

APT Petroleum Pipelines Limited
ACN 009 737 393

**RESPONSE TO FINAL DECISION ON ACCESS ARRANGEMENT
FOR ROMA BRISBANE PIPELINE**

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Australian
Pipeline Trust



Response to Final Decision on the Roma to Brisbane Pipeline Access Arrangement

1. Introduction

APT Petroleum Pipelines Limited ACN 09 737 393 (**APTPPL**) is the owner of the Roma to Brisbane Pipeline (**RBP**). On 31 January 2006 APTPPL lodged a proposed revised RBP Access Arrangement and Access Arrangement Information with the ACCC (**Commission**).

The Commission released a Draft Decision on the proposed Access Arrangement on 31 August 2006. APTPPL responded to this Draft Decision on 10 October 2006.

This document is a response to the Commission's Final Decision on the proposed Access Arrangement, released on 20 December 2006. The Final Decision specified a number of amendments the Commission required APTPPL to make to the Access Arrangement in order for it to be approved.

As shown in the table below, APTPPL has either incorporated the amendments required by the Final Decision or has otherwise addressed the matters identified in the Final Decision as the reasons for the amendments.

1.1 Summary of the Amendments

ACCC Amendment	Response
1 ICB	ICB of \$296.4 million, being straight line DORC value as calculated in the Final Decision
2 Cost of Capital	Access Arrangement incorporates amendment, although a minor change has been made to reflect the proposed ICB of \$296.4 million.
3 Wages costs	Access Arrangement incorporates amendment
4 Agility Fee	Access Arrangement incorporates amendment
5 Self Insurance	Access Arrangement incorporates amendment
6 Tariffs	Access Arrangement incorporates amendment, although a minor change has been made to reflect the proposed ICB of \$296.4 million.
7 Residual Value	Access Arrangement incorporates amendment, although a minor change has been made to reflect the proposed ICB of \$296.4 million.
8 Capacity Transfer	Access Arrangement incorporates amendment
9 Queuing	Access Arrangement incorporates amendment

1.2 Confidentiality

This response is public.

2. Initial Capital Base

The amendment required by the Final Decision is:

Final Decision Amendment 1

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

2.1 APTPPL proposed ICB

The ICB proposed in the Final Decision is a straight line DORC value of \$296. million, but with a proposed adjustment downwards by \$45.3m for perceived past capital contributions, as estimated by the Commission.

APTPPL has not made the amendment specified in the Final Decision as APTPPL considers the amendment unreasonable in all the circumstances. APTPPL also considers that the Commission's position on the calculation of DORC is incorrect. As discussed below, the correct theoretical position is NPV DORC, calculated in accordance with the approach adopted by APTPPL. However for the purposes of establishing the Access Arrangement for the existing capacity of the RBP, APTPPL is prepared to accept an ICB figure based on the Commission's formulation of straight line DORC.

The revised Access Arrangement submitted by APTPPL in response to the Final Decision reflects an ICB of \$296.4 million. APTPPL considers that in establishing the ICB at this level, the reasons in the Final Decision for proposing the ICB of \$251.1 million are addressed.

2.2 Incorrect treatment of alleged capital contributions

To determine the proposed ICB, the Commission calculated straight line DORC and then adjusted downwards for perceived past capital contributions. The position on capital contributions can be summarised as follows:

... in some cases, past expansions of the RBP have been fully funded by users through users' contributions. The ACCC does not consider that it is reasonable for users to continue to pay for these expansions. Accordingly, in calculating the ICB the ACCC has deducted the value of these expansions from the DORC.

(Final Decision pxiii)

and:

The ACCC has confirmed its conclusion that users have made contributions in support of expansions to the RBP and that the cost of these expansions (\$45.3m) should not be included in the ICB. While the ACCC accepted that there may be merit in APTPPL's submission that any compensation to users for past contributions should be through the dispute resolution process available under s. 6 of the code it concluded that there are sufficient uncertainties about such an approach to limit its effectiveness in practise

(Final Decision p44).

At the same time, the Final Decision also noted that

the ACCC considers that, in principle, the better approach may be to not include these contributions in the ICB

(Final Decision p66).

Notwithstanding this uncertainty, the Final Decision proposes reducing the straight line DORC value by \$45.3 million (or approximately 15%). APTPPL considers that this approach is incorrect and unreasonable.

Code Allows for Arbitration Recognition of Capital Contributions

The Final Decision (see p44 referred to above) 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.

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.

Reduction of ICB may lead to undesirable outcomes:

Addressing capital contributions issues via arbitration allows any adjustments to be targeted towards the correct parties. The Final Decision acknowledges that this is the preferable approach, stating

Reliance on the dispute resolution process also has in principle advantages. In particular, this approach may better align recovery of contributions with the users who have made them

(Final Decision, p66).

The solution proposed in the Final Decision disadvantages both APTPPL and users who may otherwise seek to address the issue via arbitration. In particular the approach may result in two undesirable outcomes:

- **Contributors not Recompensed:** A user who has made a capital contribution (“contributor”) may not be recompensed as an arbitrator would have to recognise that prior capital contributions have been exclusively addressed in the setting of the ICB, albeit some of the benefit has gone to other users rather than the contributor. In this case, all future users of the pipeline benefit from the capital contributions made by the contributor, and the contributor may not be able to achieve proper recognition of capital contributions.

The Final Decision (pp64-65) recognised the potential for disadvantage to users who have made past capital contributions if these contributions are reflected in the ICB. The approach in the Final Decision fails to properly recognise the interests of the users who were contributors.

- **Service Provider may bear the cost twice:** Alternatively, if the arbitrator decides to give the benefit of a reduced tariff to a contributor, APTPPL would face the risk of a “double payment” as the ICB and therefore reference tariffs will already have been reduced in response to the contribution. This would fail to properly recognise the legitimate business interests of the service provider and may not permit the service provider to recover the costs of providing services.

Neither of the outcomes above is equitable or efficient, or consistent with the Code.

Lack of Precedent

The Final Decision approach is not supported by any precedent, either under the Gas Code or by the Commission in the exercise of discretion under similar regulatory regimes (particularly the establishment of electricity transmission revenues). No reasoning is contained in the Final Decision to justify such a significant departure from the Commission's own behaviour across several industries, or the behaviour of all other regulators under the Gas Code.

Possible confusion with treatment of Capital Contributions towards New Facilities

The Final Decision noted:

a number of regulators have excluded such amounts when rolling forward the capital base

(Final Decision, p66).

APTPPL submits that this reflects a failure to properly recognise the nature of the issue being considered by those other regulators. The other decisions referred to related to the rolling forward of the capital base to reflect new capital expenditure on a regulated asset (for which the Code makes specific provisions), unlike the current instance where the issue is the initial establishment of the ICB and treatment of possible historical capital contributions.

In considering this issue the Commission appears to have given weight to the Sun Retail submission supporting adjustment to the ICB for capital contributions, but fails to recognise that the Sun Retail submission really reflects regulatory treatment of capital contributions during capital base roll-forward, rather than the setting of the ICB.

Errors in Assumptions Underpinning the Calculation of Capital Contributions

The approach in the Final Decision was generally based on incomplete information, reflecting that the age and various ownership changes of the RBP means that complete and meaningful information is not available. For example there were differing values from different sources as to the costs of the capital expansion.

The calculations and assessment in the Final Decision assumes there was no previous under recovery of costs on the pipeline. Specifically, it is implicitly assumed that the then existing tariff was sufficient to fully recoup all of the capital and non-capital costs of the pipeline that existed before the new investments were made. Information does not exist to prove this assumption either one way or the other although it is in fact typical that pipelines under recover costs in the earlier years of their operation.

The Final Decision proceeds on the basis that the assumptions are valid because APTPPL has not disproved them. Given the importance of these assumptions to the conclusion, and the uncertainty of past information, this reversal of the burden of proof is incorrect and unreasonable.

Calculation of Capital Contributions

The Final Decision also assumes that all additional costs associated with the new investments were either negligible or fully recouped from the pre-existing tariff.

Specifically, the Final Decision does not take into account any offsetting cost stream associated with the revenue stream used to undertake the analysis. For example, the analysis does not consider compressor and looping operating costs, compressor overhaul costs (compressors are overhauled at five to six year intervals) and other stay in business capital costs such as pigging and the replacement of parts that deteriorate during the asset's life.

Similarly the calculation of capital contributions did not fully take into account capital cost issues. In particular the Final Decision fails to persuasively address changes in market parameters, such as bond rates, and changes in the tax environment, such as changes in company tax rates and dividend imputation policy.

Overall the modelling approach in the Final Decision is incomplete and has led to the Commission reaching conclusions on the basis of incomplete information, highly simplified analysis and untested assumptions. This is particularly unreasonable given that the Code does not permit revisiting of the ICB if new or further information or analysis demonstrates that the conclusions in the Final Decision are incorrect.

Economic Considerations

At a fundamental level the use of backward-looking valuation method to adjust a forward-looking valuation leads to a value that is not consistent with efficiency in the level and structure of the Reference Tariff, as it neither ensures financial capital maintenance nor operational capital maintenance.

The approach combines mutually inconsistent valuation methods when it uses assumed past capital contributions to alter the DORC value of the pipeline. The inconsistency was clearly recognised in *Re Dr Ken Michael AM, Ex parte EPIC Energy (WA) Nominees Pty Ltd and Anor [2002] WASCA 231* at paragraph 164:

“The expert evidence indicates that the DORC methodology is one of a number of methodologies which are described as “forward looking”. ... Under the DORC methodology the actual or historic capital investment of the pipeline owner has no relevance.”

The proposed ICB methodology is an amalgam that has no particular economic interpretation. In this sense, it cannot be said to be consistent with efficiency in the level and structure of the Reference Tariff. In addition the methodology will benefit users who did not pay capital contributions in the past, thus providing price signals which are not cost reflective.

2.3 Comments on calculation of DORC

APTPPL does not agree with the Final Decision treatment on DORC on three key issues:

1. The formulation of DORC
2. The formulation and application of NPV DORC
3. The formulation of application of straight line DORC

2.3.1 Formulation of DORC

The Commission's view on DORC formulation in relation to the RBP is summarised as

The ACCC has also confirmed its conclusion that the NPV DORC methodology in this instance provides an inadequate basis for establishing DORC for the purposes of setting the ICB. It has concluded that the straight line approach achieves code objectives. The ACCC confirms its method of calculating straight line DORC ...

(Final Decision p44)

APTPPL considers that the correct formulation for DORC is NPV DORC. The reasoning for this position has previously been put to the Commission several times, and was debated and considered extensively before the Australian Competition Tribunal in the *Moomba Sydney Pipeline Case*. APTPPL also made extensive submissions on the issue in its 10 October 2006 response to the Draft Decision (particularly in Attachment 1 of that response).

The Tribunal in the *Moomba Sydney Pipeline Case* concluded that DORC should be calculated by the cost-based NPV DORC method and that, given the significance of DORC under the Code, a serious effort was required to arrive at the correct result. The 2006 Federal Court's decision on this matter did not affect the conclusion of the Tribunal that straight line DORC is an inappropriate methodology and that a serious effort must be made to calculate NPV DORC.

In these circumstances, the continued adoption of straight line DORC as the methodology to calculate DORC is incorrect and unreasonable.

2.3.2 Formulation of NPV DORC

The Commission's view on NPV DORC formulation in relation to the RBP includes the following views on discount rates and whether a new entrant or incumbent perspective could be used:

[The Commission] confirms its conclusion in the draft decision that the appropriate discount rate to use for costs under the NPV DORC methodology is the risk free rate and that the necessary tax perspective (given the approach taken in the revenue model) is that of the incumbent.

(Final Decision pp43-44)

Attachment 1 to this response outlines errors and shortcomings with the approach to NPV DORC in the Final Decision. These shortcomings can be summarised as follows:

- **Support of the risk free rate as the discount rate and dismissal of the WACC as the discount rate.** The Commission's and its consultants' arguments in support of the risk free rate as the discount rate include errors of omission and errors of fact and theory. In particular the Commission has not addressed the fact that the use of the risk-free rate in NPV DORC implies a pipeliner asset owner will earn less than a risk-adjusted rate of return on its investment, contrary to s8 of the Code, or alternatively that the pipeline must earn positive economic profits before discounting. Errors of theory include using inconsistent approaches to the systematic risk of costs and of net revenues, using non-systematic risks in the discount rate for profit contrary to CAPM assumptions, and claiming that the discount rate for profit would rise to infinity as the net present value of a firm's profit tends to zero.

The Commission's position on the NPV DORC discount rate is also inconsistent with academic opinion on the issue.

In addition the Commission and their consultants incorrectly represent the arguments put forward by APTPPL's advisers (Charles River Associates) on several issues.

- **Tax Treatment differences between incumbent and new entrant perspectives.** In calculating NPV DORC the Commission applied the incumbent perspective instead of the new entrant perspective. The Commission's use of the incumbent DORC calculation is based on the Commission's use of the Post-Tax Revenue Model (PTRM) (the Commission's quote above indicates the need to use the approach given the fact that they believe they must use the PTRM). However, there is no Code or legislative requirement to use the PTRM and its adoption is a choice by the Commission.

The Commission's tax treatment uses a hypothetical tax approach when an actual tax approach is required. An actual tax approach may be difficult to use in practice, hence a preferable approach is to use the new entrant DORC in conjunction with a pre-tax revenue approach in order to maintain internal consistency in the tariff determination.

These points of difference are matters of principle and arguments related to these issues have previously been stated, most recently in APTPPL's response to the Commission's Draft Decision.

The Final Decision and the supporting NERA report contain errors which leave its main conclusions concerning the NPV DORC valuation open to further examination. APTPPL believe the correct figure for NPV DORC for the RBP is \$345.7m as per APTPPL's 10 October 2006 response to the Draft Decision.

2.3.3 Formulation of Straight Line "DORC"

The Commission has calculated the straight line 'DORC' to be \$296.4 million. This is based on the DN 250 pipe having a life of 60 years and a replacement pipeline having a life of 80 years.

APTPPL believes that straight line "DORC" should be calculated as:

$$DORC = ORC \times (1 - \text{fraction of value depreciated to date})$$

The APTPPL 10 October 2006 response to the Draft Decision outlined the reasoning for this approach to straight line DORC. The APTPPL approach could be summarised as

$$\text{Straight Line DORC} = ORC * (Life1 - \text{actual age}) / Life2$$

where

$$Life1 = Life2 = \text{life of existing asset}$$

Under APTPPL's approach the straight line DORC was calculated at \$308.8m¹ if the Commission's ORC is used.

The Commission rejected this approach in its Final Decision. The Commission's approach continues to use an actual remaining life in the numerator but a hypothetical economic life in the denominator. This understates the DORC.

¹ See APTPPL 2006 Response to the Draft Decision on Proposed Access Arrangement for Roma Brisbane Pipeline Attachment 2 table 1 page 71

Attachment 1 to this response outlines shortcomings with the Commission's rejection of APTPPL's approach in the Final Decision. These shortcomings can be summarised as follows:

- **No Accepted Approach when Asset Lives Differ:** When existing asset lives and replacement asset lives differ, the issue of how to derive straight line DORC is not settled in economic theory. There is no accepted theoretical basis for preferring any one of these approaches. In particular the paper at Attachment 1 identifies a paper by Professor Johnstone which explicitly refers to the ambiguity of this issue.
- **APTPPL Proposal Reasonable:** Given the ambiguity surrounding this issue the Commission has failed to make out its case that APTPPL's proposal to base straight line DORC on the existing asset age is unreasonable.

The Commission's approach continues to use an actual remaining life in the numerator but a hypothetical economic life in the denominator. This mixing of characteristics of two different pipelines in the one calculation systematically understates the value.

Given the points above, APTPPL believes the Commission has failed to make its case that APTPPL's proposal to base straight line DORC on the life of the current asset rather than the life of an alternate asset is unreasonable, particularly as the difference in values is less than 5%. APTPPL believes its approach falls within the range of options consistent with the Code.

Asset Lives

On 18 December 2006 APTPPL wrote to the Commission proposing possible new asset lives for the DN 250 pipeline and providing some information supporting that proposal. While APTPPL had indicated to the Commission prior to this time that it had identified that the DN 250 should be treated as having an overall longer economic life, APTPPL understands that the Commission was unable to fully take this information into account in making the Final Decision, which occurred very shortly after receipt of APTPPL's letter.

APTPPL has since provided further information to the Commission on this issue, including integrity reports, cathodic protection reports, pipeline pigging reports and a report prepared by an independent consultant.

While APTPPL considers that the information provided to the Commission to date has been sufficient to demonstrate that the revised asset life proposed by APTPPL is reasonable, APTPPL recognises that the information was provided to the Commission late in the process and that the Code provides a mechanism for APTPPL to re-address this issue in the future.

Accordingly, APTPPL will accept the asset lives specified in the Final Decision.

3. Cost of Capital

The amendment required by the Final Decision is:

Final Decision Amendment 2

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.

3.1 Response

APTPPL considers that the approach in the Final Decision is inconsistent with the well established authority on the proper role of the regulator in assessing proposed access arrangements under the Code (*Application by GasNet Australia (Operations) Pty Ltd* [2003] ACompT 6; *Re Michael Ex parte Epic Energy (WA) Nominees Pty Ltd* (2002) 25 WAR 511).

The Final Decision (p113) justifies the departure from the ranges approach to WACC on the basis of section 8.49 of the Code, which allows the regulator to determine its own policies for assessing whether a reference tariff meets the requirements of section 8 of the Code.

While section 8.49 of the Code gives the Commission some flexibility in assessing whether the proposed reference tariff meets the requirements of section 8 of the Code, this assessment must nevertheless be carried out within the framework of the Code. Reliance on section 8.49 does not vary the principles that the Code requires the regulator to follow in assessing a proposed access arrangement or its various components, and in particular does not permit the regulator to adopt a policy which is inconsistent with, or seeks to avoid, the express provisions of the Code.

Notwithstanding that APTPPL considers the amendment to be incorrect and/or unreasonable APTPPL has made the amendment specified by the Commission in its Final Decision with one exception.

The exception is a slight change to the effective tax rate, which has increased to from 16.59% to 17.17%, and consequently the pre tax real WACC (based on effective tax rates) has also increased slightly from 5.86% to 5.88%. These changes occur due to the change in the ICB, as outlined above, and the attendant change in the tariffs and tariff path. This change is essentially a mechanical modelling change required to maintain internal consistency between the assumptions and price derivation methodology.

The WACC parameters used to derive the Total Revenue and Reference Tariffs in the revised Access Arrangement are shown below. In the case of the changes to the parameters from those specified in the Final Decision, the value specified in the Final Decision is shown in brackets below the value used by APTPPL.

WACC parameters in Final Decision`	WACC parameters used in revised Access Arrangement (amended as discussed above)
Nominal risk free rate	5.70%
Real risk free rate	2.41%
Inflation rate	3.21%
Debt to equity ratio	60:40
Corporate tax rate	30.0%
Effective tax rate	17.17% (16.59%)
Cost of debt margin over risk free rate	1.14%
Cost of raising debt	0.104%
Market risk premium	6.0%
Value of imputation credits	50.0%
Equity beta	1.0

The cost of capital measures derived using these parameters are set out below.

Cost of capital measures

Nominal return on equity	11.70%
Nominal vanilla WACC	8.84%
Real vanilla WACC	5.45%
Pre-tax real WACC (corporate tax rate)	6.25%
Pre-tax real WACC (effective tax rate)	5.88% (5.86%)

4. Costs - Labour

The amendment required by the Final Decision is:

Final Decision Amendment 3

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.

This Table is shown below:

	2006-7	2007-8	2008-9	2009-10	2010-11
ACCC approved labour costs (\$m July 2006)	0.83	0.85	0.87	0.87	0.87

4.1 Response

APTPPL has incorporated the amendment.

APTPPL considers that the amendment is very minor and reinforces concerns as to regulatory "micro-management" where the regulator requires unnecessary and intrusive substitution of its own estimates or views in place of estimates reasonably derived by the service provider. For example in years 2007-8 and 2008-9 the Commission amendment reduces the APTPPL estimate by \$1000 in each year. Such minor finessing of forecasts by regulators is unnecessary and unreasonable, and adds to both the cost and uncertainty of regulatory processes.

5. Non Capital Costs – Agility Fee

The amendment required by the Final Decision is:

Final Decision Amendment 4

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.

5.1 Response

APTPPL has incorporated the amendment, although APTPPL considers that it is unreasonable and unnecessary.

The Final Decision states

if the reference tariff was based on APTPPL's proposed costs including the Agility management fee it would recover more than efficient costs

(Final Decision, p136).

However, as previously acknowledged by the Commission² the RBP's overall operating costs including the Agility fee have been demonstrated as being efficient.

APTPPL believes it is unreasonable and inappropriate to disallow a fee which is a component part of an operating expenditure aggregate which has been benchmarked as efficient and consistent with prudent industry practice.

² See for example ACCC, Draft Decision on the Proposed Access Arrangement for the Roma Brisbane Pipeline p150

6. Non Capital Costs – Self Insurance

The amendment required by the Final Decision is:

Final Decision Amendment 5

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:

1. a board resolution to self-insure (i.e. a copy of the signed minutes recording the resolution made by the board)
2. confirmation that APTPPL is in a position to undertake credibly self-insurance for those events
3. self-insurance details setting out the specific risks which APTPPL has resolved to self-insure
4. a report from an appropriately qualified actuary or risk specialist verifying the calculation of risks and corresponding insurance premiums
5. 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
6. 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
7. ensuring that when a claim against self-insurance is made, that an appropriate deduction to the self-insurance reserve is recorded.

6.1 Response

APTPPL has incorporated the amendment.

APTPPL considers that the amendment is unreasonable and unnecessary, as it requires that only by adopting the Commission's mandated corporate governance and cost control practices can a service provider recover costs of a sort which regulators have previously recognised.

7. Revenues and Tariffs

The amendment required by the Final Decision is:

Final Decision Amendment 6

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

7.1 Response

APTPPL has incorporated this amendment, adjusted to reflect the ICB of \$296.4 million proposed in the revised Access Arrangement.

At an ICB of \$296.4 million, as proposed in the revised Access Arrangement, tariffs derived consistently with Amendment 6 are shown below.

(a) Capacity Charge \$ 0.4243/ GJ of MDQ capacity / Day; and

(b) Throughput Charge \$ 0.0283/ GJ throughput

and thereafter increased annually by CPI-X where X = 0.80

These figures are calculated using the Commission's final decision model with changes made only to reflect the difference in the ICB value.

8. Residual Value

The amendment required by the Final Decision is:

Final Decision Amendment 7

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.

8.1 Response

APTPPL has incorporated this amendment, adjusted to reflect the ICB of \$296.4 million proposed in the revised Access Arrangement.

Assuming an ICB of \$296.4 million and the resultant tariffs above, then the forecast Residual Value of the Capital Base at the commencement of the subsequent Access Arrangement Period will be \$276.67 million (in July 2006 dollars).

These figures are calculated using the Commission's final decision model with changes made only to reflect the difference in ICB value.

9. Other Changes arising from revised ICB value

Changes to the ICB result in changes to depreciation and other variables dependent on the ICB.

These changes have been made in the Access Arrangement and Access Arrangement Information and are consistent with the Commission's final model, adjusted for the difference in ICB value.

10. Capacity Transfer and Costs

The amendment required by the Final Decision is:

Final Decision Amendment 8

Before APTPL's proposed revised access arrangement for the RBP can be approved, APTPL must amend s. 68(b) to read the

User agreeing to pay a reasonable charge (determined by APTPL 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 APTPL that it has decided not to proceed.

APTPL has incorporated the amendment.

11. Queuing Policy

The amendment required by the Final Decision is:

Final Decision Amendment 9

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

1. 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
2. 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.

11.1 Response

APTPPL has incorporated the amendment.

As noted in its October 2006 response to the response to the Draft Decision, APTPPL considers that this requirement may be unworkable, ineffective or meaningless in practice. APTPPL is largely indifferent to the approach taken as long as it can be managed efficiently and effectively, and does not leave APTPPL in breach of other requirements (eg requirements to act in a non-discriminatory manner).

The revised Access Arrangement provides for queues for both existing and developable capacity. Users can nominate that a request goes into either of the queues or both queues simultaneously. It is also proposed that all requests on the queue conducted under the current Access Arrangement will be placed into both queues, although Prospective Users may elect to withdraw their Request from one or both of the queues.

Attachment 1:

CRA Paper: Response to Final Decision on ICB Issues