

A few
words.

10 November 2009

Mr Mike Buckley
General Manager
Network Regulation North Branch
Australian Energy Regulator

Email: nswactgas@aer.gov.au

AGL

JGN Access Arrangement 2010 – 2015

Dear Mr Buckley,

AGL Energy Limited's ("AGL") submission in relation to the proposed Access Arrangement by Jemena Gas Networks to apply from 1 July 2010 is attached. As AGL Energy is the largest user of reference services provided by Jemena Gas Networks in NSW, we have a very keen interest in the outcome of this consultation.

AGL's main concerns with the Access Arrangement are:

- That Jemena are proposing a **34.3%** increase in their Volume Throughput Rate from 1 July 2010. This is a major step change in the network distribution charge that can only result in significant price shock to end-use consumers if implemented from Day 1 of the new Access Arrangement. AGL argues for a smoothing of this increase over the five years.
- That the demand forecast for the tariff or volume market is not in line with what AGL sees. AGL notes that Jemena's volume market demand forecast is characterised by a projected growth in customer numbers, but offset by a significant decline in gas usage per customer. We are not convinced that a sufficient case has been demonstrated for the assumptions employed.
- That the terms and conditions, both in the Access Arrangement and in the Reference Service Agreement, do not align with the tenor and details of Use-of-System agreements that are currently in force and that we work with. AGL seeks revisions in a number of key areas.

We do however note and acknowledge the following developments in this Access Arrangement:

- Jemena have taken the opportunity presented by the design of the STTM to significantly restructure a number of key aspects of the Access



Arrangement design so that the two frameworks (STTM and JGN AA) are somewhat aligned.

- Jemena have considerably reduced the number of reference services and tariffs, thereby reducing complexity.
- Jemena are proposing a price control mechanism that will allow for appropriate variations in the annual reset based on outcomes in the previous year.

Should you have any queries in relation to our submission, please feel free to contact George Foley on (03) 8633 6239

Yours sincerely,

A handwritten signature in black ink, appearing to be 'AC', is positioned below the text 'Yours sincerely,'.

Alex Cruickshank
General Manager Energy Regulation

AGL Submission: JGN Access Arrangement 2010 – 2015

2010 volume tariffs

Jemena Gas Networks are proposing a **34.3%** increase in their Volume Throughput Rate from 1 July 2010 — by way of illustration, the rate for the first 1.25 GJ per month rises from \$10.112/GJ to \$13.581/GJ, the next 1.5 GJ per month from \$5.819 to \$7.815. This is accompanied by annual escalation at CPI+1.96% thereafter. This is a major step change in the haulage rate that can only result in significant price shock to end-use consumers if implemented from Day 1 of the new Access Arrangement.

AGL would argue that it is not in the interests of Users and end-use consumers to be faced with such price shocks and that a smoothing of this increase over the five years would represent a better outcome.

Tariff classes

AGL is concerned with the creation of new tariff classes – Coastal and Country – with respect to Volume customers. Given that network charges comprise about 40% of the retail price to the end-user, AGL proposes that new tariff classes should only be created if there are material differences of say, at least 10%.

The differences between Coastal and Country rates for Volume customers in the proposed network charges for 2010-11 are well below 5%. With network charges likely to be passed through in the retail prices in 2010-11, the creation of new tariff classes requires careful consideration as significant costs will be incurred by Users initially to re-assign customers to appropriate tariff classes and, on an ongoing basis, increase the cost to serve due to additional complexity. AGL suggests a 10% materiality test in favour of a postage stamp tariff for network charges for volume customers — if there are appreciable network tariff differences (beyond 10%), we would agree that there might be benefits in the form of price signals to end-users which might offset the costs being incurred by Users.

Reference tariff policy

We have a number of issues around the references tariff policy, which are enumerated below.

- With respect to clause 3.2(d) of the Access Arrangement, AGL seeks clarification on the process and timeframes for when the Service Provider may vary or withdraw an existing Reference Tariff. AGL seeks amendment to this clause so that it specifies when an existing Reference Tariff may be varied or withdrawn.
- With respect to clause 3.2(e) of the Access Arrangement, AGL notes that there is no requirement within this clause for the Service Provider to refer any new Reference Tariff to the AER for approval prior to implementing the new Reference Tariff. AGL requests amendment to this clause requesting

that any new Reference Tariff must be approved by the AER prior to being applied.

- With respect to clause 3.2(g) of the Access Arrangement, AGL requests that the clause be amended to reflect an appropriate notification period for the specified date. AGL requests that the date specified cannot be a retrospective date and that the Service Provider must provide a minimum of 60 business days' notice.
- With respect to clause 3.3(c) of the Access Arrangement, AGL's view is that this clause should be amended to allow for negotiation when the Service Provider does not consider a particular delivery point to be eligible for the Tariff Class nominated.
- With respect to clause 3.3(c) of the Access Arrangement, AGL requests that this clause be altered to provide the User with prior notification to enable sufficient time to contact impacted customers. If the Service Provider requests, the User must notify each affected Customer of any change in the Reference Tariff that has been verified as compliant in accordance with the Reference Tariff Class. The Service Provider must provide the User with a minimum of 20 business days' notice.
- With respect to clause 3.4(c) in the Access Arrangement, AGL would recommend inclusion of 'by negotiation' in sub-clause (D).

Annual approval process of network charge variations

Annual variations in network tariffs are proposed to be submitted by the Service Provider to the AER for approval at least 30 business days before 1 July. The proposal allows for AER to approve the annual variations within 20 business days.

The proposed timing implies that network charges will have been approved by the AER at least 10 business days before 1 July. AGL's view is that this allows insufficient time for Users to implement variations to their own retail tariffs. AGL suggests that the final approved network tariffs should be provided to all Users at least 20 business days before 1 July, to allow for the calculation of new retail tariffs (with network pass-through), submission to IPART, and testing and implementation of the new rates in retail billing engines. This can be simply achieved by having the Service Provider submit network tariff variations at least 40 business days before 1 July each year.

WACC methodology

The AER is specifically seeking views on the adoption of the Fama-French three-factor model by Jemena in calculating their weighted average cost of capital. AGL's view is that the National Gas Rules do not proscribe any method as long as it meets the test of being a "well accepted financial model". That being the case, we are of the view that the WACC methodology and the data underpinning the specific calculations in this instance are matters that can be left to the AER's specialist consultants.

Unaccounted for Gas

Jemena are proposing a Target UAG level of 2.1%. They also propose an average cost of \$5.50 per GJ, resulting in a minimum annual cost of \$11.4m. JGN further suggest that actual UAG in the 2.1% - 2.7% range (the latter rate referred to as the UAG Tolerance Rate), will also be passed through to Users. UAG performance in excess of the 2.7% will be borne by the Service Provider.

AGL understands that Jemena will reflect variations in unit replacement costs from the \$5.50 benchmark as pass-through items, so that any variations in unit costs through competitive open tender or sourcing of spot gas directly from the STTM will be shared with Users via the annual tariff variation mechanism. In theory UAG could be purchased from the STTM. AGL is not uncomfortable with this proposal but seeks assurance that there will be transparency around unit procurement costs such that Users can satisfy themselves that reference tariff variations have a clear basis. A rigorous demonstration of actual UAG costs thus needs to be an essential step in the annual tariff reset process.

Demand forecasts

The gas demand forecasts associated with this Access Arrangement have been prepared with the assistance of NIEIR, consultants who are well known to the gas industry.

Demand customers

AGL does not have any major issues in relation to the forecast for demand customers. We would tend to agree with the economic outlook for manufacturing in NSW and its consequences on gas demand. It is not clear that demand for the existing gas-fired generation facility owned by Delta and located in the network has been factored into the projections. Table 5.1 of the NIEIR report seems to suggest that gas-powered generation (GPG) has been excluded from their forecast gas consumption by sector. We do acknowledge that forecasting non-baseload GPG use is notoriously difficult. However, AGL's view is that, notwithstanding its peaking nature, this plant represents a new avenue for gas consumption within the network and should partially offset the flat to declining trend put up for large manufacturing sites. The absence of GPG from the compilation of total demand for gas in the network seems questionable at best. It needs to be emphasised that we are not seeking GPG demand to be shown separately, only that it be included in the mix.

Volume/tariff customers

AGL does have a number of concerns and queries in relation to the outlook for the tariff or volume market. AGL notes that Jemena's volume market demand forecast is characterised by a projected growth in customer numbers, but offset by a significant decline in gas usage per customer.

Intentionally blank

Jemena and NIEIR offer a range of reasons why this decline in average usage might occur, but AGL believes that not much evidence has been provided to underpin their various claims. We offer the following observations:

- NIEIR seem to have used loads per customer for existing and new customers supplied by Jemena. How have Jemena calculated these numbers?
- NIEIR claim that they have made necessary adjustments to the econometric models to account for gas market factors, including the substitution of gas heaters by electric reverse cycle air conditioners, impact of AAA showerheads on hot water usage, replacement of failed hot water units, and electricity to gas (E to G) hot water replacements.

Are there not some factors driving higher usage, for example increases in dwelling sizes, increased penetration of central and space heating, etc? Were these also taken into account? ABS figures show a strong increase in number of dwellings using gas for water heating from 20.8% in 1999 to 25.5% in 2008.

- NIEIR assume 1% per annum increase in efficiency in hot water usage each year for new dwellings. Where does this come from?
- Average gas usage in new dwellings for heating is presented as some 6.6 GJ, 9 % less than for existing dwellings (NIEIR p40). Where does this figure come from? There is no citation for it.
- NIEIR (p41) assume that only 43% of existing electric hot water heaters are replaced by gas ones — where does this come from?
- NIEIR (p42) assume a 3% pa increase in penetration of low flow showerheads, 'consistent with historic trends'. It does not appear realistic to assume that this rate of change will continue.
- The projections assume that, as gas space heaters break down, 25 per cent of existing customers convert to reverse cycle air conditioning. (NIEIR p43). Where is the data for this view?
- BASIX standards are stated as a reason for lower loads for new houses (NIEIR p46), but BASIX seems consistent with increased penetration of gas water and space heating.
- From January 2008, the NSW Government has been offering a \$1200 rebate for switching from electric to solar hot water, and \$300 for switching to gas hot water heaters with a 5 star or higher energy rating. (NIEIR p45). Whilst the NIEIR report cites this incentive arrangement, it would appear that that this was not taken into account in their modelling.
- NIEIR perform weather normalisations by reference to a Standard HDD of 489. None of the actual HDD data in their report gives rise to such a figure. Our own calculations suggest a 560 HDD average for 2003-2008, based on Bureau of Meteorology data for Sydney. AGL seeks the rationale for this statistic rather than an outright assertion.

Capacity 1st response tariff

Jemena are proposing a demand tariff variant known as Capacity – 1st Response. This new tariff category is characterised by a 50% discount to the standard demand tariff, with eligibility being subject to the conditions set out in section B of Schedule 2 to the Access Arrangement. Jemena, through this discounted demand tariff, are hoping to persuade very large end-use sites to offer more of their load in the lower tranches of the curtailment table, thereby insuring a greater impact in the early stages of an emergency situation when curtailment is called.

Whilst AEMO will be implementing the Short Term Trading Market in the Sydney and Adelaide Hubs from 4 June 2010, it is clear from the design and the draft STTM Rules that AEMO's role does not involve management of system security within the Hub — the STTM is there to provide long-term pricing signals. The role of network system security, and the management of gas flows to ensure that,

rests with the network operator, Jemena Gas Networks. This being the case, AGL believes the curtailment product to end-use customers from JGN is a common sense move to increase the robustness of their curtailment options.

Notwithstanding the motivation behind the introduction of this tariff, AGL would be interested in obtaining an understanding of how this arrangement is proposed to be funded. Is it the case that those demand customers, owing to their size, who are not eligible for this discounted tariff would be funding this through higher demand rates than would otherwise be the case?

AGL also seeks greater clarity around the mechanisms and procedures for the implementation of this arrangement. Whilst Jemena have proposed criteria for delivery points that might qualify for this tariff, there are nonetheless practical implementation issues to be resolved, such as:

- Will the end-use customer enter into this agreement directly with JGN or via the User?
- If the former, how will the User be informed?
- Jemena will need to share any resulting shift in loads amongst Priority 1 to 10 with Users.
- Is JGN proposing to bill these end-use customers directly?
- Will JGN be managing the customer interface when curtailment is activated?
- Who will perform the validation that a minimum 40% of load curtailment did take place within the 6-hour window specified by JGN?

Terms and conditions

AGL is concerned that Clause 2.2(C)(d) of the Access Arrangement allows the Service Provider to deem that the AER has approved any amendments to Terms and Conditions, with the Service Provider publishing amendments on their website, if the AER does not provide the Service Provider with written notification within 20 business days. AGL would argue that the Service Provider should seek clarification from the AER as to the reasons behind not receiving approval within the allowed timeframe and should not assume that approval has been given.

AGL recommends that any amendments proposed under clause 2.2(C)(b) should go through the AER approval process. AGL does not support Clause 2.2(C)(d) and is concerned that the Service Provider will have the ability to gazette changes without receiving written notification from the AER.

AGL proposes the following amendments:

“Where the AER advises the Service Provider that changes to Reference Tariffs have been verified as compliant by the AER, the Service Provider must notify the User of any changes that will occur to Reference Tariffs in accordance with the Regulations.”

Legacy Services

In clause 2.4(c)(ii) of the Access Arrangement, Jemena propose an immediate 40% escalation in rates applicable to Legacy Services. AGL requests to be provided with the basis of this 40% escalation.

Schedule 2 of the Access Arrangement

We draw your attention to section H, Ancillary Fees, and offer the following remarks:

- With respect to 'Request for Service', AGL notes that the Service Provider has not provided sufficient information or definition surrounding these services. The Service Provider bundles the charge as a single cost; however AGL sees benefit in the Service Provider itemising the charge thus providing the User and the customer with visibility of the calculation of the charge. AGL notes that the Request for Service should outline what service is being provided by the Service Provider and not the reasoning why the fee is being applied.
- With respect to 'Special Meter Read Fees', it is not clear whether a Special Meter Read Fee is applied per site visit or applied per meter read at the premises. AGL requests that the Service Provider provide additional information on the circumstances under which the fee will be applied.
- With respect to disconnection services, AGL notes that Disconnection services have changed from a residential and business disconnection services to a temporary disconnection, which does not differentiate between residential and business customers. AGL requests that the Service Provider provide additional information surrounding the circumstances under which the fee will be applied.
- With respect to 'Permanent Disconnection', AGL sees this type of disconnection as not removing the meter but instead removing a delivery point from a service agreement and removing the User from being responsible for the site. Whether the Service Provider disconnects or removes the meter is proposed to be left to the discretion of the Service Provider. The Service Provider is proposing to charge the fee of \$300 for permanent disconnection to the User; however it is at the Service Provider's discretion as to whether the site is actually Permanently Disconnected.

AGL does not support this type of disconnection service, where the customer and User have requested the site be permanently disconnected but where the Service Provider chooses to leave the meter at the site. If requested to perform a service, the Service Provider must perform the service that they have been requested to perform. AGL is also concerned that the User, the Retail Market Operator (AEMO, formerly GMC), and the Service Provider should have the delivery point registered with the same status in all three systems as a misalignment can have consequences for network billing, calculation of the NSL, etc.

Schedule 6 of the Access Arrangement

The introduction of the STTM in the Sydney Hub will introduce new dynamics into the market, in sharp contrast with the previous balancing arrangements. Positions will be cashed out daily, with financial consequences for market participants rather than just volumetric consequences. Given this backdrop, AGL seeks further clarification on how and when JGN will curtail or load shed under the new Access arrangement. The implications for retailers are now more significant than previously with the introduction of the STTM, so on that basis Users seek more guidance from the Service Provider on how load shedding will be implemented. We note that the STTM Rules and Procedures prescribe an operational methodology to be followed by the Service Provider when making recommendations for the calling of Contingency Gas.

We do see this as a separate issue from that posed by the introduction of the Capacity 1st - Response tariff.

Reference Service Agreement (RSA)

The reference service agreement is put forth by Jemena as part of the Access Arrangement. This is a key document, which will govern the day-to-day interactions between Users and the Service Provider. A detailed clause-by-clause set of comments is provided as an attachment to AGL's submission. We do wish to draw attention to some of the key issues in this section.

Suggested new clause

AGL sees that it is important that all Users are treated equally therefore requests the inclusion of this new clause into the Default Access. This is reflected in some other use of system agreements.

"A default Access Arrangement agreement must contain terms and conditions that are fair and reasonable and that do not unreasonably discriminate, or have the effect of creating unreasonable discrimination, between retailers or between customers or any retailers."

Credit support thresholds

As currently worded, the Service Provider has sole discretion of either seeking a parent company guarantee or other forms of security as agreed, and these other forms are not listed. AGL would argue that the notion of an 'Acceptable Credit Rating' should be inserted in the RSA, with reference to what constitutes an Acceptable Credit Rating — for example, Standard & Poor's rating of at least BBB. This would bring the RSA in line with the majority of Use-of-System agreements that are in place.

Meter data service

The arrangements in the RSA make it clear that a Meter Data Service is procured by default with the haulage agreement. AGL as a User would like to see the following changes around this reference service:

- Specification of meter data file formats and contents
- The delivery of To and From reads as well as consumed energy in the billing period, amongst other changes
- Indemnity to User for negligence or failure to comply, as per clause 18.5 where the Service Provider seeks indemnity from the User in relation to metering data where the Meter Data Service is not taken up by the User.

Overcharging/undercharging under RSA

AGL does not support the 2 calendar year limitation being proposed in clause 22.8(c) and proposes rewording of this clause so that it does not preclude the User from recovering costs from the relevant customers. Recovery of undercharged amounts should be limited to what the User is allowed to recover from relevant end-use customers by regulatory instruments of a customer protection nature.

Network invoicing

AGL does not think it reasonable for invoicing frequency to be at the absolute discretion of the Service Provider. The timing should be by agreement and provide sufficient time to enable a User to run automated reconciliation processes prior to payment, for example no more than one per month.

Appendix - Jemena NSW Gas Access Arrangement review of Reference Services Agreement

Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
1. Definition and Interpretation				
1.1	Definitions	Demand Customer List means a list in electronic form (or such other form determined by the Service Provider) which sets out the following items for each Demand Customer Delivery Point:	AGL requests that the lists must be provided in an electronic means. The current wording "or such other form determined by the Service Provider" is not acceptable. Non electronic Demand Customer List is not acceptable	AGL request that ' or such other form determined by the Service Provider ' to be removed from this definition.
		Reference Service means the Haulage Reference Service and, until the Meter Data Service Date, the Meter Data Service;	Clarification is sought on the current definition of Reference Service as the proposed wording suggests that in the future meter data services will not be a reference service	Clarification is required on the future of Meter data Services continuing to be a Reference Service.
		Security means, at the User's option, one or a combination of the following: (a) a refundable deposit, or bank guarantee; (b) if the Service Provider agrees (in its sole discretion), a parent company guarantee; or (c) such other form of security as agreed between the User and the Service Provider, which must be in a form satisfactory to the Service Provider;	AGL understands that the Service Provider would require a means of security however is concerned that the Service Provider has the sole discretion of either seeking a parent company guarantee or other forms of security as agreed and these other forms are not listed.	Removal of 'Sole Discretion' and the insertion of ' Acceptable Credit Rating ' with reference to what constitutes an Acceptable Credit Rating for example: Standard & Poor's credit rating of at least BBB- and insert an obligation for Jemena to accept a parent company guarantee from a parent with an Acceptable Credit Rating.
1.4	Amendments to this Agreement	Where the Regulator has approved, or is deemed to have approved, amendments to the Reference Service Agreement (or a replacement of the Reference Service Agreement) in accordance with clause	Amendments to Reference Service Agreement approved by the Regulator vary terms of the agreement effective 2 business days from date of written notice from Jemena. Presumable AGL will have a	AGL requests that the 2 business days notice period that is proposed in section 1.4(b) be amended. AGL seeks that the time be

Appendix - Jemena NSW Gas Access Arrangement review of Reference Services Agreement

Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		<p>2.2, Section C of the Access Arrangement or on the approval by the Regulator of a revised or new Access Arrangement, then:</p> <p>(a) The Service Provider will provide written notice to the User; and</p> <p>(b) The User agrees that such amendments will vary the terms of this Agreement, effective 2 Business Days from the date of the written notice.</p>	<p>chance to comment on proposed changes to terms through the AER approval process but 2 business days is a very short timeframe for implementation.</p>	<p>extended to 60 days notice at a minimum.</p>
2. Commencement and Expiry of a Reference Service				
3. Haulage Reference Service				
3.1	Request for Service	<p>If the User requests a Reference Service in respect of the Network, and relevant requirements of the Access Arrangement are met by the User and the Service Provider, the Service Provider must provide the Haulage Reference Service in accordance with this clause 3 and other relevant provisions of this Agreement.</p>	<p>This makes provision of a reference service subject to the general reference to "relevant provisions of this Agreements"</p>	<p>AGL requests that Jemena refer to the relevant sections specifically, rather than make Users search through the whole document. Readability is difficult and Users may make reference to incorrect provisions</p>
4. MDQ, MHQ and Chargeable Demand				

Appendix - Jemena NSW Gas Access Arrangement review of Reference Services Agreement

Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
4.6	Increase in Chargeable Demand	4.6 Increases in Chargeable Demand (a) This clause 4.6 applies where the Delivery Point is a Demand Customer Delivery Point	Increases in Chargeable Demand do not correspondingly increase MDQ. Increases in MDQ need to be requested. This means that customers may have Chargeable Demand higher than MDQ but be exceeding their Capacity Entitlement (based on MDQ, not Chargeable Demand). In other words, paying for capacity that they are not technically entitled to.	In Clause 4.6(a) AGL suggest that where Chargeable Demand increase should mean that Chargeable Demand is greater than MDQ then the MDQ should automatically increase to the amount of the Chargeable Demand.
		(b) Where a Delivery Point is equipped with Daily Meter Reading Facilities, the Service Provider may increase the Chargeable Demand applicable to that Delivery Point to equal the ninth-highest actual Quantity of Gas withdrawn at that Delivery Point in any one Day over any 12 month period (or if data from the Daily meter reading Facilities is not available for a 12 month period, any lesser period of time for which such information is available).	Need to seek clarification on the process to reset chargeable Demand. Does it happen every month? Or once per year? Or some other way? Can a customer receive an increase in one month and then again in the next month if the 9 th highest is higher than the new Chargeable Demand?	In Clause 4.6(b) AGL requests clarification of Process is required and should be reflected within the document.
4.7	Decreases in Chargeable Demand	(b) Where a Customer has experienced a permanent and material reduction in its requirements for Gas supply, the User may make a written request to the Service Provider requesting a reduction in the Chargeable Demand for the relevant Delivery Point from which the Gas for that Customer is withdrawn (Reduction Request), provided that:	AGL does not accept that all of the exceptions listed in clauses 4.7(b) (ii) to (v) 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?	The Reference Tariff Policy [see 3.3(h)] permits a User to request more often if there was a change in customer – the clauses in the agreement should reference or reflect this. 4.7(b)(v)AGL requests

Appendix - Jemena NSW Gas Access Arrangement review of Reference Services Agreement

Section	Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
	<p>(i) the proposed reduction in Chargeable Demand is nominated in the Reduction Request;</p> <p>(ii) the Reduction Request is received by the Service Provider no less than 12 months after the Demand Reset Date in respect of the current Chargeable Demand for the relevant Delivery Point;</p> <p>(iii) no other requests to reduce the Chargeable Demand for the relevant Delivery Point have been rejected by the Service Provider in the 6 months immediately preceding the date of the Reduction Request;</p> <p>(iv) the Service Provider has not accepted a request to reduce the Chargeable Demand in the 13 month period immediately preceding the date of the Reduction Request;</p> <p>(v) the requested Chargeable Demand is less than 90% of the existing Chargeable Demand for the relevant Delivery Point; and</p> <p>(vi) the User provides a letter from the User's relevant Customer setting out the reasons for its reduction in Gas requirements and demonstrating why that reduction is a permanent one, to the Service Provider's reasonable satisfaction.</p> <p>(d) In considering a Reduction Request,</p>	<p>Is the 90% rule reasonable? This could be significant amount for a customer?</p> <p>AGL does not agree that the factors mentioned in clause 4.7 are fair and we think that these should not be applied to a new customer.</p> <p>4.7(d) AGL considers the requirement that a customer has to wait a year for a reduction in demand in the circumstances referred to in point 4.7(d) is not considered fair and request that the clause be altered to exclude new occupants.</p> <p>4.7(e) AGL sees the requirement that customers have to wait 12 months for a requested reduction in MDQ to take effect – i.e. a 12 month delay to receive a 10% or more reduction is not acceptable and should be altered to be fairer.</p>	<p>clarification on the process undertaken to calculate 90% as this does not seem reasonable.</p> <p>Add the words <u>"acting reasonably" after "considers"</u>.</p> <p>The capital expenditure in (iii) will be an issue for customers as they may lease a site planning a substantial change in use and reduction in consumption thinking they will be able to get the demand charge amended only to find that because of SP capital expenditure they can't get the demand reduced</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.</p> <p>Reduced Chargeable Demand should apply from</p>

Appendix - Jemena NSW Gas Access Arrangement review of Reference Services Agreement

Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		<p>the Service Provider may take into account in addition to the information provided as part of the Reduction Request, any other factors the Service Provider considers relevant, including but not limited to:</p> <ul style="list-style-type: none"> (i) past patterns of actual Gas consumption at the Delivery Point and reasoned forecasts of expected future demand for Gas at the Delivery Point; (ii) any previous requests to reduce the Chargeable Demand or increase or decrease the MHQ or MDQ at the Delivery Point; and (iii) whether, and if so the extent to which, the proposed reduction will compromise the Service Provider's ability to recover any capital expenditure the Service Provider has incurred in relation to the Delivery Point (including whether the Service Provider incurred such capital expenditure in reliance on an undertaking to maintain a certain level of MDQ or Chargeable Demand for a minimum period of time). <p>(e) If the Service Provider consents to a Reduction Request, the Service Provider will reduce the Chargeable Demand for the relevant Delivery Point:</p> <ul style="list-style-type: none"> (i) by the amount nominated in the Reduction Request; 		<p>requested month, then the normal 9th highest resets apply using data from Demand Reset Date onwards. If the Chargeable Demand has been underestimated, it will quickly get reset to the correct level.</p>

Appendix - Jemena NSW Gas Access Arrangement review of Reference Services Agreement

Section	Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
	<p>(ii) to the ninth-highest Quantity of Gas withdrawn at that Delivery Point in any one Day in the 12 month period immediately following receipt of the Reduction Request (if the Delivery Point is equipped with Daily Meter Reading Facilities); and</p> <p>(iii) the highest average Quantity of Gas withdrawn from a Delivery Point in a Day (such charge to be calculated using the Quantity of Gas withdrawn from that Delivery Point over any Calendar Month) in the 12 month period immediately following receipt of the Reduction Request (if the Delivery Point is not equipped with Daily Meter Reading Facilities or data from such facilities is not available for the relevant 12 month period), whichever is the greater, but subject to clause 4.5(c).</p> <p>(f) A reduction in Chargeable Demand pursuant to clause 4.7(e) will take effect from the first Day of the Calendar Month immediately following the date which is one year after the date the Service Provider received the relevant Reduction Request. The date on which the reduced Chargeable Demand takes effect will be the "Demand Reset Date" for that Delivery Point with respect to the reduced Chargeable Demand.</p>		

Appendix - Jemena NSW Gas Access Arrangement review of Reference Services Agreement

Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
5. Overruns				
5.6	Revocation of authorisation	(b) The Service Provider will not be liable for, and the User will indemnify and hold the Service Provider harmless from and against, any and all Damages or claims in connection with or arising as a result of the revocation by the Service Provider of an approval (in whole or in part) of an Authorised Overrun pursuant to clause 5.6(a).	The indemnity being proposed is very broad and should be limited to damages caused by Users. AGL can't suggest wording as we are not aware of the type of damages that would be caused in these circumstances. AGL. If Jemena means that they revoke the authorisation and then AGL has an overrun, clause 6.2 applies. Unless Jemena mean they aren't liable to AGL and are trying to say we indemnify them for our loss. If this is the case the clause may be acceptable if it refers to 'User's Damage'	Clause 5.6(b) requires clarification on the outcomes that the Service Provider is seeking in this clause. AGL requests clarification on the circumstances that the indemnity will apply.
6. Unauthorised Overruns				
7. Nomination And Balancing				
8. Determination Of Quantity Delivered At Delivery Point				
9. Commingling, custody, control, responsibility and warranty				
9.4	Responsibility for Gas	(a) The Service Provider is responsible for Gas in its custody and control between the Receipt Stations and the Delivery Station at the Delivery Point and must replace (by way of commercial purchase of UAG in accordance with clause 9.5(d) and 9.5(e)) any Gas lost	Request wording be amended to reflect 'fairness' as there should be a requirement for the Service Provider to act fair.	AGL requests "its absolute discretion" to be replaced with "acting reasonably."

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		whilst in the care and control of the Service Provider at a time and on the terms determined by the Service Provider in its absolute discretion.		
9.5	Unaccounted for Gas	(c) The Service Provider may update the LG Quantity at any time to reflect updated data for an LG Period. However, the Service Provider is not obliged to recalculate the LG Quantity for a LG Period once 12 months have elapsed since the end of that LG Period.	In clause 9.5(c) AGL sees that the timeframe of 12 month limit may not be reasonable. As there have been ongoing issues with LG, AGL proposes that material errors be an exception.	AGL requests that 'excluding material errors' be inserted at the end of clause 9.5(c)
10. Gas quality				
10.1	Specification Gas	(ii) where the law referred to in clause 10.1(a)(i) does not prescribe a particular matter, or for any period during this Agreement in which there is no such law, the specification in Annexure 2 as varied from time to time by the Service Provider. (e) The Service Provider will not be liable for, and the User will indemnify and hold the Service Provider harmless from and against, any and all Damages or claims in connection with or arising as a result of the delivery of Gas at any Receipt Point which does not meet the Specification.	10.1(e) is it practicable to qualify this indemnity to only apply where the User injected the gas? This query is consistent with the general principle that a party should only be required to indemnify in relation to actions or omissions within its control. A User cannot control the actions of another User and should not be liable for them.	AGL requests the insertion of "acting reasonably" to the end of Clause 10.1(a)(ii)
10.3	Consequences of the Service Provider	(d) The Service Provider will not be liable for, and the User will indemnify	AGL sees that this indemnity is too broad. AGL is concerned that the clause as it is	AGL requires a wording amendment to the clause

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Section	Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause	
	exercising rights under clause 10.2	and hold the Service Provider harmless against, any and all Damages or claims in connection with or arising as a result of the giving of direction or the cessation of Gas delivery under clause 10.2 or any failure of the User to comply with a direction issued under clause 10.2.	should indemnify the Service Provider for say, another User causing loss.	to provide limitation on the indemnity. AGL suggests that the wording "of the giving of direction or the cessation of Gas delivery under clause 10.2 or" should be deleted so that the indemnity is limited to the relevant User's failure only
10.4	User to satisfy the Service Provider	The User must, if requested by the Service Provider: (a) provide evidence to the satisfaction of the Service Provider that facilities and management plans exist to enable satisfactory measurement of the quality of Gas at each Receipt Point or any point where Gas is introduced into a pipe or system of pipes through which Gas is delivered to a Receipt Point;	Clause 10.4(a) requires a User to provide the Service Provider with evidence to the satisfaction of the Service Provider however there should be either a limitation or a 'reasonability' check on the type and amount of evidence that is required.	AGL sees that this clause should be limited to the "reasonable satisfaction" of the Service Provider.
10.7	Amendment of Specification	The Service Provider must use reasonable endeavours to notify the User prior to any change to the Specification by the Service Provider pursuant to clause 10.1(a) (ii).	Whilst there may be a requirement on Jemena to alter the specifications AGL suggests that prior notification is required and therefore has provided a minimum timeframe as part of the proposed approach. AGL requires prior notification to any changes in specification, especially if there are any consequences to AGL.	Clause 10.7 The inclusion of a timeframe included of 'a minimum of 40 business day's notification prior to changes to the Specifications' .
11. Addition of Delivery Points				
12. Deletion of Delivery Point				

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
13. Change of Receipt Point or Delivery Point				
14. Receipt Points and Receipt Stations				
14.9	Pressure at Receipt Point	<p>(a) The Service Provider is not obliged to provide a Service if the pressure at which Gas is received at the relevant Receipt Point does not comply with the minimum and maximum pressure specifications for that Receipt Point set out in Annexure 6, as amended from time to time by the Service Provider.</p> <p>(b) The Service Provider is not liable for, and the User will indemnify and hold the Service Provider harmless from and against, any and all Damages or claims in connection with or arising as a result of Gas delivered through any Receipt Point which does not comply with the minimum and maximum pressure specifications in accordance with this clause 14.</p>	AGL is concerned that the Service Provider has the ability to amend minimum and maximum receipt point pressure at any time (see Annexure 6) Previously the requirement was "after reasonable notice" but there was no right of appeal	AGL requests that the phrase "after reasonable notice" be inserted. AGL requests the inclusion of a right of appeal.
15. Delivery Points and Delivery Stations				
15.1	Requirement for a Delivery Station	<p>(b) Each Delivery Station must be designed, maintained, tested and calibrated in accordance with good engineering practice and industry standards, and in accordance with specifications approved by the Service Provider prior to installation.</p> <p>(d) The User must not take or permit</p>	Request amendment to wording in (b) and (d)	<p>AGL requests that in Clause 15.1(b) the words "acting reasonable" be inserted after "approved".</p> <p>In addition to this AGL requests clause 15.1(d) that the words "acting</p>

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		any person to take Gas through a Delivery Station which was not in physical operation as at the date of this Agreement until the Delivery Station has been purged and commissioned by or to the satisfaction of the Service Provider.		reasonable" be inserted after "satisfaction"
15.6	Basic Metering Equipment Downgrade at existing Delivery Station	(c) Where the Service Provider downgrades Basic Metering Equipment as a result of a change in load or pattern of usage by the User's Customer, if the Service Provider requires the User to pay the reasonable costs of such a downgrade, it must advise the User in writing of such costs prior to the downgrade and the User must pay the full costs of such a downgrade.	AGL understands that Jemena may be required to downgrade metering equipment however this should be undertaken in consultation and negotiation with the User and the Customer. There may be a temporary reduction in usage only. If there isn't any discussions with the User then the User potentially would incur the full costs for the downgrade and then the full costs with the upgrade	AGL requests that the wording be amended to include 'by Agreement'. AGL requires that a minimum of 10 business days written notice is provided to the User.
15.11	Repair of Basic Metering Equipment	Where the Service Provider is responsible for maintenance of the Basic Metering Equipment and provided that the User provides the Service Provider and its authorised contractors with access (or procures that the Service Provider and its authorised contractors are provided with access) at reasonable times to the Delivery Station and procures the cooperation of the User's customer, the Service Provider must or must cause its authorised contractors to carry out necessary repairs of the Basic Metering Equipment within a reasonable time of becoming aware of the need to	ALG notes that the only obligation for the Service Provider or their contractor to repair a non-functioning meter is within a reasonable timeframe. AGL notes that there may be interruption to the customer's service or an impact to UAFG therefore requests that a maximum timeframe be inserted.	Insertion of 'or a maximum of 2 business days of becoming aware of a fault at a Basic Metering Equipment' after a reasonable time.

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		do so.		
15.12	No liability for disconnection	<p>The Service Provider and the User must comply with their respective obligations set out in Annexure 7 in relation to the design, ownership, operation and maintenance of Delivery Station components.</p> <p>(b) Without limiting clause 15.12(a), the Service Provider is not liable for, and the User will indemnify and hold the Service Provider harmless from and against any and all Damages or claims in connection with or arising as a result of the Service Provider's actions pursuant to clause 15.8 or 15.9.</p>	<p>This is a new clause and AGL requests that the clause be amended to reflect the liability of the Service Provider for their negligence. If the Service Provider takes action or fails to take action and the User has not contributed to this act/omission then the Service Provider should be liable.</p>	<p>AGL does not support the inclusion of this clause. The Service Provider should be liable for the negligence that they cause. This is also applicable for clause 24.3(b)</p>
16. Measuring Equipment – access, safety and estimation				
16.1	Safe Access to Measuring Equipment	<p>(c) If any area surrounding the Measuring Equipment (including any enclosure or building surrounding the Measuring Equipment) becomes unsuitable for the safe and continuous operation (including access to the measuring Equipment) of the Network,</p>	<p>Additional clause allowing Jemena to move the Measuring Equipment if the area surrounding becomes unsuitable</p>	<p>AGL requests that this clause be altered to reflect all of the conditions that would make the surrounding area unsuitable.</p>
16.3	Consequences of no access	<p>If the Service Provider is unable to safely access a Delivery Point for any of the purposes of clause 16.2, then the</p>	<p>AGL sees some benefit in the Service Provider referencing the estimation methodology undertaken in clause 16.3(a)</p>	<p>AGL suggest the clause 16.3(a) should reference an estimation methodology</p>

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		<p>Service Provider may at its option do any or all of the following:</p> <p>(a) estimate the Quantity of Gas delivered to that Delivery Point and render an invoice based on such estimate; and/or</p> <p>(c) after giving the User 1 Business Day's written notice, replicate at a location accessible to the Service Provider, and at the User's reasonable cost, the Measuring Equipment at the Delivery Point.</p>		<p>similar to clause 16.7(b)</p> <p>Clause 16.3(c) AGL sees that one Business day's notice seems too onerous except in situations where there is a safety issue and requests that the timeframe be altered. The provision of 5 business days notice for all instances except where safety issues are identified and then the notice should be one business day.</p>
16.5	No tampering with Measuring Equipment	<p>(c) Clause 16.5(a) does not prevent the User from performing :</p> <p>(i) alterations or additions in accordance with clause 15.4(a);</p> <p>(ii) maintenance of equipment in accordance with Annexure 7;</p> <p>(iii) disconnection and reconnections of supply in accordance with clause 15.9, provided that such actions do not otherwise damage or render inoperable or inaccurate any other part of the Measuring Equipment</p>	Conditions are not clearly defined on what constitutes tampering	AGL seeks clarification of conditions where the User can perform actions on measuring equipment without breaching rules about tampering.
17. Meter Data Service				
17.1	Meter Data Service offered as a Reference Service	(b) The User Requesting a Haulage Reference Service at a Delivery Point is deemed to have Requested a Meter Data Service at that Delivery Point commencing on the same	What happens if the Service Provider doesn't provide the readings to AGL within the timeframe? What format must they provide the data in? Note a format is specified when we [AGL] provides the data	AGL requests that this clause be altered and include that the Service Provider indemnifies the User [AGL] for the Service

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		Commencement Date as the Haulage Reference Service.	to Jemena [clause 18.2]. Why don't they indemnify AGL [User] for their negligence or failure to comply?	Providers negligence or failure to comply. AGL also requests that the Service Provider be required to provide the data in a format as in clause 18.2.
17.5	No Warranty	The User acknowledges and agrees that the Service Provider makes no warranty, representation, statement, covenant, agreement, indemnity or undertaking as to: (a) the accuracy or quality of meter data at a Delivery Point; or (b) the condition or fitness for purpose of the Measuring Equipment at any Delivery Point.	AGL does not understand why is the Service Provider permitted to exclude liability for accuracy? If Users are required to use the service, the Service Provider should be liable for errors that they are responsible for.	AGL seeks either the amendment or removal of this clause, clause 17.5, and to place liability on the Service Provider regarding accuracy as the User does not have the ability to choose who provides the service.
17.6	Scope of liability	Except as otherwise provided at law, the liability of the Service Provider to the User (howsoever arising, whether under this Agreement, the law of negligence or, to the extent permitted by law, otherwise) in respect of: (a) the accuracy or quality of meter data at a Delivery Point; or (b) the condition or fitness for purpose of the Measuring Equipment at any Delivery Point, is limited to an obligation to correct any error, omission or malfunction as soon as it is reasonably able to do so.	AGL seeks clarification on why the Service Provider is permitted to exclude liability for accuracy? If AGL [User] is being forced to use a service, they should be liable for errors that they are responsible for.	AGL seeks the amendment or removal of this clause, clause 17.6, and to place liability on the Service Provider regarding accuracy as the User does not have the ability to choose who provides the service.
18. Metering				

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
requirements where User does not take a Meter Data Service				
18.2	User to provide Daily Meter reading Facilities at Demand Customer Delivery Points	(b) The User must provide the Service Provider with details of the meters and meter index readings specified by the Service Provider each Day in a format that is reasonably acceptable to the Service Provider and in accordance with a timetable determined by the Service Provider.	As any amendment to how the Service Provider and a User interacts can impact systems and processes any amendments to format should be by negotiation and agreement. As it is the User who is providing the data then the User should have the ability to set the format of the data and the timetable for provision of the data.	AGL request rewording to enable the User to determine at least the timetable and the data format is by negotiation.
19. Allocation				
20. Charges				
21. Allocation of Tariff Classes		<p>(a) The User acknowledges that each Delivery Point under this Agreement will be assigned a Tariff Class in accordance with the principles set out in the Reference Tariff Policy, which Tariff Class will be conclusively recorded in the Relevant Customer List.</p> <p>(b) If the User reasonably believes the characteristics of the Customer at a Delivery Point for the assignment criteria of a Tariff Class other than the tariff Class to which that Delivery Point has been assigned, it may give written notice to the Service Provider</p> <p>(i) setting out reasons and any evidence reasonably required by the Service Provider to support assignment of the Delivery Point to another Tariff Class;</p> <p>(ii) requesting that the Service Provider reassess the assigned Tariff Class in</p>	<p>21(a)- No reference to the process in allocation of each Delivery Point to a Tariff Class</p> <p>21(b) – Provides the ability for AGL to request Tariff Class reassignment however the process is not defined.</p>	<p>Clause 21(a) AGL requests the inclusion of the process to allocate Tariff Class to each Delivery Point.</p> <p>Clause 21(b) requires additional information defining the process to be undertaken to request Tariff Class reassignment</p>

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		accordance with the principles set out in the Reference Tariff Policy.		
22. Invoicing and payments				AGL notes that Clause 20.14 of the current agreement has been deleted. AGL questions if Jemena considers 17.1(h)-(j) replaces the deleted clause.
22.1	Service Provider to issue invoice	<p>(a) The service provider will issue the User with an invoice at intervals determined at the absolute discretion of the Service Provider</p> <p>(b) Each invoice will specify the amounts payable for all Services supplied to the User under this Agreement in the most recently completed Billing Period. Where relevant, such amounts will be calculated using the meter data or estimated meter data from all relevant Delivery Points</p> <p>(c) Any adjustment or outstanding amounts in respect of any previous Billing Period must be included in the invoice.</p> <p>(d) If the User requests, the Service Provider may send a copy of the invoice to the User by electronic mail or facsimile on the date the invoice is generated.</p>	<p>AGL is concerned that within Clause 22.1(a) the invoice can be issued at time intervals at the discretion of the Service Provider. As is, the Service Provider can invoice a User at time intervals as small as hourly. To enable a User the ability to automate reconciliation processes there should be a minimum timeframe for the issuing of invoices. In addition, there is a need to include any amendment to the agreed timeframe is by negotiation and agreement.</p> <p>Clause 22.1(b) does not state that the invoice will specify the amount payable for each Delivery Point.</p>	<p>AGL request time intervals are set at a minimum of one month and can only be altered by negotiation and agreement.</p> <p>AGL proposes the following wording be utilised for clause 22.1(a) "The Service Provider may render invoices no more frequently than once per month. The Service Provider will use best endeavours to render invoices on the same Business Days of each month or such other invoicing period as agreed between the Service Provider and the User.</p> <p>Clause 22.1(b) insert the amount payable for each Delivery Point</p>

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
22.3	Due Date of Payment	<p>(a) Except as otherwise stated in clause 22.2, the User must pay the aggregate amount stated in each invoice within 14 days of the date of the invoice (Due Date).</p> <p>Where payment falls due on a Day which is not a Business Day, the Due Date will be the last Business Day before the date which is 14 Days after the date of the invoice.</p>	<p>The due day should be 10 clear business days and not shortened to cater the date falling on a non-business day.</p>	<p>AGL requires the wording of clause 22.3(a) to be altered to reflect at least 10 business days and not shortened due to the due date being a non-business date.</p>
22.6	Disputed payments	<p>If the User disputes part or all of an invoice given by the Service Provider to the User under Clause 22.1:</p> <p>(a) the User must, within 10 days after receipt of the invoice, notify the Service Provider in writing specifying the amount in dispute and the reasons for the dispute;</p> <p>(b) the Parties must comply with the dispute resolution process set out in clause 32;</p> <p>(c) the User must pay the full aggregate amount of the invoice (except any amount which is manifestly wrong) in accordance with clause 22.3 and if the User fails to do so, the Service Provider may require the User to pay interest on</p>	<p>AGL does not support the payment of any amount that is in dispute or the penalty of interest being incurred on any amount which is in dispute.</p> <p>Users should be entitled to withhold any amount that is in dispute.</p> <p>AGL also notes that under clause 27 if the User defaults in payment of any moneys payable under this Agreement for a period of 7 Days after notification of the default then the Service Provider may, at the Service Provider's sole discretion.</p> <p>AGL sees value in the introduction of a new process for disputed payments as it sees clause 32 being applicable to commercial disputes.</p>	<p>AGL requests that within clause 22.6(c) the words 'manifestly wrong' be removed and replaced with 'genuinely disputed'.</p> <p>AGL urgently requests the introduction of amendments to the disputed payments process rather than requiring User to comply with the dispute resolution process set out in clause 32 or have the agreement terminated as per clause 27.</p>

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		the amount outstanding (excluding any amount which is manifestly wrong) in accordance with clause 22.5		
22.8	Overcharging and undercharging	<p>(a) If the User has been overcharged or undercharged under this Agreement and the User has paid an invoice containing the overcharge or the undercharge, then the Parties must agree on the correct amount payable and either:</p> <p>(i) the Service Provider will credit or debit that difference to the User in the next invoice as appropriate; or</p> <p>(ii) within 5 Business Days of the Parties agreeing on the correct amount payable, the Service Provider will refund the User or the User must pay the difference as appropriate.</p> <p>(b) If the Party to whom the amount is owed so requires, the amount will include interest in accordance with clause 22.5 from the date of payment by the User or the date of invoice by the Service Provider (whichever is applicable), to the date of payment or refund under this clause 22.8 (whichever is applicable) (both inclusive).</p> <p>(c) A Party may not claim from the other Party any amount overcharged or undercharged if more than 2 Calendar Years have elapsed since the date of the relevant invoice.</p> <p>(d) Nothing in this clause 22.8 is</p>	<p>AGL does not support the 2 calendar year limitation being proposed in clause 22.8(c) and proposes rewording of this clause so that it does not preclude the User from recovering costs from the relevant customers</p> <p>AGL notes that there is no provision within this agreement for the rendering of an adjusted invoice.</p> <p>AGL sees benefit of the inclusion of a list of items that could be rendered as part of an omission of a charge, enabling either party to rectify the error or omission. Causes of errors or omissions may include, but are not limited to meter tampering, bypass, defective meters or defective readings.</p>	<p>Clause 22.8(c) If the Service Provider has undercharged or not charged a User for Distribution Services provided in respect of a Customer, the Service Provider may recover the amount undercharged or not charged to the User, however the User will not be obliged to pay such charges to the extent that the User is precluded from recovering those costs from the relevant Customers by operation of the Regulatory Instruments.</p>

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		intended to exclude the operation of the Network Code. If there is any inconsistency between this clause 22.8 and the Network Code, the provisions of the Network Code will prevail		
23. Goods and Services Tax				
23.6	Adjustments	Where in relation to this agreement a Party makes a taxable supply, that Party will provide a tax invoice in respect of that supply before the additional amount payable in respect of that supply becomes due.	AGL notes that this is a new clause which steps out the process for applying adjustments however AGL requests that where there is an adjustment event, then the adjustment note must be issued as soon as the Party becomes aware of the adjustment event.	AGL requests amendment to this clause which provides the obligation onto the Party that where there is an adjustment event, then the adjustment note must be issued as soon as the Party becomes aware of the adjustment event.
24. Suspension of Service				
24.3	No Liability	(a) The Service Provider is not liable to the User or to the User's Customers, employees, agents or contractors for any Damage if it suspends delivery of Gas under this clause 24. (b) Without limiting clause 24.3(a), the Service Provider is not liable for, and the User will indemnify and hold the Service Provider harmless from and against, any and all Damages or claims in connection with or arising as a result of the Service Provider's actions pursuant to this clause 24. (c) The User acknowledges that suspension of delivery of Gas under this	AGL requests that this clause needs to be altered. The Service Provider should be liable for damage.	AGL does not support this clause. The Service Provider should be liable for acts/omissions that cause damages.

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		clause 24 does not reduce the User's obligation to pay Charges		
25. Interruptions and curtailments				
25.4	Load Shedding	<p>(a) If at any time for any reason there is, or the Service Provider reasonably believes or anticipates that there may be, a failure of supply or shortfall in supply in or to any part of the Network, the Service Provider is entitled to curtail or interrupt the receipt, transportation or delivery of Gas and is entitled to implement Load Shedding.</p> <p>(b) The User acknowledges that the Service Provider will determine whether to request a reduction or cessation of Load in accordance with the Load Shedding principles set out in the Operational Schedules.</p> <p>(c) If the Service Provider notifies (including, for the purposes of this clause 25.4, (notice given verbally) the User that:</p> <p>(i) there has been a failure of sufficient supply in or to any part of the Network; or</p> <p>(ii) that it has reasonable grounds to believe or anticipate that there may be a failure of sufficient supply in or to any part of the Network, the User is solely responsible for ensuring that there is a cessation or reduction of Load at the User's Delivery Points in the affected</p>	<p>Clause 25.4 load shedding</p> <ul style="list-style-type: none"> • (a) concept of commercial resolution has been removed • (c) AGL is solely responsible for ensuring there is a cessation or reduction of Load but (f) and (g) have Jemena contacting customers, AGL won't necessarily even know who has been contacted so how can we ensure the customer is complying? • No definition of failure of sufficient supply • Reasonable grounds to believe or anticipate • No timeframe around notice 	<p>Concept of commercial resolution should be re-instated.</p> <p>Provide definition of Failure of Sufficient Supply to link it clearly to emergency / critical situation.</p> <p>Link "reasonable grounds to anticipate" to STTM procedures</p> <p>Carve out as an exception to mechanisms provided by STTM/market (contingency gas etc), so that it is truly a last-resort mechanism.</p> <p>Tighten timeframe of notice, e.g "The Service Provider may only provide the notice (verbal or written) under clause 25.4(c) ("Load Shedding Notice") X hours before the cessation or reduction of Load.</p>

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Section	Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
	<p>Network Section in accordance with the directions of the Service Provider.</p> <p>(d) At the same time as or following notification to the User under clause 25.4(c), the Service Provider at its sole discretion will determine the Load Shedding Priority up to which Load must be reduced or cease and notify the User as soon as practicable of the Load Shedding Priority and Load Types that must be reduced or cease (at the direction of the Service Provider).</p> <p>(e) The Service Provider may at any time and at its absolute discretion change the Load Shedding Priority up to which Load must be reduced or cease and notify the User as soon as practicable of any such change.</p> <p>(f) The User acknowledges and agrees that immediately after notifying the User of the applicable Load Shedding Priority in accordance with clauses 25.4(d) or 25.4(e), the Service Provider is entitled to contact the User's Customers at Delivery Points with relevant Load Types and direct those Customers to cease or reduce their consumption of Gas in accordance with the directions of the Service Provider.</p> <p>(g) The Service Provider may instruct those Customers whose ELMS Data shows Load Types at Load Shedding Priorities up to and including the Load</p>		

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Section	Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
	<p>Shedding Priority nominated by the Service Provider under clause 25.4(d) or 25.4(e) to cease withdrawing, taking or using Gas for each of those Load Types or reduce Loads to a lesser Quantity of Gas specified by the Service Provider.</p> <p>(h) The User must ensure that each of its Customers complies with any direction given to it by the User or the Service Provider to cease or reduce Load under this clause 25.4.</p> <p>(i) Unless otherwise directed by the Service Provider, the User must comply with, and must ensure that the Customer complies with, any Curtailment Plan provided to the Service Provider.</p> <p>(j) If a Customer fails to comply with any instruction it receives from the Service Provider or User under this clause 25.4, the Service Provider may physically curtail, suspend, reduce or interrupt Gas supply to that Customer using whatever means at its disposal.</p> <p>(k) The Service Provider will not be liable for, and the User will indemnify and hold the Service Provider harmless from and against, any and all Damages suffered or incurred by the User and/or the User's Customers in connection with or arising as a result of Load Shedding, provided that the Service Provider acts in accordance with the principles of this</p>		

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		clause 25.4 in good faith.		
26. Force Majeure				
26.1	Definition	<p>26.1 Definition (a) In this clause 26, and subject to clause 26.1(b), Force Majeure Event means any event, circumstance or cause not within the control of a Party and which by the exercise of due diligence that Party is not reasonably able to prevent or overcome, including (without limitation): (viii) native title claims.</p>	<p>AGL sees that the definition provided for clause 26.1 is rather onerous and should be altered to reflect prudent network operations. At a minimum AGL requests clause 26.1(a)(viii) be removed.</p> <p>We would also urge that sub (vii) of this clause be removed as matters relating to network breakdowns are often within the Service Provider's control and not a good example of a FM event.</p>	<p>At a minimum AGL requests clause 26.1(a)(viii) be removed and the clause altered to reflect 'prudent network operations'.</p> <p>We would also urge that sub (vii) of this clause be removed as matters relating to network breakdowns are often within the Service Provider's control and not a good example of a FM event.</p>
27. Termination or cessation				
27.2	Right of Service Provider to terminate	<p>(b) The Service Provider may only exercise its right to terminate under clause 27.2(a)(ii) if the Service Provider and the User, negotiating in good faith, have been unable to agree on a way to deal with the relevant Change in Law to each Party's reasonable satisfaction within 14 days of the Service Provider notifying the User of the relevant Change in Law.</p>	<p>AGL notes that there is no reference within clause 27.2(b) that requires the Service Provider to refer any disputes to the AER. AGL also notes that this clause is silent on materiality.</p>	<p>AGL requests the under 27.2(b) prior to termination a dispute may be referred to the AER. AGL requires the inclusion of materiality into this clause.</p>
27.3	Failure to pay	If the User defaults in payment of any	AGL requests that the days be either defined	AGL recommends that this

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		moneys payable under this Agreement for a period of 7 Days after notification of the default then the Service Provider may, at the Service Provider's sole discretion, either terminate this Agreement or cease to provide Service to any one or more Delivery Points by notice in writing, such termination or cessation to take effect 48 Hours after delivery of the notice and/or may call on the Security.	as business days or calendar days within this clause. Clause 27.3 needs to exclude the amounts that are disputed under clause 22.6	clause be altered to reflect disputed payments under clause 22.6
28. Liability				
28.4	Scope of Liability	(b) The aggregate liability of the Service Provider to the User, its directors, officers, employees and agents, whether by way of indemnity, by statute (to the extent that it is possible to limit or exclude such liability) in tort (for negligence or otherwise) or on any basis at law or in equity is limited to the sum of: (i) the amount which, but for this clause 28, is recoverable and which, in fact, is recovered under the Service Provider's policies of insurance; and (ii) any uninsured retentions (such as deductibles or excesses).	Both parties should have a responsibility to maintain appropriate insurance. On this basis AGL requests the inclusion of the new clause [28.1(c)].	(c) Clause 28.4(b) does not apply to the extent that the Service Provider has failed to effect and maintain the insurances reasonably expected to be held by a prudent network operator or has failed to take all reasonable steps to recover insurance proceeds under its insurances.
28.6	Circumstances in which limitations and exclusions do not apply	(a) The limitations of liability referred to in clauses 28.4 and 28.5 do not apply in respect of the User's liability for the Damage in connection with or arising as a result of: (vi) the indemnities provided by the	AGL requests that the clause be altered to list all of the limitations under clause 28.6(a)(vi) as it is not clear and we request that the Service Provider specifies the actual causes [events].	AGL request this clause be altered to list explicitly all of the limitations within the agreement.

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		User under this Agreement (unless otherwise provided).		
28.7	Contribution to loss or damage	(a) This clause 28.7 does not apply to liabilities where the User has provided an indemnity under this Agreement. (b) The liability of a Party for Damage, howsoever caused (including, but not limited to, by the negligence of that Party), suffered by the other Party in connection with this Agreement is reduced to the extent that the negligent or unlawful act or omission of the other Party caused that Damage.	If the Service Provider has contributed to loss then indemnity should not apply.	AGL requests that clause 28.7(a) be deleted.
29. Transfer				
30. Security and Financial Standing		(b) The Service Provider may review the amount of the Security at any time and may require the User to increase (or decrease, as the case may be) the amount of Security where, in the Service Provider's reasonable opinion, the amount of the Security is less (or more) than the greater of: (i) the sum of the User's previous two invoices at the time the Security is requested; and (ii) the average total Charges payable by the User to the Service Provider under this Agreement over two Billing Periods for each Delivery Point.	The User should have the ability to request a review of credit support. AGL also notes that the clause is silent on when the Service Provider can apply the credit support.	AGL requests that the clause be amended to provides the User with the ability to request a review of credit support and also include the scenarios when the Service Provider can apply credit support.
31. Confidentiality		(a) Unless otherwise provided in this clause 31, the Service Provider must not disclose any Confidential Information under this Agreement except where	AGL notes that 31(a) is redundant by virtue of 31(b) as clause 31(b) requires disclosure by 'applicable laws'.	AGL requests the deletion of 31(a)

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
		permitted by the National Gas Law.		
32. Dispute Resolution				
33. Notices				
34. General				
New Clauses				
New Clause	Acting reasonably	N/A	AGL sees that it is important that all Users are treated equally therefore requests the inclusion of this new clause into the Default Access	A default Access Arrangement agreement must contain terms and conditions which are fair and reasonable and do not unreasonably discriminate, or have the effect of creating unreasonable discrimination, between retailers or between customers or any retailers.
New Clause		Communications regarding Customers and System Data	AGL suggest the introduction of a new clause defining the communication protocol between the User and the Service Provider regarding Planned Interruptions and Disconnections	New Clause required
New Clause		Customer and Site Details	AGL suggests the introduction of a new clause defining the format of exchange of information between the User and the Service Provider regarding Customer Details or the introduction of a B2B process.	New Clause required
New Clause		New Supply Points	AGL suggest the requirement for the introduction of a clause defining the information that the user must provide the to the Service Provider for each new Distribution Supply Point which the User wishes to be connected: .	New Clause required

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Section		Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
New Clause		Complaints / Claims or Ombudsman enquiries	AGL suggests the introduction of a new clause which provides the protocol for complaint handling. This process needs to define the interaction between User and Service Provider.	New Clause required.
New Clause		Theft of Gas	AGL suggests the introduction of a new clause which defines that A party must promptly notify the other party if it reasonably believes that a person is committing or has committed theft of Gas from the Distribution System and the other party may be affected by the theft.	New Clause required.
New Clause		High Bill Enquiry	Meter Investigations require the Service Provider to remove the meter to conduct the investigation however AGL notes that the timeframe is not defined	New Clause required.
New Clause		Notices to the other Party	AGL notes that there is not a defined interaction process.	New Clause required.
New Clause		Meter Accuracy, Meter Testing, Meter reading, Correction of Reading Errors	AGL notes that the omission on obligations surrounding accuracy of meter data, meter testing, meter reading and the correction of reading errors.	AGL recommends extensive amendments to include the entire missing meter reading requirements.
New Clause		Ancillary Services	There is insufficient detail around the Ancillary Services that are proposed in Schedule 2 of the Access Arrangement.	Timeframes and service levels are required around actioning, completion, and notification to Users.
New Clause		Emergencies and Faults Management	Both the RSA and the Access Arrangement are silent on procedures and obligations in relation to emergencies and faults management by the Service Provider.	AGL would like to see a clause around the obligations on the Service Provider in relation Fault and Emergencies, These obligations are around

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Section	Proposal	Issue	AGL's Proposed Approach and suggested rewording of a specific Clause
			communications to Users, updates to Users and the general public, etc.