



**DRAFT DECISION**  
**AusNet Services**  
**Gas access arrangement**  
**2018 to 2022**

**Attachment 12 – Non tariff**  
**components**

July 2017

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Inquiries about this publication should be addressed to:

Australian Energy Regulator  
GPO Box 520  
Melbourne Vic 3001

Tel: 1300 585 165

Email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

## Note

This attachment forms part of the AER's draft decision on the access arrangement for AusNet Services for 2018-22. 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 - Value of imputation credits

Attachment 5 - Regulatory depreciation

Attachment 6 - Capital expenditure

Attachment 7 - Operating expenditure

Attachment 8 - Corporate income tax

Attachment 9 - Efficiency carryover mechanism

Attachment 10 - Reference tariff setting

Attachment 11 - Reference tariff variation mechanism

Attachment 12 - Non-tariff components

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## Shortened forms

Shortened form	Extended form
AER	Australian Energy Regulator
ATO	Australian Tax Office
capex	capital expenditure
CAPM	capital asset pricing model
CESS	Capital Expenditure Sharing Scheme
CPI	consumer price index
DRP	debt risk premium
ECM	(Opex) Efficiency Carryover Mechanism
ERP	equity risk premium
Expenditure Guideline	Expenditure Forecast Assessment Guideline
gamma	Value of Imputation Credits
MRP	market risk premium
NGL	National Gas Law
NGO	national gas objective
NGR	National Gas Rules
NPV	net present value
opex	operating expenditure
PTRM	post-tax revenue model
RBA	Reserve Bank of Australia
RFM	roll forward model
RIN	regulatory information notice
RPP	revenue and pricing principles
SLCAPM	Sharpe-Lintner capital asset pricing model
STTM	Short Term Trading Market
TAB	Tax asset base
UAFG	Unaccounted for gas
WACC	weighted average cost of capital
WPI	Wage Price Index

## 12 Non-tariff components

This attachment contains our draft decision and reasons on the non-tariff components of AusNet's access arrangement proposal.

The non-tariff components are as follows:

- the terms and conditions for the supply of reference services
- 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 delivery and receipt points
- provisions for receipt and delivery point changes, and
- a review submission date and a revision commencement date.<sup>1</sup>

### 12.1 Draft decision

Our draft decision is to accept AusNet's proposed non-tariff components, subject to one minor change to improve the clarity of its extensions and expansions policy (see section 12.3 below).

### 12.2 Terms and conditions

The NGR require an access arrangement to specify the terms and conditions on which each reference service will be provided.<sup>2</sup> These must be consistent with the NGO.<sup>3</sup> 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; and
- the need to ensure clarity and certainty, while avoiding an unduly prescriptive approach on commercial matters.

Our draft decision is to accept the terms and conditions as proposed.

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<sup>1</sup> Although not required in the present case, all transmission pipelines and some distribution pipelines are also required to set out how any spare or developable capacity will be allocated among prospective users ('queuing requirements' - see NGR r. 103.

<sup>2</sup> NGR, r. 48(1)(d)(ii).

<sup>3</sup> NGR, r. 100.

AusNet's terms and conditions are largely identical to those in the current access arrangement, apart from minor updating and minor drafting corrections. AusNet has appropriately updated some references and we consider the following changes of substance are reasonable.

Clause 9.4(a)(10) requires the provision of specific information where a customer is dependent upon life support equipment: a retailer must provide certain details and a copy of the certificate from a medical practitioner confirming this. This clause reflects the expanded version of life support equipment in the Victorian Energy Retail Code.

New clause 12.2(e) requires AusNet to be notified in circumstances where there is an insolvency event. We consider this reasonable as it is for the purpose of managing risk.

We received a late submission from AGL which suggested a number of amendments to address its issues with the terms and conditions.<sup>4</sup> Our consideration of AGL's submission is set out below.

### 12.2.1 Duty to negotiate

AGL submitted that an amendment is needed to better facilitate the creation of commercial agreements differing from the terms and conditions in the access arrangement. It states that distributors are reluctant to negotiate and this is hampering the introduction of new services by retailers. AGL acknowledges the NGL already provides for commercial negotiation, but states it has experienced difficulty in progressing negotiations. AGL's proposed clause is:<sup>5</sup>

The Service Provider must exercise best endeavours to enter into a commercial arrangement with a User in a timely manner where the user can demonstrate the agreement would provide benefits to the end customer and the agreement can mitigate risk to the service provider and be provided in a fair and equitable format to all Users.

We recently rejected AGL's request for the same clause to be included in AGN's access arrangement for its SA distribution network. We considered the clause to be unnecessary given the processes in the NGL and the NGR for negotiating access and resolving disputes.<sup>6</sup> We stated that we expect that both the service providers and users will negotiate in good faith, and in a timely manner, on such matters. We remain of the view that AGL's proposed negotiation clause is unnecessary.

We note that the COAG Energy Council has tasked the AEMC to review Parts 8-12 of the NGR, and to consider amendments to ensure pipeline operators with regulated

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<sup>4</sup> AGL Energy Limited - *Victorian gas access arrangement proposals*, 21 March 2017.

<sup>5</sup> AGL Energy Limited - *Victorian gas access arrangement proposals*, 21 March 2017.

<sup>6</sup> AER - *Draft decision Australian Gas Networks access arrangement 2016-21- Attachment 12 - Non-tariff components*, November 2015, p. 12-12.

transmission pipelines are unable to exercise market power on unregulated services.<sup>7</sup> We consider the AEMC's review is the appropriate path for addressing any issues regarding the accessibility of the dispute resolution mechanism in the NGL and NGR.

### 12.2.2 Reconnection

AGL submitted that the terms and conditions should require the service provider to notify the current retailer when reconnecting a user delivery point after disconnection from the network. AGL stated that the incumbent retailer is not advised by the network at the time of reconnection (from which point the network starts billing the incumbent retailer for consumption) that meter status should be switched from inactive to active. If it was so advised, AGL suggests that the retailer would try to make contact to the customer to set up an account. It proposed a new clause 6.4 to impose this obligation.

We considered a similar AGL proposal in our decision on AGN's South Australian Distribution Network.<sup>8</sup> Consistent with our earlier decision, we consider this is more appropriately a matter for the Retail Market Procedures or, if it is not an obligation to apply to all distributors, for commercial agreement between the parties. It is open to users to negotiate a similar term with AusNet. For these reasons, our draft decision is not to require AusNet to include this requirement in the terms and conditions.

### 12.2.3 Other amendments

AGL proposed changes to clauses 4.8, 7.4 and 13.2.. these clauses are in AusNet's current access arrangement. AGL provided little supporting discussion for these changes and did not identify any problems or issues arising from the current drafting other than to note that its suggested amendment to clause 13.2 would provide for greater clarity. Without further explanation for AGL's proposed amendments, our draft decision is to accept Multinet's drafting. We invite AGL to provide further information as to why there should be a shift in the balance of risk and how this would be consistent with the NGO

## 12.3 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.<sup>9</sup> 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:

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<sup>7</sup> COAG Energy Council, Communique 19 August 2016, Gas Market Reform Package, Measure 5.

<sup>8</sup> AER - *Draft decision Australian Gas Networks access arrangement 2016-21- Attachment 12 - Non-tariff components*, November 2015, p. 12-20.

<sup>9</sup> 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.



- 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: r. 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: r. 104(2)
- the requirements cannot require the service provider to provide funds for extension or expansion works unless the service provider agrees: r. 104(3).

The extensions and expansions clauses proposed by the three Victorian gas distribution businesses are quite similar to one another and virtually identical to the clause approved in AusNet's current access arrangement for its Victorian distribution system.

The proposal includes a clause dealing with extensions to un-reticulated townships, which among other things provides that capital expenditure on such extensions will on reduce the carry-over of cost-related efficiencies to the next access arrangement period.<sup>10</sup> This clause also appeared in the access arrangements for the previous access arrangement periods. It was intended to ensure that capital expenditure on such projects would not prejudice the carryover of efficiency gains against capital expenditure benchmarks under the efficiency carryover scheme which then applied to the network. While that scheme no longer applies, AusNet has proposed a new Capital Expenditure Sharing Scheme (CESS) for the coming access arrangement and submits that this clause should be retained. We have indicated elsewhere that we intend to accept the proposed CESS scheme,<sup>11</sup> and in these circumstances we accept that clause 8.4(d) should be retained.

Clause 5.6.3(a)(9) states the new tariff will be integrated into the Tariff Control Formula, however, clause 5.6.3(a)(10) states the new tariff will not be interpreted as a new tariff for the Tariff Control Formula. AusNet explained that these clauses deal with two differing circumstances:

- the first (clause 5.6.3(a)(9)) deals with the scenario where the agreed treatment of the extension is to create a new town tariff - requiring a mechanism to integrate the new tariff into the form of price control; and
- the second (clause 5.6.3(a)(10)) is for where the agreed treatment is that customers in the newly connected town will be charged using the existing tariff structure, and as a result the tariff is not a new tariff for the purpose of the interpretation of the reference tariff control formula.<sup>12</sup>

AusNet indicated it would be open to redrafting one or both of these clauses to better clarify the circumstances in which they apply, and suggested that clause (10) could be amended to include the following words at the outset:

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<sup>10</sup> AusNet, *Gas Access Arrangement Revision 2018-22 Part A*, cl. 5.6.3

<sup>11</sup> See attachment 14 to this draft decision.

<sup>12</sup> AusNet, Response to AER Information Request #9, 3 March 2017.

“Where the agreed treatment for a new town Extension is to utilise an existing tariff...”

We consider this would clarify the operation of the clauses, and our draft decision is to accept the proposed extensions and expansions policy and the suggested amendment to clause 5.6.3(a)(10) noted above.

## 12.4 Capacity trading and receipt/delivery points

An access arrangement must set out capacity trading requirements, which deal with the transfer of a user’s contracted capacity to another user.<sup>13</sup> It must also state the terms and conditions for changing receipt and delivery points.<sup>14</sup>

However capacity trading between users is not possible on AusNet’s Victorian distribution network. Unlike a transmission pipeline, Network Users do not have reserved capacity within the Network. The capacity of the Network is determined by the capacity of the Receipt Points to accept gas into the Network and the capacity of the Delivery Points to deliver gas out of the Network.

The Victorian gas market is different to other Australian gas markets. Those markets are based on bilateral arrangements between producers, major users and retailers linked together through pipeline hubs connecting gas fields to gas consumers. In Victoria, by comparison, the receipt points on a distribution network are ‘system withdrawal points’ for the purposes of the DWGM rules which are set out in Part 19 of the NGR, and the capacity of those points is allocated in accordance with those rules.

Similarly, delivery points on the Victorian gas distribution networks are ‘distribution supply points’ for the purposes of the Victorian Retail Market Procedures, and can be transferred between network users in accordance with those procedures.

AusNet proposes no changes to the existing clauses dealing with capacity trading and receipt/delivery points, which effectively provide that:<sup>15</sup>

- There are no applicable capacity trading requirements for the purposes of rules 48(1)(f) or 105(1) of the National Gas Rules;
- Any change to a receipt or delivery point will require the consent of the Service Provider, which will not be withheld without reasonable technical or commercial grounds;
- As the only receipt points are the custody transfer points between AusNet’s distribution system and other networks, it is unlikely the Service Provider would consent to a request to change a receipt point.

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<sup>13</sup> NGR, r. 48(1)(f).

<sup>14</sup> NGR, r. 106.

<sup>15</sup> AusNet, *Gas Access Arrangement Revision 2018-22 Part A*, cl. 5.7, 5.8.

- Requests for changes to any Customer Distribution Supply Point will be considered on a case-by-case basis, subject to technical and commercial feasibility, and will continue to be offered as a Service other than a Reference Service.

We maintain our view that this approach is acceptable in the unique arrangements governing the Victorian gas market.

## 12.5 Revision submission and commencement

Rule 49(1) of the NGR says that a full access arrangement that is not voluntary must contain a review submission date and a revision commencement date. As a general rule:<sup>16</sup>

- 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 or the last revision commencement date.

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

AusNet initially proposed a review submission date of 1 January 2022, but then indicated it would be prepared to bring this date forward by one month to 1 December 2021 to avoid the administrative difficulties of submitting in the holiday season.<sup>17</sup> AGN also proposed a review submission date of 1 December 2021, but APA-VTS and Multinet have confirmed they do not wish to change to an earlier date. Our draft decision is to accept AusNet's amended review submission date of 1 December 2021. However, to ensure AusNet is not disadvantaged by having to submit its revisions earlier than the others, we will be receptive if it seeks to change its revisions submission date to 1 January 2022 in response to this draft decision.

AusNet proposed a revision commencement date of 1 January 2023. This is consistent with the general rule, and our draft decision is to accept it.

## 12.6 Revisions

Add the following words before the start of clause 5.6.3(a)(10):

"Where the agreed treatment for a new town Extension is to utilise an existing tariff..."

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<sup>16</sup> NGR, r. 50.

<sup>17</sup> AusNet response to AER Information Request #9, 3 March 2017.