

A few  
words.

**7 January 2013**

**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](mailto:VicGAAR@acc.gov.au)**



Dear Mr Roberts,

### **2012 Victorian Gas Access Arrangement Review - revised proposals**

AGL Energy Limited (AGL) welcomes the opportunity to comment on the revised proposals submitted by the Victorian Gas Networks to the Australian Energy Regulator (AER) for the Victorian Gas Access Arrangement Review, covering the regulatory period 1 January 2013 to 31 December 2017.

AGL maintains its position in relation to the areas of concern highlighted as part of the previous consultation process. In addition to the matters already raised, AGL considers it is of particular importance to ensure that each Access Arrangement also adequately considers the following broader issues;

- consistency with the National Energy Customer Framework (NECF); and
- the shared allocation of risk.

#### **Consistency with NECF**

AGL submits that there should be as much consistency as possible across gas distribution agreements. We acknowledge the need to accommodate slight changes in operational differences, however believe that one set of rules enables operational efficiencies and facilitates compliance. The difficulty associated with preparing Access Arrangements in a regime filled with such uncertainty is not lost on AGL. We therefore stress the importance of ensuring that these Access Arrangements are able to work in parallel with NECF, when it is adopted. The execution of a seamless transition to NECF will create uniformity and provide customers with clarity around the workings of the Victorian Gas Networks. As this has an obvious long term benefit to customers, it will also serve to promote the National Gas Objective.

#### **Shared allocation of risk**

It is AGL's strong belief that the Access Arrangements should attribute risk fairly between retailers and Service Providers. Both retailers and Service Providers should be subject to the same limitations in terms of liabilities and warranties with regard to the services that they provide to customers. In AGL's opinion however, if a party's actions can have no effect on the outcome of a particular situation, that party should not be held liable for any loss occurring as a consequence. An example of this is the ongoing liability of retailers to pay costs for the removal of metering equipment, despite not requesting the service, nor

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being the party responsible for the equipment. AGL argues that the attribution of liability is particularly unfair where the loss or damage has been caused or contributed to, by the other party's failure to or refusal to act in relation to that situation and asks the AER to address these imbalances of power.

More specific comments relating to these and additional issues in relation to Multinet and SP AusNet's proposals are tabled within Attachment A. Similar comments pertaining to Envestra's proposals are tabled in Attachment B.

AGL notes that it does have concerns about the increases being sought in relation to Unaccounted for Gas. These concerns have been raised with the Essential Services Commission of Victoria as part of a separate consultation process. AGL did not therefore consider it appropriate to raise them again as part of this submission.

Should you wish to discuss any aspect of this submission, please contact Monique Smith, Regulatory Advisor on (03) 8633 7935 or at [MSmith@agl.com.au](mailto:MSmith@agl.com.au).

Yours sincerely,



Nicole Wallis  
Manager Retail Markets Regulation

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## Attachment A

### SP AusNet & Multinet Gas Access Arrangements: Part A

Section	Comment	AGL proposed amendment
<p><b>5.2.4 Sp Ausnet and 5.1.4 Multinet</b></p>	<p>In AGL's opinion, the following component of clause 5.1.4 of the Multinet and clause 5.2.4 of the SP AusNet Access Arrangement is poorly drafted:</p> <p><i>An application for a Connection Service may be made by a Customer but except where rule 1190(2) of the NGR ("Payment of connection charges") applies otherwise the Charges for that Pipeline Service are payable by the User.</i></p> <p>AGL seeks clarification around the intent of this clause. We also seek justification as to why rule 1190 of the National Gas Rules has not been included in its entirety, particularly given that the sub rule 1190(2) directly refers to sub rule (1). For the sake of clarity, we recommend that current wording is replaced with all of rule 1190 National Gas Rules.</p>	<p>AGL requests the highlighted component is removed and replaced with all of rule 1190 of the National Gas (Retail Connection) Amendment Rules 2010:</p> <p><b>1190 Payment of connection charges</b>  <i>(1) Connection charges payable in respect of a connection service must be paid to the distributor by the retail customer's retailer unless:</i></p> <p style="padding-left: 40px;"><i>(a) the retailer did not apply for the connection service under Division 5, Subdivision 3 and the distributor has notified the retail customer that the customer must pay the connection charge directly; or</i></p> <p style="padding-left: 40px;"><i>(b) the retail customer asks to pay the connection charge directly and the distributor agrees; or</i></p> <p style="padding-left: 40px;"><i>(c) the distributor and the retailer agree that the distributor is to recover the connection charge from the retail customer.</i></p> <p><i>(2) If the retail customer pays, or is required to pay, a connection charge under sub rule (1), the distributor must not recover that charge from the customer's retailer.</i></p> <p><i>(3) The distributor must separately identify each connection charge on its statement or invoice to the retailer.</i></p>

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

Section		Comment	AGL proposed amendment
<b>1.1(b)(2)</b>	<b>Haulage Reference Tariffs</b>	<p>AGL notes that the National Gas Rules do not establish time frames for the annual approval process for the introduction of a new tariff.</p> <p>In light of this, AGL stresses the importance of ensuring that any new network tariff structure is able to fit into existing Business to Business (B2B) structures. Failure to do so may necessitate changes to B2B processes and procedures which may trigger IT system changes across retailers. The costs associated with these updates are often significant and will be recovered by normal cost recovery mechanisms. Given that the interests of consumers (in relation to pricing) is one of the National Gas Objectives, we highlight the need for distributors to consider this National Gas Objective when setting network tariffs.</p>	<p>AGL recommends that a generic statement is included in this section, ensuring that the future structure of any new network tariff will be consistent with the National Gas Objective and not provide any undue costs to the end-use customer.</p>

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

Section		Comment	AGL proposed amendment
<b>4.1(b)(2) SP AusNet</b>	<b>Provision of Distribution Services</b>	AGL acknowledges the delay in the implementation of the National Energy Customer Framework (NECF) in Victoria. However, we consider it prudent to include NECF wherever regulations are referenced within the Access Arrangements. As is stands, this clause restricts the application of the Agreement to 'the date that the Customer is no longer entitled to be Reconnected by a User under the Energy Retail Code.' The Energy Retail Code may not be applicable for the duration of the Access Arrangement. It is therefore our strong recommendation that reference to the Energy Retail Code is replaced with the appropriate defined term.	AGL recommends that ' <i>the Energy Code</i> ' is replaced with ' <i>relevant Regulatory Instrument</i> .'
<b>4.8</b>	<b>Title to Gas</b>	AGL requested that this was reviewed during the previous consultation. AGL queries why an indemnity is included in this clause and why clause 13.5 (Indemnity by the User) isn't sufficient. We note that the AER did not provide any view upon this in their Draft Determination. AGL therefore requests that the AER review this clause during this current round of consultation.	AGL recommends the deletion of all words after the phrase " <i>At all times, the User must ensure that it has good title to Gas it causes to be injected into the Distribution System.</i> "
<b>6.2(c)(3)</b>	<b>Disconnection at the request of the User</b>	AGL seeks justification around why a retailer should be treated differently to any other customer. It is our belief that if a Service Provider fails to disconnect when it was obliged to do so, it should waive its rights, regardless of who the end customer is.	AGL recommends the deletion of this sub-clause.
<b>6.2(j)</b>	<b>Disconnection at the Request of User</b>	AGL requested that this was reviewed during the previous consultation. AGL queries why clause 13.5 (Indemnity by the User) isn't sufficient. If this clause was to remain, the Service Provider should also indemnify the User for any claims that are brought against the User for the Service Provider's actions or omissions. We note that the AER did not provide any view upon this in their Draft Determination. AGL therefore requests	

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Section		Comment	AGL proposed amendment
		that the AER review this clause during this current round of consultation.	
6.5	Assistance	AGL considers it unreasonable for the contract to state that a User 'must' give the Service Provider any assistance reasonably requested. It is AGL's contention that any such request should be performed only after it has been agreed to by the User and the Service Provider. Retailers recognise the importance of assisting Service Providers in the maintenance of Supply, and in all cases where a request for assistance is reasonable, a User will perform the actions required. We do not consider it necessary to mandate this provision of assistance within the Access Arrangement, particularly without giving the User any right of refusal. AGL also believes that the User should have the ability to recover any fair and reasonable costs incurred in the provision of the assistance, from the Service Provider.	AGL recommends that ' <i>by agreement</i> ' is inserted within this clause.
7.4(j) Multinet, 7.4(k) SP AusNet	Invoicing, Payment & Interest	<p>AGL considers that the drafting of this clause may have unintentionally limited the amount of time a User will have to pay and consequently, to dispute, an invoice. The Access Arrangement states that the due date for payment of an invoice will be 10 Business Days after the date of issue specified on the statement of charges. AGL's concerns are derived from the fact that the date of issue specified on the statement of charges will not always align with the date the invoice is sent or received, by the Network User.</p> <p>Victorian distributors currently generate a monthly Statement of Charges which can be issued at any time leading up to the end of the month. Using AGL as an example, the Statement of Charges is then sent electronically to the retailer early in the following month. In the current model, the Due Date on the Statement of Charges will be listed as the date that falls 10 Business Days after the Date of Receipt (the day the</p>	<p>AGL recommends removal of the following clause:</p> <p style="text-align: center;"><i>The due date for payment is 10 Business Days after the date of issue specified on the statement of charges.</i></p> <p>and replacement with the following clause:</p> <p style="text-align: center;"><i>The due date for payment is 10 Business Days after the date that the statement of charges is first sent to the Network User.</i></p>

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Section		Comment	AGL proposed amendment
		<p>Statement of Charges is sent to AGL electronically). This allows a retailer 10 Business Days during which it can review the charges and provides maximum opportunity for a retailer to send any dispute files, which must be sent 2 business days before the Due Date.</p> <p>If the proposed clauses are maintained, unless Multinet and SP AusNet change the way they list the date of issue on their Statement of Charges, the amount of time retailers have to review and dispute charges could be significantly shortened. The amount of days by which the Date of Receipt lags behind the Date of Issue will amount to the reduced amount of time a retailer has to pay and dispute a Statement of Charges. Given that disputed files must be sent 2 business days prior to the Due Date, this may result in retailers only having 1 or 2 business days to review a Statement of Charges. AGL considers this to be an unreasonable outcome, albeit one that can be easily avoided.</p> <p>AGL notes that Envestra has already amended their Access Arrangements when alerted to the above issue following discussions with AGL. We strongly recommend that Multinet and SP AusNet adopt the same drafting as Envestra.</p>	
<b>9.4(a)(8)</b>	<b>Customer Details</b>	<p>AGL is concerned that under this clause, Multinet and SP AusNet are requesting for a retailer to provide 'the estimated loads expected for each hour of the day for a typical 24 hour operation.' It is AGL's view that this requirement is not consistent with the National Gas Objective, as it may result in the placing of unnecessary costs and impacts on all participants, including customers.</p> <p>AGL notes that the existing (B2B) Customer Details Transactions do not contain a relevant field or even the ability to communicate the information being sought, from the</p>	AGL recommends that clause 9.4(a)(8) is removed.

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Section		Comment	AGL proposed amendment
		<p>retailer to the distributor. AGL does not consider that Access Arrangements are the correct forum within which this information can be requested. Changes to transactions should be discussed at AEMO working groups to develop an acceptable solution between Industry Participants. This transaction will not only require Industry Participants to amend information technology systems, but will also require changes to the transaction which is sent between Industry participants.</p> <p>In AGL's opinion, clause 9.4(a)(8) should be removed.</p>	
<b>11.3</b>	<b>The Service Provider to Indemnify the User</b>	<p>AGL requested that this was reviewed during the previous consultation. AGL queries why clause 13.5 (Indemnity by the User) isn't sufficient. If this clause was to remain, the Service Provider should also indemnify the User for any claims that are brought against the User for the Service Provider's actions or omissions. We note that the AER did not provide any view upon this in their Draft Determination. AGL therefore requests that the AER review this clause during this current round of consultation.</p>	
<b>13.6(b)</b>	<b>Exemption of Liability</b>	<p>AGL requested that this was reviewed during the previous consultation. AGL queries the necessity of this new sub-clause as it appears to limit previous indemnities and liabilities. We note that the AER did not provide any view upon this in their Draft Determination. AGL therefore requests that the AER review this clause during this current round of consultation.</p>	
<b>General SP AusNet</b>	<b>Regulatory Instrument definition</b>	<p>AGL notes that on occasion, SP AusNet has used the defined term 'Regulatory Instrument' and then proceeded to clarify which of the documents included within the defined term they are referring to. For example:</p> <p style="padding-left: 40px;"><i>6.3 Disconnection at the Request of a Customer</i> <i>(a) If a Customer requests the Service Provider to</i></p>	<p>AGL recommends removing any reference to instruments included within the definition of 'Regulatory Instruments' where they appear in conjunction with the defined term.</p>

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Section		Comment	AGL proposed amendment
		<p><i>Disconnect the Customer, the Service Provider must Disconnect the Customer in accordance with the relevant Regulatory Instruments (including if applicable the Distribution System Code, the National Energy Retail Law, and the National Energy Retail Rules) and notify the User of the request.</i></p> <p>At other times, a particular instrument is referred to by name and grouped with the defined term 'Regulatory Instruments' despite being included within the definition. For example:</p> <p><i>9.2 Provision of Information Concerning Class A Inquiries, Class B Inquiries and Class C Inquiries</i></p> <p><i>(a) The Service Provider must, in the manner and to the extent required by the relevant Regulatory Instruments, make available to the User information regarding Class A Inquiries, Class B Inquiries, Class C Inquiries and other inquiries which relate to the Distribution System which the Service Provider is required to make available to a Customer under the Distribution System Code and other relevant Regulatory Instruments.</i></p> <p>AGL seeks clarification around the need for this additional information where only using the term 'Regulatory Instruments' would be sufficient.</p>	

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## Attachment B

### Envestra (Victoria and Albury) Gas Access Arrangements

Section		Comment	AGL proposed amendment and/or clarification
<b>All</b>	<b>Carbon</b>	<p>AGL queries the reason that carbon has been included within Envestra Victoria's Access Arrangement despite not having been considered within Envestra Albury's Access Arrangement.</p> <p>For example: The carbon tax pass through amount for Tariff V comprises part of Envestra Victoria's Haulage Services Charge for Volume Delivery Points. Envestra Albury does not have this listed as a consideration.</p>	AGL seeks clarification as to why carbon is referenced by Envestra Victoria but not by Envestra Albury.
<b>2.2.1</b>	<b>Volume Haulage Service</b>	<p>Under the National Energy Customer Framework (NECF), a retailer is required to determine the Customer Characterisation and provide this information to the distributor. Existing obligations within the Retail Market Procedures also require a retailer to provide Customer Characterisation details, which advise whether the customer is business or residential (amongst other information).</p> <p>AGL does not believe that Envestra should therefore be required to make its own assessment of how gas has been used at premises. In our opinion, this requirement is not consistent with current practices or the NECF. We consider that the deletion of this sub clause will overcome this issue.</p>	<p>AGL recommends the deletion of the following:</p> <p><i>"A DP is a Residential DP for a given period if the Gas delivered through that DP during that period was used primarily for residential purposes to a single dwelling. Gas will have been used primarily for residential purposes if 50% or more of that Gas was used for residential purposes."</i></p>
<b>4.6.1</b>	<b>Routine Variations</b>	<p>In AGL's opinion, 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.</p>	<p>AGL recommends the insertion of the words "<i>and Network Users</i>" after the words "Envestra will notify the AER".</p> <p>AGL recommends the insertion of the following as the second paragraph:</p>

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		<p>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. At the very least, the existing timeframes shouldn't be shortened than what they currently are. Envestra has proposed a significant reduction in timeframes which AGL considers to be unreasonable.</p>	<p><i>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.</i></p> <p>AGL recommends the insertion of the following as the third last paragraph:  <i>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.</i></p>
<b>4.6.2</b>	<b>Cost Pass Through Event Variations</b>	<p>Envestra should be required to notify Network Users at the same time that it notifies the AER of a Cost Pass Through Event.</p>	<p>AGL recommends the insertion of the words "<i>and Network Users</i>" after the words "<i>Envestra will notify the AER</i>".</p>
<b>4.8</b>	<b>Notice to Users</b>	<p>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.</p>	<p>AGL recommends the replacement of the words "<i>as soon as practicable</i>" with "<i>at the same time it notifies the AER</i>".</p>
<b>4.9</b>	<b>New Tariff Schedule</b>	<p>Envestra should publish its new tariff schedule at least 6 weeks before it is due to come into effect.</p>	<p>AGL recommends the insertion of the words "<i>6 weeks before it is due to come into effect</i>" before the full stop.</p>

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

Section		Comment	AGL proposed amendment
3.3	<b>Fixed Component of Haulage Service Charges</b>	In AGL's opinion, if there is no shared customer at a Delivery Point 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, it should not be the responsibility of the Network User to continue to be liable for charges, particularly given this could go on indefinitely. AGL notes there is no mechanism in place in Victoria to allow Network Users to deregister a Delivery Point in this circumstance, nor can we cease to be the Financially Responsible Organisation. Accordingly, it is completely unreasonable for Network Users to be liable for fixed service charges where there is no shared customer.	AGL recommends the deletion of this entire clause.
3.3 Albury only	<b>Fixed Component of Haulage Service Charges</b>	The Albury Agreement refers to "Current User", however, this term does not appear to be defined.	AGL recommends the inclusion of a definition for 'Current User'.
4.3	<b>Network limitations</b>	It is the responsibility of the Service Provider to maintain the pressure and flow rate and clause 14 (Delivery Pressures) should be adequate to limit the Service Provider's liability. It is therefore AGL's opinion that the limiting phrase "and the pressure and flow-rate of Gas within the Network" should be deleted.	AGL recommends the deletion of the phrase " <i>and the pressure and flow-rate of Gas within the Network</i> ".
9.3	<b>Maintenance and Removal</b>	This clause deems the Network User liable for the costs of removal of equipment regardless of circumstances. AGL believes that the Network User should only be liable for these costs where it has requested removal, particularly as the Network User is not the responsible party for such equipment. AGL also notes that the AER agreed with this contention within its Final Decision. Envestra has not yet amended this clause within the revised Terms and Conditions.	AGL recommends the insertion of " <i>and the Network User requests the equipment to be removed</i> " after the phrase " <i>no longer required by law to be used at that DP</i> ".
12.1	<b>Specifications</b>	In AGL's opinion, Envestra should not be able to impose higher	AGL notes that Envestra has not amended the terms and

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		<p>standards (“Specifications”) than those imposed by law. The Specifications should cover gas quality sufficiently and that is what is referenced in the upstream agreements. AGL has no control over such matters in upstream agreements beyond meeting specifications.</p> <p>The AER, in its draft decision, has recognised that upstream suppliers will not agree to obligations beyond the specifications imposed by law. Additionally, the AER has stated that allowing Envestra to unilaterally impose additional specifications creates uncertainty and may place Network users in a position where they are unable to comply.</p> <p>Given the AER has also stated that, based upon available information, it isn’t consistent with good industry practice to ensure that gas meets additional specifications beyond those imposed by law, AGL strongly feels that this clause needs to be revised.</p>	<p>conditions to incorporate Revision 12.8 and requests the AER to re-consider this revision.</p> <p>Alternatively, AGL requests the deletion of all words after “<i>meets any specifications imposed by law</i>”.</p>
<b>12.2</b>	<b>Temperature</b>	<p>The ability of Network Users to control gas temperatures is limited to what is contained within the Specifications. Upstream gas agreements require gas to meet the Specifications but Network Users are unable to enforce higher standards. For this reason, AGL considers it unreasonable to include a term within the Access Arrangement requiring Network User to maintain a particular gas delivery temperature. The AER agreed with this contention within the Draft Determination. Envestra has not yet amended this clause within the revised Terms and Conditions.</p>	<p>AGL notes that Envestra has not amended the terms and conditions to incorporate Revision 12.9 and requests the AER to re-consider this revision.</p> <p>AGL requests the deletion of sub-clause 12.2.</p>
<b>13.1</b>	<b>Receipt Pressure</b>	<p>It is AGL’s view that Envestra should not be able to unilaterally change the receipt pressure, particularly given that AGL and the customer will have agreed upon the Receipt Point Pressure at the meter. In our opinion, Envestra should have to notify a retailer of the intent to amend the Receipt Point Pressure at the meter. That change should only occur once the retailer has had the opportunity to engage with the customer.</p>	<p>AGL requests that the words “<i>notice given to the Network User</i>” are replaced with “<i>agreement between Envestra and the Network User.</i>”</p>
<b>19.3</b>	<b>Service Attempt (Albury)</b>	<p>Ancillary Reference Services charges are ‘pass through’ charges which are incurred by a customer, regardless of whether a</p>	<p>AGL recommends the removal of clause 19.3.</p>

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		<p>request for service is completed successfully or unsuccessfully. AGL is concerned that the insertion of this new clause will enable Envestra to introduce an additional charge for 'No Access', under the guise of being a 'reasonable cost incurred' in an attempt to provide an Ancillary Reference Service. AGL contends that this is not in line with the National Gas Objective, as it will not promote the long term interests of consumers, particularly with regard to pricing.</p> <p>It is the responsibility of retailers to disclose the charges associated with works to customers. Providing customers with an accurate figure is imperative, as is clarity for their understanding. If Envestra was permitted to introduce a 'No Access' fee, retailers would have to quote more than one charge for customers, along with an explanation, without having had any influence on the creation of the fee. We consider this has the potential to greatly increase complaints in relation to the application of the charges and increase disputes regarding 'No Access.'</p> <p>AGL believes its concerns are particularly warranted, given that Envestra attempted to introduce a 'No Access' charge, an 'Incorrect Code' charge and 'incomplete Meter Fix/New Connection/Special read' charges in 2010, for those instances where it was unable to undertake works requested. This fee was unsuccessfully applied on the basis that Envestra was not required to undertake any additional works as a result of not being able to access a meter. It is our contention that the maximum charge a customer should pay is the charge that would be incurred had the service been successfully completed. AGL is unable to comprehend any additional costs that would reasonably be occurred as a result of a Service Provider not being able to complete a request. Additionally, the Access Arrangement contains no basis for the calculation of such a cost, other than it being 'reasonable.' Any additional costs that may be justified in the future will ultimately result in higher prices for customers, contrary to the National Gas Objective.</p>	
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<b>26.3</b>	<b>Right to Suspend Services</b>	AGL believes that this clause does not align with the National Gas Objective, as it doesn't promote the efficient operation and use of gas services. If a situation warrants termination of the Arrangement, a party should terminate the Arrangement under clause 28. It is AGL's opinion that this clause has the same affect as the termination provisions. In addition, it seems unreasonable as it appears to permit Envestra to randomly target innocent customers. Network Users are already penalised by having to pay interest, although the amount due may be in dispute or may not even be proven.	AGL recommends the deletion of this clause.
<b>28.2(a)</b>	<b>Termination by Envestra</b>	AGL considers that the inclusion of 7 days notice for termination outside of when permitted by law does not provide for the efficient operation of a network. Termination following failure to pay any amount due is a harshly disproportionate outcome for the Network User. The clause also does not take into account any disputes that may be subject to the dispute resolution procedures. In addition, it is very difficult to argue that this clause is within the best interest of customers, as they will likely be adversely impacted if the clause is invoked. AGL believes that this clause should be deleted, on the basis that doing so will promote alignment with the National Gas Objective.	AGL recommends the deletion of sub-clause 28.2(a) and the insertion of the following at the beginning of sub-clause 28.2(b): <i>"Subject to any dispute resolution procedures pursuant to clause 37, ..."</i>  AGL recommends that wherever the word <i>"breach"</i> appears within clause 28.2(b), the word <i>"material"</i> should be inserted before it.
<b>29.6</b>	<b>Exclusion of Economic Loss and Consequential Damage</b>	AGL requested that this was reviewed during the previous consultation. It is our view that that the exclusion should not apply to negligent or for wilful actions. We note that the AER did not provide any view upon this in their Draft Determination. AGL therefore requests that the AER review this clause during this current round of consultation.	AGL recommends the insertion of the following at the end of the sub-clause: <i>"except to the extent that the loss arose from a negligent or wilful action."</i>
<b>32.2</b>	<b>Assistance</b>	AGL requested that this was reviewed during the previous consultation. It is our view that the Network User should be able to pass on any costs that are charged by the Shared Customer or Upstream Operator in assisting Envestra. We note that the AER did not provide any view upon this in their Draft	AGL recommends the insertion of <i>"to the extent not charged by that person"</i> after <i>"no cost"</i> .

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#### AGL Submission\_Review of the revised Victorian Gas Access Arrangements\_012013

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		Determination. AGL therefore requests that the AER review this clause during this current round of consultation.	
<b>33.3</b>	<b>Death and Personal Injury</b>	AGL requested that this was reviewed during the previous consultation. It is our view that this indemnity should be made reciprocal. We note that the AER did not provide any view upon this in their Draft Determination. AGL therefore requests that the AER review this clause during this current round of consultation.	AGL recommends that this indemnity is made reciprocal.
<b>34.1 &amp; 34.2</b>	<b>User Insurance</b>	AGL requested that this was reviewed during the previous consultation. AGL considers that if a requirement to obtain insurance is necessary, not only should it be reciprocal, but Envestra should also 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. We note that the AER did not provide any view upon this in their Draft Determination. AGL therefore requests that the AER review this clause during this current round of consultation.	AGL recommends the deletion of this sub-clause.
<b>35.5</b>	<b>Failure to Provide Access</b>	<p>AGL accepts this clause as excluding Envestra from being liable to the Network User for failing to perform an Agreement where it could not do so on account of access issues, after it has exercised reasonable endeavours to do so. However, the clause then defines reasonable endeavours as not applying where the cost has not been included within the Reference Tariffs.</p> <p>AGL seeks clarification on how it will be determined whether or not costs have been included or allowed in the calculation or derivation of the Reference Tariffs.</p>	AGL recommends the deletion of this sub-clause

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