



APA GasNet Australia (Operations) Pty Limited

2013–17 Access arrangement

Decision

Pursuant to Orders of the Australian Competition Tribunal in
Application by APA GasNet Australia (Operations) Pty Limited
(No 3) [2013] ACompT 9

November 2013

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Background

In March 2013, the AER released its final decision on APA GasNet Australia (Operations) Pty Limited's (APA GasNet) access arrangement for the 2013–17 period. The AER did not accept APA GasNet's proposed access arrangement. The AER issued a revised access arrangement in April 2013. This access arrangement decision gave effect to the revisions required by the AER in its March 2013 final decision.

In May 2013, APA GasNet sought review by the Australian Competition Tribunal of the AER's access arrangement decision. The matter was heard in the Tribunal in August 2013. The Tribunal subsequently made orders remitting the matter to the AER to remake its decision in respect of two aspects of the access arrangement.

This document contains the AER's decision on APA GasNet's 2013-17 access arrangement period, made in accordance with the Tribunal's orders. The AER has amended APA GasNet's access arrangement and access arrangement information to reflect this decision.

1 Australian Competition Tribunal orders

In March 2013, the AER released its final decision on APA GasNet Australia (Operations) Pty Limited's (APA GasNet) access arrangement for the 2013–17 period. In its final decision, the AER did not accept APA GasNet's proposed access arrangement. The AER issued an access arrangement decision in April 2013. This access arrangement decision gave effect to the revisions required by the AER in its March 2013 final decision.

In making its April 2013 decision, the AER decided to:

- adjust APA GasNet's opening capital base to account for additional revenue earned by APA in the 2008–12 access arrangement period. APA GasNet's opening capital base for that access arrangement was calculated using an estimate of 2007 conforming capital expenditure (capex), as actual capex was not available at the time. APA GasNet's estimate of 2007 capex was approximately \$20 million higher than its actual capex. APA GasNet recovered a return on capital for this estimated capex over the five year access arrangement period. The AER made an adjustment to the 2013 opening capital bases to remove the accumulated return on capital that APA GasNet had earned because its estimated capital base was higher than its actual capital base. This adjustment was made by reducing the opening capital base by approximately \$13.2 million.
- apply an "interval of delay" adjustment to tariffs from 1 July 2013 to account for the six month delay between the intended start of the current access arrangement (1 January 2013) and the implementation of new tariffs (1 July 2013). This was because the AER's decision was not finalised by 1 January 2013, which allowed APA GasNet to keep its higher tariffs for the first six months of 2013. The "interval of delay" adjustment was intended to remove the benefit associated with the higher tariffs by applying a commensurate reduction in APA GasNet's tariffs in the 2013-17 period.

In May 2013, APA GasNet applied to the Australian Competition Tribunal (Tribunal) for review of the AER's access arrangement decision. APA GasNet sought review of the AER's decision:

- to apply an indexation adjustment to the regulatory depreciation allowance
- on the estimation of the weighted average cost of capital (WACC)
- to adjust the 2013 opening capital base by \$13.2 million to remove the return on capital arising from the difference between actual and estimated capex in 2007
- to include an "interval of delay" adjustment to reference tariffs.

The matter was heard by the Tribunal in August 2013.

On 18 September 2013, the Tribunal made its decision on the review. The Tribunal found the AER has not erred in its decisions on regulatory depreciation and the WACC. The Tribunal found the AER had erred in its decisions on the capital base adjustment and the "interval of delay". The Tribunal found that the NGR did not allow the AER to make these adjustments.¹

On 3 October 2013, the Tribunal made orders remitting the matter to the AER to remake its decision. The Tribunal's orders are as follows:

¹ The Tribunal's decision can be found on its website at www.competitiontribunal.gov.au

1. The decision of the Australian Energy Regulator under rule 64(4) of the National Gas Rules (NGR) dated 29 April 2013 entitled access arrangement decision: APA GasNet Australia (Operations) Pty Ltd 2013-17 (Access Arrangement Decision) is remitted to the AER to make the decision again in accordance with the following directions:
 - a. The revision commencement date stated in the 2008 GasNet Australia Access Arrangement is 1 July 2013 (being the date on which the revisions to that access arrangement actually commenced), so that there is no interval of delay upon which rule 92(3) of the NGR operated in respect of the period 1 January 2013 to 30 June 2013; and
 - b. In determining the opening capital base for the 2013-17 access arrangement period in accordance with rule 77(2) of the NGR, the opening capital base as at the commencement of the earlier access arrangement period should be adjusted for the difference between estimated and actual capital expenditure by removing the amount of that difference, and no further adjustment should be made to remove the return on capital on that amount.
2. There be no order as to costs.

1.1 The AER's approach to remaking its decision

The AER has made a number of adjustments to the access arrangement in order to implement the Tribunal's decision. These adjustments are reflected in the AER's calculation of APA GasNet's opening capital base, APA GasNet's total revenue requirement, and the resulting tariffs.

Order 1(a) affects the actual period of the access arrangement, as it specifies that the revisions commencement date is now 1 July 2013. As a consequence, the previous access arrangement period ended on 30 June 2013 and the new access arrangement period begins on 1 July 2013 – not 1 January 2013 as the AER had previously determined. The effect of Order 1(a) is that the AER has remade the opening capital base value at 1 July 2013.

In summary, to implement the Tribunal's orders, the AER has:

- rolled forward the capital base to 1 July 2013 using conforming capex and disposals from the earlier period. The new opening capital base removes the \$13.2 million adjustment made in the final decision, as required by Order 1(b).
- recalculated the total revenue requirement for each calendar year from 2013–17.
- determined the extent of revenue lost by APA GasNet in the second half of 2013 because of the “interval of delay” and capital base adjustments.
- adjusted 2014 revenues to include APA GasNet's lost revenues in the second half of 2013.² The adjustment is indexed to reflect the delay in recovery of the increments.
- amended tariffs for the final 4 years of the access arrangement period to take account of the new revenue requirement.
- made the necessary adjustments to remove the effect of the “interval of delay” from future tariffs.

² APA GasNet's tariffs are already in place for 2013, and were set in the AER's final decision. These tariffs will deliver APA a lower revenue outcome than the AER's remade decision, as they include an interval of delay adjustment and were determined on a lower capital base. Consequently, an adjustment must be made to APA's revenue in future years to ensure that it receives its revenue requirement for the 4.5 year period.

In addition to this, the shortening of the access arrangement period has required changes to some of the approved forecasts in APA GasNet's access arrangement information. The AER has adjusted the approved forecasts for capex and opex in 2013 to reflect the half year period. In addition, some definitions within the access arrangement and access arrangement information have been updated to reflect the new access arrangement period.

In the course of remaking its decisions to reflect the Tribunal's orders, the AER consulted with APA GasNet on the necessary adjustments to be made, including any consequential adjustments, and how these would be reflected in the modelling. In general, agreement was reached with APA GasNet on the required changes, though there remained one point of difference on the value of capex to be used in determining an opening capital base as of 1 July 2013.

This decision document is set out in the following way:

- Chapter 2 – an assessment of actual conforming capex for 2012 and the period 1 January 2013 to 30 June 2013 (this is necessary to provide the basis for the capital base roll forward)
- Chapter 3 – changes to building block forecasts
- Chapter 4 – the opening capital base at 1 July 2013
- Chapter 5 – total revenue requirement for the access arrangement period
- Chapter 6 – reference tariffs.

The AER has released an updated version of APA GasNet's access arrangement and access arrangement information to reflect this decision.

This decision is made on the basis of APA GasNet's actual conforming capex and disposals for 2012 and the first half of 2013, rather than an estimate. Consequently, the opening capital base for 1 July 2013 will not need to be adjusted for the next access arrangement period.³

³ The next access arrangement period commences on 1 January 2018.

2 Capital expenditure

The AER approves \$54.8 million (\$nominal) total net capex for 2012 and \$13.1 million (\$nominal) for the first half of 2013⁴ as conforming capex under r. 79(1) of the NGR. Table 2.1 sets out the AER's decision on capex by category in the two periods. The AER's assessment of conforming capex is outlined below.

Table 2.1 AER approved capital expenditure by category (\$million, nominal)

Category	2012	2013 (1 st half)	Total
Augmentation	41.2	6.2	47.3
Refurbishment and upgrade	9.7	5.2	14.9
System total	50.9	11.4	62.3
Non-system	4.1	1.7	5.8
Total	55.0	13.1	68.1

Source: AER analysis

Note: Totals may not add due to rounding.

The AER accepts that these figures reflect conforming capex. Of note is that APA GasNet's actual capex for 2012 is lower than the estimate of conforming capex used in the AER's final decision. Further, APA GasNet's actual capex for the first half of 2013 is \$13.1 million, less than half the approved forecast of \$31 million (\$nominal) in the AER's final decision.⁵ Given these lower figures and taking into account the AER's previous assessment of the 2012 estimate and the 2013 forecast for conforming capex in its final decision,⁶ the AER accepts that the lower expenditure is prudent and efficient, and complies with r. 79(1) of the NGR.

⁴ The period 1 January 2013 to 30 June 2013.

⁵ AER, *Access arrangement final decision: APA GasNet (Operations) Pty Ltd 2013–17*, March 2013, Part 2, p. 30.

⁶ AER, *Access arrangement final decision: APA GasNet (Operations) Pty Ltd 2013–17*, March 2013, Part 2, pp. 32-52.

3 Changes to 2013 capex and opex forecasts

The Tribunal's decision has set the commencement date of APA GasNet's 2013–17 access arrangement at 1 July 2013. In its final decision, the AER set capex and opex forecasts based on the full year 2013 being part of the 2013-17 access arrangement period. However, these must be adjusted, as the first half of 2013 is not part of the access arrangement period. Consequently, the forecasts for 2013 in this access arrangement period need to reflect a half year value rather than full year value. No adjustments need to be made to the forecasts used in the remaining four years of the access arrangement.

In making adjustments to the forecasts, the AER has sought to reflect the approved forecasts in the original final decision.

3.1 Capex

The AER approves a forecast capex amount of \$18.2 million (\$nominal) as conforming for the period 1 July 2013 to 31 December 2013. The AER determined this figure by:

- taking the full-year approved capex forecast for 2013 from the final decision (\$31.3 million)
- subtracting APA GasNet's actual conforming capex for the first half of 2013 (\$13.1 million)

This approach is informed by the AER's previous assessment of forecast capex for 2013 as set out in its final decision.⁷ It is also consistent with its approach to establishing conforming capex for the first half of 2013 (see section 2).

3.2 Opex

The AER approves a forecast opex amount of \$15.3 million (\$nominal) for the period 1 July 2013 to 31 December 2013. The AER determined this figure by halving the value of 2013 forecast opex from the final decision: \$30.6 million (\$nominal).⁸ The AER considers that opex is, in general, a recurrent form of expenditure. The AER expects that APA GasNet's opex requirements are likely to be similar in each half of 2013. The AER considers that, in line with its final decision on opex and the assessment of forecast opex in that decision, it is appropriate to halve the original approved forecast. APA GasNet agrees with this approach.⁹

⁷ AER, *Access arrangement final decision: APA GasNet (Operations) Pty Ltd 2013–17*, March 2013, Part 2, pp. 32-52.

⁸ AER, *Access arrangement final decision: APA GasNet (Operations) Pty Ltd 2013–17*, March 2013, Part 2, p. 115.

⁹ Email correspondence from APA GasNet, 9 October 2013.

4 Opening capital base

The AER has calculated the opening capital base for 1 July 2013 in accordance with the Tribunal's orders.

4.1 Decision

The Tribunal decision has affected the capital base which the AER had determined as at 1 January 2013. The capital base roll forward for the 2008–12 access arrangement period is set out in table 3.1.

Table 3.1 AER's decision on APA GasNet's capital base roll forward for 2008–12 (\$million, nominal)

	2008	2009	2010	2011	2012
Opening capital base	559.6	591.1	583.2	575.9	613
Net capex	37.8	10.2	10.6	53.6	54.8
Less: regulatory depreciation	6.4	18.2	17.9	16.4	20.2
Closing capital base	591.1	583.2	575.9	613	647.6
Less: Difference between 2007 forecast and actual capex					20.0
Capital base at 1 January 2013					627.7

Source: AER analysis.

Note: Totals may not add due to rounding.

Taking the 1 January 2013 capital base and rolling it forward six month, the AER has determined an opening capital base of \$635.9 million (\$nominal) as at 1 July 2013. The change in access arrangement period has affected the projected capital base for the 2013–17 access arrangement period. The AER has determined a projected closing capital base of \$755.4 million (\$nominal) as at 31 December 2017 and this is set out in table 3.2.¹⁰

¹⁰ APA GasNet also has a capital base calculated on an as commissioned basis. Similar changes were made to that capital base to reflect the Tribunal decision and actual capex and disposals from 1 January 2012 to 30 June 2013. For simplicity this calculation is not shown. The updates also affect the tax asset base, but again for simplicity these roll forwards are not shown.

Table 3.2 AER's decision on APA GasNet's projected (as incurred) capital base roll forward for 2013–17 access arrangement period (\$million, nominal)

	1-Jan-13	1-Jul-13	2014	2015	2016	2017
Opening capital base	627.7	635.9	649.9	745.7	759.4	760.6
Net capex	13.0	18.7	102.9	26	14.7	9.8
Less: regulatory depreciation	4.7	4.7	10.5	12.1	13.5	12
Closing capital base	635.9	649.9	742.5	756.3	757.5	755.4

Source: AER analysis.

Note: Totals may not add due to rounding.

The opening capital base at 1 July 2013 has been arrived at using APA GasNet's actual conforming capex and disposals for 2012 and for the period 1 January 2013 to 1 July 2013.

APA GasNet disagrees with the AER's approach.¹¹ APA GasNet considers that the AER should only use forecast capital expenditure set out in the AER's final decision to determine revenues for the 2013-17 access arrangement period. It considers that using actual values would be inconsistent with the AER's methodology to use the current 5 year Post Tax Revenue Model as well as the Tribunal's decision on the opening capital base.¹²

The AER considers it reasonable to use actual conforming capex in 2012 and the first half of 2013. This is because as a direct consequence of the later commencement date of the access arrangement period, the AER must now roll forward the opening capital base to 1 July 2013 instead of 1 January 2013. This resulted from the Tribunal's decision on the interval of delay, and is unrelated to the Tribunal's decision on the use of an estimate to determine the opening capital base in circumstances where actual values are not available.

Relevantly, in the course of remaking its decision as directed by the Tribunal, APA GasNet provided actual values for both 2012 and the first half of 2013. The AER must include conforming capex from the earlier period when rolling forward the capital base. Accordingly, the AER used the values provided by APA GasNet as they are the most accurate up to date values of actual expenditure available. The AER considers that its use of the actual values does not impact upon its use of the current 5 year Post Tax Revenue Model which has been adjusted to reflect the change to a 4.5 year period.

¹¹ Email correspondence from APA GasNet, Response to Information Request 2, 22 October 2013, and Email correspondence from APA on 4 November 2013.

¹² Response to Information Request 2, 22 October 2013, p. 2.

5 Total revenue requirement

The total revenue requirement is a forecast of the efficient cost of providing gas transmission services over the access arrangement period.

The AER determined APA GasNet's total revenue requirement in its final decision by assessing each of APA GasNet's building block costs.¹³

However, as noted earlier, the Tribunal's decision has increased the value of the opening capital base and had other consequential effects. The increase in the capital base increases the value of the return on capital, regulatory depreciation, and corporate income tax building blocks over the four and a half year period. Consequently, the AER must adjust the total revenue requirement to take account of these higher building block values.

The AER's original decision also adjusted APA GasNet's tariffs downwards to reflect an interval of delay. As the Tribunal has decided that no interval of delay applies to APA GasNet's access arrangement, the AER must make adjustments to the total revenue requirement to compensate APA GasNet for lost revenue in the second half of 2013.

Consequently, the AER has made a new decision on the total revenue requirement for APA GasNet.

5.1 Decision

The AER's decision on the total (unsmoothed) expected revenue derived from APA GasNet's reference services is \$493.1 million (\$nominal) from 1 January 2013 to 31 December 2017. Table 5.1 shows the AER's decision on the revenue requirement for each of the building blocks, the smoothed revenues and revised X factors for the final four years of the access arrangement period.

The table also shows the adjustment to 2014 revenues (an increase of \$0.6 million) to give effect to the Tribunal's decision on the opening capital base. This adjustment is equivalent to half the increase in the 2013 revenue requirement.¹⁴

Table 5.1 AER's final decision on APA GasNet's revenue requirements for its reference services (\$million, nominal)

	2013	2014	2015	2016	2017	Total
Return on capital	45.3	46.9	53.6	54.6	54.7	255.0
Regulatory depreciation	9.5	10.4	12.2	13.5	12.0	57.6
Operating expenditure	30.6	30.7	32.4	34.3	35.1	163.1
Net corporate income tax allowance	3.5	3.8	3.5	3.6	2.9	17.3
Annual building block requirement (unsmoothed)	88.9	91.8	101.7	106.0	104.7	493.1
Plus: adjustment for incremental revenues		0.6				

¹³ The AER uses the building block approach to determine the total revenue requirement. This approach is set out in Part 1 of the AER's final decision on APA GasNet's access arrangement for 2013–17.

¹⁴ The amount is halved to reflect the interval of delay - that the new access arrangement period begins on 1 July 2013.

lost in 2013.					
Annual building block requirement (for final 4 years) (unsmoothed)	92.5	101.7	106.0	104.7	404.8
Annual expected revenue (for final four years) (smoothed)	93.5	98.5	100.6	103.2	395.8
X factors (for final four years)	10.4%	3%	0%	0%	n/a

Source: AER analysis.

5.2 AER approach to modelling the revenues

The AER has determined revenues by calculating a new value for each year of the access arrangement. To avoid complications and errors that can arise in the modelling of revenues for a half year, the AER has used a value of the opening capital base at 1 January 2013 to find the new revenue requirement. The total revenue for the years 2014–17 are determined in this manner. APA GasNet accepts this modelling approach.¹⁵

To calculate the adjustment to 2014 total revenue to give effect to the Tribunal’s decision on interval of delay, the AER:

- calculated the 2013 total revenue requirement with the new opening capital base value (post-tribunal decision)
- subtracted the 2013 total revenue requirement that had been calculated in the final decision (pre-tribunal decision)

As the adjustment only related to the second half of 2013, the AER had to make a further adjustment to this figure to determine the amount of additional revenue APA GasNet should have received in 2013. The AER multiplied the figure by 0.5 to arrive at a half year value. This figure was then inflated by ½ the WACC to reflect the delay in APA GasNet receiving this incremental revenue.

¹⁵ Email correspondence from APA GasNet, Response to Information Request 2, 22 October 2013.

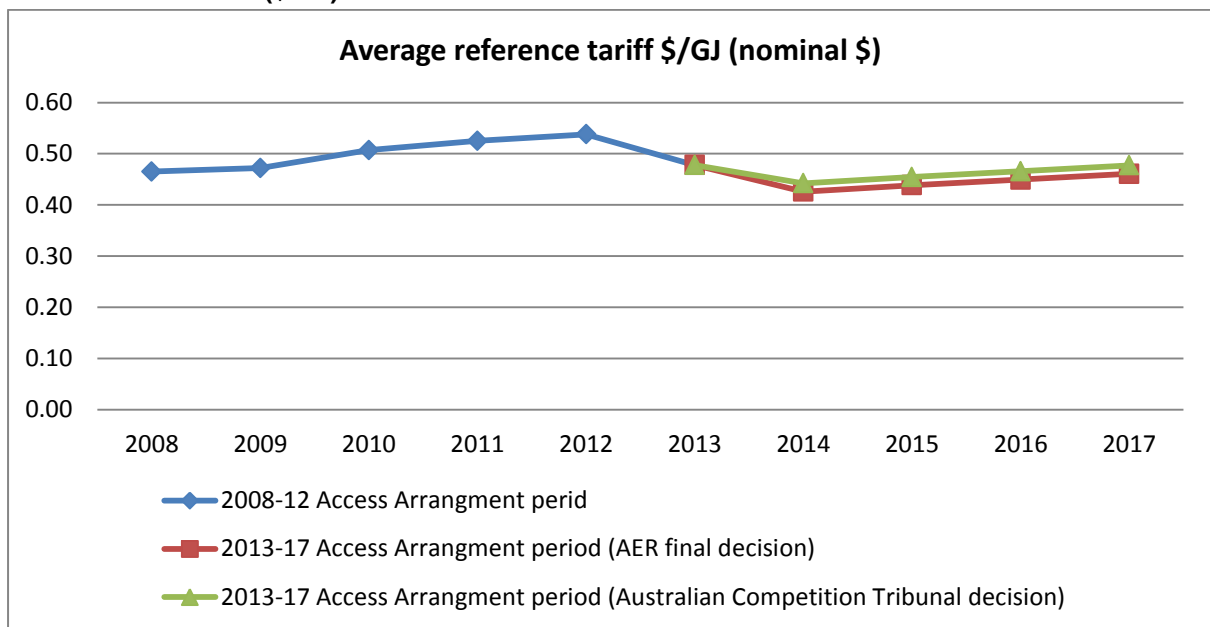
6 Reference tariffs

The tariffs charged by APA GasNet give it the opportunity to recover at least its total revenue requirement in the access arrangement period (reflecting its efficient cost). APA GasNet's total revenue requirement has increased due to the higher opening capital base allowed in this decision and the removal of the interval of delay provisions. Consequently, reference tariffs need to be adjusted to reflect the new total revenue requirement.

6.1 Decision

The AER has applied a uniform uplift of 3.6 per cent to APA GasNet's tariffs for 2014 reflecting its decision. The AER's decision on the revised X factors will result in average reference service transmission charges that are 7.6 per cent lower than average reference service charges per GJ for the 2008–12 access arrangement period.

Figure 6.1 Indicative reference paths for APA GasNet's reference services from 2013 to 2017 (\$/GJ)



Source: AER Analysis.

Note: This chart shows an indicative tariff path, based on forecast revenues and forecast demand for APA GasNet's network.