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Allgas Energy Pty Limited
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Allgas Toowoomba Pty Limited
ACN 009 655 645

27 August 2014

Mr Chris Pattas
General Manager
Network Operations and Development Branch
Australian Energy Regulator
PO Box 520
Melbourne Vic 3001

Dear Chris,

**Allgas Energy Pty Limited and Allgas Toowoomba Energy Pty Limited**
**Repeal of carbon tax – Negative Pass Through Application**

This letter applies to the AER for a negative pass through amount (change in tax event) for tariffs applicable to the Allgas Energy gas distribution network to reflect the repeal of the carbon tax.

## Background

Clause 4.5.4 of the AER-approved Access Arrangement for the Allgas distribution network includes provision for Allgas to pass through costs of providing Reference Services which were not provided for in the tariffs approved in the Access Arrangement:

> 4.5.4 Cost Pass-through Reference Tariff Variation Mechanism
>
> Subject to the approval of the AER under the National Gas Rules, Reference Tariffs may be varied after one or more Cost Pass-through Event/s occurs, in which each individual event materially increases or materially decreases the cost of providing the reference services. Any such variation will take effect from the next 1 July. In making its decision on whether to approve the proposed Cost Pass-through Event variation, the AER must take into account the following:
>
> - the costs to be passed through are for the delivery of pipeline services
> - the costs are incremental to costs already allowed for in reference tariffs
> - the total costs to be passed through are building block components of total revenue
> - 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
> - any other factors the AER considers relevant and consistent with the National Gas Law and National Gas Rules.
>
> **Cost Pass-through Events** are:
>
> - an insurance cap event
> - an insurer credit risk event
> - a natural disaster event

- a network user failure event
- a regulatory change event
- a service standard event
- a tax change event.

a terrorism event

In this instance, Allgas focuses on a tax change event:

> **'Tax change event'** means:
>
> A tax change event occurs if any of the following occurs during the course of an access arrangement period for APT Allgas:
>
> (a) a change in a relevant tax, in the application or official interpretation of a relevant tax, or in the way a relevant tax is calculated;
> (b) the removal of a relevant tax;
> (c) the imposition of a relevant tax;
>
> In consequence, the costs to APT Allgas of providing reference services are materially increased or decreased.

The access arrangement glossary defines "tax" as:

> Any tax, levy, impost, deduction, charge, rate, rebate, duty, fee or withholding which is levied or imposed by an Authority.

By letter dated 22 June 2012, Allgas Energy applied to the AER for a pass through of the carbon tax in the context of its annual tariff adjustment.[1] This application included a proposal for a "t+2" true-up mechanism to ensure that Allgas neither suffered nor benefited from the imposition and collection of the carbon tax.

The AER approved this pass through application on 29 June 2012.[2]

Allgas has since lodged two applications for annual tariff adjustments incorporating the carbon tax pass through, relating to the 2013-14 year and the 2014-15 year respectively. Both were approved by the AER. It should be noted that the approved tariffs applicable to the 2014-15 year include an allowance for carbon costs applicable to gas distribution activities in the 2014-15 carbon year. The approved pass through amount for the 2014-15 year, including the impact of the true-up related to the 2012-13 carbon year and carbon tax on Unaccounted For Gas, is $1.163m.

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[1] http://www.aer.gov.au/sites/default/files/Allgas%20Energy%20-%20cost%20pass%20through%20revised%20application.pdf
[2] http://www.aer.gov.au/sites/default/files/Allgas%20Energy%20-%20Cost%20pass-through%20decision%20%28carbon%20pricing%20mechanism%29%20-%20For%20web%20upload.pdf

## Repeal of the carbon tax

On 17 July 2014, the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014* received Royal Assent, repealing the carbon tax with effect from 1 July 2014.
In summary, this changed the Allgas forecast carbon tax liabilities from:

| | 2012/13 | 2013/14 | 2014/15 | 2015/16 |
|---|---|---|---|---|
| Carbon costs | 1,057,410 | 1,095,442 | 1,134,714 | 1,234,139 |

to:

| | 2012/13 | 2013/14 | 2014/15 | 2015/16 |
|---|---|---|---|---|
| Carbon costs | 1,057,410 | 1,095,442 | 0 | 0 |

Allgas considers this to be a "change in tax event" as outlined in the Allgas access arrangement pass through provisions, with the date of the event taken to be 17 July 2014, the date the legislation received royal assent.

Consistent with the requirements of the Access Arrangement, Allgas submits that:
(a) this cost falls within the 'change in tax event' category of Cost Pass-Through Event;
(b) this cost occurs during the course of an access arrangement period;
(c) this cost, being in excess of 2% of annual revenue, materially decreases the costs of providing those services.
(d) In consequence, the costs to Allgas of providing reference services are materially decreased

This pass through application therefore requests approval of a negative pass through amount, as follows:

| | 2012/13 | 2013/14 | 2014/15 | 2015/16 |
|---|---|---|---|---|
| Carbon costs | | | - 1,134,714 | - 1,234,139 |

## Interim decrease to reflect repeal of carbon tax

Clause 4.5.4 of the Allgas access arrangement provides for tariff changes arising from pass throughs to be made on the subsequent 1 July, as part of the normal tariff adjustment process. This would mean that the repeal of the carbon tax would not be reflected in gas distribution tariffs until 1 July 2015. As noted above, the approved tariffs for 2014-15 included an allowance for 2014-15 carbon costs; absent any voluntary action on Allgas' part, the approved tariffs would inappropriately charge users for 2014-15 carbon tax, which would have to be refunded in full through the true-up process.

Allgas and the AER engaged in discussions which confirmed that the Access Arrangement Reference Tariff is indeed not mandated under the National Gas Access Regime, and that Allgas is allowed to voluntarily charge a lower tariff at its discretion to reflect the reduction in the carbon tax. On 24 July 2014, the AER advised Allgas that the AER Board had resolved to take into account any voluntary tariff reductions when performing the carbon tax true-up.

Allgas has therefore reduced its tariffs, effective 1 September 2014, to remove the $1.163m forecast amount of carbon tax recovery. This will reduce the tariffs in the order of $0.1119 per GJ for Volume customers and $0.7836/GJMHQ/day for Demand customers. Users were advised of this tariff reduction by email dated 11 August 2014.

Allgas anticipates that there will be a minor over-collection of carbon tax (in the order of $200,000) over the July and August 2014 periods, which will be refunded through the normal true-up mechanism.

Allgas consulted with the ACCC at the officer level on 19 August 2014 to outline the proposed process, and received comfort that the proposed process was acceptable.

Given the timing of the purchase and surrender of carbon certificates for the 2013-14 carbon year (28 February 2015), and the final reconciliation of billing data for the July and August 2014 “overcollection” months, it may be possible for Allgas to conduct the final carbon tax reconciliation and true-up such that the last pass through tariff adjustment applies in the 2015-16 regulatory year. Allgas will liaise with the AER as part of the annual tariff adjustment process.

As always, we would be pleased to discuss this matter. Please do not hesitate to contact Scott Young on (02) 2975 0031 in the first instance.

Yours sincerely

P. Bl

Peter Bolding
General Manager, Strategy & Regulatory