



DRAFT DECISION
Amadeus Gas Pipeline
Access Arrangement

2021 to 2026

Attachment 11
Non-tariff components

November 2020

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Note

This attachment forms part of the AER's draft decision on the access arrangement that will apply to APT Pipelines (NT) Pty Ltd (APTNT)'s Amadeus Gas Pipeline for the 2021–2026 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 – Efficiency carryover mechanism

Attachment 9 – Reference tariff setting

Attachment 10 – Reference tariff variation mechanism

Attachment 11 – Non-tariff components

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11 Non-tariff components

APT Pipelines (NT) Pty Limited (APTNT) proposed a revised access arrangement to apply to its Amadeus Gas Pipeline (AGP) for the 2021–26 access arrangement period. This attachment contains our draft decision and reasons on the non-tariff components of APTNT’s access arrangement proposal for the 2021–26 access arrangement period.

The non-tariff components are as follows:

- 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 capacity
- extension and expansion requirements – the method for determining whether an extension or expansion is a 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 a revision commencement date.

Together, we refer to these as the non-tariff components of the access arrangement. Our assessment of each non-tariff component is set out below.

11.1 Draft decision

Our draft decision is to approve all of the amendments that APTNT has proposed to the Amadeus Gas Pipeline Terms and Conditions (terms and conditions).¹

While some of the proposed amendments to the terms and conditions are aimed at modernising and simplifying the document (such as updating definitions and reflecting recent regulatory changes), the remaining proposed amendments are more substantive (such as the addition of an interruptible service to its list of pipeline services).

We are aware that APTNT has engaged with stakeholders over a 12 month period in developing the Amadeus Gas Pipeline 2021–26 access arrangement proposal.² In addition, stakeholders did not raise any concerns regarding the proposed amendments during public consultation.

¹ APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal*, July 2020.

² APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal, Overview*, July 2020, pp. 6–14.

The AER considers the proposed changes do not change the risk allocation between APTNT and the users of the Amadeus Gas Pipeline in the 2021–26 access arrangement proposal as compared to the current period access arrangement.

11.2 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

This requires us to assess and balance the competing interests of the service provider, network 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
- the need to ensure clarity and certainty, while avoiding an unduly prescriptive approach on commercial matters.

APTNT's consumer engagement in preparing the Amadeus Gas Pipeline 2021–26 proposal is a marked improvement compared to consumer engagement on previous access arrangements for other assets. Stakeholders, including the Northern Territory community were consulted on plans for the pipeline. This occurred through a number of workshops and round table meetings with APTNT and its Amadeus Consumer Reference Group over a 12 month period prior to APTNT submitting its access arrangement proposal.⁵

11.2.1 Draft decision

Our draft decision is to accept the amendments APTNT is proposing to the Amadeus Gas Pipeline non-tariff components for the 2021–26 access arrangement period.⁶

We acknowledge APTNT's engagement with stakeholders and have assessed stakeholder submissions.

We approve APTNT's proposed non-tariff components to its terms and conditions. On balance, we consider the proposed terms and conditions have been informed by stakeholder engagement and generally maintain the allocation of risks between APTNT and other parties to the terms and conditions.

Section 11.2.3 below provides a high-level summary of the issues raised by stakeholders in submissions.

³ NGR, r. 48(1)(d)(ii).

⁴ NGR, r. 100.

⁵ APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal, Overview*, July 2020, pp. 6–14.

⁶ APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal*, July 2020.

Section 11.2.4 cross-references other attachments to this draft decision, highlighting some other areas of the APTNT's access arrangement proposal for the 2021–26 period where we require further information and/or amendment by APTNT in its revised proposal.

11.2.2 APTNT's proposal

APTNT is proposing amendments to the Amadeus Gas Pipeline terms and conditions, a majority of which are aimed at simplifying the document (such as updating definitions, reflecting recent regulatory changes and removing obsolete clauses/definitions). One of the more substantive proposed amendments is the addition of an interruptible service to its list of pipeline services.^{7 8} An interruptible service refers to services that are provided on an as available basis, where capacity usually available for the firm service is not consumed and made available to other pipeline users. This is an important new service on the Amadeus Gas Pipeline because capacity for firm transportation services is fully contracted to existing pipeline users.⁹

APTNT has actively engaged with its customers on the design of the interruptible service for inclusion in the 2021–26 access arrangement and stakeholders have supported the introduction of the new service and corresponding tariff.¹⁰ During the stakeholder submission phase of the proposed access arrangement for the Amadeus Gas Pipeline, we did not receive any concerns from stakeholders over the introduction of an interruptible service on the pipeline.

11.2.3 Issues raised by stakeholders

Stakeholders did not raise any concerns with the amendments proposed by APTNT for the Amadeus Gas Pipeline 2021–26 terms and conditions.

11.2.4 Other related matters

In other attachments to this draft decision, we highlight areas of APTNT's access arrangement proposal for the 2021–26 period where we require further information and/or amendment by APTNT in its revised proposal. For further information on those matters, we refer to the following attachments:

- Attachment 2 – Capital base
- Attachment 4 – Regulatory depreciation

⁷ APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal*, July 2020, cl. 7–13.

⁸ This is consistent with our November 2019 reference service proposal decision; AER, *Final Decision, APTNT (Amadeus) 2021–26 Reference Service Proposal*, November 2019.

⁹ APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal*, Overview, July 2020.

¹⁰ APTNT, *Amadeus Consumer Reference Group Roundtable 3a Presentation*, 20 April 2020. The material on APA's consumer engagement for the 2021–26 access arrangement revision can be found at: <https://www.apa.com.au/about-apa/our-projects/amadeus-gas-pipeline-access-arrangement>.

- Attachment 7 – Corporate income tax
- Attachment 8 – Efficiency carryover mechanism
- Attachment 9 – Reference tariff setting
- Attachment 10 – Reference tariff variation mechanism

11.3 Queuing requirements

Queuing can be used to determine access to a pipeline that is fully, or close to being fully, utilised. Queuing requirements establish the priority that a prospective user has, compared to other prospective users, to obtain access to spare and developable capacity on a covered pipeline.¹¹

Rule 103(1)(a) of the NGR requires a service provider to include queuing requirements in an access arrangement for a transmission pipeline. Under rule 103(3) of the NGR, queuing requirements 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.

Rule 103(4) of the NGR suggests how the order of priority might be determined (e.g. on a first-come-first-served basis, or on the basis of a publicly notified auction). Additionally, rule 103(5) of the NGR requires queuing requirements to be sufficiently detailed to enable prospective users to understand the basis on which an order of priority is determined.

APTNT has not proposed any revisions to its queuing requirements (section 6) under the current access arrangement.¹² Our draft decision is to accept APTNT's proposed provisions for queuing in the Amadeus Gas Pipeline 2021–26 access arrangement.

11.4 Extension and expansion requirements

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.¹³ An 'extension' allows the pipeline to service new locations, while an 'expansion' increases the amount of gas an existing length of pipeline can carry.

Extension and expansion requirements are set out in rule 104 of the NGR.

¹¹ NGR, r. 103(3).

¹² APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal*, July 2020, sections 6.1–6.5.

¹³ Rule 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.

- the access arrangement may state whether it will apply to incremental services to be provided as a result of a particular extension to the pipeline, or outline how this may be dealt with at a later time¹⁴
- the access arrangement must state it will apply to incremental services to be provided as a result of any expansion to the capacity of the pipeline and deal with the effects of the expansion on tariffs¹⁵
- if the access arrangement is to apply to incremental services to be provided as a result of an extension to the pipeline, the requirements must deal with the effect of the extension on the opening capital base, the description of reference services specified in the access arrangement proposal, and tariffs¹⁶
- the requirements cannot require the service provider to provide funds for extension or expansion works unless the service provider agrees.¹⁷

APTNT's proposal seeks to align the wording of section 7 ('Extensions and expansions') of its 2021–26 access arrangement with rule 104 ('Extension and expansion requirements') of the NGR, and remove the option for a service provider to propose that the access arrangement does not apply to incremental services.¹⁸ APTNT advise that the Amadeus Consumer Reference Group was also supportive of this amendment.¹⁹

Our draft decision is to accept APTNT's proposed amendments for extensions and expansions in the Amadeus Gas Pipeline 2021–26 access arrangement.

11.5 Capacity trading requirements

An access arrangement must set out capacity trading requirements, which deal with the transfer of a user's contracted capacity to another user.²⁰

Capacity trading requirements are set out in rule 105 of the NGR.

- the requirements must provide for the transfer of capacity in accordance with relevant rules/Procedures governing the relevant gas market in which the service provide is a registered participant, or in accordance with rule 105 if the service provider is not a registered participant or the rules/Procedures do not deal with capacity trading²¹

¹⁴ NGR, rr. 104(1), 104(2).

¹⁵ NGR, r. 104(3).

¹⁶ NGR, r. 104(4).

¹⁷ NGR, r. 104(5).

¹⁸ APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal, Overview*, July 2020, p. 56.

¹⁹ *Ibid*, p. 56.

²⁰ NGR, r. 48(1)(f).

²¹ NGR, r. 105(1).

- a user may, without the service provider’s consent, transfer, by way of subcontract, all or any of the user’s contracted capacity to a third party subject to rights, obligations and notification requirements set out in the rules²²
- a user may, with the service provider’s consent, transfer all or any of the user’s contracted capacity to a third party subject to rights, obligations and contractual consequences set out in the rules.²³ In this case, the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so²⁴
- the requirements may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.²⁵

APTNT has not proposed any revisions to section 5 (‘Capacity trading requirements’) of its proposed 2021–26 access arrangement.²⁶ Our draft decision is to accept APTNT’s proposed capacity trading in the Amadeus Gas Pipeline 2021–26 access arrangement.

11.6 Changing receipt or delivery points

An access arrangement must set out the terms and conditions for changing receipt and delivery points.²⁷

Requirements for changing receipt or delivery points by a user are set out in rule 106 of the NGR.

- an access arrangement must provide for the change of a receipt or delivery point by a user, with the service provider’s consent, where the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so²⁸
- the access arrangement may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given²⁹

APTNT has not proposed any revisions to section 5.4 (‘Changing delivery and receipt points’) of its proposed 2021–26 access arrangement.³⁰ Our draft decision is to accept APTNT’s proposed provisions for changing receipt and delivery points in the Amadeus Gas Pipeline 2021–26 access arrangement.

²² NGR, r. 105(2).

²³ NGR, r. 105(3).

²⁴ NGR, r. 105(4).

²⁵ NGR, r. 105(6).

²⁶ APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal, Overview*, July 2020, sections 5.1–5.3.

²⁷ NGR, r. 48(1)(h).

²⁸ NGR, r. 106(1).

²⁹ NGR, r. 106(2).

³⁰ APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal*, July 2020, section 5.4.

11.7 Review submission date and revision commencement date

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

Under the NGR:³¹

- a 'review submission date' means a date on or before which an access arrangement revision proposal is required to be submitted
- a 'revision commencement date' means the date fixed in the access arrangement as the date on which revisions resulting from a review of an access arrangement are intended to take effect.

Rule 50(1) of the NGR requires APTNT, as part of its access arrangement proposal, to propose a 'review submission date' and a 'revision commencement date'. The proposed revision commencement date must be not less than 12 months after the proposed review submission date.

Under rule 50(2) of the NGR, we must approve the dates proposed by APTNT if we are satisfied that those dates are consistent with the NGO and the revenue and pricing principles and if the proposed revision commencement date is not less than 12 months after the proposed review submission date.

APTNT has proposed a review submission date of 1 July 2025 and a revision commencement date of 1 July 2026 in the proposed Amadeus Gas Pipeline 2021–26 access arrangement.³²

The access arrangement period for the Amadeus Gas Pipeline 2021–26 access arrangement is 1 July 2021 to 30 June 2026. The access arrangement period for the subsequent Amadeus Gas Pipeline 2026–31 access arrangement is likely to be 1 July 2026 to 30 June 2031.

Our draft decision is to accept APTNT's proposed review submission date and revision commencement date for the Amadeus Gas Pipeline 2021–26 access arrangement.

³¹ NGR, r. 3.

³² APTNT, *Amadeus Gas Pipeline 2021–26 Access Arrangement Revision Proposal*, July 2020, cl. 1.6.

Terms and Conditions

This draft decision for APTNT approves an access arrangement for the 2021–26 access arrangement period, as well as the terms and conditions which is a schedule to the access arrangement.

Both documents have been published as separate documents as part of our 2021–26 draft decision for APTNT. Please refer to those separate documents for “clean” and “tracked” (comparing our 2021–26 draft decision to APTNT’s 2021–26 initial proposal) versions of the approved draft decision documents.

Shortened forms

Shortened form	Extended form
AER	Australian Energy Regulator
AGP	Amadeus Gas Pipeline
APTNT	APT Petroleum Pipelines Northern Territory
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules