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TRANSCRIPT
PUBLIC FORUM
TUBRIDGI PIPELINE SYSTEM

DRAFT DECISION ON
PROPOSED ACCESS ARRANGEMENT

Chairman: Dr Ken Michael, AM
Independent Gas Pipelines Access Regulator

6 September 2000

Transcription by -

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DR MICHAEL: Good afternoon, everyone.

Firstly, let me introduce myself. My name is Ken Michael and I'm the Gas Pipelines Access Regulator. I welcome you all to this discussion of the Draft Decision for the Tubridgi Pipeline System. I thank you for making the time available.

I would particularly like to welcome Mr John Angus who is the Manager, Marketing and Contracts, with Origin Energy Resources. He is here from his office in Adelaide representing the Tubridgi Joint Venture Companies. He is supported by Mr Tim Schofield, Exploration and Production Manager for Origin Energy Resources, who is based here in Western Australia.

Allow me to introduce the other panel members. We have on my left Dr Ray Challen. Ray is our consultant from the Environmental Resources Management group and he will be making a presentation a little later. Next we have Mr Peter Kolf. Peter is the Executive Director of the Office of Gas Access Regulation and we have Mr Mike Jansen who is a Senior Analyst with the Office of Gas Access Regulation.

Between us all, hopefully we can address the issues you may wish to raise, but if I can just give you a bit of a brief outline on what we hope to do today. First there will be some presentations. The purpose of the meeting is to consider the Draft Decision, receive your comments and provide clarification and perhaps seek it as well in some cases on any issues you may wish to raise. Those comments, along with the submissions we will receive - and I should point out, if I'm right, that submissions close on Friday. Mike, is that right?

MR JANSEN: That's right.

DR MICHAEL: Friday the 8th, so there's still time for comments to be submitted. Collectively they will be considered in preparing the Final Decision. A little later we'll have some questions and I would ask you to address those through the chair. I might add that we are recording the proceedings, as we have done in the past.

What I would like to mention is that we will make a transcript. Previously we have provided that transcript on the Office of Gas Access Regulation Web site. We would like to do that again, but if anybody has a problem with that, would they please let us know and if there's any query, we're quite happy to make sure you see elements of the transcript before it goes on if you have a concern.

In a moment I'll give a brief overview of the Draft Decision. It will be quite brief. Then I'll call on Dr Challen, Ray Challen, to go into more detail. After that, a brief recess will give us a chance to reorganise things a little and have a cup of tea and then we'll have approximately 2 hours available in this room for questions. We don't need to use all of the 2 hours. It's entirely up to yourselves. If the questions are running up until that time, that will be fine and they will continue. The only requirement we have is that we do need to be finished by 5 o'clock. They have need for the room for other purposes.

We have tried to make sure that there's maximum time for questions and certainly that's the intent this afternoon. We do feel though that we need to give a bit of an overview of where we're at, just so that we can at least place the afternoon in context. You can have the questions as free-ranging as you like, but I would ask you to address them through the chair and certainly one of us will attempt to provide you with a response.

John, just for a bit of history, that's the Tubridgi Pipeline. It's approximately 87 kilometres long. There are two Pipelines, one 150 millimetres and the other 250 millimetres in diameter, comprising the Tubridgi Pipeline System.

As an overview, the particular issues that I would like to touch on include the issue of throughput uncertainty. This was raised alongside other issues such as; the valuation of the initial capital base which always creates some interest; the depreciation policy; capital redundancy and the need for such a policy in this context. Besides those there were other areas including the reference tariff; the return on investment, some issues with general terms and conditions that will be touched on and other non-tariff issues.

We hope to highlight those that we think are the ones that you would wish us to draw attention to. Hopefully you have seen the Draft Decision. It has been out for a while. Feel free to raise any issue or related issue and we'll do the best we can to address those or we will be happy to respond later if necessary.

Throughput uncertainty is one of the key elements discussed in the decision that needs to be addressed. I think John Angus is very much aware of that and it's certainly an issue that needs to be talked out further. The form of the decision lends itself to that further discussion through the next period towards the final decision.

The uncertainty has led the Tubridgi Parties to write off the capital expenditure of the pipeline over a shorter period than would normally be the case. They are seeking accelerated depreciation. Obviously reference tariffs would be very sensitive to such forecasts. Rather than say, "this is the reference tariff," we have indicated what we believe it would be, given certain assumptions. I think there is still room for discussions to take place over the next period towards the Final Decision. This would allow the reference tariff to be revisited in line with revised throughput estimates. We need more information in respect of that.

If we look at the initial capital base, it's a fairly recent pipeline system, as I think we're all aware, built at two different times. I think the average life is about 80 years. The current throughput is around 30 terajoules a day which is significantly less than the capacity of 120 terajoules a day, so at this stage the benefit of the doubt has certainly been given to the Tubridgi Parties.

The issue of throughput uncertainty is clear. If the throughput is not realised over the Access Arrangement period, then obviously we need to make sure that the values that we are putting in place are reasonable and in doing so we are suggesting that a capital redundancy policy be introduced and that capital redundancy policy will need to be activated as part of this Draft Decision if these figures are to be used.

The initial capital base of $16.9 million as assessed by our people compares with that requested by the Tubridgi Parties of $23.8 million. We will hear more of that a little later.

If we go to the next slide, Mike. The rate of return has been set using the Capital Asset Pricing Model and the parameters used in deriving the rate of return were as at 15 June 2000. We will revisit the parameters at the time of the Final Decision.

The level of risk that we have allowed for, using the asset beta, is at the higher end of the range as compared with other Regulators. Given the circumstances of the Tubridgi Pipeline System, we believe that that's the correct way to go, recognising the higher risk that exists.

As such, the rates that we have come up with - if we look at the return on equity, the nominal post-tax figure is 14.2 per cent and the weighted average cost of capital, which is the figure that is typically used, was calculated at 8.2 per cent, real pre-tax. This compares with the Tubridgi Parties' request of 8.75 per cent, but there will be more on that later. I think Ray will be touching on that in more detail.

We move to the reference tariff. This is the point I was making a little earlier. The Tubridgi Parties have requested 42.7 cents per gigajoule based on the throughput that's listed. We have obviously had other advice on what the throughput might be. The question remains uncertain, as to what it should be. I think the Tubridgi Parties have been requested to clarify that position to us. Should we use the higher throughput that we have before us, then we have estimated - and the word "estimated" is emphasised, the reference tariff to be about 22.9 cents a gigajoule. So obviously it's very clear that information on throughput is quite critical and we need to resolve that over the next period towards the Final Decision. As I say, the revised reference tariff is mainly attributable to the gas throughput.

There are a number of other matters. In passing, there are some 46 amendments required to the Access Arrangement. Many of these are just a matter of detail. Others are obviously more significant. Certainly we're seeking a response from the Tubridgi Parties on the amendments in the Draft Decision and also from users and other pipeline Service Providers so that we can address these in the time leading up to the Final Decision.

We are seeking the provision of a back-haul service. There are some requested changes to terms and conditions, which I won't go through but we will touch on them in a little while. There is also a request to change the trigger mechanism and Ray Challen will touch on that.

That effectively covers the main features that I would like raise. As I said before, the Forum is open to questions, so feel free to do so, but before that, I would like to call on Dr Ray Challen to give you more detail about some of the things I have said and add a bit more as well. Thank you. Ray, would you come forward?

DR CHALLEN: Thanks, Ken. As Ken mentioned, what I will do is provide some more detail on some of the issues that Ken gave a bit of a summary of in the Draft Decision and then in particular outline some of the process and some of the deliberations in considering the reference tariff for the Tubridgi Pipeline System.

An Access Arrangement includes specification of both reference services and reference tariffs. Obviously this is for many parties the core concern with an Access Arrangement. Through the specification of reference services and the associated tariffs, the Access Arrangement actually commits the Service Provider to making available a defined service at a predetermined price.

What I will do now is just go through some of the process. The reference service proposed was that of a continuous forward haulage service. The service has been designed with a view to the delivery of gas from offshore gas production to the Dampier to Bunbury Natural Gas Pipeline. The Regulator has accepted the appropriateness of that reference service for the Tubridgi Pipeline System.

However, the Access Arrangement will be required to be amended to commit the Tubridgi Parties to providing a back-haul service as a non-reference service. In other words, it's a service that the Access Arrangement commits the Tubridgi Parties to providing but there is no tariff for that service specified in the Access Arrangement. The reason for requiring this back-haul service to be provided is the possibility of a demand for that service for the provision of a competitive gas supply largely to the town of Onslow.

Section 8 of the Code sets out the requirements for a reference tariff. In broad terms, reference tariffs should be designed to achieve a number of objectives, including providing the pipeline owner, the Service Provider, with the opportunity to earn a stream of revenue that recovers the efficient costs of delivering the corresponding reference services where these costs are made up of a number of cost line items or cost components.

These are the operating costs or non-capital costs, which are the costs incurred in the day-to-day operation and maintenance of the pipeline and associated administration activities. Then there are the capital costs which are new facilities investment in pipeline assets that can be rolled into the capital base of the pipeline and a return on that investment and depreciation of that investment included in reference tariffs.

There are depreciation costs on the capital base, which arise from financial depreciation of the physical pipeline assets and there's a rate of return, a return to the owners of the pipeline assets based on the value of the capital assets of the pipeline.

In the Access Arrangement and associated documentation, the Tubridgi Parties provided forecasts of these costs. The Regulator assessed these forecasts and came to a conclusion based on the information provided as to what would comprise a reasonable reference tariff for the proposed reference service.

The code provides a general procedure for the determination of reference tariffs which has several steps. Both the Tubridgi Parties and the Regulator followed these steps in proposing a tariff from the point of view of the Tubridgi Parties or assessing that tariff from the point of view of the Regulator.

These steps are the estimation of the initial capital base - in other words, a valuation of the physical assets of the pipeline; an estimation of capital expenditure that may occur over the Access Arrangement period; an estimation of non-capital costs; an estimation of an appropriate rate of return on the value of the physical assets; the specification of a depreciation schedule; a determination from those various cost components of the total revenue requirement; an allocation of that total review requirement across services and a determination of reference tariffs, including a determination of a tariff structure.

Finally, there's a specification of the method or mechanism by which that tariff may vary across the Access Arrangement period and also incentive mechanisms built into the recovery of revenue and the tariff structure for the Service Provider to improve the efficiency or increase the size of the market for the service.

What I will do for the remainder of this part of the forum is to really summarise the deliberations of the Regulator in terms of each of these steps. The code provides for the value ascribed to the initial capital base to be normally in the range of a Depreciated Actual Cost (DAC) of the Pipeline assets and the Depreciated Optimised Replacement Cost (DORC) of those assets.

There are strong economic arguments for this minimum and maximum bound on the value of the physical assets. However, although there are good arguments for these bounds, there are no general economic arguments for using either of these values or either of these methodologies for valuing the assets as opposed to accepting some other value in the range.

There appears to be a general view amongst the regulated businesses that the value of the regulated assets should be set at the DORC value or depreciated optimised replacement cost. While it is understandable that a regulated business will strive to achieve the highest regulatory value of assets possible - that is generally the DORC value - it should be recognised that a DORC value has no inherent merit compared with a DAC value or some other value in that range.

The general approach of Regulators in Australia has been to consider a balance of interests between a Service Provider and the users of the particular pipeline in question in selecting a value of the initial capital base in that range.

The methodology used by the Tubridgi Parties in proposing a value of the initial capital base was that of a depreciated optimised replacement cost. This DORC value put forward by the Tubridgi Parties was derived on the basis of an optimised replacement cost for replacing the two pipelines of the Tubridgi Pipeline System with a single pipeline of the same nominal capacity, that being 120 terajoules a day.

The depreciated optimised replacement cost value was calculated by straight line depreciation of the assets over the technical lives of various asset classes which led to a DORC value of $23.8 million from an optimised replacement cost of $26.1m.

In considering this value, the Regulator did make some revisions to the values proposed by the Tubridgi Parties. The optimised replacement cost of the Tubridgi Pipeline System was revised to $22.5m, compared with the $26.1m proposed by the Tubridgi Parties, with a correspondingly lower Depreciated Optimised Replacement Cost of $20.7m, as opposed to $23.8m. The main reason for this revision was different assumptions as to the unit rates of pipeline construction in considering the Optimised Replacement Cost.

In contemplating a value for the initial capital base, it was noted that the Tubridgi Parties have proposed depreciating assets in the future and over the Access Arrangement period over an economic life that is shorter than the technical life of the principal pipeline assets; in other words, they have proposed an accelerated depreciation schedule.

In the view of the Regulator, there's no reason to presume that the Tubridgi Parties would not prior to the advent of regulation depreciate the assets at least at the same rate that is proposed for the future, so in the absence of information provided on historical depreciation the Regulator based the decision on that presumption.

Applying the same depreciation schedule that the Tubridgi Parties have used for forward looking depreciation to the optimised replacement cost of the assets gives an asset value or depreciated asset value of $16.943m which is the value adopted by the Regulator in the Draft Decision for the value of the assets.

By being consistent with a replacement cost valuation methodology and likely historical depreciation, it was considered that this value comprises a reasonable balance of interests between the Service Provider and potential users of the Tubridgi Pipeline System.

A final consideration in valuing the capital assets of the pipeline was that the value the Regulator has determined as appropriate, which is the $16.943 m, was based on assets with a capacity of 120 terajoules a day, knowing that the pipeline is in fact being used to transport gas at substantially less than capacity; in fact only at about 30 terajoules a day.

The Access Arrangement will therefore be required to be amended to include a redundant capital policy that provides for the capital base to be reduced at the end of the Access Arrangement period in accordance with pipeline throughput and the use of pipeline assets at that time.

The second element of costs is that of capital expenditure and no capital expenditure has been proposed by the Tubridgi Parties for the Access Arrangement and therefore no capital expenditure is addressed in the determination of the reference tariff.

Now, it should be noted that a zero forecast of capital expenditure does not negate the possibility of the Tubridgi Parties undertaking new facilities investment during the Access Arrangement and having that investment rolled into the capital base at the time the Access Arrangement is reviewed. The only implication of the zero forecast of capital expenditure is that this investment or investment that does occur during the Access Arrangement period is not reflected in any return on capital or depreciation during that period.

Moving on to non-capital costs or operating costs, the Tubridgi Parties have based the determination of the reference tariff on a constant real level of non-capital costs of $495,000 per annum. The Regulator has reviewed and accepts this forecast of non-capital costs for the purposes of the Draft Decision but will require further substantiation of some cost line items within the operating costs bracket before these costs are accepted in the Final Decision on the Access Arrangement.

In regard to depreciation and depreciation costs, as previously mentioned, the Tubridgi Parties have proposed an accelerated depreciation schedule whereby assets are depreciated over an economic life, rather than a technical life. The Regulator accepts this depreciation schedule proposed by the Tubridgi Parties as being consistent with the requirements of the Code and taking into account uncertainty over the future use of those assets. Having said that, the actual depreciation costs or depreciation allowances vary due to changes in the value of the capital base.

The rate of return - the Code establishes specific requirements for determining an appropriate rate of return on assets. Firstly, the rate of return should provide a return on capital investment that is commensurate with prevailing conditions in the market for funds and the market for finance and the risk involved in delivering a reference service.

The cost of funds or the weighted average cost of capital should be calculated by reference not necessarily to the particular business operating the pipeline but, rather, to a financing structure that reflects standard industry structures for a going concern and best practice.

The Tubridgi Parties utilised the capital asset pricing model to derive a real pre-tax weighted average cost of capital of 8.75 per cent. The Regulator followed a similar approach and adopted a real pre-tax weighted average cost of capital of 8.2 per cent for the purposes of determining reference tariffs or the reference tariff. The difference between these figures arises primarily from changes to the corporate taxation rate as introduced as of 1 July this year, with a further reduction next year.

This resulted in the corporate taxation rate that was included in the rate of return calculation decreasing from 36 per cent to an average of 31.6 per cent over the Access Arrangement period. Taking into account revisions to the initial capital base and the rate of return, there were differences in the total revenue requirement proposed by the Tubridgi Parties and revised by the Regulator.

The net result of the revisions made by the Regulator was an approximate 28% reduction in the total revenue over the Access Arrangement period from the Tubridgi Parties' proposed revenue.

Once you have determined a total revenue requirement for the pipeline business, a reference tariff is derived by allocating this total cost or total revenue across services and across users. The Regulator considers that the allocation of costs and the structure of reference tariffs should be a matter largely of commercial discretion for a Service Provider, subject to any proposed allocation and proposed tariff structure being reasonably consistent with criteria of efficiency and equity.

For the purposes of calculating a reference tariff for the haulage reference service, the Tubridgi Parties assumed that all forecast gas transportation in the Tubridgi Pipeline system would occur as a haulage reference service. The Tubridgi Parties then specified a reference tariff as being made up of two charges: a fixed charge on contracted maximum daily quantity which would recover 80 per cent of total revenue and a variable charge per gigajoule of throughput to recover 20 per cent of total revenue.

Given the nature of fixed costs and variable costs in delivery of a gas transportation service, the Regulator considers this approach of cost allocation and this structure of the reference tariff as being appropriate.

Notwithstanding the general acceptability of the allocation of total revenue and the structure of the reference tariff, the Regulator will require amendment of the Access Arrangement to reflect a revised reference tariff that reflects changes to the initial capital base and the rate of return and also to reflect possible changes to expected gas throughputs over the Access Arrangement period.

If we look at the actual throughput forecast, here's a comparison between the forecast put forward by the Tubridgi Parties with the Access Arrangement and which underlines their determination of reference tariffs and that used by the Regulator in assessing what may be at this stage an appropriate reference tariff.

Subsequent to the submission of the Access Arrangement, additional information came to the attention of the Regulator that in the Regulator's opinion necessitated a revision of the forecast gas quantities. The Regulator has used, for the purposes of this Draft Decision, a revised forecast of gas throughput based on this new information. However, there is a requirement placed on the Tubridgi Parties to submit a revised forecast and a substantiated forecast of gas throughput for consideration prior to the Final Decision.

As I previously mentioned, the proposed reference tariff was revised to reflect changes made in the Draft Decision to total revenue and to a revised forecast of gas throughput. This has resulted in, as Ken previously mentioned, a reduction in an indicative total tariff, which assumes a 100 per cent load factor in the delivery of a gas transportation service from 42.7 cents per gigajoule to 22.9 cents per gigajoule.

In specifying a tariff in the Draft Decision, the Regulator has also taken into account the impact of the goods and services tax. The liability for that tax will form part of the reference tariff. The Tubridgi Parties propose to pass through the goods and services tax at 10% of the goods and services tax exclusive price and the Regulator has accepted that for the purposes of the Draft Decision; hence there's a revised reference tariff inclusive of the goods and services tax of 10 per cent greater, giving a revised indicative total tariff of 25.2 cents per gigajoule.

The Tubridgi Parties have proposed, as part of the Access Arrangement, a mechanism for varying the reference tariff across the Access Arrangement and they have also proposed mechanisms to provide incentives to reduce costs and increase the size of the market for gas transportation.

In general, the tariff variation mechanism and the incentive mechanism proposed by the Tubridgi Parties is consistent with the price path approach in the determination of reference tariffs. Under this approach reference tariffs are set at predetermined levels over the Access Arrangement period, in this case setting an initial tariff and then providing for these initial tariffs to be escalated annually for inflation.

The benefits of cost savings achieved in the provision of the services within the Access Arrangement period would accrue to the Service Provider, providing an incentive for efficiency gains, reductions in costs and increases in throughput. This arrangement is consistent with the principles for an incentive mechanism set out in the Code.

The Tubridgi Parties have also included in the proposed Access Arrangement, mechanisms for sharing with users any benefits from large increases in pipeline throughput. These comprise a trigger mechanism that would initiate a review of the Access Arrangement if a predefined increase in throughput occurred and a rebatable revenue system whereby a share of revenue from the sale of non-reference services may be rebated to users.

The Regulator has concerns as to several potential problems arising from the mechanisms proposed by the Tubridgi Parties and whether those mechanisms will actually meet the objectives of an incentive mechanism as set out in the Code. In the first instance the Tubridgi Parties will be at liberty to propose suitable changes to the Access Arrangement that will meet the objectives of an incentive mechanism as set out in the Code.

However, the Regulator suggests that it may be appropriate to have a rebatable revenue mechanism based on total throughput or total revenue from the pipeline system, rather than differentiating between reference and non-reference services and also to remove provision for a trigger mechanism that would trigger a review of the Access Arrangement if some threshold increase in throughput is reached. That really brings me to the end of that overview.

DR MICHAEL: Thanks, Ray. You will note that the figure I used for the reference tariffs was exclusive of GST and maybe that was a long-term desire or certainly a Freudian slip, but whatever the case, thanks, Ray, for adding the extra bit and clearing up that point.

We're going to have a break now. I know we haven't been here for very long, but it gives us a chance to get organised for the open question time. There's coffee and tea outside. You're very welcome to bring it back in here. We have allocated 15 minutes but we're not really held to that. I mean, it's fairly flexible, but I will call you in and, as I said, please bring your cup of tea or coffee in here. Talk amongst yourselves and perhaps come forward with your questions in earnest at the start of the forum at about 3 o'clock.

Thank you.

DR MICHAEL: Thank you for coming back. I will stand up so I can see people but the team is here and they will respond to any of your questions or I will as the case may be. Please use the microphone.

The reason we're all doing this is so that we can get a transcript prepared. Please state your name and affiliation before you ask the question so we can record it correctly. It's open for comment or questions as the case may be on any issues we have raised or any other related issues. Fred, would you like to come forward? Would you come to the mike? It will be easier for us to get the words right. I'm sure you want to be quoted correctly.

MR HOWIE: Fred Howie from CMS Energy. A general question I guess. You have required a back-haul service. You mentioned it. I confess I haven't read that part of the decision in detail. Could you just run through a bit of the rationale behind requiring it please?

DR CHALLEN: The Draft Decision requires the Access Arrangement to be amended to specify that a back-haul service will be provided as a non-reference service. A non-reference service means that the services policy of the Pipeline Owner commits the Pipeline Owner to providing that service or, if you like, to negotiate in good faith for the provision of that service.

The reason why a back-haul service was provided for was because gas is used in Onslow, particularly for electricity generation, and the provision of a back-haul service through the Tubridgi Pipeline or the availability of such a service would increase the competitiveness in the market for the provision of gas to Onslow; in other words, more gas providers or gas producers would have access to that market.

What the market in Onslow does not provide though is a definite prospect that such a service would be used. It therefore did not meet the criteria of being necessarily a service demanded by a significant part of the market and for that reason it was not considered necessary or indeed desirable to include it in the Access Arrangement as a reference service but, nevertheless, to ask for it to be included as a non-reference service.

DR MICHAEL: Fred, does that give you enough information? Thank you. Any other questions or comments on any matter? Suzy?

MS TASNADY: Suzy Tasnady from CMS Energy. In your amendment number 42 you state the following few words at the beginning, "The CPI measures for 2000 and 2001 should be reduced by 2.75 per cent to account for the impact of GST." First of all, how would that be applied and, secondly, when the figures are updated, how is it then applied? Would you care to comment on that?

DR MICHAEL: Yes, thanks, Suzy. Ray?

DR CHALLEN: The 2.75 per cent or perhaps more correctly it should be 2.75 percentage points is a reduction in the CPI for a particular quarter, but I can't remember offhand when that would be applied, but for one CPI adjustment or inflation escalation of the tariffs, the CPI measure will be reduced by 2.75 percentage points to account for the impact on inflation of the Goods and Services Tax (GST).

The way that it is actually applied depends on which particular variation of the formula you are going to use to escalate tariffs and there are a variety of specifications of the CPI or the change in the CPI and the formula for escalating tariffs, all of which achieve the same thing but for which there are slight methodological differences. Nevertheless, it is effectively a correction of the CPI measure as published by the Australian Bureau of Statistics to inflate the tariff. Does that answer your question, Suzy?

MS TASNADY: Will it be applied generally over other Decisions as well? Is this now a precedent?

DR CHALLEN: Certainly that is the same approach that was taken for the AlintaGas Access Arrangement and with Access Arrangements in the Eastern States.

DR MICHAEL: Suzy, is that okay?

MS TASNADY: It answers the question.

DR MICHAEL: GST is an issue that has also been brought to our attention by the ACCC. In one case we were required to go back and explain to them that one of our decisions did comply with their requirements.

DR CHALLEN: I suppose we can add something there. That 2.75 per cent actually comes from a Treasury estimate, a Federal Treasury estimate, of what the inflation impact of the GST will be. There are alternative ways you could correct for the inflation effect of the GST. You could wait and see if the Australian Bureau of Statistics, which I think they are going to do, publish a GST corrected CPI measure which could also be used. The choice between the two is largely arbitrary. Either would achieve the goal of making sure that the tariff escalation is exclusive of the effect of the GST.

DR MICHAEL: Thank you. Any other questions or comments? We have got until 5o'clock, so please feel free. Is there anything that we have talked about that you might wish expanded, rather than a comment?

MR WILKINSON: Andy Wilkinson from CMS. This is in a fairly broad, almost philosophical sense I guess. The Tubridgi Access Arrangement as it was submitted was predicated on the basis of the Code and the Code is designed to promote competition and open access and nurture development of gas.

The situation with Tubridgi is such that a substantial amount of the gas that's going through this pipeline is actually associated with oil production. The volume of gas is almost completely independent of any tariff you would charge because it's a matter of doing something with that gas. You can't flare it; you can't reinject it. You have got to ship it to shore. There's a wide disparity between reducing the tariff and the impact that it will have on subsequent throughput relating to oil production.

Where it may have an effect would be on other gas developments, but we're looking at the Chevron offshore gas that's in decline and the Tubridgi onshore gas which is in decline. For that to promote more gas development doesn't seem particularly relevant in the circumstances. There's nowhere in the Access Arrangement, which is Tubridgi's view of the world, or the Draft Decision that discusses those issues. Perhaps you can comment on that.

DR MICHAEL: The issue you raise is philosophical certainly. Once the pipeline is a covered pipeline, we haven't got much flexibility in relation to applying the Code. I understand where you're coming from. I guess the figures we have come up with reflect the very nature of the Code itself.

What you're suggesting I think, is that there are some far more reaching issues that should be addressed in the overall economy of the pipeline, as I understand it. I just wonder if some of our people might want to have a broad attempt at that.

MR WILKINSON: Maybe I can just take that a step further.

DR MICHAEL: Yes. That was my impression.

MR WILKINSON: I guess the thing for me is: if oil production with its associated gas is insensitive to the tariff, if oil production was to double or if the associated gas production from offshore was to double, then the throughput through the pipeline would mean that at the next review period the tariff would be brought down because the volume of gas going through the pipeline has increased and the onshore fields would reap the benefit, I guess, of having a lower tariff. All well and good and it's a windfall to them; but what happens if the reverse happens? I mean, the throughput dies down because, for whatever reason, the oil economics change.

What I'm saying I guess is that I don't see the Code and the application in this instance being particularly relevant to the situation it is being applied to. I don't see any discussion anywhere in the Draft Decision that sort of recognises that fact.

DR MICHAEL: You're raising the very issue of whether the pipeline should be covered.

MR WILKINSON: Maybe I am I suppose, but it is covered.

DR MICHAEL: I think you are.

MR WILKINSON: We know that it is covered, but there is a broader issue. The Code is not necessarily directly applicable in this situation, or at least in part it's not. I don't see anything taking account of that.

DR CHALLEN: I think as Ken has just mentioned, it is an issue that would or should be taken into account in a decision as to whether the pipeline is covered or not. That aside, once the pipeline is covered, there's a certain process to go through in the determination of a reference tariff which is a fairly rigid process, which has been undertaken for the Draft Decision; but taking into account your comment on the potential variability or possibility for large variations in gas throughput through the pipeline over the term of the Access Arrangement period and variation from the forecast used to determine reference tariffs, it's obviously an issue of some concern and, I think as could be noted from the discussion in the Draft Decision about throughput uncertainty, something that makes a determination of a reference tariff rather difficult.

However, that throughput uncertainty and the associated commercial risk to the pipeline operator can to some extent be taken into account through the incentive mechanism that is included in the Access Arrangement, such that if the Service Provider is potentially exposed to large windfall losses, then it may well be reasonable to equally provide scope for that Service Provider to capture some large windfall gains before there may be a sharing of benefits of throughput increases.

I guess it's trying to use the flexibility within the Code to try and accommodate the reasonable interests of the Service Provider in terms of their exposure to risk.

MR KOLF: If I can just add to that, Andy, I think the view that I would hold is that you are in a sense assuming that there is perfect knowledge - maybe not entirely perfect knowledge but certainly considerable knowledge about what the potential supply opportunities are for further production of gas in the area.

I would say that that is not something that a Regulator would want to be speculating on. I think that what a Regulator should be looking at in these circumstances is what potential signals any particular price for carriage on a pipeline would project to those potential suppliers without necessarily taking a view as to who they are and how many of them there are.

I think it also is necessary for the Regulator in the situation where you do have great variability in gas throughput, which could well be typical in a situation where you have associated gas, to give recognition to the interests of the Pipeline Service Provider and enable that party to recover the costs of the pipeline and so on.

I think with those considerations, the approach that the Code sets outare quite appropriate.

DR MICHAEL: Andy, I don't know if that gives you entirely what you want to hear.

MR WILKINSON: I guess my last response from what Peter was saying is that if the throughput falls for reasons that have nothing to do with pipeline transportation efficiency costs and the translation of that into a tariff, the throughput will go down in that pipeline. At the next review, the redundant capital policy will kick in. A large part of the capital cost of the pipeline will be set aside with no return allowed on that, to maintain a tariff that will be then based on the smaller throughput, and so I'm not quite sure where the reciprocality is in terms of the risk recognition for the Service Provider.

MR KOLF: It is there in that with the review of the Access Arrangement and the kicking in of the redundancy policy, the Code would ensure that whatever tariff remains at the end of all of that, it would nonetheless provide at that point in time a reasonable return to the Pipeline Service Provider. At least, that is as I would see the intent of the exercise.

DR MICHAEL: It will reflect the throughput at any time. The only thing is that it would apply over the Access Arrangement period, so it will be over 5 years each time or whichever is nominated, but I would have thought that come the next phase, if there is a change like you say, then the figures would reflect the change in tariff accordingly. I would have thought that if the capital base was reduced, then the throughput was reduced.

MR WILKINSON: I guess I should make one last comment. I know nothing about the Griffin Gas Production plant.

DR MICHAEL: No, no. That's accepted. Thank you. Any other comments or questions or clarification? Fred?

MR HOWIE: Fred Howie from CMS Energy. The two Draft Decisions on transmission pipelines that have been issued to date, both incorporate a requirement for a capital redundant policy. Now, both decisions are for existing pipelines. My question relates to new pipelines. The issue I would like to perhaps explore and perhaps do it interactively is: firstly, would a redundant capital policy be applied to a new pipeline?

If it is, could you comment on how that might in your view affect the sizing of that pipeline and indeed any over-building or incorporating of capacity on a more entrepreneurial basis and also in terms of expansion capacity, how might that expansion in your view happen so that the general objective of the Code - being to promote the development of the market for natural gas - could be achieved if indeed constructors of pipelines may have a concern that if they spend money to put in additional capacity, they won't be allowed to get a return on it?

DR MICHAEL: Ray is going to have a go at that but I might add that I don't think it's our job to try not to give a reasonable return to the Service Provider. I have consistently said that there's a balance that we need to look at both from the user's perspective and the provider's perspective. There's no gain to be made by making life so difficult for the Service Provider that they can't get a return at all.

What we try to look at is whether we are getting value, whether we are getting economic gains across the industry and whether there is competition. I mean, those sort of fundamentals are very much foremost, certainly in our minds, when we look at these things. Starting with a new pipeline I think it's rather difficult but we can speculate on it. Ray will do so.

DR CHALLEN: I guess the issue we're talking about here is: how do you accommodate excess capacity in a piece of infrastructure and the value of that excess capacity in determining a reference tariff? As you have pointed out, Fred, with the two established transmission pipelines that Draft Decisions have been issued on so far, both have historically been used at far greater levels than they are at present, and the Code includes the redundant capital provisions to address this circumstance.

If the level of usage of an asset declines, then I suppose the operator or the business that initially constructed that pipeline bears some risk - that they may have oversized the pipeline initially and part of that, some assets or a proportion of the asset value, may be made redundant for some period until such time as throughput should increase again.

With a new pipeline or a more recently constructed pipeline where there has been excess capacity built into that pipeline from the beginning or for new facilities investment, the Code contains other provisions for accommodating excess capacity. The first of these provisions relates to a depreciation schedule for those assets where you may delay the recovery of depreciation or delay recovery of that investment or a proportion of investment until such time as the level of usage of the asset increases and so effectively what you have is a non-linear depreciation schedule where you will depreciate more of your asset in the future when it is used more intensively.

For new facilities investment in particular, there is what is called a speculative investment where again you may delay recovery of depreciation on investment and a return on that investment. That does not meet the requirements of section 8.16 of the Code until some time in the future.

What it means in effect is that if investment in new facilities does not have an immediate pay-off or is not of immediate benefit to users, then you may delay in effect rolling that investment into the capital base until some time in the future. Those are the mechanisms by which this excess capacity issue is dealt with.

MR KOLF: I guess I could add a little bit to that. I think that in regard to new pipelines, clearly a redundancy issue doesn't arise unless there is genuinely unused capacity. There is the speculative capacity or speculative capital provisions within the Code in the event that the investment in the first place would be regarded as speculative, so the redundancy aspect of it doesn't really kick in until you really do reach a situation; but the other point I would make is that you do need to have this genuine unused capacity element in considering a redundancy situation.

I think you also need to look to the market and consider whether there is in the market the capacity to cope with the tariffs that would result if you didn't introduce a redundancy provision. I guess this is where the balance of interests between the Service Provider and the user comes in and, yes, that is a matter for the Regulator to give some consideration to and find where that balance is.

I think after considering those sorts of things you might be able to conclude whether a redundancy policy is appropriate or not.

DR MICHAEL: Fred, is that okay?

MR HOWIE: That's fine.

DR MICHAEL: Just on one issue - you touched on the redundant capital policy and the fact that it has been used so far in two Draft Decisions. Obviously we're working to finalise both of those.

One of the things that we have in the Code is that once the ICB is established, there is no capacity, other than new investments, to increase it. Whatever we set at this time will hold for the period of the Access Arrangement. If there are prospective improvements in throughputs or otherwise later, other than capital investment, then it would seem to us that the Pipeline Service Provider is being handicapped, if you like, by having a lower ICB than they perhaps should have in going into the next phase.

I have personally supported a redundant capital policy because what it does is that it allows us to increase the ICB without having great impact on other parameters and at the same time allows us to make an adjustment at the end of the Access Arrangement period downwards. You can go down, but you can't go up unless you have new investments. I think that's correct.

It's a terrible name, having a redundant capital policy, but in fact we see it as an incentive - an incentive in that we can actually target a higher capital base for the provider while still providing a balance of all the other parameters, the WACC and obviously the reference tariff, so it's a technique that we have been using to assist the whole process, rather than a negative. I see it very much as a positive.

The other alternative is for us to take the conservative way out and by agreement - or not necessarily by agreement, but certainly set a lower value of the ICB which really hampers any sort of progress over the next 5 years certainly in my view, so the redundant capital policy is a form of incentive to increase the throughput over that time or to make expansion or some other feature but it lasts for the full period, but given that the conditions are not met at the end of that period, then the next review - whoever does it - could see the ICB come down if those targets aren't realised. Is that fair comment? Thank you. I thought it would be worth saying that because that's the reason that we have brought it in, not because we see it as a negative. We see it very much as a positive. Any other questions or comments? Yes, Suzy? I'm wondering if other than CMS might want to ask a question. You are very welcome to continue asking questions. I'm happy with that.

MS TASNADY: Suzy Tasnady again from CMS Energy. On page 81 of section B of the Draft Decision, there's a comment that is made under the discussion of the advantages and disadvantages between DAC and DORC. The statement is, "The criteria for a balance of interest has been that regulated tariffs should not exceed existing tariffs." I wonder if you would care to comment. On what is that criteria based and, secondly, how does this reflect the balance of interest, because the balance in this case is talking about the interest between both the Service Provider and the users.

DR MICHAEL: Ray?

DR CHALLEN: In looking at a balance of interests, obviously it's in the interests of the Service Provider to have as high a value of the initial capital base as can be achieved. Obviously then that is reflected in their depreciation allowances and their return on capital.

In considering the interests of users though, I guess the criterion that has been adopted, certainly in Western Australia but also in the Eastern States, is that by and large the advent of regulation should not result in an increase in tariffs to the users of the pipeline service. I suppose it's a reasonable expectation of users that with the advent of regulation, tariffs would be less than or equal to what they are at present, so that is where in effect that criterion arises from.

DR MICHAEL: Yes, Fred?

MR HOWIE: Fred Howie. Having said that, would you care to comment on the outcome of the AlintaGas Final Decision and tariffs there compared to the Gas Distribution Regulations?

DR MICHAEL: I did say we would go far ranging, but I thought this was the Tubridgi Pipeline system that we were talking about, but I'm happy for anyone to comment on that. I'm going to refrain from commenting. Ray?

DR CHALLEN: That's a tricky one. I suppose there we were looking at effectively a cost allocation issue. Once we had determined an initial capital base and the other parameters that enter into the equation for determining reference tariffs or other cost line items, we end up with a total revenue requirement. Then we have to decide on some allocation of that revenue.

In the case of the AlintaGas distribution system, tariffs were previously regulated under a different Regulatory regime. There was a cost allocation implicit in that previous regime, including a Regulatory valuation of certain assets and in particular the assets of the high pressure part of the AlintaGas distribution system.

What this did was impose, if you like, an artificial or Regulatory ceiling on the costs that were allocated against the users of the high pressure system, of the AlintaGas system, and restricted the tariffs that could be charged for gas delivery through the high pressure system.

When we considered the Access Arrangement, there was an alternative allocation of costs which was arguably - and this is really going out on a limb in terms of economics - more cost reflective in the allocation of costs and revenue between users of the high pressure system and users of the remainder of the distribution system, so in this case, yes, there was perhaps a departure from the criterion that users would not be subject to a higher tariff than prior to regulation but in that case for the AlintaGas distribution system, we thought there were good reasons to allow such a change in cost allocation but it was really I suppose resulting from a distortion, if you like, to the valuation of assets and to the determination of tariffs under the previous Regulatory structure.

DR MICHAEL: Just going back to the question Suzy asked as well on the balance of interests, I have consistently said that we need to try to come up with an answer that is commensurate with the conditions of the pipeline itself, because each of the pipelines that we have looked at or systems that we have looked at are quite different and they need to be, but we try to maintain, and hopefully we do - certainly it's an objective - consistency throughout.

One of the things that we always find, and I have said this on many occasions, is the access to information and the access to contracts which is always very difficult and there is commercial confidence in those. While the Regulator has certain powers under the act, I guess to be able to access information, at this stage we have been able to work very cooperatively with the Service Providers to access the information we have.

Very much we tend to get averaging I think of the tariffs, and perhaps in some cases we don't even know what the range of tariff may be, so we do the best we can in looking at what we mean by balance of interests. We look at the revenue and we look at, from the information we can glean, the average tariff. We then look at the rate of return and the ICB and as a collective we look at those three parameters to see whether they are fair, whether they are a fair balance of interests and whether they are going to do the very things that we set out to do; that is, the competition, the value certainly to the users and certainly making sure that the Service Provider gets a reasonable rate of return, and is it going to do something to stimulate the industry and people to use more gas and so generate obviously more activity in that area?

I guess it's within that general context that we look at it. It's not just looked at - "This is the criteria and this is what we do. This is the answer." There is quite a debate that takes place in looking at all the parameters and their sensitivity, so quite a few calculations are done on the impact of the variations of each of these parameters and what it does at the other end and what it does to revenue, rates of return and everything else.

In doing that, I think we try to balance the interests and that's very much the objective. At this stage we have been reasonably comfortable with the answers that we have come forward with. Others may not, but that's why we're here and we want to hear more about it. I just thought I would make that as a general comment, that we do look at a number of issues and a number of variations in arriving at the Draft Decision that you see before you.

MR KOLF: I would like to comment on the question that Fred raised in regard to the AlintaGas tariffs and how they relate back to presumably the GDR tariffs. One other aspect when you're moving from one kind of tariff system to another tariff system is that more often than not what you will find is that in restructuring tariffs it inevitably means that some customers will face higher tariffs and other customers will have lower tariffs.

It is a matter for consideration as to whether a restructure of a tariff is appropriate and if that tariff structure is appropriate as to whether the increases in the case of some customers are appropriately balanced by decreases for other customers.

The situation in the case of AlintaGas was that it was a very large-scale restructure of all of the tariffs and I think it would be inappropriate to simply focus in on those parts of the tariffs which related only to the GDR component, but I think you need to view it from the point of view of a tariff restructure in its entirety, which meant reflecting back on the A tariff, the B1 tariff, the B2 tariff and the B3 tariff.

On balance it involved all of those considerations and the Regulator came to the view that that restructure was appropriate but, as you recall, we specifically saw a concern with the difference between the GDR tariff and the new proposed tariffs, A tariff in particular, and sought to phase in the restructure over a period of time.

DR MICHAEL: Thanks, Peter. Any other questions or comments from anyone? Please, CMS, don't let me discourage any questions. You are very welcome to keep asking them. CMS in tandem there so, Andy, would you like to come forward and then Fred?

MR WILKINSON: Do I need to say CMS?

DR MICHAEL: No, I think we have established that.

MR WILKINSON: We have established that. A point of clarification perhaps. I'm confused in reading a comment that leads to one of the amendments. I haven't written down the amendment number, but on page B142 of the Draft Decision is a three point paragraph there regarding the discussion of incentives relating to the rebate mechanism associated with the negotiated services.

The second two points sort of to me read in contrast. I can't quite get to the bottom of what that means. It talks about the rebate mechanism associated with negotiated services providing a distortionary effect in relation to incentives. Perhaps you can clarify that for me.

DR MICHAEL: Ray?

DR CHALLEN: With the rebatable revenue provisions proposed by the Tubridgi Parties, the way this would work is that if the Tubridgi Parties achieve all of their forecast revenue from the sale of reference services and they sold non-reference services to a value of greater than $350,000, then any revenue gained from the sale of non-reference services in excess of $350,000 - half of that would be rebated to users.

There's at least one incentive problem with that. No rebate would be paid by the Tubridgi Parties until they had sold their target amount or target value of reference services. Therefore, there would be an incentive there to sell non-reference services, rather than reference services. They wouldn't achieve their target revenue for reference services and therefore wouldn't have to pay a rebate, even if they sold more than $350,000 worth of non-reference services or if their total revenue was well in excess of their target revenue for reference services plus their $350,000 from non-reference services.

The incentive that is created to sell non-reference services in place of reference services is actually contrary to the objectives of the Code. I can actually quote the relevant part of the Code. Section 8.46(a) of the Code says, "An incentive mechanism should not provide the Service Provider with an artificial incentive to favour the sale of one service over another."

In that sense, the rebatable revenue provisions of the Access Arrangement were contrary to the provisions of the Code.

DR MICHAEL: Andy, that's pretty clear?

MR WILKINSON: Yes.

DR MICHAEL: Thanks. Fred, would you like to ask your question?

MR HOWIE: Fred Howie. The question I suppose is a general philosophy. One of the requirements under both the Gas Pipelines Access Act and also the Code is that this regime should promote the development of the natural gas market. Now, we have been talking about capital redundancy and whatever.

In the event that the operator of an existing pipeline thought that he may not get a reasonable return on any money that he might spend on increasing the capacity of his pipeline or indeed for the constructor of a new pipeline, if the same thought was there, that constructor might build only to satisfy the initial load. Under the Code the Service Provider is not obliged to spend any money.

If the market for natural gas is to grow, then necessarily there needs to be expansion and expansion funded by others. In this case others could mean either or both of producers or end users. My question is: in terms of balancing Service Provider as against producer as against end user, how do you see that? What sort of process do you go through to deal with that issue?

DR MICHAEL: Ray?

DR CHALLEN: Again we're back to this excess capacity issue, but I suppose before we address that issue explicitly, it's worth going back to one of the objectives of the Code insofar as you determine reference tariffs, which is to attempt as far as possible to replicate the outcomes of a competitive market in determining prices.

Obviously gas pipelines aren't by and large a competitive market but, nevertheless, that's something we have to try to keep in mind when determining the reference tariff.

When somebody constructs a pipeline, they may well build in excess capacity to that pipeline beyond the immediate market requirements. If that was a piece of infrastructure being provided in a competitive market, they would not be able to get a return on that excess capacity immediately until the market had increased in size.

Therefore, what the Service Provider would tend to do is say, "Shall I build the excess capacity into my pipeline now and get a return some time in the future or shall I increase the capacity? Shall I build my pipeline to a capacity to suit the existing market and then supplement that capacity at a later stage?" It's that trade-off that a business would make in deciding whether to build the excess capacity in now or later.

It's in that sort of consideration that the Regulator may in considering a reference tariff for a pipeline with excess capacity say, "Is that excess capacity really a speculative investment by the Service Provider made in the hope or under some forecast or presumption that the size of the market will increase in the future?"

Therefore, just as in a competitive market the Service Provider wouldn't get a return on that investment in excess capacity at the current time, neither would it necessarily be reasonable to provide for an immediate return on that investment for a regulated Service Provider. That's the sort of consideration that would be made in considering that speculative investment component at the time of determining reference tariffs.

DR MICHAEL: I guess, Ray, it's very much a commercial decision on the part of the pipeline Service Provider.

DR CHALLEN: I mean, investing in excess capacity is a commercial risk whether you are in a competitive market or a regulated market.

DR MICHAEL: Fred?

MR HOWIE: Can I ask a question?

DR MICHAEL: Yes, certainly.

MR HOWIE: Ray, what I understand you to be saying is that the decision for how much additional capacity, if any, to be either built into a new pipeline or added to an existing one - what I'm hearing you say is that that decision now has been taken away from the Service Provider and that decision is made by the Regulator.

That being the case and again bearing in mind that the Service Provider is not obliged to spend any money, how do you balance off providing the pipeline operator or the potential pipeline constructor putting in excess capacity and being able to get a return on it versus that capacity being funded in its entirety by up-front capital contributions by either producers or end users? How would you go about balancing the interests.

DR CHALLEN: I will answer the first part of that question first before I forget it. Really a decision to invest in excess capacity is certainly not a decision undertaken by the Regulator. It's a decision undertaken by the business constructing a pipeline.

Where the Regulator's decision would impact is whether the business owning that excess capacity in that pipeline would get an immediate return on that excess capacity or whether the return would be delayed in the future until there has been a commensurate increase in the size of the market. In other words, the Regulator will determine whether to delay depreciation or recovery of that investment or to regard it as a speculative investment for the time being. Now, what was the second part of the question? I'm sorry.

DR MICHAEL: The other part of your question?

MR HOWIE: If the Service Provider chooses for whatever reason not to put in that capacity, then if the market is to grow then that capacity has got to be put in by somebody else.

DR CHALLEN: Okay. To, I suppose, think of a hypothetical example, if you were constructing a pipeline you could, say, build a pipeline to a capacity suited to the current size of the market and then if that market increases in the future, build a parallel pipeline to accommodate that increase. However, it would actually be far cheaper just to build a bigger pipeline in the first place.

What the Service Provider or the pipeline constructor would consider in that case is: "Should I build a bigger pipeline now knowing that the Regulator is not going to allow me a return on that excess capacity until the future, or should I build a parallel pipeline or loop a pipeline in the future?" That is really just a commercial decision, just the same as anybody operating in a competitive and unregulated market would make a decision on whether to make a bigger investment now as opposed to a more expensive investment in the future.

MR HOWIE: But that's not my question. My question is how to trade off the situation where the Pipeline Owner or Pipeline Constructor chooses not to do that. How do you trade that off as against other people paying for it? I mean, what criteria do you use in thinking about the trade-off?

DR CHALLEN: I guess, to date we haven't had to actually consider that trade-off. It is not so much a decision of the Regulator as a decision of the business building the pipeline. It's their commercial decision.

DR MICHAEL: Peter is going to have a response now too, Fred, but it's no different than any other infrastructure development that certainly I have been involved with. You have to make a decision whether it's worth doing up-front or not. I would think that anybody building a new pipeline would be talking to the Office of Gas Access Regulation and the Office of Energy and anybody else they can talk to about what impact the Code would have, without obviously pre-empting any Final Decision that might come out of it.

At the end of the day based on the facts that are around you, surely the provider is in the best position to take that commercial risk. It may well be in their best interests, for whatever reason, to make that investment. I don't see that the Regulator is making that investment for the provider which is what I sort of gathered from your question and that's not the way it is.

I mean, the proposals are coming from the business. The Regulator responds to those proposals. It's not as black and white as that, but that's pretty well what it is. The Regulator is there to encourage competition and to encourage growth. He is not there to make those commercial decisions which surround them, but certainly to facilitate those outcomes. Peter?

MR KOLF: We're talking about two markets here. One is the market for natural gas and the other is the market for pipeline capacity. It's reasonably well known that the construction of pipelines is such that once you make a decision on what capacity your pipeline is going to have, you're committed and it's a very expensive or costly exercise if that decision was wrong.

It's a very difficult decision that has a lot to do with understanding projected growth of the gas market and how well you can get your mind around that. There are obviously ways in which you can build a picture by using various modelling techniques to get an understanding of what the risks are and so on.

I think the way that the Regulator might go about addressing this issue is to first obtain an understanding of all of those things and then seek assurances from the Service Provider that the intent of the Access Arrangement is not to capture monopoly rents to cover the cost of speculative investment.

I believe it's a very difficult decision for the Service Provider in the first place. It's also a very difficult decision for the Regulator. Clearly, it needs a large amount of understanding and analysis and so on, but I think that what I have indicated here provides a way in which these issues can be addressed. It doesn't necessarily involve a clear-cut, easy decision process, but there is a way in which it can be dealt with and I would suggest that the Regulator and the Service Provider and users should work their way through it.

DR MICHAEL: I think Fred raised an interesting point. We're still working on historical situations. I think the interesting point is that the role of the Regulator when you go into these new fields, if you like, and to what extent the Regulator gets involved in that aspect - it's very much like talking to anybody who is in these sort of roles about getting advice, but you can't obviously be locked into it.

Certainly the way we have been trying to operate is that we provide advice to the industry in respect of regulation as to what the impacts may be, but obviously we can't respond or be responsible for any investment unless we have had a formal submission before us. Nor can we respond the other way. I think all that can be done is to give the options that are before the Pipeline Service Provider.

The best people to make that sort of commercial decision are the commercial people. There's no question about that in my mind. However, the Regulator has a role in providing suitable advice, which may help the Service Provider in coming to a conclusion. That service facility is something we haven't used greatly, except in respect of the existing Pipeline Systems.

Certainly the role of the Regulator beyond early next year when hopefully all the decisions are in place is one that we're actually examining now as to where we go from here and what the Code says and what the Act says, but I see it as a facilitatory role; that we could work with the industry in providing advice on regulation but at the end of the day the commercial decision can only be taken by the people who know the business and that's the industry in my view.

Does anybody else have a question? I'm sure John Angus would dearly like to hear from others who might have a comment on the Tubridgi Pipeline System. Does anybody have one? If not, I will open it up to more general questions if anybody has one along the lines that we have been hearing. I don't want to discourage those. I just wanted to make sure that everybody has the opportunity to comment.

The more information we get on feedback in this way, the better we can arrive at a final decision in a proper way. We're not discounting any of those general comments we have received that have been raised. I think they are all very good points that we need to take on board in some way. We will certainly do that.

Any other questions of a general nature or whatever? We have paid for another hour. Panel, are there any comments you would like to make, advice or anything? If there are no more questions or comments, as I said, on any issue, then I will perhaps close the session.

As I said at the beginning, if we don't use up the time, there's nothing lost. I wanted to make sure that there was adequate time to address these issues. One of the elements of the feedback we have had is that we need to provide more time for the questions and less presentations, and we have tried to do that today. We will work on that each time.

We appreciate any feedback we get. Where we go from here now is that we get all the comments in by Friday and please if you have anything you would like to add based on today's discussion, send it to us in any form, email or direct, by Friday. Obviously if you're having difficulty in doing that, if you give notice that you are going to do so a couple of days later wouldn't hurt us. We would certainly like to know. Otherwise any comments we receive subsequent to that won't be listed on the Web site until we come up with a Final Decision but anything we receive notice of by Friday we will certainly make available on the Web site. I think that's the way we have been operating and that's as fair as we can get I guess.

We need to obviously settle down and come to a Final Decision. We have got some key issues to sort out with the Service Provider and we need to reflect on the comments that we have heard today.

Some of the more general issues that have been raised really reflect on regulation in general and I think that is an issue that needs to be addressed subsequent to all these decisions and it is one that I intend to do. I might just foreshadow that I would like at the end of all this, when we have the decision out, to have a collective get-together of the Service Providers and the users and just hold a bit of a seminar on regulation, how it went and where we're going. I'm sure we'll get some interesting comments.

I think it's important that we do have that feedback and that will be some time I suppose middle to late next year, Peter. We will run something like that. I will certainly commit to doing that. I think it's important that we do get your feedback. That can be fed back into the system in whatever form that takes.

I would like to thank everyone for coming. Thank you for your participation. I thank John Angus for coming across from Adelaide and joining us, and Tim and certainly our panel of Ray, Peter and Mike. Julie at the back there has been quietly keeping us in tow and keeping us organised, making sure we can all hear. That's why I had those funny - I wasn't going a bit dyslectic; it was just my asking her, "Can you hear?" which she responded to - all was well.

Thank you for your attention. The transcript - if anybody has an objection, I will repeat that. Please let us know about the transcript. If we have any queries perhaps on what was said, we will come back to you but we will clean it up. When I say "clean it up", obviously the errs and the ums will be taken out. We will put our overheads on the Web site as well. I don't know if we have decided that, but I think we just have - and also the transcript. Please feel free to comment. I thank you for your attention. Please have a good day for the rest of it. Thank you.