

Draft Decision

**APA Victorian Transmission System
(VTS)**

Access Arrangement 2023 to 2027

(1 January 2023 to 31 December 2027)

**Attachment 11 Non-tariff
components**

June 2022

© Commonwealth of Australia 2022

This work is copyright. In addition to any use permitted under the *Copyright Act 1968* all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright but which may be part of or contained within this publication.

The details of the relevant licence conditions are available on the Creative Commons website as is the full legal code for the CC BY 3.0 AU licence.

Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001
Tel: 1300 585 165

AER reference: AER202216

Amendment record

Version	Date	Pages
1	30 June 2022	10

Note

This attachment forms part of the AER’s draft decision on the access arrangement that will apply to APA’s Victorian Transmission System (VTS) for the 2023–27 access arrangement period. It should be read with all other parts of the draft decision.

The draft decision includes the following documents:

Overview

Attachment 1 – Services covered by the access arrangement

Attachment 2 – Capital base

Attachment 3 – Rate of return

Attachment 4 – Regulatory depreciation

Attachment 5 – Capital expenditure

Attachment 6 – Operating expenditure

Attachment 7 – Corporate income tax

Attachment 8 – Operating expenditure incentive mechanism

Attachment 9 – Reference tariff setting

Attachment 10 – Reference tariff variation mechanism

Attachment 11 – Non-tariff components

Attachment 12 – Demand

Contents

- 11 Non-tariff components 1**
- 11.1 Draft decision..... 1
- 11.2 APA's proposal 1
- 11.3 Assessment approach 1
- 11.4 Reasons for draft decision 2
- 11.5 Revisions 5
- Shortened forms..... 6**

11 Non-tariff components

This attachment sets out our draft decision on the following, non-tariff components of APA's access arrangement for the Victorian Transmission System (VTS) for 2023–28:

- the terms and conditions for the supply of reference services
- queuing requirements – a process or mechanism for establishing an order of priority between prospective users of spare and/or developable capacity¹
- extension and expansion requirements – the method for determining whether an extension or expansion is part of the covered pipeline and the effect this will have on tariffs
- capacity trading requirements – the arrangements for users to assign contracted capacity and change receipt and delivery points
- change of receipt or delivery point by the user – the process or mechanism for changing a user's receipt or delivery point
- a review submission date and revision commencement date.

The application of some of these access arrangement components differs for the VTS and gas transmission pipelines in other jurisdictions due to the operation of Victoria's Declared Wholesale Gas Market, as we discuss in this attachment. Our assessment of each non-tariff component is set out below.

11.1 Draft decision

Our draft decision approves the non-tariff components of the proposed access arrangement, which are consistent with those approved in our decision for the current, 2018–22 period.

We received no submissions on the non-tariff components of APA's access arrangement proposal for the VTS.

We remain satisfied that these elements of the access arrangement are appropriate to the in the unique circumstances of the VTS.

11.2 APA's proposal

APA's proposal does not include any changes to the current, non-tariff components of its access arrangement.²

11.3 Assessment approach

The National Gas Rules (NGR) set out the requirements for the non-tariff components. These include terms and conditions for the provision of reference services (rule 48) and provisions for the review submission and commencement date (rules 49 and 50). The requirements for the remaining non-tariff components are set out in Division 2 of Part 10. Our

¹ NGR, r. 103. All transmission pipelines and some distribution pipelines (where notified by the AER) are required to set out how any spare or developable capacity will be allocated among prospective users.

² APA VTS - Access Arrangement 2023-27 - MARKUP - December 2021

assessment approach for each non-tariff component is discussed further under the relevant subheading below.

11.4 Reasons for draft decision

11.4.1 Terms and conditions

The NGR require an access arrangement to specify the terms and conditions on which each reference service will be provided.³ These must be consistent with the National Gas Objective (NGO).⁴ We consider this requires us to assess and balance the competing interests of APA, VTS users and consumers, in particular:

- the allocation of risk, where we consider the NGO is generally best served where a risk is borne by the party best able to manage it; and
- the need to ensure clarity and certainty, while avoiding an unduly prescriptive approach on commercial matters.

Under the Victorian wholesale gas market arrangements, APA supplies its reference service to the Australian Energy Market Operator (AEMO), which operates the VTS in accordance with the Declared Wholesale Gas Market Rules.⁵ The terms and conditions on which APA makes the Tariffed Transmission Service available to AEMO are set out in its Service Envelope Agreement (which sits outside the access arrangement) and the National Gas Rules.

Shippers on the VTS deal directly with AEMO, while their relationship with APA (as regards payment and other such matters) is reflected in the Transmission Payment Deed terms in Schedule F to the access arrangement proposal.

APA has not proposed any changes to its current Transmission Payment Deed terms, which we considered and approved as part of our decision for the current period.⁶ We remain satisfied that these provisions meet the requirements of the NGR. Our draft decision accepts APA's proposed Schedule F and does not require any amendments.

11.4.2 Queuing

Queuing requirements establish the priority of a prospective user, against other prospective users, to access spare or developable pipeline capacity. These must establish a process or mechanism (or both) for establishing an order of priority between prospective users of spare or developable capacity (or both) in which all prospective users (whether associates of, or unrelated to, the service provider) are treated on a fair and equal basis. The queuing requirements must also be sufficiently detailed to enable prospective users to understand the basis of determining the order of priority and the prospective user's position in the queue.⁷

The APA VTS access arrangement does not specifically address queuing and notes instead in clause 6.1 that the order of priority between prospective Users of spare or developable

³ NGR, r. 48(1)(d)(ii).

⁴ NGR, r. 100.

⁵ These are set out in NGR Part 19.

⁶ APA VTS - *Access Arrangement 2023-27 - MARKUP* - December 2021, Schedule F.

⁷ NGR, 103(2).

capacity is determined on a daily basis in accordance with Part 19 of the NGR.⁸ We are satisfied that this approach provides sufficient transparency on how the priority of prospective users of any spare or developable capacity is determined. This is consistent with our decisions for the current and previous access arrangements for the VTS.

Our draft decision accepts APA's proposed clause 6.1 and does not require any amendments.

11.4.3 Extensions and expansions

These provisions specify the method for deciding whether an extension or expansion occurring during an access arrangement period will be treated as part of the covered pipeline and, if so, the impact this will have on reference tariffs.⁹ An 'extension' allows the pipeline to service new locations, while an 'expansion' increases the amount of gas an existing length of pipeline can carry.

The NGR requirements for extensions and expansions are in rule 104, which provides:

- the access arrangement may state whether it will apply to incremental services to be provided as a result of a particular extension to, or expansion of the capacity of, the pipeline, or outline how this may be dealt with at a later time: rule 104(1)
- if an access arrangement is to apply to incremental services, the requirements must deal with the effect of the extension or expansion on tariffs: rule 104(2)
- the requirements cannot require the service provider to provide funds for extension or expansion works unless the service provider agrees: rule. 104(3).

APA has not proposed any changes to the extensions and expansions requirements clauses 7.1 and 7.2 of its access arrangement. Clause 7.1 provides for case by case consideration of pipeline extensions, allowing us to consider the circumstances of any particular extension. It also sets out a decision-making process which we regard as clear and reasonable. Clause 7.2 provides that expansions will be covered by the access arrangement unless the AER expressly agrees otherwise.

We remain satisfied that these provisions meet the requirements of the NGR.

Our draft decision accepts APA's proposed clauses 7.1 and 7.2 and does not require any amendments to them.

11.4.4 Capacity trading

The capacity trading requirements deal with the transfer of a user's contracted capacity to another user.¹⁰ Where the service provider is registered as a participant in a particular gas

⁸ APA VTS - *Access Arrangement 2023-27 - MARKUP* - December 2021, cl. 6.1.

⁹ NGR, r. 48(1)(g) for full access arrangements, r. 45(1)(f) for limited access arrangements for light regulation services, r. 129(1)(f) for international pipelines, and r. 24(2)(c)(v) for CTP access arrangements.

¹⁰ NGR, r. 105(2).

market, the access arrangement must provide for transfer in accordance with the rules or procedures governing the relevant gas market.¹¹

However, capacity trading between shippers is not possible on the VTS, due to the uniqueness of the Victorian wholesale gas market arrangement. As we noted in our decision for the current period, capacity trading is not possible on the VTS. Most Australian gas markets are based on bilateral arrangements between producers, major users and retailers linked together through pipeline hubs connecting gas fields to gas consumers. By comparison, in Victoria a wholesale gas market has been established to enable competitive trading based on injections into and withdrawals from a transmission system that links multiple producers, major users and retailers. Under this model, the VTS is subject to the Declared Wholesale Market Rules in part 19 of the NGR. These rules do not provide for capacity trading. Rather, AEMO is responsible for managing capacity, on a daily basis, throughout the Victorian wholesale gas market.¹²

APA's proposal does not include any changes to its treatment of capacity trading requirements, which notes that the APA VTS is registered as a participant in the Victorian Declared Wholesale Gas Market, and as such, under rule 105 of the NGR, any transfer of capacity must be undertaken in accordance with rules or procedures governing the Victorian Declared Wholesale Gas Market. There are no applicable capacity trading requirements for the purposes of Rules 48(1)(f) or 105 of the NGR.¹³

We maintain our view that this approach is acceptable in the unique circumstances of the VTS.

Our draft decision accepts APA's proposed clause 5.1 and does not require any amendments to it.

11.4.5 Changing receipt and delivery points

A receipt or delivery point is a point on a pipeline at which a service provider takes delivery of natural gas or delivers natural gas. An access arrangement must allow a user, with the service provider's consent, to change the user's receipt or delivery point. The NGR places controls on the service provider's capacity to withhold its consent to a requested change.

As with capacity trading, the injection and removal of gas is governed by the Victorian Declared Wholesale Gas Market rules and managed by AEMO on a daily basis. Under those rules the Service Provider's consent is not required for a user to change its receipt or delivery point.

APA's proposal does not include any changes to the existing clause 5.2, which effectively restates this.¹⁴ We maintain our view that it is acceptable in the circumstances of the VTS.

¹¹ NGR, r. 105(1)(a).

¹² In accordance with NGR Part 19.

¹³ APA VTS - *Access Arrangement 2023-27 - MARKUP* - December 2021, cl. 5.1.

¹⁴ APA VTS - *Access Arrangement 2023-27 - MARKUP* - December 2021, cl. 5.2.

Our draft decision accepts APA’s proposed clause 5.2 and does not require any amendments to it.

11.4.6 Revision and commencement dates

Rule 49(1) of the NGR requires that a full access arrangement must contain a review submission date and a revision commencement date and must not contain an expiry date.

Rule 50(1) further provides that, as a general rule:

- a review submission date will fall four years after the access arrangement took effect or the last revision commencement date; and
- a revision commencement date will fall five years after the access arrangement took effect of the last revision commencement date.

The AER is required to accept a service provider’s proposed review submission and commencement dates if made in accordance with this general rule.

APA has proposed a review submission date of 1 December 2026, and a revision commencement date of 1 January 2028, for its next access arrangement review.¹⁵ These dates preserve the current, 5-calendar year cycle for VTS access arrangements. They also preserve the practice, approved in our last decision for the VTS, of submitting the initiating proposal 13 months prior to commencement rather than the minimum 12 months. This creates space for a longer period for consultation on the initial proposal to accommodate the December/January holiday period.

Our draft decision accepts APA’s proposed review submission and revision commencement dates and does not require any amendments to these.

11.5 Revisions

We do not require APA to make any revisions to the above components of its access arrangement proposal.

¹⁵ APA VTS - Access Arrangement 2023-27 - MARKUP - December 2021, cl. 1.5.

Shortened forms

Term	Definition
AER	Australian Energy Regulator
AEMO	Australian Energy Market Operator
APA / APA VTS	APA VTS Australia (Operations) Pty Ltd and APA VTS Australia (NSW) Pty Ltd
NGL or Law	National Gas Law
NGO	National Gas Objective
NGR or Rules	National Gas Rules
VTS	Victorian Transmission System