



Jemena Gas Networks (NSW) Access Arrangement 2015-20

AGL submission to the Australian Energy Regulator
25 August 2014



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1. General Comments

Pursuant to its obligations under rule 52 of the National Gas Rules (NGR), Jemena Gas Networks (Jemena) has submitted a revised gas access arrangement proposal (Proposal) for its NSW gas distribution network to the Australian Energy Regulator (AER) for the period 1 July 2015 to 30 June 2020.

AGL Energy Ltd (AGL) welcomes the opportunity to provide comments to the AER on this Proposal.

AGL is both a significant retailer and generator of energy with around 3.8 million electricity and gas customers and over 6,000 MW of generation located in Queensland, New South Wales, South Australia and Victoria. This includes fulfilling the role of host retailer for the Jemena gas network in New South Wales.

Under the National Gas Law (NGL) and the NGR, the AER will assess this Proposal against the National Gas Objective to promote efficient investment in, and efficient operation and use of, natural gas services for the long-term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.

As the host retailer, AGL's submission will consider the Proposal with regard to these criteria.

Under the regulatory frameworks for electricity, the provision of network services and standard of service is regulated by alternate regulatory instruments such as industry codes and default coordination agreements with the AER determining the regulated price. However, the provision of network services by gas distribution networks to gas retailers and end-use customers is almost solely dependent on the terms and conditions provided by the approved Access Arrangement and associated Retail Services Agreement (RSA).

Consequently, AGL's submission particularly focusses on the scope, quality and cost of the network services being provided to retailers and end-users under this Proposal.

It is also important for the AER to recognise that the scope and quality of gas retail services are regulated under the National Energy Consumer Framework (NECF) and it is important for the service quality of the distribution network business to be aligned with these requirements. This has not been accomplished to date.

In AGL's experience, this disconnect between the requirements of the network and retail businesses has resulted in significant cost transfers from the agent (distributor) to the principal (retailer) and in welfare losses for consumers. AGL's submission also highlights these service disconnects under the current Jemena Proposal.

In the Australian energy market, all gas network charges are passed through to customers in the retail gas prices so any increase (or reduction) in network charges has no direct commercial impact on retailers. In addition, a retailer does not have the resources nor expertise to review the enormous amount of information included by Jemena in its Proposal.

However, energy affordability is the key issue for many customers and is highly relevant in the gas industry given forecasts of future wholesale gas cost and expectations of limited gas supply in the short-term.

Although Jemena has proposed real small decreases in network prices for typical residential customers and small business customers, AGL has also reviewed the cost components in the Proposal and believes further cost mitigation and efficiencies may be achievable.



Structure of Submission

AGL's submission addresses its major concerns with the Jemena proposal using the following structure:

- Section 2 considers Jemena's consumer engagement and any conclusion arising from this process;
- Section 3 discusses the forecasts of gas demand and NSW customer connections;
- Section 4 examines at a high level Jemena's forecasts for cost components during the 2015-20 period including capital, expenditure, operating expenditure and rate of return;
- Section 5 comments on network charges including the proposed re-balancing;
- Section 6 examines in detail the RSA and provides AGL's concerns with the current and proposed levels of service provided by this agreement;
- Section 7 reviews Jemena's ancillary reference services and relevant fees; and
- Section 8 provides some confidential AGL data on the performance of gas networks with regard to service delivery.



2. Consumer engagement

Jemena has undertaken a targeted program of customer engagement that has directly informed its Proposal. AGL is pleased that network businesses are consulting with stakeholders prior to submitting Regulatory Proposals but would note that engagement with:

- customers only commenced on 1 April 2014; and
- Retailers (or “Users”) commenced following that.

2.1. Engaging with customers

In AGL’s experience, interpreting information and opinions from customers is difficult. AGL conducts regular customer forums and uses insights gained to improve operational areas, to improve communication and to gain understanding of what the issues are from a customer’s perspective. However, AGL does not use customer forums to dictate its level of capital spending or safety procedures.

Jemena explored 6 key elements of the Five Year Plan through customer consultation:

1. “Whether the cost of connecting gas should be paid by the customer or subsidised by other customers;
2. Whether or not Jemena is correct in believing that safety should be the number one priority for Jemena
3. Which of the five scenarios best reflects consumers’ preferences in terms of trade-offs that Jemena could potentially make in terms of the investments it makes in services and marketing in an effort to keep down the price that consumers pay for gas distribution
4. Jemena’s price path over the next five years and the extent to which it should consider impacts on final consumer prices and bills as a result of rising wholesale prices when it sets its on prices
5. The balance between fixed and variable user charges on Jemena’s part of the bill
6. The extent to which Jemena should be taking action to assist vulnerable customers” (p31, Access Arrangement Information Appendix 1.5).

It is reasonable to consult with customers on these issues but for example, AGL questions whether consumers at this level (domestic and Small-Medium Enterprise (SME) customers) can really understand and articulate the differences in potential reliability and the trade-offs between the 5 scenarios of capital expenditure that were put to consumers.

AGL has reviewed the study and overall feel that it is a reasonable approach. However, being qualitative AGL questions whether this would enable ‘indicative’ quantitative results. Without more information of how people were selected to participate we can’t judge relevance to the research. AGL wonders about the reliability of results where respondents answer questions that they have no experience on until being informed at the session.

AGL would suggest a more rigorous research approach before a 5 year strategic direction was based on the results.

It also is unclear to AGL how much of the feedback from customers actually changed or influenced the Regulatory Proposal.



We note that customers were of the view that Jemena should be proactive in assisting vulnerable customers (59+28% strongly or mildly agreed). Given that over half the customers' bill consists of network charges, most believed that Jemena should take a central role in assisting vulnerable customers. Jemena should note that some of the changes to the RSA that they are proposing would have a negative impact on vulnerable customers. An example of this is the removal of temporary disconnection as discussed below.

2.2. Engaging with retailers

As a participant in the retailer forums conducted by Jemena, AGL appreciates that some key information was provided prior to the Regulatory Proposal being submitted by Jemena.

AGL notes that these forums were mainly a briefing or information session for Retailers and does not believe any concerns raised at these fora have been adequately addressed to date. Certainly, there is no evidence of any feedback or views of Retailers being included in the Proposal however, AGL does understand that the late consultation may not have provided time for significant changes to the Proposal.



3. Demand Forecasts

Jemena's Proposal includes forecasts for customer numbers, volumes of gas and Maximum Daily Quantity (MDQ) for each of the five years of the upcoming regulatory period.

AGL has reviewed these forecasts of customer numbers, volumes and demands and makes the following observations:

- Total gas consumption (including both Volume and Demand market segments) decreases from 80 PJ in 2015-16 to 77.8 PJ in 2019-20 over the next regulatory period. Jemena total gas consumption forecasts look reasonable when compared with the 2014 projections produced by the Australian Energy Market Operator (AEMO) in its Gas Statement of Opportunities (GSOO);
- Total gas consumption for the Volume market (mass market) is quite stable across the period despite the expected decline in average daily consumption for all volume market types that is highlighted in table 5.5 of the AAI. This is reasonable given the forecast increase in customer numbers. However, AGL notes that the average daily consumption for the Volume market segment (table 5.3 of the AAI) is shown to be increasing. This contradiction may be as a result of a changing customer mix but AGL suggests this is confirmed;
- Total consumption for the Demand market (commercial and industrial) is declining and reflects a continuation of recent trends; and
- Jemena have forecast that total customer numbers will increase from 1.26 million in 2015-16 to 1.39 million in 2019-20 which represents an annual increase of 2.41 per cent over the next regulatory period.
- AGL has compared Jemena's customer forecasts with the NSW population projection data from the ABS. The ABS data shows that NSW population annual growth from 2015 to 2020 is forecast to average 1.3 per cent per annum compared with Jemena's customer number growth of 2.41 per cent. Taking into account the increase in high density dwellings being developed in metropolitan areas and Jemena's target for increased gas customers numbers and penetration, it is reasonable to expect that the growth rate for customer numbers will be higher than population growth rates.

AGL believes the Jemena forecasts are reasonable which is expected given that the incentives existing under a price cap regulatory framework are conducive to accurate demand forecasting.

AGL also notes that Jemena has asserted that its forecast of over 150,000 new customers over the next five years puts downward pressure on its revenue requirement and ultimately its network prices. This is theoretically correct and AGL suggest that the AER test that Jemena's capital expenditure forecasts on new connections and the revenue stream provided by these new customer connections provide such a result.



4. Proposed Cost Components

AGL does not have the resources or expertise to complete a detailed review of the large amount of information provided by Jemena in support of the cost components that underpin its Proposal. However, we have been able to consider Jemena's previous capital and operating expenditures and the relevant forecasts for the next regulatory period included in the Proposal and provide comments where the changes appear significant and where, in AGL's view, Jemena's Proposals have not been clearly explained or justified.

Furthermore, AGL has made some comments based on economic and regulatory principles regarding the methodological changes in the Jemena Proposal, namely the introduction of an efficiency sharing scheme and new calculation of rate of return.

4.1. Capital Expenditure

AGL notes that Jemena has proposed an increase in capital expenditure over the new regulatory period of \$190m, or 30 per cent of the amount that the AER approved for the current period.

Jemena have highlighted that they have aggregate capital expenditure in excess of the AER allowance over this period but this is partially misleading and reliant on three factors:

- capital investment of \$57m on property that was not in the AER regulated allowance;
- additional \$25m over the capacity development allowance of \$52m in 2010-11 and 2011-12; and
- expectations that Jemena's capital expenditure for this year, 2014-15 will be excess of the AER allowances for nearly all categories.

An examination of actual spend to date suggest that Jemena has underspent on almost all major capital expenditure categories over the current period. This in itself is not an issue but it raises questions over the increased levels of capital expenditure forecast in the Proposal and whether they are appropriate.

AGL makes the following comments:

- Jemena have proposed material amounts of market expansion capital expenditure in the next period. AGL supports the inclusion of capital expenditure that is required for efficient connection of new customers;
- Apart from the identified large projects in 2010-11 and 2011-12, capacity development expenditure has been minimal in recent years and AGL seeks further clarity whether the large forecast increases are required;
- mains and renewal capital expenditure is forecast to more than double, is such a rapid increase essential;
- AGL notes the large investment in replacement of hot water meters. This is understandable given the issues surrounding these meters in recent years but would like to see Jemena include requirements on water meter services including data provision within the AA if this cost is being included; and
- AGL also notes that IT expenditure continues at an average of over \$26 million per annum. Given the size of this expenditure, AGL would like some assurances that all changes that have or are in-scope for the retail gas market in NSW are included in these forecasts. This includes all changes regarding B2B transactions and the introduction of retrospective customer transfers.



4.2. Operating Expenditure

Jemena have also forecast an increase in operating expenditure in the next regulatory period of approximately \$20m or 2.5 per cent over the period.

AGL strongly supports the AER's use of benchmarking to review operating cost proposals. In saying this, AGL appreciates Jemena's:

- use of the base, step and trend approach to forecasting its operating cost;
- inclusion of a productivity adjustment within its operating cost forecast; and
- ensuring that metrics of operating cost per meter and operating cost per customer are reducing over the regulatory period.

AGL's submission is requesting an improvement in service quality for some customer services and would expect these to be provided under the prudent level of operating expenditure.

4.2.1. EBSS

Jemena is proposing to apply an Efficiency Benefit Sharing Scheme (EBSS) to its operating expenditure for the first time in the next regulatory period. The EBSS is expected to reflect the same design that the AER has approved for other gas networks.

AGL understands that the EBSS is supposed to reward networks for any efficiency gains achieved during a regulatory period while penalising them for efficiency losses. The benefits of these efficiency improvements eventually flow through to customers' network charges.

AGL supports efficiency incentives in principle and understands that such arrangements may actually provide longer term benefits to customers, however AGL's experience to date with the EBSS (see the NSW electricity distribution networks' regulatory proposals) suggests that the regulatory framework is not conducive to such a scheme with customers likely to pay more with little chance of long term benefits.

In essence, the effectiveness of the EBSS, namely providing long-term benefits to consumers, is totally reliant on efficiency gains being exposed by the scheme and provided to consumers over the long-term. For this to happen, the regulator must be able to determine:

- the actual annual operating expenditures of a network business in a manner comparable to its regulatory allowance; and
- the variance in operating expenditure caused by external factors or by internal accounting changes; and therefore
- the residual variance in operating expenditure caused by changes in efficiency.

AGL believes the information asymmetry between a regulator and network businesses will prevent this from being achievable and therefore any EBSS will result in gas consumers paying more over the long-run.

4.3. Rate of return

The Jemena Proposal includes a Rate of Return or weighted average cost of capital of 8.67 per cent. Jemena notes that this is a significant reduction from the 10.43 per cent allowed under the current Access Arrangement but that WACC was made under very different economic conditions and in a period of very high cost of debt so is of limited significance.



In 2013, the AER implemented a new rate of return guideline under its Better Regulation programme which was extensively consulted upon. Jemena has referred to this rate of return guideline but substantially deviated from it in calculating both the cost of equity and debt.

More telling is the comparison that Jemena's proposed cost of equity, cost of debt and WACC, using these different methodologies, is significantly higher than it would be if Jemena used the AER guideline.

AGL's views on calculating WACC have been publicly articulated in its many submissions and can be found by referring to "*The cost of capital for power generation in atypical capital market conditions*"¹. AGL considered the AER rate of return guideline attempted to provide an equitable balance between the interests of consumers and investors. While we would argue on different input assumptions, the headline result was a compromise and was not punitive for regulated asset owners with the AER determining conservative estimates at the top end of the calculated range for most parameters.

This view is supported by:

- Stock market analysts responses to the release of the AER Guidelines - generally describing them as benign to listed asset companies with positive surprises such as the increased market risk premium; and
- reports such as the Independent Expert's Report released by Envestra on 4 March 2014². This report notes the AER Guidelines, but determines a WACC based on current market conditions and estimated that almost all parameters, excepting the value of gamma, are at or below the AER guidelines.

Noting that AGL disagrees with some of the input assumptions, but accepts the headline result attempted to strike a balance, AGL believes it would be good regulatory principle if the AER only consider variations to its rate of return guideline in special circumstances as the guideline:

- provides a realistic benchmark rate of return for a lower risk, regulated monopoly asset. If networks continue to argue selectively for higher individual parameters at each regulatory reset then the Guideline is only effectively setting a floor for the WACC; and
- consistent use of the Guideline will avoid the repetitive and costly regulatory debate on the WACC.

The AER is best able to determine whether the current circumstances support the variations used by Jemena in its Proposal.

¹ Simshauser, P. (2014a). *The cost of capital for power generation in atypical capital market conditions*. Economic Analysis & Policy, 44(2014), 184-201.

² Grant Samuel and Associates, *Financial Service Guide and Independent Expert's report to the Independent Board Sub-committee in relation to the Proposal by APA Group*, 3 March 2014



5. Network Tariffs

Jemena is proposing significant changes its network reference tariffs with its strategy including the following:

- consolidation the fixed charges (haulage and meter data service) into one fixed charge;
- rebalancing of network charges between Volume and Demand customer segments to remove boundary issues between the tariff classes;
- changes to consumption block sizes and subsequent reductions to certain consumption blocks to reduce the cost for volume residential customers for residential cooking and hot water or heating to increase competitiveness of gas; and
- introduction of new tariff classes to accommodate on-supply of gas and hot water and cogeneration.

AGL supports Jemena's strategy of ensuring gas is competitive and utilised but would make the following observations:

- The consolidation of the fixed charges is a result of the haulage and meter data services being combined in the AA. AGL believes this is backward step as discussed below in section 5.1;
- AGL understands the need to remove boundary issues between tariff classes but the apparent result is that network charges for residential and commercial customers are decreasing over the regulatory period but increasing for industrial customers. AGL queries this rebalancing as the adjustment to resolve a tariff issue should not have such a significant impact on the price path for different tariff classes – such as change needs to be justified by a change in the cost of servicing these Volume and Demand customers;
- AGL encourages steps taken to increase the competitiveness of gas but cautions Jemena on targeting network tariffs at end-use applications for gas such as the manipulation of consumption block sizes for Volume customers. Any changes to network tariffs should be focussed on efficient allocation of costs and not make assumptions regarding customer usage; and similarly,
- the introduction of new tariff classes for on-supply and cogeneration is not easily justified if it simply to target the end-use application of the gas.

On a final note, AGL would request that Jemena review its tariff components and start expressing all network tariffs on a daily basis. The use of quarterly charges is redundant in a competitive retail market with move ins/move outs, retail transfers on special meter reads, retrospective transfers and changing meter cycles.

If Jemena wishes to simplify its charges for customers then moving to daily charges is sensible e.g. Avoids explaining why an 88 day billing cycle has the same fixed charge as a 93 day billing cycle but the 86 day cycle is significantly less.



5.1. Absorption of Metering into Haulage Reference Service

AGL notes that Jemena is now only offering a single 'Haulage Reference Service' rather than a Haulage Reference Service and a separate Meter Data Service. This has been done to comply with customers expressed need for simpler billing but the network bill is actually only received by the retailer. The retailer can bundle a bill differently for different product offerings and AGL tends to add the current metering charges from Jemena into one fixed charge so customers already receive the simpler bill.

However, AGL still finds the granular information useful and believes it should be maintained by Jemena for many reasons, including:

- Network bill reconciliations; and
- Future metering contestability - whilst this may not happen in gas in the near future, AGL notes this is happening in the UK already.

AGL understands that the Meter Data Service has simply been incorporated into the Haulage Reference Service but is concerned about what this may mean for future meter charge availability. In the electricity sector, meters, and metering data services are now contestable, and it is very important to understand the charges associated with the different components of meters and metering.

AGL acknowledges the view that "smart gas meters" and associated contestable structure will never come to Australia because of the high cost associated with it but AGL would prefer that Metering Services continue to be detailed separately. It seems incongruous that gas should be moving in the opposite direction to electricity with regards to transparency of charges.



6. Retail Services Agreement

The roles and responsibilities of energy retailers and monopoly distribution network businesses are defined within various legislative and regulatory instruments in the energy market. The National Gas Law (NGL) is the primary pieces of legislation which give force to the rules and operation of the gas market and is enacted through State-based legislation in each jurisdiction. Operating underneath the NGL is the NGR. Much of the prescription in relation to roles and responsibilities is defined in this subordinate legal instrument.

However, the provision of network services by gas distribution networks to gas retailers and end-use customers is almost solely dependent on the terms and conditions provided by the approved Access Arrangement and associated RSA. It is AGL's experience that disconnects between the requirements of the network and retail businesses has resulted in significant cost transfers from the agent (distributor) to the principal (retailer) and in welfare losses for consumers. These service disconnects are highlighted below and AGL has submitted changes that need to be incorporated in the RSA under the current Jemena Proposal to accomplish this.

Furthermore, Jemena has noted in its Proposal that it has been updated for NECF. AGL notes that Jemena's interpretation of NECF is unique in some areas with examples of this noted in specific comments below where Jemena has interpreted NECF differently from other network businesses and retailers. It is also important for service quality of the distribution network business to be aligned with these requirements.

6.1. Metering – Principal/ Agent Problem

6.1.1. Meter Reads

Given the gap between weekly and monthly cash outflows to wholesale markets and monopoly networks respectively, and the three-monthly cash inflows from residential customers, energy retailers face especially strong incentives to ensure timely and accurate information is utilised for billing.

Any failures with timely and accurate customer meter data results in costs associated with bill disputes, delayed cash receipts, poor customer experience, greater customer complaint call volumes and an increase in the velocity of customer switching. Furthermore, bad debts that arise as a result of metering delays or meter errors are borne entirely by energy retailers, i.e. monopoly distribution networks have no exposure to customer bad debt.

There is surprisingly little in the way of genuine visible incentives for a network distributor to provide accurate and timely information at the individual household meter level, since their aggregate revenue is derived from whole-of-network use and by the time an estimated read might be revealed as erroneous, it is too late to be contested in practice. Aggregate network revenue is unaffected by late or inaccurate metering information.

Additionally, there is nothing other than a *best endeavours* requirement to provide timely and accurate customer meter data to retail suppliers. Put simply, no penalty charge or consequence exists for meter reading failures. As an aside, while energy retailers have a legal ability to pass on re-charges to households, in a practical sense, they are frequently forced to absorb the cost of such errors within their own business due to the negative customer experience that typically accompanies large meter error events.

Under the new Framework, energy retailers are required to provide a bill at least every 3 months or at a frequency otherwise agreed with the customer for market contracts



(NECF). But while service quality standards are clearly defined for energy retailers, there remains no extension of requirements to distribution network businesses in relation to the provision of metering data which is clearly a necessary precondition for timely billing to occur. Specifically, Rule 97 of the National Energy Customer Framework states that:

"...the distributor and the retailer must each use their best endeavours to provide or make available to the other at no cost and in a timely manner information or documentation that the other reasonably requires to carry out its obligations under the Law, the Regulations, these Rules and the Retail Market Procedures."

In other words, the National Energy Customer Framework requires the agent to make nothing more than 'best endeavours'.

Information on the quantum of the issues that AGL experiences has been provided in confidentially in section 8.

6.1.2. Completion rates

The principal-agent problem is also having an adverse impact on other aspects of energy supply, most notably, connection and disconnection from the grid. This involves defined roles for energy retailers and network distributors in relation to the connection and disconnection of premises, and has been the subject of some debate around the lack of regulatory requirements to overcome efficiency losses arising from the principal-agent relationship.

Under current regulatory requirements, energy retailers are responsible for informing distribution network businesses when a premise is required to be connected or disconnected.

Once an energy retailer has identified a need for disconnection for either move-out or disengaged customer, a service order is raised with the distribution network, who in turn has a responsibility to carry out the disconnection notification, be that by way of physical disconnection from the network at the gas supply point.

Information on the quantum of the issues that AGL experiences has also been provided confidentially in section 8.

A key concern in Jemena's proposed Reference Service Agreement is their proposed position relating to disconnections. Disconnection fees are costly and out of line with other states. The disconnection fee also includes a reconnection fee; AGL considers that these fees should be split out for transparency for customers. Jemena also propose to remove the ability for retailers to contract with a third party to perform reconnections and disconnections. AGL has had this arrangement in place since 2006, and consider there are service quality benefits to the customer for retaining this provision including potential cost savings.

It should also be noted that disconnections are one of the key tools for triggering hardship customers to engage. Despite proactive engagement by AGL to inform customers showing signs of hardship of our hardship programs, our experience is that hardship customers often avoid contacting their retailer until disconnected, which then tends to be the catalyst for getting them the help we can offer.

Evidence of this is the fact that for Jemena gas customers, 14 per cent who reconnect after a disconnection for debt are moved onto the AGL hardship programme (Staying Connected), which is a significant percentage considering that only 0.3 per cent of AGL's overall gas customers on the Jemena network are on our Staying Connected programme. This illustrates the impact that disconnecting hardship customers has on accessing relief programmes



6.2. Transfer on Special Meter read

Currently Jemena provides a special read service. AGL is pleased to note that the fee for special meter reads has been reduced.

AGL notes that Jemena does not provide *transfers* on special meter reads, as it is not specified in the RSA. AGL requests that Jemena provide transfers on special reads at the proposed rate and this service is specifically included in the RSA, for avoidance of doubt.

AGL also notes that Jemena requires 5 days to provide a special read, compared to 2 days for other gas networks. A faster read time would contribute to a more positive customer experience.

6.3. Retail and Network Liabilities

It is important that risk and liability is attributed to the party most able to manage them and that liabilities are symmetrical, unless there is good reason for them not to be.

It is AGL's view that Jemena's AA is more biased towards the network operator than the Access Arrangements of other gas networks. In addition, Jemena has taken the responsibility of regulator of the gas market in NSW on many occasions and often require Users to warrant that they have met their obligations to their own customers. An example of this is explained in AAI, Appx 1.2, para 99 (5), where Jemena should not be concerned with what happens beyond their delivery point.

AGL has identified the non-symmetrical liabilities and indemnities that it believes should be rectified and included them in Table 1 under section 6.7.

6.4. Disconnections

Jemena propose to remove the current temporary and permanent disconnection services and instead just offer one disconnection service. In the Ancillary Charges set out in Schedule 4 to the proposed Access Arrangement it states that a request for disconnection will also result in the remove of a delivery point from the User's Service Agreement.

Jemena state the reason for these changes is because of the introduction of the National Energy Retail Rules (NERR); their interpretation of the relevant sections is that if a site is disconnected for longer than 10 business days then the contract must fall away. Accordingly Jemena is of the view that temporary disconnections are no longer available.

AGL does not support this change. The relevant sections of the NERR state that the retailer *may* terminate this agreement 10 business days after disconnection. AGL's interpretation is that *may* means a discretionary opportunity for the retailer to decide to terminate. It is incorrect for Jemena to interpret this as a mandatory obligation and it is a decision for the retailer not the distributor. Jemena's proposed position is in conflict with the relevant sections of the NERR and temporary disconnections should be retained.

6.5. Disconnection and Reconnection fees

Currently and as proposed going forward, Jemena charges a fee for disconnection, which includes a reconnection service. As AGL understands it, the purpose of this structure is to encourage customers to connect to gas, (as there is no payment). Obviously from a network perspective, there is sense in this, and it is administratively easy.

However, in the competitive market, this is not an equitable outcome for customers or retailers.

AGL does not support the reconnection fee being included in the disconnection fee, the fees should be separated for transparency to customers.



6.6. Third Party Accreditation

AGL does not support the Jemena proposal and interpretation of the NECF. While the framework does not specifically allow these services to be undertaken by the User, it also does not prohibit it. If the intention was that these service only be taken by the distributor, the regulatory framework would specifically state this.

Jemena's reasoning for the removal of this section is not correct and the section should be retained.

Further discussion on this point is provided in the table below.

6.7. Other RSA comments

See Table 1 below.

Table 1: List of other AGL concerns with the Retail Service Agreement

No.	Issue	Jemena proposed position	AGL submission
1	Definitions and interpretation		<p>Definition of Agreement: in sub-clause (b), include clause 2 (<i>Services policy</i>) of the Access Arrangement</p> <p>Definition of Country Distance: insert 'reasonably' before 'determined'.</p> <p>Definition of Customer: for ease of reading, include the full definition from the AA.</p> <p>Definition of Damage: change 'full indemnity basis' to 'standard basis'.</p> <p>Definition of Haulage Reference Service: the definition in the RSA refers to the definition in the AA which refers to a clause of the AA and also to back to the RSA. This is an overly complex way of describing the service. Ideally the services provided under the RSA should also be fully described in the RSA.</p> <p>Definition of Security: insert 'reasonably' before 'satisfactory to the Service Provider' (last line).</p> <p>Definition of Volume: at the end of the definition, insert 'acting reasonably'.</p> <p>Clause 1.2: correct the typographical error on the last two lines which should read '...comply with this timeframe in which case the Service Provider will grant a reasonable extension'.</p> <p>Clause 1.3 (<i>Amendments to this Agreement due to Change in Law</i>): it is inappropriate that Jemena be entitled to amend the agreement in this manner as a result of a change in law. 'Consultation with the User' and taking into account reasonable comments made by the User' is inadequate. Amendments should be agreed between each party (acting reasonably) or approved by the Regulator. This process is preferable to being required to follow the dispute resolution provision.</p> <p>Clause 1.6: correct the typographical error on the first line by inserting 'a' before 'premises'.</p>

No.	Issue	Jemena proposed position	AGL submission
2	Haulage Reference Service – Clause 3		Clause 3.1: amend the last line as follows: 'in accordance with this clause 3 and other relevant provisions of this Agreement'. All of the Agreement is potentially relevant (including, for example, the sections of the AA that are incorporated by reference). If part of the Agreement is not relevant, it will have no impact on clause 3.1.
3	Unauthorised Overruns – Clause 6.2		Clause 6.2(a): the User's liability and the indemnity given in favour of Jemena should exclude Consequential Damage. There should be a reasonable cap on the User's liability under this clause.
4	Responsibility for Gas – Clause 9.4(a)		Clause 9.4(a): amend the last line as follows: 'and on terms determined by the Service Provider in its absolute discretion acting reasonably.'
5	Unaccounted for Gas – Clause 9.5 (Proposed RSA)	Jemena propose no change	The current provisions in the RSA do not provide any incentive for Jemena to reduce their Unaccounted For Gas. This is a significant cost that is passed onto customers. Retailers and customers have no control over the distribution network and are unable to encourage improvements to the networks which may reduce losses. The RSA should incorporate incentives to encourage Jemena to ensure unaccounted for gas is reduced.
6	Gas quality – Clause 10		Clause 10.1(b): after 'is not obliged to provide the Service' insert '(but may elect to)'
7			Clause 10.1(d): The indemnity should only apply to off specification gas delivered <i>on behalf of the User</i> . The User's liability and the indemnity given in favour of Jemena should exclude Consequential Damage.
8			Clause 10.3(a): after 'the User must immediately cease or' insert 'use reasonable endeavours to'

No.	Issue	Jemena proposed position	AGL submission
9			Clause 10.3(c): The User's liability and the indemnity given in favour of Jemena should exclude Consequential Damage.
10			Clause 10.4: each item in clause 10.4 should be subject to the User being provided with the relevant facilities or records from the User's upstream haulage service provider or upstream gas supplier.
11			Clause 10.6: Jemena's obligation to deliver gas that meets the Specification should not be limited by other all gas received at the Receipt Points meeting the Specification.
12			Clause 10.8(a): insert 'If requested by the Service Provider' at the beginning of the sentence.
13			Clauses 10.9 and 10.10: the User has no direct control over gas testing that will be carried out by upstream haulage service providers or upstream gas suppliers. Therefore the clauses 10.9(b) and each sub clause of 10.10 need to have a provision that the User will 'use reasonable endeavours to cause'.
14	Procedure to add a Delivery Point by request – Clause 11.3		Clause 11.3(d): on the first line, after 'is satisfied' insert ', acting reasonably'.
15	Energisation Under National Energy Retail Law – Clause 11.4 (Proposed RSA)	Jemena propose to insert a new section to cover the risk of energising a site where there is no retailer contractually responsible for the site.	<p>AGL objects to the proposed new section and considers it contrary to the obligations under the NECF. It will create new unknown customers where the retailer is unable to invoice and obtain payment for usage, this increases losses which are ultimately passed onto paying customers and is inequitable.</p> <p>It is inconsistent with the NECF which requires a customer to choose and contract with a retailer and then energy is supplied. Jemena is allocating a customer to a retailer that they may not choose. Some customers are less engaged with the energy market and are less likely to switch retailers, this will damage competition in the market.</p>

No.	Issue	Jemena proposed position	AGL submission
16	Receipt Points and Receipt Stations Clause 14 (Proposed RSA)	Jemena proposes no change	<p>AGL considers that Jemena should review their approach to new receipt points as the current process creates significant problems. Currently Jemena assigns the new receipt point to a retailer on a rotating basis so the customer is essentially unknown to the retailer.</p> <p>During 2013-14, 996 of the 2694 new gas connections established by AGL were unknown customers. Unknown customers continue to use gas but it is difficult to bill them and obtain payment. This creates a significant burden for other customers because any under recovery from these customers will increase a retailer's costs. Furthermore, the process of trying to identify an unknown customer increases a retailer's administrative costs. These costs may be passed through to other customers.</p> <p>While we work to minimise these costs to ensure competitive tariffs, processes beyond our control like this, mean we are unable to make process efficiencies. AGL consider this inequitable and would like to see the process changed to ensure new connection sites have accounts established with known customers.</p>
17	Pressure at Receipt Point – Clause 14.9		Clause 14.9(b): The indemnity given in favour of Jemena should exclude Consequential Damage.
18	Temporary disconnection and Reconnection by User Clause 15.9 (Current RSA)	Jemena propose to remove this section which allows the retailers to use an accredited service provider to perform disconnections and reconnections. Jemena state the reason for this is that the National Energy Customer Framework does not contemplate any other party but the distributor undertaking these services.	<p>AGL does not support this proposal or interpretation of the NECF. While the framework does not specifically allow these services to be undertaken by the User, it also does not prohibit it. If the intention was that these service only be taken by the distributor the framework would specifically state this. Silence in a regulatory framework is not an indication of prohibition. Jemena's reasoning for the removal of this section is not correct and the section should be retained.</p> <p>There are a number of benefits to customers by allowing the retailer to undertake these services such as potentially lower rates which would align with the National gas objectives. Furthermore, customers that are being disconnected are already struggling to pay their bills (14% of customers disconnected for debt move onto hardship programmes) so any option which lowers the disconnection/reconnection cost is a significant advantage and reduces the potential for a customer to find reconnecting unaffordable. There are also benefits to competition in the market by allowing retailers who are in a</p>

No.	Issue	Jemena proposed position	AGL submission
			<p>competitive arena to undertake these services. Retailers may be more willing to offer new or better service levels, such as reconnection outside business hours at a potentially lower cost than Jemena. Retailers are also able to pass on savings to the consumer where they can negotiate lower service fees. Finally, retailers are motivated to create efficiencies in providing these services because of the different market they operate in which ultimately benefits the customer.</p> <p>This approach aligns more closely with changes and trends in the electricity market, such as the current discussion regarding competitive metering and the Power of Choice Review. By retaining this section the AER would be giving a strong signal to Jemena that it supports programs such as this that reduce costs for customers.</p>
19	<p>Removal of temporary and permanent disconnections – Clause 15.9 (Proposed RSA)</p> <p>Suspension of Service – Clause 22.1(a)</p>	<p>Jemena propose to remove the current temporary and permanent disconnection services and instead just offer one disconnection service. In the Ancillary Charges set out in Schedule 4 to the proposed Access Arrangement it states that a request for disconnection will also result in the remove of a delivery point from the User's Service Agreement. Jemena state the reason for these changes is because of the introduction of the NERR; their interpretation is that if a site is disconnected for longer than 10 business days then the contract must fall away. Accordingly Jemena is of the view that temporary disconnections are no longer available.</p>	<p>AGL does not support this change and in industry meetings with Jemena, gas retailers have argued that this proposal creates substantial operational and consumer problems.</p> <p>A temporary disconnection is requested for reasons such as non-payment, renovations, structural repairs, etc. and the customer reasonably expects the retailer to be able to restore supply in a reasonable time. Removing the delivery point from the retailers RSA means that no retailer has a legal ability to request a supply reconnection via a service order.</p> <p>The relevant sections of the NERR state that the retailer may terminate this agreement 10 business days after disconnection. This is a discretionary opportunity for the retailer to terminate. It is incorrect for Jemena to interpret this as a mandatory obligation as it is a decision for the retailer not the distributor. Jemena's proposed position is in conflict with the NERR.</p> <p>All other distribution networks are able to manage temporary disconnections and restorations with service orders, not requests for supply. Based on Jemena's RSA, every case of service restoration will require a new connection process. This process is onerous especially given the assets are in place and supply has been available at the site. This change is process is inconsistent with the National Gas Objective of efficient investment for the supply of natural gas.</p>

No.	Issue	Jemena proposed position	AGL submission
20	Disconnection fee \$150 – Proposed Ancillary Service Fee	Jemena propose that disconnection fees be \$150, Jemena has advised that this includes the reconnection fee.	<p>AGL does not support the reconnection fee being included in the disconnection fee, the fees should be separated for transparency to customers.</p> <p>Transparency is a significant issue in the energy market with customers not understanding services and associated fees. The service type name does not make it clear that it includes a reconnection charge. Other states separate each fee and unbundling these fees would create consistency across the market and allow customers to more readily understand the fees being charged.</p> <p>Splitting out fees would enable customers to make informed decisions on how they manage their properties. Some customers may choose to disconnect their gas supply for a variety of reasons, including renovations or vacancy. It does not seem appropriate to force a customer to pay a reconnection fee when they may be uncertain when they wish to reconnect or they intend to reconnect at all.</p> <p>Some properties may be reconnected by a new customer and it is inequitable that customers are expected to pay for a service they will not be using.</p> <p>We understand that Jemena wishes to encourage the connection of gas by bundling these services but do not consider it is appropriate if it is to the detriment of customers.</p>
21	Access Issues: Measuring Equipment – access, safety and estimation – Clause 16 (Proposed RSA)	Jemena have amended this section to better reflect the changes introduced through NECF.	<p>While AGL supports the shift to more closely align with the new NECF, AGL is of the view that further steps could be taken by Jemena to gain access.</p> <p>Currently Jemena advises a 7 day period in which a meter reader will read the meter. It is unrealistic to expect customers to be available for 7 days to provide access to the meter, especially if the meter is located in the home. This is a poor customer experience as well as exacerbating chronic no access issues. As of 8/7/14 there were 10,437 Jemena sites, in AGL’s system, which had not had an actual read in over 12 months, of these sites Jemena failed to give a reason why no access was available for 5352 sites. AGL considers that Jemena could improve this through a variety of approaches such as enabling a customer to book a 2 hour appointment period; advising of short meter reading period; texting a customer 2 hours before the meter reader is due. Jemena should allocate funds to address this issue.</p>

No.	Issue	Jemena proposed position	AGL submission
22	Metering Reading and Data – Clause 17.2 (Proposed RSA)	Jemena propose no change to these provisions.	<p>Jemena have had on going issues with providing metering data, this has been to do with system issues and faulty hot water meter data. It has resulted in large numbers of customers not being billed on time. The RSA does not contain adequate provisions to either incentivise the information to be provided on time.</p> <p>While, AGL is allowed to provide an estimate to customers, estimating is very difficult because the data provided by Jemena is not provided in a manner that allows estimates to be created accurately at customer level and this increases cost across the industry. Further, poor estimates have a negative impact on customers resulting in either conservative estimates which will mean are higher than actual read or could result in debt because estimates are too low. This is a poor customer experience for all customers but particularly concerning for vulnerable customers, who may already be struggling with their energy bills.</p> <p>If AGL must estimate customer usage, AGL requires heating values, conversion factors and correction factor data, and transparent calculation algorithms be provided daily by Jemena.</p> <p>There should be stronger provisions in place such as a reduction to network charges that can be recouped the longer data is delayed (currently 100% can be recovered for up to 12 months).</p>
23	Hot Water Meters	These are currently not regulated	<p>AGL considers that if Jemena are to use a metering system that impacts upon natural gas services there should be some provision for this in the RSA.</p> <p>Jemena have experienced failure of their hot water meters which has resulted in them being unable to validate their natural gas consumption data resulting in customers not being billed on time. Not billing a customer on time can create significant hardship issues. Therefore in accordance with the National Gas Objective it would be appropriate for some provision to be made for the use and maintenance of hot water meters to ensure efficient operation and use of natural gas services.</p>

No.	Issue	Jemena proposed position	AGL submission
24	Meter Data Service – Clause 17.1 (current RSA)	Jemena propose to remove the meter data service as a reference service and instead bundle all reference services. Jemena is of the view it will make things simpler for the customer.	<p>AGL disagrees with this proposed change. These charges are already bundled on a customer bill so there will be no change for customers. It will also mean that the services provided are less transparent. It is also a move away from current proposed changes in the electricity market, competitive metering. AGL considers the meter service reference should be retained for transparency and to allow flexibility for Retailers to differentiate and present bills in the formats they find customers understand best. Given that Jemena does not deal directly with customer bills on the same scale that retailers do, it is doubtful that their customer consultation would have an improved perception of what customers understand.</p> <p>Retailers perform this service daily and continually survey and talk to customers to design bills that are understandable and transparent. While AGL is very supportive of increased customer consultation by distributors, it is important to note that this is a new endeavour for the distributor and that the changes in the proposed billing have not been done in consultation with Retailers who ultimately present billing data to customers and in some instances already simplify information.</p>
25	Invoicing and Payment – Clause 20.1 (Proposed RSA)	Jemena propose no changes	<p>There are no timeframes within which Jemena must respond to a dispute, there is also no incentive for Jemena to respond because the retailer must pay the invoice - this does not align with other states. The dispute process should align with other distributors - the retailer should notify Jemena if they dispute an invoice within 8 days of the invoice. Jemena has 10 days to respond, if Jemena agrees with the dispute it should be amended through the next invoice. If Jemena disagrees with the dispute, charges should not be due until the dispute resolution process is complete, which is how it is done in other states. Further, a data file should be provided at the time of invoice to enable the charges to be correctly reconciled and to allow incorrect charges to be identified.</p> <p>AGL would like to receive the data file to the invoice in a form that is easily usable at the same time as the invoice is received. This will enable the charges to be correctly reconciled and to allow incorrect charges to be identified.</p>

No.	Issue	Jemena proposed position	AGL submission
26	Clause 20		<p>Clause 20.4: reinstate the deleted text, 'Except as otherwise stated in clause 22.2.'</p> <p>Clause 20.4: the National Gas Rules (NGR) (502) defines due date for payment as 10 business days. 14 days, as proposed by Jemena, is non-standard and may result in fewer than 10 business days over holiday periods.</p> <p>Clause 20.6(b): change the CBA corporate overdraft rate to the Bank Bill Swap Rate. (inconsistent with NGR(476(1)))</p> <p>Clause 20.7: after each occurrence of 'except any amount which is manifestly wrong' insert 'or is disputed by the User acting reasonably'.</p>
27	Suspension of Service – Clause 22		<p>Clause 22.3(a): the indemnity given by the User in favour of Jemena should exclude Consequential Damage.</p>
28			<p>Clause 23.7(a): the indemnity given by the User in favour of Jemena should exclude Consequential Damage.</p>
29	Force Majeure – Clause 24		<p>Clause 24.1(a): at the end of the first paragraph, after 'including (without limitation)' insert 'provided that the foregoing criteria are satisfied'.</p>
30	Termination or cessation – Clause 25		<p>Clause 2.51(a): on the third line, insert 'reasonably' before 'capable'. On the 4th line reinstate the deleted 'written' before 'notice'.</p>
31	Liability		<p>Clause 26.1(e): Jemena should be required to mitigate its losses under all of the other provisions of the RSA where the User provides an indemnity in favour of Jemena.</p> <p>Clause 26.4(b) should be deleted. The Service Provider should put a reasonable cap on its liability to the User, which does not apply to the extent of negligence or wilful misconduct. It is then the Service Provider's responsibility to prosecute its insurance. The User should have no exposure to the Service Provider's insurance on the basis that the User has no visibility as to the extent or appropriateness of the insurance and cannot control claims under insurance.</p>



No.	Issue	Jemena proposed position	AGL submission
			Clause 26.5(a) should be deleted. There should be a reasonable cap on the User's aggregate liability to the Service Provider - either annually, per occurrence or a total aggregate cap.
32	Annexure 7		Annexure 7, clause (d): the indemnity given by the User in favour of Jemena should exclude Consequential Damage.
33	Reference Tariffs AAI, 13.1 para 447,469	New postcodes used for assignment to location identifiers 1 to 11. Additionally, Jemena has reclassified three postcodes to ensure an appropriate pricing signal.	To accommodate the proposed changes within AGL systems, AGL require the following information to be provided: Additional postcodes Reclassified postcodes (3)



7. Ancillary Reference Services

AGL is of the view that all proposed fees in the list of Ancillary Services need to be carefully reviewed and analysed by the AER to ensure that the fees charged to customers are fair and efficient.

AGL believes that the quantum of the proposed fees is generally prohibitive and third party service providers are able to provide the same services at significantly lower rates;

Costs of energy services is an industry wide issue and any new fee or proposed increase to a fee should be efficient as well as cost reflective because of the impact on customers.

Table 2: Proposed Ancillary fees

Fee	Current Fee	Proposed Fee	AGL submission
Special Meter Read Fee	\$38.62	\$14.80	AGL supports the proposed fee and considers it more aligned with other states SA - \$11.61 Vic - \$18.11 QLD - \$21.63
Disconnection	Temporary - \$131.87	\$150	AGL considers this fee is too high with more competitive rates available from third parties. If Jemena is unable to provide this service at a lower fee than it is imperative that section 15.9 Temporary disconnection and Reconnection by User of the current RSA be reinstated for the benefit of gas users.
	Permanent - \$394.07		



8. Confidential: Service level performance for gas networks

REDACTED