User at any User Delivery Point, then in respect of the period in which the force majeure event occurs, the Pipeline User will pay to the Tubridgi Parties the portion of the Charges based on the actual quantity of Gas delivered to the Pipeline User.

This revision meets the requirements of the Regulator.

#### **Amendment 12**

**The Access Arrangement should be amended to specify the degree of reliability for the Haulage Reference Service and to indicate that capacity reservation charges (in \$/GJ of MDQ) will be waived when deliveries of gas into, through or out of the Tubridgi Pipeline System are curtailed or interrupted to an extent beyond that provided for by the specified degree of reliability.**

The Tubridgi Parties have addressed the Amendment by inserting a new clause 13.3 in the General Terms and Conditions as follows.

#### **Clause 13.3 Effect of Curtailment on Charges**

(a) Where during a period of 12 calendar months commencing on the Start Date or any anniversary of the Start Date (the "Period"):

(i) the Tubridgi Parties have interrupted or curtailed deliveries of Gas out of the Tubridgi Pipeline System other than due to reasons of Force Majeure or a breach by the Pipeline User of the Agreement ("Interruption"); and

(ii) assuming that the MDO for the Period remains unchanged from the MDO existing at the time the Interruption occurred, the Total Quantity of Gas

Not Delivered to the Pipeline User exceeds an amount equal to 1% of the Pipeline User's aggregated MDQ for the Period (the "Allowable Interruption Amount").

then, in relation to any period of further Interruption during the Period where the Total Quantity of Gas Not Delivered to the Pipeline User exceeds the Allowable Interruption Amount (based on the assumption in paragraph (a)(ii)), the Pipeline User will not be liable to pay that portion of the Fixed Charge that relates to that period of further Interruption and which bears the same proportion to the entire Fixed Charge for that period as the Total Quantity of Gas Not Delivered bears to the MDQ.

(b) For the purposes of this clause "Total Quantity of Gas Not Delivered" means the total quantity of Gas established by the Pipeline User as Gas that would have been taken had the Interruption not occurred and which is advised to the Tubridgi Parties on a monthly basis.

(c) For the purposes of this clause "Fixed Charge" means that portion of the Charge that is calculated on the basis of the number of gigajoules of MDQ (as distinct from that portion of the Charge that is calculated on the basis of quantity of Gas delivered).

This revision meets the requirements of the Regulator.

### **Amendment 13**

**Clause 14.5 of the General Terms and Conditions should be amended to provide for a maximum period for payment of invoices of no less than 14 days.**

The Tubridgi Parties have amended clause 14.5 of the General Terms and Conditions as follows.

#### **Clause 14.5 Payment of Invoices (GT & C)**

*The Pipeline User must pay the amount shown in the invoice to the Tubridgi Parties within ~~7~~10 days of the date of the invoice.*

An assessment of the payment periods of other covered pipelines indicates that there is no standard industry practice on the payment of invoices. Some pipelines require payment of the fixed component of charges to be paid in advance. As the Tubridgi Parties propose that all charges would be paid in arrears, the Regulator considers that the requirement for invoices to be paid within a period of 10 days and not 14 days is reasonable.

This revision meets the requirements of the Regulator.

## Amendment 14

**Clause 18 (now 16) of the General Terms and Conditions should be amended to allow for the non-payment of disputed invoices, or the disputed portion of an invoice, in instances of a manifest error in the invoice.**

The Tubridgi Parties have amended clause 14.5 and introduced new clauses 14.6 and 14.7 of the General Terms and Conditions, to address the requirements of this amendment, as follows.

### **Clause 14.5 Payment of Invoices (GT & C)**

*Subject to clause 14.6, the Pipeline User must pay the amount shown in the invoice to the Tubridgi Parties within 10 days of the date of the invoice.*

### **Clause 14.6 Dispute as to Invoice (GT & C)**

*If the Pipeline User, in good faith and on reasonable grounds, disputes its liability to pay all or any part of the amount shown in an invoice then the Pipeline User need only pay the amount not in dispute. In this case, the Pipeline User must forthwith give the Tubridgi Parties notice setting out full details of all of the grounds on which it disputes its liability to pay that amount.*

### **Clause 14.7 Resolution of Dispute (GT & C)**

*If a dispute mentioned in clause 14.6 is resolved wholly or in part against the Pipeline User then the Pipeline User must pay the outstanding amount to the Tubridgi Parties within 7 days of the resolution of the dispute together with interest on the outstanding amount, calculated at the rate applicable under clause 17.1, from the last date for payment of the relevant invoice to the date on which the outstanding amount is actually paid in full.*

The revisions meet the requirements of the Regulator.

## Amendment 15

**Clause 15.2 of the General Terms and Conditions should be amended to indicate that the determination of billing quantities in the absence of meter readings will be undertaken on a basis that is determined by the Tubridgi Parties and that is reasonable.**

The Tubridgi Parties revised clause 15.2 of the General Terms and Conditions as follows.

### **Clause 15.2 No Meter Reading (GT & C)**

*If the Metering Equipment at a User Receipt Point or a User Delivery Point did not record the Quantity of Gas delivered through that User Receipt Point or that User Delivery Point (as the case may be) during any period, the Tubridgi Parties may estimate the Quantity of Gas delivered through that User Receipt Point or that User Delivery Point (as the case may be) for the account of the Pipeline User during that*



*period ~~on whatever basis the Tubridgi Parties consider reasonable~~ on a reasonable basis.*

This revision meets the requirements of the Regulator.

## Amendment 16

**Clauses 15.2 and 15.3 of the General Terms and Conditions should be amended to indicate that the determination of billing quantities in the absence of meter readings will be undertaken in accordance with provisions of relevant apportionment agreements.**

The Tubridgi Parties have further amended clause 15.2, amended clause 15.3 of the General Terms and Conditions and inserted a definition of “Apportionment Agreements” in the Glossary (clause 10) in the Access Arrangement as follows.

### **Clause 15.2 No Meter Reading (GT & C)**

*If the Metering Equipment at a User Receipt Point or a User Delivery Point did not record the Quantity of Gas delivered through that User Receipt Point or that User Delivery Point (as the case may be) during any period, the Tubridgi Parties may estimate the Quantity of Gas delivered through that User Receipt Point or that User Delivery Point (as the case may be) for the account of the Pipeline User during that period ~~on whatever basis the Tubridgi Parties consider reasonable~~ in accordance with the provisions of any Apportionment Agreements, (or if there are no Apportionment Agreements or no relevant provisions in the Apportionment Agreements, then) on a reasonable basis.*

### **Clause 15.3 Gas Allocation (GT & C)**

*If the Tubridgi Parties receive Gas at any User Receipt Point, or deliver Gas to any User Delivery Point, during any period for the account of the Pipeline User and for the account of someone other than the Pipeline User, then the Tubridgi Parties may determine at which times they received or delivered Gas for the account of the Pipeline User and at which times they received or delivered Gas for the account of the other person, in accordance with the provisions of any Apportionment Agreements, (or if there are no Apportionment Agreements or no relevant provisions in the Apportionment Agreements, then) on a reasonable basis. ~~on whatever basis the Tubridgi Parties consider reasonable.~~*

### **Definition of ‘Apportionment Agreements’ (AA - Glossary)**

*(2) ‘Apportionment Agreements’ (in an Agreement between the Tubridgi Parties and a Pipeline User) means any agreement in force from time to time between the Tubridgi Parties and that Pipeline User and other Pipeline Users or Prospective Pipeline Users which relates to apportionment of Gas between those parties at a User Delivery Point.*

The revisions meet the requirements of the Regulator.

## Amendment 17

**Clauses 18.3 (now 16.3) and 19.2 of the General Terms and Conditions should be amended such that any capacity for the Tubridgi Parties to offset debt and credit is also available to Users.**

The Tubridgi Parties have addressed this Amendment by deleting in full the previous clause 19.2 of the General Terms and Conditions, thereby removing their ability to set-off unpaid amounts, as follows.

### **Clause 19.2 Right to Set Off Unpaid Amounts (GT & C)**

~~*If the Pipeline User does not pay any amount due to any of the Tubridgi Parties under the Agreement, then any of the Tubridgi Parties may withhold and set off payment of any amounts due or owing by any of the Tubridgi Parties to the Pipeline User against any and all amounts due or owing by the Pipeline User to the Tubridgi Parties. This sub-clause will survive the termination of the Agreement.*~~

This revision meets the requirements of the Regulator.

## Amendment 18

**Clause 19.3 (now 17.3) of the General Terms and Conditions should be amended to make provision for a seven day notice period before a service can be suspended for a User failing to pay an amount due to the Tubridgi Parties under a service agreement.**

The Tubridgi Parties have addressed this issue with a revision to clause 19.3 (which is now clause 17.2 due to the deletion of the previous clause 19.2 under Amendment 17) and insertion of a new clause 17.3 to the General Terms and Conditions as follows.

### **Clause 17.2 Right to Suspend Services (GT & C)**

*If the Pipeline User does not pay any amount due to any of the Tubridgi Parties under the Agreement, or under any Related Haulage Agreement, within seven days after notice is given to the Pipeline User of that amount falling due in accordance with sub-clause 14.5, then the Tubridgi Parties may cease delivering Gas through any User Delivery Point to or for the account of the Pipeline User and may cease performing any of their obligations under the Agreement, until such time as the Pipeline User has paid in full all unpaid amounts due to the Tubridgi Parties together with any interest accrued on those amounts.*

### **Clause 17.3 Notice Period for Suspension of Services (GT & C)**

*The requirement for notice referred to in sub-clause 17.2 will be satisfied where:*

- (a) written notice is supplied to the Pipeline User after the due date for payment; or*
- (b) any invoice issued in respect of the amount due states that if the invoice is not paid in full within seven days after payment is due, the Tubridgi Parties may*

*immediately cease delivering gas in accordance with clause 19 of the General Terms and Conditions.*

The revisions meet the requirements of the Regulator.

#### **Amendment 19**

**Clause 20 (now 18) of the General Terms and Conditions should be amended to provide a reasonable period of time for a User to alter the amount of a bank guarantee in response to any change in the amount of charges for which the User would be liable.**

The Tubridgi Parties have revised clause 18.3 of the General Terms and Conditions as follows.

#### **Clause 18.3 Pipeline User to Refresh (GT & C)**

*Whenever the amount that the Tubridgi Parties may claim under the bank guarantee or undertaking is less than the Charges for which the Pipeline User would then become liable over a period of two months (based on the assumption mentioned in the previous sub-clause), the Pipeline User must within 14 days cause or procure the issuing bank to increase the amount available under that bank guarantee or undertaking so that it is not less than the Charges for which the Pipeline User would then become liable over a period of two months (based on that assumption).*

The revision meets the requirements of the Regulator.

#### **Amendment 20**

**Clause 20 (now 18) of the General Terms and Conditions should be amended to describe the circumstances in which, and the potential liabilities of Users for which, the Tubridgi Parties may call upon a bank guarantee.**

The Tubridgi Parties have revised clause 18.4 of the General Terms and Conditions as follows.

#### **Clause 18.4 Purpose of Guarantee (GT & C)**

*The purpose of a bank guarantee or undertaking issued in favour of the Tubridgi Parties under the Agreement is to secure the payment by the Pipeline User of amounts payable by it performance by the Pipeline User of its obligations under and in relation to the Agreement or any Related Haulage Agreement. The Tubridgi Parties may call on that bank guarantee or undertaking at any time, and without notice to the Pipeline User, if the Pipeline User fails to pay any of those amounts when due, except where the failure of the Pipeline User to pay arises in respect of a dispute in good faith and on reasonable grounds as to all or part of an invoice in accordance with sub-clauses 14.6 and 14.7.~~perform any of those obligations~~*

The revision meets the requirements of the Regulator.

## Amendment 21

**Clause 21.2 (e) (now 19.2 (e)) of the General Terms and Conditions should be amended to provide for the Tubridgi Parties to terminate a service agreement where, in the *reasonable* opinion of the Tubridgi Parties, there is a material adverse change in the ability of the User to comply with its obligations under a service agreement.**

The Tubridgi Parties have revised clause 19.2 (e) of the General Terms and Conditions as follows.

### **Clause 19.2(e) (GT & C)**

*There is any material adverse change, in the reasonable opinion of the Tubridgi Parties, in the ability of the Pipeline User to comply with its obligations under the Agreement or any Related Haulage Agreement.*

This revision meets the requirements of the Regulator.

## Amendment 22

**Clause 21.2 (b) (now 19.2 (b)) of the General Terms and Conditions should be amended to provide for a 21 day period for a User to remedy a breach of an obligation under a service agreement (other than an obligation to pay an amount due to the Tubridgi Parties), prior to the Tubridgi Parties being able to terminate the agreement.**

The Tubridgi Parties have addressed the issue by revising clause 19.2 (b) and 19.3 of the General Terms and Conditions as follows.

### **Clause 19.2 (b) Termination by the Tubridgi Parties (GT & C)**

*The Pipeline User breaches any other obligation under or in relation to the agreement or any Related Haulage Agreement and, where that breach can be remedied, fails to remedy that breach to the satisfaction of the Tubridgi Parties within ~~14~~ 21 days (or such shorter period as is reasonable) after the Pipeline User receives notice of that breach.*

### **Clause 19.3 Termination by the Pipeline User (GT & C)**

*The Pipeline User may terminate the Agreement by seven days' notice given to the Tubridgi Parties at any time in the event that the Tubridgi Parties breach any obligation under or in relation to the Agreement and, where that breach can be remedied, fail to remedy that breach to the satisfaction of the Pipeline User within ~~14~~ 21 days (or such shorter period as is reasonable) after the Tubridgi Operator receives notice of that breach from the Pipeline User.*

The revisions meet the requirements of the Regulator.

### **Amendment 23**

**Clauses 21.4, 22.1 and 22.2 (now 19.4, 20.1 and 20.2) of the General Terms and Conditions should be deleted so as to remove provision for any existing service agreements to be contingent upon decisions by the Tubridgi Parties to decommission the Tubridgi Pipeline System, parts of the Tubridgi Pipeline System, receipt points or delivery points.**

The Tubridgi Parties have indicated that there are no existing service agreements, which will be contingent on decisions by the Tubridgi Parties to decommission the Tubridgi Pipeline System or parts of the Tubridgi Pipeline System.

The Regulator accepts that the development of an Access Arrangement for the Tubridgi Pipeline System should not prevent the Tubridgi Parties from either decommissioning or abandoning the pipelines as any decommissioning is considered to be a commercial matter. As a consequence the Regulator will not require the clauses referred to in Amendment 23 to be deleted.

However, the Regulator considered that clauses 19.4, 20.1 and 20.2 of the General Terms and Conditions required further clarification to ensure that there is no misunderstanding about the terms under which the Tubridgi Parties could decommission the pipeline or parts of the pipeline. Therefore, the following changes were sought and made by the Tubridgi Parties.

#### **Clause 19.4 Decommissioning (GT & C)**

*The Tubridgi Parties may terminate the Agreement by written notice given to the Pipeline User at any time in the event that the Tubridgi Parties wish to decommission the Tubridgi Pipeline System or any part of it which the Tubridgi Parties consider necessary to enable them to perform any of their obligations under the Agreement. The Tubridgi Parties must notify the Pipeline User at least three months before they give written notice to terminate pursuant to this sub-clause.*

#### **Clause 20.1 Decommissioning Receipt Points (GT & C)**

*The Tubridgi Parties may decide at any time to decommission any Transmission Receipt Point. They shall give written notice to ~~may notify~~ the Pipeline User of that decision. They will have no obligation to receive Gas through that Transmission Receipt Point from the time it is closed for decommissioning so long as it is closed at least three months after notice was given to the Pipeline User pursuant to this sub-clause.*

#### **Clause 20.2 Decommissioning Delivery Point (GT & C)**

*The Tubridgi Parties may decide at any time to decommission any Transmission Delivery Point. They shall give written notice to ~~may notify~~ the Pipeline User of that decision. They will have no obligation to deliver Gas through that Transmission Delivery Point from the time it is closed for decommissioning so long as it is closed at least three months after notice was given to the Pipeline User pursuant to this sub-clause.*

These revisions meet the requirements of the Regulator.

## Amendment 24

**The General Terms and Conditions should be amended such that any time limitation imposed on claims between parties to a service agreement, or requirements for the provision of information in relation to claims, applies equally to all parties.**

The Tubridgi Parties have addressed the Amendment by revising clause 21.2 of the General Terms and Conditions as follows.

### **Clause 21 Liability (GT & C)**

#### **Clause 21.2 Limitation Period (GT & C)**

*To the extent permitted by law, ~~no party~~~~none of the Tubridgi Parties~~ will have any liability to ~~the Pipeline User~~ another party, for or in respect of any Claim, unless full particulars of that Claim are given by ~~the Pipeline User to them~~ a party to another party within ~~one~~ three months after that Claim becomes known to ~~the Pipeline User~~ a party or its servants or agents or should have become known to ~~the Pipeline User~~ a party or its servants or agents (whichever is earlier). This sub-clause will survive the termination of the Agreement.*

This revision meets the requirements of the Regulator.

## Amendment 25

**Clause 23.3 of the General Terms and Conditions should be amended to clarify the nature of claims relevant to this clause and to ensure that there is no unreasonable limit on the size of claims able to be made by a User against the Tubridgi Parties.**

The Tubridgi Parties have addressed this Amendment by deleting clause 23.3 of the General Terms and Conditions, thereby removing the limitation on liability for each of the Tubridgi Parties, as follows.

### **Clause 23.3 Limits on Liability (GT & C)**

*~~Subject to the Agreement, the liability of each of the Tubridgi Parties to the Pipeline User, for and in respect of each Claim, will at all times be limited to the extent permitted by law to an amount equal to that Tubridgi Parties' share of the Charges paid by the Pipeline User to the Tubridgi Parties for the calendar month in which the Claim arose (as determined in accordance with sub-clause 18.2). This sub-clause will survive the termination of the Agreement.~~*

This revision meets the requirements of the Regulator.

## Amendment 26

**Clause 25 (now 23) of the General Terms and Conditions should be amended such that a User is not liable to the Service Provider for any failure, as a result of force majeure,**

to perform an obligation under a service agreement other than an obligation to make payments.

The Tubridgi Parties have addressed the Amendment by revising clause 23.1, clause 23.2, clause 13.1(f) and clause 25.1 of the General Terms and Conditions as follows.

**Clause 23 Force Majeure (Gt & C)**

**Clause 23.1 Definition**

*For purposes of the Agreement, Force Majeure (in relation to any party) means any event or circumstance not within the control of ~~the Tubridgi Parties~~ that party. In relation to each party, it includes (but is not limited to) each of the following to the extent that it is not within the control of~~the that party~~ Tubridgi Parties:*

- (a) *acts of God, including, without limitation, earthquakes, floods, washouts, landslides, lightning, storms and the elements;*

*etc*

**Clause 23.2 Consequences of Force Majeure**

*Non-performance by any party of its obligations under the Agreement, as a result of Force Majeure related to that party ~~by any of the Tubridgi Parties of any obligation or condition required by the Agreement to be performed by it~~:*

- (a) *~~will be excused~~ will not constitute a breach during the time and to the extent that such performance is prevented, wholly or in part, by Force Majeure; and*
- (b) *will not to that extent give rise to any liability to ~~Pipeline User~~ the other party for any direct, indirect, consequential or special losses or damages of any kind arising out of, or in any way connected with, that non-performance,*

*provided that Force Majeure will not excuse the performance by any party of an obligation to make any payment under the Agreement.*

**Clause 13.1(f) Right to Curtail (GT & C)**

*Where the Tubridgi Parties consider that the delivery of that Gas into, through or out of the Pipeline will or may constitute or result in a breach by the Pipeline User of its obligations under the Agreement or, but for Force Majeure, will or may constitute or result in a breach by the Pipeline User of its obligations under the Agreement; or*

**Clause 25.1 Pipeline User's Breach (GT & C)**

*The Pipeline User will indemnify each of the Tubridgi Parties against all loss, cost, expense or damage which any of the Tubridgi Parties might suffer or incur as a result of the Pipeline User's breach of the Agreement (or as a result of the circumstances which, but for Force Majeure, would have constituted a breach by the Pipeline User of its obligations under the Agreement). This indemnity extends to (but is not limited to) any loss, cost, expense or damage which any of the Tubridgi Parties suffers or incurs in rectifying or remedying the Pipeline User's breach of the Agreement.*

These revisions meet the requirements of the Regulator.

#### **Amendment 27**

**Clause 11.5 of the General Terms and Conditions should be amended to indicate that the apportionment of lost or unaccounted-for gas will be undertaken on a basis that is consistent with provisions of relevant apportionment agreements.**

The Tubridgi Parties have amended clause 11.5 of the General Terms and Conditions as follows.

##### **Clause 11.5 Apportionment (GT & C)**

*If any Gas is lost, or cannot be accounted for, the Tubridgi Parties will allocate that Gas amongst the Pipeline User and other persons for whose account Gas is delivered into the Tubridgi Pipeline System in accordance with the provisions of any Apportionment Agreements (or if there are no Apportionment Agreements or no relevant provisions in the Apportionment Agreements, then) on whatever basis the Tubridgi Parties consider reasonable.*

The revision meets the requirements of the Regulator.

#### **Amendment 28**

**Clause 13.1(e) of the General Terms and Conditions should be amended to limit the rights of the Tubridgi Parties to curtail supply to the imbalance situation that arises where the quantity of gas delivered into the Tubridgi Pipeline System by or for the account of the pipeline User is *less than* the quantity of gas delivered out of the Tubridgi Pipeline System to or for the account of the pipeline User (or will or may be less than unless deliveries of gas are curtailed or interrupted).**

The Tubridgi Parties have amended clause 13.1(e) of the General Terms and Conditions as follows.

##### **Clause 13.1(e) Right to Curtail (GT & C)**

*Where the Quantity of Gas delivered into the Tubridgi Pipeline System by or for the account of the Pipeline User is ~~not equal~~ less than ~~to~~ the Quantity of Gas delivered out of the Tubridgi Pipeline System to or for the account of the Pipeline User (or will or may ~~not be less than equal~~ unless deliveries of Gas are curtailed or interrupted);*

The revision meets the requirements of the Regulator.



## 2.3 TRADING POLICY

### Amendment 29

**Clause 6.1 of the Access Arrangement should be amended to include a requirement that, prior to using any contracted capacity that is the subject of a Bare Transfer, the transferee must notify the Tubridgi Parties of the location of the User Receipt Point which is the subject of the transfer.**

The Tubridgi Parties have amended the fifth bullet point of the second paragraph of clause 6.1 of the Access Arrangement as follows.

#### **Clause 6.1 Bare Transfers (AA)**

*Any other information which the Tubridgi Parties may reasonably require concerning the nature of the Contracted Capacity that is the subject of the Bare Transfer, including the location of the User Receipt Point which is the subject of the Bare Transfer.*

The revision meets the requirements of the Regulator.

## 2.4 QUEUING POLICY

### Amendment 30

**Clause 7.3 of the Access Arrangement should be amended to the effect that if a Prospective User rejects an offer of capacity that is less than the capacity requested in the respective queued access request, then the queued access request will be maintained in the same position in the queue and maintained at the same level of requested capacity as pertained to the access request prior to the offer.**

The Tubridgi Parties have amended clause 7.3 of the Access Arrangement as follows.

#### **Clause 7.3 Offers of Spare Capacity (AA) Third Paragraph**

*If a Prospective Pipeline User does not notify the Tubridgi Parties within that period of 10 Business Days that it wishes to accept the Spare Capacity offered to it, then that Prospective Pipeline Users' Request in respect of which that offer was made, providing it is bona fide, will remain in the queue at the same position as before the offer to accept Spare Capacity was made and at the same level of requested capacity. ~~then the Request in respect of which that offer was made will be removed from the queue (to the extent that it would have been satisfied by the Spare Capacity offered) and that Spare Capacity will become available for offer in accordance with the Queuing Policy to other Prospective Pipeline Users with Requests in the queue.~~*

The revision meets the requirements of the Regulator.

## 2.5 REVIEW DATE

### Amendment 31

If a provision is maintained in the Access Arrangement for a review to be triggered where an excess of realised gas throughput over forecast gas throughput occurs, clause 9.3 of the Access Arrangement should be amended to specify that the Tubridgi Parties will submit revisions of the Access Arrangement to the Regulator if the independent report on forecast demand for the Tubridgi Pipeline System (to be completed by 31 March 2002), identifies that annual demand for the Tubridgi Pipeline System in 2003/04 or 2004/05 is likely to exceed, by 5000 TJ or more for either year, the forecast throughput used to determine the Reference Tariff.

The Tubridgi Parties have amended clause 9.3 of the Access Arrangement as follows.

#### Clause 9.3 Trigger Event (AA)

*If, half-way through the Access Arrangement period, the actual annual throughput of the Tubridgi Pipeline System increases materially from the forecast demand by a minimum of 5,000 TJ, the Tubridgi Parties will commission an independent report on forecast demand for the Tubridgi Pipeline System. If this report, which will be completed by 31 March 2002, identifies that demand for the Tubridgi Pipeline System is likely to exceed 20TJ/day for each day over any period of three consecutive months between 1 July 2002 and 30 June 2004, then the Tubridgi Parties will submit revisions to the Access Arrangement revisions to the Regulator by 30 June 2002 within three months of that result having been obtained.*

The Regulator has reconsidered the approach taken in the Draft Decision with respect to the Trigger Event. Given the subjective nature of forecasts, and their ability to materially change within short periods of time, the Regulator has taken the position that it would be better to compare the actual results achieved during the Access Arrangement Period with the current forecast, rather than comparing the existing forecast with yet another forecast.

Consequently, the revision meets the requirements of the Regulator.

### Amendment 32

**Clause 9.1 of the Access Arrangement should be amended to provide for a Revisions Submission Date of 1 October 2003**

The Tubridgi Parties have amended clause 9.1 of the Access Arrangement as follows.

#### Clause 9.1 Revisions Submission Date (AA)

*The Tubridgi Parties will submit revisions to this Access Arrangement to the Regulator on or before 1 January 2004 the date four (4) years and three (3) calendar months after the date of the Regulator's approval of this Access Arrangement.*

The Tubridgi Parties have requested that the Access Arrangement Period be for a full five years from the date of approval of the Access Arrangement as follows:

*Because of the length of time between submitting the TPSAA [Tubridgi Pipeline System Access Arrangement] with the Regulator in October 1999 and having it finally approved (anticipate early 2001), a number of the dates within the Access Arrangement need to be reviewed and changed. The Tubridgi Parties would prefer the initial Access Arrangement Period to run for a period of five years from the date it is approved;*

The Code permits an access arrangement period to last for five years. The Regulator is cognisant that the Tubridgi Pipeline System is a relatively small pipeline with current low levels of gas throughput. The Regulator has previously approved five year terms for access arrangements for the Parmelia Pipeline and the Mid-West and South-West Gas Distribution Systems and as a consequence has accepted that the Tubridgi Pipeline System should have a five year term for the Access Arrangement.

The Regulator considers that a five year term from the date that the Access Arrangement becomes effective is reasonable having regard to section 2.24 of the Code. Accordingly, the revision proposed by the Tubridgi Parties is considered to meet the requirements of Amendment 32.

### **3 REFERENCE TARIFFS**

The Code requires that an Access Arrangement include a Reference Tariff for:

- (a) at least one Service that is likely to be sought by a significant part of the market; and
- (b) each Service that is likely to be sought by a significant part of the market and for which the Regulator considers a Reference Tariff should be included.

The principles used to determine Reference Tariffs are to be stated as a Reference Tariff Policy. Both the Reference Tariff Policy and the Reference Tariffs should be designed with a view to achieving the objectives set out in section 8.1 of the Code:

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

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

The Tubridgi Parties proposed a Reference Tariff for the Haulage Reference Service. In accordance with the principles established by the Code, the Tubridgi Parties used a price path methodology for the determination of Reference Tariffs. With this approach, Reference Tariffs are determined in advance for the Access Arrangement Period. The Reference Tariff follows a path that is forecast to deliver a revenue stream sufficient to cover projected costs of providing the service.

The Code provides a general procedure for the application of the price path methodology to the determination of Reference Tariffs. The steps in this general procedure are:

- estimation of an Initial Capital Base;
- estimation of Capital Expenditure;
- estimation of Non-Capital Costs;
- estimation of an appropriate Rate of Return;
- specification of a Depreciation Schedule;
- determination of total revenue;
- allocation of total revenue across services;
- determination of Reference Tariffs; and
- specification of incentive mechanisms.

The Regulator considered the Reference Tariff proposed by the Tubridgi Parties in light of each of these steps. The Regulator's required amendments to the Access Arrangement in respect of each of these steps, and the revisions made by the Tubridgi Parties to the Access Arrangement and Access Arrangement Information are described below.

The Tubridgi Parties have requested that the initial Access Arrangement Period run for a period of five years from the date that the Access Arrangement is approved. The Regulator has agreed to this request and as a consequence, the calculation of the Reference Tariff has been undertaken over a period of seven years in recognition of the time it has taken to review and approve the Access Arrangement. The Tubridgi Parties provided the necessary information to assess the impact on the Reference Tariff for the additional two years.

Clause 3.2 of the Access Arrangement states that the Reference Tariff will be escalated on an annual basis by reference to the March quarter CPI of each year. The Regulator has considered this escalation practice with those proposed and agreed for other Access Arrangements. This comparison indicates that the Tubridgi Parties would be disadvantaged by escalation being applied on a twelve monthly basis as compared with that on a quarterly basis as is the case for some other pipelines. As a consequence, the Regulator has adjusted the base Reference Tariff, for the year ending 30 June 2000, by 50% of the CPI so as not to disadvantage the Tubridgi Parties.

### 3.1 INITIAL CAPITAL BASE

#### Amendment 33

**The Access Arrangement and Access Arrangement Information should be amended to reflect an Initial Capital Base of \$16.943 million as at 1 July 1999.**

In discussions with the Tubridgi Parties with respect to changing the Initial Capital Base to meet the requirements of this Amendment, it became apparent that a re-calculation of the Initial Capital Base was necessary. Consequently, the Regulator commissioned a further review of the Initial Capital Base for the Tubridgi Pipeline System.

This review concluded that the Initial Capital Base should be \$18.471 million. The difference of \$1.528 million, from the Draft Decision, was as a result of a review of the asset structure and the inclusion of working capital, which was not taken into account in the initially proposed Access Arrangement. Consequently, the Regulator accepted the Initial Capital Base to be \$18.471 million, which has been incorporated into section 4.1 of the Access Arrangement Information and used in the calculation of the Reference Tariff in section 3 of the Access Arrangement.

These revisions meet the requirements of the Regulator.

#### Amendment 34

**The Access Arrangement should be amended to include a Redundant Capital Policy that provides for the Capital Base to be reduced at the end of the Access Arrangement in accordance with pipeline throughput and the use of pipeline assets at that time.**

The Tubridgi Parties have addressed the requirements of Amendment 34 by amending the Access Arrangement and Access Arrangement Information to incorporate the new clauses in the Access Arrangement and Access Arrangement Information as follows.

**Clause 3.2.6 Redundant Capital Policy (Access Arrangement); and  
Clause 6.2.4 Redundant Capital Policy (Access Arrangement Information)**

*A review of the Capital Base will be conducted prior to the revision of the Access Arrangement. In the event that the average throughput is less than 20.5 TJ/d, over the next Access Arrangement period, then Redundant Capital will be removed from the closing asset value at the end of the current regulatory period. However, if the average throughput is greater than 20.5 TJ/d, over the next Access Arrangement period, then the Redundant Capital will be equal to zero.*

*If redundant capacity which has been removed from the Capital Base subsequently contributes or makes an enhanced contribution to the delivery of Services in the Tubridgi Pipeline System, then that capacity will be treated as a New Facility in accordance with clause 6.1.2 of the Access Arrangement Information and the value will be equal to the Redundant Capital Value increased annually on a compounded basis by the Rate of Return from the time the Redundant Capital Value was removed from the Capital Base, consistent with the treatment of Redundant Capital under Section 8.28 of the Code.*

The Redundant Capital Policy has been included so that the asset base may be reduced, at the commencement of the next Access Arrangement Period, if the average pipeline system throughput in the next Access Arrangement Period is less than 20.5 TJ/d. The application of the Redundant Capital Policy provides the opportunity to stabilise tariffs should average throughput decrease below 20.5 TJ/d in the next Access Arrangement Period. In subsequent Access Arrangement Periods any redundant capital may be treated as a New Facility having New Facilities Investment (for the purpose of sections 8.16, 8.17, 8.18 and 8.19) in accordance with section 8.28 of the Code.

The above revisions meet the requirements of the Regulator.

## **3.2 NON CAPITAL COSTS**

### **Amendment 35**

**The Access Arrangement Information should be amended, or additional information provided to the Regulator, to justify the costs of contract operations in terms of demonstration that the forecast costs are consistent with efficient operating practice for the pipeline system.**

The Tubridgi Parties have addressed Amendment 35 by providing additional information to the Regulator justifying that the costs of contract operations are consistent with efficient operating practices of the pipeline system.

In addition, a review of non capital costs indicated that regulatory costs associated with the preparation and review of the Access Arrangement and administrative costs of the Office of the Regulator had been omitted. As a consequence, these costs have been added as a legitimate expense for the purposes of calculating the Reference Tariff.

Accordingly, the following costs have been incorporated in the Access Arrangement and are presented in the Access Arrangement Information (Table 5A, sub-clause 4.1.4.2).

#### **Non Capital Costs (\$Million 30 June 1999) for the Financial Year Ending 30 June**

<u>Cost Classification</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Overheads	0.020	0.020	0.020	0.020	0.020	0.020	0.020
Wages & Salaries	0.040	0.040	0.040	0.040	0.040	0.040	0.040
Licences & Rates	0.040	0.040	0.040	0.040	0.040	0.040	0.040
Contract Operations & Consultants	0.220	0.220	0.220	0.220	0.220	0.220	0.220
Other Operational Costs	0.150	0.150	0.150	0.150	0.150	0.150	0.150
Pipeline Marketing Costs	0.025	0.025	0.025	0.025	0.025	0.025	0.025
Regulatory Costs	0.209	0.136	0.048	0.060	0.054	0.054	0.054
<b>Total</b>	<b>0.704</b>	<b>0.631</b>	<b>0.543</b>	<b>0.555</b>	<b>0.549</b>	<b>0.549</b>	<b>0.549</b>

The equivalent annual cost of the above stream of non capital costs is \$0.590 million using the WACC as the discount factor. This compares with an equivalent annual cost of \$0.495 million calculated from the information presented in the Draft Decision.

This revision meets the requirements of the Regulator.

### 3.3 RATE OF RETURN

#### Amendment 36

**The Access Arrangement and Access Arrangement Information should be amended to reflect a pre-tax real rate of return of 8.2%.**

The Tubridgi Parties adopted the rate of return of 8.2% (pre-tax real) as required by Amendment 36 by revising clause 4.1.2 and Appendix A of the Access Arrangement Information. The parameter values used in the Rate of Return calculation originally proposed by the Tubridgi Parties as compared with the Draft Decision and this Final Decision and Approval document are presented in the following table.

Parameters Used in the Estimation of the Rate of Return				
Parameter	Parameter symbol	Value used by the Tubridgi Parties	Value proposed by the Regulator Draft Decision	Final Decision and Final Approval
Risk free rate (nominal)	$R_f$	6.37%	6.27%	5.90%
Risk free rate (real)	$R_f$	3.78%	3.40%	3.38%
Market risk premium	$R_p$	6.0%	6.0%	6.0%
Asset beta	$b_a$	0.6	0.65	0.65
Equity beta	$b_e$	1.3	1.33	1.33
Debt beta	$b_d$	0.12	0.20	0.20
Cost of debt margin	$R_m$	1.2%	1.20%	1.20%
Corporate tax rate	$T$	36%	31.6%	31.4%
Franking credit value	$g$	30%	50%	50%
Debt to total assets ratio	$D/V$	60%	60%	60%
Equity to total assets ratio	$E/V$	40%	40%	40%
Expected inflation	$p_e$	2.5%	2.78%	2.44%

This revision meets the requirements of the Regulator.

### 3.4 DEPRECIATION

#### Amendment 37

The Access Arrangement and Access Arrangement Information should be amended to reflect depreciation costs over the Access Arrangement Period as follows.

Depreciation (\$million at 30 June 2000)					
Asset Class	1999/00	2000/01	2001/02	2002/03	2003/04
Transmission pipe	0.729	0.729	0.729	0.729	0.729
Meter Stations	0.113	0.113	0.113	0.113	0.113
SCADA & comm.	0.014	0.014	0.014	0.014	0.014
<b>Total</b>	<b>0.855</b>	<b>0.855</b>	<b>0.855</b>	<b>0.855</b>	<b>0.855</b>

The Regulator has reviewed the Initial Capital Base and has determined the new value to be \$18.471 million as indicated in Amendment 33. As a consequence, a new depreciation schedule has been calculated as outlined below. The Tubridgi Parties have accepted the revised depreciation schedule and addressed the requirements of Amendment 37 by including the Reference Tariff in the Access Arrangement that reflects the revised depreciation schedule. The Access Arrangement Information has also been amended to incorporate the new depreciation schedule.

The new depreciation costs that are reflected in the Access Arrangement and Access Arrangement Information (clause 4.1.3) are:

#### Depreciation (\$million at 30 June 1999) for Financial Year ending 30 June

Asset Class	2000	2001	2002	2003	2004	2005	2006
Transmission pipe	0.786	0.786	0.786	0.786	0.786	0.786	0.786
Meter Stations	0.113	0.113	0.113	0.113	0.113	0.113	0.113
SCADA & comm.	0.023	0.023	0.023	0.023	0.023	0.023	0.023
Other costs	0.022	0.022	0.022	0.014	0.006	0.006	0.006
<b>Total</b>	<b>0.944</b>	<b>0.944</b>	<b>0.944</b>	<b>0.936</b>	<b>0.928</b>	<b>0.928</b>	<b>0.928</b>

The revision meets the requirement of the Regulator.

### 3.5 REVENUE, COST/REVENUE ALLOCATION & REFERENCE TARIFF

#### Amendment 38

The Access Arrangement and Access Arrangement Information should be amended to reflect a Total Revenue requirement as follows.

Total Revenue (\$million at 30 June 2000)					
1999/00	2000/01	2001/02	2002/03	2003/04	Total
2.739	2.669	2.599	2.529	2.459	12.995



In consideration of changes to the Initial Capital Base, depreciation, non capital costs and gas throughput (required by Amendment 39 below), the projected total revenue differs from that presented in the Draft Decision. The Tubridgi Parties have revised total revenue and addressed the requirements of Amendment 38 by adjusting Reference Tariffs in the Access Arrangement that reflect the revised total revenue and included the following information in the Access Arrangement Information (clause 5.2).

**Total Revenue (\$million at 30 June 1999) for Financial Year ending 30 June <sup>1</sup>**

2000	2001	2002	2003	2004	2005	2006
<b>3.931</b>	<b>4.038</b>	<b>2.835</b>	<b>2.431</b>	<b>2.114</b>	<b>1.945</b>	<b>1.945</b>

The equivalent annual revenue of the above stream of total revenue is \$2.872 million using the WACC as the discount factor. This compares with equivalent annual revenue calculated from the information presented in the Draft Decision of \$2.610 million.

The revision meets the requirements of the Regulator.

### 3.6 GAS THROUGHPUT

#### Amendment 39

**The Access Arrangement and Access Arrangement Information should be amended to reflect updated throughput forecasts for the Tubridgi Pipeline System and to substantiate the updated forecast.**

The Tubridgi Parties have advised the Regulator of a possible additional requirement for transmission services of 2 TJ/day (730 TJ per annum) for a period of 2 years. This additional throughput quantity has been added to that presented in the Draft Decision. The Access Arrangement Information (clause 5.2 and 12.3) has been amended (Table 9a) and the increased throughput has been reflected in the calculation of the Reference Tariff.

**Annual Throughput (TJ/d) for Financial Year ending 30 June <sup>2</sup>**

2000	2001	2002	2003	2004	2005	2006
<b>32.3</b>	<b>33.2</b>	<b>23.3</b>	<b>20.0</b>	<b>17.3</b>	<b>16.0</b>	<b>16.0</b>

This revision meets the requirements of the Regulator.

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<sup>1</sup> Refer Table 9a of the Access Arrangement Information.

<sup>2</sup> Refer Table 9a of the Access Arrangement Information.

### 3.7 REFERENCE TARIFF

#### Amendment 40

Should the revised throughput forecast for the Tubridgi Pipeline System be consistent with that assumed by the Regulator for the purposes of this Draft Decision, the Access Arrangement should be amended to provide for the Reference Tariff for the Haulage Reference Service in 1999/2000 to comprise an MDQ charge of \$0.190 per GJ of MDQ and a commodity charge of \$0.062 per GJ of gas throughput, inclusive of the goods and services tax.

The Reference Tariff, referred to in Amendment 40 of the Draft Decision has been increased to reflect changes in the Initial Capital Base, Depreciation, non capital costs and gas throughput as discussed above.

The Tubridgi Parties have amended the Access Arrangement (Annexure C) and Access Arrangement Information (clause 5.2) to reflect the new Reference Tariff as follows:

#### Reference Tariff for the Haulage Reference Service (\$'s as at 30 June 1999)<sup>3</sup>

	GST Exclusive (\$/GJ)	GST (\$/GJ)	GST Inclusive (\$/GJ)
Price per MDQ	0.203	0.020	0.223
Price per Throughput	0.067	0.007	0.074
Total Price	0.270	0.027	0.297

The revision meets the requirements of the Regulator.

#### Amendment 41

The Access Arrangement should be amended to the effect that, for regulatory purposes, gas transportation undertaken by the Tubridgi Parties on their own behalf is assumed to return a revenue as if this gas transportation was undertaken as a Haulage Reference Service.

The Tubridgi Parties have addressed this Amendment by changes to clause 3.2.5 of the Access Arrangement as follows.

#### Clause 3.2.5 Rebate of Revenue From Negotiated Services

*The amount of revenue received in a financial year from the provision of Negotiated Services in excess of \$350,000 will be shared equally between the Tubridgi Parties and the Pipeline Users of the Reference Service including the Tubridgi Parties as Pipeline*

<sup>3</sup> Refer Table 10a of the Access Arrangement Information.

*Users as applicable. This rebate will only apply where the Tubridgi Parties receive, in that financial year, the following amounts of revenue from the provision of the Haulage Reference Services, which will include notional revenue for gas transported on the Tubridgi Parties own behalf, calculated with reference to the Haulage Reference Tariff that applies to the closest applicable Haulage Reference Service.*

**Total Revenue (\$million at 30 June 1999) for Financial Year ending 30 June**

2000	2001	2002	2003	2004	2005	2006
<b>3.931</b>	<b>4.038</b>	<b>2.835</b>	<b>2.431</b>	<b>2.114</b>	<b>1.945</b>	<b>1.945</b>

This revision meets the requirements of the Regulator.

**Amendment 42**

**The Access Arrangement should be amended such that for the purposes of setting the Reference Tariff for 2001/02, the CPI measure for 2000/01 should be reduced by 2.75% to account for the impact of the goods and services tax.**

Since publication of the Draft Decision, the adjustment for the impact of the GST on the escalation of Reference Tariffs has been adjusted downward to 2.5%, as reported in the 2001/2002 Federal Budget, from 2.75%. This downward adjustment relates to changes made by the Australian Bureau of Statistics in the move from the 13<sup>th</sup> to the 14<sup>th</sup> series CPI. It was reported in the 2000/2001 Mid-Year Economic and Fiscal Outlook publication<sup>4</sup> that some items, which declined in price as a result of the tax changes, such as motor vehicles, receive a higher weight in the 14<sup>th</sup> series, while others, such as cigarettes and clothing, receive a lower weight. The move to the 14<sup>th</sup> series CPI in the September quarter 2000 thereby had the effect of reducing the estimated impact of the New Tax System on the CPI in the first year by around ¼ of a percentage point.

In the light of the change in the estimated impact of the GST, the Tubridgi Parties have amended clause 3.2.1 of the Access Arrangement as follows.

**Clause 3.2.1 Reference Tariff Adjustments**

*The Reference Tariff, and the Overrun Rate charge, will change each year by the percentage change in the CPI. The CPI increase for 2000/2001 will be net of 2.5% to account for the impact of GST.*

This revision therefore meets the requirements of the Regulator.

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<sup>4</sup> Commonwealth Treasury, "Mid-Year Economic and Fiscal Outlook 2000-01", Part II Economic Outlook The Commonwealth Budget 2001-02

### **Amendment 43**

**Clause 3.2.5 (Rebate of Revenue from Negotiated Services) and clause 9.3 (Trigger Event) of the Access Arrangement should be amended to be consistent with the objectives for Rebatable Services and Incentive Mechanisms as set out in sections 8.40 and 8.46 of the Code.**

This amendment has been addressed by the Tubridgi Parties in their response to Amendments 31 and 41.

The Regulator notes that under section 8.44 of the Code, the Reference Tariff Policy should include an Incentive Mechanism wherever the Regulator considers it appropriate. Incentive Mechanisms are to be designed according to certain principles, under section 8.46. Section 8.40 provides for costs attributable to providing the Reference Service jointly with a Rebatable Service to be recovered as part of the Reference Tariff on the condition that the Service Provider rebates to Users of the Reference Service a portion of the revenue obtained from the sale of the Rebatable Service.

The Tubridgi Parties have undertaken, in response to Amendment 41, to rebate half the revenue obtained from the sale of Negotiated Services above a threshold level of \$350,000. In addition, the Tubridgi Parties have sought to limit their ability to benefit from the sale of Negotiated Services in preference to Reference Services through the application of a trigger mechanism (Amendment 31) whereby the Access Arrangement would be reviewed if, half-way through the Access Arrangement period, actual annual throughput of the pipeline system increases materially from forecast demand by a minimum of 5,000 TJ.

The Regulator therefore considers that the revisions to Amendments 31 and 41 meet the requirements of Amendment 43.

## 4 FEES AND CHARGES

### Amendment 44

**Clause 16 of the General Terms and Conditions should be amended to remove the provision for a User to be charged an amount in excess of the Reference Tariff for the purposes of recovering any goods and service tax liability incurred by the Tubridgi Parties as a result of the Reference Service being a taxable supply within the meaning of the *A New Tax System (Goods and Service Tax) Act 1999*.**

And

### Amendment 45

**Clause 17 of the General Terms and Conditions should be amended to remove the provision for the Tubridgi Parties to levy charges on Users, in addition to the Reference Tariff, to recover any impost imposed on or paid or payable by the Tubridgi Parties in relation to the provision of pipeline services.**

The Tubridgi Parties have addressed the requirements of Amendments 44 and 45 by deleting the original clauses 16 and 17 of the General Terms and Conditions.

The revisions meet the requirements of the Regulator.

### Amendment 46

**Clause 34 (now 32) of the General Terms and Conditions should be amended such that the imposition of charges on a User for the preparation, negotiation, execution and delivery of a service agreement is limited to the costs of stamp duty and other government imposts.**

The Regulator has re-considered his position with respect to the imposition of charges for the preparation, negotiation, execution and delivery of a service agreement.

The Tubridgi Pipeline System has a small number of Pipeline Users and is also likely to have a relatively small number of Potential Users. The Regulator has therefore considered that the recovery of direct costs, for services to Potential Users as outlined above, is acceptable to eliminate any potential for cross subsidisation that would occur if the costs were incorporated in the non capital costs of the Access Arrangement for the Tubridgi Pipeline System. It is also considered that the imposition of direct costs will eliminate the possibility of overcharging or undercharging which will have an impact on the Reference Tariff.

The Regulator will not now require clause 32 of the General Terms and Conditions to be amended as indicated by Amendment 46 of the Draft Decision.

## **5 OTHER MATTERS**

### **5.1 CONTACT DETAILS**

The Tubridgi Parties have requested that the contact details in the Access Arrangement be changed to a representative from Origin Energy Asset Management Limited to reflect a new management structure that has been put in place to meet the requirements of the granting of the waiver of certain ring fencing obligations for the Tubridgi Pipeline System.

The Regulator has recognised that there has been a change in the management structure of the Tubridgi Pipeline System and that Origin Energy Asset Management Ltd is now responsible for the management of pipeline services for the Tubridgi Pipeline System.