

2013 – 2017 Gas Access Arrangement Review (GAAR)

SP AusNet's Revised Access Arrangement Proposal (RAAP)

RAAP Chapter 8: Tariffs and Tariff Variation Mechanisms

Submitted: 9 November 2012

RAAP Chapter 8: Tariffs and tariff variation mechanisms

This chapter sets out SP AusNet's Response to the AER's Draft Decision on Tariff issues covered by Attachments 13 and 14 of the Draft Decision.

This document updates information contained in Chapters 12 to 16 in SP AusNet's Initial Access Arrangement Proposal.

In the event of inconsistency between information contained in this chapter and SP AusNet's Initial Access Arrangement Proposal, the information contained in this chapter prevails.

1 Introduction

The AER has accepted the general form and most elements of SP AusNet's Tariff variation mechanism. Specifically those elements that have been disallowed, or for which revisions have been requested, are:

- The magnitude and level of the rebalancing constraint – which SP AusNet broadly accepts;
- Initial reference tariffs and X factors to be amended in line with other changes in the draft decision – which SP AusNet has rejected and has instead amended tariffs and X factors in line with its Revised Access Arrangement Proposal (RAAP);
- Removal of the Financial Failure of a Retailer pass through event, which SP AusNet does not accept;
- Removal of the New Connection Process pass through event, which SP AusNet accepts;
- Additional pass through events to be included for National Energy Customer Framework (NECF), which SP AusNet broadly accepts, and for mains replacement, which SP AusNet does not accept;
- Changes to the tariff formula with respect to the recovery of the Carbon Tax, which SP AusNet does not accept;
- Removal of the proposed Demand Risk Adjustment Factor, which SP AusNet does not accept;
- proposed changes to the timeframes for the tariff submission process, which SP AusNet does not accept; and
- inclusion of a Tariff adjustment formula to recover 6 months flat fees for Ancillary Reference Services, which SP AusNet has accepted.

A revised version of Part B of SP AusNet's revised Access Arrangement is included in this submission.

2 Timeframes for Tariff Setting Process

In Chapter 14 of the Initial Access Arrangement Proposal, SP AusNet set out its proposed tariff variation process for annual and within year variations. This involved the following:¹

- “SP AusNet will, at least 35 business days prior to the commencement of the next Calendar Year, submit proposed Haulage Reference Tariffs to apply from the start of the next Calendar Year for verification of compliance by the AER;
- Where SP AusNet proposes to change a Haulage Reference Tariff within a Calendar Year, it will submit the proposed Haulage Reference Tariff change for verification of compliance by the AER; and
- Where SP AusNet proposes to introduce a new Haulage Reference Tariff or new Haulage Reference Tariff Component or withdraw an existing Haulage Reference Tariff or existing Haulage Reference Tariff Component within a Calendar Year it will submit the proposal for verification of compliance by the AER.

SP AusNet will ensure its proposed Haulage Reference Tariffs or proposed changes to Haulage Reference Tariffs submitted under clauses comply with the tariff control and rebalancing formulae. SP AusNet considers that the reference tariff variation mechanism in the current access arrangement provides the AER with appropriate oversight of the reference tariffs, consistent with the requirements of Rule 97(4).”

The aforementioned variation process is consistent with SP AusNet’s current process, as outlined in Part B, section 4 of SP AusNet’s current access arrangement.

2.1 Draft Decision

The Draft Decision rejected SP AusNet’s proposal to submit annual Tariff variations 35 days prior to the next calendar year and required that the submission be made 50 days prior.²

The AER stated that it considered:³

“that 50 business days prior to the new tariff implementation is appropriate and will give the AER adequate oversight as required under r. 97(4) of the NGR. This will give the AER 30 business days to approve or reject the proposed variations; and 20 business days for market participants to prepare for the implementation of the new tariffs. This approach is consistent with the AER’s recent decisions on gas access arrangement[s].”

¹ SP AusNet, 2013-2017 Access Arrangement Information, 30 March 2012, p.231.

² AER, *Access Arrangement Draft Decision SPI Networks (Gas) Pty Ltd 2013-17*, Attachment 11, Revision 11.9, p.242

³ *Ibid*, Attachment 11, p.234.

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2.2 Consistency with Regulatory Requirements

The National Gas Rules (NGR) do not provide any explicit timeline for the submission and approval process. Rather, they provide high level guidance in relation to this issue.

In particular, r 97(4) states:

“A reference tariff variation mechanism must give the AER adequate oversight or powers of approval over variation of the reference tariff.”

This rule gives the AER the obligation of “oversight” and the “power to approve” a gas distribution business’ tariffs. The approval is given with reference to and within the limitations of the price control formula that has been approved in the final decision of the relevant gas access arrangement review (GAAR).

Approval of a distribution business’ tariffs requires the AER to provide superintendence, supervision, and the confirmation or sanctioning of the tariffs set by the gas distribution business. On the other hand setting of the tariffs is the function of establishing tariff rates, determining what amounts both relatively and absolutely are to be recovered from each tariff and each tariff component, what portion is to be a fixed rate and what will be variable, what amount of the revenue entitlement, if any, may remain unrecovered.

In this context, the AER’s role is one of tariff *approval* and under the NGR, the AER does not have a role in *setting* tariffs.

Further, the usual meaning of ‘adequate’ as referred to in r97(4), is ‘satisfactory or acceptable in quality or quantity’.⁴ This is the threshold test against which the proposed timeframe should be assessed.

2.3 Response

SP AusNet does not accept revision 11.9 of the Draft Decision, which requires that annual tariff submissions be made 50 days prior to the commencement of the Calendar year, on the following basis:

- The existing timeframe is ‘adequate’, and therefore, meets the threshold test set out in the Rules;
- The AER’s approach may lead it to undertaking a ‘price setting’ role, not a ‘price approval’ role, which is inconsistent with the Rules;
- There are additional administrative costs associated with the AER’s proposal, without any commensurate benefit to market participants; and
- The Draft Decision reduces the amount of information – namely, gas consumption information - that SP AusNet can utilise to determine its tariffs, which compromises its ability to set tariffs that are consistent with the NGR and the National Gas Law (NGL).

These issues are outlined in more detail below.

⁴ <http://oxforddictionaries.com/definition/english/adequate>, Accessed: 9 November 2012.

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2.4 Adequacy of Existing Timeframe

Historically, a 35 day timeline has been in place in Victoria and this has allowed the AER and previously the Essential Services Commission (ESC) adequate time for approval and market participant implementation. Not once are we aware of this deadline being missed. For example, in 2011, SP AusNet submitted tariffs on day 35 and they were approved on day 12. The AER time for review was therefore 23 days and the Market participants had the remaining 12 days.

In short, the current timeline has never proven to be too onerous on the regulator as there has not been any instance of a regulator not being able to approve gas distribution tariffs, therefore, prima facie, the current timeframe appears to provide the AER with an adequate amount of time to allow the AER to provide adequate oversight of prices, and therefore, is consistent with the threshold test set out in r97(4). The adequacy of the timeframe set out in the current tariff variation timeframe is further reinforced by the fact that there has been no change to the requirements placed on the AER or other market participants in relation to the tariff approval process, thus indicating that the AER's proposed change is not driven by changes in exogenous events.

2.4.1 Additional administrative costs with no commensurate benefit to market participants

The AER's proposed timing requires the Distributor to make a submission prior to the release by the Australian Bureau of Statistics of the September quarter CPI data that is required for the submission to be complete. SP AusNet notes that the AER has made the same requirement in other Jurisdictions and specifically made the following statement in their Final Determination for Envestra Ltd Qld gas network on the matter of the reason for the 50 day period. *"By bringing the approval of prices forward the AER considers that the administration costs of these various users can be reduced."* It also considered that *"The change in CPI affects all tariffs in a symmetrical fashion, so this should not affect the relatively of any rebalancing of the tariffs."* SP AusNet contends that neither of these statements is correct.

Firstly, the requirement for Retailers to gazette their tariffs 1 month prior to their implementation means that even on the AER proposed timeline – which would give Market Participants 20 days to prepare for implementation - this obligation cannot be met, so there is no change to retailer administrative costs. Therefore, to be clear, whether under the AER's proposed timeframe or the current timeframe, Retailers will be submitting tariffs for Gazetting based on proposed tariffs, not approved tariffs. Furthermore, Victorian distributors are, and will continue to be required to provide retailers with 3 months' notice of any new tariffs or tariff components to be introduced in the following year along with copies of proposed tariff rates within two days of making a submission to the AER. These requirements already provide retailers with reasonable notice on what distributors are proposing, although as stated previously, they do not provide them with final approved prices, but nor will the AER's proposed timeframe and approach.

On the other hand there is a significant additional administrative cost to Victorian distribution businesses. Two of the three Victorian Distributors are electricity and gas distribution licence holders, and therefore the 50 day submission requirement means that these businesses are obliged to submit both gas and electricity annual tariff submissions concurrently. This is therefore likely to add to the administrative burden of both these businesses and SP AusNet considers that this is also likely to increase the burden on the AER at this time as well, as they are responsible for the approval of both distribution tariffs.

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2.4.2 AER undertaking a price setting role

The requirement to submit tariffs prior to CPI publication introduces a risk that the AER will be required to act as price setter in certain circumstances in contradiction with the NGR.

SP AusNet understands that, in jurisdictions that have implemented the timeframes proposed in the Draft Decision, the AER allows Distribution Businesses the opportunity to apply a post submission scaling factor to the tariffs to bring them into alignment with the CPI.

However, to the extent that the new process introduces any limitations on the tariffs DBs cans set at this point, the AER would be assuming a role of “Price Setting” over and above their role of “Price Approval” and would therefore be acting in way that is ultra vires.

SP AusNet recognises that the AER contention that “*The change in CPI affects all tariffs in a symmetrical fashion ...*” is ipso facto correct. However, distributors are required to round their tariffs to 5 decimal places in the \$ and therefore the application of any adjustment will result in residual amounts to be re-allocated or left unrecovered. By making any decision on the treatment of these amounts, however small they be, the AER would in effect have acted in a price setting role, rather than a price approval role, which, as outlined previously, is clearly inconsistent with the Rules.

2.4.3 Compromises SP AusNet’s ability to set tariffs that are consistent with the Rules

SP AusNet notes that it is a fact that the earlier a tariff submission is required to be submitted to the AER, the greater is the potential for events to take place in the intervening period that cannot be factored into its annual tariff submission. By events, we are predominantly referring to changes in consumption behaviour that will affect forecasts of future gas usage.

Under the National Gas Rules, distributors are obliged to set efficient tariffs whilst the Revenue and Pricing Principles set out in the National Gas Law require that a service provider should be provided with a reasonable opportunity to recover at least the efficient costs the service provider incurs in providing gas services. Given the inherent linkage between ‘information’ on existing gas usage; the timing of a tariff submission; and the achievement of the above outcomes, it is clear that any obligation that requires a submission to be lodged earlier will in some way compromise the achievement of these outcomes. A very real example would be if a distributor was to become aware that a large customer was likely to shut down or establish a new or additional load within the distribution area in the following twelve months, a different view of the rebalancing requirements may need be taken to ensure the tariffs remain efficient, consistent with the requirements of National Gas Rules r 94, as well as lead to outcomes that are consistent with the Revenue and Pricing Principles and the National Gas Objective.

2.5 Revised proposal

SP AusNet proposes that the AER retain the existing 35 day period for the annual submission of Gas tariffs.

3 Cost Pass Through Events

3.1 National Energy Customer Framework Event

3.1.1 Draft Decision

The AER requires SP AusNet to include a new pass through event in its access arrangement to allow it to recover the costs that it may incur following the implementation of the National Energy Customer Framework (NECF) in Victoria or any part of NECF.

3.1.2 Response

In its original GAAR 2013-2017 submission, SP AusNet had proposed a step change for these additional operating costs, however, after the submission had been made, the Victorian Government deferred the commencement of NECF in Victoria. Given the continued uncertainty of when NECF will commence in Victoria, SP AusNet accepts the AER's proposal to include a new specific cost pass through event for these costs, subject to the following minor drafting changes to clarify the operation of the pass through provision.

- The definition of “National Energy Customer Framework” in the AER’s Draft Decision only includes legislation, regulations or rules that give effect in Victoria to any or all of:
 - the Schedule to the National Energy Retail Law (South Australia) Act 2011;
 - the National Energy Retail Regulations (South Australia); and
 - the National Energy Retail Rules (South Australia).

In Victoria, as well as the above enabling legislation, there will be associated state legislation, regulations or rules that will accompany and support the introduction of NECF. The definition therefore needs to be broadened to include the introduction of, or change to, any associated state based legislation, regulations or rules, to allow the full recovery of all reasonable costs incurred for the implementation of NECF in Victoria. This approach reflects the intention of Part 4 of Schedule 3 of the National Gas Rules (Transitional Provisions for Implementation of National Retail Framework), which refers to the “pass through of costs arising from the commencement of the *National Energy Retail Law*, the *National Energy Retail Rules*, the *National Energy Retail Regulations* and associated amendments to the *energy laws* as they apply in the State or Territory in which that *distributor* operates”.

- The AER has stated that it does not consider that a materiality threshold should apply for this defined pass through event⁵. SP AusNet proposes amending slightly the required new definition of materiality to make it clear that it only applies in respect of pass through events that make reference to materiality (see section 1.7 below).

SP AusNet therefore proposes the following definition of this pass through event:

“A National Energy Customer Framework Event means:

A legislative act or decision that:

⁵ AER, *Access Arrangement Draft Decision SPI Networks (Gas) Pty Ltd 2013-17*, Attachment 11, p. 226.

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- (a) occurs during the Access Arrangement Period;
- (b) has the effect of implementing in Victoria, either in part or in its entirety, the National Energy Customer Framework; and
- (c) increases the costs to the Service Provider of providing Reference Services.

For the purposes of this pass through event, the National Energy Customer Framework means any legislation, regulations or rules, that give effect in Victoria to any or all of the Schedule to the National Energy Retail Law (South Australia) Act 2011, the National Energy Retail Regulations (South Australia) and the National Energy Retail Rules (South Australia) as amended from time to time, including any amendment, withdrawal or introduction of any associated Victorian legislation, regulations or rules.”

3.2 Mains replacement pass through event

3.2.1 Draft Decision

The AER requires SP AusNet to include a new pass through event in its access arrangement to recover costs that it has incurred, or will incur, to complete a volume of mains replacement in excess of the volumes approved by the AER in its access arrangement final decision.

3.2.2 Response

SP AusNet rejects the AER’s proposed new pass through event for mains replacement. Refer to section 3 of *RAAP Chapter 2: Capital Expenditure* for SP AusNet’s detailed response on this proposed pass through event.

3.3 Change in Taxes Event

3.3.1 Draft Decision

The AER requires SP AusNet to amend the definition of a Change in Taxes Event and the corresponding definition of a Relevant Tax.

3.3.2 Response

SP AusNet broadly accepts the AER’s amendments to the definition of a Change in Taxes Event and the associated amendments to the definition of Relevant Tax, subject to some minor drafting amendments to clarify the operation of the pass through provision and the introduction of a new definition of Tax and a new Service Standard Event to preserve this existing pass through event.

- The definitions of a Change in Tax and a Relevant Tax proposed by the AER in its Draft Decision are almost, but not quite, identical to the definitions in the National Electricity Rules. SP AusNet proposes to accept the AER’s definitions, but to amend them slightly to reflect the equivalent definitions in the National Electricity Rules so that subclause (i) and (ii) are combined as sub clause (i) and references to SP AusNet are changed to Service Provider. SP AusNet proposes the following definitions:

“A Change in Taxes Event means an event where:

- (a) *any of the following occurs during the course of the access arrangement period:*

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- (i) *a change in a Relevant Tax, in the application or official interpretation of a Relevant Tax, in the rate of a Relevant Tax, or in the way a Relevant Tax is calculated;*
 - (ii) *the removal of a Relevant Tax;*
 - (iii) *the imposition of a Relevant Tax; and*
 - (b) *in consequence, the costs to the Service Provider of providing Reference Services are materially increased or materially decreased.”*
- “A Relevant Tax is any Tax payable by the Service Provider, other than:*

 - (a) *income tax and capital gains tax;*
 - (b) *stamp duty, financial institutions duty and bank accounts debits tax;*
 - (c) *penalties, charges, fees and interest on late payments, or deficiencies in payments, relating to any Tax; or*
 - (d) *any Tax that replaces or is the equivalent of or similar to any of the taxes referred to in paragraphs (a) to (b) (including any State equivalent tax).”*
- The definition of a Relevant Tax in SP AusNet’s current access arrangement defines what is meant by the terms “tax”. By accepting the AER’s proposed new definition of Relevant Tax, this clarification will be lost so SP AusNet proposes including a new definition of Tax, based on both the definition in the National Electricity Rules and in the AER’s recent gas pipeline decisions⁶.
 - “Tax means any royalty (whether based on value, profit or otherwise), tax, duty, excise, levy, fee, rate or charge imposed from time to time during the term of this Access Arrangement by any government or any governmental, semi-governmental or other body authorised by law to impose that tax on or to:*

 - (a) *the Distribution System (or any of its components);*
 - (b) *the operation of the Distribution System; or*
 - (c) *the provision of services by the Service Provider;”*
- The definition of a Relevant Tax in SP AusNet’s current access arrangement includes costs associated with changes in service standards. By accepting the AER’s proposed new definition of a Relevant Tax, SP AusNet would lose the ability to pass through legitimate costs associated with changes to the service standards on which SP AusNet provides the services. SP AusNet therefore proposes to include a new Service Standard pass through event, consistent with both the National Electricity Rules and the AER’s recent gas pipeline draft decisions⁷.
 - “Service Standard Event means a legislative or administrative act or decision that falls within no other category of Relevant Pass Through Event that:*

⁶ Jemena Gas Networks Final Decision, 11 June 2010

⁷ Multinet Access Arrangement Draft Decision, 24 September 2012

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- (a) *has the effect of:*
- (1) *varying, during the course of an access arrangement period, the manner in which the Service Provider is required to provide a Reference Service;*
 - (2) *imposing, removing or varying, during the course of an access arrangement period, minimum service standards applicable to Reference Services; or*
 - (3) *altering, during the course of an access arrangement period, the nature or scope of the Reference Services, provided by the Service Provider; and*
- (b) *materially increases or materially decreases the costs to the Service Provider of providing Reference Services;”*

3.4 Financial Failure of Retailer Event

3.4.1 Draft Decision

The AER does not accept SP AusNet’s proposed Financial Failure of Retailer Event and requires SP AusNet to remove this event from the definition of a Relevant Pass Through Event. The AER considers the event is unnecessary and that SP AusNet is capable of mitigating this risk by agreeing to appropriate prudential requirements with users. The AER makes reference to its draft decision on Envestra’s proposed South Australian access arrangement, where the AER did not approve a proposed event analogous to this event for similar reasons.

3.4.2 Response

SP AusNet does not accept the AER’s required revision. The AER bases its reasoning on the premise that SP AusNet is capable of mitigating the risk of a retailer financial failure by agreeing to appropriate prudential requirements with users. In fact, the existing terms and conditions of SP AusNet’s access arrangement only allow SP AusNet to require credit support from users in very limited circumstances, and even then, only up to a prescribed amount. SP AusNet is not, therefore, in a position to wholly mitigate this risk as the AER alludes. SP AusNet operates in a regulated space and does not have the same ability to mitigate the risks of user default as an unregulated business would have. For example, SP AusNet cannot simply choose to cease to provide services and has to operate within the confines of its existing terms and conditions with users.

In the context of SP AusNet’s access arrangement, examples of when SP AusNet can require credit support from a user include where the user’s credit rating falls below a certain level or where the user has failed to pay a number of consecutive invoices. The amount of credit support that can be requested is limited to three months average charges for that user. These credit support provisions were drafted on the basis that, ultimately, the service provider would be protected from the risk of a retailer suddenly becoming insolvent by the specific pass through event. If that pass through event is removed, the entire credit support regime in the access arrangement and the proposed one under NECF would need to be readdressed. The service provider would need more extensive credit support options in order fully to mitigate its risk. This would add further cost to users and, ultimately customers; costs that are currently avoided thanks to the pass through event.

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The other important aspect to this is that it is highly unlikely that retailers would agree to amend the existing credit support provisions in their network agreements with SP AusNet and so, if the pass through event is removed, the network service provider is likely to be left in a position where it simply cannot mitigate its risk.

SP AusNet notes that the Australian Competition Tribunal's final determination in relation to the access arrangement made by the AER in July 2011 for the South Australian gas distribution network owned by Envestra contains an event analogous to this event. Furthermore, the NECF credit support regime between retailers and distributors clearly envisages a specific pass through provision for an analogous "retailer insolvency event"⁸. It is not consistent for there to have been a pass through provision for this type of risk, only for the AER to remove it until the NECF is implemented in Victoria.

SP AusNet proposes to retain this pass through event and the associated credit support provisions, which it believes delivers the lowest cost solution to customers and is therefore consistent with the NGO. Should the AER not be minded to retain this pass through event, it will need to consult with SP AusNet on the changes that will be required to the credit support provisions in its Access Arrangement.

3.5 New Connection Process

3.5.1 Draft Decision

The AER rejected the proposed New Connection Process pass through event. The AER considered that a change in the retail Gas Market Rules would amount to a change in the regulatory framework and be covered by the new definition of a Regulatory Change Event, which is a new event in this access arrangement proposal. The AER proposes to approve the new regulatory change event.

3.5.2 Response

SP AusNet accepts the AER's Draft Decision and will remove the New Connection Process pass through event from its Access Arrangement on the basis that the AER has approved the inclusion of a new Regulatory Change Event pass through.

3.6 Insurance Event

3.6.1 Draft Decision

The AER does not accept SP AusNet's proposed definition of an Insurance Event and requires SP AusNet to amend the definition of its Insurance Event. The AER requires the definition of an Insurance Event to be amended so that the policy limit referred to in the definition is defined as the greater of the actual policy limit at the time of the event that gives rise to the claim and the policy limit at the time the AER makes its final decision on SP AusNet's access arrangement proposal for the 2013-17 access arrangement period. Further, the AER requires the policy limit to be defined with reference to the forecast operating expenditure allowance for the 2013-17 access arrangement period, approved by the AER in its Final Decision.

⁸ See National Gas Rules cl.531. *Pass through of unpaid distribution charges*

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3.6.2 Response

SP AusNet broadly accepts the AER's required revision to the definition of Insurance Event, subject to some minor drafting changes to clarify the operation of the pass through provision. In particular, SP AusNet proposes that the definition be amended to include the plural as well as singular with regards to claims on the relevant insurance policy. Multiple claims are possible and present a risk scenario this protection is seeking to mitigate.

SP AusNet proposes the following definition of Insurance Event:

“An Insurance Event means an event whereby:

- (a) the Service Provider makes a claim or claims on a relevant insurance policy;*
- (b) the Service Provider incurs costs beyond the relevant policy limit; and*
- (c) the costs beyond the relevant policy limit materially increase the costs to the Service Provider of providing Reference Services.*

For the purposes of this Insurance Event:

(d) the relevant policy limit is the greater of the Service Provider's actual policy limit at the time of the event that gives rise to the claim and its policy limit at the time the AER made its Final Decision on the Service Provider's access arrangement proposal for the access arrangement period 2013-17, with reference to the forecast operating expenditure allowance approved in the AER's Final Decision and the reasons for that decision; and

(e) a relevant insurance policy is an insurance policy held during the 2013-17 Access Arrangement Period or a previous period in which access to the pipeline services was regulated.”

3.7 Materiality Threshold

3.7.1 Draft Decision

The AER requires SP AusNet to define in its access arrangement the materiality threshold for the purposes of its cost pass through events, based on SP AusNet's proposed 1 per cent of revenue cost materiality threshold.

3.7.2 Response

SP AusNet accepts the AER's required revision to include a new definition of materiality threshold in Part A of its Access Arrangement. SP AusNet would like to slightly amend the definition, however, to make clear that it only applies to those pass through events that state that they are subject to materiality. SP AusNet proposes the following definition:

“For the purpose of any Relevant Pass Through Event that includes a reference to materiality, an event is considered to materially increase or decrease costs where that event has an impact of one per cent of the smoothed forecast revenue specified in the AER's final decision, in the years for the Access Arrangement Period that the costs are incurred.”

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3.8 Procedure for a cost pass through variation in reference tariffs

3.8.1 Draft Decision

The AER considers that the cost pass through approval mechanism should be amended to be consistent with its recent decisions.

The AER states that⁹:

'a consistent approval process is therefore desirable from the perspective of transparency and administrative efficiency. By specifying a consistent approach whereby it has to apply the same process for each cost pass through application, the AER will be able to process cost pass through applications in a more timely and efficient manner. The AER considers that the application of a consistent approach to the assessment of the same type of application from different service providers is consistent with the NGO'.

The AER considers that it must be notified of a cost pass through event within 90 days of the costs being incurred, regardless of whether the event would result in a positive or negative impact on tariffs. The AER considers it should notify SP AusNet of its decision on any cost pass through application within 90 days of the application, except where it considers the cost pass through application is sufficiently complex as to require an extension. The AER must notify SP AusNet where this is the case. The AER considers that there is a risk that 30 days will be an insufficient period of time for it to make a complete and informed decision.

The AER considers that the time frames described above should balance the need for a timely response, with the flexibility for the AER to make a complete and informed decision.

The AER considers that a tariff variation as a result of a cost pass through event should take effect from the next 1 January, following approval of the cost pass through application.

The AER considers that the factors to be taken into account when assessing a cost pass through application should be uniform across access arrangements. The AER proposes to amend the factors proposed by SP AusNet to align them with the factors approved by the AER in recent gas pipeline decisions, subject to the inclusion of an additional factor as discussed above in the context of the Insurance Event definition. The AER considers that this is consistent with the NGR and NGO.

3.8.2 Response

SP AusNet supports the AER's goal of seeking to achieve consistency for cost pass through applications which should help ensure that the AER processes applications in a more timely and efficient manner. SP AusNet is also aware that there is a current consultation and draft rule changes in respect of the process for cost pass through applications under the National Electricity Rules. SP AusNet considers that any change to the cost pass through process for gas should, as far as possible be consistent with the approach for electricity.

SP AusNet has therefore proposed some revisions to the AER's proposed pass through process to bring it in line with the draft process for electricity. In summary, this process provides for:

⁹ AER, *Access Arrangement Draft Decision SPI Networks (Gas) Pty Ltd 2013-17*, Attachment 11, p.235.

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- an application by the Service Provider within 90 business days of the Relevant Pass Through Event occurring;
- 40 business days for the AER to make a decision, with an option for a maximum of a further 60 business days if the issues are complex;
- a 'stop the clock' mechanism applies where the AER needs to wait on a third party decision.

The current Access Arrangement process for a pass through event provides a degree of discretion for SP AusNet to seek a pass through application or not, depending on the level of cost, the complexity of an application etc. SP AusNet considers that this discretion should be retained in respect of any positive pass through application.

Even with the above changes, any pass through event occurring early in one year may still miss being recovered in the following years tariffs so SP AusNet proposes that there be an option to allow a mid-year tariff variation on 1 July.

SP AusNet therefore proposes the following pass through procedure:

“Procedure for a Relevant Pass Through Event Variation in Reference Tariffs

The Service Provider may notify the AER of a Relevant Pass Through Event within 90 Business Days of the Relevant Pass Through Event occurring where the costs would lead to a Positive Pass Through Amount and must notify the AER of a Relevant Pass Through Event within 90 Business Days of the Relevant Pass Through Event occurring where the costs would lead to a Negative Pass Through Amount.

If the Service Provider gives such a notice then, when the costs of the Relevant Pass Through Event incurred are known (or able to be estimated to a reasonable extent), then those costs shall be notified to the AER. When making a notification to the AER, the Service Provider will provide the AER with a statement, signed by an authorised officer of the Service Provider, verifying that the costs of the Relevant Pass Through Event are net of any payments made by an insurer or third party which partially or wholly offsets the financial impact of that event (including self insurance).

The AER must notify the Service Provider of its decision to approve or reject the proposed variations to its Reference Tariffs within 40 Business Days from the later of the date it receives the Service Provider's statement above, and the date it receives any additional information required by the AER. The Service Provider must provide the AER with such additional information as the AER reasonably requires for the purpose of making a determination under this clause 8 within the time reasonably specified by the AER in a notice provided to the Service Provider by the AER for that purpose.

If the AER is satisfied that the making of a determination in respect of a Relevant Pass Through Event involves issues of such complexity or difficulty that the 40 Business Day time limit should be extended, the AER may, by written notice to the Service Provider, extend the time limit by a further period of up to 60 Business Days. The AER must give written notice to the Service Provider of that extension not later than 10 Business Days before the expiry of the 40 Business Day time limit and such notice must set out the length of the extension and the reason the extension is required.

If the AER gives a written notice to the Service Provider stating that it requires information from an Authority or that it requires information that it anticipates will be made publicly available by a judicial body or royal commission in order to make a determination under this

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clause 8 in respect of a Relevant Pass Through Event then, for the purpose of calculating elapsed time, the period between when the AER gives that notice to the Service Provider and when the AER receives that information from that Authority is to be disregarded. Where the AER gives a notice to the Service Provider under this paragraph, it must:

- (a) as soon as is reasonably practicable notify the Service Provider of when the period has commenced;*
- (b) as soon as is reasonably practicable notify the Service Provider of when the period has ended; and*
- (c) if the information specified in that notice is required from an Authority, promptly request that information from the relevant Authority.*

If the AER fails to make a decision in respect of the proposed variation within the 40 Business Days or such longer period as the AER may have notified the Service Provider under this clause 8, then the AER will be taken to have approved the variations proposed by the Service Provider.

Subject to the approval of the AER under the NGR, Reference Tariffs may be varied after one or more Relevant Pass Through Event(s) occurs.

Any such variation will take effect from the next 1 January or, at the Service Provider's option, 1 July following the AER's decision (or, if applicable, deemed decision).

In making its decision on whether to approve the proposed Relevant Pass Through Event variation, the AER must take into account the following:

- (a) whether the costs to be passed through are for the delivery of Pipeline Services;*
- (b) whether the costs are incremental to costs already allowed for in Reference Tariffs;*
- (c) whether the costs to be passed through meet the relevant National Gas Rules criteria for determining the building block for total revenue in determining Reference Services;*
- (d) the efficiency of the Service Provider's decisions and actions in relation to the risk of the Relevant Pass Through Event occurring, including whether the Service Provider has failed to take any action that could reasonably be taken to reduce the magnitude of the costs incurred as a result of the Relevant Pass Through Event and whether the Service Provider has taken or omitted to take any action where such action or omission has increased the magnitude of the costs;*
- (e) the time cost of money based on the weighted average cost of capital for the Service provider for the Access Arrangement Period in which the event occurs;*
- (f) the need to ensure that the financial effect of the Relevant Pass Through Event on the Service Provider is economically neutral (provided that the costs which will be taken into account in determining whether the Service Provider is economically neutral are only those which meet the criteria for allowable expenditure in the National Gas Rules); and*
- (g) any other factors the AER considers relevant and consistent with the NGR and NGL.*

A Pass Through Amount applied by the Service Provider under this clause 8 is not:

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- (a) *taken into account when deciding the Service Provider's Haulage Reference Tariffs or Haulage Reference Tariff Components used in clause 3 in deciding whether the Service Provider's Haulage Reference Tariffs or Haulage Reference Tariff Components comply with the Tariff Control Formula and rebalancing control formulae in clause 3; and*
- (b) *subject to the procedures in clause 4."*

4 Reference Services

4.1 Draft Decision

The AER does not accept SP AusNet's proposal to remove the on-site meter and gas installation test from its list of ancillary reference services in its access arrangement proposal. It states that¹⁰:

'a significant part of the market is likely to seek a test to check the accuracy of a meter and the soundness of a gas installation. The AER considers that while a meter test may be conducted off-site, a test of the soundness of the installation can only be conducted on-site. The AER considers that this is an important test, both from the perspective of safety and invoice accuracy. Accordingly, the AER considers that a significant part of the market is likely to seek such a service'

It further states that¹¹:

'the performance of this service would be consistent with the NGO. Such a test ensures safe connections and increases efficiency by detecting and reducing gas leaks. This will also ensure that gas use is correctly metered thereby better reflecting the costs of providing the gas services. This will promote the efficient operation and use of gas services, aspects of the NGO.

4.2 Response

SP AusNet accepts the AER's proposed amendment by the AER to include in its list of ancillary reference services, 'On-site meter and gas installation tests', which is defined as follows:

'On-site meter and gas installation test: on site testing to check the accuracy of a Meter and the soundness of a Gas Installation, in order to determine whether the Meter is accurately measuring the Quantity of Gas delivered'.

Notwithstanding the above, SP AusNet notes that based on historical demands, demand for this service is likely to be immaterial.

¹⁰ AER draft decision | SP AusNet 2013–17 | Attachments page 5

¹¹ Ibid

5 Price Control Mechanisms

5.1 Revised Tariff Variation formula

SP AusNet's Initial Access Arrangement Proposal to true up the amounts paid in respect of each financial year can be accommodated in the following original proposed formulae.

The Tariff Control Formula adopted is consistent with the tariff basket form of price control.

These formulae accept the following revisions required in the Draft Decision:

- Revision 11.1 - inclusion of an adjustment factor for the ESV levy (incorporated into Licence Fee Factor).
- Revision 11.4 - (partially) Y_t value has been amended to 0.02.
- Revision 11.7 – restrict rebalancing to the haulage reference tariff component rather than the reference tariff as included in the Initial Access Arrangement Proposal.

The following Draft Decision revisions are rejected by SP AusNet and are not included in the tariff formulae:

- Revision 11.4 - (partially) X_t value rejected.
- Revision 11.5 - WACC value rejected.
- Revision 11.6 – revisions to Carbon Tax formula not accepted.
- Revision 11.8 – removal of Demand Adjustment Factor not accepted.

5.1.1 Price Control Formula

The Tariff Control Formula for the Calendar Year 2013 is:

$$(1 + CPI_t)(1 - X_t)(1 + L_t)(1 + A_t)(1 - A_{t-1}) \geq \frac{\sum_{i=1}^n \sum_{j=1}^m p_t^{ij} * q_{t-2}^{ij}}{\sum_{i=1}^n \sum_{j=1}^m p_{t-1}^{ij} * q_{t-2}^{ij}}$$

where the Service Provider has n Haulage Reference Tariff categories, each category having up to m Haulage Reference Tariff Components and where:

p_t^{ij} is for each Haulage Reference Service the proposed Haulage Reference Tariff for Haulage Reference Tariff component j of Haulage Reference Tariff i in Calendar Year t ,

p_{t-1}^{ij} is for each Haulage Reference Service the Haulage Reference Tariff being charged for Haulage Reference Tariff Component j of Haulage Reference Tariff i in Calendar Year $t-1$;

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- q_{t-2}^{ij} is for each Haulage Reference Service the Quantity of Haulage Reference Tariff Component j of Haulage Reference Tariff i that was sold in Calendar Year $t-2$;
- CPI_t is the CPI for Calendar Year t , as defined in the Glossary;
- X_t is 0.1095;
- L_t is the Licence Fee Factor for Calendar Year t , as defined below;
- A_t is an approved Pass Through Factor for Calendar Year t , as defined below; and
- A_{t-1} is the approved Pass Through Factor in relation to Carbon Liability for Calendar Year $t-1$.

The Tariff Control Formula for the Calendar Year 2014 to 2017 is:

$$(1 + CPI_t)(1 - X_t)(1 + L_t)(1 + A_t) \geq \frac{\sum_{i=1}^n \sum_{j=1}^m p_t^{ij} * q_{t-2}^{ij}}{\sum_{i=1}^n \sum_{j=1}^m p_{t-1}^{ij} * q_{t-2}^{ij}}$$

where the Service Provider has n Haulage Reference Tariff categories, each category having up to m Haulage Reference Tariff Components and where:

- p_t^{ij} is for each Haulage Reference Service the proposed Haulage Reference Tariff for Haulage Reference Tariff component j of Haulage Reference Tariff i in Calendar Year t ;
- p_{t-1}^{ij} is for each Haulage Reference Service the Haulage Reference Tariff being charged for Haulage Reference Tariff Component j of Haulage Reference Tariff i in Calendar Year $t-1$;
- q_{t-2}^{ij} is for each Haulage Reference Service the Quantity of Haulage Reference Tariff Component j of Haulage Reference Tariff i that was sold in Calendar Year $t-2$;
- CPI_t is the CPI for Calendar Year t , as defined in the Glossary;
- X_t is 0.0;
- L_t is the Licence Fee Factor for Calendar Year t , as defined below; and
- A_t is an approved Pass Through Factor for Calendar Year t , as defined below.

5.1.2 Licence Fee Factor

SP AusNet has revised the definition of a Licence Fee to include the ESV Levy, consistent with the Draft Decision requirement to include an adjustment factor for the ESV levy.

L is the Licence Fee pass through adjustment to the Distribution price control in Calendar Year t for the Service Provider as determined below. For the purposes of this formula the Licence Fee Factor includes distribution licence fees paid to the Essential Services Commission, and annual fees paid to Energy Safe Victoria:

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Calculation of the Licence Fee factor

The Licence Fee Factor pass through adjustment L_t , for the Service Provider is:

$$1 + L_t = \frac{(1 + L'_t)}{(1 + L'_{t-1})}$$

where:

If Calendar Year t is 2013:

$$L'_t = \frac{l_{f_{t-1}}(1 + \text{pretaxWACC}_D)^{3/2}(1 + \text{CPI}_t)^{3/2}}{(1 + \text{CPI}_t)(1 - X_t)(1 + A_t)(1 - A_{t-1}) \sum_{i=1}^n \sum_{j=1}^m p_{t-1}^{ij} q_{t-2}^{ij}}$$

If Calendar Year t is 2014 to 2017:

$$L'_t = \frac{l_{f_{t-1}}(1 + \text{pretaxWACC}_D)^{3/2}(1 + \text{CPI}_t)^{3/2}}{(1 + \text{CPI}_t)(1 - X_t)(1 + A_t) \sum_{i=1}^n \sum_{j=1}^m p_{t-1}^{ij} q_{t-2}^{ij}}$$

L'_{t-1} (a) if Calendar Year t is the Calendar Year ending 31 December 2013, the Licence Fee in the final year of the previous Access Arrangement Period; and

(b) if Calendar Year t is after the Calendar Year ending 31 December 2013, is the value of L'_t determined in the Calendar Year $t - 1$;

$l_{f_{t-1}}$ is the Licence Fee paid by the Service Provider for the Financial Year ending in June of the Calendar Year $t - 1$;

CPI_t is the CPI for Calendar Year t , as defined in the Glossary;

X_t if Calendar Year t is 2013 is 0.1095, if Calendar Year t is 2014 to 2017 is 0.0;

p_{t-1}^{ij} is for each Haulage Reference Service the Haulage Reference Tariff being charged for Haulage Reference Tariff Component j of Haulage Reference Tariff i in Calendar Year $t - 1$;

q_{t-2}^{ij} is for each Haulage Reference Service the Quantity of Haulage Reference Tariff Component j of Haulage Reference Tariff i that was sold in Calendar Year $t - 2$;

A_t is an approved Pass Through Factor for Calendar Year t , as defined below;

A_{t-1} is an approved Pass Through Factor for Calendar Year $t - 1$; and

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pretax WACC_D is 0.0623, being the implied real pre tax WACC applying to the Service Provider.

5.1.3 Adjustment Factor

A_t is the adjustment to the Distribution price control in Calendar Year t for the Service Provider and is determined below:

$$1 + A_t = \frac{(1 + A'_t)}{(1 + A'_{t-1})}$$

where:

- A'_{t-1} (a) if Calendar Year t is the Calendar Year ending 31 December 2013, is zero;
- (b) if Calendar Year t is after the Calendar Year ending 31 December 2013, is the value of A'_t determined in the Calendar Year $t - 1$;

$$A'_t = \frac{PT_t + DT_t}{(1 + CPI_t)(1 - X_t) \sum_{i=1}^n \sum_{j=1}^m p_{t-1}^{ij} q_{t-2}^{ij}}$$

where:

PT_t is the approved pass through to apply to the Distribution price control in Calendar Year t for the Service Provider as determined below; and

DT_t is the demand true-up to apply to the Distribution price control in Calendar Year t for the Service Provider and as determined below.

Approved pass through:

$$PT_t = ap_{t-1} (1 + \text{pretaxWACC}_D)^{3/2} (1 + CPI_t)^{3/2}$$

where:

ap_{t-1} is the amount of any approved Pass Through for the Calendar Year $t - 1$; and

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$pretaxWACC_D$ is the implied real pre tax WACC applying to the Service Provider.

Demand true-up

SP AusNet does not accept the Draft Decision. The rationale is set out in section 3 of RAAP Chapter 1 which responds to the Draft Decision on Demand.

SP AusNet proposes the demand risk adjustment factor as set out its Initial Access Arrangement Proposal.

- DT_t (a) if Calendar Year t is prior to the Calendar Year ending 31 December 2015, is zero;
- (b) if Calendar Year t is after the Calendar Year ending 31 December 2014, is calculated as follows

$$DT_t = df_{t-2} (1 + WACC)^2 (1 + CPI_{t-1})(1 + CPI_t)$$

where:

df_{t-2} is the financial impact of retail price variations in the year $t - 2$ and is calculated as follows:

$$df_{t-2} = \left(\frac{WGP_{actual} - WGP_{forecast}}{WGP_{forecast}} \right) (100)(\delta)(RR_{avg}) + \left(\frac{WGP_{actual} - WGP_{forecast}}{WGP_{forecast}} \right) (100)(\alpha)(RC_{avg})$$

where:

If df_{t-2} is less than one per cent of the determined revenue requirement for the Service Provider in year $t - 2$ and greater than minus per cent of the determined revenue requirement for the Service Provider in year $t - 2$, then df_{t-2} equals zero.

If df_{t-2} is greater than one per cent of the determined revenue requirement for the Service Provider in year $t - 2$ or less than minus per cent of the determined revenue requirement for the Service Provider in year $t - 2$, then df_{t-2} equals its calculated value.

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$WGP_{forecast}$ is the forecast wholesale gas price (real, \$/GJ) in year $t - 2$ used to determine SP AusNet's approved price path as set out below:

- 3.60 in 2013;
- 3.75 in 2014;
- 3.90 in 2015;
- 4.07 in 2016; and
- 4.20 in 2017.

WGP_{actual} is the actual wholesale gas price (real, \$/GJ) in year $t - 2$ measured as the weighted average spot price for the twelve months to December in year $t - 2$ calculated using the Australian Energy Market Operator's published Victorian gas prices and withdrawals

δ is the estimated amount by which residential gas use for all residential customers varies with a 1 per cent increase in the wholesale gas price in year $t - 2$, and is (in GJ):

- 11,330 in 2013;
- 11,405 in 2014;
- 11,484 in 2015;
- 11,563 in 2016; and
- 11,618 in 2017.

RR_{avg} is the average price for the usage (through-put) based Haulage Reference Tariff components applicable to residential customers and is calculated as:

$$RR'_{avg} = \frac{\sum_{i=1}^n \sum_{j=1}^m p_{t-2}^{ij} q_{t-2}^{ij}}{\sum_{i=1}^n \sum_{j=1}^m q_{t-2}^{ij}}$$

where:

p_{t-2}^{ij} is the tariff for usage based charges to residential customers for Haulage Reference Tariff component i of reference tariff j in year $t - 2$ (in\$/GJ); and

q_{t-2}^{ij} is the quantity delivered against Haulage Reference Tariff component p_{t-2}^{ij} in year $t - 2$.

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α is the estimated amount by which commercial gas use for all commercial customers that are not an Tariff M or Tariff D varies with a 1 per cent increase in the wholesale gas price in year $t - 2$, and is (in GJ):

- 14,022 in 2013;
- 14,135 in 2014;
- 14,175 in 2015;
- 14,158 in 2016; and
- 14,155 in 2017.

RC_{avg} is the average price for the usage (through-put) based Haulage Reference Tariff components applicable to commercial customers and is calculated as:

$$RC'_{avg} = \frac{\sum_{i=1}^n \sum_{j=1}^m P_{t-2}^{ij} q_{t-2}^{ij}}{\sum_{i=1}^n \sum_{j=1}^m q_{t-2}^{ij}}$$

where:

P_{t-2}^{ij} is the tariff for usage based charges to commercial customers for Haulage Reference Tariff component i of reference tariff j in year $t - 2$ (in\$/GJ); and

q_{t-2}^{ij} is the quantity delivered against Haulage Reference Tariff component P_{t-2}^{ij} in year $t - 2$.

Rebalancing Controls for New and Withdrawn Haulage Reference Tariffs are the same as the original submission and accepted by the AER. In general terms these controls describe the manner in which historical values are adjusted when new tariffs or tariff components are introduced.

5.2 Magnitude and level of Rebalancing Constraint

5.2.1 Draft Decision

The Draft Decision rejected SP AusNet's proposal to amend the rebalancing constraint. More specifically, whilst the AER approved SP AusNet's proposal not to apply the rebalancing constraint in the first year of the access arrangement period, as this was considered consistent with r. 97(3)(d) of the NGR, it did not approve the proposed changes

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to the magnitude (from two to five per cent) and level of the rebalancing constraint (application at the haulage reference level)¹².

The AER argued that the current constraint had not materially inhibited SP AusNet's ability to rebalance tariffs to cost reflective levels, and that the proposed changes would result in additional volatility and potential price shocks to customers.

The AER's decision was that a rebalancing constraint of two per cent that applies at component/tariff class level is appropriate for the 2013–17 access arrangement period.

5.2.2 Response

SP AusNet believes that the current rebalancing constraint is overly restrictive, in particular the requirement that the constraint apply to tariff components and not to tariffs is not reasonable, however SP AusNet does not intend to pursue this matter at this time.

5.2.3 Revised Proposal

The attached formula will be amended to reflect this change.

5.3 Recovery of Carbon Liability

5.3.1 Draft Decision

The AER states that:

*“approves SP AusNet's proposal to set a separate carbon with a true-up mechanism. When assessing SP AusNet's proposed tariffs, the AER will also assess whether the expected revenue from carbon tariff is less than or equal to the maximum carbon tariff revenue allowed.”*¹³

However, it also states that:

*the AER does not approve SP AusNet's proposed two stage carbon cost true-up mechanism. The AER considers that a single true-up, undertaken when full actual carbon costs for a regulatory year are known, reduces complexity and is preferable to the proposed two stage true-up.”*¹⁴

5.3.2 Response

The Clean Energy Regulator is still establishing the processes and procedures that liable entities are required to comply with in respect to how and when they must discharge their responsibilities when determining how many and how frequently they purchase and surrender carbon units. Since SP AusNet made its initial submission in March 2012 some further clarity has been provided from the implementation of the Clean Energy legislation with respect to the timing of the calculation and payment of Carbon Liabilities. It is now

¹² AER, *Access Arrangement Draft Decision SPI Networks (Gas) Pty Ltd 2013-17*, Attachment 11, p.216-217.

¹³ AER, *Access Arrangement Draft Decision SPI Networks (Gas) Pty Ltd 2013-17*, Attachment 11, p.3.

¹⁴ *Ibid*, p.4

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evident that the timing will not enable liable entities to establish their total liability in respect of an Australian financial year until the end of October each year. Final purchase and surrender of carbon credits is then due by the following February. As such, the final liability for the quantity of units required to be purchased for an Australian financial year by SP AusNet is not known until the end of October each year. Accordingly the most appropriate time for the final true up of the previous calendar year's revenues and expenditure will be the t-2 year in the t years submission being made at that time. Even so, the t-2 true up is contingent on the adoption of the following:

- the annual tariff submission must be made at 35 days before the commencement of the following tariff year;
- the acceptance of the October NGERS report as the basis to establish the number of carbon units required;
- an acceptance that the financial obligation is accrued at the time of and based on the NGERS report.
- that the financial obligation is hedged at that time and therefore not subject to any further adjustment irrespective of how the market for these units may move between 31 October and 1 February the following year when all units must be surrendered.

With regards to the two-stage carbon cost true-up mechanism, SP AusNet rejects the AER's position on the grounds that:

- Contrary to the AER's position, the one-stage true-up approach increases complexity, as opposed to reducing complexity. Such an approach creates an additional form of true-up process within the regulatory regime. In particular, it is noted that many businesses true-up transmission and other pass through events using the two stage true-up process that SP AusNet has proposed.
- We also note that the variation in forecast versus actual liabilities and revenues may be significant, and therefore, the one stage true-up process leads to additional price volatility, which we consider is contra to the National Gas Objective.
- Finally, we note that the one stage true-up process magnifies the cash flow risk to SP AusNet in relation to the forecasts of both Carbon Tax liabilities and revenues.

Furthermore, SP AusNet does not accept the AERs proposed formula in that it excludes any allowance for the time value of money. As set out in the draft decision the AER has delayed the full recovery/repayment of the true up to the t-2 year but has not included any adjustment to the true up amount for the time value of money. SP AusNet rejects this proposal as not being symmetrical in its approach and therefore likely to promote a perverse behaviour with respect to forecasting obligations and recoveries.

The following formulae reflect SP AusNet's Revised Access Arrangement Proposal that a two stage true-up occur with the appropriate time value of money, as well as our position with regards to the timing of annual tariff submissions (i.e. 35 days).

Given the complexity involved in setting the Carbon Liability Formula when reporting obligations are yet to be finalised, the AER must consult with SP AusNet before finalising this aspect of the Access Arrangement.

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5.3.3 The Carbon Liability Formula

When assessing the Service Provider's proposed tariffs, submitted in accordance with this Access Arrangement, the AER will assess whether the expected revenue from Carbon Tariffs (CTR_t), is less than or equal to the Maximum Carbon Tariff Revenue allowed ($MCTR_t$):

$$CTR_t \leq MCTR_t$$

where:

$MCTR_t$ is determined by the formula in clause 3.7.1; and

CTR_t is the total of the Service Provider's proposed Carbon Tariffs – defined as 'the uplift in Reference Tariffs directly associated with the recovery of Service Provider's Carbon Liability' - in Calendar Year t multiplied by the corresponding forecast quantities to be distributed for each tariff component of each tariff, in Calendar Year t .

5.3.4 Maximum Carbon Tariff Revenue ($MCTR_t$)

$MCTR_t$ is expressed by the formula as set out below:

$$MCTR_t = CTP_t - K_t$$

where:

$MCTR_t$ is the maximum revenue the Service Provider is allowed to receive from its Carbon Tariffs from all distribution customers for the Calendar Year t ,

CTP_t is the aggregate of all charges which the Service Provider forecasts it will be required to pay in Carbon Liability in respect of Calendar Year t , and

K_t is determined in accordance with clause 3.7.2.

5.3.5 Correction factor K_t

K_t is a correction factor to account for any under or over recovery of actual revenue from Carbon Tariffs in relation to allowed revenue from 3.7 tariffs.

K_t is determined by reference to the formula set out below.

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$$K_t = (Ky_t + Kz_t + K_{t-1})(1 + CPI_t)(1 + pretaxWACC_D)$$

where:

Ky_t is calculated in accordance with clause 3.7.3;

Kz_t is calculated in accordance with clause 3.7.4;

K_{t-1} is the figure calculated for K_t for Calendar Year $t-1$;

$pretax WACC_D$ is 0.0623; and

CPI_t is the CPI for Calendar Year t , as defined in the Glossary.

5.3.6 Calculation of Ky_t

Ky_t is a correction factor determined with reference to the formula in this clause.

$$Ky_t = CTR_{t-1} - CTP_{t-1}$$

where:

CTR_{t-1} is the total revenue which it is estimated the Service Provider will earn from its Carbon Tariffs in respect of all distribution customers in Calendar Year $t-1$; and

CTP_{t-1} is the aggregate of all Carbon Liability which it is estimated will be payable by the Service Provider, in respect of Calendar Year $t-1$.

5.3.7 Calculation of Kz_t

Kz_t is a correction factor for the difference between the estimates made in clause 3.7.3 in Calendar Year $t-1$ and actual audited values and is expressed by the formula in this clause.

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$$Kz_t = \{ (CTRa_{t-2} - CTRe_{t-2}) - (CTPa_{t-2} - CTPe_{t-2}) \} \times (1 + \text{pretaxWACC}_D)(1 + CPI_{t-1})$$

where:

$CTRa_{t-2}$ is the actual audited total revenue earned by the Service Provider from Carbon Tariffs in respect of all distribution customers in Calendar Year t-2;

$CTRe_{t-2}$ is the figure used for t-1 CTR_{t-1} when calculating Ky_t for Calendar Year t-2 under clause 3.7.3;

$CTPa_{t-2}$ is the audited aggregate of all Carbon Liability paid by the Service Provider in respect of Calendar Year t-2;

$CTPe_{t-2}$ is the figure used for CTP_{t-1} when calculating Ky_t for Calendar Year t-1 under clause 3.7.3;

CPI_{t-1} is CPI_t as defined in the Glossary for the Calendar Year t-1.

pretax WACCD is 0.0623

With respect to the requirements for the carbon liability tariff submission to include the provision of the following information and supporting documentation:

1. the most recent available certified emissions figure for the network, this being the reported figure for the previous financial year
2. a forecast of emissions for the current financial year
3. a forecast of emissions for the subsequent financial year
4. the actual cost of carbon permit acquisition for the previous financial year
5. a forecast cost of carbon permit acquisition for the current financial year
6. a forecast cost of carbon permit acquisition for the subsequent financial year
7. the dollar amount allowed each year by the AER for recovery, for all previous years
8. the difference between amounts allowed and the actual or forecast cost for the previous and current financial year; and
9. the amount being sought for recovery in the following financial year, being the sum of (6) and (7) above, which amount is to be included in the carbon tariff.

SP AusNet agrees that the above items need to be provided in support of any claim, however we have concerns that this information must be supplied in a timeframe that is

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consistent with the requirements of the Clean Energy Regulator and the tariff year for which tariffs are being established and/or trued up to final results. Prior to making any final and binding decision on this matter, SP AusNet believes that the AER must consult with the Clean Energy Regulator and the Victorian gas distribution companies. This form of consultation is the only way to ensure that the final decision results in the most practical and workable solution to carbon liability recovery, that it protects the interests of customers and participants, and does not expose any party to unreasonable administrative costs or burdens.

5.4 Annual Tariff Submission Timing and Quantity Statements

5.4.1 Draft Decision

In Revision 11.9 the AER has requested that SP AusNet replace references in sections 4.1(a), 4.2(b) of its Access Arrangement to the submission of proposed tariffs 35 days prior to the commencement of the next Calendar Year with 50 days prior to the next calendar year. And that the submitted tariffs will be deemed to be compliant by the end of 30 Business days from the date the Regulator received SP AusNet's notification.

The Draft decision also requires that SP AusNet's annual submissions be supported by a statement of gas quantity inputs used in the formulas to be independently audited, or verified and that the quantities reflect the most recent actual annual quantities available at the time of assessment, further the quantities are to be provided as four quarters of gas quantity data reconciling to an annual total quantity of gas.

5.4.2 Response

SP AusNet rejects the AERs requests for a 50 days prior submission period for the reasons outlined above. SP AusNet's revised proposal has retained the original 35 days prior submission on the grounds that this provides the most practical approach to ensure that all the most current available data is utilised in the preparation and consideration of the annual tariff submission.

SP AusNet questions the AER requirement that the quantity data be independently audited or verified separately to the audit required in the provision of annual regulatory accounts or that the provision of the data in the format of four quarters provides any added value to the process. However, SP AusNet will provide the data as requested and has made the appropriate amendments to the relevant sections.

6 Ancillary Reference Tariffs

6.1 Draft Decision

SP AusNet's submission and the AER draft decision did not make any provision for the adjustment of Ancillary Reference Tariffs to reflect the 1 July commencement of price adjustments for the 2013 -17 Regulatory period. Following discussions with the AER the following advice was provided by AER staff:¹⁵

¹⁵ AER correspondence, 25 September 2012.

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“The relevant revenue adjustment for ancillary reference service tariffs for 2013 would need to be given effect via an additional element in the tariff adjustment formula. This additional element in tariff adjustment formula is something you may wish to include as part of your revised proposal.”

6.2 Response

SP AusNet proposes the following formulae for the adjustment of Ancillary Reference Tariffs for the regulatory period:

The Ancillary Reference Tariff Control Formula for the six month period from July 2013 is:

$$ART_t = ART_{t-1} + (ART_{t-1} * CPI_t) * 2$$

The Ancillary Reference Tariff Control Formula for the Calendar Year 2014 is:

$$ART_t = ART_{t-2} * (1 + CPI_{t-1}) * (1 + CPI_t)$$

The Ancillary Reference Tariff Control Formula for the Calendar Year 2015 to 2017 is:

$$ART_t = ART_{t-1} * (1 + CPI_t)$$

where:

ART_t is the Ancillary Reference Tariff that applies in Calendar Year t ;

ART_{t-1} is the Ancillary Reference Tariff that applies in Calendar Year $t-1$;

ART_{t-1} is the Ancillary Reference Tariff that applies in Calendar Year $t-1$; and

CPI_t is the CPI for Calendar Year t , as defined in the Glossary.

CPI_{t-1} is the CPI for Calendar Year $t-1$, as defined in the Glossary.

The formula for 2013 applies the CPI increase twice to the prior year's tariffs to ensure the annual revenue remains consistent with the increase being applied from 1 January 2013. The formula for 2014 applies two CPI adjustments to the 2012 prices which establishes prices at the rate they would be had the CPI been applied in a consistent manner rather than for a six month period in 2013. From 2015 the adjustment is made as a year on year change.

7 Fixed Principles

As set out in the Draft Decision, SP AusNet agreed with the AER to revoke the fixed principle in clause 7.2(4) of its 2008–2012 access arrangement (this clause is labelled 7.2(3) in SP AusNet’s revised 2013-2017 access arrangement).¹⁶

SP AusNet has removed the fixed principle from its Access Arrangement.

8 Reference Tariffs

SP AusNet’s updated tariffs for its Revised Access Arrangement Proposal are detailed in Chapter 11 of the RAAP.

¹⁶ AER, *Access Arrangement Draft Decision SPI Networks (Gas) Pty Ltd 2013-17*, Attachment 4, p.89.