



29 June 2012

Mr Sebastian Roberts
General Manager
2012 Victorian Gas Access Arrangement Review
Australian Energy Regulator
GPO Box 520
Melbourne Victoria 3001

By email: VicGAAR@acc.gov.au

Dear Mr Roberts,

2012 Victorian Gas Access Arrangement Review

AGL Energy welcomes the opportunity to comment on the proposals submitted by the Victorian Gas Service Providers for the 2012 Victorian Gas Access Arrangement Review for the regulatory period 1 January 2013 to 31 December 2017.

AGL has six main areas of concern in relation to the proposals:

- the tariff variation notifications and processes;
- the lack of consistency and the National Energy Customer Framework ('NECF');
- credit support;
- pricing principles;
- ancillary and excluded service charges; and
- allocation of risk.

Tariff Variation Notifications Timing and Processes

AGL is concerned about the tariff approval timetable and process. The annual network tariff reset process often results in AER approval being given after the date in which retailers are required to publish or submit their proposed prices to the regulator. This, coupled with the fact that Service Providers are not compelled (and some habitually refuse) to provide retailers with draft pricing proposals, means that there is insufficient notice for retailers to prepare new retail prices, consider impacts on customers and meet notification requirements.

For these reasons, AGL submits that the Access Arrangements should require Service Providers to:

- consult with retailers prior to submitting proposals to the Regulator when intending to undertake any major rebalancing, to vary tariff structures or introduce or withdraw tariffs;

- provide retailers with copies of all pricing proposals and related information (including pass through applications) at the same time that it is provided to the Regulator;
- notify retailers of its final tariffs and charges as soon as it receives approval from the Regulator;
- vary tariffs no sooner than 6 weeks after final approval has been given; and
- allow the AER to disclose pricing information to Network Users.



Lack of Consistency and NECF

AGL submits that there should be as much consistency as possible across all gas distribution agreements. One set of rules enables operational efficiencies and facilitates compliance. This ultimately benefits customers, particularly should a dispute arise.

The proposed Access Arrangements are less uniform than those proposed in previous review periods; largely due to the uncertainty surrounding NECF. Some clauses of the proposed agreements are deemed to only come into effect when NECF comes into force, other clauses encompass NECF obligations whether NECF is introduced or not. For the sake of consistency and to avoid confusion of which NECF provisions are incorporated into the Access Arrangements, AGL recommends that all Access Arrangements should incorporate NECF (except the Credit Support arrangements, see below) as if NECF was in force in Victoria from 1 January 2013.

While parties may not be completely satisfied with the NECF, it is a culmination of years of negotiation and input from all interested parties; including consumer groups and regulators. To incorporate NECF into all the Access Arrangements would not require considerable redrafting but could easily be achieved through a simple clause inserted at the start of each agreement, such as:

“With the exception of the Credit Support Regime contained in National Gas (Retail Support) Amendment Rules, where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates the relationship between the Service Provider and the Network User, those provisions will apply, regardless of whether such provisions have commenced operation in Victoria”.

AGL believes this approach would not only benefit all parties but also limit costly disputes that could arise from the uncertainty of which NECF obligations applied to which Service Provider.

Credit Support

Changes made to the credit support regime (particularly, the credit support allowance percentages) in the final NECF caused considerable consternation from retailers of all sizes. The changes were not consulted on and took the retail sector by surprise. It is very likely that a rule change request will be raised not long after the NECF rule change processes become operational. For this reason, AGL does not believe that the NECF credit support provisions should be replicated in the agreements.

Pricing Principles

AGL supports Service Providers in gaining an acceptable return on their investment in network services; however, it should be supported by an enforcement of robust network pricing principles and practices that promote cost transparency and predictability that facilitate choices for the retailers and consumers.

From AGL’s perspective, it is highly desirable to have a tariff control that results in a price path with a reasonable degree of certainty and predictability. This is important for AGL in considering medium and long term contracts for consumers and our ability to manage the cost of providing such energy services. In AGL’s view, a strong regime in tariff re-balancing is critical as it bears a strong relationship to our supply contracts and hence the end user’s

potential exposure to the fluctuations of network costs. There should be a strong emphasis in the tariff policies that ensure any significant changes in network cost are gradual and incremental.

Our analysis shows that the total average network cost in NSW increased by 113% from 2006 to 2011. During this period, the annual average cost increase was 6.5% (2006), 6.2% (2007), 9% (2008), followed by a spike of 25% in 2009 and an annual increase of around 18% (2010) and 16.5% (2011). AGL believes it is important for AER to consider if a similar steep rate of change in network costs in Victoria could be managed effectively through the proposed Access Arrangements. It seems reasonable to expect that tariff policies could be formulated to maintain a reasonable rate of cost change both between and within the regulatory periods of price reviews. As a retailer, an important objective for AGL is to ensure consumers are not subject to an unreasonable steep cost fluctuation in energy supply. Our ability to do so effectively and equitably across all consumer groups relies in large part on a predictable network cost. Effective management of the change of network cost will encourage the development of longer term offers and creates opportunity for better financial planning and management.

While having a predictable price path is essential, it is also critical for the tariff policies to recognise the changing consumer demand on energy supply. Consumers are becoming more aware and sensitive to energy supply issues as energy cost escalates. AGL believes that consumers are increasingly seeking more information and alternatives to control their energy consumptions and cost. Hence, the network control mechanism should be formulated from the consumers' perspective as the efficacy of any pricing signals ultimately depends on the consumers' willingness to respond.

To this end, it is imperative that the control framework provides flexibility in formulating network tariffs that can respond to consumer demands. To achieve this, AGL believes the Access Arrangements should require Service Providers to work with retailers and consumers when proposing a change to network tariffs. AGL believes that this approach could greatly improve the prospect of retailers and consumers embracing new pricings and provide more choices to manage different risk requirements.

Ancillary and excluded services

AGL believes that the definition of 'Ancillary Reference Services' and 'Excluded Services' or 'Negotiated Services' needs be revisited as there does not appear to be any logical reason for why some services are considered ancillary while others are excluded. For example, Envestra defines ancillary reference services to include meter and gas installation tests, whereas Multinet includes meter and gas installation tests in its definition of ancillary services in Part A of its Access Arrangement but appears to exclude it in Part C and SP Ausnet currently includes it but wishes to exclude it from the next regulatory period.

It is AGL's preference to include services that can only be performed by the monopolistic service providers to be defined as ancillary reference services so they are fixed and transparent. Ancillary reference service charges are approved by the AER and subject to tariff policies so that retailers and customers can identify what the charges are and how they may vary.

Excluded services charges, in contrast, are becoming less transparent and more arbitrary. Throughout the current regulatory period, new excluded service charges have been introduced that appear unreasonably high to AGL, particularly when it is not entirely clear to AGL how and when some excluded charges are to be levied. Not surprisingly, the number of customer complaints has risen as retailers have difficulty estimating a 'standard' quote for some excluded services.

The number of disputes between Service Providers and retailers about excluded services has also increased in recent years. AGL queried the veracity and reasonableness of certain excluded service charges with one Service Provider, which ultimately ended in the Service Provider threatening to withdraw its services unless AGL signed an Excluded Services Agreement. As excluded services include services that assist retailers to mitigate loss (such as street level disconnection) and Service Providers have little incentive to perform distribution services in a timely manner (as they exclude their liability), coupled with the



fact that third parties do not provide some of those services, retailers have no option but to accept the Service Providers quoted excluded service charges.



For these reasons, AGL believes all charges (including all excluded charges) should be listed and subject to the tariff policies in the Access Arrangement to minimise disputes between Service Providers, retailers and customers.

Allocation of risk

The Access Arrangements should attribute risk fairly between retailers and Service Providers. Existing arrangements require retailers to bear all credit risk – Service Providers are paid for their services by retailers, irrespective of whether retailers receive payment from customers. AGL does not believe there is any rationale for retaining this outdated feature of current arrangements and encourages the AER to remedy this inequity in the manner detailed in AGL's attached submission or, at a minimum, incorporating the relevant NECF provisions into the agreements.

Both retailers and Service Providers should also be subject to the same limitations in terms of liabilities and warranties with regard to the services that they provide to customers. If anything, Service Providers, as monopoly service providers, should have greater restrictions placed on them than retailers. Indeed, AGL is of the view that Service Providers should be subject to incentives in the form of credit risk, for example, where the Service Provider fails to disconnect a customer they should be required to pay the accrued energy charges to the retailer and should be prohibited from recovering any distribution charges.

More specific comments concerning Multinet and SP Ausnet's proposals are tabled in Attachment A and comments pertaining to Envestra's proposals are tabled in Attachment B.

Should you wish to discuss any aspect of this submission, please contact Angela Gregory, Manager Regulatory Policy and Strategy, on (03) 8633 6817 or angela.gregory@agl.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alex Cruickshank', written in a cursive style.

Alex Cruickshank
Head of Energy Regulation

Attachment A

SP-AusNet & Multinet Gas Access Arrangements: Part A

Section	Comment	AGL proposed amendment
Definitions and Terminology	Consistent and defined terminology should be used throughout all Access Arrangements. For example, "Relevant Pass Through Event" in SP Ausnet's Access Arrangement and "Cost Pass Through Event" in Envestra's Access Arrangement have different meanings as do "Non Reference Services" and "Negotiated Services".	
NECF	For the sake of consistency and to avoid confusion of which NECF provisions are incorporated into the Access Arrangements, AGL recommends that all Access Arrangements should incorporate NECF (except the Credit Support arrangements) as if NECF was in force in Victoria from 1 January 2013. AGL believes this approach would not only benefit all parties but also help to avoid potential costly disputes, which could arise from the uncertainty of which NECF obligations had been introduced for which Service Provider.	
NECF	For the reasons outlined above all references to the National Gas Rules not being in force need to be deleted.	
5.2.4 Sp Ausnet and 5.1.4 Multinet	Where an application for connection has been made directly by a Customer then a User should not be liable for any connection charges unless the User agrees to those charges.	Delete sub-clauses.
Schedule 1	<p>AGL believes that the definition of 'Ancillary Reference Services' and 'Excluded Services' or 'Negotiated Services' needs be revisited as there does not appear to be any logical reason for why some services are considered ancillary while others are excluded. For example, Envestra defines ancillary reference services to include meter and gas installation tests, whereas Multinet includes meter and gas installation tests in its definition of ancillary services in Part A of its Access Arrangement but appears to exclude it in Part C and SP Ausnet currently includes it but wishes to exclude it from the next regulatory period.</p> <p>It is AGL's preference to include services that can only be performed by the monopolistic service providers to be defined as ancillary reference services so they are fixed and transparent. Ancillary reference service charges are approved by the AER and subject to tariff policies so that retailers and customers can identify what the charges are and how they may vary.</p>	

SP-AusNet & Multinet Gas Access Arrangements: Part B Reference Tariffs & Policy

Section		Comment	AGL proposed amendment
1.1(b)(2)	Haulage Reference Tariffs	Service Providers should be required to notify Users at the same time that it notifies the Regulator of its intent to introduce new tariffs. The introduction of a new tariff should not impose unnecessary cost or change to Industry. A Service Provider should be required to develop a new tariff that is consistent with existing business to business (B2B) transactions.	Insert "and User" before the words "in writing".
Insert new 1.1(e)	Haulage Reference Tariffs	<p>A strong regime in tariff re-balancing is critical as it bears a strong relationship to a Network User's supply contracts and hence the end user's potential exposure to the fluctuations of network costs. There should be a strong emphasis in the control framework that ensures any significant changes in network costs are gradual and incremental. Accordingly, Service Providers should be required to consult with retailers before making changes to tariff structures or major rebalancing.</p> <p>Network Users need considerable time to consider proposals, change prices and notify customers. Accordingly, Envestra should notify Network Users of the variation at the same time it notifies the AER. For the same reasons, it should also be prevented from varying tariffs sooner than 6 weeks after the AER's final approval has been given.</p>	<p>Insert as the second paragraph "The Service Provider must consult with relevant Users if the Service Provider reasonably considers that there is a proposed change in tariff structures or rebalancing which may materially impact on Users or Customers".</p> <p>Insert as the final paragraph: "The Service Provider will not vary Reference Tariffs sooner than 6 weeks after the Service Provider has notified Users that the AER has approved the proposed variations to the Reference Tariffs".</p>
1.3(d)	Notification of Proposed reassignment of Haulage Tariff	Network Users need to make system changes to reassign haulage tariffs, accordingly need at least 3 months prior notice.	Insert "3 months" before the words "prior to the assignment".
1.3(i)	Additional information	Service Providers should be required to provide Users any additional information that the Service Provider submits to the Regulator.	Insert "and User" after the word "Regulator".
1.4(b)	Withdrawal of Haulage Tariffs	The Service Provider should be required to notify Users at the same time that it notifies the Regulator of its intention to withdraw tariffs, rather than when "it is practicable".	<p>Delete and include "User" in clause 4.1</p> <p>Insert "The Service Provider must consult with</p>

Section		Comment	AGL proposed amendment
		The Service Provider should also be required to consult with Users if they intend to withdraw a haulage tariff or component to enable Service Providers to determine how it will impact its customers.	relevant Users if the Service Provider intends to withdraw an existing Haulage Reference Tariff and/or Haulage Reference Component".
1.4(c)(1)	Additional Information	Service Providers should be required to provide Users any additional information that the Service Provider submits to the Regulator.	Insert "and User" after the word "Regulator".
1.5	Provision of Information on Tariffs	The Service Provider should also be required to give Users a copy of the Tariff Report at the same time that it submits it to the Regulator.	Insert "and User" after the word "Regulator" in both dot points.
4	Submissions to the Regulator	In all instances where the Service Provider is providing information to the Regulator it should also provide such information to the User at the same time.	Insert "and User" after the word "Regulator" in each instance.
4.2(e)	Assessment by the Regulator	The Service Provider should be required to notify Users at the same time that it notifies the Regulator of its intention to change tariffs, rather than when "it is practicable".	Insert "and User" after the second reference to "Regulator".
8.1	Relevant Pass Through Event	The Service Provider should be required to give Users a Relevant Pass Through Event notice at the same time that it gives such statement to the Regulator.	Insert "and User" after the word "Regulator".
8.5	When Pass Through Amount applies	The Service Provider should not apply an approved charge until it has given Network Users 6 weeks notice that the pass through has been approved.	Insert: "The Service Provider will not pass through any costs sooner than 6 weeks after the Service Provider has notified Users that the AER has approved the cost pass through".

SP-AusNet & Multinet Gas Access Arrangements: Terms and Conditions

Section		Comment	AGL proposed amendment
New	NECF	<p>The proposed Access Arrangements are less uniform than those proposed in previous review periods; largely due to the uncertainty surrounding NECF. Some clauses of the proposed agreements are deemed to only come into effect when NECF comes into force, other clauses encompass NECF obligations whether NECF is introduced or not. For the sake of consistency and to avoid confusion of which NECF provisions are incorporated into the Access Arrangements, AGL recommends that all Access Arrangements should incorporate NECF (except the Credit Support arrangements, see below) as if NECF was in force in Victoria from 1 January 2013.</p>	<p>Insert: "With the exception of the Credit Support Regime contained in the 21 National Gas (Retail Support) Amendment Rules, where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates the relationship between the Service Provider and the Network User, those provisions will apply, regardless of whether such provisions have commenced operation in Victoria"</p>
3(b)	Customer Relationship	<p>Clause 3(b) provides that once a direct relationship between a SP and a customer no longer exists, the SP will supply Distribution Services to a User in respect of that Customer. AGL is concerned that this clause does not explicitly deal with charges that accrued during the direct relationship.</p> <p>For example, if a customer arranges directly with the SP for an extension to the network and agrees to pay a \$50,000 per month charge, neither the Customer nor the SP should be able to change the arrangement so that the SP seeks recovery of these charges directly from the User. A User should not be liable for Distribution Charges where the User has not had the opportunity to mitigate the risk. If the User is unable to recover these amounts from the customer, it should be the SP's responsibility to recover the charge from the customer.</p>	<p>Insert: (b) Where clauses 3(a)(1) and 3(a)(2) cease to apply in respect of a Distribution Service and a Customer, then from that time the Service Provider will, under this Agreement:</p> <ol style="list-style-type: none"> (1) notify the User as soon as practicable of the change in relationship; and (2) provide that Distribution Service to the User in respect of that Customer, save that the User will not be liable for charges relating to: <ol style="list-style-type: none"> (A) Extensions; (B) Expansions; (C) Connections; or (D) Connection Alterations, agreed between the Service Provider and the Customer prior to the Service Provider commencing to provide the Distribution Service to the User, unless the User is able to agree a

Section		Comment	AGL proposed amendment
			payment arrangement with the Customer acceptable to the User acting reasonably.
4.1(b)(2) SP Ausnet	Provision of Distribution Services	Multinet's clause 4.1(b)(2) is preferable to SP Ausnet's as the additional wording is superfluous (as clause 4.3(b) "ceases to be entitled to" covers the reconnection issue), refers to the Energy Retail Code and has an incorrect cross-reference.	Replicate Multinet's clause 4.1(b)(2).
4.2 SP Ausnet	Deemed request for Distribution Services	Multinet's clause 4.2 is preferable to SP Ausnet's as SP Ausnet's definition of "Customer" has been amended to include prospective customers even if the User is not the FRO.	Replicate Multinet's clause 4.2.
4.4(b)	Entitlement to Refuse Service	This new clause appears to limit liability for disconnecting a customer and accordingly would be more appropriately included in the Service Provider / Customer contract. Furthermore, the disconnection rules in the National Gas Rules and the limitation of liability provisions in clause 13 of the Terms and Conditions provides adequate protection.	Delete the new clause 4.4(b)
4.4(c)	Distribution Services	The SP should be obliged to notify the User as soon as reasonably practicable if the SP becomes aware that gas which does not meet Specifications may be delivered to a delivery point.	Insert the phrase "The Service Provider will notify the User as soon as reasonably practicable if the Service Provider becomes aware that the Gas does not meet Specifications".
4.5	ROLR	AGL considers that for the sake of consistency the ROLR provisions in the National Gas Law and Rules are preferable.	"Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates ROLR, those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."
4.7(a) & (b)	User's Obligations / Capacity Management	Specifications cover gas quality sufficiently and are what is referenced in the upstream agreements. AGL has no knowledge of what beyond the Specifications is appropriate ie what "material or properties" may be "deleterious to the Distribution System" and has no control over this as upstream producers/pipeline operators will not agree to obligations over the standard specifications.	Delete sub-clauses 4.7(a) & (b)
4.7(c)	User's Obligations / Capacity Management	This is a new indemnity, AGL queries why clause 13.5 (Indemnity by the User) isn't sufficient.	Clause 4.7(c): delete all words after "Specifications".

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4.8	Title to Gas	AGL queries why an indemnity is included in this clause and why clause 13.5 (Indemnity by the User) isn't sufficient.	Delete all words after the phrase "At all times, the User must ensure that it has good title to Gas it causes to be injected into the Distribution System."
6	Disconnection	The disconnection provisions in NECF more accurately reflect the parties' abilities to mitigate risks, including credit risks, associated with disconnection. If a Service Provider (who is usually in a better position to mitigate risks) is liable for ongoing charges when it fails to disconnect it has an incentive to follow through with its obligations and remove any obstacles to disconnection.	Delete and replace with: "Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates Disconnection, those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."
6.1(b)	Disconnection and curtailment	The SP should not have an unfettered discretion as to the order of curtailment, disconnection, etc. At a minimum, it should be required to act reasonably.	Insert "acting reasonably" before "determine"
6.2(a)	Disconnection at the Request of User	The new phrase "but only where permitted by applicable Regulatory Instruments to make such a request" is an unnecessary addition and should be deleted.	Delete the phrase "but only where permitted by applicable Regulatory Instruments to make such a request"
6.2(f)	Disconnection at the Request of User	This clause allows the Service Provider to disconnect a customer. Disconnection is heavily regulated, thus this sub-clause is superfluous.	Delete clause 6.2(f).
6.2(g)	Disconnection at the Request of User	As AGL will still be liable for consumption where the SP has failed to disconnect a property due to safety and security reasons, the SP should be held accountable to a higher standard (e.g best endeavours) to mitigate the risk. For example, an obligation to attempt to disconnect in the street (if safe), or a police escort if appropriate.	Amend last paragraph to read: In the case of clause 6.2(g)(1) or clause 6.2(g)(3), the Service Provider will use best endeavours to remove or mitigate the risk of detriment or safety issue, including but not limited to disconnecting in the street or obtaining a police escort where appropriate. In each case under this clause 6.2(g), the Service Provider must notify the User of the reasons for its refusal to Disconnect without delay.

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6.2(h)	Disconnection at the Request of User	If a Service Provider refuses to disconnect, or delays disconnection, the User should not be liable for all distribution and gas costs. The User is unable to mitigate these risks and Service Providers are usually in a better position, (i.e such as at the site), to resolve the situation. If the User is liable for all the costs, SP has no incentive to rectify the reason for failure to disconnect. Rule 105 of the NERR provides that where a Service Provider fails to disconnect the distributor must waive all network charges and pay for the energy consumption charges at the premises.	Amend clause 6.2(h) to read as follows: Where the Service Provider refuses to Disconnect, or delays or defers Disconnection of, a Customer on any of the grounds set out in clause 6.2(f) or 6.2(g), and has used best endeavours to do so where required by clause 6.2(g) the User will continue to be liable for the Charges in respect of the provision of the Distribution Services in respect of the Customer and the consumption of Gas by the Customer and clause 6.2(c) does not apply to the Service Provider in such instances.
6.2(j)	Disconnection at the Request of User	AGL queries why clause 13.5 (Indemnity by the User) isn't sufficient. If this clause was to remain, the SP should also indemnify the User for any claims that are brought against the User for the SP's actions or omissions	
6.3	Disconnection at the Request of a Customer	AGL queries how the SP will determine a person is 'purporting' to be a customer as AGL does not provide SPs with customer's date of birth, driver's licence or other forms of validation other than customer/business name, mailing address, contact ph numbers. AGL is concerned that this new clause could prevent the SP from fulfilling its connection obligations.	Delete new clause 6.3(b).
6.5	Assistance	Clause 2.3 requires assistance and co-operation between the parties as does Rule 94 of NERR. AGL queries why clause 6.5 is necessary, or at least not reciprocal?	Delete and replace with: "Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates assistance and cooperation, those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."

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7.1(b)	Charges	The comments under clause 3(b) also apply to this clause 7.1(b).	Replace clause 7.1(b) with: "The User is not obliged to pay a type of Charge to the Service Provider in respect of a Customer where that Customer has entered into an arrangement with the Service Provider (which arrangement has commenced operation) under which the Customer agrees to pay that type of Charge directly to the Service Provider provided that this clause 7.1(b) ceases to apply to a type of Charge and a Customer if due to termination, expiry, rescission or amendment of the arrangement between the Customer and the Service Provider the Customer ceases to be obliged to pay that type of Charge directly to the Service Provider and clause 3(b) will apply".
7.1(e)	Charges	AGL understands Service Providers need to recover costs when they are unable to complete a service due to a User's or Customer's error. However, it is in a consumer's (and User's) best interest if these charges, and indeed all excluded charges, are disclosed and explained; and not arbitrary. The Terms and Conditions should either identify each charge and to what it relates, or should provide that the parties will agree.	Replace with "The User acknowledges and agrees that the Service Provider will be entitled to render an invoice to the User for any Failed Distribution Services Charges incurred by or on behalf of the User. Any such Charges will be invoiced and payable in accordance with this clause 7. "Failed Distribution Services Charges" means the charges set out in Schedule 4, relating to the failed Distribution Services. "Failed Distribution Services" means the services set out in Schedule 4, where the Service Provider has been unable to carry out or complete the relevant Distribution Services as a result of any act or omission of the User or the Customer."
7.1(f) SP Ausnet only	Charges	The current billing periods for Victorian Gas are fortnightly for consumer market sites and calendar monthly for large customers. For instance, the monthly invoice received in late April 2012 covered a billing period of 1 st March 2012 – 31 st March 2012. This billing period	Delete new clause 7.1(f) in SP Ausnet's Terms & Conditions (this clause was not included in Multinet's Terms & Conditions)

Section		Comment	AGL proposed amendment
		corresponds to AGL's retail billing systems which enables reconciliation. The new clause appears to shift the billing period as SP sees fit, or at least from 20 th day of month to 19 th day of following month. AGL's reconciliation systems will not be able to reconcile these charges due to the billing mismatch between the network invoice and the AGL retail bill.	
7.4(a)	Invoicing, Payment & Interest	Clause 7.4(a) enables Multinet to invoice monthly and SP Ausnet "no more frequently than twice per month". As Users are unable to bill small customers more often than every 2 months, Service Providers should not be able to render invoices more frequently than once per month.	Replace with "The Service Provider will render invoices for the period of one calendar month no more frequently than once per month. Subject to clauses 7.4(b) and 7.4(e) the Service Provider will use its best endeavours to render invoices to the User in respect of Distribution Services on the same Business Days of each month or such other invoicing period as agreed between the Service Provider and the User."
7.4(d)	Invoicing, Payment & Interest	This clause provides that a User is not obliged to pay for Distribution Services that were provided more than 9 months prior to the date of the invoice. This should be extended to where the User is unable to recover from the customer for other reasons beyond the User's control, eg Customer insolvency. As clause 508 of the proposed National Gas (Retail Support) Rules prohibits Distributors from recovering charges that the retailer is unable to recover, this clause should be reworded to prohibit the Service Provider from issuing the invoice rather than allowing a retailer not to pay.	Insert the phrase "or for reasons beyond the User's control" after the words "Regulatory Instruments". Insert the phrase "the Service Provider will not render an invoice for Distribution Services that were provided more than 9 months prior to the date of the invoice, however, "immediately after "Subject to clause 7.5(d),".
7.4(g)	Invoicing, Payment & Interest	For the sake of clarity, it would be useful to state that any estimates and invoicing are done in "in accordance with any Relevant Regulatory Instrument".	Insert and the end of the sub-clause "in accordance with any relevant Regulatory Instrument".
7.4(k)	Invoicing, Payment & Interest	This clause referred to the date of receipt or deemed receipt, however, the amended clause requires the User to pay within 10 days from the	Revert to original clause.

Section		Comment	AGL proposed amendment
		date of issue specified on the notice. AGL does not support this amendment as if the SP does not issue in a timely manner, AGL may not be able to pay by the date of issue on the invoice.	
7.6(d)	Guaranteed Service Level Payments	From a revenue assurance perspective, and due to the fact that Service Providers usually pay GSLs on behalf of Service Providers, AGL would prefer this clause to remain.	Reinsert the GSL clause.
7.7	Disputed Invoices	It is unnecessary and highly inefficient to have Service Provider specific disputed invoice clauses. The proposed clause 510 (Disputed statement of Charges) of the National Gas Rules adequately covers the topic.	Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates [disputed invoices], those provisions will apply, regardless of whether such provisions have commenced operation in Victoria.
7.8	Credit Support-Bank Guarantee	Changes made to the credit support regime (particularly, the credit support allowance percentages) in the final NECF caused considerable consternation from retailers of all sizes. The changes were not consulted on and took the retail sector by surprise. It is very likely that a rule change request will be raised not long after the NECF rule change processes become operational. For this reason, AGL does not believe that the NECF credit support provisions should be replicated in the agreements. Accordingly, clause 7.8(m) should be deleted.	Delete clause 7.8(m).
8.2	Provision of Information	Division 2 of Part 5 of the NERR (Assistance and Cooperation) covers this obligation.	Replace with: "Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates [provision of information], those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."
8.5	Changes in Information	Division 2 of Part 5 of the NERR (Assistance and Cooperation) covers this obligation.	Delete and replace with: "Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates [provision of information], those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."
8.6	Accuracy of	Division 2 of Part 5 of the NERR (Assistance and Cooperation) covers	Delete and replace with: "Where a provision of the

Section		Comment	AGL proposed amendment
	Information	this obligation.	National Retail Energy Law or a supporting Regulatory Instrument regulates [provision of information], those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."
9.1 – 9.3	Answering Calls, Provision of Information for inquiries and interruptions	Division 3 of Part 5 of the NERR (Information Requirements) covers these obligations.	Delete and replace with: "Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates [provision of information], those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."
9.4(b)	Customer Details	The new phrase "except to the extent the details have already been provided by the User to the Service Provider" is not consistent with current market practice and requirements. Build Pack 3, under transaction Customer Details notification, states that all specified fields are to be provided if available. Any fields sent as empty will be assumed to be empty and will be set to blank in the receiver's database.	
9.5(i)	New Distribution Supply Points	Typographical error.	Replace with "characterisation"
9.5(k)	New Distribution Supply Points	It is current practice to only provide a start work notice number where there is no certificate of compliance.	Insert the phrase "except where a certificate of compliance has been issued".
9.7	Enquiries or Complaints relating to the User	Rule 101 of NERR (Enquiries or complaints relating to the retailer) should apply	Delete and replace with: "Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates enquiries and complaints those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."
9.8	Enquiries or Complaints relating to the User	Rule 102 of NERR (Enquiries or complaints relating to the distributor) should apply	Delete and replace with: "Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates enquiries and complaints those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."
9.9	Ombudsman	This is an exceptionally long clause. Can this be condensed?	

Section		Comment	AGL proposed amendment
	Complaints		
9.10(b)	Assignment of and Changes in Reference Tariffs	Where the Regulator advises the Service Provider that changes to Reference Tariffs have been verified as compliant, the Service Provider should notify the User immediately.	Insert "immediately" before the word "notify".
9.12	Information for Customers	Rules 101 & 102 of NERR (Enquiries or complaints relating to the distributor) should apply	Delete and replace with: "Where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates enquiries and complaints those provisions will apply, regardless of whether such provisions have commenced operation in Victoria."
11.3	The Service Provider to Indemnify the User	AGL queries why clause 13.5 (Indemnity by the User) isn't sufficient. If this clause was to remain, the SP should also indemnify the User for any claims that are brought against the User for the SP's actions or omissions.	
11.4	The User to Notify customer and the Service Provider	With the triangular relationship, this obligation is no longer necessary. These obligations can/ are communicated in the SP / customer connection contract.	Delete clause 11.4 and Schedule 2
12	Term and Termination	AGL understands the importance of this clause but queries whether this exceptionally long clause could be condensed.	
13.2 & 13.3	Liability of Supply	As quality/ supply interruptions are entirely within control of the Service Provider, this clause should be amended so that the Service Provider should indemnify the User in such instances.	<p>13.2 Liability for supply</p> <p>(a) The Service Provider shall indemnify the User against any Claim by a Customer against the User relating to the quality of, or Interruptions to, the Supply by the Service Provider.</p> <p>(b) The Service Provider shall indemnify the User against any Claim against the User by a Customer for breach by the User of:</p> <p>(1) any guarantee which arises between the User and that Customer under Division 1 of Part 3-2 of the Australian Consumer Law; or</p> <p>(2) implied conditions, warranties or terms (of a type equivalent to the guarantees set</p>

Section	Comment	AGL proposed amendment
		<p>out in Division 1 of Part 3-2) implied under State legislation, which Claim arises in respect of the Supply by the Service Provider in relation to that Customer: (3) but only to the extent that the breach of the guarantee, condition, warranty or terms has not occurred as a result of the acts or omissions of the User; and (4) provided that this indemnity will not apply unless each of the following conditions are satisfied: (A) the User has by its conduct and in its Retail Contract with that Customer limited or excluded its liability to that Customer for breach of any guarantee under Division 1 of Part 3-2 of the Australian Consumer Law or implied conditions, warranties or terms (of a type equivalent to the guarantees set out in Division 1 of Part 3-2) implied under State legislation to the maximum extent permitted by the Australian Consumer Law, applicable State legislation and by the Regulatory Instruments; (B) the User has, at the Service Provider's request, delivered to the Customer any information published by the Service Provider concerning the inherent limitations in the quality and reliability of the Supply; and (C) the User has not agreed to supply to the Customer Distribution Services in excess of the standard of Distribution Services to be supplied by the Service</p>

Section		Comment	AGL proposed amendment
			<p>Provider to the User under this Agreement.</p> <p>(c) The indemnities in clauses 13.2(a) and 13.2(b) do not limit any other legal liability of the Service Provider but apply subject to the exclusions provided in sections 213, 233(1) and 233(3) of the GIA and in the Gas Safety Act and subject to any other exclusions or limitations on liability contained in relevant Regulatory Instruments including without limitation section 316 of the National Energy Retail Law.</p> <p>(d) The User must demonstrate to the Service Provider its compliance with its obligations under clauses 13.2(b)(4)(A), 13.2(b)(4)(B) and 13.2(b)(4)(C) on reasonable request of the Service Provider from time to time.</p> <p>(e) The liability of the Service Provider under this clause 13.2 shall be reduced to the extent that the User has caused or contributed to the Claim.</p> <p>(f) A Claim under this clause 13.2 will be a Claim for the purposes of clause 13.9(a).</p>
13.5	Indemnity by the User	This sub-clause seeks to make Network Users liable for loss of revenue of the distributor that it would be prohibited to recover under Rule 508. Accordingly, this clause should be deleted.	Delete clause 13.5.
13.6(a)	Exemption of Liability	For the purposes of legal clarity, the exemption should only apply to the extent that the failure arises out of any accident.	Replace "if" with the "to the extent that" the Service Provider's control.
13.6(b)	Exemption of Liability	AGL queries the necessity of this new sub-clause as it appears to limit previous indemnities and liabilities.	Delete clause 13.6(b).
14	Dispute Resolution	AGL queries why the Service Providers want to use IAMA for arbitration, as this would require the parties buying its rules. AGL's external lawyers recommend using ACICA. AGL also queries whether mediation is appropriate at this stage as the dispute would have been	Delete clause 14.

Section		Comment	AGL proposed amendment
		raised and negotiated at a senior level, perhaps court/ arbitration should be the next step?	
19.2(b) – (d)	Amendment	Clause 19.2(a) enables the parties to amend by written agreement. The new clauses (19.2(b)-(d)) here are superfluous and appear to enable the SP to unilaterally change the terms.	Delete the new clauses 19.2(b)-(d).
Schedule 1	Approved Form	This form is no longer necessary.	Delete Schedule 1
Schedule 2	Matters to be Notified to Customer	This Schedule is no longer necessary with the tri-partite relationship.	Delete Schedule 2
Schedule 3	Services other than Reference Services	<p>As noted above, AGL believes that the definition of ‘Ancillary Reference Services’ and ‘Excluded Services’ or ‘Negotiated Services’ needs be revisited as there does not appear to be any logical reason for why some services are considered ancillary while others are excluded. For example, Envestra defines ancillary reference services to include meter and gas installation tests, whereas Multinet includes meter and gas installation tests in its definition of ancillary services in Part A of its Access Arrangement but appears to exclude it in Part C and SP Ausnet currently includes it but wishes to exclude it from the next regulatory period.</p> <p>It is AGL’s preference to include services that can only be performed by the monopolistic service providers to be defined as ancillary reference services so they are fixed and transparent. Ancillary reference service charges are approved by the AER and subject to tariff policies so that retailers and customers can identify what the charges are and how they may vary.</p>	

SP-AusNet & Multinet Gas Access Arrangements: Information

Topic	Comments and observations
Demand Forecasts	<p>The Service Providers make references to declining average consumptions and to new customers using less than existing customers. 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.</p>
Demand Forecast - SP Ausnet	<ul style="list-style-type: none"> <li data-bbox="394 576 1921 635">• The predicted decrease in use/customer due to warmer weather (as a result of climate change) seems quite high: 7% for residential customers and around 4% for commercial customers (see charts on p 90 and 91 of CIE report). <li data-bbox="394 667 2033 794">• Price elasticity for commercial customers is 77% (p 75 of CIE report). This is much higher than other estimates (see p 105 of the AER's final decision on Envestra's 2011 proposal, which cites various studies estimating the C&I price elasticity at around 30%: For tariff D customers, growth is projected using AEMO's projected growth in gas volumes for <i>all</i> tariff D customers (pp 85-6 of CIE report).

Attachment B

Envestra (Victoria and Albury) Gas Access Arrangements

Section		Comment	AGL proposed amendment
All	Definitions	Consistent and defined terminology should be used throughout all the documents. In the first document terms such as “Users” and “Prospective Users” are used but not defined. In the Terms and Conditions, the term “Network User” is used.	
	Carbon	AGL queries why Envestra Victoria references ‘carbon’ in many places but Envestra Albury does not appear to reference it.	
2.2.1	Volume Haulage Service	AGL queries Envestra’s need to define that “Gas will have been used primarily for residential purposes if 50% or more of that Gas was used for residential purposes”. Other Service Providers have not defined ‘residential’ in this way. Retailers are in a better position to determine a customer’s usage as retailers have the relationship with the customer.	
2.2.3	Classification of DPs	To ensure that small customers are correctly classified and that requests from the Network User or Customer are promptly considered and reassigned a reclassification should occur from the date either the Network User or customer requested a review or the Service Provider became aware that the classification was inappropriate.	Add to the final paragraph “Envestra must change the classification of a DP to an appropriate classification as soon as practicable after it becomes apparent to Envestra (acting reasonably) that the current classification is inappropriate, including where a User has provided information regarding the DP and requested a review.
2.4	Negotiated Services	For the sake of transparency and fairness, Negotiated Services should be listed and their corresponding fees included in the Agreement. This area has become very contentious as Network Users are unsure as to how and when Envestra charges for these services. Charges for similar services often differ from the one Service Provider and Network Users are not provided with sufficient information to reconcile the charges or even to determine if the charges are reasonable.	

4.5(e)	Cost Pass Through Events	AGL queries the need for a 'Network User Failure Event' to be included when ROLR provisions in NECF cover cost recovery.	
4.6.1	Routine Variations	<p>A strong regime in tariff re-balancing is critical as it bears a strong relationship to a Network User's supply contracts and hence the end user's potential exposure to the fluctuations of network costs. There should be a strong emphasis in the control framework that ensures any significant changes in network costs are gradual and incremental. Accordingly, Service Providers should be required to consult with retailers before making changes to tariff structures or major rebalancing.</p> <p>Network Users need considerable time to consider proposals, change prices and notify customers. Accordingly, Envestra should notify Network Users of the variation at the same time it notifies the AER. For the same reasons, it should also be prevented from varying tariffs sooner than 6 weeks after the AER's final approval has been given.</p>	<p>Insert the words "and Network Users" after the words "Envestra will notify the AER".</p> <p>Insert as the second paragraph "Envestra must consult with relevant Users if the Envestra reasonably considers that there is a proposed change in tariff structures or rebalancing which may materially impact on Users or Customers".</p> <p>Insert as the third last paragraph "The AER must consult with relevant Users if the AER reasonably considers that there is a proposed change in tariff structures or rebalancing which may materially impact on Users or Customers".</p> <p>Insert as the final paragraph: "Envestra will not vary Reference Tariffs sooner than 6 weeks after Envestra has notified Users that the AER has approved the proposed variations to the Reference Tariffs".</p>
4.6.2	Cost Pass Through Event Variations	For the same reasons outlined above, Envestra should be required to notify Network Users at the same time that it notifies the AER of a Cost Pass Through Event and should not be able to pass through charges sooner than 6 weeks after the AER's final approval has been given.	<p>Insert the words "and Network Users" after the words "Envestra will notify the AER".</p> <p>Insert: "Envestra will not pass through any costs sooner than 6 weeks after Envestra has notified Users that the AER has approved the cost pass through".</p>
4.8	Notice to Users	Envestra should be required to provide Network Users with the same information at the same time that they submit a variation proposal to the AER.	Replace the words "as soon as practicable" with "at the same time it notifies the AER"
4.9	New Tariff Schedule	For the reasons outlined above, Envestra should publish its new tariff schedule at least 6 weeks before it is due to come into effect.	Insert the words "6 weeks before it is due to come into effect" before the full stop.

5	NECF	For the sake of consistency and to avoid confusion of which NECF provisions are incorporated into the Access Arrangements, AGL recommends that all Access Arrangements should incorporate NECF (except the Credit Support arrangements) as if NECF was in force in Victoria from 1 January 2013. AGL believes this approach would not only benefit all parties but also help to avoid potential costly disputes, which could arise from the uncertainty of which NECF obligations had been introduced for which Service Provider.	Delete.

Envestra (Victoria and Albury) Gas Access Arrangements: Terms and Conditions

Section		Comment	AGL proposed amendment
New	NECF	For the sake of consistency and to avoid confusion of which NECF provisions are incorporated into the Access Arrangements, AGL recommends that all Access Arrangements should incorporate NECF (except the Credit Support arrangements) as if NECF was in force in Victoria from 1 January 2013. AGL believes this approach would not only benefit all parties but also help to avoid potential costly disputes, which could arise from the uncertainty of which NECF obligations had been introduced for which Service Provider.	Insert: "With the exception of the Credit Support Regime contained in National Gas (Retail Support) Amendment Rules, where a provision of the National Retail Energy Law or a supporting Regulatory Instrument regulates the relationship between the Service Provider and the Network User, those provisions will apply, regardless of whether such provisions have commenced operation in Victoria".
New	NECF	For the reasons outlined above all references to the National Gas Rules not being in force need to be deleted.	
New	Customer Relationship	Envestra has deleted former clause 3, which detailed the relationship between the parties. It is AGL's preference to insert Multinet's amended clause 3 on customer relationships.	
New	Guaranteed Service Levels	To enable appropriate reconciliation and to ensure that there is no double payment of GSLs the former clause 7.6(d) should be reinserted.	Insert "The Service Provider must notify the User where it makes a Guaranteed Service Level payment directly to a Customer under the

			Regulatory Instruments."
New	Provision of DB and cessation of DB services	Envestra has deleted clause 4.1, however, if clause 3 is to be reinserted then AGL is not concerned if this clause is not included in the agreement,	
New	Payment for Network User Services	There is no provision for the payment of Network User services. AGL recommends a similar clause to that proposed by SP Ausnet and Multinet.	
2.6	Service Standards	The network should be operated and managed with "due care and skill" or "in accordance with good industry practice".	Insert "with due care and skill" or "in accordance with good industry practice".
3.3	Fixed Component of Haulage Service Charges	If there is no shared customer at the DP and no consumption, the Network User should not be liable for ongoing service charges. For example, if a customer moves out and no new customer moves in, why should a Network User continue to be liable for charges indefinitely? There is no mechanism in place in Victoria to allow Network Users to deregister the DP in these circumstances and cease to be FRO (as AGL understands there is in NSW) accordingly it is completely unreasonable for Network Users to be liable for fixed service charges where there is no shared customer.	Delete entire clause.
3.3 Albury only	Fixed Component of Haulage Service Charges	The Albury Agreement refers to "Current User", however, this term does not appear to be defined.	
4.3	Network limitations	It is the responsibility of the SP to maintain the pressure and flow rate and clause 14 (Delivery Pressures) should be adequate to limit the SP's liability. Therefore, the limiting phrase "and the pressure and flow-rate of Gas within the Network" should be deleted.	Delete the phrase "and the pressure and flow-rate of Gas within the Network".
4.5	Overselling Capacity	Envestra's discretion must be "reasonable".	Insert "reasonably" between the words "Envestra" and "believes".
9.1	Delivery Point Metering Installation	Envestra's discretion must be "reasonable".	Insert "reasonably" between the words "Where" and "required".
9.3	Maintenance and Removal	This clause deems the Network User liable for the costs of removal of equipment regardless of circumstances. The Network User should only	Insert "and the Network User requests the equipment to be removed" after the phrase "no

		be liable for these costs where it has requested removal, particularly as the Network User is not the responsible party for such equipment.	longer required by law to be used at that DP".
10.5	Notice of Results	Meter testing requests are usually due to high meter bill enquiries or billing disputes, and therefore have revenue implications. Accordingly, a specific timeframe (such as 10 business days from the date of request) for Envestra to provide the meter test results (rather than "as soon as practicable") should be included.	Replace "as soon as practicable" with "within 10 Business Days".
10.7	Basis for Corrections	This clause should only bind the Network User to the extent that the Network User can claim from the Customer as per the proposed undercharging and overcharging provisions of the NERR.	Replace the sentence "The corrections will bind the Network User in the absence of manifest error" with "The corrections will bind the Network User to the extent that the Network User is permitted to recover those charges from the customer."
10.8	Maximum Correction	Envestra should be required to correct the readings as far back as possible (not just one year) if the readings would lead to an overcharge. Where the readings would lead to an undercharge Envestra should be limited to 9 months to reflect the current and proposed undercharging provisions.	Replace this clause with "Envestra must correct the readings taken from any Metering Installation as far back as possible but Envestra is not permitted to recover those Distribution Service Charges from the Network User if the Network User is not permitted to recover those Distribution Services from a customer."
11.1	Schedule Meter Reading	Envestra should also be required to use reasonable endeavours to meet our requested timeframes.	Insert at end "and must use reasonable endeavours to meet any reasonable timeframes requested by User".
11.5 & 11.6	Final Reading	Envestra's meter reading timeframes should be subject to a special read request.	Insert: "unless the Network User requests a [special read]".
12.1	Specifications	Envestra should not be able to impose higher standards ("Specifications") than those imposed by law. The Specifications should cover gas quality sufficiently and is what is referenced in the upstream agreements. AGL has no control over such matters in upstream agreements beyond meeting specifications.	Delete all words after "meets any specifications imposed by law".
12.2	Temperature	Network Users' ability to control gas temperatures is limited to what is contained in the Specifications. Upstream gas agreements require gas to meet the Specifications but Network Users are unable to enforce higher standards.	Delete 12.2
12.3	Failure to Comply	Envestra's discretion should be "reasonable".	Insert "reasonable" between the words "whatever" and "steps".
12.7	Authorised	AGL queries the necessity of this clause in the Albury Agreement as it	Delete

Albury	Conveyance	is not included in other Access Arrangements.	
13.1	Receipt Pressure	Envestra should not be able to unilaterally change the receipt pressure.	Delete the phrase "or as specified from time to time by Envestra by notice given to the Network User."
14.1	Delivery Pressure	Envestra should also exercise all due care and skill.	Insert the words "with all due care and skill" between "Gas delivered" and "at each User DP".
15.3	Limited Responsibility after Delivery	The Service Provider should be liable if it causes damage through a breach of clause 12, 13 or 14.	Replace "clause 14" and insert "clause 12, 13 and 14."
18.1	Grounds for Disconnection	For the purposes of clarity, if Envestra is not required to disconnect on request, then it should be specified here that if Envestra does not disconnect on request then Envestra is liable for any energy charges accrued after that date and the Network User is not liable for any Distribution charges after that date, to be consistent with Multinet.	Make the original clause 18.(1)(a) and insert the following: (b) Envestra must disconnect a Shared Customer's premises, or any User DP, from the Network in accordance with a User's request for disconnection or within 2 Business Days of receipt of the request, except where disconnection is prohibited by law. (c) If Envestra fails to comply with clause 18.1(b), Envestra must from that time waive the Distribution Services Charges in respect of the Customer and be liable to pay to User the costs incurred by User in connection with the consumption of Gas by the Customer provided that User has exercised reasonable endeavours to recover the relevant Distribution Services Charges and consumption costs and has been unable to do so.
19.2	Payment of Charges	Envestra should only be allowed to charge for Ancillary Services that have been completed.	Insert at end of first sentence "after Envestra has provided the requested Ancillary Reference Service."
20	Obligation to Pay Charges	Where the Network User is unable to claim charges from a customer, whether for legal or insolvency reasons, the Network User should not be liable for Distribution Charges. Normal commercial allocation of risks, (being that each party is liable for their own losses ie retailer for energy costs and distributor for distribution charges) should apply.	Insert: "20.5 If, User is unable to recover an amount of Distribution Services Charges from a Customer due to an act or omission of Envestra, User is not liable for such Distribution Services Charges, provided that User has: (a) promptly given Envestra details of the relevant

			Customer, the amount outstanding, the reasons of the non-payment by the Customer, and such other information as Envestra may reasonably request; and (b) been unable to recover the amount due from the Customer within 60 days, after using reasonable endeavours to do so".
20.1	Obligation to Pay Charges	Network Users should only be liable to pay for charges requested or agreed by the Network User. Network Users would not have visibility of customer or Service Provider initiated services and accordingly should not bear the financial risk if a customer refuses to pay for the service.	Insert at end of clause: "save that User will not be liable for charges relating to: (A) extensions; (B) expansions; (C) Negotiated Services; or (D) Non-Reference Service Charges, agreed between Envestra and the Customer, unless User is able to agree a payment arrangement with the Customer acceptable to User acting reasonably.
21.1	Statement of Charges	For the sake of clarity, and to reflect AGL's system capabilities and resource constraints, this clause should specify that billing will not occur more frequently than monthly.	Insert the words "and no more frequently than monthly" and the end of this sub-clause.
21.2	Content of Statement of Charges	Envestra's invoices should be required to contain sufficient information as to allow the Network User to verify/ reconcile the charges (including how they determine 'non-fixed" charges, service order numbers and dates of requests.	Insert the words "and necessary for the Network User to verify the charges" after the words "information required by law".
21.5	Due Date for Payment	This clause should also be subject to clause 23 (Disputed Statement of Charges).	Insert "and clause 23" after the word "Rule 510".
22.1	Recovery not Permitted	The Network User should not be required to pay amounts where the User is unable to recover amount from the customer for other reasons beyond the User's control, eg Customer insolvency. If Envestra failed to bill due to its own negligence and in the meantime the customer cannot be located or is insolvent, the Service Provider should be responsible for the charges. The reference to the NERL and NERR should also be deleted as restrictions on recovery also apply in Victoria.	Insert the words "or unable" after "not permitted" and delete the words "under the NERL or the NERR".
22.3	Time limit	A Network User's ability to retrospectively dispute incorrect charges	Delete.

		should not be limited. There is a need to be able to recover incorrectly billed charges when they are identified even if this falls outside the timeframe.	
25.2	Business Days	In accordance with industry, banking and commercial practice payment should be made on the next business rather than the day prior.	Replace "prior" with "after".
26.1	Overdue Interest	The obligation to pay interest should be reciprocal where a party needs to pay or repay to each other.	Replace references to Network User and Envestra with the parties and insert the words "or repay" after the words "to pay".
26.2	Right to Set-off Unpaid Amounts	This clause should also be subject to clause 23 (Disputed Statement of Charges)	Insert and "23" after "21.5".
26.3	Right to Suspend Services	This clause seems unreasonable and appears to permit Envestra to randomly target innocent customers. Network Users are already penalised by having to pay interest, the amount due may be in dispute or may not even be proven . This clause also has the same effect as terminating the agreement and if the situation warrants this action, they should terminate the agreement under clause 28.	Delete clause 26.3.
27	Credit Support	Changes made to the credit support regime (particularly, the credit support allowance percentages) in the final NECF caused considerable consternation from retailers of all sizes. The changes were not consulted on and took the retail sector by surprise. It is very likely that a rule change request will be raised not long after the NECF rule change processes become operational. For this reason, AGL does not believe that the NECF credit support provisions should be replicated in the agreements.	Replace this NECF obligation and replace with Multinet's for consistency.
28.2(a)	Termination by Envestra	Envestra's ability to terminate the Agreement with 7 days notice of a Network User failing to pay any amount due is particularly harsh and should be deleted. Further, this clause does not take into account any disputes that may be subject to the dispute resolution procedures.	Delete sub-clause 28.2(a) and insert at the beginning of clause 28.2(b) "Subject to any dispute resolution pursuant to clause 37, ..." Clause 28.2(b) should refer to a "material breach" and delete the word "other", so that failure to pay is covered by this provision.
28.5	No Refunds	Envestra should only be able to off-set refunds or repayments due to the Network Users upon agreement with the Network User. Particularly, if the refund is pertaining to an error or overcharge of the	Delete this clause.

		Service Provider.	
28.6	Imbalance on Termination	For the sake of clarity, clause 28.2 should be referenced here.	Insert "under clause 28.2" after the first occurrence of "termination".
29.4	Mitigation	Both parties should be required to mitigate their losses, not just the Network User.	
29.5	Limitation Period	AGL queries the necessity of this onerous provision. Three months is a very short timeframe to gather full particulars and this clause is not included in other Access Arrangements. Recently AGL discovered errors with an invoice for a retrospective period showing Envestra charging thousands of dollars for service orders that AGL didn't even raise but as they have a 3-month limit on retailers disputing their network charges, Envestra refused to refund those amounts in SA and Qld even though AGL was charged in error.	Delete.
29.6	Exclusion of Economic Loss and Consequential Damage	This exclusion should not apply to negligent or for wilful actions.	Insert "except to the extent that the loss arose from a negligent or wilful action."
32.1	Information	Rule 94 of the NERR covers assistance and cooperation. This subject matter should default to NECF in the same way other provisions have.	Delete this clause.
32.2	Assistance	The Network User should be able to pass on any costs that are charged by the Shared Customer or Upstream Operator in assisting Envestra.	Insert the words "to the extent not charged by that person" after "no cost".
32.3	Consultation	Envestra should be subject to the same "assistance and or co-operation", and no cost and in a timely manner obligations as are found in clause 32.2.	Reciprocate clause 32.2 as appropriate.
33.1	User's Indemnities	This clause requires Network Users to indemnify Envestra for all losses etc for any breach of agreement, whereas Envestra only indemnifies Network Users for damage to persons or property caused through their negligence. Indemnities should be reciprocal and Envestra should also be liable for all loss and for loss caused through any breach of the agreement, not just negligence. After all, the pipeline is within their control.	
33.3	Death and Personal Injury	This indemnity should be made reciprocal.	

33.4 & 33.5	Service and Curtailment Indemnities	AGL queries the necessity of these provisions in light of clause 33.1	Delete these sub-clauses.
33.6	Indemnity Qualification	The words “negligent or wrongful” should be deleted as any act or omission of Envestra that contributed to the loss or liability should reduce the Network User’s liability.	Delete the words “negligent or wrongful”.
34.1 & 34.2	User Insurance	If the requirement to obtain insurance is necessary then it should be reciprocal, however, Envestra should not be able to approve the Network User’s insurers. AGL has many contracts with many different entities and different types of insurance coverage and would not be able to note the interest of all its counterparties.	Delete these sub-clauses.
34.5 & 34.6	Claims Enforcement & Settlement	These clauses should be reciprocal.	
35.5	Failure to Provide Access	Under NECF, Service Providers have equal responsibility for obtaining access (for example, through obligations in the connection contract) and accordingly this clause should be deleted, or at least subject to Envestra taking reasonable steps to mitigate the reason for not gaining access.	Delete this sub-clause
35.7	Further Assurances	As access is beyond the control of Network Users and as Service Providers have the same responsibilities under NECF to gain access this obligation should be deleted; particularly as the general assistance provisions should be sufficient.	Delete
36	Confidentiality	AGL queries why these clauses aren’t reciprocal.	
37	Dispute Resolution	The dispute resolution clauses in the Rules are adequate.	Delete
38.1(b)	Notice	The reference to fax should be deleted. This is an out-dated means of communication and not as reliable as the other suggested methods.	Delete
39.1, 39.2 & 39.3	Assignment by Network User	AGL queries why these clauses aren’t reciprocal.	
41.3	Consents	This provision should be deleted, or at the least Envestra should be required to consider all requests for consents or approvals in a timely manner and to act reasonably when making the decision whether or not to consent or approve.	Delete

Envestra (Victoria and Albury) Gas Access Arrangements: Information

Topic	Comments and Observations
Price Elasticity	<p>Price elasticity figures are a key input to the Carbon Price, Wholesale Price and Network price adjustments. Envestra bases the residential price elasticity on the South Australian figures (from the Core report). The use of South Australian figures as proxy for Victoria does not appear to be justified as the Victorian price elasticity for residential customers would be expected to be significantly lower than the South Australian price elasticity. The use of South Australian figures will overestimate the negative impact to demand. The qualitative difference between South Australian and Victoria is further highlighted by the difference in the slope of the “Flow duration curves for gas” (source: Figure 5-3 of AEMO 2011 GSOO).</p> <p>Envestra uses a residential price elasticity of -30% (source: Core Table 5.16). However, SP Ausnet quotes on p79 “The estimated price elasticity is 0.17 for residential gas use.”</p>
Six Star Building Standard Input	<p>A 6-Star demand adjustment is made to the Residential Tariff V base forecast. The adjustment is given in Table 13.4 on page 198.</p> <p>There appears to be a discrepancy in the 6-Star demand adjustment:</p> <ul style="list-style-type: none"> • Envestra/Core use the energy demand impact figures from the Australian Building Code report. These figures are due to BOTH gas and electricity (see quote below from source report). However, the Envestra/Core attribute the impact solely to gas demand. • The ABC source report clearly states (source: FINAL REGULATION IMPACT STATEMENT for DECISION (Final RIS 2009-06)): p.79 “The table reports both the change in electricity and gas consumption.” (referring to Table 6.2)
Price impact of Carbon and Wholesale	<p>The quoted increases price for Carbon and Wholesale Gas appear to be not consistently applied, or not clearly traceable. On p.207, Envestra quotes “... Core Energy has estimated the impact of the opening carbon price of \$23/tCO_{2e} will be an increase to the Tariff D retail gas price of 18%, followed by annual increases of 1.3% thereafter.” However, Table 5.12 of the Core report quotes a Carbon cost impact for 2013 of 0.94%. Core, in turn attributes the 18% increase to wholesale.</p> <p>Further, the relation between the demand impact (Table 13.21) for Carbon being 3 times that of the impact of the Wholesale price (for 2016-2017) is not substantiated by the data. Accordingly, AGL considers that the figures in Table 13.21 need further justification.</p>

