



26 November 2010

**Mr Warwick Anderson
General Manager
Network Regulation North Branch
Australian Energy Regulator**

Email: qldsagas@aer.gov.au

Envestra Gas Access Arrangement 2011 - 2016

Dear Mr Anderson,

AGL Energy Limited (**AGL**) welcomes the opportunity to comment on the proposals submitted for Envestra Limited Qld gas networks Access Arrangement (**Access Arrangement**) for the period 1 July 2011 to 30 June 2016.

Envestra's Access Arrangement Information makes frequent references to declining average consumptions and to new customers using less than existing customers. Envestra assert that demand forecasts need to be approved at a "realistic level". If this is indeed the case, then AGL trusts that the proposed capital expenditures to connect even more new customers has adequate allowances for customer surcharges to allow this non-conforming expenditure to take place. Otherwise, we will see a continuous increase in reference tariffs to shore up the new connections which do not provide the minimum returns. Rule 83 of the NGR is quite explicit about the treatment of non-conforming capital expenditure.

AGL notes that Envestra proposes to continue invoicing in advance for distribution reference services, as set out in clause 20 of their General Terms and Conditions. AGL does not support Envestra invoicing in advance and requests the AER to remove this term. We do not believe that pre-invoicing serves the National Gas Objective, specifically the efficient operation of gas services. This practice is furthermore not in keeping with existing network billing standards and practices.

We do however note and acknowledge that Envestra has taken the opportunity to include STTM in this Access Arrangement.

A summary of AGL's key concerns is provided in Attachment A and Attachment B tables specific responses to the Terms and Conditions.

Should you have any questions in relation to this submission, please contact Sallie Proctor, Manager Regulatory Compliance and Advice on (03) 8633 7871 or at sproctor@agl.com.au

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Alex Cruickshank'.

Alex Cruickshank
Head of Energy Regulation

ATTACHMENT A

AGL Submission: Envestra Limited Qld Gas Access Arrangement 2011– 2016

Services

Envestra proposes to continue invoicing in advance for distribution reference services, as set out in clause 20 of their General Terms and Conditions. AGL does not support Envestra invoicing in advance and requests the AER to remove this term. We do not believe that pre-invoicing serves the National Gas Objective, specifically the efficient operation of gas services. This practice is furthermore not in keeping with network billing standards and practices we see elsewhere.

AGL understands that the prepayment arrangement was put in place to provide Envestra with working capital during the initial months of its establishment. There is no further need for this arrangement to be in place as working capital requirements should be included in Envestra's overall submission on the efficient costs of providing reference services.

Prior invoicing is an inefficient mechanism to provide working capital to Envestra as it creates unnecessary administrative burden. The administrative burden comes about because, for each month of charges, two estimates are made and paid against and two wash-ups are subsequently required. There is a flurry of accounting activity which results in costs to both parties, for little appreciable gain. This needs to be compared with network billing in arrears, which is the normal practice — it requires one invoice, one reconciliation, and one payment.

AGL sees no benefit to justify this arrangement and requests that it be removed in the coming regulatory period. Furthermore, we ask the AER to note that retailers are required to bill in arrears. We see no reason why our suppliers cannot adopt similar billing practices. Envestra may well claim that a change to invoicing arrangements may have, apart from cash flow implications to them, implications for credit support arrangements. AGL has no difficulty with the credit support arrangements proposed in 6.4 of their Access Arrangement proposal — this policy is in line with Envestra's arrangements in Victoria whereby objective benchmarks for credit worthiness are posted and participants who fall outside that may be called up to provide some form of support.

Haulage Reference Services - Domestic haulage Services

Envestra has proposed to vary the existing definition of 'Volume' and 'Demand' Customers. A 'Volume' Customer is proposed to be either a 'Domestic Delivery Point (DP)' or a 'Commercial DP'. It has been proposed that a Domestic DP is when a DP is primarily used for domestic purposes. Envestra has established a guide of 50% or greater. We see no justification for this amendment to the current definition. We are concerned that the established business to business communication protocols (**B2B**) may not support this change. It is also our view that this change may not be in agreement with the existing Retail Market Procedures (**Procedures**).

The existing definition of a 'Demand' Customer is a DP that consumes an amount of Gas through a DP of equal to or greater than 10TJ within a year. Envestra has proposed an amendment to this definition which expands the description to a DP 'that consumes an amount of Gas through a DP of equal to or greater than 10TJ within a year or equal to or greater than 50GJ for any particular Network Day during that Metering Year'. We request the justification for the amendment of these definitions. It is unclear if a DP who consumes less than 10TJ per year but have a daily usage of greater than 50GJ would receive an Interval Meter. Envestra has not discussed how existing DP's would be treated. This introduces the concept of a new definition of what constitutes a 'Demand' Customer which may not be contemplated in existing arrangements between Network Users and the Network User's customer.

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It is our view that the amendment to the definitions of 'Volume' and 'Demand' customers would place an unnecessary burden on Industry and potentially require significant system changes. AGL would argue that it is not in the interests of Network Users and end-use consumers to alter this definition and we request Envestra retain the existing definitions.

Haulage Reference Services - Classification of New DPs

Envestra has proposed that new DP's will be classified as a Domestic DP, a Demand DP or a Commercial DP. It is unclear if Envestra proposes to undertake a reclassification of all of their existing DP's. It is also unclear if Envestra will be providing these classifications via the agreed Industry B2B to the Network User. There is no consideration on how a classification will be altered. It is our view that this change may not align with the AEMO Procedures. We see no justification for this amendment to the current classification.

It is our view that the amendment to the definitions would place an unnecessary burden on Industry and potentially require significant system changes to Network Users. AGL would argue that it is not in the interests of Network Users and end-use consumers to alter this definition and we request that the existing classification is retained.

Reference Tariffs

We note that Envestra has introduced the concept of "Tariff R" and "Tariff C" to replace the existing "Tariff V".

It is unclear within this proposal if Envestra will undertake a reclassification of all of their existing "Tariff V" DP's. It is also unclear if Envestra will be providing these classifications via the agreed Industry B2B to the Network User. There is no consideration on how a Tariff classification will be altered. We are concerned that this change may not align with the AEMO Procedures as permitted values are "V" and "D". We see no justification for this amendment to the current classification.

It is our view that the amendment to the definitions would place an unnecessary burden on Industry and potentially require significant system changes to Network Users. AGL would argue that it is not in the interests of Network Users and end-use consumers to alter this definition and we request that the existing classification is retained.

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ATTACHMENT B – Envestra Limited Qld Gas Access Arrangement Terms & Conditions

Section		Proposal	Issue	AGL’s Proposed Approach and suggested rewording of a specific Clause
2 Haulage Reference Services				
2.2	Obligation to Deliver	Subject to the terms of the Agreement, Envestra will deliver Gas through each User DP as and when Gas is taken through that DP (whether by the Network User or the Network User’s Customer or by someone else)	These are new clauses which appear to absolve Envestra of all responsibility to manage unauthorised usage or any gas being taken without authority. If a person is illegally accessing equipment and assets belonging to Envestra then we consider that Envestra should have some responsibility for the prevention of this behaviour. Envestra should not be able to absolve itself of liability by wilfully declining to enquire as to the authority of any person taking gas through any User DP. Envestra should have a positive duty to restrict illegal access to its own equipment and assets.	AGL does not support these clauses. If these clauses are to be included, then they require amending to ensure that Envestra has the responsibility to reasonably mitigate any losses caused to the Network Users for any Gas that is taken without authority, due to illegal access to Envestra’s own equipment and assets.
2.3	Delivery to Network User	As between Envestra and the Network User, all Gas taken or delivered through any User DP will be taken to have been delivered to or for the account of the Network User	Envestra has proposed new clauses 27.4 which require Network Users to use reasonable endeavours to mitigate claims it may have against Envestra. AGL considers that reciprocal rights for the Network User	
2.4	No Obligation to Enquire	Envestra will have no responsibility to enquire as to the authority of any person who takes Gas through any User DP		

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2.5	No Liability for Gas Delivery	Envestra will have no liability to the Network User for any Gas that is taken through any User DP by someone other than the Network User or a Network User’s customer	should be included within the Access Arrangement.	
2.8	Compliance with Law	The Network User will ensure that it holds whatever licences or other authorisations it requires to sell or consume Gas delivered through the Network and will comply with all applicable laws from time to time.		
4. CAPACITY MANAGEMENT				
4.2	Maximum Hourly Quantity	Subject to clause 4.3, the Maximum Hourly Quantity for a DP is the maximum Quantity of Gas which Envestra is obliged to deliver through that DP to or for the account of the Network User during any period of 60	We note the inclusion if this clause, clause 4.2, is a new clause.	AGL requests Envestra to provide the reasoning for the inclusion of this new clause. We also require clarification on how Envestra is obliged to deliver the quantity of gas. It is not clear if this is this by agreement between the

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		minutes.	Network User and Envestra.
4.5	Quantities Received	If it is necessary to determine the Quantity of Gas delivered through any User Receipt Point by or for the account of the Network User, then Envestra will do so.	This clause was previously clause 5.5 and we note the inclusion of ‘if it is necessary’ at the beginning of the clause. We request clarification on who deems if it is necessary and how this is communicated between the Network User and Envestra.
5. DAILY OVERRUNS			
5.4	MDQ Increase (Four OVERRUNS in a Month)	Whenever the Quantity of Gas delivered through any Demand DP exceeds the MDQ for that DP on four Network Days during any period of 30 days, the MDQ for that Demand DP will be increased, with effect from the end of that fourth Network Day, so that it is equal to the highest Quantity of Gas delivered through that DP on any of those four Network Days	We note that the description of the DP has amended from Telemetered DP to Demand DP. AGL suggest that Envestra provides the reasoning for this amendment. We seek clarification on the type of metering that will be installed at a Demand DP.
5.5	MDQ Increase (Eight OVERRUNS in a Year)	Whenever the Quantity of Gas delivered through any Demand DP exceeds the MDQ for that DP	We note that the description of the DP has amended from Telemetered DP to Demand DP. AGL suggest that Envestra provides the reasoning for this amendment. We seek

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		on eighth Network Days during any period of one Year, the MDQ for that DP will be increased, with effect from the end of the eighth Network day.	DP.	clarification on the type of meter that will be installed at a Demand DP.
7 REDUCTION OF MDQ				
7.1	Request for Reduction in MDQ	<p>Subject to clauses 7.6 and 7.7, if:</p> <p>(a)The Customer to whom Gas is supplied at a Demand DP experiences a permanent, material reduction in its requirements for Gas at that Demand DP such that its daily Gas requirements are at least 10% less than the MDQ then applicable to that Demand DP; and</p> <p>(b)For a period of not less than 12 months the Customer has not, on any Network Day, taken delivery of a quantity of Gas at the Demand DP equal to or in excess of 90% of MDQ; and</p>	<p>We note the inclusion of this new clause.</p> <p>AGL does not accept that all of the exceptions listed in this clause are reasonable. AGL requests clarification on the process if a new customer moves in? Will the User be limited for requesting a reduction because the previous User had requested that there was one within 6 months if the new User has valid reasons? Is the 90% rule reasonable? This could be significant amount for a customer?</p> <p>We note that Envestra requires the Network User to provide evidence reasonably satisfactory to Envestra to justify the Requested MDQ.</p>	<p>AGL does not support the unfairness of this clause for new customers who have to wait for up to 12 months. New customers are penalised for previous occupant’s usage patterns. It is our view the suggested process is onerous and timely.</p> <p>We request Envestra define what is ‘evidence reasonably satisfactory’.</p>

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		<p>(c)A reduction to the MDQ for that Demand DP will not unreasonable jeopardise Envestra’s ability to recover capital expended by Envestra for installing infrastructure to serve that Demand DP; and</p> <p>(d)There is no contract in respect of the Demand DP requiring the Network User to make payments, based on MDQ, for a minimum term to enable Envestra to recover, from Network User, capital expended by Envestra in installing infrastructure to serve that Demand DP,</p> <p>Then, if the Network User wishes to request a reduction in the MDQ for that Demand DP the Network User may:</p> <p>(i)Provide a written request to Envestra that the MDQ for that Demand DP be varied from a particular Network Day (specified day) to reflect the customer’s changed Gas</p>	

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		<p>requirements, which written request must state that it is made pursuant to this clause 7 and must set out the MDQ proposed by the Network User (Required MDQ)</p> <p>(ii) provide evidence reasonably satisfactory to Envestra to justify the Requested MDQ nominated by the Network User, including the nature of the change in the Customer’s gas requirements, the reason for that change and evidence that the Quantity of Gas which will be taken through the relevant Demand DP on any subsequent Network Day will not exceed the Requested MDQ. The evidence supplied to Envestra must be accompanied by a statement, from an authorised officer of the Customer, attesting to the accuracy of the evidence.</p>		
7.4	Acceptance of Request	Where Envestra agrees to a request made under clause	We note the inclusion of this new clause.	AGL requests justification for the

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		7.1, then the MDQ for the relevant Demand DP will be reduced to the Requested MDQ from the commencement of the Specified Date	inclusion of this clause
7.5	Request for Explanation	If requested by the Network User, Envestra will provide the Network User with an explanation of Envestra’s decision to reject a request made under clause 7.1	We note the inclusion of this new clause. We request the insertion of a reasonable timeframe for the provision of the explanation.

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7.7	Subsequent Requests	Where the MDQ for a Demand DP has been reduced under this clause 7, then the Network User will not be entitled to make a further request of Envestra to reduce the MDQ at that Demand DP until at least 1 year has elapsed since the date that the MDQ was last reduced in accordance with clause 7	We note the inclusion of this new clause. AGL considers the requirement that a customer has to wait a year for a reduction in demand in the circumstances referred to in clause 7.7 is not considered fair and request that the clause be altered to exclude new occupants.	AGL does not support the unfairness of this clause for new customers who have to wait for up to 12 months. New customers are penalised for previous occupant’s usage patterns.
7.8	Non-Acceptance of Previous Request	Where a request under clause 7.1 is not accepted by Envestra, then the Network user will not be entitled to make a further request of Envestra to reduce the MDQ at that Demand DP until at least 6 months has elapsed since the date of lodgement of the previous request.	We note the inclusion of this new clause. AGL considers the restriction of a request to reduce MDQ to once every six months is not fair if a previous customer completed one request and a subsequent request is made by a new occupant. We considered this as not fair and request that the clause be altered to exclude new occupants.	AGL does not support the unfairness of this clause for new customers. New customers are penalised for previous occupant’s requests for a reduction in MDQ.
8 TEMPORARY INCREASE OF MDQ				
8.1	Demand Delivery Points	The Network User may request Envestra to deliver a Quantity	We note that a request for a temporary increase of MDQ will be considered and if	We also request the inclusion of the communication protocol for

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		of Gas through a Demand DP that exceeds the MDQ then applicable to that DP, for each Network Day in a particular Cycle. If Envestra agrees to that request then the MDQ for that DP will be increased for that Cycle as requested (or agreed) and, at the end of that Cycle, will revert to the former MDQ.	agreed, Envestra will increase the MDQ for that Cycle. There is no information within this clause as to the means of receiving advice of Envestra’s acceptance	advising if the request has been accepted or rejected.
8.2	Requests for Temporary Increase in MDQ	Requests for an increase in MDQ pursuant to the previous sub-clause must be submitted to Envestra at least 28 days before the increase is required. An administration fee of \$200 will apply for each request. In addition, if engineering analysis is required, the cost of that analysis shall be borne by the Network User, but will be agreed in advance with the Network User, based on an hourly rate of \$100 per person per hour.	We note that there is an administration fee associated with an application request and if additional analysis is required then additional costs will occur.	AGL requests justification for the fees associated with this request.

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9 METERING EQUIPMENT				
9.3	Maintenance and Removal	Envestra will ensure that all Metering Equipment is maintained in reasonable condition throughout the Term. Where the Metering Equipment at a DP includes equipment for telemetry or interval metering and that equipment is no longer required by law to be used at that DP, then the Network User will bear the costs of removal of that equipment	Clause 9.3 is a new clause which introduces new costs to the Network User. It is not clear on how these costs will be calculated. This does not consider if the relationship between Envestra and the Network User has altered. We do not consider that this is fair and reasonable and request the removal of this clause.	AGL requests the justification on the introduction of this new clause.
10 METER ACCURACY				
10.6	Inaccurate Meters	Subject to the Agreement, if any test of Metering Equipment are outside a margin of accuracy that is permitted by	The terminology previously stated that the amount was ‘outside a margin of plus or minus 3% for domestic meters’. It now states ‘outside a margin permitted by law’ –	We seek clarification on which law Envestra is referencing in this clause. We would like to understand how Envestra meet

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		law (in the case of Metering Equipment at a User DP) or plus or minus 1% (in the case of Metering equipment at a User Receipt Point) of the Volume of Gas delivered through that Metering Equipment (the allowable margin of accuracy)	if the law allows a greater margin then this is a detrimental change.	this margin of accuracy of plus or minus 1% at all sites, including basic metered sites.
13 RECEIPT PRESSURES				
13.2	Common Pressure	<p>Envestra may not specify different pressures for Receipt Points pursuant to clause 13.1 other than:</p> <p>(a) On grounds that relate to the technical, physical or practical limitations of that Receipt Point or any other Receipt Point or the Network (or any part of it); or</p> <p>(b) on grounds that relate to the safe and efficient operation of the Network (or any part of it); or</p>	<p>AGL understands and acknowledges the reasons that Envestra has sought the inclusion of these new clauses, 13.2 and 13.4. We are extremely concerned, however, that these causes essentially absolve Envestra from any liability to keep their network secure.</p> <p>AGL considers that Envestra has a responsibility to secure its own network and to ensure that gas delivered at Receipt Points is done so at a pressure inside the limits required by the Agreement. AGL is unable to understand why a Network User should bear any loss, costs, expenses or damage incurred.</p>	<p>AGL does not support the inclusion of these clauses, in particular clause 13.4.</p> <p>AGL does not consider that Network Users should be liable for any losses incurred due to gas being supplied at a pressure outside of the agreed limits regardless of who supplied it.</p> <p>We request Envestra provides justification and the basis for the inclusion of these clauses</p>

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		(c) on grounds that relate to the operational integrity of the network (including, but without limitation, the need for Envestra to maintain pressures at any DP in order to comply with its obligations under any law or contract or in order to maintain deliveries of Gas at any DP		
13.4	Other Users	Envestra will have no liability to the Network User for any loss, cost, expense or damage the Network User might suffer or incur because Gas is delivered at any Receipt Point (by someone other than Envestra) at a pressure which is outside the limits required by the Agreement	<p>AGL understands and acknowledges the reasons that Envestra has sought the inclusion of these new clauses, 13.2 and 13.4. We are extremely concerned, however, that these causes essentially absolve Envestra from any liability to keep their network secure.</p> <p>AGL considers that Envestra has a responsibility to secure its own network and to ensure that gas delivered at Receipt Points is done so at a pressure inside the limits required by the Agreement. AGL is unable to understand why a Network User should bear any loss, costs, expenses or damage incurred.</p>	<p>AGL does not support the inclusion of these clauses, in particular clause 13.4.</p> <p>AGL does not consider that Network Users should be liable for any losses incurred due to gas being supplied at a pressure outside of the agreed limits regardless of who supplied it.</p> <p>We request Envestra provides justification and the basis for the inclusion of these clauses</p>

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14 DELIVERY PRESSURES				
14.1	Delivery Pressure	Subject to the Agreement, Envestra will ensure that Gas delivered at each User DP during the Term is at a pressure that is within the range of pressures prescribed by law and, to the extent permitted by law, at a pressure (or within a range of pressures) agreed between Envestra and the Network User in relation to that DP.	We note the removal at the end of this clause ‘and, if no pressure, or range of pressures, has been agreed, at a pressure of no less than 1.13kPA’	AGL request Envestra to provide the basis of the removal of the amendment and, if no pressure, or range of pressures, has been agreed, at a pressure of no less than 1.13kPA’
17 CURTAILMENT				
17.2	Notice of Curtailment	Envestra will give the Network User or the Network User’s Customers such period of notice as is required by law whenever Envestra proposes to interrupt or curtail deliveries of Gas to or for the account of the Network	The structure of this clause has altered. This previous clause 16.2. It provided clarity of the treatment of interruption of supply due to Planned Maintenance, augmentation of the Network and interruption or curtailment, other than emergencies. We note that the timeframe of ‘at least four days notice’ has	AGL sees that the inclusion of a timeframe of ‘at least four days notice’ provides certainty on when notification will be provided. We note the removal of Planned Maintenance and augmentation of the Network as

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		User.	been removed.	an event which must be notified. AGL requests Envestra to reinstate the requirements of this clause.
17.3	Order of Priority	<p>If Envestra proposes to interrupt or curtail deliveries of Gas pursuant to clause 17.1 then, to the extent that it is practicable to do so (having regard to the reasons for the interruption or curtailment, the intended objective of the interruption or curtailment and any other relevant circumstances), Envestra will endeavour to interrupt or curtail deliveries in the following descending order of priority:</p> <p>(a) ↓ (h)</p> <p>Where two or more DPs fall within a particular category specified in this clause. Envestra may interrupt or curtail deliveries to those DPs in</p>	We note the removal of 'but Envestra will not select which of those DP’s to curtail or interrupt on the identity of the Network User’. We see that the removal of this provides certainty of the contestable market.	AGL requests the basis for the removal of the section of the clause.

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		such order as Envestra determines having regard to the relevant circumstances.		
18 ANCILLARY REFERENCE SERVICES				
18.1	Standards	Envestra will undertake Disconnection and Reconnection of DP’s and carry out Special Meter Readings in accordance with the Retail Market Procedures and all other applicable laws	<p>This clause has been amended from the provision of one ancillary reference service to three ancillary reference services.</p> <p>AGL is concerned that this also states that Envestra will ‘undertake’ disconnection and reconnections rather than they will disconnect/reconnect.</p> <p>AGL is concerned with this terminology. It may enable the introduction of charges for the attempt to undertake the request rather than performing the request. These could be introduced as Other Services, which Envestra has proposed that they may introduce and not seek AER approval for the introduction of these charges.</p>	<p>AGL seeks the justification on the introduction of the new Ancillary Reference Services. We also seek clarification on the definition of ‘undertake’ and the justification behind the introduction of this word within the clause.</p> <p>AGL requests that the word ‘undertake’ is removed from this clause.</p>

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Section		Proposal	Issue	AGL’s Proposed Approach and suggested rewording of a specific Clause
18.2	Payment of Charges	Envestra will have no obligation to carry out an Ancillary Reference Service at the request of the Network user if the Network User has not paid (or, where permitted by Envestra, agreed to pay) Envestra the Charge for that Services as set out in the most recent Tariff Schedule	<p>AGL interprets this clause as stating that Envestra does not have to carry out an Ancillary Service until a Network user has paid or agreed to pay for it.</p> <p>Clause 19 additionally states that for other services, the Network User will be liable to pay charges that have been reasonably determined by Envestra themselves, in the absence of an agreement with the Network User.</p> <p>Clause 25.3 then gives Envestra the right to cease providing services to the Network User if any amount due are not paid. The Network User will only regain the right for Envestra to provide them with services after having paid the full amount of the debt plus interest. AGL is extremely concerned as these clauses effectively allow Envestra to charge what they consider to be ‘reasonable’. If a Network User then fails to pay these ‘reasonable charges’, Envestra has the right to withdraw services.</p> <p>We note that previously, Envestra has applied new charges that did not appear to be specific to the Reference Service, nor were they approved by the AER. We</p>	<p>AGL does not support the inclusion of this clause.</p> <p>AGL considers that the benefits that would flow to Envestra and the consequential detriment to all Network Users would be grossly disproportionate and amount to an unfair term.</p>

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		consider that by widening the scope of Envestra’s power to change or creat charges and to enforce their payment is grossly unfair.	
19 OTHER SERVICES			
	Envestra may provide the Network User with other services requested by the Network user from time to time. In consideration for those other services, the Network User will pay Envestra the Charges agreed between the Network User and Envestra or, in the absence of agreement, the Charges previously notified by Envestra or reasonably determined by Envestra.	AGL notes that this is a new clause. It is our view that this enables Envestra to invoice Network Users charges that they consider ‘reasonable’ without first seeking agreement from the Network User. We also note that these charges are excluded from the AER approval process.	AGL does not support the inclusion of this clause. We are extremely concerned that this clause enables Envestra to commence charges for services that they perform without agreement from the Network User.
20 INVOICING AND PAYMENT OF CHARGES FOR REFERENCE SERVICES			

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20.5	Payment of Invoices	The Network User must pay the amount shown in any valid tax invoice (issued pursuant to clause 20) to Envestra within 14 days after the Network User has received that invoice	AGL sees to define the word ‘valid’, particularly in light of our comments regarding clause 19.2. In circumstances where Envestra simply submits an invoice, they may consider this to be valid merely by the fact of its submission	AGL seeks a definition of the word ‘valid’ and a list of the circumstances in which an invoice will not be considered valid.
21CORRECTION OF BILLING ERRORS				
		If the Network User notifies Envestra of an error in an invoice by Envestra pursuant to the Agreement, Envestra will determine within 28 days whether an error has occurred. If Envestra agrees that an error has occurred, then the error will be corrected in the next invoice issued after determination of the error. No claim for an adjustment will be made by the Network User after the expiration of the period mentioned in clause 27.5 or in	We note that the timeframe within this clause as been amended from twelve months to eleven months.	AGL does not agree with the amendment of the timeframe and request Envestra provides justification in the reduction of this timeframe.

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		any event, more than eleven months after the date of the invoice.		
23 DELIVERED QUANTITIES				
23.1	Basis for Determination	Whenever Envestra prepares an invoice for a given month, the Quantity of Gas shown in that invoice to have been delivered (or estimated to have been delivered or expected to be delivered) will be determined by Envestra in accordance with the Agreement.	The wording within this clause has been amended to include ‘or expected to be delivered’. It is unclear whether this additional text has been included to account for accruals, or for another purpose. If it is intended for accruals, then this should be specifically stated. If it is for another purpose, then that purpose should be stated.	AGL seeks clarification as to who Envestra thinks the entity expecting the Gas is? We also seek the justification as to why the additional text has been included within this clause.
24 METHOD OF PAYMENT				
24.1	Method of Payment	Payment by the Network User will be made in immediately available funds on or before the due date by telegraphic transfer to a bank account designated by Envestra by notice in writing to the Network User, or by other agreed method of	We note the removal of Electronic Funds Transfer as a means of payment.	AGL seeks the basis for the removal of this payment option.

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		payment		
25 FAILURE TO PAY				
25.2	Right to Set Off Unpaid Amounts	If the Network user does not pay any amount due, then Envestra may withhold and set off payment of any amounts due or owing by Envestra to the Network User against any and all amounts due or owing by the Network User to Envestra. This clause will survive the termination of the agreement	We note the removal of the text ‘other than an amount which the Network User in good faith disputes or which is the subject of a legal challenge or other legitimate dispute resolution process initiated by the Network User.	We seek clarification as to the reasons behind the removal of the text. We require clarification as to which types of payment and for which services will fall within the definition of ‘any’ amount.
25.3	Right to Suspend Services	If the Network User does not pay any amount due to Envestra under the Agreement, or under any Related Haulage Agreement, then Envestra may cease delivering Gas through any DP to or for the account of the Network User, and may cease performing any of its other obligations under this Agreement, until such time as the Network User has paid in	We note the removal of the text ‘other than an amount which the Network User in good faith disputes or which is the subject of a legal challenge or other legitimate dispute resolution process initiated by the Network User’.	AGL requests the reasoning behind the removal of the text.

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		full all unpaid amounts due to Envestra with any interest on those amounts		
26 TERMINATION				
26.8	Holding Over	<p>If Gas continues to be delivered after the end of the Term through any DP in respect of which the Network User is the current user(as that term is defined in the Retail Market Procedures) Envestra and the Network User will be taken to have entered into a new agreement for the delivery of Gas through that DP on the same terms as the Agreement, except that the expiry date of that agreement will be</p> <p>(a) the date on which Envestra and the Network User enter into a new agreement in respect of the DP which terminates or supersedes that agreement.</p> <p>(b) The date on which that DP</p>	<p>This is a new clause and we have interpreted this to mean that the Network User remains responsible, even when the flow of Gas is due to Envestra. It is our view that it would enable Envestra to recover the costs associated with Gas due to an act or omission by Envestra.</p>	<p>AGL seeks clarification on the intent of this clause.</p>

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		is disconnected so that it is not possible to delivery Gas through that DP; and (c) the date on which the Network User ceases to be the current user for that DP, whichever is earlier.		
27 SERVICE PROVIDER’S LIABILITY				
28				
27.2	Contribution	Envestra’s obligation to indemnify the Network User under this clause will be reduced in proportion to the extent that any act or omission on the part of the Network User or any Customer of the Network User (or any of their respective officers, servants, agents or contractors) (including, but without limitation, any breach by the Network User of its obligation under the Agreement of its obligation to the damage or injury).	We note that this is a new clause. It is our view that throughout the Agreement Envestra seems to have no liability however the Network User is responsible for almost everything, even if Envestra has contributed to it. It is our view that this should be dual indemnities.	AGL seeks the justification for the development of this new clause. We are extremely concerned that throughout this Agreement Envestra seems to have no liability.

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27.4	Mitigation	The Network User must use reasonable endeavours to mitigate every Claim it might have against Envestra	This clause 27.4 is a new clause. Our interpretation is that this clause states that Network Users have to mitigate every Claim against them.	AGL seeks the justification for the development of this new clause as it suggests Network Users are agents and responsible for the action or inaction.
29 FORCE MAJEURE				
29.2	Consequences of Force Majeure	<p>Non-performance as a result of Force Majeure by either Party of any obligation or condition required by the Agreement to be performed by it:</p> <p>(a) will be excused during the time and to the extent that such performance is prevented, wholly or in part, by Force Majeure (provided that the Party and its officers, servants, agents and contractors took whatever precautions ought reasonably to have been taken to ensure that the Force Majeure would not prevent performance);</p>	We note the inclusion of text within clause 29.2(a) of ‘provided that the Party and its officers, servants, agents and contractors took whatever precautions ought reasonably to have been taken to ensure that the Force Majeure would not prevent performance’ and request to understand what is meant by ‘precautions ought reasonably to have been taken’.	AGL requests that the text which has been inserted into this clause 29.2(a) be defined.

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Section		Proposal	Issue	AGL’s Proposed Approach and suggested rewording of a specific Clause
33 ACCESS TO PREMISES				
33.2	Notice of Entry	Subject to the Agreement, if Envestra intends to enter any premises or place owned or occupied by the Network User or any Network User’s Customer, it must give notice of its intention to the owner or occupier of that premises or place as required by law or, if no notice is required by law, it must give reasonable notice.	We note that this clause has altered slightly with the inclusion of text ‘it must give reasonable notice’.	AGL requests clarification of what constitutes ‘reasonable notice’.
33.3	No Notice	Envestra will have no obligation to give notice pursuant to the previous clause in the event of an emergency or if it wishes to enter the premises or place to undertake a routine meter replacement or reading or to investigate illegal use or interference.	AGL understands that it would be difficult to provide Notice in the event of an emergency or a routine meter reading or when investigation of illegal use or interference however we request the removal of routine meter replacement from this clause as prior Notice in this scenario would assist the Network User or the Network User’s Customer provide access for entry.	AGL requests the removal of routine meter replacement from this clause.

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35 DISPUTE RESOLUTION				
35.5	Selection of Expert	Within five Business Days after a notice is given under the previous clause, the Parties will endeavour to agree on a person to be appointed as Independent Expert to resolve the Dispute. If they are unable to agree within that period the Parties will jointly request the Regulator to nominate a person who has appropriate commercial, technical and practical expertise in relevant areas.	This clause was previously clause 33.5 and the request for an Independent Expert was to be jointly requested from the Institute of Arbitrators.	AGL requests to understand the basis of the amendment for the selection of an Independent Expert from the Institute of Arbitrators to the Regulator.

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