



Australian  
Competition &  
Consumer  
Commission

# **Final** Approval

**Revised access arrangement  
by APT Petroleum Pipelines Ltd  
for the  
Roma to Brisbane Pipeline**

**28 March 2007**

**File: S2005 / 76**

**Commissioners**

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# Summary

The Australian Competition and Consumer Commission (ACCC) has now made a further final decision under s. 2.41(b) of the *National Third Party Access Code for Natural Gas Pipeline Systems* (code) to approve the amended revisions to the access arrangement for the Roma to Brisbane Pipeline (RBP) submitted by APTPPL on 28 February 2007.

The ACCC is satisfied that APTPPL has directly incorporated or otherwise addressed the reasons for the nine amendments set out in the ACCC's final decision.

The ACCC has accepted APTPPL's submissions that the appropriate approach under the code to address prior users' contributions to the costs of expansions to the RBP is through recourse, if necessary, to the dispute resolution processes in s. 6 of the code. Consequently the ACCC has approved a higher initial capital base (\$296.4m) than it specified in the final decision (\$251.1m). This in turn has resulted in a higher reference tariff and residual value than specified in the final decision.

The revised access arrangement will come into effect on 12 April 2007.

# 1. Introduction

## 1.1 Background

On 31 January 2006, APT Petroleum Pipelines Limited (APTPPL) submitted its proposed revisions to the access arrangement for the Roma to Brisbane Pipeline (RBP) to the Australian Competition and Consumer Commission (ACCC). Approval was sought under the *National Third Party Access Code for Natural Gas Pipeline Systems* (the code). An access arrangement is a statement of the policies and terms and conditions on which third party access to a pipeline will be offered.

The ACCC released its draft decision on 31 August 2006. It proposed not to approve the revised access arrangement and specified 22 amendments to be made in order for it to be approved.

The amended revised access arrangement subsequently submitted by APTPPL did not fully comply with the draft decision. On 20 December 2006, the ACCC issued a final decision in which it decided, pursuant to s. 2.38(b)(ii) of the code, not to approve the amended revised access arrangement and specified nine amendments to be made.

On 18 December 2006, APTPPL submitted a confidential submission proposing changes to some of the asset lives it had proposed in its original application. Given the late receipt of this submission the ACCC decided that it was unable to take it into account before making its final decision. In response to the final decision, APTPPL acknowledged that the information on this issue was provided late in the process. It submitted that, as the code provides a mechanism to re-address this issue at a later date, it has accepted the asset lives specified in the final decision.<sup>1</sup> The ACCC acknowledges that APTPPL may propose variations to asset lives as part of future revisions to its access arrangement.<sup>2</sup>

On 28 February 2007, APTPPL submitted its amended revised access arrangement along with its access arrangement information and on 5 March 2007 it provided a supporting submission.<sup>3</sup> In some instances the submission raises concerns about the ACCC's approach. In particular, APTPPL provided a report by its consultant CRA International on issues relating to the initial capital base. The ACCC does not consider it appropriate at this final stage of the approval process to provide a detailed response to such submissions which would generally involve repeating the reasoning from the final decision. However, where comments may create doubt as to the ACCC's reasoning, this final approval provides a reference to the relevant final decision pages that address the comments.

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<sup>1</sup> APTPPL, *Response to the final decision on access arrangement for Roma to Brisbane Pipeline*, dated 28 February 2007 (but received on 5 March), cited 'APTPPL, Response to the Final Decision'.

<sup>2</sup> Such variations would be expected to change the depreciation profile of the assets. They would not increase the size of the capital base as proposed by APTPPL's 18 December 2006 submission.

<sup>3</sup> APTPPL, Response to the Final Decision.

This final approval document provides the ACCC's assessment of APTPPL's amended revisions for compliance with the final decision and the code. Chapter 2 provides the ACCC's assessment of compliance with each of the nine amendments. Chapter 3 provides the ACCC's further final decision.

## **1.2 Code requirements for the assessment of amended revisions**

Section 2.41 of the code provides that where, following the final decision, a service provider submits amended revisions, the regulator is required to issue a further final decision that:

- (a) if the Relevant Regulator is satisfied that the amended revisions to the Access Arrangement incorporate the amendments specified by the Relevant Regulator in its final decision under section 2.38(a)(ii) or (b)(ii), approves the amended revisions to the Access Arrangement; or
- (b) if the Relevant Regulator is satisfied that the amended revisions to the Access Arrangement either substantially incorporate the amendments specified by the Relevant Regulator or otherwise address to the Relevant Regulator's satisfaction the matters the Relevant Regulator identified in its final decision as being the reasons for requiring the amendments specified in its final decision under section 2.38(a)(ii) or (b)(ii), either approves or does not approve the amended revisions to the Access Arrangement (in the Relevant Regulator's discretion); or
- (c) in any other case, does not approve the amended revisions to the Access Arrangement.

Where the regulator does not approve the amended revisions submitted by the service provider, s. 2.42 of the code requires the regulator to 'draft and approve its own amended revisions to the Access Arrangement, instead of the revisions proposed by the Service Provider'.

Section 2.48 of the code provides that a decision by the regulator under s. 2.42 is:

subject to review by the Relevant Appeals Body under the Gas Pipelines Access Law. Subject to the Gas Pipeline Access Law, revisions to an Access Arrangement come into effect on the date specified by the Relevant Regulator (which date must not be earlier than either a date 14 days after the decision was made or ... the Revisions Commencement Date).

## **1.3 The role of the Australian Energy Regulator**

The ACCC has prepared this final approval document in consultation with the Australian Energy Regulator (AER). The ACCC is currently the regulator of natural gas transmission pipelines under the code (except for WA). However, governments have agreed that this function will be undertaken by the AER, along with the regulation of natural gas distribution pipelines, from July 2007.



## 2. Assessment of the amended revisions

This chapter sets out the ACCC's assessment of whether the amended revised access arrangement submitted by APTPPL on 28 February 2007:

- incorporates each of the amendments specified in the final decision
- substantially incorporates the amendments or
- otherwise addresses the matters identified in the final decision as being the reasons for requiring the amendments.

### 2.1 Reference tariff elements

#### 2.1.1 The initial capital base

##### **Amendment 1**

##### *Amendment required*

Before APTPPL's revised access arrangement for the RBP can be approved, the ICB must be set at \$251.11m

##### *APTPPL's response*

APTPPL has adopted the ACCC's final decision approach of setting the ICB equal to the depreciated optimised replacement cost (DORC) calculated using the straight line methodology although it submits that the correct approach is to use the NPV of costs methodology.<sup>4</sup> The ICB adopted by APTPPL is \$296.4m and is shown in table 2 of its access arrangement information. APTPPL, considers that the ACCC's exclusion of the cost of assets associated with past users' contributions from the ICB is incorrect and unreasonable and has incorporated an ICB of \$296.4m in its amended revisions.<sup>5</sup>

##### *ACCC's assessment*

#### **Depreciated optimised replacement costs**

APTPPL's proposed approach to setting the ICB is to make it equal to the DORC calculated using the NPV of costs methodology. For the reasons stated in the draft and final decisions, the ACCC concluded that this approach in this instance was not consistent with the principles in s. 8.1 of the code.<sup>6</sup> The ACCC determined that an ICB based on the straight line DORC methodology should be substituted. The straight-line DORC adopted in the final decision was \$296.4m.

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<sup>4</sup> APTPPL, Response to the Final Decision, p. 3.

<sup>5</sup> APTPPL, Response to the Final Decision, pp. 3-8.

<sup>6</sup> ACCC, *Draft Decision Roma to Brisbane Pipeline revised access arrangement*, August 2006, pp.29-35, cited 'RBP Draft Decision'; ACCC, *Final Decision Roma to Brisbane Pipeline revised access arrangement*, December 2006, pp. 70-79, cited 'RBP Final Decision'.

Although APTPPL has accepted the ACCC's straight line DORC it continues its position that this approach is incorrect. It reiterates the arguments that were put to the ACCC before the final decision and has attached another report from its consultant CRA International in support of its response.<sup>7</sup> Its arguments are based on three issues.

The first issue is the formulation of DORC. It believes that the continued use of straight line DORC is unreasonable in light of the Tribunal decision in the Moomba to Sydney Pipeline Case. The ACCC's final decision gave due consideration to this issue and its assessment is at pages 71-73 of the final decision.

The second issue is the formulation and application of NPV DORC. This objection is mainly centred on the appropriate rate for discounting costs (risk free or WACC) and the tax treatment differences between incumbent and new entrant perspectives. The ACCC's final decision provides its assessment on these two issues at pages 48-54.

The final issue is the formulation of the straight line DORC. This objection is based on the belief that the ACCC's approach of using the actual remaining life in the numerator and hypothetical economic life in the denominator when calculating straight line DORC is incorrect. The ACCC's final decision provides its assessment of this issue at pages 56-60.

APTPPL's amended revised access arrangement has adopted the straight line DORC methodology to calculate an ICB of \$296.4m. Table 2 of its access arrangement information reflects this figure. The ACCC is satisfied that APTPPL has adopted the straight line DORC methodology, which was one of the reasons for requiring Amendment 1.

#### **Basis for past tariffs, economic depreciation and historical returns (s. 8.10(f))**

In its draft decision, after analysing a number of historical contracts which provided for payments above standard charges that were linked to capacity expansions undertaken by APTPPL, the ACCC concluded that APTPPL had more than fully recovered, through past tariffs, the capital associated with these capacity expansions.

Accordingly, the draft decision adjusted the DORC value of the ICB by an amount of \$45.3m being the costs of assets associated with capital contributions.

In response, APTPPL raised a number of issues suggesting that the ACCC's analysis and conclusion as to the existence and quantum of past capital contributions was flawed. For the reasons stated in its final decision the ACCC affirmed its draft decision.<sup>8</sup> The ACCC concluded that APTPPL had not provided any substantial evidence nor supported its objections with sufficient reason for the ACCC to accept the argument that its analysis was flawed. APTPPL also submitted that it may not be appropriate to reduce the ICB to reflect past capital contributions under s. 8.10 as it

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<sup>7</sup> CRA International, *Roma – Brisbane Pipeline: Response to Final Decision on ICB Issues*, February 2007, cited 'CRAI, Response February 2007'.

<sup>8</sup> RBP Final Decision, pp. 60-67.

believed that they were more appropriately dealt with by the arbitration provisions set out in s. 6 of the code.

The ACCC's view, as discussed in its final decision was that the 'code remedy' could potentially be through either arbitration (ss. 6.1 and 6.20) or an adjustment when setting the ICB (s. 8.10(f)). It analysed both options and considered that, in principle, the better approach may be to not include past capital contributions in the ICB while recognising that reliance on dispute resolution mechanisms could be advantageous, particularly given that this approach may better align recovery with the users who actually contributed to expansions. The ACCC also sought the views of the users who made the identified contributions. The users were not unanimous in their view on whether these capital contributions should be included in the ICB. In conclusion, the ACCC noted that while s. 6 of the code provides a mechanism for recovery of capital contributions there was uncertainty surrounding its application. In particular, it noted uncertainty in relation to whether s. 6.1 only allows a 'Prospective User' to notify an access dispute. On balance, the ACCC decided in its final decision to exclude these amounts from the ICB.

APTPPL's Response to the Final Decision submits that the ACCC's treatment of past users' contributions is incorrect and includes these amounts in the ICB.<sup>9</sup> The reasons given by APTPPL are:

- the code allows for arbitration to recoup capital contributions
- a reduction of ICB would lead to undesirable outcomes
- a lack of precedent
- errors in assumptions underpinning the calculation of capital contributions
- the methodology underpinning the calculation of capital contributions, and
- economic considerations.

The ACCC has previously addressed these issues and the assessment and reasons for its conclusions are at pages 60-67 of the final decision.

In considering APTPPL's response to the final decision the ACCC has confirmed its costing of these assets. While it acknowledges that some assumptions were required in its calculations, it remains of the view that these assumptions are conservative. In particular, it notes that the users' contributions it identified were more than double the amount that it proposed to be excluded from the ICB.

As noted by APTPPL, the ACCC considered in its final decision two alternative approaches to address its concerns that users may be required to pay more than once for the expansion assets to which they had made specific contributions. The ACCC considered that there appeared to be good reasons for adopting the arbitration approach but was concerned about its aspects of its practical application.

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<sup>9</sup> APTPPL, refers to the past capital contributions as alleged past capital contributions. However, the ACCC will, to avoid confusion, continue to refer to them as capital contributions.

In its response, APTPPL has argued in favour of the arbitration approach. Addressing the ACCC's concerns it submitted:

The Final Decision ... seems to reflect a concern that users who made capital contributions prior to the establishment of the ICB for a Covered Pipeline are not able to seek to have such contributions recognised in an access arbitration. However, there is nothing in section 6 of the Code which specifically limits the consideration of prior capital contributions in this manner and nothing in the Access Arrangement prevents any party from exercising its rights under the Code to request an arbitrator to take into account capital contributions that can be demonstrated to have been made.

Consequently if an arbitrator determines a user did make a capital contribution then the arbitrator has the discretion to require APTPPL to provide a reference service at a tariff reduced to reflect some or all of the un-recouped portion of the capital contribution made by the user.<sup>10</sup>

The ACCC considers that APTPPL's submission provides additional assurance of the effectiveness of the arbitration approach as it recognises that neither the access arrangement nor the code prevents users who have made contributions from seeking to have those recognised by an arbitrator and for the arbitrator to require APTPPL to provide a service at a reduced tariff.

As quoted above, APTPPL has acknowledged the availability of the arbitration process to "... require APTPPL to provide a reference service at a tariff reduced to reflect some or all of the un-recouped portion of the capital contribution made by the user."

APTPPL further submitted:

The arbitration provisions in the Code do not permit opening or arbitration of tariffs payable by users under existing gas transportation agreements. Arbitration is not available to an existing user until that user is unable to negotiate a new services agreement with the service provider, and APTPPL recognises that this would typically mean that existing users of a pipeline will not be able to seek recognition of alleged capital contributions until current services agreements expire. However, the fact that there may be some delay in users being able to have alleged capital contributions recognised does not justify the reduction of the ICB.<sup>11</sup>

APTPPL has noted that the code appears to limit the ability of users to seek arbitration with respect to an on-going gas transportation agreement and that typically existing users would not be able to seek recognition of their contributions until their current service agreements expire. In the final decision, the ACCC noted that there is uncertainty about the ability of existing users to notify an access dispute with respect to capital contributions. While such a user might not be a "Prospective User" referred to in s. 6.1, ss. 6.18 and 6.20 appear to anticipate that a "User" might also be able to seek recovery of a capital contribution. The ACCC is of the view that this issue cannot be properly resolved in the context of this access arrangement and would need to be considered by an arbitrator if it ever rose in the context of an access dispute. Further, it is not clear that the code prohibits arbitrations prior to the expiry of such agreements. For example, the ACCC is aware that it is not unusual for service agreements to be

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<sup>10</sup> APTPPL, Response to the Final Decision, p. 4.

<sup>11</sup> APTPPL, Response to the Final Decision, p. 4.

varied prior to their termination dates. If a user and APTPPL are unable to agree on a variation, this may lead to an arbitration occurring prior to the termination date.

In assessing APTPPL's response to the final decision, the ACCC has placed considerable weight on the assurances APTPPL has provided about the efficacy of the arbitration approach. In addition, the ACCC agrees that a key advantage of this approach is that it can directly align any recoupment with the party that made the contribution. A further important consideration is that these parties were not unanimous in their support for the approach proposed in the final decision of excluding the costs of these assets from the ICB.

On balance, the ACCC has concluded that in this instance the arbitration approach is the better means to address its concerns that users might be required to pay for expansion assets more than once. Consequently, it is satisfied that APTPPL has addressed its reasons for proposing this aspect of Amendment 1.

## **Conclusion**

For the reasons discussed above the ACCC is satisfied that APTPPL has addressed its reasons for requiring Amendment 1, in particular through its adoption of straight line DORC and its submissions about the application of the arbitration approach under s. 6 of the code.

### **2.1.2 Rate of return**

#### **Amendment 2**

##### *Amendment required*

Before APTPPL's revised access arrangement for the RBP can be approved, APTPPL must amend the rate of return estimates and associated parameters forming part of the access arrangement and access arrangement information to reflect the ACCC's estimates as set out in table 2.5.7.1 of this final decision. The calculation of reference tariffs must reflect these parameters.

##### *APTPPL's response*

APTPPL has amended its rate of return estimates and associated values for the WACC parameters according to the ACCC's final decision calculations and reflected these in its calculation of reference tariffs. However, it considers that the approach adopted in the final decision is inconsistent with the role of the regulator when assessing access arrangements.<sup>12</sup>

##### *ACCC's assessment*

The ACCC is satisfied that APTPPL's amended revisions incorporate Amendment 2. The ACCC notes that due to the change in the ICB as discussed in section 2.1.2 above the effective tax rate has changed to 17.17 per cent and consequentially the pre-tax

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<sup>12</sup> APTPPL, Response to Final Decision, p. 12.

WACC is 5.88 per cent. APTPPL's access arrangement information tables 6 and 7 reflect the correct effective tax rate and pre-tax WACC. The ACCC's reasoning for its approach to assessing the proposed rate of return, which was different to the 'range' approach proposed by APTPPL, is discussed at pages 111-114 of the final decision.

### **2.1.3 Non-capital costs – wages and salaries**

#### **Amendment 3**

##### *Amendment required*

Before APTPPL's proposed revised access arrangement for the RBP can be approved, APTPPL must amend its access arrangement to include in the non-capital costs the wages and salaries costs as set out in table 2.6.7.2.

##### *APTPPL's response*

Table 8 of the revised access arrangement information submitted by APTPPL sets out the non-capital costs recovered by the reference tariffs in APTPPL's amended revised access arrangement. APTPPL has included the costs of wages and salaries as set out in the ACCC's final decision.

##### *ACCC's assessment*

The ACCC is satisfied that APTPPL's amended revisions incorporate Amendment 3.

### **2.1.4 Non-capital costs – Agility management fee**

#### **Amendment 4**

##### *Amendment required*

Before APTPPL's proposed revised access arrangement for the RBP can be approved, APTPPL must amend its access arrangement by excluding the Agility management fee from its forecast non-capital costs.

##### *APTPPL's response*

APTPPL has excluded the Agility management fee from its non-capital costs to be recovered from the reference tariff. This is reflected in table 8 of its access arrangement information. However, it believes that it is unreasonable and inappropriate to disallow a fee which is part of total operating costs which benchmarking suggests as being efficient and consistent with prudent industry practice.<sup>13</sup>

##### *ACCC's assessment*

The ACCC is satisfied that APTPPL's amended revisions incorporate Amendment 3.

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<sup>13</sup> APTPPL, Response to Final Decision, p. 16.

APTPPL's comment implies that the ACCC has disallowed costs that are a component part of aggregates considered as efficient. This argument has been previously addressed in the final decision at page 234.

### **2.1.5 Non-capital costs – self insurance**

#### **Amendment 5**

##### *Amendment required*

Before APTPPL's proposed revised access arrangement for the RBP can be approved, APTPPL must either exclude the costs of self-insurance from the non-capital costs or implement the following administrative arrangements for self-insurance:

- a board resolution to self-insure (i.e. a copy of the signed minutes recording the resolution made by the board)
- confirmation that APTPPL is in a position to undertake credibly self-insurance for those events
- self-insurance details setting out the specific risks which APTPPL has resolved to self-insure
- a report from an appropriately qualified actuary or risk specialist verifying the calculation of risks and corresponding insurance premiums
- ensuring that the cost of self-insurance is recorded as an operating expense in the audited and published income statement, and thereby deducted from the calculation of attributable profits
- ensuring that a self-insurance reserve (funded by self-insurance premiums charged in the income statement) is established in the audited and published balance sheet
- ensuring that when a claim against self-insurance is made, that an appropriate deduction to the self-insurance reserve is recorded.

##### *APTPPL's response*

APTPPL has excluded self insurance costs from its non-capital costs to be recovered from the reference tariff. This is reflected in table 8 of its access arrangement information.

##### *ACCC's assessment*

The ACCC is satisfied that APTPPL's amended revisions incorporate Amendment 5.

## 2.1.6 Reference tariffs

### Amendment 6

#### *Amendment required*

Before APTPPL's revised access arrangement can be approved, the reference tariff must be amended to the starting tariff of

- Capacity Reference Tariff = 0.3819 (\$/GJ of MDQ / day)
- Throughput Reference Tariff = 0.0255 (\$/GJ)

and thereafter increased annually by CPI-X where X = 0.79

#### *APTPPL's response*

The starting tariff in APTPPL's amended revisions is:

- Capacity Reference Tariff = 0.4243 (\$/GJ of MDQ / day)
- Throughput Reference Tariff = 0.0283 (\$/GJ)

APTPPL has adopted a CPI-X adjustment for annual tariff increases and an X factor of 0.80 per cent

#### *ACCC's response*

For the reasons stated in the draft and final decisions the ACCC considered that a real tariff that remains constant in the short term and then increases as proposed by APTPPL is inappropriate for the RBP. The ACCC in its draft decision having compared the proposed benchmark overall revenue with the benchmark revenue determined by it, considered that a tariff that commences ten per cent lower and decreases slightly in real terms over time was appropriate. Considering that the difference between the overall benchmark revenues in the final decision and the draft decision was sufficiently small the ACCC in the final decision continued the 10 per cent starting tariff reduction with a slight decrease in real terms over time.

APTPPL's amended revisions propose a starting tariff that does not incorporate a ten per cent reduction. As noted in the final decision, the level of starting tariff and its subsequent movements are dependent upon the overall benchmark revenue over time. The ICB as approved in this final approval is higher than the ICB proposed in the final decision for the reasons discussed in section 2.1.1 above. The benchmark revenues have increased by \$3.1m in 2006-07 compared to the final decision, driven mainly by the required higher return on capital on the increased ICB. Therefore, taking account of this benchmark revenue increase the ACCC considers it now appropriate to accept APTPPL's proposed starting tariff without a reduction.

As required in the final decision, APTPPL has adopted a CPI-X approach to subsequent annual tariff increases. This addresses the ACCC's concerns that it is not appropriate for the RBP to adopt a tariff that is constant in real terms in the short term and then increases. Therefore, APTPPL's proposed CPI-X approach where X is 0.80 per cent is approved.



The revenues associated with the tariff and tariff path as approved in this final approval are set out in table 2.1.1. The forecast revenue shown in APTPPL's access arrangement information table 9 is consistent with the ACCC's revenue forecast. The starting reference tariff and its annual increase thereafter consistent with this final approval are set out below.

- Capacity Reference Tariff = 0.4243 (\$/GJ of MDQ / day)
- Throughput Reference Tariff = 0.0283 (\$/GJ)

Increased annually by CPI-X where X = 0.80

**Table 2.1.1: Forecast total revenue<sup>a</sup>**

	2006-07	2007-08	2008-09	2009-10	2010-11
	\$m (July 2006)				
Return on capital	16.2	16.2	15.9	15.9	15.4
Non-capital costs	8.3	8.3	8.2	8.2	8.1
Tax	0.7	0.7	0.8	0.8	0.9
Depreciation	5.8	6.1	6.2	6.3	6.6
<b>Total revenue</b>	<b>31.0</b>	<b>31.2</b>	<b>31.1</b>	<b>31.0</b>	<b>31.1</b>

a Totals may not match due to rounding.

The ACCC is satisfied that APTPPL has addressed its reasons for requiring Amendment 6.

## 2.1.7 Next period opening capital base

### Amendment 7

#### *Amendment required*

Before APTPPL's revised access arrangement can be approved, the words in section 4.1(c) need to be replaced with:

The capital base at the commencement of the subsequent access arrangement period will be the residual value of \$233.79m (in July 2006 dollars) adjusted to reflect actual rather than forecast new facilities investment, redundant capital and inflation as measured by the annual CPI.

#### *APTPPL's response*

Section 4.1(c) of the amended revised access arrangement submitted by APTPPL states that:

The Capital Base at the commencement of the subsequent Access Arrangement Period will be the Residual Value of \$276.67 million (in July 2006 dollars) adjusted to reflect actual rather than forecast new facilities investment, redundant capital and inflation as measured by the annual CPI.

### *ACCC's assessment*

Section 4.1(c) of APTPPL's amended revised access arrangement included the wording required by Amendment 7 recognising that the subsequent access arrangement opening capital base is the current regulatory period residual value of the asset base adjusted for actual new facilities investment, redundant capital and inflation as measured by CPI. However, the residual value as stated in APTPPL's amended section is different to the final decision Amendment 7. This is due to the change in the ICB (discussed in section 2.1.1) as approved in this final approval and the consequential changes to overall benchmark revenues.

The revenue model that produced the benchmark revenues for this access arrangement period (table 2.1.1) results in a residual value of the asset base as at 30 June 2011 of \$276.67m. The residual value included by APTPPL in section 4.1(c) of its amended revised access arrangement is \$276.67m and is consistent with the approved ICB and consequential benchmark revenues. Thus, the ACCC is satisfied that APTPPL has addressed its reasons for requiring Amendment 7.

## **2.2 Non-tariff elements**

### **2.2.1 Transfer of receipt or delivery points**

#### **Amendment 8**

##### *Amendment required*

Before APTPPL's proposed revised access arrangement for the RBP can be approved, APTPPL must amend s. 68(b) to read the 'User agreeing to pay a reasonable charge (determined by APTPPL and the User) for the cost of transfer of the capacity. If the transfer does not proceed to completion, the User will only be liable for the legal and other costs associated with consideration of the request to transfer up until the time the user notifies APTPPL that it has decided not to proceed'.

##### *APTPPL's response*

APTPPL's amended revised access arrangement schedule 2, section 68 (b) states that:

The User agreeing to pay a reasonable charge (determined by APTPPL and the User) for the cost of transfer of the capacity. If the transfer does not proceed to completion, the User will only be liable for the legal and other costs associated with consideration of the request to transfer up until the time the user notifies APTPPL that it has decided not to proceed.

##### *ACCC's assessment*

The ACCC is satisfied that APTPPL's amended revisions incorporate Amendment 8.

## 2.2.2 Queuing policy

### Amendment 9

#### *Amendment required*

Before APTPPL's proposed revised access arrangement for the RBP can be approved, APTPPL must amend the proposed queuing policy to provide for separate queues for existing and developable capacity. APTPPL will maintain a

- a queue for requests for service that can be met from the existing or future uncontracted capacity of the existing pipeline (existing capacity queue); and
- a queue for requests for service that can be met by an increase in the capacity of the pipeline (developable capacity queue).

A prospective user can nominate which queue(s) a request for service should be allocated.

#### *APTPPL's response*

The queuing policy in the amended revised access arrangement provides for two separate queues for:

- requests that relate to services to be provided by the existing capacity (Existing Capacity Queue); and
- requests that can only be met by an increase in the capacity of the pipeline (Developable Capacity Queue).

Section 6 of the amended revised access arrangement sets out the method of implementing the two queues and s. 6.1(c) recognises a prospective users' right to nominate the queue to which its request of service should be allocated.

#### *ACCC's assessment*

The ACCC is satisfied that APTPPL's amended revisions incorporate Amendment 9.

### **3. Final Approval**

For the reasons expressed in both chapter 2 of this final approval and the final decision, the ACCC has made a further final decision, pursuant to s. 2.41(b) of the code to approve the amended revisions to the access arrangement submitted by APTPPL on 28 February 2007.

The revised access arrangement will come into effect on 12 April 2007.

Copies of APTPPL's revision application, associated documents, amended revised access arrangement and access arrangement information are available (subject to confidentiality restrictions) from the AER' website ([www.aer.gov.au](http://www.aer.gov.au)) and placed on the public register held by the Code Registrar. Copies of the ACCC's decision documents can also be found on the AER website.

## Appendix A: Location of amendments in the final decision

Table A.1 below provides a reference for each amendment specified in the final decision with its location in that document.

**Table A.1: Location of amendments in the final decision**

<b>Amendment</b>	<b>Topic</b>	<b>Location in final decision (page number)</b>
1	Initial Capital Base	79
2	Rate of return	119
3	Non-capital costs – wages and salaries	135
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