

Attachment 1.1

Relevant Regulatory Framework

Variation Proposal 2023

April 2022

1. Introduction

This attachment explains the relevant regulatory framework governing the variation to our 2018 – 2022 Access Arrangement (AA) period for the Australian Gas Networks (AGN) Victoria and Albury gas distribution networks. The attachment focuses on the overarching requirements that must be satisfied for the AA Variation Proposal to be approved by the Australian Energy Regulator (AER).

More specifically, this Attachment outlines:

Section 2 – the Overarching Regulatory Obligations, including the National Gas Objective.

- These obligations set out the rules that apply to AGN in relation to the supply of natural gas, as well as the responsibility of the AER.
- It is these rules, laws and objectives that govern the way in which we operate the Victoria and Albury gas distribution networks and as such, it is these elements that have guided our AA Proposal.

Section 3 – Requirements of an AA Variation Submission.

- The information we must provide in our AA Variation Proposal and where we have addressed these requirements within the Variation Proposal (also known as an AA Information (AAI)) and supporting attachments.

2. Overarching Regulatory Framework

The overarching regulatory framework for the Victoria and Albury gas distribution networks is set out in the *National Gas (Victoria) Act 2008* and the *National Gas (New South Wales) Act 2008*. Section 7 of these Acts applies the National Gas Law (NGL), which is set out in a Schedule to the Acts, as a law of Victoria and New South Wales.

The NGL, among other things, establishes the National Gas Objective (NGO) and the functions and powers of key administrative bodies. Importantly:

- Section 26 of the NGL gives the National Gas Rules (NGR) the force of law in Victoria and New South Wales. The NGR establish the process for the review of an AA and sets out the detailed requirements of an AA revision proposal; and
- Section 27 of the NGL makes the AER responsible for making a decision in relation to an AA revision proposal submitted by AGN.

In April 2019, the Victorian Minister for Energy, Environment and Climate Change advised of the intention to make changes to the timing of the Victorian electricity and gas network price resets to operate on a financial year basis.

On 27 October 2020 the National Energy Legislation Amendment Act 2020 (Vic) (NELA Act) came into effect. On 30 September 2021 the Victorian Government published an Order in Council under the National Gas (Victoria) Act 2008 to give effect to the extension of the current AA period.

Section 8 of the Order in Council covers the Variation to an applicable 2018–2022 access arrangement. It provides that on or before 1 April 2022, each Victorian distributor must submit to the AER a proposal for a variation decision that is applicable to it. The proposal must be accompanied by information referred to in rules 72(1)(a) to (m) of the National Gas Rules, as is relevant to the proposal.

Rule 65 of the NGR governs the application for variation of an applicable access arrangement. Rule 65(3) sets out that an access arrangement variation proposal must:

- a be in writing; and
- b state the variation sought and the reasons for it; and
- c if the service provider considers the variation non-material – state that opinion and the reasons for it.

3. Requirements of the Variation Proposal

To ensure our Variation Proposal complies with all the applicable regulatory requirements we have developed a compliance checklist. Table 1 cross-references the relevant NGR requirements with the applicable sections within our Variation Proposal (comprising our Variation Proposal and supporting attachments) which addresses the requirement.

Table 1: Compliance checklist – NGR requirements

Provision	NGR Requirement	Our AA Variation Proposal Reference
42(1)	<i>Access arrangement information</i> for an access arrangement or an <i>access arrangement proposal</i> is information that is reasonably necessary for users and prospective users: (a) to understand the background to the access arrangement or the <i>access arrangement proposal</i> ; and (b) to understand the basis and derivation of the various elements of the access arrangement or the <i>access arrangement proposal</i> .	Variation Proposal and supporting Attachments submitted on or before 1 April 2022
42(2)	<i>Access arrangement information</i> must include the information specifically required by the <i>Law</i> .	Variation Proposal and supporting Attachments submitted on or before 1 April 2022
43(1)	A service provider, when submitting an <i>access arrangement proposal</i> for the AER's approval, must submit, together with the proposal, <i>access arrangement information</i> for the <i>access arrangement proposal</i> .	Variation Proposal and supporting Attachments submitted on or before 1 April 2022
43(2)	If particular information (sensitive information) is confidential, and its public disclosure could cause undue harm to the legitimate business interests of the service provider, a user or prospective user, the AER may permit the service provider to submit <i>access arrangement information</i> in a form, approved by the AER, in which the sensitive information: (a) is aggregated or generalised so as to avoid disclosure of the elements that make it sensitive; or (b) if that is not possible – is entirely suppressed.	Attachment 1.2 Confidentiality Claims
47A, 48, 49, 50 and 52	These provisions outline requirements for a full access arrangement and therefore are not considered relevant to this Variation Proposal.	
65(1)	A service provider may submit for the AER's approval a proposal for variation of the applicable access arrangement (an <i>access arrangement variation proposal</i>).	Variation Proposal and supporting Attachments submitted on or before 1 April 2022
65(2)	An <i>access arrangement variation proposal</i> cannot, however, be submitted between a review submission date for the applicable access arrangement and the commencement of the new <i>access arrangement period</i> .	Variation Proposal and supporting Attachments submitted on or before 1 April 2022

AGN VARIATION PROPOSAL 2023
Attachment 1.1 – Relevant Regulatory Framework

Provision	NGR Requirement	Our AA Variation Proposal Reference
65(3)(a)	An <i>access arrangement variation proposal</i> must: (a) be in writing; and	Variation Proposal and supporting Attachments submitted on or before 1 April 2022
65(3)(b)	An <i>access arrangement variation proposal</i> must: (b) state the variation sought and the reasons for it; and	Variation Proposal, Purpose of this proposal
65(3)(c)	An <i>access arrangement variation proposal</i> must: (c) if the service provider considers the variation non-material – state that opinion and the reasons for it.	-N/A
72(1)(a)(i)	The <i>access arrangement information</i> for a <i>full access arrangement proposal</i> (other than an <i>access arrangement variation proposal</i>) must include the following: (a) if the <i>access arrangement period</i> commences at the end of an earlier <i>access arrangement period</i> : (i) capital expenditure (by asset class) over the earlier <i>access arrangement period</i> ; and	Variation Proposal, Chapter 5 – Capital Base
72(1)(a)(ii)	The <i>access arrangement information</i> must include the following: (a) if the <i>access arrangement period</i> commences at the end of an earlier <i>access arrangement period</i> : (ii) operating expenditure (by category) over the earlier <i>access arrangement period</i> ; and	This is not considered relevant to this Variation Proposal, but is available in our Annual Regulatory Information Notices and our Draft Plan for the next AA period (January 2022).
72(1)(a)(iii)	The <i>access arrangement information</i> must include usage of the pipeline over the earlier <i>access arrangement period</i> : (A) for a distribution pipeline, minimum, maximum and average demand and, for a transmission pipeline, minimum, maximum and average demand for each receipt or delivery point; and (B) for a distribution pipeline, customer numbers in total and by tariff class and, for a transmission pipeline, user numbers for each receipt or delivery point;	Variation Proposal, Chapter 8 – Demand
72(1)(b)	The <i>access arrangement information</i> must include the following: (b) how the capital base is arrived at and, if the <i>access arrangement period</i> commences at the end of an earlier <i>access arrangement period</i> , a demonstration of how the capital base increased or diminished over the previous <i>access arrangement period</i> ;	Variation Proposal, Chapter 5 – Capital Base

AGN VARIATION PROPOSAL 2023
Attachment 1.1 – Relevant Regulatory Framework

Provision	NGR Requirement	Our AA Variation Proposal Reference
72(1)(c)	<p>The <i>access arrangement information</i> must include the following:</p> <p>(c) the projected capital base over the <i>access arrangement period</i>, including:</p> <p>(i) a forecast of conforming capital expenditure for the period and the basis for the forecast; and</p> <p>(ii) a forecast of depreciation for the period including a demonstration of how the forecast is derived on the basis of the proposed depreciation method;</p>	Variation Proposal, Chapter 4 – Capital expenditure and Chapter 5 – Capital Base
72(1)(d)	<p>The <i>access arrangement information</i> must include the following:</p> <p>(d) to the extent it is practicable to forecast pipeline capacity and utilisation of pipeline capacity over the access arrangement period, a forecast of pipeline capacity and utilisation of pipeline capacity over that period and the basis on which the forecast has been derived;</p>	Variation Proposal, Chapter 8 – Demand
72(1)(e)	<p>The <i>access arrangement information</i> must include the following:</p> <p>(e) a forecast of operating expenditure over the <i>access arrangement period</i> and the basis on which the forecast has been derived;</p>	Variation Proposal, Chapter 3 – Operating expenditure
72(1)(g)	<p>The <i>access arrangement information</i> must include the following:</p> <p>(g) the allowed rate of return for each regulatory year of the access arrangement period;</p>	Variation Proposal, Chapter 6 – Financing Costs
72(1)(h)	<p>The <i>access arrangement information</i> must include the following:</p> <p>(h) the estimated cost of corporate income tax calculated in accordance with rule 87A, including the proposed value of imputation credits referred to in that rule;</p>	Variation Proposal, Chapter 6 – Financing Costs
72(1)(i)	<p>The <i>access arrangement information</i> must include the following:</p> <p>(i) if an incentive mechanism operated for the <i>previous access arrangement period</i>—the proposed carry-over of increments for efficiency gains or decrements for efficiency losses in the previous <i>access arrangement period</i> and a demonstration of how allowance is to be made for any such increments or decrements;</p>	Variation Proposal, Chapter 7 – Incentives
72(1)(j)	<p>The <i>access arrangement information</i> must include the following:</p> <p>(j) the proposed approach to the setting of tariffs including:</p> <p>(i) the suggested basis of reference tariffs, including the method used to allocate costs and a demonstration of the relationship between costs and tariffs; and</p> <p>(ii) a description of any pricing principles employed but not otherwise disclosed under this rule;</p>	Variation Proposal, Chapter 9 – Revenue and Prices
72(1)(k)	<p>The <i>access arrangement information</i> must include the following:</p> <p>(k) the service provider's rationale for any proposed reference tariff variation mechanism;</p>	This is not considered relevant to this Variation Proposal

AGN VARIATION PROPOSAL 2023
Attachment 1.1 – Relevant Regulatory Framework

Provision	NGR Requirement	Our AA Variation Proposal Reference
72(1)(l)	The <i>access arrangement information</i> must include the following: (l) the service provider's rationale for any proposed incentive mechanism;	Variation Proposal, Chapter 7 – Incentives
72(1)(m)	The <i>access arrangement information</i> must include the following: (m) the total revenue to be derived from pipeline services for each regulatory year of the access arrangement period.	Variation Proposal, Chapter 9 – Revenue and Prices
72(2)	The <i>access arrangement information</i> for an <i>access arrangement variation proposal</i> related to a full access arrangement must include so much of the above information as is relevant to the proposal.	As noted above
72(3)	Where the AER has published financial models under Rule 75A, the <i>access arrangement information</i> for a <i>full access arrangement proposal</i> must be provided using the financial models	The AER's tariff model has been used- see Attachment 1.3
73(1)	Financial information must be provided on: (a) a nominal basis; or (b) a real basis; or (c) some other recognised basis for dealing with the effects of inflation.	All financial information quoted is in 2022/23 dollars, unless otherwise labelled
73(2)	The basis on which financial information is provided must be stated in the access arrangement information.	Refer to responses to Rule 73(1) above.
73(3)	All financial information must be provided, and all calculations made, consistently on the same basis and using any applicable financial models published by the AER under the Rules.	Refer to responses to Rule 72(3) and 73(1) above.
74(1)	Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.	Variation Proposal Chapters 3 to 8 Attachments 1.6 and 1.7 The bases of all forecasts or estimates are set out in the relevant chapters of the Variation Proposal and relevant Attachments.

AGN VARIATION PROPOSAL 2023
Attachment 1.1 – Relevant Regulatory Framework

Provision	NGR Requirement	Our AA Variation Proposal Reference
74(2)	A forecast or estimate: (a) must be arrived at on a reasonable basis; and (b) must represent the best forecast or estimate possible in the circumstances.	Variation Proposal Chapters 3 to 8 Attachments 1.6 and 1.7 The bases of all forecasts or estimates are set out in the relevant chapters of the Variation Proposal and relevant Attachments. All forecasts or estimates have been arrived at consistent with the positions set out in the AER Position Paper and therefore we consider all forecasts or estimates are arrived at on a reasonable basis and represent the best forecast or estimate possible in the circumstances.
75	Information in the nature of an extrapolation or inference must be supported by the primary information on which the extrapolation or inference is based.	All relevant primary information is identified in the Variation Proposal and its Attachments.
76	Total revenue is to be determined for each regulatory year of the <i>access arrangement period</i> using the building block approach in which the building blocks are: (a) a return on the projected capital base for the year (See Divisions 4 and 5); and (b) depreciation on the projected capital base for the year (See Division 6); and (c) the estimated cost of corporate income tax for the year (See Division 5A); and (d) increments or decrements for the year resulting from the operation of an incentive mechanism to encourage gains in efficiency (See Division 9); and (e) a forecast of operating expenditure for the year (See Division 7)	Variation Proposal Chapter 9 (a) Variation Proposal Chapters 5 and 6 (b) Variation Proposal Chapter 5 (c) Variation Proposal Chapter 6 (d) Not applicable – to be applied in next AA period 1 July 2023 see Variation Proposal Chapter 7 and Draft Plan for the next AA period (January 2022). (e) Variation Proposal Chapter 3, Attachment 1.6

AGN VARIATION PROPOSAL 2023
Attachment 1.1 – Relevant Regulatory Framework

Provision	NGR Requirement	Our AA Variation Proposal Reference
77(2)	<p>If an <i>access arrangement period</i> follows immediately on the conclusion of a preceding access arrangement period, the opening capital base for the later <i>access arrangement period</i> is to be:</p> <p>(a) the opening capital base as at the commencement of the earlier <i>access arrangement period</i> adjusted for any difference between estimated and actual capital expenditure included in that opening capital base. This adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure;</p> <p>plus:</p> <p>(b) conforming capital expenditure made, or to be made, during the earlier <i>access arrangement period</i>;</p> <p>plus:</p> <p>(c) any amounts to be added to the capital base under rule 82, 84 or 86;</p> <p>plus:</p> <p>(c1) in relation to any existing extension specified in the extension and expansion requirements in accordance with rule 104(2), the following value: (i) the cost of construction of the extension; plus (ii) capital expenditure on the extension since construction of the extension; less: (iii) depreciation of the extension since the date the extension was commissioned; and (iv) the value of pipeline assets constituting the extension disposed of since commissioning of the extension;</p> <p>less:</p> <p>(d) depreciation over the earlier <i>access arrangement period</i> (to be calculated in accordance with any relevant provisions of the access arrangement governing the calculation of depreciation for the purpose of establishing the opening capital base); and</p> <p>(e) redundant assets identified during the course of the earlier access arrangement period; and</p> <p>(f) the value of pipeline assets disposed of during the earlier <i>access arrangement period</i>.</p>	Variation Proposal Chapter 5, Table 5.1
78	<p>The projected capital base for a particular period is:</p> <p>(a) the opening capital base;</p> <p>plus:</p> <p>(b) forecast conforming capital expenditure for the period;</p> <p>less:</p> <p>(c) forecast depreciation for the period; and</p> <p>(d) the forecast value of pipeline assets to be disposed of in the course of the period.</p>	Variation Proposal Chapter 5, Table 5.4

AGN VARIATION PROPOSAL 2023
Attachment 1.1 – Relevant Regulatory Framework

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87	<p>The return on the projected capital base for a service provider for a regulatory year of an access arrangement period for an applicable access arrangement (RPCB_t) is to be calculated using the following formula:</p> $RPCB_t = a_t \times v_t$ <p>where:</p> <p>a_t is the allowed rate of return for the regulatory year; and</p> <p>v_t is the value, as at the beginning of the regulatory year, of the projected capital base for the regulatory year (as established under rule 78 and subject to rule 82(3)).</p> <p>The allowed rate of return for the regulatory year means the rate of return calculated in the way stated in the <i>applicable rate of return instrument</i>. Under NGL 30C, a rate of return instrument is binding on the AER and each covered pipeline service provider.</p>	Variation Proposal Chapter 6
87A	<p>The estimated cost of corporate income tax of a service provider for each regulatory year of an access arrangement period (ETC_t) is to be estimated in accordance with the following formula:</p> $ETC_t = (ETI_t \times r_t) (1 - \gamma)$ <p>Where</p> <p>ETI_t is an estimate of the taxable income for that regulatory year that would be earned by a benchmark efficient entity as a result of the provision of reference services if such an entity, rather than the service provider, operated the business of the service provider;</p> <p>r_t is the expected statutory income tax rate for that regulatory year as determined by the ERA; and</p> <p>γ is the allowed imputation credits for the regulatory year. Allowed imputation credits for a regulatory year means the value of imputation credits stated, or calculated in the way stated in the <i>applicable rate of return instrument</i>. Under NGL 30C, a rate of return instrument is binding on the AER and each covered pipeline service provider.</p>	Variation Proposal Chapter 6
88(1)	The depreciation schedule sets out the basis on which the pipeline assets constituting the capital base are to be depreciated for the purpose of determining a reference tariff	Variation Proposal Chapter 5 Attachments 1.4 and 1.5
88(2)	The depreciation schedule may consist of a number of separate schedules, each relating to a particular asset or class of assets.	Variation Proposal Chapter 5 Attachments 1.4 and 1.5
93	These provisions discuss revenue and cost allocation between reference and other services	This Variation Proposal applies the same revenue and cost allocation and tariff classes as already in place for the current AA period.
94	These provisions discuss tariff classes	
98(1)	A full access arrangement may include (and the AER may require it to include) one or more incentive mechanisms to encourage efficiency in the provision of services by the service provider.	Variation Proposal, Chapter 7

AGN VARIATION PROPOSAL 2023
Attachment 1.1 – Relevant Regulatory Framework

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98(2)	An incentive mechanism may provide for carrying over increments for efficiency gains and decrements for losses of efficiency from one <i>access arrangement period</i> to the next.	Variation Proposal, Chapter 7
98(3)	An incentive mechanism must be consistent with the revenue and pricing principles.	Variation Proposal, Chapter 7