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**National Third Party Access  
Code for Natural Gas Pipeline  
Systems: Third Amending  
Agreement**

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**BETWEEN**

**THE COMMONWEALTH OF AUSTRALIA**

**THE STATE OF NEW SOUTH WALES**

**THE STATE OF VICTORIA**

**THE STATE OF QUEENSLAND**

**THE STATE OF SOUTH AUSTRALIA**

**THE STATE OF WESTERN AUSTRALIA**

**THE STATE OF TASMANIA**

**THE AUSTRALIAN CAPITAL TERRITORY and**

**THE NORTHERN TERRITORY**



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## National Third Party Access Code for Natural Gas Pipeline Systems: Third Amending Agreement

<b>Date</b>	2001
<b>Parties</b>	<ol style="list-style-type: none"> <li>1. <b>The Commonwealth of Australia</b></li> <li>2. <b>The State of New South Wales</b></li> <li>3. <b>The State of Victoria</b></li> <li>4. <b>The State of Queensland</b></li> <li>5. <b>The State of South Australia</b></li> <li>6. <b>The State of Western Australia</b></li> <li>7. <b>The State of Tasmania</b></li> <li>8. <b>The Australian Capital Territory</b></li> <li>9. <b>The Northern Territory</b></li> </ol>
<b>Recitals</b>	<p>A On 7 November 1997, the Parties signed the Natural Gas Pipelines Access Agreement with the objective of establishing a uniform national framework for third party access to natural gas pipelines.</p> <p>B Under the Natural Gas Pipelines Access Agreement, the Parties agreed upon a uniform “Gas Pipelines Access Law”, which included a “National Third Party Access Code for Natural Gas Pipeline Systems”.</p> <p>C In accordance with the Natural Gas Pipelines Access Agreement, the State of South Australia passed the Gas Pipelines Access (South Australia) Act 1997, which applied the Gas Pipelines Access Law (comprising Schedule 1 (Third Party Access to Natural Gas Pipelines) and Schedule 2 (National Third Party Access Code for Natural Gas Pipeline Systems (the <b>Code</b>)) as a law of South Australia.</p> <p>D In accordance with the Natural Gas Pipelines Access Agreement, each other Party (except the State of Western Australia) passed, or proposes to pass, application legislation applying the Gas Pipelines Access Law as set out in Schedules 1 and 2 to the Gas Pipelines Access (South Australia) Act 1997, as laws of that Party. The State of Western Australia has enacted the Gas Pipelines Access (Western Australia) Act 1998, which has essentially identical effect to the Gas Pipelines Access (South Australia) Act 1997 and applies the Gas Pipelines Access Law as set out in Schedules to the Western Australian Act as law of the State of Western Australia.</p>

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E	Section 6 of Schedule 1 of the Gas Pipelines Access Law and section 9 of the Code establish a procedure whereby the Code may be amended.
F	On 2 April 2001, in accordance with section 9 of the Code and section 6(1) of Schedule 1 of the Gas Pipelines Access Law, the National Gas Pipelines Advisory Committee recommended to Relevant Ministers that certain amendments be made to the Code.
G	The Relevant Ministers have unanimously agreed, in accordance with section 6 of Schedule 1 of the Gas Pipelines Access Law, to amend the Code as set out in this Agreement.

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## Operative Provisions

### 1. Interpretation

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1.1 This Agreement may be referred to as the National Third Party Access Code for Natural Gas Pipeline Systems: Third Amending Agreement.

1.2 In this Agreement, unless the contrary intention appears, capitalised terms not otherwise defined have the meaning given in the Code and:

**Code** means the National Third Party Access Code for Natural Gas Pipeline Systems set out in Schedule 2 to the Gas Pipelines Access (South Australia) Act 1997 (as amended) and Schedule 2 to the Gas Pipelines Access (Western Australia) Act 1998 (as amended); and

**Parties** means the parties to this Agreement.

### 2. Commencement

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Clause 3 of this Agreement has effect on and from the day on which a copy of this Agreement is published in the South Australian Government Gazette.

### 3. Amendment of section 8

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(a) At the end of section 8.4 of the Code **insert**:

However, the methodology used to calculate the Cost of Service, an IRR or NPV may also allow the Service Provider to retain some or all of the benefits arising from efficiency gains under an Incentive Mechanism. The amount of the benefit will be determined by the Relevant Regulator in the range of between 100% and 0% of the total efficiency gains achieved.

- (b) For section 8.44 of the Code **substitute**:

**8.44 Use of Incentive Mechanisms**

The Reference Tariff Policy should, wherever the Relevant Regulator considers appropriate, contain a mechanism (an ***Incentive Mechanism***) that permits the Service Provider to retain all, or any share of, any returns to the Service Provider from the sale of the Reference Service:

- (a) during an Access Arrangement Period, that exceed the level of returns expected for that Access Arrangement Period; or
- (b) during a period (commencing at the start of an Access Arrangement and including two or more Access Arrangement Periods) approved by the Relevant Regulator, that exceed the level of returns expected for that period,

particularly where the Relevant Regulator is of the view that the additional returns are attributable (at least in part), to the efforts of the Service Provider. Such additional returns may result, amongst other things, from lower Non Capital Costs or greater sales of Services than forecast.

#### **4. Counterparts**

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This Agreement may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.

**SIGNED by**

Senator The Honourable Nick Minchin )  
Minister for Industry, Science and )  
Resources of the Commonwealth of )  
Australia )

The Honourable Kim Yeadon MP )  
Minister for Energy of the State of New )  
South Wales )

The Honourable Candy Broad MLC )  
Minister for Energy and Resources and )  
Ports of the State of Victoria )

The Honourable Terry Mackenroth MP, )  
Deputy Premier, Treasurer and Minister )  
for Sport of the State of Queensland )

The Honourable Wayne Matthew MP, )  
Minister for Minerals and Energy, )  
Minister assisting the Deputy Premier of )  
the State of South Australia )

The Honourable Eric Ripper MLA )  
Deputy Premier, Treasurer and Minister )  
for Energy of the State of Western Australia )

The Honourable Paul Lennon MHA )  
Minister for Infrastructure, Energy and )  
Resources of the State of Tasmania )

Mr Brendan Smyth MLA, Minister for )  
Urban Services of the Australian Capital )  
Territory )

The Honourable Daryl Manzie MLA )  
Minister for Resource Development of the )  
Northern Territory of Australia )



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