

TUBRIDGI PIPELINE SYSTEM ACCESS ARRANGEMENT

Tubridgi Parties

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Submitted to the
Gas Access Regulator
Office of Gas Access Regulation, Western Australia

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ANNEXURE A MAP OF THE TUBRIDGI PIPELINE SYSTEM

ANNEXURE B TERMS AND CONDITIONS

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DISCLAIMER

This document has been prepared solely for the purpose of compliance with the *Gas Pipelines Access (Western Australia) Act 1998* and the National Third Party Access Code for Natural Gas Pipeline Systems.

This document is not intended for any other purpose and should not be relied upon as the basis for any decision to transport or retail gas through the Tubridgi Pipeline System or to buy or sell, or otherwise deal in, securities of any of the Tubridgi Parties, or for any other purpose.

1. INTRODUCTION

1.1. Purpose of this Document

This Access Arrangement is submitted by the Tubridgi Parties to the Gas Access Regulator, the Western Australian Office of Gas Access Regulation ('the Regulator'), in accordance with section 2 of the National Third Party Access Code for Natural Gas Pipeline Systems ('the Code').

This Access Arrangement applies to the Tubridgi Pipeline System, which is comprised of the Tubridgi Pipeline (WA PL16) and the Griffin Pipeline (WA PL19). These two pipelines both start at the Tubridgi Gas Plant, 25 kilometres south of Onslow, and end at Compressor Station No.2 (CS2) on Epic Energy's Dampier to Bunbury Natural Gas Pipeline (DBNGP).

A map illustrating the route of the Tubridgi Pipeline and Griffin Pipeline is included as Annexure A to this Access Arrangement. Further information about the Tubridgi Pipeline System is included in the Access Arrangement Information.

Details of the terms and conditions which will apply in relation to third party access to the Tubridgi Pipeline System are set out in Annexure B of this Access Arrangement.

Access Arrangement Information relating to this Access Arrangement has been submitted to the Regulator in accordance with section 2 of the Code.

1.2. Commencement Date

This Access Arrangement will come into effect on the date on which its approval takes effect under section 2 of the Code.

1.3. Interpretation

Section 10 of this Access Arrangement is a glossary, which sets out the definitions given to some terms used in this Access Arrangement.

Terms which are defined in the Code or in this Access Arrangement commence with capital letters. Unless otherwise defined in this Access Arrangement, terms used have the same meaning as they have in the Code. Unless specified otherwise, references to section numbers are references to sections in this Access Arrangement.

1.4. Contact Details

The Regulator waived certain ring fencing obligations contained in the Code as a result of the Tubridgi Parties entering into a Management Agreement with Origin Energy Asset Management. The contact person for further details in relation to this Access Arrangement and the accompanying Access Arrangement Information is therefore:

Peter Gayen
Manager, Network Services
Origin Energy Asset Management Limited
Level 6
1 King William Street
ADELAIDE SA 5000

Telephone: (08) 8217 5697
Facsimile: (08) 8217 5690
Email: peter.gayen@originenergy.com.au

2. SERVICES POLICY

2.1. Services

The Tubridgi Parties offer the following Pipeline Services to Pipeline Users and Prospective Pipeline Users:

- the Haulage Reference Service; and
- Negotiated Services.

To the extent practicable and reasonable, a Pipeline User or Prospective Pipeline User may obtain a Pipeline Service which includes only those elements that the Pipeline User or Prospective Pipeline User wishes to be included in the Pipeline Service.

To the extent practicable and reasonable, the Tubridgi Parties will provide a separate Tariff for an element of a Pipeline Service if requested to do so by a Pipeline User or Prospective Pipeline User.

2.2. Haulage Reference Service

The Haulage Reference Service comprises:

- accepting a quantity of Gas at a Transmission Receipt Point;
- the physical forward haulage of Gas from that Transmission Receipt Point to a Transmission Delivery Point;
- the delivery of an equivalent quantity of Gas at a Transmission Delivery Point;
- the provision and maintenance of Metering Equipment at Transmission Delivery Points; and
- readings of Metering Equipment at the Transmission Delivery Points once each Pipeline Day, with readings provided to Pipeline Users on a daily basis,

on, and subject to, the terms and conditions referred to in section 4.1 and Annexure B of this Access Arrangement.

The Haulage Reference Service does not include any of the Services that are Negotiated Services.

2.3 Non-Reference Service

A Non-Reference Service comprising of 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.

2.4. Negotiated Service

Any Pipeline User or Prospective Pipeline User may request the Tubridgi Parties to provide a Negotiated Service. A Negotiated Service is a Pipeline Service that is different from the Haulage Reference Service.

The terms and conditions on which the Tubridgi Parties will provide a Negotiated Service will be the same as the terms and conditions referred to in section 4, where the Tubridgi Parties determine that those terms and conditions are appropriate and applicable to the Negotiated Service requested by the Pipeline User or Prospective Pipeline User.

Negotiated Services are Rebatable Services.

2.5. Request for Services

A request for Pipeline Services (a 'Request') must be made to the Tubridgi Operator. As at the date of this Access Arrangement, the contact details for the Tubridgi Operator are the details set out in section 1.4.

A Request must be submitted on the official application form endorsed by the Tubridgi Parties and must include all relevant information required by the Tubridgi Parties to consider that Request. Copies of that application form are available on application to the Tubridgi Operator. An application fee of \$1,000 will be charged and is payable when lodging the application form with the Tubridgi Operator.

2.6. Excluded Services

Pipeline Users and Prospective Pipeline Users should note that the Code only requires the Tubridgi Parties to provide Services (as defined in the Code). Those Services do not include the production, sale or purchasing of Gas, the processing of Gas through the Tubridgi Gas Plant or the storage of Gas in the Tubridgi gas field. The Tubridgi Parties have no obligations under the Code to provide these excluded services and nothing in this Access Arrangement will impose any obligations on the Tubridgi Parties to provide these excluded services.

2.7. Pipeline Service Standards

The Tubridgi Parties will provide each Pipeline Service, including the Haulage Reference Service, in accordance with and subject to the requirements of any Pipeline Licence or applicable law.

3. REFERENCE TARIFFS AND REFERENCE TARIFF POLICY

3.1. Reference Tariffs

The Reference Tariff for the Haulage Reference Service will be set out in the Tariff Schedule from time to time. The initial Tariff Schedule forms Annexure C to this Access Arrangement.

The Reference Tariff set out in Annexure C is that which will apply from 1 July 1999 to 30 June 2000. The Reference Tariff will be adjusted with effect from 1 July each year in accordance with the adjustment mechanism in section 3.2.1.

The Reference Tariff set out in Annexure C includes GST (as defined in the *A New Tax System (Goods and Services Tax) Act 1999*).

3.2. Reference Tariff Policy

In this section 3.2, unless stated otherwise, a reference to the percentage change in the CPI is a reference to the percentage change between the March quarter CPI in the then current year and the March quarter CPI in the previous year.

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 2000/01 will be net of 2.5% to account for the impact of GST.

3.2.2. New Facilities Investment

The Reference Tariff for the Haulage Reference Service will vary in accordance with the Extensions and Expansions Policy set out in section 8.

Where only part of any New Facilities Investment that is included as part of the Tubridgi Pipeline System satisfies section 8.16 of the Code, then:

- the Capital Base will be increased by that part of the New Facilities Investment that satisfies section 8.16 (the 'Recoverable Portion'); and
- Reference Tariffs for that part of the New Facilities Investment that satisfies section 8.16 of the Code will be determined in accordance with section 8.2 of this Access Arrangement.

Where part or all of any New Facilities Investment that is included as part of the Tubridgi Pipeline System does not satisfy the requirements of section 8.16 of the Code, the Tubridgi Parties may apply to the Regulator to impose a Surcharge or seek a Capital Contribution in relation to that New Facilities Investment in accordance with section 8 of the Code.

3.2.3. Incentive Mechanisms

The following Incentive Mechanisms apply to this Access Arrangement.

3.2.3.1. No Adjustments to Total Revenue within the Access Arrangement Period

Within any Access Arrangement Period there will be no adjustment to the Total Revenue requirement or Reference Tariffs to reflect any differences between actual and forecast amounts for Non-Capital Costs and revenue (other than as permitted by the terms of any contract between the Tubridgi Parties and any Pipeline User).

The Total Revenue requirement for any future Access Arrangement Period will not be adjusted to recover the amount of any gains or provide compensation for any losses achieved by the Tubridgi Parties as a result of any differences between actual and forecast amounts for Non-Capital Costs and revenue.

The application of this Incentive Mechanism is subject to the Tubridgi Parties continuing to manage and operate the Tubridgi Pipeline System in accordance with accepted industry practice.

This element of the Reference Tariff Policy is a Fixed Principle.

3.2.3.2. Glide Path

Any reductions in Non-Capital Costs that are achieved within an Access Arrangement Period by the Tubridgi Parties will be carried through to the subsequent Access Arrangement Period and reflected in the Total Revenue requirement through the application of a glide path that shares the reductions with Pipeline Users over the whole of the subsequent Access Arrangement Period.

The application of this Incentive Mechanism is subject to the Tubridgi Parties continuing to manage and operate the Tubridgi Pipeline System in accordance with accepted industry practice.

This element of the Reference Tariff Policy is a Fixed Principle.

3.2.4. Tariff Schedules

Whenever the Tubridgi Parties wish to adjust or modify the Reference Tariff in accordance with this Access Arrangement, they will send a revised Tariff Schedule to:

- (a) each Pipeline User;
- (b) each Prospective Pipeline User whose name appears in the queue established pursuant to section 7 of this Access Arrangement;
- (c) any person who, during the preceding six months, requested a copy of the Information Package maintained by the Tubridgi Parties in relation to the Tubridgi Pipeline System pursuant to the Code; and
- (d) the Regulator.

A copy of the revised Tariff Schedule will also be included in the Information Package whilst that revised Tariff Schedule remains in effect.

Each revised Tariff Schedule will specify the period during which it is to be in effect and will be effective as the Tariff Schedule during and after that period, unless another revised Tariff Schedule comes into effect pursuant to this Access Arrangement.

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 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:

	99/00 \$m	00/01 \$m	01/02 \$m	02/03 \$m	03/04 \$m
Total Revenue (escalated)	6.102	5.598	3.398	1.551	0.633

Table 1: Total Revenue from Haulage Reference Services (Original Proposed Access Arrangement)

	99/00 \$m	00/01 \$m	01/02 \$m	02/03 \$m	03/04 \$m	04/05 \$m	05/06 \$m
Total Revenue (\$'s 30 June 1999)	3.931	4.038	2.835	2.431	2.114	1.945	1.945

Table 1a: Total Revenue from Haulage Reference Services as determined by the Regulator and agreed by the Tubridgi Parties.

The Regulator has determined and the Tubridgi Parties have agreed that the revised Total Revenue for the Tubridgi Pipeline System Access Arrangement is as appears in the table above labelled 1a.

Revenue will be rebated to Pipeline Users of the Reference Service in the form of a reduction in bills from the second month (and if necessary, any subsequent months) of the subsequent financial year. The amount exceeding \$350,000 will be rebated between Pipeline Users of the Reference Service according to the volume of Gas transported on behalf of the Pipeline User in the preceding financial year, as a proportion of the total Quantity of Gas transported on behalf of all Pipeline Users receiving the Reference Service.

3.2.6 **Redundant Capital Policy**

As agreed with the Regulator, the following Redundant Capital Policy will apply for the Tubridgi Pipeline System.

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/day 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/day 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.

4. TERMS AND CONDITIONS

4.1. Haulage Reference Service

The Haulage Reference Service will be provided to Pipeline Users on and subject to the terms of an Agreement which will comprise:

- (a) the terms and conditions set out in Annexure B; and
- (b) the Specific Terms and Conditions agreed between the Tubridgi Parties and the Pipeline User.

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 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 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;
- (c) the date on which the Tubridgi Parties are to commence providing Pipeline Services pursuant to the Agreement;
- (d) the period for which the Agreement is to remain in force (assuming that it is not terminated earlier in accordance with the terms and conditions set out in Annexure B) (which period must be at least 12 months);
- (e) (for each User Delivery Point) the maximum Quantity of Gas which the Tubridgi Parties are obliged to deliver to or for the account of the Pipeline User pursuant to the Agreement through that User Delivery Point on any Pipeline Day;
- (f) the date on which the Agreement will terminate (assuming it is not terminated earlier in accordance with the terms and conditions set out

in Annexure B) (which date must be at least 12 months after the date of the Agreement); and

- (g) an address and facsimile number for the purposes of the service of notices on the Pipeline User pursuant to the Agreement.

4.2. Negotiated Services

A Negotiated Service is a Pipeline Service that is different from the Haulage Reference Service.

If a Pipeline User or Prospective Pipeline User requires a Service on terms and conditions that differ in any way to the terms and conditions set out in Annexure B or with Specific Terms and Conditions that do not correspond with the Specific Terms and Conditions described in section 4.1, then the Pipeline User or Prospective Pipeline User requires a Negotiated Service.

The terms and conditions on which the Tubridgi Parties will provide a Negotiated Service will be determined through negotiation between the Tubridgi Parties and the Pipeline User who has requested that Negotiated Service or, in default of agreement, through dispute resolution in accordance with section 6 of the Code.

The terms and conditions on which the Tubridgi Parties will provide a Negotiated Service will be the same as the terms and conditions described in section 4.1 to the extent that the Tubridgi Parties determine that those terms and conditions are appropriate and applicable to the Negotiated Service requested by the Pipeline User or Prospective Pipeline User.

4.3. Pre-conditions to Pipeline Services

A Prospective Pipeline User who requires a Pipeline Service must satisfy a number of pre-conditions before the Tubridgi Parties are required to provide that Pipeline Service or to enter into an Agreement to provide that Pipeline Service. These pre-conditions are as follows:

- (a) the Prospective Pipeline User must cause or procure a bank acceptable to the Tubridgi Parties to issue a bank guarantee to the Tubridgi Parties (in form and substance acceptable to the Tubridgi Parties) for an amount of not less than two months Charges (assuming that the Quantity of Gas delivered to or for the account of the Pipeline User on each Pipeline Day during that period will be equal to the MDQ);
- (b) the Prospective Pipeline User must satisfy the Tubridgi Parties that the Prospective Pipeline User meets the requirements of the Credit Policy;
- (c) the Prospective Pipeline User must satisfy the Tubridgi Parties that the Prospective Pipeline User has adequate arrangements in place to ensure that the aggregate Quantity of Gas delivered to the Tubridgi Parties by or for the account of the Prospective Pipeline User will be equal at all times to the aggregate Quantity of Gas delivered by the Tubridgi Parties to or for the account of the Pipeline User;

- (d) the Prospective Pipeline User must satisfy the Tubridgi Parties that the Prospective Pipeline User has adequate arrangements in place to ensure that it complies with its obligations to the Tubridgi Parties in relation to the Pipeline Service;
- (e) the Prospective Pipeline User has installed any Metering Equipment it is or will be required to install at any Transmission Receipt Point;
- (f) the Prospective Pipeline User must satisfy the Tubridgi Parties that neither the provision of the Pipeline Service nor entry into an Agreement will contravene any applicable law; and
- (g) (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.

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 to apportion Gas delivered through each Transmission Receipt Point and each Transmission Delivery Point amongst the Prospective Pipeline User and other Pipeline Users.

4.4. Credit Policy

The Tubridgi Parties will not be required to provide Pipeline Services to a Pipeline User, or Prospective Pipeline User, who does not meet the requirements of the Credit Policy. The Credit Policy requires that:

- (a) a Pipeline User must be resident in Australia or have a permanent establishment in Australia;
- (b) (if the Pipeline User is incorporated or constituted under any law other than the Corporations Law) the Pipeline User must have provided the Tubridgi Parties with a legal opinion in form and substance satisfactory to the Tubridgi Parties that confirms:
 - (i) the due incorporation and good standing of the Pipeline User;
 - (ii) the legal capacity of the Pipeline User to enter into and perform the Agreement between the Pipeline User and the Tubridgi Parties; and
 - (iii) the due execution of that Agreement and the enforceability of that Agreement against the Pipeline User;
- (c) the Pipeline User must be capable of being sued in its own name in a court established under the laws of Western Australia and in courts established under the laws of other States and Territories;

- (d) the Pipeline User must not enjoy any immunity from legal proceedings or legal process (including, but without limitation, any immunity from execution);
- (e) the Pipeline User must have an acceptable credit rating;
- (f) the Pipeline User must have the necessary financial capability to discharge its present and future obligations in relation to Pipeline Services; and
- (g) the Pipeline User must not be an externally-administered body corporate or an insolvent under administration (as defined in the Corporations Law) or under a similar form of administration under any laws applicable to the Pipeline User in any jurisdiction.

For the purposes of paragraph (e), the Tubridgi Parties will from time to time determine what constitutes an acceptable credit rating. Until otherwise determined by the Tubridgi Parties, an acceptable credit rating means a rating of BBB or higher for long term unsecured counter-party obligations of the entity, as rated by Standard & Poors (Australia) Pty Ltd.

Whenever the Tubridgi Parties decide to alter the acceptable credit rating, the Tubridgi Parties will notify all Pipeline Users and Prospective Pipeline Users of the acceptable credit rating or ratings as altered. This information will also be included in the Information Package that the Tubridgi Parties are required to maintain under the Code.

4.5. Gas Balancing

Clause 3.3 of the terms and conditions set out in Annexure B provides that:

“At all times during the Term, the Pipeline User must ensure that the aggregate Quantity of Gas delivered through each User Receipt Point by or for the account of the Pipeline User is equal to the aggregate Quantity of Gas delivered to or for the account of the Pipeline User through each User Delivery Point”.

The effect of this clause is to place the responsibility on Pipeline Users to ensure that they are in balance at all times. This is necessary because the Tubridgi Parties will potentially receive Gas from a number of Pipeline Users and deliver it for them in a commingled state. The Tubridgi Parties will be obliged to deliver to each Pipeline User the Gas which the Pipeline User has delivered into the Tubridgi Pipeline System and consequently the Tubridgi Parties cannot deliver more Gas to any particular Pipeline User than that Pipeline User has delivered into the Tubridgi Pipeline System.

The Tubridgi Parties recognise that it is impractical to expect Pipeline Users to comply with clause 3.3 without special arrangements to ensure that Pipeline Users are kept in balance. The Tubridgi Parties intend that these special arrangements will take the form of apportionment agreements between the Tubridgi Parties, all Pipeline Users and each Transmission Operator. These arrangements are mentioned in section 4.3 of the Access Arrangement.

The Tubridgi Parties intend that the apportionment agreements will provide that Pipeline Users are deemed to own the Gas delivered into the Tubridgi Pipeline System for the account of the Pipeline Users in the same quantities as Gas delivered out of the Tubridgi Pipeline System for the account of the Pipeline Users.

The effect of these apportionment agreements will be to deem Pipeline Users to comply with the requirements of clause 3.3 of the terms and conditions set out in Annexure B.

4.6. Pre-existing Rights

No Pipeline User or Prospective Pipeline User will be entitled to a Pipeline Service to the extent that the provision of a Pipeline Service will deprive a person of their contractual rights under any pre-existing agreement (to the extent that those rights do not constitute Exclusivity Rights which arose on or after 30 March 1995).

There are two parties which currently have pre-existing rights and obligations with respect to the Griffin Pipeline component (or similar) of the Tubridgi Pipeline System, as discussed in the next two sections.

4.6.1. Griffin Parties

The Griffin Pipeline Agreement gives the Griffin Parties certain rights (including priority rights) and obligations regarding access to and use of the Griffin Pipeline, including a right to agree jointly with the Tubridgi Parties terms and conditions for use by third parties of capacity in the Griffin Pipeline. Nothing in this Access Arrangement will require the Tubridgi Parties to provide any Pipeline Service to any Pipeline User or Prospective Pipeline User in a manner contrary to the Griffin Pipeline Agreement or to do anything else that the Tubridgi Parties consider will place them in breach (or will be likely to place them in breach) of any of their obligations under the Griffin Pipeline Agreement.

4.6.2. Thevenard Producers

The Thevenard Gas Transport Agreement gives the Thevenard Producers certain rights and obligations regarding access to and use of the Griffin Pipeline. CMS Gas Transmission of Australia (ARBN 078 902 397) is currently the Producers' Representative for the Thevenard Producers. Nothing in this Access Arrangement will require the Tubridgi Parties to provide any Pipeline Service to any Pipeline User or Prospective Pipeline User in a manner contrary to the Thevenard Gas Transport Agreement or to do anything else that the Tubridgi Parties consider will place them in breach (or will be likely to place them in breach) of any of their obligations under the Thevenard Gas Transport Agreement.

(Note that the Thevenard Gas Transport Agreement has expired since the first submission of the Tubridgi Pipeline System Access Arrangement to the Regulator).

4.7. Section 2.25, National Third Party Access Code

Section 2.25 of the Code provides that the Regulator must not approve an Access Arrangement any provision of which would, if applied, deprive any person of a contractual right in existence prior to the date that Access Arrangement was submitted (or required to be submitted), other than an Exclusivity Right which arose on or after 30 March 1995. No provision of this Access Arrangement will take effect to the extent that, if it were applied, it would deprive any person of a contractual right in existence prior to the date this Access Arrangement was submitted (or required to be submitted), other than an Exclusivity Right which arose on or after 30 March 1995.

5. CAPACITY MANAGEMENT POLICY

The Tubridgi Pipeline System is a Contract Carriage Pipeline.

A Pipeline User may trade Contracted Capacity in accordance with the Trading Policy set out in section 6.

6. TRADING POLICY

6.1. Bare Transfers

A Pipeline User is permitted to transfer or assign all or part of its Contracted Capacity without the consent of the Tubridgi Parties if the transfer or assignment is a Bare Transfer.

Prior to using any Contracted Capacity that is the subject of a Bare Transfer, the transferee must notify the Tubridgi Parties of:

- the identity of the transferee including an address and facsimile number where notices may be given;
- the identity of the Pipeline User that made the transfer or assignment;
- the amount of MDQ that has been transferred or assigned;
- the location of the User Delivery Point which is the subject of the transfer; and
- 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

6.2. Other Transfers

A Pipeline User is permitted to transfer or assign all or part of its Contracted Capacity (other than by way of a Bare Transfer) with the prior written consent of the Tubridgi Parties where the transfer or assignment is commercially and technically reasonable.

The Tubridgi Parties may withhold their consent only on reasonable commercial and technical grounds, and may make their consent subject to conditions, but only if those conditions are reasonable on commercial and technical grounds.

Examples of the reasonable commercial or technical grounds upon which the Tubridgi Parties will withhold their consent or make their consent subject to conditions include:

- where there is insufficient Capacity at any point in the Tubridgi Pipeline System (either before or as a result of the transfer) to enable the proposed Contracted Capacity to be transferred or assigned to the proposed User Delivery Point;
- where the Tubridgi Parties would receive less revenue as a result of the proposed transfer or assignment of Contracted Capacity; and
- where the proposed transferee is unable to satisfy the Tubridgi Parties that it is able to satisfy the conditions precedent set out in section 4.3.

6.3. Changes of User Delivery and User Receipt Points

A Pipeline User is permitted to change a User Delivery Point and/or User Receipt Point from that specified in an Agreement with the prior written consent of the Tubridgi Parties where the change is commercially and technically reasonable.

The Tubridgi Parties may withhold their consent only on reasonable commercial and technical grounds, and may make their consent subject to conditions, but only if those conditions are reasonable on commercial and technical grounds.

Examples of the reasonable commercial or technical grounds upon which the Tubridgi Parties will withhold their consent or make their consent subject to conditions include:

- where there is insufficient Capacity at any point on the Tubridgi Pipeline System (either before or as a result of the change) to enable the proposed User Delivery Point or User Receipt Point to be changed; and
- where the Tubridgi Parties would receive less revenue as a result of the proposed change of User Delivery Point or User Receipt Point.

6.4. Procedure

The following procedure is to be followed in relation to transfers or assignments of Contracted Capacity (other than Bare Transfers) and changes to any User Delivery Point and/or any User Receipt Point:

- the party requesting the transfer/assignment or a change to a User Delivery/User Receipt Point shall submit a written request to the Tubridgi Parties, setting out the applicable details. A fee of \$150, payable at the time of the request, will apply to each request.

- The Tubridgi Parties will complete an analysis to determine whether the request is technically and commercially feasible and reasonable. The cost of completing this analysis will be borne by the party that makes the request. Charges for the analysis may vary depending on the complexity of analysing the request, but will be agreed in advance with the party making the request. Costs will be based on an hourly rate of \$150 per person per hour for each hour after the first hour.

7. QUEUING POLICY

7.1. Formation of Queue

A queue will be formed whenever the Tubridgi Parties receive a Request for Pipeline Services which they consider they cannot fulfil because of insufficient capacity in the Tubridgi Pipeline System. All Requests for Pipeline Services which cannot be fulfilled will be placed in a single queue.

The queue will comprise all Requests for Pipeline Services received by the Tubridgi Parties after a queue has been formed (in addition to the Request which results in the formation of a queue) until that Request is removed from the queue in accordance with this Queuing Policy.

7.2. Order of Priority

The position of a Request on the queue will be determined according to the date and time at which the Request was received, with the Request which has the earliest date and time taking the first position in the queue. The exception to this rule is that Requests in the queue for Haulage Reference Services will have a higher position in the queue than Requests for Negotiated Services.

7.3. Offers of Spare Capacity

Whenever the Tubridgi Parties consider that Spare Capacity has become available, that is sufficient to satisfy any portion of any Request in the queue, the Prospective Pipeline Users who have Requests in the queue will be offered that Spare Capacity (to the extent that it is necessary to satisfy their Requests) in the order in which those Requests rank in priority to one another.

Any Prospective Pipeline User that receives an offer of Spare Capacity must notify the Tubridgi Parties within 10 Business Days as to whether it wishes to accept that offer or not.

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.

If a Prospective Pipeline User notifies the Tubridgi Parties within that period of 10 Business Days that it wishes to accept the Spare Capacity offered to it, then:

- (a) the Request in respect of which that offer was made will be removed from the queue (to the extent that it will be satisfied by the Spare Capacity offered); and
- (b) the Tubridgi Parties will send that Pipeline User a contract setting out the terms and conditions on which the Tubridgi Parties will provide that Prospective Pipeline User with the Pipeline Services requested by that Prospective Pipeline User in the Request, utilising the Spare Capacity offered to that Prospective Pipeline User, subject to satisfaction of the conditions precedent set out in section 4.3.

If the Prospective Pipeline User does not execute that contract and return it to the Tubridgi Parties within 10 business days after it was received by that Prospective Pipeline User (or within such longer period as the Tubridgi Parties may allow), then the offer of Spare Capacity to that Prospective Pipeline User will lapse 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.

If a Prospective Pipeline User executes that contract and returns it to the Tubridgi Parties before the offer of Spare Capacity lapses under the previous paragraph but the Prospective Pipeline User is then unable to satisfy all the conditions precedent set out in section 4.3 within 20 business days (or within such longer period as the Tubridgi Parties may allow), then the contract will terminate and the Capacity that was the subject of that contract will become Spare Capacity available for offer in accordance with the Queuing Policy to other Prospective Pipeline Users with Requests in the queue.

The Tubridgi Parties will not have to offer Spare Capacity to any Prospective Pipeline User in the queue in respect of a Request for a Pipeline Service that could not be satisfied through the use of that Spare Capacity because of the nature of the Pipeline Service that is the subject of the Request.

7.4. Queuing Information

Whenever a Prospective Pipeline User's Request is placed in the queue and whenever the priority of that Request or the aggregate level of capacity sought by Requests ahead of the Prospective Pipeline User in the queue changes, the Tubridgi Parties will advise the Prospective Pipeline User of:

- its position on the queue;
- the aggregate level of capacity sought by Prospective Pipeline Users who are ahead on the queue; and
- any relevant investigation into Developable Capacity or augmentation of the Tubridgi Pipeline System which is underway.

A Prospective Pipeline User must confirm with the Tubridgi Parties, at intervals of no more than 3 months, that it wishes to proceed with a Request. If no confirmation is made within 3 months after that Request was first placed in the queue (or subsequently, within 3 months of the previous confirmation) the Request will be removed from the queue.

A Prospective Pipeline User may advise the Tubridgi Parties at any time that it does not wish to proceed with a Request, at which time the Request will be removed from the queue.

A Prospective Pipeline User may at any time notify the Tubridgi Parties that it wishes to reduce the quantity of capacity that is the subject of a Request in the queue. In this case the Request in the queue will be reduced in accordance with the Prospective Pipeline User's notice but the position of the Request in the queue will remain unaltered. A Prospective Pipeline User may not increase the amount of capacity being sought by an existing Request or alter the type or nature of the Pipeline Service (including the proposed User Delivery Point) that is the subject of that Request.

A Request in a queue may only be assigned to a third party by a Prospective Pipeline User where that party has purchased the Prospective Pipeline User's business and/or assets.

7.5. Developing Capacity Options

The Tubridgi Parties may at any time undertake an investigation in respect of Developable Capacity alternatives to satisfy Requests. In undertaking the investigation, and in subsequently undertaking any augmentation as a result of that investigation, the Tubridgi Parties may consider other Requests in the interests of optimising design and achieving efficiency in the structure and level of Tariffs, regardless of their position in the queue.

The Tubridgi Parties will only take such action where it is reasonable to do so and where it will not foreseeably disadvantage other Prospective Pipeline Users, other than in relation to their position in the queue.

8. EXTENSIONS AND EXPANSIONS POLICY

Any extension or expansion of the Tubridgi Pipeline System will be treated in the manner set out in sections 8.1 and 8.2 below. Extensions and expansions of the Tubridgi Pipeline System include any New Facilities Investment constructed after 1 July 1999.

8.1. Coverage

All expansions of the Capacity of the Tubridgi Pipeline System within the Access Arrangement Period will automatically be included as part of the Tubridgi Pipeline System from the time the expansion comes into service.

All extensions to the Tubridgi Pipeline System within the Access Arrangement Period will be automatically included as part of the Tubridgi Pipeline System from the time the extension comes into service, unless the extension is a significant extension.

A significant extension is an extension with an estimated capital cost in excess of \$75,000, and/or that involves the construction of more than 1km of transmission pipeline.

In this case, the Tubridgi Parties will have the option of treating the extension as either:

- part of the Tubridgi Pipeline System; or
- a stand-alone Pipeline, in which case the Tubridgi Parties will provide written notice to the Regulator prior to the extension entering into service. The Tubridgi Parties will have the option of including the stand-alone Pipeline as part of the Tubridgi Pipeline System at any subsequent review of the Access Arrangement for the Tubridgi Pipeline System.

The Tubridgi Parties will not have the option of treating a significant extension as a stand-alone Pipeline if the extension was assumed and included in the calculation of the Reference Tariff.

8.2. Tariffs

8.2.1. Effect on Haulage Reference Tariffs

The Reference Tariff for the Haulage Reference Service will be determined as set out below in relation to any extension or expansion that is to be included as part of the Tubridgi Pipeline System:

- to the extent that an extension or expansion meets the economic feasibility test in section 8.16(b)(i) of the Code, the Reference Tariff will be the Prevailing Tariff prior to the extension or expansion; or
- to the extent that an extension or expansion has system wide benefits and the Tubridgi Parties believe that these benefits justify the approval of a higher Reference Tariff for all Pipeline Users, the Tubridgi Parties will seek the Regulator's approval of a higher Reference Tariff for all Pipeline Users; or
- to the extent that an extension or expansion is necessary to maintain the safety, integrity or Contracted Capacity of Pipeline Services and does not meet the economic feasibility test or does not provide system-wide benefits that, in the Regulator's opinion, justifies a higher Reference Tariff for all Pipeline Users, the Tubridgi Parties may seek revisions to the Access Arrangement to provide for new Tariff arrangements; or
- as provided for in section 3.2.2., to the extent that an extension or expansion does not satisfy any of the requirements of section 8.16 of the Code, the Tubridgi Parties may apply to the Regulator to impose a Surcharge in relation to that New Facilities Investment, or agree a Capital Contribution with a Pipeline User in accordance with section 8 of the Code.

In accordance with section 8.16(b)(i) of the Code, for any expansion of the Capacity or extension to the Pipeline to be economically feasible, the Anticipated Incremental Revenue generated over the economic life of the New Facility must exceed the New Facilities Investment.

8.2.2. Relationship to Reference Tariff Policy

Section 8.2.1 is to be applied in conjunction with section 3.2.2.

9. REVIEW OF THE ACCESS ARRANGEMENT

9.1. Revisions Submission Date

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

9.2. Revisions Commencement Date

The revisions to this Access Arrangement referred to in section 9.1 will commence on the latter of 1 July 2004 and the date on which their approval takes effect under the Code.

9.3. Trigger Event

If, halfway 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 then the Tubridgi Parties will submit Access Arrangement revisions to the Regulator within three months of that result having been obtained.

10. GLOSSARY

In this Access Arrangement and the Access Arrangement Information, unless the contrary intention appears:

- (1) **'Agreement'** means the contract between the Tubridgi Parties and a Pipeline User, which is constituted of the terms and conditions set out in Annexure B and the Specific Terms and Conditions.
- (2) **'Apportionment Agreement'** (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.
- (3) **'Business Day'** means a day other than a Saturday, Sunday or public holiday in Western Australia.
- (4) **'Code'** means the National Third Party Access Code for Natural Gas Pipeline Systems.
- (5) **'CPI'** means the Consumer Price Index (All Groups Weighted Average for the Eight Capital Cities) as published by the Australian Bureau of Statistics or its successor or, if that Consumer Price Index is not published for any reason, whatever alternative index the Tubridgi Parties determine from time to time is reasonably equivalent to that Consumer Price Index.
- (6) **'Credit Policy'** means the policy described in section 4.4 of this Access Arrangement.
- (7) **'Gas'** has the meaning given to 'natural gas' in Schedule 1 to the *Gas Pipelines Access (Western Australia) Act 1998*.

- (8) **'GJ'** means a gigajoule, which is one thousand megajoules.
- (9) **'Griffin Gas'** means natural gas produced from the Griffin Project and made available for delivery through the Project Pipelines.
- (10) **'the Griffin Operator'** means the person who from time to time acts as the Operator of the joint venture known as the Griffin Joint Venture. As at the date of this Access Arrangement, that person is BHP Petroleum Pty Ltd (ACN 006 918 832).
- (11) **'the Griffin Parties'** the persons who from time to time constitute the joint venture known as the Griffin Joint Venture. As at the date of this Access Arrangement, those persons are BHP Petroleum (Australia) Pty Ltd (ACN 006 923 879), Mobil Exploration & Producing Australia Pty Ltd (ACN 004 588 827) and Inpex Alpha Ltd (ARBN 003 730 756).
- (12) **'Griffin Pipeline'** means the transmission pipeline that is the subject of Western Australian Pipeline Licence 19 from time to time, together with compressors, regulators, metering equipment and all other ancillary equipment.
- (13) **'Griffin Pipeline Agreement'** means the agreement made on 30 September 1993 between the Griffin Parties, Doral Resources NL (ACN 008 902 010), Pan Pacific Petroleum NL (ACN 000 749 799), Haoma Petroleum NL (ACN 008 741 222), Strata Petroleum Pty Ltd (ACN 008 901 997), Carnarvon Oil & Gas NL (ACN 009 256 544), Kiwi International Resources NL (ARBN 009 569 920), Roy Antony Radford, Richard Gerard Campbell and BHP Petroleum Pty Ltd (ACN 006 918 832), as amended or novated from time to time.
- (14) **'Griffin Project'** means any petroleum reservoir or series of petroleum reservoirs which is in the area of WA-10-L or WA-210-P and shall include any extension of the reservoir(s) into adjoining permit or licence areas.
- (15) **'Gross Negligence'** means a level of negligence that demonstrates a complete and utter disregard for the consequences of an action or omission.
- (16) **'Haulage Reference Service'** means the Pipeline Service described in section 2.2 of this Access Arrangement.
- (17) **'Impost'** means any royalty, duty, excise, tax, impost, levy, fee or charge (including, but without limitation, any goods and services tax) (other than any GST as defined in the *A New Tax System (Goods and Services Tax) Act 1999*) imposed now or in the future by the Commonwealth of Australia or any State or Territory of Australia on or in respect of the Tubridgi Pipeline System (or any part of it) or on or in respect of the operation, repair, maintenance, administration or management of the Tubridgi Pipeline System (or any part of it) or on or in respect of the provision of any Pipeline Service.
- (18) **'Information Package'** means the information package which the Tubridgi Parties are required to maintain in relation the Tubridgi Pipeline system under the Code.
- (19) **'Interest Rate'** means the Commonwealth Bank of Australia corporate overdraft reference rate, as varied from time to time.
- (20) **'Maximum Daily Quantity'** or **'MDQ'**, in relation to a Transmission Delivery Point, means the maximum Quantity of Gas which the Tubridgi

Parties are required to deliver through that Transmission Delivery Point to or for the account of a Pipeline User during any Pipeline Day, as specified in, or determined in accordance with, the Specific Terms and Conditions, as increased from time to time in accordance with the terms and conditions set out in Annexure B.

- (21) **'Metering Equipment'** means metering equipment of a type acceptable to the Tubridgi Parties.
- (22) **'Negotiated Service'** means a Pipeline Service of the type described in section 2.3 of this Access Arrangement.
- (23) **'Overrun Rate'** in relation to a given Pipeline Day, means the amount specified as the Overrun Rate in the Tariff Schedule applicable on that Pipeline Day.
- (24) **'Participating Interest'** means the undivided percentage interest from time to time of each of the Tubridgi Parties in the Tubridgi Pipeline System.
- (25) **'Pipeline Day'** means a period of 24 consecutive hours that commences at 8:00am Western Australian time.
- (26) **'Pipeline Licence'** means any licence or regulatory authorisation granted to the Tubridgi Parties under the laws of Western Australia which authorises the operation of the Tubridgi Pipeline System or any part of it.
- (27) **'Pipeline Service'** means a Service provided by means of the Tubridgi Pipeline System.
- (28) **'Pipeline User'** means a person who has a current contract for a Pipeline Service or an entitlement to a Pipeline Service as a result of an arbitration.
- (29) **'Planned Maintenance'** means maintenance that is planned in advance, where the plan to undertake that maintenance was developed or formulated at least 14 days before the date on which that maintenance is scheduled to occur.
- (30) **'Project Pipelines'** means the Griffin Pipeline and the pipeline constructed and operated by the Griffin Parties under Part 6 of the Griffin Pipeline Agreement.
- (31) **'Prospective Pipeline User'** means a person who seeks or who is reasonably likely to seek to enter into a contract for a Pipeline Service and includes a Pipeline User who seeks or may seek to enter into a contract for an additional Pipeline Service.
- (32) **'Quantity of Gas'** means the quantity of Gas, expressed in terajoules, determined in accordance with the Agreement.
- (33) **'Reference Tariff'** means the Tariff specified in the Tariff Schedule as the Tariff for the Haulage Reference Service.
- (34) **'Regulator'** means the Western Australian Office of Gas Access Regulation (OffGAR).
- (35) **'Related Haulage Agreement'** (in an Agreement between the Tubridgi Parties and a Pipeline User) means any other agreement between the Tubridgi Parties and that Pipeline User under which the Tubridgi Parties deliver, or are to deliver, Gas through the Tubridgi Pipeline System to or for the account of that Pipeline User.

- (36) **'Request'** means an application from a Prospective Pipeline User for the provision of a Pipeline Service to a User Delivery Point which includes all relevant information required by the Tubridgi Parties to consider the Request (as set out in the Information Package).
- (37) **'Specific Terms and Conditions'** means the specific terms and conditions agreed between the Tubridgi Parties and a Pipeline User in relation to a Pipeline Service.
- (38) **'Start Date'**, in relation to an Agreement, means the date on which the Tubridgi Parties commence, or are to commence, providing Pipeline Services to a Pipeline User pursuant to that Agreement as specified in, or determined in accordance with, the Specific Terms and Conditions.
- (39) **'Tariff Schedule'** means the tariff schedule which forms Annexure C to this Access Arrangement or, if the Tubridgi Parties have published a revised tariff schedule, the tariff schedule in effect from time to time.
- (40) **'Term'**, in relation to an Agreement, means the term of that Agreement as specified in, or determined in accordance with, the Specific Terms and Conditions.
- (41) **'the Thevenard Gas Transport Agreement'** means the agreement made on 22 May 1995 between the Thevenard Producers, the Tubridgi Parties, the Griffin Parties and the Griffin Operator, as amended or novated from time to time.
- (42) **'the Thevenard Producers'** means Chevron Asiatic Limited (ARBN 009 473 090), Chevron Oil Company of Australia (ARBN 009 473 518), Chevron Oil Australia Pty Ltd (ACN 009 045 149), Texaco Oil Development Company (ARBN 000 988 670), Ampolex Limited (ACN 000 113 217), Shell Development (Australia) Proprietary Limited (ACN 009 663 576), West Australian Petroleum Pty Ltd (ACN 009 085 367) and their successors and assigns from time to time.
- (43) **'TJ'** means a terajoule, which is one thousand gigajoules.
- (44) **'Transmission Delivery Point'** means a point on the Tubridgi Pipeline System at which Gas is, or is to be, delivered out of the Tubridgi Pipeline System.
- (45) **'Transmission Operator'** means the operator of a transmission pipeline through which Gas is delivered to any Transmission Receipt Point or to which Gas is delivered through any Transmission Delivery Point.
- (46) **'Transmission Receipt Point'** means a point on the Tubridgi Pipeline System at which Gas is, or is to be, received into the Tubridgi Pipeline System.
- (47) **'the Tubridgi Operator'** means the person who from time to time acts as the Operator of the Tubridgi Joint Venture. As at the date of this Access Arrangement, that person is SAGASCO South East Inc. (ARBN 002 382 023).
- (48) **'Tubridgi Parties'** means the persons who from time to time constitute the joint venture known as the Tubridgi Joint Venture and who together are the owners of the Tubridgi Pipeline System. As at the date of this Access Arrangement, those persons are SAGASCO South East Inc. (ARBN 002 382 023), Origin Energy Petroleum Pty Ltd (ACN 010 728 962), Origin Energy Amadeus NL (ACN 010 137 121), Pan Pacific

Petroleum NL (ACN 000 749 799) and Tubridgi Petroleum Pty Ltd (ACN 076 850 881) (on its own account and in its capacity as the sole trustee of the Radford Petroleum Trust).

- (49) **'Tubridgi Pipeline'** means the transmission pipeline that is the subject of Western Australian Pipeline Licence 16 from time to time, together with compressors, regulators, metering equipment and all other ancillary equipment.
- (50) **'Tubridgi Pipeline System'** means the Tubridgi Pipeline and the Griffin Pipeline which together are the subject of this Access Arrangement, together with regulators, metering equipment and all other ancillary equipment.
- (51) **'User Delivery Point'**, in an Agreement, means a Transmission Delivery Point at which Gas is, or is to be, delivered out of the Tubridgi Pipeline System to or for the account of the Pipeline User pursuant to that Agreement, as specified in, or determined in accordance with, the Specific Terms and Conditions.
- (52) **'User Receipt Point'**, in an Agreement, means a Transmission Receipt Point at which Gas is, or is to be, delivered into the Tubridgi Pipeline System by or for the account of the Pipeline User pursuant to that Agreement, as specified in, or determined in accordance with, the Specific Terms and Conditions.
- (53) **'Year'** means any period of 12 consecutive months.