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

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: Fourth Amending Agreement

Date	30 November 2001
Parties	<ol style="list-style-type: none"> 1. The Commonwealth of Australia 2. The State of New South Wales 3. The State of Victoria 4. The State of Queensland 5. The State of South Australia 6. The State of Western Australia 7. The State of Tasmania 8. The Australian Capital Territory 9. The Northern Territory
Recitals	<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 Code)) 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) has passed 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>

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 5 September 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 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.

Operative Provisions

1. Interpretation

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

Clauses 3, 4, 5, 6, 7, 8 and 9 of this Agreement have 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 1

3.1 In section 1.20 **insert** the words “or proposed Pipeline” after “A Pipeline” in the first line.

3.2 In section 1.21 **insert** the word “proposed” immediately after “competitive tender the” in the second line.

3.3 In section 1.22:

(a) for the heading **substitute** “*Opinion of NCC in respect of proposed Pipelines*”; and

(b) delete the word “Prospective” before “Service Provider” in the first line.

4. Amendment of section 2

4.1 For section 2.3 **substitute**:

2.3 If a Pipeline or proposed Pipeline is not Covered, a Service Provider may apply to the Relevant Regulator for approval of an Access Arrangement by submitting the

proposed Access Arrangement to the Relevant Regulator together with the applicable Access Arrangement Information. For the purposes of a proposed Access Arrangement submitted under this section 2.3, the term "Covered Pipeline" in the Code includes a Pipeline or proposed Pipeline the subject of the proposed Access Arrangement.

4.2 For section 2.49 of the Code **substitute:**

2.49 An Access Arrangement that has become effective may be changed only pursuant to this section 2 or pursuant to the implementation of an Approved Reference Tariff Variation Method as provided for in sections 8.3B to 8.3H.

5. Amendment of section 3

For section 3.12 of the Code **substitute:**

3.12 In respect of:

- (a) a Covered Pipeline that is a Transmission Pipeline; and
- (b) any other Covered Pipeline if the Relevant Regulator so requires, taking into account:
 - (i) the nature of the Covered Pipeline;
 - (ii) the Services likely to be sought by Prospective Users; and
 - (iii) any other matters that the Relevant Regulator considers are relevant,

an Access Arrangement must include a policy for determining the priority that a Prospective User has, as against any other Prospective User, to obtain access to Spare Capacity and Developable Capacity (and to seek dispute resolution under section 6) where the provision of the Service sought by that Prospective User may impede the ability of the Service Provider to provide a Service that is sought or which may be sought by another Prospective User (a **Queuing Policy**).

6. Amendment of section 5

Renumber paragraphs (a), (b) and (c) of section 5.9 as (c), (d) and (e) respectively. For the first line of section 5.9 substitute:

5.9 In respect of:

- (a) a Covered Pipeline that is a Transmission Pipeline; and
- (b) any other Covered Pipeline if the Relevant Regulator so requires, taking into account:
 - (i) the nature of the Covered Pipeline;
 - (ii) the Services likely to be sought by Prospective Users; and
 - (iii) any other matters that the Relevant Regulator considers are relevant,

the Service Provider must establish and maintain a public register which includes:

7. Amendment of section 7

7.1 For section 7.9(a)(i) **substitute:**

- (i) each proposed Access Arrangement or proposed revisions of an Access Arrangement and each proposed variation of a Reference Tariff pursuant to the implementation of an Approved Reference Tariff Variation Method;

7.2 For section 7.9(a)(iii) **substitute**:

- (iii) each submission received by the Relevant Regulator in relation to the Access Arrangement, revisions to the Access Arrangement or a proposed variation of a Reference Tariff pursuant to the implementation of an Approved Reference Tariff Variation Method;

7.3 In section 7.9(a)(v) **insert** the words “variation or proposed variation of a Reference Tariff pursuant to the implementation of an Approved Reference Tariff Variation Method,” after “proposed revisions to an Access Arrangement,”.

7.4 In section 7.9(a)(vi) **insert** the words “or proposed Pipeline” immediately after “a description of the Pipeline”.

8. Amendment of section 8

For section 8.3 of the Code and its heading **substitute**:

Form of Regulation and Variation of Reference Tariff

8.3 Subject to section 8.3A and to the Relevant Regulator being satisfied that it is consistent with the objectives contained in section 8.1, the manner in which a Reference Tariff may vary within an Access Arrangement Period through the implementation of a Reference Tariff Policy is within the discretion of the Service Provider. For example, the Reference Tariff Policy may specify that Reference Tariffs will vary within an Access Arrangement Period through the implementation of:

- (a) a Cost of Service Approach;
- (b) a Price Path Approach;
- (c) a Reference Tariff Control Formula Approach;
- (d) a Trigger Event Adjustment Approach; or
- (e) any variation or combination of the above.

8.3A A Reference Tariff may vary within an Access Arrangement Period only through implementation of the Approved Reference Tariff Variation Method as provided for in sections 8.3B to 8.3H.

- 8.3B (a) If a Specified Event occurs the Service Provider must, within the time provided for in the Reference Tariff Policy, provide a notice to the Relevant Regulator containing the information set out in section 8.3C.
- (b) If the Service Provider otherwise wishes to vary a Reference Tariff in accordance with the Approved Reference Tariff Variation Method, the Service Provider must provide a notice to the Relevant Regulator containing the information set out in section 8.3C.

8.3C The Service Provider’s notice under section 8.3B must contain:

- (a) the Service Provider’s proposed variations to the Reference Tariff and the proposed effective date for those variations; and
- (b) an explanation of how the variations proposed are consistent with the Approved Reference Tariff Variation Method contained in the Reference Tariff Policy.

Notwithstanding any other section of the Code, the Relevant Regulator must make public, and must provide the Code Registrar with a copy of, any information provided under paragraphs (a) and (b) above.

- 8.3D Unless the Relevant Regulator has disallowed the variation under section 8.3E, the Reference Tariff will be varied automatically on and from the later of:
- (a) the date specified in a notice from the Service Provider given in accordance with section 8.3B;
 - (b)
 - (i) if the Reference Tariff Policy specifies a minimum notice period for the variation, the expiry of that period after the date of the notice from the Service Provider given in accordance with section 8.3B; or
 - (ii) if the Reference Tariff Policy does not specify a minimum notice period for the variation, 35 days after the date of the notice from the Service Provider given in accordance with section 8.3B,
- but if, before the end of the relevant period in paragraph (i) or (ii) above, the Relevant Regulator notifies the Service Provider that it requires additional information from the Service Provider, which the Relevant Regulator has reason to believe may assist the Relevant Regulator to determine whether the variations proposed are consistent with the Approved Reference Tariff Variation Method, the relevant period will be extended by the number of days commencing on the day on which the Relevant Regulator gave notice to the Service Provider and ending on the day on which the Relevant Regulator receives the additional information from the Service Provider.
- 8.3E The Relevant Regulator may, by notice to the Service Provider before the variation is due to come into effect under section 8.3D, disallow a variation of a Reference Tariff. The Relevant Regulator may disallow a variation only if the Relevant Regulator considers, on reasonable grounds, that the proposed variation is inconsistent with, or not permitted under, the Approved Reference Tariff Variation Method. If the Relevant Regulator disallows a variation because it considers that it is inconsistent with, or not permitted under, the Approved Reference Tariff Variation Method, the Relevant Regulator may specify a variation that is consistent with the Approved Reference Tariff Variation Method. Any such variation comes into effect on the date determined in accordance with section 8.3D.
- 8.3F The Relevant Regulator must publish its reasons for:
- (a) allowing a variation of a Reference Tariff (including if the variation is allowed because of the effluxion of time under section 8.3D);
 - (b) disallowing a variation of a Reference Tariff; or
 - (c) specifying any variation specified by the Relevant Regulator under section 8.3E,
- at the time of allowing, disallowing or specifying that variation.
- 8.3G If a Specified Event occurs and the Service Provider does not serve a notice on the Relevant Regulator as required by section 8.3B(a), then the Relevant Regulator may itself vary the Reference Tariff concerned but only in accordance with the Approved Reference Tariff Variation Method. Any such variation comes into effect on the date specified in, or determined in accordance with, the Access Arrangement. The Relevant Regulator must publish its reasons for any variation of the Reference Tariff made under this section 8.3G at the time of making that variation.

- 8.3H The Relevant Regulator may:
- (a) on application by the Service Provider, grant extensions to any time period in sections 8.3B to 8.3G that applies to the Service Provider; and
 - (b) extend any time period in section 8.3G that applies to the Relevant Regulator.

9. Amendment of section 10

- 9.1 **Insert** the following new definitions in section 10.8 of the Code:

Approved Reference Tariff Variation Method means the Reference Tariff Variation Method or Methods specified in a Reference Tariff Policy in an Access Arrangement.

Reference Tariff Variation Method means a method of varying a Reference Tariff during an Access Arrangement Period, including, without limitation:

- (a) a Cost of Service Approach;
- (b) a Price Path Approach;
- (c) a Reference Tariff Control Formula Approach; and
- (d) a Trigger Event Adjustment Approach.

Cost of Service Approach means a Reference Tariff Variation Method whereby initial Reference Tariffs are set on the basis of the anticipated costs of providing the Reference Services and are adjusted continuously in light of actual outcomes (such as sales volumes and actual costs) to ensure that the Reference Tariffs recover the actual costs of providing the Reference Services.

Price Path Approach means a Reference Tariff Variation Method whereby Reference Tariffs are determined in advance for the Access Arrangement Period to follow a path or paths over time forecast to deliver a revenue stream, with that price path or paths not being adjusted to account for subsequent events until the commencement of the next Access Arrangement Period.

Reference Tariff Control Formula Approach means a Reference Tariff Variation Method whereby an initial set of Reference Tariffs may vary over the Access Arrangement Period in accordance with a specified formula or process.

Specified Event means an event that is specified in a Reference Tariff Policy as triggering a variation in a Reference Tariff pursuant to the Approved Reference Tariff Variation Method.

Transmission Pipeline has the meaning given in the Gas Pipelines Access Law.

Trigger Event Adjustment Approach means a Reference Tariff Variation Method whereby Reference Tariffs are varied in the manner specified in a Reference Tariff Policy upon the occurrence of a Specified Event.

- 9.2 In the definition of “Covered Pipeline” **insert** the words “or proposed Pipeline” immediately after “a Pipeline” and before “which is Covered” in the second line.
- 9.3 **Delete** the definition “Prospective Service Provider”.

10. Counterparts

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 Paul Henderson MLA,)
Minister for Resource Development of the)
Northern Territory of Australia)



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