

Draft decision

Roma to Brisbane Pipeline Access Arrangement 2022 to 2027

Attachment 11 Non-tariff components

November 2021

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Note

This attachment forms part of the AER's draft decision on the access arrangement that will apply to APT Petroleum Pipelines Pty Limited's (APTPPL) Roma to Brisbane Pipeline (RBP) for the 2022–27 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 – 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

This attachment contains our draft decision and reasons on the non-tariff components for the Roma to Brisbane Pipeline (RBP) access arrangement proposal for the 2022–27 access arrangement period, as proposed by APT Petroleum Pty Limited (APTPL). Collectively, 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 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.

Our assessment of each non-tariff component is set out below.

11.1 Draft decision

Our draft decision approves APTPL’s proposed amendments to the non-tariff components of the RBP 2022–27 access arrangement proposal.

11.2 Terms and conditions

The National Gas Rules (NGR) require an access arrangement to specify the terms and conditions on which each reference service will be provided.² These must be consistent with the National Gas Objective (NGO).³ In deciding whether the terms and conditions are appropriate, the AER must have regard to the risk-sharing arrangements implicit in the reference tariff.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; and the need to ensure clarity and certainty, while avoiding an unduly prescriptive approach on commercial matters.

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 NGR, r. 48(1)(d)(ii).

³ NGR, r. 100(1)(a).

⁴ NGR, r. 100(2).

Overall, APTPPL's proposed amendments to the terms and conditions of its access arrangement for the 2022–27 period are non-contentious. The amendments primarily relate to clause updates to reflect the change from a single reference service to two separate direction-based reference services, in line with the AER's reference service determination,⁵ and aligning the document with changes made to the NGR over time.

In developing its proposed amendments to the terms and conditions, APTPPL directly engaged with stakeholders via its RBP Stakeholder Reference Group, commencing in April 2020 as part of its pre-lodgement consumer engagement program.⁶ The stakeholders included shippers, large customers, landholders, government departments and agencies.

11.2.1 Draft decision

Our draft decision is to approve APTPPL's proposed amendments to the terms and conditions in its RBP 2022–27 access arrangement proposal.⁷

The proposed terms and conditions for the 2022–27 period are largely unchanged from the 2017–22 period in terms of operability. The changes are generally limited to updates to clauses to accommodate two separate direction-based reference services and to align the document with changes made to the NGR over time. Accordingly, we consider there is no substantive change in risk allocation over the 2022–27 period between APTPPL and other parties to the terms and conditions.

We acknowledge APTPPL's stakeholder engagement in developing the proposed amendments to the terms and conditions. Stakeholders did not raise any concerns with the proposed amendments during APTPPL's consultation with its RBP Stakeholder Reference Group.

We note that the terms and conditions remain subject to a continuous improvement process, whereby the document is formally reviewed and amended (as appropriate) at each access arrangement review. We also note this does not prevent APTPPL from holding discussions with individual parties to better understand their business operating environments and to work through their specific issues and circumstances.

Section 11.2.2 summarises APTPPL's proposed amendments.

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

⁵ AER, *Final decision, APT Petroleum Pipelines Pty Ltd (APTPPL) – Roma to Brisbane Pipeline gas transmission determination 2022 to 2027 – Reference services*, November 2020.

⁶ APTPPL, *Roma to Brisbane Pipeline 2022–27 Access arrangement, Overview*, July 2021, pp. 10–12.

⁷ APTPPL, *Roma to Brisbane Pipeline 2022–27 Proposed revised access arrangement, 1 July 2022–30 June 2027*, July 2021.

11.2.2 APTPPL's proposal

APTPL proposes three key amendments to the RBP terms and conditions:

- Changing from a single reference service to two separate direction-based reference services – firm transportation eastbound and firm transportation westbound.⁸ This is consistent with the AER's November 2020 reference service proposal decision on the RBP.⁹ Consequently, a number of clauses and definitions have been updated to reflect this change to two separate direction-based reference services.
- Reducing the minimum term for the reference service from 3 years to 1 year, in response to the Energy Users Association of Australia's (EUAA) feedback on the draft RBP reference service proposal, as noted in the AER's November 2020 reference service proposal decision.¹⁰
- Simplifying the document and making it consistent with the NGR, such as standardising the gas day.¹¹
 - APTPL's proposal outlines its intention to harmonise the start time of the gas day between its 2022–27 access arrangement document and the NGR, however this was not reflected in the document. We have since confirmed with APTPL the term 'day' in section 2.1 of Schedule 2 ('definitions and interpretation') of the access arrangement document should be amended from "8:00 am" to "6.00 am" Australian Eastern Standard Time. Our draft decision reflects this amendment.

11.2.3 Issues raised by stakeholders

APTPL informs us that its proposed changes to the RBP terms and conditions (as summarised in section 11.2.2) reflect the feedback received from RBP stakeholders and their preference for only minor changes.

APTPL consulted RBP stakeholders on potential new queuing arrangements and introducing additional information into the access arrangement document, but there was no support from stakeholders to devote the resources to identifying improvement to the operation of the terms and conditions.¹²

We did not receive any stakeholder submissions on the RBP terms and conditions.

⁸ APTPL, *Roma to Brisbane Pipeline 2022–27 Proposed revised access arrangement, 1 July 2022–30 June 2027*, July 2021, cl. 2.3.1; APTPL, *Roma to Brisbane Pipeline 2022–27 Access arrangement, Overview*, July 2021, p. 34.

⁹ AER, *Final Decision, APT Petroleum Pipeline Pty Limited (APTPL) – Roma to Brisbane Pipeline 2022–27 Reference Service Proposal*, November 2020.

¹⁰ AER, *Final Decision, APT Petroleum Pipeline Pty Limited (APTPL) – Roma to Brisbane Pipeline 2022–27 Reference Service Proposal*, November 2020, p. 6.

¹¹ APTPL, *Roma to Brisbane Pipeline 2022–27 Access arrangement, Overview*, July 2021, p. 34.

¹² APTPL, *Roma to Brisbane Pipeline 2022–27 Access arrangement, Overview*, July 2021, p. 12.

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.¹³

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.

APTPL has not proposed any revisions to its queuing requirements (section 6) under the current access arrangement.¹⁴

As noted at section 11.2.3, APTPL consulted RBP stakeholders on potential new queuing arrangements, but there was no support for change.¹⁵ We did not receive any stakeholder submissions on RBP queuing requirements.

Our draft decision is to accept APTPL's proposed provisions for queuing in the RBP 2022–27 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.¹⁶ An 'extension' allows the pipeline to service new locations, while an 'expansion' increases the amount of gas an existing length of pipeline can carry.

¹³ NGR, r. 103(3).

¹⁴ APTPL, *Roma to Brisbane Pipeline 2022–27 Proposed revised access arrangement*, 1 July 2022–30 June 2027, July 2021, cl 6.1–6.6.

¹⁵ APTPL, *Roma to Brisbane Pipeline 2022–27 Access arrangement, Overview*, July 2021, p. 12.

¹⁶ 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 competitive tender process access arrangements.

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

- 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 time¹⁷
- 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 tariffs¹⁸
- 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 tariffs¹⁹
- the requirements cannot require the service provider to provide funds for extension or expansion works unless the service provider agrees.²⁰

APTPPL's proposal seeks to amend section 7 (Extensions and expansions) – specifically, section 7.2(a) – of its 2022–27 access arrangement by removing the option for a service provider to propose, and for the AER to agree, that the access arrangement will not apply to incremental services provided as a result of an expansion of pipeline capacity above existing capacity at the time it comes into operation.²¹

We consider the proposed amendment is acceptable as removal of the option for the service provider to put forward a proposal to the AER does not affect the basic operation of the existing clause, nor does this appear to affect the allocation of risks between APTPPL and other parties to the access arrangement.

We did not receive any stakeholder submissions on RBP extension and expansion requirements.

Our draft decision is to accept APTPPL's proposed amendments for extensions and expansions in the RBP 2022–27 access arrangement.

¹⁷ NGR, rr. 104(1), 104(2).

¹⁸ NGR, r. 104(3).

¹⁹ NGR, r. 104(4).

²⁰ NGR, r. 104(5).

²¹ APTPPL, *Roma to Brisbane Pipeline 2022–27 Proposed revised access arrangement, 1 July 2022–30 June 2027*, July 2021, cl 7.2.

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.²²

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 provider 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 trading²³
- 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 rules²⁴
- 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.²⁵ In this case, the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so²⁶
- 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.²⁷

APTPL has not proposed any capacity trading revisions to section 5 (Capacity trading) of its proposed 2022–27 access arrangement.²⁸

We did not receive any stakeholder submissions on RBP capacity trading requirements.

Our draft decision is to accept APTPL's proposed provisions for capacity trading in the RBP 2022–27 access arrangement.

²² NGR, r. 48(1)(f).

²³ NGR, r. 105(1).

²⁴ NGR, r. 105(2).

²⁵ NGR, r. 105(3).

²⁶ NGR, r. 105(4).

²⁷ NGR, r. 105(6).

²⁸ APTNT, *Roma to Brisbane Pipeline 2022–27 Proposed revised access arrangement, 1 July 2022–20 June 2027*, July 2021, cl 5.1–5.3.

11.6 Changing receipt or delivery points

An access arrangement must set out the terms and conditions for changing receipt and delivery points.²⁹

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 so.³⁰
- 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 given.³¹

APTPPL has not proposed any revisions to section 5.4 (Changing delivery and receipt points) of its proposed 2022–27 access arrangement.³²

We did not receive any stakeholder submissions on changing receipt or delivery points on the RBP.

Our draft decision is to accept APTPPL's proposed provisions for changing receipt and delivery points in the RBP 2022–27 access arrangement.

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:³³

- 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 APTPPL, as part of its access arrangement proposal, to propose a 'review submission date' and a 'revision commencement date'. The

²⁹ NGR, r. 48(1)(h).

³⁰ NGR, r. 106(1).

³¹ NGR, r. 106(2).

³² APTPPL, *Roma to Brisbane Pipeline 2022–27 Proposed revised access arrangement, 1 July 2022–20 June 2027*, July 2021, cl 5.4.

³³ NGR, r. 3.

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 APTPPL 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.

APTPPL has proposed a review submission date of 1 July 2026 and a revision commencement date of 1 July 2027.³⁴

The access arrangement period for the RBP 2022–27 access arrangement is 1 July 2022 to 30 June 2027. The access arrangement period for the subsequent RBP 2027–32 access arrangement is likely to be 1 July 2027 to 30 June 2032.

We did not receive any stakeholder submissions on the RBP review submission date and revision commencement date.

Our draft decision is to accept APTPPL’s proposed review submission date and revision commencement date for the RBP 2022–27 access arrangement.

11.8 Revisions

We require the following revisions to the proposed RBP RSA to make the access arrangement proposal acceptable:

Table 11.1 RBP non-tariff component revisions

Revision	Amendment
Revision 11.1	Update the definition of ‘day’ in section 2.1 of Schedule 2 of the RBP 2022–27 access arrangement as set out in section 11.2.2.

In other attachments to this draft decision, we highlight areas of the RBP access arrangement proposal for the 2022–27 period where we require further information and/or amendment by APTPPL in its revised proposal. For further information on those matters, we refer to the following attachments:

- Attachment 8 – Efficiency carryover mechanism
- Attachment 9 – Reference tariff setting
- Attachment 10 – Reference tariff variation mechanism

³⁴ APTPPL, *Roma to Brisbane Pipeline 2022–27 Proposed revised access arrangement, 1 July 2022–20 June 2027*, July 2021, cl. 1.6.

A Terms and Conditions

This draft decision for APTPPL approves the access arrangement for the 2022–27 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 RBP 2022–27 draft decision. Please refer to those separate documents for “clean” and “tracked” (comparing our 2022–27 draft decision to APTPPL’s 2022–27 initial proposal) versions of the approved draft decision documents.

B. Shortened forms

Shortened form	Extended form
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
APTPL	APT Petroleum Pipelines Pty Limited
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
RBP	Roma to Brisbane Pipeline