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Australian Energy Regulator

22 August 2025

Dear Sir/Madam

RE: Evoenergy Gas Distribution Network Proposal for 2026-2031

The ACT Council of Social Service (ACTCOSS) welcomes the opportunity to provide its views on Evoenergy's gas distribution proposal. ACTCOSS is the peak body for not-for-profit community organisations in the Australian Capital Territory (ACT). Our membership includes social housing providers, financial counselling services, conservation groups, and organisations committed to social justice and community development in the ACT. We work in partnership with our members towards a future in which all forms of poverty and disadvantage are eliminated.

Universal access to sufficient quantities of affordable, reliable and clean energy is essential to our vision of an inclusive Canberra, where everyone can reach their full human development and productivity potential.

Our positions on the issues raised by Evoenergy's proposal are influenced by the anticipated impacts of the proposal on vulnerable energy users. Our views have also been informed by consultations with our members, and a consultation session hosted for community groups in June 2025. This session was attended by organisations representing the interests of older Australians, people in financial hardship, community housing, owners' corporations, tertiary students, and ACT's multicultural residents. Attendees heard from Evoenergy and participated in a discussion led by ACTCOSS and the Justice and Equity Centre

Our views on issues raised by Evoenergy's submission is as follows:

(i) New Connections

Under the National Gas Rules, a distributor may levy a connection charge on a retail customer if the expected incremental revenue from the connection is less than the incremental capital cost of providing it. The conclusions reached when applying this test can vary significantly due to the broad discretion decision makers have when setting the assumptions underpinning the test. Differences in key assumptions such as asset life, or expected usage over time, can materially affect conclusions about whether the bar set by the test for charging customers for new connections has been reached.

Developed when the gas network was expanding and new connections were assumed to lower average costs, the economic efficiency test for new connections is permissive. It does not explidcitly require consideration of significant costs such as end-of-life obligations (permanent disconnection and decommissioning) or the attributable share of upstream reinforcement and facility upgrades (pressure reduction, metering/telemetry, safety/compliance) needed to serve the new load to be considered when reaching a conclusion about whether the cost of the connection will exceed the revenue earned form it. While the rules do not explicitly prohibit the inclusion of these costs, they do not mandate it. This can bias the test towards findings that new connections should be subsidised.

While a permissive test may not have been a significant concern in the past due to the high likelihood of new connections driving down average fixed costs pers customer, this is no longer the case.

The high risk of subsidised connections causing detriment to consumers was raised at the ACTCOSS consultation session for community organisations on Evoenergy's proposal. During the ACTCOSS consultation session on Evoenergy's proposal, a clear majority of attendees who spoke on the issue favoured the imposition of a connection charge equal to the capital expenditure costs required for those connections.

Concerns raised in response to Evoenergy's proposal to forgo a connection charge included (a) medium to long term bill impacts for vulnerable energy users if the regulated asset base (RAB) is increased in the context of a declining network, and (b) potential negative consequences for renters, new property buyers, and other groups who have limited control on whether a new gas connection is installed in their homes.

New home buyers in NSW may, for example, face significant financial impacts from having to replace costly and essential household infrastructure well before the end of its useful life. The probability of these negative impacts eventuating is especially high given the network's acknowledgement that continued operation in NSW may not be economically viable beyond 2045, when ACT customers will have fully exited the network, or even earlier, when sections of the ACT network begin decommissioning from 2035.

Given this context ACTCOSS recommends:

1. Rigorous scrutiny of the economic efficiency test for new gas connections, the assumptions that underpin it, and any decision to forgo or subsidise new connection charges.

2. Stronger transparency requirements and community consultation requirements to ensure assumptions underpinning the application of the economic efficiency test for new connections, and decision to subsidise connection charges is open to validation by stakeholders. This may be achieved through the publication of key assumptions and sensitivities or targeted community consultation.

3. Exercising discretion available in setting assumptions, applying the economic efficiency test, and decisions pertaining to connection charges, in a manner that ensures outcomes consistent with relevant emissions reduction objectives, long-term interests of consumers, and clearly expressed community views. In practice this can include:

    a. Accounting for the impact of structural trends such as usage per connection falling or increasing numbers of government measures aimed at decreasing energy consumption (gas and electric), estimating expected incremental revenue.
    b. Accounting for the risk of a short connection life when calculating the connection's lifetime incremental revenue. The probability of this risk eventuating is especially high given the network's acknowledgement that continued operation in NSW may not be economically viable beyond 2045, or as early as 2035. No information was provided on the likelihood of Evoenergy developing a solution

that will enable the NSW portion of the network to function independently, following the phase out of gas in ACT.

c. Exploring the possibility of interpreting the economic efficiency test in Section 119M of the National Gas Rules, more broadly to allow consideration of costs associated with the decommissioning of new connections, and attributable share of upstream reinforcement and facility upgrades required to support new connections.

4. Explore the possibility of attributing NSW expansion capex directly to NSW customers by dividing NSW and ACT customers into two tariff classes. This will serve the long-term interests of energy consumers by:

   a. Lowering stranded asset risks: Attributing NSW expansion capex to NSW customers and creating separate tariff classes may allow for the inputs going into the test, and ultimately the conclusion of that test to change. This in turn will allow for the cost of new connections to be recovered directly from the customer benefiting from them, instead of being rolled over into the RAB.

   b. Reducing risk of harm from new connections: If isolating the cost of new connections to NSW customers enables the recovery of costs directly from new customers (see discussion above), the resulting price signal may discourage new customers from connecting to the network, helping them avoid the harms associated with connecting to a declining network.

   c. Differences in gas phase out rates attributable to differing jurisdictional policy settings may be reduced: Isolating expansion capex enables the allocation of NSW growth costs to NSW customers and prevents ACT customers from subsidising them. This aligns price signals with each jurisdiction's policy settings and removes distortions that would otherwise slow phase-out in one area while sustaining growth in another. The result is a more consistent and orderly decline in gas use across jurisdictions, with fewer cross-subsidies and clearer incentives to electrify.

   d. Increased probability of emissions reduction targets being achieved as a result of lower stranded-asset pressure that could otherwise drive regulatory decisions that delay or dilute the ACT emissions trajectory.

5. Recovering the cost of new connections (including associated upstream costs of new connections) in full from those incurring them, in all instances where the legal framework allows for this.

(ii) Capital Expenditure Saving Scheme (CESS)

Evoenergy's proposal to opt out of the CESS carries with it the risk of capex overspends which may be rolled in to the RAB. If this occurs, consumers will experience negative bill impacts. Evoenergy's assertion that the ACT Government's net zero policy settings provide it with "sufficient discipline to minimise capex and mitigate the risk of

overspends", is unfortunately just that, an assertion without the benefit of a CESS agreement to ensure the risk of overspends is shared between consumers and the business.

It is also worth noting that Evoenergy's proposal to reduce the number of years over which its investment in the RAB will be recovered, and to front load the recovery of that investment into the early years of that period, will result in even small capex overspends leading to material bill impacts.

Evoenergy also draws attention to the possibility of greater benefits for consumers should Evoenergy achieve capex underspends in the absence of a CESS which requires benefit sharing. However, the absence of a CESS agreement does not guarantee greater consumer benefits. Consumers will only accrue a greater benefit if the quantum of capex underspend is greater than the underspend that would have materialised in the absence of a CESS scheme.

Evoenergy's potential for capex savings, where the primary factors counteracting existing system level incentives to increase capex spending is primarily, government policy, and market forces, may be gleaned from its performance during the period 2016-21, when the last access arrangement in which similar conditions was in place.

Evoenergy's capex savings for the period 2016 – 21 was roughly 12.6%. This underspend achieved against a backdrop of falling average gas demand and strong government policy settings to reduce emissions, is less than the capex savings of 17.6% achieved under the current access arrangement which was subject to a CESS.

Given the demonstrated success of CESS in boosting capex savings, while disincentivising capex underspends that might harm consumer outcomes it appears prudent to apply a CESS agreement to the 2026-2031 access arrangement.

(iii) Disconnections

Electrifying a home and disconnecting from gas is costly and complex. Households with greater resources, including as time, good health, higher incomes, digital access, home ownership and literacy, are therefore more able to exit early. By contrast, people on lower incomes, with limited literacy, and those with little control over the appliances in their homes, such as renters, are more likely to be among the last remaining on the network. These groups are also and at greater risk of energy hardship.

ACTCOSS notes the cost of non-urgent, permanent disconnections, proposed by Evoenergy, which range from $751 to $916 will be a significant barrier to households on lower incomes to disconnect from the network. It also notes the temporary disconnection charge of $134, does not fully account for ongoing costs associated with that connection, and that the current pricing strategy, is likely to induce those electrifying their homes and businesses to preference temporary disconnections over more costly permanent disconnections. It also notes that while there may be merit to the strategy of keeping temporary disconnection costs low may encourage more gas users to leave the network by lowering a barrier to exit, and induce those electrifying their homes to choose temporary disconnections, so that the network can capture the economies of scale that can come from disconnecting households en masse this cost saving comes at the expense of people vulnerable to energy hardship.

By structuring temporary disconnection fees as a flat one-off charge, Evoenergy shifts the burden of ongoing safety and maintenance costs associated with temporary disconnections away from those whose privileges have allowed them to exit the network early, and to those who may not be as well-resourced to exit the network,

Pricing strategies which rely on those vulnerable to energy hardship subsiding the cost of people leaving the network can lead to the energy transition losing its momentum and support. Once social license for a project is compromised it can be hard to recover.

Given this context ACTCOSS recommends:

a. Protecting households from discriminatory pricing strategies which place a disproportionate burden of network decommissioning costs on households vulnerable to energy hardship.

b. Requiring those exiting the network to pay the full costs associated with their exit and working transparently with the ACT government to develop a scheme which will subsidise the cost of exit for people whose exit is impeded by their financial circumstances.

c. Exploring options to lower permanent disconnection prices, such as those proposed in rule change requests put forward to the Australian Energy Market Commission by the Justice and Equity Centre in May 2025.

d. Exploring options to lower ongoings costs associated with temporary disconnections.

e. Analysing the feasibility and impact of different approaches to allocating the ongoing costs of temporary disconnection. Examples of approaches which may be explored include those currently being considered requiring customers that temporarily disconnect to pay a fee equivalent to the cost of ongoing expenses associated with the connection.

(iv) Accelerated Depreciation

Evoenergy's proposal to accelerate recovery of investment in the RAB, by reducing the number of years over which the investment is to be recovered, and front loading the cost of that recovery, is framed as a proposal necessary to honour the regulatory compact, the promise implicit in Section 24 of the National Gas Law, and the need to protect future energy consumers.

Regulatory compact and Legislative Regime

However, neither the National Gas Rules (NGR) nor the National Gas Law (NGL) create an absolute legal right to recover investment costs in full. Section 24 of the NGL relied on by Evoenergy to justify the accelerated recovery of its investment costs guarantees the business a "reasonable opportunity" to recover prudent investment costs.

The term “reasonable opportunity” in Section 24 of NGL must be interpreted in light of the National Gas Objective (NGO), and provisions of the NGL and NGR as a whole. The NGO makes it clear that the protection of consumers and their long-term interests is at the heart of the regulatory regime set up in respect of covered gas. While the existence of Rule 85 makes it clear that the recovery of investments even ones that were once deemed prudent may be disallowed where they no longer contribute to service delivery, signalling an expectation for investors to bear the risk of not recovering the value of their investment.

Read together, the primacy afforded to consumer interests in the NGO, and the expectation implicit in the legislative framework that investors are to bear the risk of their investments, raises questions about the extent to which Section 24 of the NGL can be relied on to approve all investment recovery proposals put forward by network businesses, regardless of clear detrimental impact to consumers.

Moreover, regulatory practice within Australia and similar jurisdictions demonstrates the existence of a regulatory compact is not a guarantee that investment costs will always be recovered in full. Measures detrimental to regulated businesses such as the writing down of stranded assets have been allowed where public interests require it.

(a) Consumer Impacts

The regulatory framework does not explicitly provide for an access arrangement to accelerate revenue recovery by reference to future asset redundancies. Where revenue recovery has been accelerated in the past it has been allowed by reference to the public interest in doing so, rather than a guaranteed right for businesses to fully recover investment cost.

Given this context it is worth examining impact of this proposal on consumers.

<u>Impact on present day customers</u>

Evoenergy’s proposal for cost recovery fails to provide detailed analysis of the bill impacts for vulnerable energy users in the present or their ability to bear the cost of that increase.

There is however, increasing evidence of financial stress in the ACT community. Between July – August 2025 ACTCOSS surveyed 28 community organisations in the ACT as part of a process to map energy supports and issues in the ACT. Respondents were asked to identify key energy issues raised by clients. Of the issues raised energy affordability was raised as the top concern for clients, with 83.33% of responses identifying this as the top concern for clients.

Community organisations have also noted increasing numbers of people who do not qualify for government assistance such as energy concessions requesting vouchers to subsidise energy costs or seeking assistance from services such as food banks. Evidence of growing energy hardship is also provided by AER showing a rise in energy debt levels.

<u>Impact on future customers</u>

Evoenergy's RAB investment recovery proposal is also justified by reference to the need to protect future consumers from price shock. There is however some question on whether accelerated depreciation is the only means through which consumer protection can be achieved. If this is the case, then present day consumers are needlessly being asked to pay a higher price than they otherwise would have.

Both Evoenergy and the ACT government's Integrated Energy Plan anticipate sections of the network being decommissioned from 2035, if this is the case then these assets are likely to be assets whose recovery may be disallowed under Rule 85 of the National Gas Rules. If this mechanism is applied, the value of the RAB, and the amount that will need to be recovered from consumers still left on the gas network during that point will fall.

The existence of this alternate mechanism to protect future consumers, and potential for harm to present-day consumers raises questions about the extent to which depreciation of the RAB needs to be accelerated.

We thank the Australian Energy for this opportunity to comment on this submission and look forward to engaging constructively with ACT's gas distribution network access arrangement determination process.

Sincerely,

[redacted]

Dr Devin Bowles
Chief Executive Officer
ACT Council of Social Service
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