Access Arrangement proposed by Epic Energy South Australia Pty Ltd for the Moomba to Adelaide Pipeline System

Response to Draft Decision
by
Australian Competition & Consumer Commission

Dated 16 August 2000

PART A

RESPONSE TO AMENDMENT PROPOSALS

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Response to Draft Decision by Australian Competition & Consumer Commission

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Executive summary

The majority of the amendments proposed by the Commission have either been addressed in Epic's Consolidated Pre Draft Decision Access Arrangement (reflecting previous communication with the Commission) or are acceptable in principle to Epic and Epic will amend the Consolidated Access Arrangement to reflect the proposed amendments.

However, certain of the amendments proposed by the Commission are not acceptable to Epic.

These proposed amendments impact on:

- Value and return for the pipeline system (with potentially significantly effect upon Epic's revenue and risk), particularly Initial Capital Base, allowed rate of return and a re-opener mechanism, and/or

- Processes (the practicality of application of which is questionable and/or may create uncertainty and risk to Epic), including capacity transfer from existing users, incentive mechanisms, queuing policy and extension/expansion policy.

Value of Pipeline System

The Commission has proposed an Initial Capital Base some $44 million (in June 2000 dollars) below that originally proposed by Epic, a reduction of 12 ½ %. (Epic subsequently revised its Initial Capital Base valuation and the difference now extends to $62 million, a reduction of over 16%). In determining this low valuation, the Commission has selected inputs to its Optimised Replacement Cost (ORC) calculation which are at the very low end of the likely range. Further, in order to depreciate the ORC to obtain a DORC amount, the Commission has used an asset class methodology that not only presents anomalies when forecast actual expenditure does not match with the implied need for replacement under the methodology but is highly sensitive to asset life assumptions. Epic used uniform depreciation, in line with its current practice and forecast expenditure in accordance with its actual operations.

As a constructor, owner and operator of pipelines, with over 30 years experience, Epic considers that its valuation of the ORC for a pipeline is likely to be more accurate than that of the Commission. This view is supported by acknowledged experts in the pipeline industry (Worley Limited and Venton & Associates). Accordingly, Epic submits that its revised valuation of the ORC of $600 million (in December 1998 dollars) is more representative of the value of the optimised replacement cost of the pipeline system. Using a uniform approach to depreciation, results in a DORC valuation of **$372 million** (in December 1998 dollars).

Further, Epic's initial valuation of ORC was on the basis of an exchange rate of $A1.00:$US0.65. Currently, the exchange rate is less than $A1.00:$US0.54, and the impact of this is to potentially add at least a further $55 million to the ORC and $33 million to the DORC valuations.

In addition, the Commission has reduced its own DORC valuation by $6 million as an adjustment for a perceived deferred tax liability. Epic contends that this reduction is inappropriate.

COMPARISON OF INITIAL CAPITAL BASE VALUATIONS

	Epic Proposes (December 1998 dollars)	Epic Proposes (June 2000 dollars)[1]	Commission Proposes (June 2000 dollars)
ORC	570 – 600 million	590 – 620 million (645 – 675 million with exchange rate variation)	527 million
DORC	354 – 372 million	354- 372 million[2] (387 – 405 million with exchange rate variation)	310 million[3]

Epic submits that the DORC proposed by the Commission is not representative of the value of the pipeline system and should be increased by at least $50 million dollars.

Rate of Return (WACC)

Epic views with alarm the inordinately low valuation of WACC proposed by the Commission. When compared with the 7.75% recently handed down by IPART for AGL's distribution network and the 8.1% handed down by SAIPAR for Envestra's South Australian distribution system, both of which are relatively low risk investments, the 6.7% proposed by the Commission is draconian.

Quite apart from Epic's specific concerns for the Moomba to Adelaide pipeline system, the development of pipeline infrastructure, to provide the sought after ' free and fair trade in gas' through the provision of gas on gas competition, will founder if investors are not offered greater incentive to invest in pipelines.

Epic submits that the rate of return proposed by the Commission for the pipeline system presents a major disincentive for development and should at the very least exceed the rates handed down for the above distribution systems.

Trigger (or 'Re-opener') Mechanism

The incorporation of a trigger mechanism to allow the Access Arrangement to be reviewed prior to the next revision submission date would introduce considerable regulatory risk.

Epic submits that it is not practical or appropriate to provide a re-opener provision in the Access Arrangement.

[1] Epic's June 2000 dollar valuation has been determined by pro-rating the Commission's June 2000 dollar valuation of Epic's initial ORC and will need to be formally established upon the commencement of the Access Arrangement.
[2] After depreciation and allowance for inflation.
[3] Includes the Commission's proposed adjustment for deferred tax.

Processes

Capacity Transfer

Epic is concerned that the Commission's proposal for capacity transfers seeks to force Epic to continue with a system in its contracts with Existing Users which Epic does not intend to apply to future contracts. Epic is also of the view that the Commission is acting beyond its power in requiring Epic to amend its proposed access arrangement in the manner proposed by the Commission.

Access to Capacity in Delivery Facilities

Epic proposed a mechanism that would provide capacity owners with an incentive to release capacity in delivery facilities. Amendments proposed by the Commission have the potential to cause Epic problems with Existing Users. Epic would like to discuss the Commissions proposed mechanism further with the commission to clarify the Commissions objectives.

Queuing Policy and Extensions & Expansions Policy

Epic proposed an approach to queuing which required all parties seeking access to join a queue that would be cleared annually. In this way, all parties would receive the benefits of economies of scale, available uncontracted capacity and the efficiency of an annual rather than ad hoc clearance. The Commission has sought a 'first come first served' approach, with a queue only effectively forming when there is no further spare capacity available.

Epic now proposes to adopt the first come first served approach.

The process for extensions and expansions were designed by Epic as an integral part of queuing policy. With the major rework of that policy and the Commission's required removal of a cap on capital expenditure, Epic proposes to address extensions and expansions on a case by case basis.

Submission by Hastings Funds Management Limited

Hastings Fund Management Limited (HFML), one of Epic's shareholders and a specialist infrastructure fund manager, has provided a submission in support of Epic's proposed Access Arrangement. (Refer Appendix III). HFML is of the view that the Commission's methodology for calculating the rate of return and a value for the MAPS is flawed.

Request by the Commission for Further Submissions and Public Comment on the Draft Decision

Epic has responded to the Commission's request for further submissions and to key points arising from public submissions in Parts B and C, respectively, of Epic's response to the Commission's Draft Decision.

Responses to the Commission's Proposed Amendments

The following section provides Epic's responses to each of the Commission's proposed amendments.

Proposed amendment A2.1	In order for Epic's access arrangement for MAPS to be approved, the value of the initial capital base must be adjusted to the value derived by the Commission, **$310** million.
Epic's Response	In general summary, Epic is of the view that the methodology used by the Commission to determine Initial Capital Base is flawed and that a realistic valuation of DORC for the MAPS even on a 'straight line' depreciation calculation is of the order of **$354 million to $372 million.** Adding the impact of exchange rate variation would increase the valuation by a further $33 million[4]. **(a) <u>Asset Valuation</u>:** The Commission has adopted Depreciated Optimised Replacement cost (DORC) as the determinant of the Initial Capital Base (ICB) for the Moomba to Adelaide Pipeline System (MAPS). Epic proposed that Optimised Replacement Cost (ORC) or *deprival value* was the correct basis for valuation of the asset as that was closer to a market outcome and what it would cost a competitor to fully replace the asset. Epic's view is now supported by documents recently provided to the Commission by Agility Management and supported by Oxford Economic Research Associates Ltd (OXERA). Agility and OXERA make the point that the DORC for existing assets must be constructed as the net present value of the future income from those assets. The future income is consistent with the prices that would be charged by an efficient new entrant. Refer also to comment by Hastings Funds Management Limited (HFML) (Appendix III). This approach produces a DORC which is very close to the ORC for most of the life of a pipeline. OXERA make the point that the calculation method proposed in the Commission's Draft Statement of Principles, to construct a DORC from an ORC by adjusting ORC for accumulated depreciation, will in general not deliver prices consistent with the NPV-based DORC and is inconsistent with the definition and interpretation of DORC in the ORG final decision on the Victorian gas distribution businesses, the Commission's final decision on the Victorian gas transmission systems, and the Commission's Draft Statement of Principles itself. Epic notes that the Commission has moved from its approach to WACC in the Victorian gas transmission decision and would suggest that the Commission now also move to the NPV approach for the calculation of DORC. The following addresses the Commission's valuation of the ICB. <u>ORC</u> The Commission has proposed that Epic's ORC valuation of $570 million in December 1998 terms should be reduced to $527 million (in June 2000 terms).

[4] After depreciation and allowance for inflation

	In its Consolidated Access Arrangement Information document, Epic has corrected errors it made in capital components, with the net result that there is an <u>increase</u> in the ORC valuation from that originally proposed by Epic to $600 million in December 1998 terms ($620 million in June 2000 dollars[5]). When this amount is pro-rated, using the Commission's figures, to June 2000 dollars, the reduction in ORC value proposed by the Commission increases to about $94 million. (It should be noted that currently, the A$:US exchange rate is about A$1.00:US$0.54, compared with the A$1.00:US$0.65 rate used in Epic's April 1999 submission. It is estimated that this variation in the assumed exchange rate would add at least $55 million to the ORC valuation.) In order to carry out a "reality check" of its ORC valuation, Epic sought the separate opinions of: Venton and Associates Pty Ltd, and Worley Ltd both of whom are acknowledged experts in the pipeline industry. In the opinion of these experts, a number of inputs used by the Commission in its ORC evaluation are low. In particular, a key input, the construction cost of pipelines in Australia today, is unrealistically low. Both opinions support Epic's view that Epic's estimated valuation of ORC is more likely to represent the <u>actual</u> cost of constructing the optimised pipeline system than that proposed by the Commission, and may even be low. Copies of these opinions are attached (Appendix I). Accordingly, Epic submits that the realistic valuation of ORC for the MAPS lies in the range $570 million to $600 million in December 1998 dollars (**$590 - $620 million in June 2000 dollars**). Incorporating the impact of exchange rate variation would increase this valuation by a further minimum of $55 million. **(b) Depreciation of ORC** Epic proposed that the depreciation methodology for the MAPS should apply to the optimised pipeline as a whole. Given that ORC is at best an approximation of reality, Epic's view was that a uniform approach was the simplest and most straight-forward. Epic subsequently suggested to the Commission that a weighted average life approach (where the value and life of the various components of the pipeline system are combined and equated to the ORC) is a valuation which both takes into account actual lives of components and can be depreciated on a uniform basis.

[5] Epic's June 2000 dollar valuation has been determined by pro-rating the Commission's June 2000 dollar valuation of Epic's initial ORC and will need to be formally established upon the commencement of the Access Arrangement.

	However, the Commission prefers its asset class approach. Epic does not agree that this approach is appropriate for an asset such as the MAPS, as a minor variation in a life assumption of an asset class can lead to a significant variation in the DORC valuation. (Refer Appendix II for a worked example which demonstrates that the DORC valuation can vary by $50 million with a one year change in asset life assumption). Further, Epic based its forecast expenditures on known requirements, not on the asset class depreciation methodology proposed by the Commission. Accordingly, where an "optimised" asset class might have been fully depreciated (under the Commission's approach) Epic has made no allowance for replacement and Epic is potentially being 'double-dipped' under the Commission's approach. The Initial Capital Base determined may be artificially low, with no capital expenditure forecast in the access arrangement period to reflect the capital replacement required for the "optimised" pipeline and accordingly there may be insufficient revenue allowance. **(c) Deferred Tax Liability** In establishing an Initial Capital Base of $310 million, the Commission reduced its DORC valuation for the MAPS ($316 million) by a further $6 million. The $6 million was an amount related to the deferred tax liability reported in financial statements for Epic Energy South Australia. Epic is extremely concerned that the Commission has not understood conventional accounting for taxation, and the nature of the deferred tax liability in its financial statements. As a result, the ICB has been inappropriately reduced by some $6 million. Epic Energy submits that the ICB for the MAPS, determined using the DORC methodology, should not be further reduced by any amount relating to the deferred tax liability reported in its financial statements for Epic Energy South Australia. Epic's reasons for this are: • the deferred tax liability has no impact on future cash flows, and does not have the claimed effect of reducing future cash flows by reducing future tax payments; • no evidence is presented in the Draft Decision to support the contention that MAPS users have paid tariffs that included a higher tax component than should have been the case; • even if current and previous tariffs had included a higher tax component (and Epic does not believe that this was the case), this does not automatically imply, as the Commission asserts, an over-recovery of capital to date; and • even if there were, through a higher tax component in tariffs, an over-recovery of capital, the balance in a deferred tax liability account would not be an appropriate measure of that over-recovery Epic's detailed arguments for not reducing the DORC by any amount relating to the reported deferred tax liability are set out in Appendix IV.

Proposed amendment A2.2	In order for Epic's access arrangement for MAPS to be approved, for the purpose of calculating Epic's capital charge (return on capital assets) the working capital component must not be included in the value of the capital base.
Epic's Response	Epic considers that the reasoning supporting proposed amendment A 2.2 is not correct. The requirement for working capital is, as the Commission's Draft Decision acknowledges through its reference to a US authority quoted by EAPL, to bridge the gap between the timing of payments and receipts. This gap arises because, at the time Epic acquired the MAPS, there was an initial period during which payments were required in advance of revenue being received. That initial gap had to be financed. It was financed by an initial injection of working capital. Subsequently, receipts are likely to have approximately matched payments, with only minor variations in the level of working capital. There is, in these circumstances, no issue of compensation "for any 'gap' between payments and collections that may occur throughout the year". The initial requirement for working capital must be recognised, and the cost of that working capital must be taken into account, irrespective of the timing of subsequent receipts and payments. The fact that these have been modelled as being yearly, rather than more frequently, in the Commission's cash flows analysis is of no relevance. The Commission's determination of required revenue does not proceed from cash flow and present value considerations. It proceeds from determination of a cost of service, and one of the costs of providing service is the cost of the working capital required to bridge an initial gap between receipts and payments. It must be included in the cost of service. Epic maintains that its original estimate of $815,000 (20 days of annual managed costs) (in December 1998 dollars) is not unreasonable, and the cost of that working capital should be included in return on assets through recognition of a working capital asset in the capital base.

Proposed amendment A2.3	In order for Epic's access arrangement for MAPS to be approved: 1. the WACC estimates and associated parameters forming part of the access arrangement must be amended to reflect the current financial market settings, by adopting the parameters set out by the Commission in Tables 2.9 and 2.10 above; and 2. the target revenues and forecast revenues must be based on these new parameters.
Epic's Response	The 6.7% real pretax WACC calculated by the Commission is unrealistically below other regulated returns indicated below: Victorian Gas Transmission System (GPU GasNet) Nov 1998 7.75% NSW DBs Dec 1999 7.5% ALG Gas Networks July 2000 7.75% Envestra South Australian gas distribution systems (Draft) 8.1% Electricity Distribution System in SA 11 Oct 99 8.26% Electricity Distribution Systems in Victoria Sept 2000 6.8-7.2% Epic notes that the Commission has argued that the very low WACC is appropriate for the MAPS as the pipeline is fully contracted over the period of the Access Arrangement and that only the commodity charge revenue is at risk if lower demand eventuates within the initial Access Arrangement period. However the ACCC also acknowledges that the resulting reference tariff will set the basis for negotiations immediately beyond that period. The investment in pipelines is a long term one and the risk beyond the initial Access Arrangement period should be taken into account in setting the reference tariff that will form the basis of negotiations for transportation at that time. Epic has argued that the risks facing the MAPS are substantially greater than those facing the Victorian gas transmission system, the Victorian gas distribution systems, the Sydney gas distribution system and the electricity distribution systems in Victoria. From 31 December 2005, the bulk of the MAPS' capacity is uncontracted, the deliverability of gas ex Moomba will be diminished, the SA Government's Victorian pipeline initiative could be in place (the SA Government's start date is 2003), and the gas fired electricity market could be substantially reduced with an additional 2 and possibly 3 electricity interconnectors in place by that time. The Commission argued the findings of a report by Professor Kevin Davies for SAIPAR on the WACC proposed by Envestra for the SA gas distribution systems that concluded that there would appear to be no obvious reason to assume a higher asset beta for the SA market than for Victoria. However this ignores the fundamental difference between the Envestra **distribution** system, the Victorian distribution systems (and the Victorian transmission system which is more akin to a distribution system) and the MAPS **transmission** system. The obvious risk differences being (a) the exposure of the MAPS to electricity generation load, (b) the MAPS' reliance on SA's few large industrial users, the majority of which are connected directly to the MAPS (ie do not utilise the Envestra distribution system), and (c) the risk of bypass (eg from a

	Victoria to SA pipeline). These risks are not nearly as acute for the distribution systems. The Commission has also argued that should a reduced demand become evident, then the reference tariff can be increased at the next review. This will be of little or no use to Epic if the acceptable market price is less than the reference tariff. Epic notes the Commission's requirements that the parameters used in determining WACC should, where appropriate, be reflective of current financial market settings. Epic also notes that some further changes to the relevant parameters may be made as market conditions change in the period between the Draft Decision and the Commission's Final Decision. Not all of the WACC parameters are strictly "market determined", and Epic is concerned about the arbitrary way in which values have been assigned to a number of the non-market parameters. Moreover, Epic remains concerned that, in cost of capital considerations, the Commission continues to take an approach based on its view of an "ideal" pipeline entity, and not a view which is based on "standard industry structures for a going concern and best practice" as is required by the Code. This adoption of a view based on an ideal pipeline entity is reflected in the Commission's assumptions about capital structure and valuation of imputation credits. In this context, Epic is concerned that in the Commission's modelling, imputation credits have been valued notionally at 50% of their full dollar value. The Commission should be aware that this notional calculation does not take into account the actual value of imputation credits to Epic' existing shareholders. Given that the actual (rather than the ideal) tax position of Epic is used in the Commission's modelling, consistency requires that the actual value of imputation credits should be used rather than a generic value for imputation credits. Epic is 66.7% owned by overseas shareholders and 33.3% owned by Australian superannuation funds. In light of this shareholding structure, the value of imputation credits to its shareholders would be closer to 15% of their full dollar value. Furthermore, Epic strongly contests the Commission's adoption of an asset beta of 0.50 for the MAPS in view of the values adopted in other pipeline decisions. The Commission's reasons for its adoption of a value of 0.50 for this critical parameter are: • Ofgas assessed the asset beta range for British Gas Transco as between 0.45 and 0.60; and • the Commission assessed the asset beta for the Victorian transmission system as 0.55, partly on grounds of the uncertainty associated with a new regulatory framework, but now considers that this is no longer appropriate.

Neither of these "reasons" supports the Commission's adoption of an asset beta of 0.50.

The Ofgas assessment indicates only that an asset beta might lie in the range 0.45 to 0.60. Little can be said about a beta of 0.55 for the Victorian system, apart from the facts that it lies within the range considered appropriate by Ofgas, and the Commission now believes it to be too high.

The Commission's belief that an asset beta of 0.55 is too high appears to be based on an unsubstantiated view that the uncertainty associated with what was a new regulatory framework in 1998 has now diminished. This is not a belief that is shared by the service providers. The changing views of regulators since 1998 (of which the Commission's recent shift to determining rate of return within a post-tax framework is an important example) have added to, rather than diminished, investor perceptions of risk in pipeline investments.

In these circumstances, the asset beta of the Victorian Final Decision remains the minimum of the range of possible asset betas for Australian pipeline systems.

Neither reference to the Ofgas assessment, or to the Victorian Final Decision, involves reference to the asset betas of pipeline companies with traded shares. This is probably due to the fact that there are few pipeline companies with shares traded in the Australian equities market. Australian regulators have, in these circumstances, continued to rely on the opinions of financial advisers in their choices of pipeline asset betas. Unfortunately, those opinions have been formed in a market with extremely limited information.

Epic has, in consequence, recently sought to establish a transmission pipeline asset beta from data for US pipeline companies with traded shares. US regulatory consultants, The Brattle Group, were engaged to determine an appropriate cost of capital for the Dampier to Bunbury Natural Gas Pipeline. The Group's report, which is publicly available from the web site of the Office of Gas Access Regulation in Western Australia, notes (on page 6):

> *Because of a lack of sufficient data within Australia on publicly traded gas pipelines, it is necessary to look elsewhere for evidence on the cost of capital. The best capital markets data on gas pipelines is available in the United States. Our analysis therefore focuses on a sample of US companies owning gas pipelines. Although we are using a sample of US companies, it is important to note that we are not estimating the cost of capital for a US gas transmission pipeline. Rather, we use data on gas transmission companies traded in the US to estimate the cost of capital for a gas pipeline in Australia, owned by Australian investors, which we understand to be the relevant regulatory standard.*

Use of US data involves a number of complexities which must be, and

	have been, explicitly recognised. The Brattle Group notes in its report (on pages 23-24): *The composition of the Australian stock market is substantially different from that of the United States. For instance, relative to the US economy, the Australian economy has a larger natural resources sector and a smaller high-tech sector. Resource-related stocks tend to be less risky than technology stocks. The Australian market as a whole is less risky than the US market. The result is that a stock which is less sensitive to economic conditions than the S&P 500 in the US (having a beta of less than 1) would be more risky (have a higher beta) relative to the Australian market. By re-weighting the industry sectors of the S&P 500 to mirror the Australian economy, the beta can be estimated more accurately. We created such an index by mapping sub-components of the US market to mirror the component industries of the Australian Stock Exchange All Ordinaries Index (ASX). Betas were then calculated against this "US-ASX-Weighted Index". The results are shown in Table 6a below.* *The specific mappings are provided in Appendix 2. Such an exercise inevitably involves some exercise of judgement. However, sensitivity tests that adjusted for certain apparent inconsistencies (for example, BHP is categorised by the ASX as a Developer and Contractor but is essentially a resource company) revealed that the beta estimates were very stable across possible alternative weightings in the US-ASX-Weighted Index.* The Brattle Group estimated asset betas for five public traded US pipeline companies considered to be "pure plays" in gas transportation. The estimates were in the range 0.46 to 0.72. The arithmetic mean of the range, 0.58, was considered to be a reasonable and supportable estimate of an asset beta for an Australian transmission pipeline. Epic is of the view that, in the absence of other empirical estimates, an asset beta of **at least** 0.58 is appropriate for the MAPS. Indeed, the asset beta should be higher. There is, Epic understands, considerable evidence, particularly from the US, which indicates that the capital market applies an illiquidity discount in valuing businesses without traded shares as compared with their publicly traded counterparts. Extended forms of the Capital Asset Pricing Model have been developed to incorporate the effect of the discount, but measurement problems make estimation of the asset beta difficult. Market practice is, therefore, to add a premium of 5 to 10 percent to the cost of capital estimated using data for businesses with traded shares. Epic Energy South Australia is not a traded entity. Accordingly, within the Commission's framework for assessing cost of capital, a further

	adjustment, increasing the asset beta by at least 0.05, is required for the illiquidity discount. Refer also to comment by HFML (Appendix III) in relation to asset beta, as well as risk free rate, debt premium, equity risk premium, cost of tax and post tax approach. In these circumstances, on the same market parameters, an appropriate post tax nominal rate of return on equity for the MAPS should be in excess of 15%, and certainly not the 13.05% being proposed by the Commission.

Proposed amendment A2.4	In order for the access arrangement for MAPS to be approved, Epic must: 1. incorporate the new clauses 30.4 and 30.5 proposed by Epic in its letter of 15 June 2000 in place of clause 30.4 of the original access arrangement; 2. incorporate the new definition of 'imposts' proposed by Epic in its letter of 15 June 2000 in place of the original definition in clause 43.1(b); and 3. replace the words 'GST Recipient' and 'GST Supplier' in the new clause 30.4(b) with the words 'Recipient' and 'Supplier' respectively. Further, in the CPI-X revenue adjustment that occurs in the year following the introduction of GST, Epic must incorporate the measure of CPI that is exclusive of GST impacts, as stated by the Commission at that time.
Epic's Response	1. Epic's Consolidated Access Arrangement reflects the proposed amendment. 2. Epic's Consolidated Access Arrangement reflects the proposed amendment. 3. Epic will amend its Consolidated Access Arrangement to reflect the proposed amendment. 4. Epic disagrees with the Commission's decision to reduce the CPI escalation amount by an amount representing the effect of the GST. Epic requests that the Commission explain the basis of its proposed adjustment, particularly the amount that the Commission intends to equate to the effect of the GST. Epic notes that the expectation of the effect of the GST on inflation has not been realised to the extent initially forecasted. Factors such as an increase in petrol prices have had a significant effect on recent inflation spikes. Epic therefore requests that the Commission justify its proposed amendment prior to its incorporation.

Proposed amendment A2.5	For the access arrangement to be approved, Epic must amend the reference tariff proposed in Schedule 4 of the access arrangement. The amendment must have the effect that the reference tariff is derived by applying, to the system primary capacity: 1. to derive the initial tariff, the cost-of-service revenue resulting from the amendments proposed by the Commission in this draft decision; 2. in each subsequent year, the smoothed cost-of-service revenue resulting from the amendments proposed by the Commission in this draft decision.
Epic's Response	1. Epic accepts the principle that the Reference Tariff will be calculated by applying the allowed revenue to the system primary capacity. (At the commencement of the initial AA this capacity is 323TJ/day.) If the allowed revenue in the Final Decision is less than Epic's contracted revenue, then the tariff components will be prorated down. 2. Epic requests that the Commission confirm that the Reference Tariff may be escalated in accordance with the approved escalator rather than calculated each year on the basis of the escalated allowed revenue for that year.

Proposed amendment A2.6	In order for Epic's access arrangement to be approved, the Commission requires that Epic delete clause 30.2 of the access arrangement (that clause being entitled 'CPI Adjustment') and amend clause 5.2(a)(xii) of the access arrangement to read as follows: The initial Reference Tariff (including the Whyalla Lateral Surcharge) is set out in Schedule 4. The Total Revenue Requirement and the resulting Reference Tariff will thereafter vary on 1 January in each year of the initial Access Arrangement period in accordance with the formula CPI – 1.6%. Charges in respect of other services are also shown in Schedule 4. These charges will remain unchanged during the initial Access Arrangement period.
Epic's Response	Epic contests the Commission's proposed amendment that "Charges in respect of other services" shown in Schedule 4 should not be escalated. These other charges (for IT and behavioural disciplines) are related to the Reference Tariff. The Commission has accepted that the IT tariff is linked to the FT tariff. This linkage in subsequent years is maintained only if both FT and IT are escalated at the same rate. Similarly the penalties need to maintain their relativity with FT tariff or otherwise lose their effectiveness to drive operational behaviour.

Proposed amendment A2.7	In order for Epic's access arrangement to be approved, the Commission requires that Epic incorporate in the access arrangement the incentive and risk-sharing mechanism proposed by Epic set out in clause 5.3 of the revised access arrangement of 2 March 2000.
Epic's Response	Epic's Consolidated Access Arrangement reflects the proposed amendment.

Proposed amendment A2.8	In order for the access arrangement to be approved, the Commission requires that Epic amend clause 5.2(a)(vi) of the original lodgement (renumbered as '5.2(a)(v)' in the lodgement of 2 March 2000) so that it reads as follows: The Capital Base is to be adjusted annually on 1 January by the Capital Cost Revaluation, which will be equal to the CPI for the 12-month period ending on the previous 30 September.
Epic's Response	Epic will amend its Consolidated Access Arrangement to reflect the proposed amendment.

Proposed amendment A3.1	For Epic's access arrangement for MAPS to be approved, the Commission requires: 1. that the access arrangement be amended to provide for the FT, IT and non-specified services set out in Epic's lodgement of 2 March 2000, subject to the proposed amendments in the remainder of this draft decision; and 2. that clause 43.1 be amended to make the definition of 'Available Capacity' and 'Spare Capacity' consistent with the definition of 'Spare Capacity' in section 10.8 of the code.
Epic's Response	1. Epic will amend its Consolidated Access Arrangement to reflect the proposed amendment. 2. Epic proposed a mechanism that would provide capacity owners with an incentive to release capacity in delivery facilities. Amendments proposed by the Commission have the potential to cause Epic problems with Existing Users. Epic would like to discuss the Commissions proposed mechanism further with the commission to clarify the Commissions objectives.

Proposed amendment A3.2	For the access arrangement to be approved, the Commission requires that Epic incorporate the proposed amendment providing for Epic to post on the EBB each day: 1. forecast maximum capacity for each delivery point, based on the gas specification and the conditions prevailing on the previous day; and 2. the forecast net available capacity, based on monthly forecasts that are provided by the FT users (under clause 18.1(c)). as described in Epic's response to submissions of 1 February 2000 (section 2.2.7, page 24 of public response) and in section 3.1.4 in this draft decision.
Epic's Response	Epic will amend its Consolidated Access Arrangement to reflect the proposed amendment.

Proposed amendment A3.3	For the access arrangement to be approved, the Commission requires that it be amended to provide that capacity that is released or surrendered by a user be dealt with as proposed by Epic in its letter dated 15 June 2000, as quoted in section 3.1.4, to the effect that: capacity that is released by a user: (a) otherwise than under the trading policy clause 26.2, (b) for reason that a consumer or aggregator has changed suppliers may be contracted by another user, or a prospective user: (i) who is (directly or indirectly) supplying that consumer (or aggregator); and (ii) without following the queuing process set out in clause 10.
Epic's Response	Epic will amend its Consolidated Access Arrangement to reflect the proposed amendment.

Proposed amendment A3.4	For the access arrangement to be approved, the Commission requires that it be amended to make provision for the service provider to require that capacity be transferred in specified circumstances. The circumstances are where: ■ in consequence of losing a customer to another supplier, an existing user no longer requires the volume of capacity attributable to that customer; and ■ the capacity is not released by the existing user; it must be transferred to the other supplier. Any such provision should be subject to the provisions of the relevant existing haulage agreement other than any exclusivity rights that arose on or after 30 March 1995.
Epic's	Epic does not accept the Commission's proposal. In Epic's view the

Response	provisions in the Existing Haulage Agreements dealing with surrender of capacity are not Exclusivity Rights for the purposes of the Code and there has been no legal determination otherwise. As the Code provides that an access arrangement cannot override existing contractual rights (other than Exclusivity Rights) it would be a breach of the Code to require Epic to amend its access arrangement in a manner inconsistent with existing contractual rights. As the Code provides that an access arrangement cannot override existing contractual rights (other than exclusivity rights) it would be a breach of the Code to require Epic to amend its access arrangement in a manner inconsistent with existing contractual rights. Further, the Code does not empower the Commission to require a Service Provider to exercise a discretionary provision in its Existing Haulage Agreements. It is not Epic's intention to replicate the provisions of the Existing Haulage Agreement dealing with surrender of capacity, in future haulage agreements. The protracted dispute which could arise between Epic and a user over Epic requiring a user (particularly if that user is an aggregator) to surrender capacity, would negate its usefulness in any event.

Proposed amendment A3.5	For the access arrangement to be approved, the Commission requires that it be amended to contain a provision in the following terms: This access arrangement takes effect subject to any contractual rights in existence prior to the date of lodgement of the proposed access arrangement, 1 April 1999, with the exception of Exclusivity Rights (within the meaning of the Code) that arose on or after 30 March 1995.
Epic's Response	Epic does not believe it is appropriate to restate specific provisions of the Code in its access arrangement. Epic proposes that a section be included at the start of its access arrangement stating that the access arrangement is subject to the Code.

Proposed amendment A3.6	For the access arrangement to be approved, the Commission requires that clause 4.3, other than clause 4.3(g)(ii), as proposed in Epic's lodgement of 2 March 2000 be incorporated in the access arrangement, subject to adding the following to clause 4.3(c): For the avoidance of doubt, nothing in the Agreement requires or permits the Service Provider or User to observe or give effect to the terms of any Exclusivity Rights (within the meaning of the Code) that arose on or after 30 March 1995.
Epic's Response	Epic does not believe it is appropriate to restate specific provisions of the Code in its access arrangement. Epic proposes that a section be included at the start of its access

	arrangement stating that the access arrangement is subject to the Code. Epic will otherwise amend the Consolidated Access Arrangement to reflect the proposed amendment to clause 4.3.

Proposed amendment A3.7	For the access arrangement to be approved, the Commission requires that the definition, in clause 43.1, of 'Existing User Rights' proposed in Epic's lodgement of 2 March 2000 be incorporated in the access arrangement, subject to adding the following: The term 'Existing User Rights' does not include any Exclusivity Right (within the meaning of the Code) that arose on or after 30 March 1995.
Epic's Response	Epic does not believe it is appropriate to restate specific provisions of the Code in its access arrangement. Epic proposes that a section be included at the start of its access arrangement stating that the access arrangement is subject to the Code. Epic's Consolidated Access Arrangement otherwise reflects the proposed amendment.

Proposed amendment A3.8	For the access arrangement to be approved, the Commission requires that the definition, in clause 43.1, of 'Existing Delivery Facilities' proposed in Epic's lodgement of 2 March 2000 be incorporated in the access arrangement, subject to the deletion of references to laterals.
Epic's Response	Epic does not fully understand the rationale for the Commissions proposed amendment. Epic seeks clarification of the proposed amendment before responding further.

Proposed amendment A3.9	For the access arrangement to be approved, the Commission requires that clauses 9.1 and 9.2 be modified so that: ■ they read as proposed by Epic in its letter dated 15 June 2000 to the Commission as follows: 9.1 The Service Provider will not be required to commence the Specified Service for a Prospective User or to continue to provide the Specified Service to the User if the Prospective User/User is not able to satisfy the Service Provider of the ability of the Prospective User/User to fulfil its obligations under the Agreement. 9.2 If the Service Provider is not satisfied that the Prospective User/User will fulfil its obligations or continue to fulfil its obligations under the Agreement, the Service Provider may require, and the Prospective User/User will provide, security for those obligations to the Service Provider's

	reasonable satisfaction. ■ they are cross-referenced to Schedule 2, Form 3, of the access arrangement so as to clearly indicate the credit and financial information that the service provider can reasonably request of the user or prospective user.
Epic's Response	Epic will amend its Consolidated Access Arrangement to reflect the proposed amendment.

Proposed amendment A3.10	1. For the access arrangement to be approved, the Commission requires that clauses 6.3, 11.1 and 11.2 be amended in the manner proposed in the lodgement of 2 March 2000, subject to adding to clause 11.2 a provision to the following effect: The Service Provider will accept reasonable requests for a shorter Term of Agreement for IT service. 2. The Commission also requires that clause 11.3 be amended to read as follows: 11.3(a) Providing the User is not in default at the date of notice, the User may extend the Term for FT service by minimum periods of 2 years at a time: (i) by giving written notice to the Service Provider not less than 3 months prior to the Termination Date; or (ii) by giving notice at a time and in a manner previously arranged with the Service Provider. (b) Where the Agreement is for IT Service, the Term will automatically extend on a year by year basis from the Termination Date unless: (i) the User has given written notice of termination to the Service Provider under clause 36.5; (ii) the User is in default under the Agreement at the Termination Date.
Epic's Response	1. Epic will amend clause 11.2 "Term" with the provision that it will accept reasonable requests for a shorter Term of Agreement for IT Service. 2. Epic will amend clause 11.3 to reflect the proposed amendment. The change in queuing policy and the shorter time for exercise of the right to extend the term for FT Service creates an issue on how Epic should (for the purposes of the queuing policy) deal with Spare Capacity and the rights of an FT User to extend its contract – that is, whether or not Epic should "reserve" Spare Capacity (equivalent to that contracted to the FT User) and thus exclude that amount of capacity from the queue on the expectation that the FT User will exercise the right to extend. If the FT User does not exercise the right then Prospective Users that have made an application earlier in

	time may have been prejudiced by unnecessarily committing to an expansion. In the circumstances, Epic believes that: ▪ capacity cannot be reserved for an FT User on the assumption that they may exercise their right to extend; ▪ the right to extend should therefore have no priority status over any other Prospective User; and ▪ FT Users seeking to exercise a right to extend must therefore be treated as Prospective Users and proceed through the queue. This may mean that they have to commit to an expansion to contract for FT Service. The position outlined above adopts a competitive situation and places the onus on an FT User to cover its position with its contracting approach. Epic proposes that the document also be amended to state this, and require that an FT User exercising the right to extend must proceed through the queuing process (and contribute to the cost of an expansion if there is inadequate spare capacity available at the time that the right is exercised).

Proposed amendment A3.11	For the access arrangement to be approved, the Commission requires that Epic amend clause 12.4 by replacing the term '60°C' with the following: 71°C, or such lesser temperature as may be agreed at a future date with all users of the pipeline system at that time or as may be agreed as part of a future national gas code.
Epic's Response	To ensure that the protective pipe coating is not damaged and to reduce the risk of stress corrosion cracking Epic must limit the temperature of the gas entering the pipeline system to < 60 degrees C. To reduce the temperature of the gas entering the pipeline at the existing Moomba receipt point Epic has installed gas coolers. Epic accepts that if a new user delivers gas at the Moomba receipt point then it would be reasonable to accept gas at the same temperature specification as faced by existing users provided the capacity of the existing gas cooler was not exceeded. Epic is therefore prepared to amend the AA to acknowledge the above and to clarify that if the cooler capacity was exceeded then Epic will treat the expansion of the capacity of the cooler as a required new facility investment or part of a pipeline expansion. For new gas receipt points other than the Moomba receipt point, shippers must be required to either meet the 60 degree C limit or Epic will treat the installation of the necessary gas coolers at the receipt point as a required new facilities investment.

Proposed amendment A3.12	For the access arrangement to be approved, the Commission requires that clause 13.3 be amended as proposed by Epic in its lodgement of 2 March 2000 and as modified by its letter dated 15 June 2000.
Epic's Response	Epic's Consolidated Access Arrangement reflects the proposed amendment.

Proposed amendment A3.13	For the access arrangement to be approved, the Commission requires that clause 15 be amended as proposed by Epic in its lodgement of 2 March 2000, subject to: 1. Epic amending clause 15.3(b)(ii) by replacing the word 'may' with 'will' and by adding after the word 'System' in that clause words to the following effect: … and for that purpose will communicate directly with the operator of the Moomba processing plant or other originator of the non-specification gas (if known) to bring about a termination of the supply of that gas as soon as it becomes aware of the problem; 2. Epic describing the steps it will take to ensure that users are not adversely affected by the proposed change in gas specification.
Epic's Response	1. The Commission's proposed amendments are acceptable in principle to Epic. Epic's Consolidated Access Arrangement will be amended to reflect the proposed amendment. 2. Epic will amend the Consolidated Access Arrangement to provide that Epic will consult with User's to minimise the impact of a change to the Gas Specifications.

Proposed amendment A3.14	For the access arrangement to be approved, the Commission requires that, in addition to making its other proposed revisions of 2 March 2000 to clause 17, Epic change its proposed revision to clause 17.1(c) to adopt the following standard: 17.1 (c)The Service Provider will use its best endeavours to minimise the quantity of System Use Gas that is required for the operation of the Pipeline System.
Epic's Response	Epic does not agree with the Commission's proposed amendment. To require Epic to use its "best endeavours" could require Epic to spend money and make changes or alterations to the Pipeline System which a reasonable and prudent pipeline operator would not make and which costs have not been included in the tariff determination. There must be a cost/benefit analysis. A requirement for Epic to use its "best endeavours" to minimise System Use Gas may mean Epic has to replace its compressors with the most modern and technologically advanced compressors and computer

	software available, if that will reduce (for example) compressor fuel usage by even the smallest amount. The present approach of "reasonable and prudent" efforts is clear enough and is a much fairer and reasonable standard. If Users believe Epic is not operating the Pipeline System as a reasonable and prudent person, then Users can take issue with Epic based on that standard.

Proposed amendment A3.15	For the access arrangement to be approved, the Commission requires that clause 18 be amended in the manner proposed in the revised lodgement of 2 March 2000.
Epic's Response	Epic's Consolidated Access Arrangement reflects the proposed amendment.

Proposed amendment A3.16	For the access arrangement to be approved, the Commission requires that, in addition to making its other proposed revisions of 2 March 2000 to clause 19, Epic amend its proposed revision to clause 19.2(c) to read as follows: 19.2(c) If, at the date of expiration or termination of the Agreement there is an Imbalance, then despite the expiration or termination of the Agreement, the User must: (i) if the Imbalance is negative, pay to the Service Provider (within 10 Days after receipt of an invoice) an amount equal to the number of GJs of the Imbalance multiplied by the Excess Imbalance Charge Rate; and (ii) if the Imbalance is positive, make arrangements to sell the amount of the Imbalance to another user. The Service Provider will assist the User (for instance, by providing access to the EBB) so that the user has the opportunity to realise from the sale the full market value that would be achieved in the normal course of trading.
Epic's Response	Epic will amend its Consolidated Access Arrangement to reflect the proposed amendment. Epic proposes however that where an imbalance is positive, the User be given 30 Days to make arrangements to sell the imbalance or forfeit the imbalance.

Proposed amendment A3.17	For the access arrangement to be approved, clause 20.2(b) must be amended so that it is clear that the charge applies to the outstanding excess imbalance, i.e., to that imbalance outstanding after any and all exchanges or trades have been made.
Epic's Response	Epic will amend its Consolidated Access Arrangement to reflect the proposed amendment.

Proposed amendment A3.18	For the access arrangement to be approved, the Commission requires that clause 21 be amended as proposed in the revisions to the access arrangement of 2 March 2000.
Epic's Response	Epic's Consolidated Access Arrangement reflects the proposed amendment.

Proposed amendment A3.19	For the access arrangement to be approved, the Commission requires that Epic incorporate in it the revision to clause 22.3(a)(ii) proposed in Epic's letter to the Commission of 15 June 2000, that is, the words 'if any' be added after the words 'Metered Facilities' in the parentheses.
Epic's Response	Epic's Consolidated Access Arrangement reflects the proposed amendment.

Proposed amendment A3.20	For the access arrangement to be approved, the Commission requires Epic to: 1. adopt the revisions to clauses 24 and 25 set out in its lodgement of 2 March 2000 and in its letter dated 15 June 2000; and 2. amend clause 41.1(c) by deleting after the words 'telephone and' the word '/or'.
Epic's Response	1. Epic's Consolidated Access Arrangement reflects the proposed amendment. 2. Epic will amend the Consolidated Access Arrangement to reflect the proposed amendment.

Proposed amendment A3.21	For the Commission to approve the access arrangement, Epic must amend clause 27.4(d) to read as follows: > The Service Provider will not be responsible for any losses, costs, damages and expenses suffered or incurred by any person in relation to the use of the EBB or any communications related to the EBB, unless such losses are due to the negligence of the Service Provider or default by the Service Provider in complying with its obligations under the Agreement. Epic must amend clause 4.2 of the EBB System Agreement in Schedule 5 of the access arrangement to reflect the above amendment to clause 27.4(d) and Epic's proposed revisions of 2 March 2000 to clause 27.3(b) of the access arrangement.
Epic's Response	Epic's Consolidated Access Arrangement will be amended to reflect the proposed amendment.

Proposed amendment A3.22	For the access arrangement to be approved, the Commission requires Epic to amend clauses 28 and 29 and Schedules 8 and 9 to establish, in consultation with users and prospective users: ■ threshold values at which, and circumstances in which, it is reasonable for the service provider to require the installation of measuring equipment and adherence to procedures set out in Schedules 8 and 9.
Epic's Response	Epic considers it is appropriate for the service provider to require a level of metering that enables Epic to determine each shippers daily imbalance. Epic has been attempting to standardise all delivery point requirements and is reluctant to introduce an inferior level of metering on the basis of size. However Epic is prepared to amend the Access Arrangement to allow a 'system' gas chromatograph to be used to infer the gas quality at small delivery points provided that Epic can be sure that the relevant system chromatograph is analysing gas that will be delivered at the relevant delivery point.

Proposed amendment A3.23	For the access arrangement to be approved the Commission requires that clause 32.1 be amended to read as follows: The User will pay each invoice by direct payment to a bank account nominated by the Service Provider by the later of the 14th day of the month or 10 business days after receipt of the invoice from the Service Provider. The Commission also requires that Epic revise clause 32.2(a) as proposed in its lodgement of 2 March 2000.
Epic's Response	Epic will amend its Consolidated Access Arrangement to reflect the proposed amendments.

Proposed amendment A3.24	For the access arrangement to be approved, Epic must amend clause 34.4(b) in accordance with the proposal in Epic's lodgement of 2 March 2000.
Epic's Response	Epic's Consolidated Access Arrangement reflects the proposed amendment.

Proposed amendment A3.25	For the access arrangement to be approved, the Commission requires that Epic incorporate in clause 35 the revisions proposed in its lodgement of 2 March 2000, subject to changing the word 'lesser' in clause 35.3 to 'greater'.
Epic's Response	Epic does not agree with the Commission's proposed change to the liability mechanism. Epic proposes a new clause be inserted replacing the existing provision, which makes Epic liable for Direct Loss only.

Proposed amendment A3.26	For the access arrangement to be approved, the Commission requires that Epic: 1. adopt the proposed revisions to clause 37.2(a)(i) set out in its letter dated 15 June 2000, that is, Epic is to add after the word 'practice' the following words: and includes the grounds on which the Service Provider has issued a Curtailment Notice or an OFO 2. add, after clause 37.1(d), the following sentence: The Service Provider is bound to take part in a Dispute resolution process initiated by another Party.
Epic's Response	1. Epic will amend the Consolidated Access Arrangement to reflect the proposed amendment. 2. Epic does not agree with the Commission's proposed wording as it creates confusion as to what the obligations of other parties are to participate in the process. Epic proposes that if the Commission would like this requirement inserted, then the wording should be changed to reflect that all parties are bound to participate in the process, not just Epic. Alternatively, the process should be discretionary for all parties.

Proposed amendment A3.27	For the access arrangement to be approved, the Commission requires Epic to make the revisions to clause 38 proposed in Epic's lodgement of 2 March 2000, subject to clause 38(2)(c) being amended to read as follows: 38.2(c) An assignment by the User will be conditional upon, and will not be binding until, the assignee has: (i) executed a deed of covenant in favour of the Service Provider agreeing to be bound by the Agreement. The Service Provider may prescribe a reasonable form of covenant but the User may make its own arrangements to draw up the deed and submit it to the Service Provider; and (ii) reimbursed the Service Provider's costs, within the limits of the Application Fee, that have been reasonably incurred in assessing whether the assignee meets the Creditworthiness Criteria.
Epic's Response	Epic will amend the Consolidated Access Arrangement to reflect the proposed amendment

Proposed amendment A3.28	For the access arrangement to be approved, Epic must not incorporate in its proposed revisions of 2 March 2000 to clause 39 its proposed amendment to clause 39.1(d)(vi).
Epic's Response	Epic will ensure the proposed words are not incorporated in the further Consolidated Access Arrangement.

Proposed amendment A3.29	For the access arrangement to be approved, the Commission requires that Epic add the following to clause 43.6: If there is any conflict or discrepancy between the clauses of the Access Arrangement and the Schedules to the Access Arrangement, then unless otherwise provided in a clause of the Access Arrangement, the clauses and Schedules will rank in order of interpretive precedence as follows: (a) clauses of the Access Arrangement; and (b) the Schedules.
Epic's Response	Epic will amend the Consolidated Access Arrangement to reflect the proposed amendment.

Proposed amendment A3.30	For the access arrangement to be approved, Epic must amend clause 26 as proposed in its lodgement of 2 March 2000 and letter dated 26 March 2000.
Epic's Response	Epic's Consolidated Access Arrangement reflects the proposed amendment.

Proposed amendment A3.31	For the access arrangement to be approved, the Commission requires that, except in the following respects, the arrangement incorporate Epic's proposed amendments of 2 March 2000 to clause 6. ■ First, Epic is required to amend clause 6 so that it also applies to requests for non-specified services, in replacement or continuation of capacity reservations under the Existing Transportation Agreements or extensions thereof, by the Existing Users as defined in respect of those Agreements. ■ Second, Epic is required to amend clauses 6.2(b) and (c) as proposed in Epic's revisions of 2 March 2000 to limit the information required from a 'User' as indicated in 3.5.5 above, that is, to limit the information to: that required to assess whether there is capacity to supply the requested service; and that required to update clause 9.2 (creditworthiness) information since it was first lodged. ■ Third, Epic is to amend revised clause 6.2(c) so that a request to increase MDQ is not to be treated as a request for a separate, new

	contract when sufficient spare capacity is available to meet that request (subject to queuing). Such a request is to be treated as a request to vary service under clause 6.9; ■ Fourth, Epic is to amend revised clause 6.2 by adding after clause 6.2(c) the following: Where the Service Provider reasonably believes that the service requested pursuant to clause 6.2(a) or clause 6.2(c) could only be provided with an extension to or expansion of the system, an Application Fee is not required until the Prospective User or User has consented to join the queue for FT Service. ■ Fifth, Epic is to amend revised clause 6.7(a) to read as follows: All FT Requests will be placed in a queue and will be satisfied in the order in which they are received. Where the Service Provider reasonably believes that satisfaction of the Request for Service will require the construction of New Facilities, an FT Request will not be accorded any priority over any other FT Request falling in the same construction task. However, the priority of FT requests ranked in order of receipt will determine the order in which they are satisfied for all other purposes, including: (i) any construction associated with capacity enhancement for another party or parties, whether or not the construction is carried out under the terms of the access arrangement; and (ii) any allocation of spare capacity. ■ Sixth, Epic is to amend revised clause 6.9(a) to include a request by a User to increase MDQ except: (i) where the Service Provider reasonably believes that assessment of the Request for Service will involve an assessment of the cost of constructing new facilities; and (ii) the User is informed of that fact before the Request for Service is accepted.
Epic's Response	Epic will amend its Consolidated Access Arrangement to make changes that are generally consistent with the changes proposed by the Commission. Epic proposes that a single queuing process to apply for all services, instead of having separate queuing processes applying to each class of service. For the reasons stated below in relation to proposed amendment A3.34, Epic does not agree with the changes that are requested in dot point 5 above so far as it applies to the priority for construction of new facilities. Whilst Epic will seek to include an FT Request within any other construction task that is planned or under consideration at the time that the request enters the queue, Epic proposes to deal with expansions of

	capacity as they arise in the queue, and thus they will be accorded priority over other requests according to the order in which they are submitted. The consequence of this approach is that there will not necessarily be a "same construction task".

Proposed amendment A3.32	For the access arrangement to be approved, the Commission requires that clause 10 be amended to make the queuing policy applicable to requests for non-specified services.
Epic's Response	Epic will amend its Consolidated Access Arrangement to reflect the proposed amendment. Note that the document (clauses 6, 7 & 10) will be amended to provide for a single queuing process to apply for every service.

Proposed amendment A3.33	For the proposed access arrangement to be approved, the Commission requires that Epic incorporate the revised clause 7 as proposed in its lodgement of 2 March 2000, subject to: 1. Epic deleting from clause 7.2 all words after 'Month,'; 2. Epic deleting the amount '$5,000' in respect of 'Application Fee – IT Service' in Schedule 4 Tariff Schedule; and 3. Epic modifying its proposed revision to clause 7.5(a) so that, in the phrase 'in the order or priority', the words 'or priority' are deleted.
Epic's Response	Epic will amend the Consolidated Access Arrangement to reflect the proposed amendments.

Proposed amendment A3.34	For the access arrangement to be approved, the Commission requires that Epic revise clause 10 as proposed in its lodgement of 2 March 2000, except as indicated in the following points: ■ First, revise the procedures for clearance of the queue in accordance with the indications given above, following public consultation on relevant threshold values for determining when applications for access would be reviewed and cleared from the queue; ■ Second, amend the definition of 'I' in clause 10.4(l)(iii) so that it reads as follows: 'I' = the present value calculation (using as the discount rate the nominal post-tax vanilla WACC assessed by the Regulator) over the term of the FT Service Contract of the Capacity Charge revenue ('CCR'); ■ Third, incorporate further revisions in the access arrangement to reflect the intentions stated in its letter dated 15 June 2000 (clause 10.5(a) expenditure limit; queue clearance in association with capacity enhancement for a party or parties); ■ Fourth, incorporate provisions establishing the minimum parameters that would apply in respect of commercial negotiations over timetable and allocation of construction risks for enhancements to capacity,

	taking into consideration the issues raised by Santos; ■ Fifth, subject to further public consultation as indicated above, provide for clearance of the queue at more frequent intervals than annually; ■ Sixth, delete clause 10.5(a)(ii); and ■ Seventh, amend clause 10.6 as proposed in Epic's lodgement of 2 March 2000 by replacing 'I' with 'the lesser of "A" and "I" '.
Epic's Response	In Epic's view, the queuing policy and the Expansions & Extensions Policy were linked, and were part of a single process. The changes to the queuing policy (allocating spare capacity in order of application and more frequent clearance) reduces the linkage and the need for the detailed process steps. Accordingly, Epic does not agree with the Commission's proposed amendment and submits the following for consideration. ▪ the detailed process contained in clauses 10.3 and 10.4, and the detailed definition of capital contribution, and expenditure limits, be abandoned; ▪ the simplified approach reflected in the queuing policy be reflected in the expansions & extensions policy; and ▪ the existing Expansions & Extensions Policy (clauses 10.2 – 10.8) be replaced with a much simplified policy statement which provides Epic with the discretion to negotiate a position with a Prospective User. This approach is consistent with policies that have been adopted by other service providers and approved by the Commission. The proposed new wording for the Expansions & Extensions Policy is as follows: 10.4 Expansions & Extensions Policy (a) The Service Provider: (i) will construct New Facilities to meet the Service needs of Prospective Users where the Service Provider believes that the tests in Section 6.22 of the Code have been satisfied; (ii) may otherwise construct New facilities to meet the needs of Prospective Shippers; (iii) does not intend to undertake Speculative Investment; (iv) may from time to time seek a Capital Contribution or a Surcharge from the Prospective Shippers in respect of the investment in New Facilities; and (v) will negotiate in good faith with the Prospective User the terms that are to apply for the construction of the New Facilities. (b) New Facilities that are constructed shall be part of the Covered Pipeline, unless the Service Provider, by notice

	to the Regulator (given before those facilities come into service) elects otherwise. (c) Any New Facilities that are part of the Covered Pipeline will not affect the Reference Tariff before the next Revisions Commencement Date. (d) Prospective Users will pay the Reference Tariff, or the IT Commodity Charge Rate, as applicable, in addition to any Capital Contribution or a Surcharge.

Proposed amendment A3.35	For the access arrangement to be approved, the Commission requires that Epic amend the access arrangement to provide for the revisions submission date and revisions commencement date proposed in clauses 1.2 and 1.3 of its lodgement of 2 March 2000.
Epic's Response	Epic's Consolidated Access Arrangement reflects the proposed amendment.

Proposed amendment A3.36	For the access arrangement to be approved, the Commission requires that Epic amend the access arrangement by defining, in response to the further process of public consultation, specific major events (if any) that would trigger an obligation on the service provider to submit revisions prior to the revisions submission date.
Epic's Response	The Code was developed after considerable debate amongst all of the stakeholders. The resulting ' consensus' document reflects a fine balance of the needs of those stakeholders. One of the acknowledged needs was that the Service Provider, if it considered itself to be overly exposed by events, could request a review of its access arrangement in advance of the revisions submission date. It was <u>not</u> the intention of the Code that the access arrangement could be arbitrarily re-opened by third parties. To do so would potentially expose the Service Provider to considerable risk. It appears to Epic that, were the Commission to require the insertion of a "trigger" that would prompt the reopening of the Access Arrangement, this would go against the objectives of the Code as it was agreed by all jurisdictions. Epic does not believe that an event can be defined with sufficient timeliness or certainty for such a provision to be useful. However, because of the uncertainty such a provision would create for Epic submits that such a provision is inappropriate and would place a significant risk and unnecessary cost burden on Epic.