

Final Plan Attachment 15.1

Engagement with the Australian Gas Networks
Retailer Reference Group on the Proposed
Terms and Conditions

December 2016

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1. Introduction

This attachment summarises feedback from Australian Gas Network's (AGN) Retailer Reference Group (RRG) pertaining to the proposed terms and conditions (proposed terms) to apply to the Victorian and Albury gas distribution networks (the networks) over the next (2018 to 2022) Access Arrangement (AA) Period. The RRG comprises representatives from retailers that operate in our Victorian and Albury natural gas distribution markets (see Section 5.3 of the Final Plan for a description of our RRG).

We provided our RRG several drafts of the proposed terms and our plans for comment, including on:

- 29 April 2016 – We circulated the first draft of the proposed terms to the Retailer Reference Group for their comment;
- 1 August 2016 – After considering the feedback received on the earlier draft, we issued a further draft of the proposed terms to our RRG; and
- 8 December 2016 – We circulated a further draft of the proposed terms to the RRG, again inviting any further comment on any outstanding issues that remained.

Feedback was received from the RRG via discussion in RRG meetings, direct email correspondence and via a written submission on the Draft Plan.

2. Consultation on our proposed Terms and Conditions

Table 1 sets out all the feedback received from our RRG on the draft terms including how we have incorporated their feedback into our proposed terms and conditions.

Table 1: RRG Engagement on our Draft Terms and Conditions and our Consideration in the Proposed Terms and Conditions

Clause	Retailer Reference Group Feedback	Our Response to Feedback in the Proposed Terms and Conditions
<p>12.8</p>	<p>Red Energy and Lumo Energy</p> <p>AGN should provide additional clarity in relation to the reasonable test applied under this clause.</p> <p>AGN can convey gas through the network where it reasonably believes that it is necessary for the safety of the public under this clause. It would not incur any liability from a network user for such an act. Whilst it may not be the intention of this clause, it could potentially allow AGN to ship off-specification gas under this clause through the network and expose our business to a potential liability through our contracts with our customers.</p> <p>Our initial view is this clause should be altered so it does not absolve AGN for any potential liability that is caused where AGN ships gas through the network under this provision.</p> <p>Origin Energy</p> <p>Under this new clause AGN would incur no liability for any loss, cost or damages in the event that AGN conveys gas that does not comply with the specifications required by the Agreement where AGN believes the conveyance is necessary for the safety of the public or security of the network. We understand that this new clause reflects the terms of the <i>Gas Supply (Safety and Network Management) Regulation 2013 (NSW)</i>. We believe that the General Terms and Conditions need to make explicit what legislative obligations apply to AGN in both [New South Wales] NSW and Victoria.</p>	<p>The AA is a consolidated AA which will apply to our network in Victoria and New South Wales (Albury).</p> <p>Clause 12.8 reflects the terms of the <i>Gas Supply (Safety and Network Management) Regulation 2013 (NSW) (Regulation)</i> which apply in New South Wales and the existing Albury General Terms it is not a new clause.</p> <p>The Regulation clause 23 states that a reticulator must not convey non-compliant gas through a distribution pipeline. The Regulation clause 24 states that a reticulator may convey non-compliant gas if the reticulator reasonably believes that the conveyance of gas is necessary to ensure the safety of the public or the security of the reticulator's distribution pipeline.</p> <p>If we were to convey non-compliant gas in these circumstances, we must notify the Director-General of the point of injection of the non-compliant gas.</p> <p>The Regulation recognises that there may be circumstances in which it is better to convey non-compliant gas for reasons of public safety or network security.</p> <p>Clause 12.8 of the proposed terms is consistent with the Regulation and is necessary to maintain the discretion given to AGN under the Regulation.</p> <p>The exercise of that discretion is subject to oversight by the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services (NSW).</p> <p>The clause would not allow AGN to distribute non-compliant gas in Victoria (in the absence of an exemption from Energy Safe Victoria) as this would be contrary to the <i>Gas Safety Act 1997 (Vic)</i> and the <i>Gas Safety (Gas Quality) Regulations 2007 (Vic)</i>.</p>

We accept Origin Energy's comment and have amended clause 12.8 of the proposed terms to recognise that different legislative obligations apply in Victoria and New South Wales.

As amended, the proposed clause 12.8 reads as follows:

"Nothing in this clause 12 prevents AGN from conveying Gas through the Network that does not comply with the specifications required by this Agreement where AGN is required or permitted to do so by law. In New South Wales, AGN is permitted to do so where AGN reasonably believes that the conveyance is necessary for the safety of the public or the security of the Network. AGN will have no liability to the Network User for any loss, cost, expense or damage the Network User might suffer or incur because of such conveyance."

The proposed clause explicitly recognises that the second sentence reflects the position under the New South Wales' *Gas Supply (Safety and Network Management) Regulation 2013* (NSW).

20.2 **AGL Energy** continues to have issues with wording which requires AGL Energy to be liable for network charges where there is no shared customer, such as where a site is disconnected. AGL Energy is not AGN's customer and should not be responsible for those charges. The Use of System agreements in Victoria make it clear that the retailer is only liable for charges where the site is connected and where there is a customer so AGL Energy proposes that 20.2(a) be removed.

We acknowledge that AGL Energy continues to have issues with the wording of clause 20.2 of the proposed terms. AGL Energy has stated that *"AGL Energy is not AGN's customer"* and, on this basis, AGL Energy should not be responsible for network charges where there is no shared customer.

We do not agree with the quoted statement and, therefore, do not support the conclusion, that AGL Energy should not be responsible for network charges where there is no shared customer.

Under the National Gas Law (NGL), AGN is a service provider and must submit an AA which describes the reference services and the proposed terms and conditions on which the reference service will be provided.

Under the proposed Victorian and Albury AA, reference services are provided to "Users". The term *"User"* has the meaning given to it in the NGL, where it is defined to mean *"a person who is a party to a contract with a service provider under which the service provider provides or intends to provide a pipeline service to that person by means of a scheme pipeline"*.

The persons who are parties to the contract with AGN are gas retailers and, under the AA, the reference services are provided to the gas retailers. It follows that gas retailers, like AGL Energy, are customers of AGN.

Clause 20.2 of the proposed Victorian and Albury terms and conditions is the same as clause 20.2 of the South Australian terms and conditions which were approved by the AER.

When the South Australian AA was submitted for public consultation, AGL Energy made submissions on clause 20.2 to the effect that AGL Energy should not be liable for charges where there was no shared customer.

In its Final Decision on the South Australian AA, the Australian Energy Regulator (AER) indicated that it did not agree with AGL's submissions and approved clause 20.2 as drafted by AGN (see "*AER Final Decision, Attachment 12 – Non-tariff Components*" pages 12-10 to 12-12).

AGL Energy's comments on the draft Victorian and Albury terms and conditions do not provide any cogent or new reasons to override the AER's previous decision on clause 20.2.

From our perspective, there are two reasons to retain clause 20.2 in the proposed terms:

- 1 it is consistent with the terms and conditions as approved for South Australia and, thus, promotes national consistency and efficiency across our networks; and
- 2 it allows AGN to recover base charges which apply to each distribution supply point for which a retailer is the financially responsible organisation under the Retail Market Procedures.

If there is no shared customer at the distribution supply point, the retailer can decide whether it wishes to continue to remain financially responsible for the base charges or whether it wishes to request the decommissioning of the distribution supply point.

20.2(b) **Red Energy and Lumo**

AGN's reference to the National Electricity Retail Law (NERL) or the National Electricity Retail Rules (NERR) may not be relevant in this clause.

The National Energy Customer Framework (NECF) has not been enacted in Victoria. Given that this AA has been developed to be applied in Victoria, we are unclear as to the relevance of any reference to the NERL or the NERR. The reference to the NERL or the NERR in this AA may have been included because it is intended to also apply to Albury. If this is the case, then the clause should be redrafted to clarify this.

The references to the NERL and the NERR have been included in the proposed terms and conditions to address the possibility that Victoria might, at some stage, decide to adopt the NECF.

To clarify this, we have amended clause 20.2(b) to include similar language to that used in clause 22.1 – that is "*... the NERL or the NERR (once they are adopted in the relevant jurisdiction).*"

22.3 AGL Energy

The Time Limit of three months in Clause 22.3 is unreasonable and should be removed. It requires that a retailer raise any claim within three months of the claim becoming known or should have becoming known, and limits any claim to 11 months after the date of the relevant statement of charges. Issues with meters which impact bills often aren't identified for much longer periods of time and it is unreasonable that such time limits should be imposed within the terms and conditions of an AA. Often the issue is as a result of a metering issue, so it is appropriate that risk should sit with the party most able to mitigate it – in this instance the asset owner, AGN. Rule 31 of the Energy Retail Code requires a retailer to repay a customer where it has overcharged that customer, there are no time limitations on this clause and the retailer must pay back as far as the overcharging occurred. If the overcharging is the result of a distributor error, such as metering error, it is inequitable that the retailer should have to repay monies as a result of an error it has no ability to mitigate or reclaim those monies from the party at fault.

Origin Energy

Under this amended clause, a Network User may not make any claim for an adjustment to distribution charges unless full particulars are provided to AGN within three months after the claim becomes known or should become known or in any event more than 11 months after the relevant statement of charges. Origin considers that the time limits for liabilities between the Terms and Conditions and relevant Rules and Codes should align. Specifically, if a retailer's exposure to a billing re-adjustment extends beyond 11 months and this re-adjustment is attributable to the network, we believe a Retailer should not be limited from recovering its exposure. Furthermore, we request greater clarity regarding how the term 'should become known' is defined.

Clause 22.3 as drafted reflects the outcome of previous consultation with retailers in the context of the South Australian AA and, in particular, changes made by AGN to clause 22.3 in response to previous submissions from AGL Energy and Simply Energy (see pages 1-2 of AGN AA Proposal for the South Australian gas distribution network, Attachment 17.2, "*Engagement with Australian Gas Networks Retailer Reference Group on Terms and Conditions*").

Clause 22.3 has been included in the proposed Victorian and Albury terms and conditions for two reasons:

- 1 the clause appears in the terms and conditions for the South Australian access arrangement and its inclusion in the proposed Victorian and Albury terms and conditions promotes national consistency and efficiency; and
- 2 the clause is necessary to support the integrity of AGN's revenue.

AGL Energy's comments on clause 22.3 do not raise any new points which were not already raised by AGL Energy and Simply Energy in their submissions on the South Australian terms and conditions and which were not already addressed by the AER in its Draft Decision on the South Australian terms and conditions.

The AER considered AGL Energy's submissions and approved clause 22.3 in the AER's Draft Decision on the South Australian AA (see "*AER Draft Decision, Attachment 12 – Non-tariff Components*" pages 12-15 to 12-16).

The three month time limit is not unreasonable because that time limit only runs from the time at which a user becomes aware of a claim.

It is not unreasonable for AGN to require users to notify AGN of claims of which users are aware. At the same time, it is unreasonable for users to fail to notify claims after they have become aware of the claims.

A period of three months should give a User sufficient time to notify AGN of any claim of which the retailer becomes aware.

The 11 month time limit is not unreasonable. It mirrors similar time limitations in the Energy Retail Code – see:

- 12 months in clause 3E for issues about explicit informed consent;
- rule 19(2) which requires a retailer to ensure an actual meter read as frequently as is required and, in any event, at least once in every 12 months;

- rule 23 which requires an actual meter read at the end of any 12 month period;
- rule 30(2) which imposes a 9 month time limit on the recovery of charges by retailers; and
- rule 31(5) which imposes a time limit of 12 months on refunds to a customer where the customer is at fault.

Moreover, as noted in the previous submissions on this clause, the clause does not prevent a retailer like AGL Energy or Origin Energy from pursuing any claim which it is required by law to pursue on behalf of a customer – see clause 22.3(b).

Origin Energy's second comment is a request for greater clarity regarding the definition of the term 'should become known'.

In response to this request, whilst it is not AGN's preference to add further unnecessary words to the terms and conditions, AGN proposes to add a new paragraph (c) to clause 22.3 which will state:

“(c) For the purposes of this clause, “should have become known” means would have become known to the Network User if the Network user had exercised reasonable care and acted in a diligent and prudent manner.”

24.1 Red Energy and Lumo Energy

AGN should clarify the use of the term “*expected to be delivered*” in this clause.

Our first impression is that this clause could potentially allow AGN to bill for future consumption. Nevertheless, we are unclear if this is the case. If not, we are not clear why this clause has been included.

Therefore, we consider that AGN needs to provide additional clarity regarding this matter.

We note that the phrase “*expected to be delivered*” is qualified by paragraphs (a), (b) and (c) of clause 24.1. Amongst other things, these paragraphs require AGN to make any determination in accordance with the law or any relevant rules or agreement that binds AGN and the Network User (such as the Retail Market Procedures) or on a reasonable basis. Notably, the law and the Procedures regulate the basis on which we can determine quantities of gas using actual reads, estimated reads and substituted reads.

Annexure C - Calculation of Charges for Delivery Points to the Victorian Access Arrangement for 2013-2017 page 36, details that, in some circumstances, the charges for new Demand Delivery Points are calculated on the basis of the quantity of gas “*expected to be delivered*” over a calendar year. These charges are based on expected capacity usage (“*expected to be withdrawn*”) and do not allow AGN to bill for future consumption.

29.5 AGL Energy

The Limitation Period in Clause 29.5 should also be removed. As above, three months is not always adequate timing for issues to become known. A retailer should not have to bear the costs of an issue caused by AGN if it only became known after a three month period.

Like clause 22.3, clause 29.5 reflects the outcome of previous consultation with retailers in the context of the South Australian AA.

During retailer consultation on the South Australian terms and conditions, AGL Energy made the same comment on clause 29.2 – namely, that three months is not adequate time for issues to become known (see page 2 of AGN's *AA Proposal for the South Australian gas distribution network, Attachment 17.2, "Engagement with Australian Gas Networks Retailer Reference Group on Terms and Conditions"*).

The limit in clause 29.5 only starts when a retailer becomes aware (or should have become aware) of a claim. In other words, clause 29.5 allows time for the retailer to become aware of a claim before the three month time period begins to run.

Once an issue becomes know, three months should give a retailer sufficient time to notify AGN of the claim.

In its Draft Decision on the South Australian terms and conditions, the AER considered AGL Energy's submission on clause 29.5 and approved the clause as drafted by AGN (see "*AER Draft Decision, Attachment 12 – Non-tariff Components*" page 12-16).

The AER stated that time limitations provide incentives to users to alert AGN to claims as soon as reasonably possible. This is the purpose of clause 29.5 and AGN believes that the AER's previous decision on this issue is correct.

34.7 Origin Energy seeks clarification why this clause has been amended to remove ownership of insurance from AGN and to transfer this risk to the Network User. We believe clause 34.7 should be retained.

Clause 34.7 has not been amended to remove ownership of insurance from AGN and to transfer this risk to the Network User. The removal of the clause is also consistent with the terms and conditions as approved for South Australia and, thus, promotes national consistency and efficiency across our networks.

The clause has been deleted because it imposes an unnecessary restriction on AGN and the removal of the clause gives AGN flexibility to self-insure where that is economically efficient or prudent, rather than be compelled to insure with an external insurance company. An example might be the cost of business interruption insurance which, at times, has been prohibitively expensive for gas distributors.

Network Users would have no claim on business interruption insurance effected by AGN as this type of insurance is not liability insurance but is effected for the benefit of the insured. There is no need for the proposed

terms and conditions to require AGN to effect insurance which is irrelevant to Network Users.

35.5 AGL Energy

Clause 35.5 – Failure to Provide Access could also be amended or removed. As it stands, although AGL manages the relationship with the customer, it should not be responsible for AGN's inability to access its own asset and AGN should have an element of responsibility.

Clause 35.5 was considered by the AER in its Draft Decision on the Victorian terms and conditions (see pages 317-318 of the AER's Draft Decision on the Victorian AA 2013-2017).

In the Draft Decision, the AER decided that *"it is reasonable to not expect [AGN] to perform the Agreement because it could not obtain safe, reasonable or unhindered access"*.

The AER required AGN to amend the clause so that it imposed an obligation on AGN to use reasonable endeavours to obtain access.

With that amendment, the AER approved clause 35.5 in its Final Decision on the Victorian AA – see page 276-277 of Part 2 of the AER's Final Decision on the Victorian AA 2013-2017.

If clause 35.5 was removed as suggested by AGL Energy, AGN would be liable for a failure to provide services where AGN made reasonable endeavours to gain safe, reasonable and unhindered access to premises but was unable to do so. In effect, this would impose an obligation on AGN to provide services in circumstances where AGN could only gain access which was unsafe, unreasonable or hindered. AGN believes that this is an unreasonable and untenable position in which to place a service provider.

We note that, in the case of South Australia, the AER required AGN to delete clause 35.5 from the South Australian terms and conditions. The AER's Final Decision stated:

"AGN proposed that, where it had not met its obligations to users because of failure to access a shared customer's premises, it should not be liable where it had used reasonable endeavours to do so. Under the National Energy Retail Law and Rules, shared customers have an obligation directly to AGN to provide access to premises (under deemed customer connection contracts). AGN can enforce this obligation directly against the shared customer. Where AGN has not done so, we do not accept there is justification to displace the right of users to pursue AGN for failure to perform the agreement because of failure to access premises. Accordingly our approved access arrangement does not include this limitation on AGN's liability."

We note that the AER's reasoning on this issue relies on the provisions of the NERL which impose an obligation on shared customers directly to AGN

to provide access to AGN. The relevant provisions of the NERL are part of the NECF, which has not been adopted in Victoria.

We have amended the clause in response to clarify if the NERL applies in the Network the clause will not apply:

“This clause 35.5 will not apply after the National Energy Retail Law applies to the Network (but without prejudice to its operation in relation to the period prior to that time).”

39.2 Red Energy and Lumo Energy

AGN should reference the current version of the Retail Market Procedures anywhere in the revised AA.

The current version of the AGN AA references version 5 of the Retail Market Procedures. Hence, there needs to be an adjustment throughout the revised AA in order that it appropriately references the current version of the Retail Market Procedures.

Agreed. We have updated the proposed clause 39.2(i) to refer to version 11 of the Retail Market Procedures for Victoria (effective as at 27 September 2016).

39.3 Origin Energy considers that with respect to assignment the same provision should apply to both AGN and a Network User. Notably that the prospective AGN assignee is bound from time of the assignment, by the agreement between AGN and a Network User as if the assignee stood in the shoes of AGN.

Clause 39.4 provides that, in the event of an assignment by AGN, AGN will be remain bound by its obligations except to the extent that a purchaser becomes bound. In effect, this is the same provision as applies to the Network User. It simply gives AGN flexibility to undertake assignments whereby the assignee does not become bound by the haulage agreement. An example might be an assignment in the context of a sale and leaseback of the Network. Network Users do not require this flexibility. They are not the asset owner in this context.

3. Proposed Victorian and Albury Terms and Conditions

As discussed in our Final Plan (see Section 15.4) we commenced a process of standardising our terms across all jurisdictions where we have networks in 2012. We believe there are a number of benefits to our customers as it promotes greater efficiency across the industry and reduces transaction costs.

Our approach to the proposed terms and conditions included:

- consolidating the Victorian and Albury terms and conditions;
- harmonising the proposed terms with the South Australian terms and conditions taking into consideration that jurisdictional differences will always contribute to some variation (including adopting all of the amendments required by the AER in its recent decision for our South Australian network); and
- incorporating feedback from our RRG on the proposed terms.

Table 2 summarises the specific changes to the proposed terms (these changes are marked in Attachment 15.2 to the Final Plan), including that arising from the above feedback from our RRG.

It is noted that the following abbreviations apply in the following table:

- AEMC = Draft rule determination for National Electricity Amendment (Retailer-distributor credit support requirements) Rule 2016 National Gas Amendment (Retailer-distributor credit support requirements) Rule 2016 by the Australian Energy Market Commission (AEMC) dated 27 October 2016.
- AER SA Draft Dec = AER's draft decision on the South Australian AA;
- AER SA Final Dec = AER's final decision on the South Australian AA;
- SATC = AER approved terms and conditions for South Australian AA;
- Consolidation = Consolidation of the Victorian and Albury proposed terms;
- Feedback from RRG = changes as a direct result of discussion with our RRG; and
- Other = other minor amendments to correct simple errors or improve language.

Table 2: Summary of changes of Victorian and Albury proposed Terms and Conditions

Clause	Proposed Changes	Comment	Reference
Front Page	Inserted Albury in the title.	These proposed terms cover both Victorian and Albury gas distribution networks.	Consolidation
Introduction paragraph	Removed reference to " <i>Vic Gas Distribution Pty Ltd</i> ". Service Provider is now defined in the Glossary	These proposed terms cover both Victorian and Albury gas distribution networks.	Consolidation
2.7	" <i>exercises</i> " replaced with " <i>uses</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 2.7 SATC
3.3	Deleted " <i>whether or not there is any Shared Customer in respect of that User DP</i> ".	Change confirms to clause 3.3 as required by the AER SA Draft Dec. ¹	AER SA Draft Dec
3.4	insertion of " <i>... shared</i> ".	This simply corrects an error in the proposed terms.	Other
11.1	Deleted " <i>any User DP that is</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 11.1 SATC
11.2	Deleted " <i>any User DP that is</i> " and added " <i>(or, if the meter at a Demand DP is an interval meter, then AGN will obtain the meter reading data as and when required in accordance with the Retail Market Procedures)</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 11.2 SATC
11.3, 11.4, 11.5 and 11.6	Deleted " <i>any User DP that is</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 11.3, 11.4, 11.5 and 11.6 SATC
12.1	Added " <i>The specification specified at the start of the Agreement is that contained in AS 4564 – 2011, Specification for General Purpose Natural Gas.</i> "	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 12.1 SATC
12.8	Added Clause 12.8.	Added Clause 12.7 from Albury terms and conditions. It addresses the situation contemplated by section 23(2)(a) of <i>the Gas Supply (Safety</i>	Consolidation

¹ AER, "*Attachment 12 – Non-tariff components | Draft decision: Australian Gas Networks Access Arrangement 2016-21*", November 2015, pg. 12-31.

*and Network Management)
Regulation 2008 (NSW).*

12.8	Added <i>"AGN is required or permitted to do so by law. In New South Wales, AGN is permitted to do so where"</i>	Change in clause wording in response to feedback from Origin Energy and Red Energy.	Feedback from RRG
13.1	Deleted <i>"agreed in writing between Envestra and the Network User"</i> and added <i>"which is within the limits specified" and "in Appendix 1"</i> .	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 13.1 SATC
13.6	New clause: <i>"Network User Obligations Nothing in sub-clauses 13.3 or 13.5 will relieve the Network User of its obligations under sub-clause 13.1."</i>	This new clause is the same as clause 13.6 in the South Australian terms and conditions. It has been added so that the proposed terms aligns to the South Australian terms and conditions.	Clause 13.6 SATC
17.3 (a)	<i>"any" changed to "those"</i> .	Change to improve language.	Other
19.1	Added <i>"Ancillary Reference Services"</i> and deleted <i>"Disconnection and Reconnection of DPs, and carry out Meter and Gas Installation Tests, Meter Removal, Meter Reinstallation and Special Meter Readings"</i> .	Change in terminology to simplify and align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 19.1 SATC
20.2	Changes included the deletion of <i>"subject to sub-clause 22.1"</i> and <i>"the Network User is liable for those Distribution Service Charges whether or not the Shared Customer pays those Distribution Service Charges or any other amount to the Network User"</i> . Addition of: <i>"(a) the Network User is liable for any component of the Distribution Service Charges which accrues in relation to a User DP whilst there is no Shared Customer in respect of that User DP; (b) if there is a Shared Customer in respect of a User DP and the Network User is not permitted to recover Distribution Service Charges from that Shared Customer under the NERL or NERR (once they are adopted in the relevant jurisdiction), clause 22.1 applies and AGN is not permitted to recover</i>	Incorporated changes as proposed by AGN in response to requirement by the AER SA Draft Dec. ² In response to comments from Red Energy and Lumo AGN has also amended clause 20.2(b) to include similar language to that used in clause 22.1 – that is <i>"... the NERL or the NERR (once they are adopted in the relevant jurisdiction)."</i>	AER SA Draft Dec Feedback from RRG

² AER, "Attachment 12 – Non-tariff components | Draft decision: Australian Gas Networks Access Arrangement 2016-21", November 2015, pg. 12-31.

those Distribution Service Charges from the Network User; and

(c) unless clause 22.1 applies, if there is a Shared Customer in respect of a User DP, the Network User is liable for those Distribution Services Charges which accrue in respect of that User DP, even if the Shared Customer has not paid, or does not pay, those Distribution Service Charges to the Network User."

22.1	Amended to remove specific reference to "Victoria".	Change to make clause generic for application to Victoria and New South Wales.	Consolidation
22.3	<p>Addition of:</p> <p><i>"(a) Subject to clause 22.3(b), the Network User may not make any claim for an adjustment of the Distribution Service Charges in a statement of charges:</i></p> <p><i>(i) unless full particulars of that claim are given by the Network User to AGN within three months after the claim becomes known (or should have become known) to the Network User (or its officers, servants, agents or contractors);</i></p> <p><i>(ii) in any event, more than eleven months after the date of the relevant statement of charges.</i></p> <p><i>(b) If the Network User is a retailer, clause 22.3(a) will not limit any claim, or the time for any claim, which the Network User is required by law to make or pursue on behalf of a Shared Customer."</i></p> <p>Deletion of:</p> <p><i>"No claim for an adjustment will be made by the Network User after the expiration of the period mentioned in sub-clause 29.5 or, in any event, more than eleven months after the date of the relevant statement of charges (except, if the Network User is a Gas Retailer, the Network User may make any claim which the Network User is required by law to pursue on behalf of a Shared Customer)."</i></p>	<p>Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.</p> <p>Change in South Australian terms and conditions were in response to comments from Simply Energy and AGL Energy, we redrafted this clause for clarification.</p>	Clause 22.3 SATC

22.3 (c)	<p>Addition of:</p> <p><i>"For the purposes of this clause, "should have become known" means would have become known to the Network User if the Network User had exercised reasonable care and acted in a diligent and prudent manner."</i></p>	<p>Change in proposed clause wording in response to feedback from Origin Energy and AGL Energy.</p>	<p>Feedback from RRG</p>
24.1	<p>Added <i>"or expected to be delivered"</i> and minor drafting change to (c).</p>	<p>Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.</p>	<p>Clause 24.1 SATC</p>
24.6	<p>New Clause:</p> <p><i>" If the Charges payable by the Network User in respect of any Billing Period were calculated on the basis of estimated deliveries of Gas during that Billing Period and subsequently a reading taken from Metering Equipment enables AGN to determine the actual Quantity of Gas delivered (assuming, if necessary, that Gas was delivered at a constant rate), AGN will determine the actual Quantity of Gas delivered (if necessary, based on that assumption) and will determine whether the Network User has overpaid or underpaid the tariffs and other charges. AGN will credit the Network User with any overpayment, or debit the Network User with any underpayment, in the next statement of charges issued pursuant to the Agreement."</i></p>	<p>This new clause is the same as clause 24.6 in the South Australian terms and conditions. It has been added so that the proposed terms aligns to the South Australian terms and conditions.</p>	<p>Clause 24.6 SATC</p>
24.7	<p>Deletion of <i>" Whenever Envestra", "estimated" "have been" "in accordance with clause 24.1, that"</i>.</p> <p>Addition of <i>"AGN will", "on a reasonable basis" "expected" "be" "Such"</i>.</p>	<p>Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.</p>	<p>Clause 24.7 SATC</p>
27.2(b)	<p>Changed <i>"10 Business Days"</i> to <i>"5 Business Days"</i></p>	<p>Change as a result of the Draft rule determination for National Electricity Amendment (Retailer-distributor credit support requirements) Rule 2016 National Gas Amendment (Retailer-distributor credit support requirements) Rule 2016 by the Australian Energy Market Commission dated 27 October 2016.</p>	<p>AEMC</p>

28.2 (a)	Changes included the addition of " <i>subject to clause 28.4, AGN</i> ".	Incorporated changes as proposed by AGN in response to requirement by the AER SA Draft Dec. ³	AER SA Draft Dec
28.2 (b)	Addition of " <i>clause 28.4</i> " deletion of " <i>clause 23 and 27</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 28.2 (b) SATC
28.3 (a)	Addition of " <i>subject to clause 28.4 AGN</i> ".	This clause has been amended so that it mirrors the terms of clause 28.2(a) and (b), where relevant and to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 28.3 (a) SATC
28.4	<p>New Clause:</p> <p><i>"AGN may not give notice of termination under clause 28.2(a) or 28.2(b) for an alleged breach of an obligation by the Network User if the Network User, in good faith, disputes the alleged breach and gives AGN notice of that dispute in accordance with clause 37 within 14 days after the Network User receives notice of the alleged breach. This clause will not apply in any case where it has been determined that the Network User is in breach of an obligation (either by the Independent Expert appointed to resolve the dispute or by a court of law).</i></p> <p><i>The Network User may not give notice of termination under clause 28.3(a) for an alleged breach of an obligation by AGN if AGN, in good faith, disputes the alleged breach and gives the Network User notice of that dispute in accordance with clause 37 within 14 days after AGN receives notice of the alleged breach. This clause will not apply in any case where it has been determined that AGN is in breach of an obligation (either by the Independent Expert appointed to resolve the dispute or by a court of law)."</i></p>	<p>Added Clause 28.4 Disputed Right of Termination.</p> <p>Incorporated the changes made in the South Australian terms and conditions for the 2016/17 to 2020/21 period and changes as proposed by AGN in response to requirement by the AER SA Draft Dec⁴.</p>	AER SA Draft Dec

³ AER, "*Attachment 12 – Non-tariff components / Draft decision: Australian Gas Networks Access Arrangement 2016-21*", November 2015, pg. 12-31 to 12-33.

⁴ *Ibid.*

29.2 (b)	Addition of " <i>of a Shared Customer</i> " and minor drafting change to delete " <i>of its</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 29.2 (b) SATC
29.6	Added " <i>(whether in tort, in contract or otherwise)</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 29.6 SATC
30.1	Added " <i>domestic</i> " and deleted " <i>residential</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 30.1 SATC
33.2 (b)	Addition of " <i>of a Shared Customer</i> " and minor drafting change to delete " <i>of its</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 33.2 (b) SATC
33.3	Deletion of " <i>Subject to the other terms of the agreement</i> ", " <i>caused to an officer</i> ", " <i>Envestra as a result of</i> " and " <i>pursuant to the Agreement</i> ". Addition of " <i>the death or</i> ", " <i>of any</i> ", " <i>or invitee</i> ", " <i>that is caused by</i> " and " <i>or any of</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 33.3 SATC
34.6	Added " <i>AGN may obtain and maintain that insurance on behalf of the Network User at the cost of the Network User</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 34.6 SATC
34.7, 34.8 and 34.9	Deletion of the Clause 34.7 Insurance Required, Clause 34.8 Insurance Information and Clause 34.9 Notification.	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	SATC
35.1	Added " <i>or any Network User's Customer</i> " to align to the SATC.	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions. Change in South Australian terms and conditions were in response to comments from Origin.	Clause 35.1 SATC
35.2	Addition of " <i>or such notice as is agreed with the owner or occupier</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 35.2 SATC

35.4	Deleted " <i>use reasonable endeavours</i> " and addition of " <i>give reasonable assistance</i> ".	Incorporated changes required by the AER SA Draft Dec. ⁵	AER SA Draft Dec
35.5	Addition of " <i>This clause 35.5 will not apply after the National Energy Retail Law applies to the Network (but without prejudice to its operation in relation to the period prior to that time).</i> "	Change to clarify that the clause will not apply after the commencement of the NERL to the network.	Feedback from RRG
37.4	Deletion of " <i>the Parties are unable to resolve</i> " and addition of " <i>is not resolved</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 37.4 SATC
37.5	Deletion of "5" and " <i>the Parties will jointly</i> ". Addition of " <i>five</i> " and " <i>either Party may</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 37.5 SATC
37.6	Addition of " <i>(or, to the extent not agreed, the terms specified by the Independent Expert).</i> "	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 37.6 SATC
37.9	Addition of " <i>and, in any event, within 20 Business Days after the Independent Expert was appointed (or within whatever longer period the Parties may agree).</i> "	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 37.6 SATC
39.1	Addition of " <i>Neither Party may</i> " and " <i>the Agreement or</i> ". Deletion of " <i>by the Network User</i> " and " <i>The Parties must not</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 39.1 SATC
39.2	Removal of "5" addition of "11"	As a result of feedback from Red Energy the version of the Retail Market Procedures was updated from 5 to 11. Version 11 was made effective from the 27 September 2016	Feedback from RRG
41.3	Addition of " <i>either party</i> ", " <i>that party</i> ", " <i>or delay</i> ", " <i>Each party</i> " and " <i>If either party withholds consent, it must explain why it has withheld its consent or approval has been withheld. Any explanation is without prejudice.</i> " Deletion of " <i>Envestra</i> ".	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions. Change in SATC were in response to comments from Origin Energy, clause was made reciprocal.	Clause 41.3 SATC

⁵ AER, "*Attachment 12 – Non-tariff components | Draft decision: Australian Gas Networks Access Arrangement 2016-21*", November 2015, pg. 12-31 to 12-32

41.4	Addition of <i>"in which the Network is located"</i> and deletion of <i>"of Victoria"</i>	Change to make clause generic for application to Victoria and New South Wales.	Consolidation
41.11	Addition of <i>"which gives effect to a" and "by the Network User"</i> . Deletion of <i>"other"</i> , <i>"Reasonably necessary pursuant to the Agreement (other than any"</i> , <i>"executed"</i> and <i>"or any deed poll executed pursuant to sub clause 39.4)."</i>	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 41.11 SATC
42.1	Deletion of Clause 42.1 (b) <i>"a reference to a regulatory authority includes a reference to any court or other body exercising judicial powers and to any other person established by law or authorised by law to act"</i> and Minor wording changes.	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions.	Clause 42.1 SATC
43.2 (c)	Addition of <i>" 10 businesses days"</i> and deletion of <i>" 7 days"</i> .	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions. Change in South Australian terms and conditions were in response to comment from Origin Energy, amended timeframe to 10 business days.	Clause 43.2 (c) SATC
43.4	Addition of <i>"section"</i> and <i>"finding of the Commissioner of Taxation in respect"</i> . Deletion of <i>"clause"</i> and <i>"as that Act is varied in its effect on an event, matter, thing, agreement, transaction or the like by A New Tax System (Goods and Services Tax Transition) Act 1999."</i>	Change to align the proposed terms of the clause with the equivalent clause in the South Australian terms and conditions. Change in South Australian terms and conditions were in response to comment from Origin Energy, amendment to Goods and Services Tax clause.	Clause 43.4 SATC
Appendix 1	Addition of <i>"Receipt Point Pressures"</i> .	Change to align the appendix of the proposed terms with the equivalent appendix in the South Australian terms and conditions.	Appendix 1 SATC