

10.8 Definitions

The following definitions apply unless the context otherwise requires:

- ‘**Access Arrangement**’ means an arrangement for access to a Covered Pipeline that has been approved by the Relevant Regulator.
- ‘**Access Arrangement Information**’ means information provided by a Service Provider to the Relevant Regulator pursuant to section 2.2, 2.3, 2.9, 2.28 or 2.30.
- ‘**Access Arrangement Period**’ means the period from when an Access Arrangement or revisions to an Access Arrangement take effect (by virtue of a decision pursuant to section 2) until the next Revisions Commencement Date.
- ‘**Additional Staff**’ means servants, consultants, independent consultants and agents of a Service Provider who are not Marketing Staff and who the Regulator regards as indirectly involved in the sale or advertising of Services.
- ‘**Additional Revenue Policy**’ has the meaning given in section 3.28(d).
- ‘**Anticipated Incremental Revenue**’ means the present value (calculated at the Rate of Return) of the reasonably anticipated future revenue from the sale of Services at the Prevailing Tariffs which would not have been generated without the Incremental Capacity, minus the present value (calculated at the Rate of Return) of the best reasonable forecast of the increase in Non Capital Costs directly attributable to the sale of those Services.
- ‘**Arbitrator**’ has the meaning given the Gas Pipelines Access Law.
- ‘**Associate**’, in relation to a person, has the meaning it would have under Division 2 of Part 1.2 of the Corporations Law if sections 13, 14, 16(2) and 17 of that Law were repealed, except that a person will not be considered to be an Associate of a Service Provider solely because that person proposes to enter, or has entered, into a contract, arrangement or understanding with the Service Provider for the provision of a Service.
- ‘**Associate Contract**’ means;
- (a) a contract, arrangement or understanding between the Service Provider and an Associate in connection with the provision of a Service; or
 - (b) a contract, arrangement or understanding between the Service Provider and any person in connection with the provision of a Service which provides a direct or indirect benefit to an Associate and which is not an arm’s length transaction.
- ‘**Bare Transfer**’ has the meaning given in section 3.10.
- ‘**Capacity**’ means the measure of the potential of a Covered Pipeline as currently configured to deliver a particular Service between a Receipt Point and a Delivery Point at a point in time.
- ‘**Capacity Management Policy**’ has the meaning given in section 3.7.
- ‘**Capital Base**’ has the meaning given in section 8.4.
- ‘**Capital Contribution**’ has the meaning given in section 8.23.
- ‘**Charge**’, for a Service, means the amount that is payable by a User to the Service Provider for that Service.

‘Code’ means this National Third Party Access Code for Natural Gas Pipeline Systems as changed from time to time in accordance with the Gas Pipelines Access Law.

‘Code Registrar’ has the meaning given in the Gas Pipelines Access Law.

Confidential Information means information that is by its nature confidential or is known by the Service Provider to be confidential and includes:

- (a) any information relating to the financial position of a User or Prospective User and, in particular, includes information relating to the assets or liabilities of the User or Prospective User and any other matter that affects or may affect the financial position or reputation of the User or Prospective User;
- (b) information relating to the internal management and structure of the User or Prospective User or the personnel, policies and strategies of a User or Prospective User;
- (c) information of a User or Prospective User to which the Service Provider has access, other than information referred to in paragraphs (a) and (b), that has any actual or potential commercial value to the User or Prospective User or the person or corporation which supplied that information; and
- (d) any information in the Service Provider’s possession relating to the User’s or Prospective User’s customers or suppliers and like information.

‘Contracted Capacity’ means that part of the Capacity which has been reserved by a User or Users pursuant to a contract entered into with the Service Provider.

‘Contract Carriage’ is a system of managing third party access whereby:

- (a) the Service Provider normally manages its ability to provide Services primarily by requiring Users to use no more than the quantity of Service specified in a contract;
- (b) Users normally are required to enter into a contract that specifies a quantity of Service;
- (c) charges for use of a Service normally are based at least in part upon the quantity of Service specified in a contract; and
- (d) a User normally has the right to trade its right to obtain a Service to another User.

‘Core Provisions’ means sections 2.24, 3.1 to 3.4 (inclusive), 3.28, 3.33, 3.34, 4.1 to 4.4 (inclusive), 6.15, 6.18, 8.1 and 9.1 to 9.4 (inclusive) and this definition of Core Provisions.

‘Coverage/Covered’ means, in relation to a Pipeline or part of a Pipeline, that that Pipeline or part of a Pipeline is subject to the provisions of this Code pursuant to sections 1.1, 1.13, 1.20 or 1.21.

‘Covered Pipeline’ means, subject to sections 2.3 and 2.4, the whole or a particular part of a Pipeline which is Covered and any extension to, or expansion of the Capacity of, that Covered Pipeline which is to be treated as part of the Covered Pipeline in accordance with the Extensions/Expansions Policy contained in the Access Arrangement for that Covered Pipeline and any expansion of that Covered Pipeline required to be installed under section 6.22.

‘Delivery Point’ means the point or points within the Covered Pipeline at which the custody of Natural Gas is transferred from a Service Provider to a User.

‘Depreciation’ means, in any year and on any asset or group of assets, the amount calculated according to the Depreciation Schedule for that year and for that asset or group of assets.

‘Depreciation Schedule’ has the meaning given in section 8.32.

‘Developable Capacity’ means the difference between the Capacity and the Capacity which would be available if additions of plant and/or pipeline were made, but does not include any extension of the geographic range of a Covered Pipeline.

‘End User’ means:

- (a) a person who acquires or proposes to acquire Natural Gas from a User; or
- (b) a person who proposes to acquire Natural Gas from a Prospective User.

‘End User Information’ means, in relation to an End User information obtained by a Service Provider, or by its servants, consultants, independent contractors or agents, in the course of conducting its business that relates to the actual Natural Gas usage and usage patterns of that End User, but does not include any such information provided by a User or Prospective User to the Service Provider.

‘Equivalent Tariff’ means, in relation to a Service that is not a Reference Service, the Tariff that it is reasonably likely would have been set as the Reference Tariff had the Service been a Reference Service.

‘Exclusivity Right’ means a contractual right that by its terms either:

- (a) expressly prevents a Service Provider supplying Services to persons who are not parties to the contract; or
- (b) expressly places a limitation on the Service Provider’s ability to supply Services to persons who are not parties to the contract, but does not include a User’s contractual right to obtain a certain volume of Services.

Exempt Matter means an Exempt Matter within the meaning of the Gas Pipelines Access Legislation of any Scheme Participant.

‘Final Approval Request’ has the meaning given in section 3.29.

‘Fixed Period’ has the meaning given in section 8.47.

‘Fixed Principle’ has the meaning given in section 8.47.

‘Gas Pipelines Access Law’, in relation to a Scheme Participant, means:

- (a) in the case of South Australia:
 - (i) the provisions referred to in paragraph (a) of the definition of “Gas Pipelines Access Law” in section 3(1) of the Gas Pipelines Access (South Australia) Act 1997 of South Australia, as applying as a law of South Australia; and
 - (ii) Regulations in force under Part 3 of that Act; and
- (b) in the case of Western Australia:

- (i) the provisions of an Act of Western Australia corresponding to the provisions of the South Australian Act that are referred to in paragraph (a)(i); and
- (ii) Regulations in force under the Western Australian Act that make provisions corresponding to the provisions of Regulation under Part 3 of the South Australian Act; and
- (c) in the case of any other Scheme Participant:
 - (i) the provisions referred to in paragraph (a) of the definition of “Gas Pipelines Access Law” in section 3(1) of the South Australian Act, as applying as a law of that Scheme Participant; and
 - (ii) Regulations in force under Part 3 of the South Australian Act, as applying as a law of that Scheme Participant.

Gas Pipelines Access Legislation has the meaning given in the Gas Pipelines Access Law.

‘Incentive Mechanism’ has the meaning given in section 8.44.

‘Incremental Capacity’ means the increase in Capacity attributable to a New Facility.

‘Incremental Revenue’ means revenue generated by sales of Incremental Capacity.

‘Incremental User’ is a User that could not have been serviced without the addition of the Incremental Capacity.

‘Information Package’ means the Information Package described in section 5.1.

‘Jurisdictional Area’ has the meaning given in the Gas Pipelines Access Law.

‘Market Carriage’ is a system of managing third party access whereby:

- (a) the Service Provider does not normally manage its ability to provide Services primarily by requiring Users to use no more than the quantity of Service specified in a contract;
- (b) Users are normally not required to enter a contract that specifies a quantity of Service;
- (c) charges for use of Services are normally based on actual usage of Services; and
- (d) a User normally does not have a right to trade its right to obtain a Service to another User.

‘Market Variable Element’ means a factor that has a value assumed in the calculation of a Reference Tariff, where the value of that factor will vary with changing market conditions during the Access Arrangement Period or in future Access Arrangement Periods, and includes the sales or forecast sales of Services, any index used to estimate the general price level, real interest rates, Non Capital Cost and any costs in the nature of capital costs.

‘Marketable Parcel’ means all or part of a User’s Contracted Capacity which the User reasonably expects:

- (a) that the User will not utilise and does not require for technical or safety reasons;

- (b) to be of a size and type capable of being sold to another User or to a Prospective User; and
- (c) to be able to sell without incurring transaction costs which exceed the price which that User would receive from another User or Prospective User.

‘Marketing Staff’ means servants, consultants, independent contractors or agents directly involved in sales, sale provision or advertising (whether or not they are also involved in other functions) but does not include servants, consultants, independent contractors or agents involved only in:

- (a) strategic decision making, including the executive officer or officers to whom Marketing Staff report either directly or indirectly;
- (b) technical, administrative, accounting or service functions.

‘Natural Gas’ has the meaning given in the Gas Pipelines Access Law.

‘NCC’ means the National Competition Council established by section 29A of the Trade Practices Act, 1974 (Commonwealth).

‘New Facilities Investment’ has the meaning given in section 8.15.’

‘New Facility’ means:

- (a) any extension to, or expansion of the Capacity of, a Covered Pipeline which is to be treated as part of the Covered Pipeline in accordance with the Extensions/Expansions Policy contained in the Access Arrangement for that Covered Pipeline;
- (b) any expansion of the Capacity of a Covered Pipeline required to be installed under section 6.22; and
- (c) any capital asset constructed, developed or acquired to enable the Service Provider to provide Services including, but not limited to, assets required for the purposes of facilitating competition in retail markets for Natural Gas.

‘NGPAC’ means the National Gas Pipelines Advisory Committee to be established under the National Gas Agreement (which term has the meaning given in the Gas Pipelines Access Law).

‘Non Capital Costs’ has the meaning given in section 8.4.

‘Pipeline’ has the meaning given in the Gas Pipelines Access Law.

‘Prevailing Tariff’ for a Reference Service means the applicable Reference Tariff, and for any other Service, means the Equivalent Tariff.

‘Prospective Incremental User’ means a person which may become an Incremental User.

‘Prospective Service Provider’ means a person who seeks or may seek to become a Service Provider.

‘Prospective User’ means a person who seeks or who is reasonably likely to seek to enter into a contract for a Service and includes a User who seeks or may seek to enter into a contract for an additional Service.

‘Public Register’ means the public register to be kept by the Code Registrar pursuant to section 7.10.

‘Queuing Policy’ has the meaning given in section 3.12.

‘Rate of Return’ has the meaning given in section 8.4.

‘Rebatable Service’ is a Service where:

- (a) there is substantial uncertainty regarding expected future revenue from sales of that Service due to the nature of the Service and/or the market for that Service; and
- (b) the nature of the Service and the market for that Service is substantially different to any Reference Service and the market for that Reference Service.

‘Receipt Point’ means the point or points within the Covered Pipeline at which the custody of Natural Gas is transferred from a User to a Service Provider.

‘Recoverable Portion’ has the meaning given in section 8.18.

‘Redundant Capital’ has the meaning given in section 8.27.

‘Reference Service’ means a Service which is specified in an Access Arrangement and in respect of which a Reference Tariff has been specified in that Access Arrangement.

‘Reference Tariff’ means a Tariff specified in an Access Arrangement as corresponding to a Reference Service and which has the operation that is described in sections 6.13 and 6.18.

‘Reference Tariff Policy’ has the meaning given in section 3.5.

‘Related Business’ means the business of producing, purchasing or selling Natural Gas, but does not include purchasing or selling of Natural Gas to the extent necessary:

- (a) for the safe and reliable operation of a Covered Pipeline; or
- (b) to enable a Service Provider to provide balancing services in connection with a Covered Pipeline.

‘Relevant Appeals Body’ has the meaning given in the Gas Pipelines Access Law.

‘Relevant Minister’ has the meaning given in the Gas Pipelines Access Law.

‘Relevant Regulator’ has the meaning given in the Gas Pipelines Access Law.

‘Residual Value’ has the meaning given in section 8.4.

‘Revisions Commencement Date’ has the meaning given in section 3.17.

‘Revisions Submission Date’ has the meaning given in section 3.17.

‘Scheme Participant’ has the meaning given in the Gas Pipelines Access Law.

‘Service’ means:

- (d) a service provided by means of a Covered Pipeline (or when used in section 1 a service provided by means of a Pipeline) including (without limitation):
 - (i) haulage services (such as firm haulage, interruptible haulage, spot haulage and backhaul); and
 - (ii) the right to interconnect with the Covered Pipeline, and
 - (e) services ancillary to the provision of such services,
- but does not include the production, sale or purchasing of Natural Gas.

‘Services Policy’ has the meaning given in section 3.1.

Service Provider' has the meaning given in the Gas Pipelines Access Law.

Spare Capacity' means:

- (a) in relation to a Covered Pipeline described in the Access Arrangement as a Contract Carriage Pipeline:
 - (i) the difference between the Capacity and the Contracted Capacity; plus
 - (ii) the difference between the Contracted Capacity and the Contracted Capacity which is being used; and
- (b) in relation to a Covered Pipeline described in the Access Arrangement as a Market Carriage Pipeline, the capacity to provide a Service without impeding the provision of the Service to any other User.

'Speculative Investment' has the meaning given in section 8.19.

'Speculative Investment Fund' has the meaning given in section 8.19.

'Structural Element' means any principle or methodology that is used in the calculation of a Reference Tariff where that principle or methodology is not a Market Variable Element and has been structured for Reference Tariff making purposes over a longer period than a single Access Arrangement Period, and includes the Depreciation Schedule, the financing structure that is assumed for the purposes of section 8.30, and that part of the Rate of Return (calculated pursuant to section 8.30) that exceeds the return that could be earned on an asset that does not bear any market risk.

'Surcharge' has the meaning given in sections 8.25 and which has the effect defined in section 6.19.

'Tariff', for a Service, means the criteria that, when applied to a User's characteristics and requirements, determine the Charge that is payable by that User to the Service Provider (this shall not provide any limitation on the Tariff that may apply to a Service).

'Tender Approval Request' has the meaning given in section 3.21.

'Total Revenue' has the meaning given in section 8.2.

'Trading Policy' has the meaning given in section 3.9.

'User' means a person who has a current contract for a Service or an entitlement to a Service as a result of an arbitration.

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