

Attachment 11: Revenue requirement and price path

**Access Arrangement Information for the 2016-
21 ACT, Queanbeyan and Palerang Access
Arrangement**

Submission to the Australian Energy Regulator

June 2015

Table of contents

List of tables	3
List of appendices to this attachment	3
11. Revenue and price path	5
Key points	5
Consumer benefits	5
11.1 Revenue requirement	5
11.2 Proposed price path	6
11.3 Treatment of ancillary services	7
11.4 Revenues in the extension year (2015/16) are not relevant to final determination	7
11.4.1 Background	7
11.4.2 Extension Year 2015/16 is not an 'interval of delay'	9
11.4.3 ActewAGL Distribution proposal for any adjustment for revenues in the 2015-16 Extension Year	14

List of tables

Table 11.2 ActewAGL Distribution total revenue, 2016-21	7
Table 11.3 ActewAGL Distribution total revenue, 2015-21	16

List of appendices to this attachment

- Appendix 11.01 – Post Tax Revenue Model (PTRM)
- Appendix 11.02 – Reconciliation model between old and new tariffs for 2015/16
- Appendix 11.03 – Roll Forward Model under the alternative approach
- Appendix 11.04 – Post Tax Revenue Model under the alternative approach



11. Revenue and price path

Key points

- ActewAGL Distribution's aggregate total smoothed revenue for the 2016-21 period is \$358 million (nominal).
- The price path builds on a Po adjustment of 2.23% followed by a zero X-factor for the following years.
- The proposed price path has been derived in consultation with customer groups who have expressed a preference to avoid significant price increases in the beginning of the period and ActewAGL Distribution has balanced this consumer preference against the desirability of minimising any mismatch in 2020/21 between total revenue and smoothed revenue.
- No true-up is proposed for 2015/16 because there is no 'interval of delay' for the purposes of Rule 92(3) of the NGR having regard to the revision commencement date specified in ActewAGL Distribution's 2010/15 access arrangement, with the consequence that the Australian Energy Regulator's power under that rule to perform a true-up is not enlivened.

Consumer benefits

- The proposed revenues will ensure that ActewAGL Distribution can undertake efficient and prudent investments to operate the network safely and reliably as well as respond to demand growth. This will enable ActewAGL Distribution to implement efficiency improvements that will benefit customers from a pricing perspective.

In accordance with rule 72(1)(m) of the Rules, this chapter of the access arrangement information sets out the total revenue to be derived from pipeline services for each regulatory year of the 2016-21 access arrangement period, calculated using the building block approach (in accordance with Rule 76). It also sets out the proposed price path and the treatment of ancillary services. Attachment 12 discusses the basis of reference tariffs, including how total revenue is allocated to the tariffs and a demonstration of the relationship between total revenue and tariffs, and a description of the pricing principles employed, in accordance with rule 72(1)(j) of the Rules.

11.1 Revenue requirement

Total revenue is to be determined for each regulatory year of the access arrangement period using the building block approach in which the building blocks are:

- a return on the projected capital base (described in Attachment 7);

- depreciation of the projected capital base (described in Attachment 7);
- a forecast of operating expenditure (described in Attachment 5);
- the estimated cost of corporate income tax (described in Attachment 9); and
- increments or decrements from the operation of any incentive mechanism applicable in the preceding access arrangement period (described in Attachment 10)

ActewAGL Distribution's aggregate annual revenue requirement (unsmoothed) to be derived from pipeline services for the access arrangement period starting in mid-2016 will be \$359.4 million (nominal). The annual revenue requirement for each regulatory year and the building blocks that comprise those total revenues are presented in Table 11.1. The mechanism of estimating total revenue is that embodied in ActewAGL Distribution's populated version of the AER's post-tax revenue model (PTRM) at appendix 11.01 to this access arrangement information.

Table 11.1 ActewAGL Distribution total revenue, 2016-21

\$ million (nominal)	2016/17	2017/18	2018/19	2019/20	2020/21
Return on capital base	26.3	27.7	29.4	30.9	32.4
Depreciation	4.1	4.7	5.5	6.5	7.4
Operating expenditure	28.4	29.2	30.8	34.7	34.8
Incentive mechanism	6.2	3.2	2.3	-	-
Corporate income tax	2.6	2.8	3.0	3.2	3.4
Annual revenue requirement (unsmoothed)	67.6	67.5	71.0	75.4	77.9

Having determined the total revenue to be derived from ActewAGL Distribution's pipeline services, ActewAGL Distribution estimated tariffs as set out in Attachment 12.

11.2 Proposed price path

ActewAGL Distribution has prepared its smoothed price path in accordance with Rules 93 and 94. In the course of preparing this access arrangement proposal, ActewAGL Distribution undertook extensive engagement with customers to determine how to respond to the changes occurring in the gas market in a way that promotes customers' long-term interests. If prices are increasing, customer representatives expressed a preference for a stable price increase rather than a step up increase followed by small price adjustments. In the scenario of lower prices, customer representatives expressed a preference for an initial step decrease in prices followed by flat prices.

ActewAGL Distribution has considered this feedback when preparing the price path for the 2016-21 period. Given that this proposal will result in lower real prices over the 2016-21 period, ActewAGL

Distribution proposes an initial step decrease in prices in 2016/17 followed by flat prices in real terms during the 2017-21 period, consistent with its customers' feedback.

One other aspect of the proposed price path is the recognition that ActewAGL Distribution's customers' long-term interests will be served through the support of increased economic customer connections to, and use of, the network which will lower average prices over time. ActewAGL Distribution's price path also builds on the proposed tariff restructure as discussed in attachment 12.

Table 11.2 shows the proposed price changes for the 2016-21 period. This has been calculated using the AER's PTRM included in appendix 11.01 and a weighted average price cap, which ActewAGL Distribution proposes for the 2016-21 access arrangement. The tariffs for 2015/16 are hypothetical tariffs based on the new proposed tariff structure. A reconciliation between the old and new tariff structure is included in appendix 11.02.

Table 11.2 ActewAGL Distribution total revenue, 2016-21

\$ million (nominal)	2016/17	2017/18	2018/19	2019/20	2020/21
Total revenue (unsmoothed)	67.6	67.5	71.0	75.4	77.9
Expected revenue (smoothed)	69.3	70.3	71.4	72.9	74.5
Real price change (%)	2.23	0.00	0.00	0.00	0.00
Inflation forecast (%)	2.55	2.55	2.55	2.55	2.55
Nominal price change (%)	0.26	2.55	2.55	2.55	2.55

11.3 Treatment of ancillary services

ActewAGL Distribution has included in its operating and maintenance expenditure (opex) estimate the costs for ancillary services. As such the total revenue for each regulatory year includes the estimated costs for ancillary services. As part of the revenue modelling within the PTRM, ActewAGL Distribution has also included forecast tariffs and volumes relating to ancillary services with the objective of achieving cost recovery of the costs relating to the provision of ancillary services.

11.4 Revenues in the extension year (2015/16) are not relevant to final determination

11.4.1 Background

In accordance with transitional provisions for the amendments to the Rules released by the Australian Energy Market Commission (AEMC) in November 2012, the AER exercised its power to extend the review submission date for ActewAGL Distribution's access arrangement to 30 June 2015.¹ The AER confirmed, by letter to ActewAGL Distribution, that the current access arrangement period would be treated as a six-

¹ Letter from the AER dated 4 July 2014

year period, and the next access arrangement period would commence on 1 July 2016 and end on 30 June 2021.² Consistent with this, the Regulatory Information Notice (RIN), served on ActewAGL Distribution on 17 April 2015, defines the current access arrangement period as starting on 1 July 2010 and ending on 30 June 2016.³ The AER also confirmed on its website that reference tariffs in place at 30 June 2015 would continue without variation for the 12 month extension period.⁴

The requirements for ActewAGL Distribution's gas network extension year contrast with the requirements for the ACT and NSW electricity distribution networks in the transitional year.⁵ For electricity, the transitional National Electricity Rules expressly required the AER to set regulatory allowances (and prices) for the transitional year (2014/15), and then make an adjustment, or true-up, at the start of the subsequent period (2015-19).⁶ For gas, there are no provisions in the Rules specific to the extension year that provide for a determination of total revenue for that year, and no specific mechanism or requirement for a true-up in respect of that extension year.

While rule 92(3) provides for reference tariffs, as in force at the end of an access arrangement period, to continue without variation for an "interval of delay" and confers on the AER a discretion to take this into account in fixing reference tariffs for the new access arrangement period, this rule applies only to an 'interval of delay' - that is, any interval between a revision commencement date stated in an access arrangement and the date on which the revisions to the access arrangement actually commence.

ActewAGL Distribution contends that, as the revisions commencement date specified in its 2010-15 access arrangement is "the later of 1 July 2015 and the date on which the approval by the Relevant Regulator of the revisions to the Access Arrangement takes effect under the National Gas Rules",⁷ the extension year (2015/16) does not constitute such an 'interval of delay'. It follows that there is no basis in the Rules for the AER to perform a true-up of total and expected revenue for the extension year in fixing reference tariffs for the 2016-21 access arrangement period. ActewAGL Distribution explains why the extension year (2015/16) does not constitute an "interval of delay" for the purposes of rule 92(3) in greater detail below.

As the 2010-15 access arrangement contemplates that the revision commencement date specified therein may occur after 1 July 2015, it expressly provides for the reference tariffs to apply in the period 30 June 2015 to the commencement of revisions to the 2010-15 access arrangement.⁸ It provides that

² Letter from the AER dated 24 November 2014

³ AER 2015, Regulatory Information Notice, Definitions, p. 50

⁴ <http://www.aer.gov.au/node/26561>

⁵ The transitional year for the ACT and New South Wales electricity distribution businesses is 2014/15. It is analogous to the extension year (2015/16) for ActewAGL Distribution's gas network, in that it is the result of transitional arrangements to allow the 2012 amendments to the Rules and NER to be implemented. However, the regulatory requirements for the transitional year differ from the regulatory requirements for the extension year.

⁶ National Electricity Rules, rule 11.56.4(h) - (j).

⁷ ActewAGL Distribution's 2010-15 access arrangement, clause 1.17 and Attachment 1 definition of "revisions commencement date".

⁸ Clause 5.4 of the 2010-15 access arrangement provides: "If the Revisions Commencement Date is later than 1 July 2015, the Reference Tariffs and terms for a Reference Service as at 30 June 2014 will continue to apply until the Revisions Commencement Date." ActewAGL Distribution observes that the reference therein to "30 June 2014" is affected by a manifest printing or drafting error and, accordingly, should be read as a reference to "30 June 2015".

reference tariffs in place at 30 June 2015 will continue to apply without variation during the extension year (2015/16). Reference tariffs will not be adjusted in accordance with the reference tariff variation mechanism. There will be no Consumer Prices Index (CPI) adjustment, no adjustments for cost pass-throughs, no carryover adjustments from the opex incentive mechanism, and no adjustments to reflect changes in costs and throughput.

11.4.2 Extension Year 2015/16 is not an 'interval of delay'

Rule 92(3) of the Rules provides as follows:

... if there is an interval (the **interval of delay**) between a revision commencement date stated in a full access arrangement and the date on which revisions to the access arrangement actually commence:

- (a) reference tariffs, as in force at the end of the previous *access arrangement period*, continue without variation for the interval of delay; but
- (b) the operation of this subrule may be taken into account in fixing reference tariffs for the new *access arrangement period*.

It follows that the operation of rule 92(3), and thus the enlivening of the AER's discretion to take that operation into account, occurs only where there is "an interval ... between a revision commencement date stated in a full access arrangement and the date on which revisions to the access arrangement actually commence" - that is, an "interval of delay".

The extension year 2015/16 is not an "interval of delay" for the purposes of rule 92(3) of the Rules. This is because:

1. Rule 92(3) directs that its applicability or operation is to be determined by reference to the revision commencement date stated in the relevant full access arrangement;
2. the revision commencement date stated in ActewAGL Distribution's 2010-15 access arrangement and approved by the AER in accordance with Rule 50 is, for present purposes, specified by reference to the date on which revisions to that arrangement actually commence and, thus, precludes the existence of an 'interval of delay' under Rule 92(3);
3. contrary to previous contentions of the AER, in another context:
 - o the term "revision commencement date for an applicable access arrangement" is not used in rule 92(3) and there is no basis for suggesting the term "revision commencement date" in rule 92(3) should take this defined meaning;
 - o even if (contrary to ActewAGL Distribution's view) Rule 92(3) were properly construed by reference to that defined term, neither the words "date fixed" nor the words "intended to take effect" in that definition operate to require a revision commencement date to be a definite single, future calendar date;
4. observations made by the AEMC in making its 2012 amendments to the Rules to the effect that Rule 92(3) would 'deal with' the delay in ActewAGL Distribution's gas access arrangement review process were premised on ActewAGL Distribution's 2010-15 access arrangement not itself making provision for this delay, do not, in any event, provide a permissible basis for departing from the clear and unambiguous meaning of Rule 92(3) and,

- further, as the AEMC did not introduce or amend Rule 92(3), do not evidence the statutory intent of that provision and thus are not capable of assisting in its interpretation; and
5. finally, this interpretation is supported by the existing jurisprudence. Specifically, the Australian Competition Tribunal found that there was no 'interval of delay' under Rule 92(3) of the Rules in the APA GasNet decision of September 2013.

Rule 92(3) directs that its applicability or operation is to be determined by reference to the revision commencement date stated in the relevant access arrangement.

The phrase 'revision commencement date stated in a full access arrangement' where it appears in Rule 92(3) is to be construed by reference to the definition of 'full access arrangement' in section 2(1) of the Law⁹ and otherwise by reference to its ordinary and natural meaning when read in its surrounding context. This is because:

1. with the exception of the term 'full access arrangement', neither this phrase, nor any part thereof, is defined in the Law or the Rules; and
2. neither this phrase, nor any part thereof, is italicised, this being the drafting convention adopted in the Rules to indicate that a term is to take its Rules' defined meaning.

ActewAGL Distribution's 2010-15 access arrangement is a 'full access arrangement' as that term is defined in the Law. There can be no interval between the revision commencement date stated in ActewAGL Distribution's 2010-15 access arrangement and the date on which revisions to that arrangement actually commence for the purposes of Rule 92(3) because the revisions commencement date stated in that access arrangement and approved by the AER in accordance with Rule 50 is specified by reference to the date on which revisions to that arrangement actually commence.

Specifically, the term 'revisions commencement date' is defined in Attachment 1 to that access arrangement to mean:

'...the date on which the revisions to this Access Arrangement commence under clause 1.17 of Part 1 of this Access Arrangement'.

Clause 1.17 of the 2010-15 access arrangement provides that the revisions thereto will commence on the later of 1 July 2015 and the date on which approval by the AER of those revisions takes effect. Clause 1.17 reads:

'The revisions to this Access Arrangement will commence on the later of 1 July 2015 and the date on which the approval by the Relevant Regulator of the revisions to the Access Arrangement takes effect under the National Gas Rules.'

⁹ Law, section 20 and Schedule 2, clauses 13 and 51, and clause 10 definition of "statutory instrument".

In consequence, the revision commencement date stated in the 2010-15 access arrangement precludes the existence of an "interval of delay" under Rule 92(3). Such a result is unsurprising and consistent with the object of Rule 92(3).

The object of Rule 92(3) is to provide for the reference tariffs to apply in the period following the revision commencement date stated in the access arrangement and approved by the AER in accordance with Rule 50. If the approved revision commencement date in an access arrangement itself contemplates that, and the approved arrangement thus provides for reference tariffs to apply where, revisions actually take effect some time later than originally contemplated, there is no work for Rule 92(3) to do.

The AER has previously contended, in another context, that the phrase 'revision commencement date stated in a full access arrangement' where it appears in Rule 92(3) should be construed by reference to the Rules' defined meaning of the term "revision commencement date for an applicable access arrangement".¹⁰ Rule 3 defines that term as follows:

"... revision commencement date for an applicable access arrangement means the date fixed in the access arrangement as the date on which revisions resulting from a review of an access arrangement are intended to take effect."

ActewAGL Distribution disagrees.

The term "revision commencement date for an applicable access arrangement" is not used in rule 92(3) and there is no basis for suggesting the term "revision commencement date" in rule 92(3) should take this defined meaning. The Rules contain a number of examples of words or phrases that are similar to defined terms but are not intended to take those terms' defined meaning. Further, rule 92(3) is deliberate in not using the defined term "revision commencement date for an applicable access arrangement" in that that defined term, in contrast to the phrase "revision commencement date stated in a full access arrangement" that appears in rule 92(3), is not confined by reference to a full access arrangement and would encompass a limited access arrangement.¹¹

In any event, even if the phrase 'revision commencement date stated in a full access arrangement' were properly construed by reference to the Rules' defined meaning of the term 'revision commencement date for an applicable access arrangement', it would not follow that an 'interval of delay' arises for the purposes of Rule 92(3). This is because the term 'revision commencement date for an applicable access arrangement' is defined by reference to a date specified in an access arrangement as that on which revisions resulting from a review thereof are intended to take effect. That is, in respect of ActewAGL Distribution's 2010-15 access arrangement, the 'revision

¹⁰ *APA GasNet Final Decision*, p 167.

¹¹ The term "applicable access arrangement" is defined in section 2(1) of the Law to mean a limited access arrangement or full access arrangement that has taken effect after being approved or made by the AER under the Rules. The term 'applicable access arrangement' where it appears in the Rules takes its Law defined meaning by reason of section 20 of the Law, clauses 13 and 51 of Schedule 2 to the Law, and the definition of 'statutory instrument' in clause 10 of Schedule 2 to the Law.

commencement date for an applicable access arrangement' would be the later of 1 July 2015 and the date on which approval by the AER of the revisions thereto takes effect.

The AER has previously contended, in another context, that the words 'date fixed' in the definition of the term 'revision commencement date for an applicable access arrangement' operate to require the specification of a single, future calendar date.¹² Again, ActewAGL Distribution disagrees.

Even if (contrary to ActewAGL Distribution's view) Rule 92(3) were properly construed by reference to the defined term, the words "date fixed" are not properly construed as referring to a single, future calendar date. While it follows from the ordinary and natural meaning of the word 'fixed' that a 'revision commencement date for an applicable access arrangement' must be capable of being ascertained from an access arrangement with certainty,¹³ the word 'fixed' does not preclude the specification in an access arrangement of a date by reference to the occurrence of an ascertainable, future event. In construing a synonymous term to 'date fixed', specifically the term 'date ... specified', for example, the Federal Court has observed that 'in some circumstances there may be sufficient specification of a period by reference, not to a definite point in time, but to the occurrence of an ascertainable event'. Whether this is sufficient is, the Court concluded, to be determined by reference to the intent of the provision in issue. In reaching these conclusions, the Court itself treated the words 'specified' and 'fixed' as synonyms.¹⁴

The AER has also previously contended, in another context, that the words "intended to take effect" in the definition of "revision commencement date for an applicable access arrangement" require the specification of a definite, single future calendar date. ActewAGL Distribution again disagrees.

ActewAGL Distribution considers that, even if (contrary to its contention) Rule 92(3) is properly construed by reference to the defined term 'revision commencement date for an applicable access arrangement', it does not follow from the words 'intended to take effect' that a revision commencement date is a definite, single future calendar date for reasons including:

1. the date on which revisions will actually commence is as capable of constituting the date on which those revisions are "intended to take effect" as the date on which revisions to an access arrangement are expected, at the time of approval of that access arrangement, to commence; and
2. to so conclude does not render the word 'intended' otiose. The word 'intended' operates to permit (but not require) the specification of a 'revision commencement date' otherwise than by reference to the date on which the revisions will actually commence.

¹² Application by APA GasNet Australia (Operations) Pty Limited (No 2), [2013] ACompT 8, at [84].

¹³ The Macquarie Online Dictionary defines the word 'fixed' to mean 'to make fast, firm or stable'; 'to place definitely and more or less permanently'; 'to settle definitely; determine: to fix a price'.

¹⁴ *Re Karounos; Ex parte Official Trustee in Bankruptcy* (1989) 25 FCR 177.

ActewAGL Distribution observes that, as discussed further below, the Australian Competition Tribunal (Tribunal) was satisfied that the definition of 'revision commencement date' in clause 3.17 of the Gas Code, being 'a date upon which the next revisions to the access arrangements are *intended to commence*' (emphasis added), did not preclude APA GasNet Australia (Operations) Pty Limited's (APA's) from specifying a 'Revisions Commencement Date' in its 2008-2012 access arrangement by reference to the date on which the revisions to that arrangement would in fact commence (ie and not a specific, future date).¹⁵

ActewAGL Distribution recognises that the AEMC, in its determination in respect of the 2012 rule changes that resulted in the AER extending ActewAGL Distribution's review submission date to 30 June 2015 so giving rise to the extension year, observed that:

'...the Commission is satisfied that rule 92(3) can be relied upon to deal with the effect of any delay in ActewAGL's gas access arrangement review process'.¹⁶

ActewAGL Distribution makes the following observations:

1. In making its observation, the AEMC presumed that ActewAGL Distribution's 2010-15 access arrangement did not already make provision for any delay in its gas access arrangement review process. It did not have regard to the terms of ActewAGL Distribution's 2010-15 access arrangement, in particular to the revision commencement date stated therein and the express provision in that access arrangement for the tariffs to apply in the period of any delay.
2. In any event, the language of Rule 92(3) is clear and unambiguous. The operation of, and conferral on the AER of discretion by, that provision is dependent on the existence of a delay between the revision commencement date stated in ActewAGL Distribution's 2010-15 access arrangement and the date on which revisions to that access arrangement actually commence. The AEMC's observations do not provide any basis for construing rule 92(3) otherwise than in accordance with its ordinary and natural meaning.¹⁷
3. Further, as they were made in circumstances where the AEMC neither introduced Rule 92(3) nor made any amendments to that or any related provision, the AEMC's observations do not evidence the statutory intent of Rule 92(3). Put another way, those observations are not capable of assisting in the interpretation of Rule 92(3).

Finally, ActewAGL Distribution observes that, in the APA GasNet ACT Decision of September 2013, the Tribunal concluded that there was 'no interval of delay upon which Rule 92(3) of the Rules

¹⁵ Application by APA GasNet Australia (Operations) Pty Limited (No 2), [2013] ACompT 8, at [57] and [78].

¹⁶ 2012 Rule Determination, p. 252.

¹⁷ Clause 8(3) of Schedule 2 to the Law provides that, in the interpretation of a provision of the Rules, consideration may be given to 'Rules extrinsic material' (which is defined in clause 8(1) to include a final Rule determination) but only where the provision is ambiguous or obscure, the ordinary meaning of the provision results in a manifest absurdity or is unreasonable, or to confirm the ordinary and natural meaning of the provision. The Law does not permit a departure from the ordinary and natural meaning of a provision of the Rules that, as here, is clear and unambiguous and does not result in manifest absurdity or unreasonableness, on the basis of 'Rules extrinsic material'.

operated' and decided that there was thus 'no proper basis for the [AER's] adjustment to the tariff calculation to account for any over-recovery or under-recovery of tariffs during the period'. Although that case concerned an access arrangement approved under the *National Third Party Access code for Natural Gas Pipeline Systems (Gas Code)*, the predecessor to the Rules (until 1 July 2008), the Gas Code, like the Rules, required that an access agreement contain a revision commencement date.¹⁸ The revision commencement date stated in APA's access arrangement was virtually identical in form to the date stated in ActewAGL Distribution's 2010-15 access arrangement. Specifically, clause 2 of APA's 2008-2012 access arrangement (headed 'Term') provided for a commencement date of 1 January 2008 and a 'Revisions Commencement Date' specified in the following terms:

'The Revisions Commencement Date is the later of 1 January 2013 and the date on which approval of revisions to this Access Arrangement take effect.'

Notwithstanding that the 'Revisions Commencement Date' stated in APA's 2008-2012 access arrangement was, in effect, the date on which revisions to the access arrangement actually commenced, the AER nonetheless concluded in its Access arrangement decision *APA GasNet Australia (Operations) Pty Ltd 2013–17 of March 2013 (APA GasNet Final Decision)*, which was to take effect on 1 July 2013 that the 'revisions commencement date' for the purposes of rule 92(3) of the Rules was 1 January 2013, and there was thus an 'interval of delay' for the purposes of rule 92(3) of the Rules.

In overturning that decision, the Tribunal observed that there was nothing in the Rules (including the transitional provisions) which would dictate that the plain meaning of the words in clause 2 of APA's access arrangement should be read down as meaning 1 January 2013.¹⁹

11.4.3 ActewAGL Distribution proposal for any adjustment for revenues in the 2015-16 Extension Year

ActewAGL Distribution understands that the AER may have a different view, that the Rules give it discretion to make an adjustment. In letters dated 3 February 2015 and 30 March 2015, for example, the AER referred to the 'interval of delay' and sought ActewAGL Distribution's position on the averaging period that should be used in setting the cost of debt for 2015/16.²⁰ Accordingly, ActewAGL Distribution sets out below its views concerning the making of any adjustment to total revenues for the 2016/21 period, or otherwise to reference tariffs for that period, by reference to revenues in the extension year. In so doing, ActewAGL Distribution should not be understood as accepting that the AER has power to make such an adjustment pursuant to the Rules. To the contrary, for the reasons discussed above, ActewAGL Distribution maintains that the AER has no power to perform such an adjustment.

The AER has stated in previous determinations that a true-up should be such that the service provider does not get a windfall gain or loss from the delay in the commencement of the new access arrangement period.²¹ In discussions with ActewAGL Distribution, the AER has also referred to the guidance provided

¹⁸ Section 3.17 of the Gas Code.

¹⁹ APA GasNet ACT Decision, at [87].

²⁰ Letter from the AER to ActewAGL Distribution on 30 March 2015

²¹ See for example AER 2012, Envestra draft decision, p. 277

in the AEMC's 2012 determination on the changes to the Rules and NER. The AEMC says in its final determination that a true-up should be consistent with the NGO and the RPP and notes the AER's comment about no windfall gains or losses.²² In ActewAGL Distribution's case this means that it should be left in a net present value (**NPV**) revenue neutral position relative to the case where tariffs were fixed by the AER for the extension year prior to its commencement on 1 July 2015.

The true-up should adjust for the difference between:

1. estimated actual revenues earned as a consequence of the continued application in 2015/16 of the tariffs that applied as at 30 June 2015 under clause 5.4 of the 2010/15 access arrangement; and
2. expected revenues calculated by reference to the tariffs that would have applied if the AER had made its determination before 1 July 2015, as originally scheduled.

Should the AER consider (contrary to ActewAGL Distribution's contentions) that it has discretion, and determine to exercise that discretion, to apply a true up for the 2015/16 extension year, ActewAGL Distribution proposes that that true-up be performed as follows:

- Estimate an adjustment amount (**Adjustment Amount**), being the difference between:
 - The estimate of 'total revenue' for the 2015/16 Extension Year determined using the building block approach specified in Rule 76 (**2015/16 Annual Revenue Requirement**); and
 - The estimate of actual revenue received by ActewAGL Distribution in the 2015/16 Extension Year (**2015/16 Actual Revenue**).
- Distribute the Adjustment Amount across the across the 2016/17 to 2020/21 regulatory years on an NPV neutral basis compared to recovering the Adjustment Amount in 2015/16 by using the X factor to adjust the (unadjusted) total revenue determined for each of those 5 years.
- The 2015/16 Annual Revenue Requirement should be calculated in the following way:
 - Amend the RFM and PTRM so that the first year of the PTRM is 2015/16 and the last year in the previous access arrangement for the RFM is 2014/15.
 - Populate the amended RFM and PTRM with data according to the new time frames (2009/10 to 2014/15 for the RFM and 2015/16 to 2020/21 for the PTRM).
 - Use the 2015/16 expenditure forecasts submitted in the RIN templates (at 30 June 2015) to populate the PTRM.
 - Apply the same principles for determining the nominal vanilla WACC as for the 2016-21 period, as specified in attachment 8 of this AAI. The return on debt for 2015/16 should be based on the averaging period proposed by ActewAGL Distribution in a letter to the AER on 10 April 2015 and calculated using the method set out in clause 6 of the 2016-21 access arrangement and source the data from RBA only (see appendix 8.02 for further

²² AEMC 2012, Final determination, p. 252

details). The first of the efficiency carryover amounts arising from opex incurred in the 2009-14 period should be applied in 2015/16.

- The 2015/16 Actual Revenue should be calculated in the following way:
 - Set the X-factor in the PTRM for 2015/16 at 2.49% to reflect that prices remain the same (in nominal terms) as applied at 30 June 2015; and
 - apply the new tariff structure and WAPC, as set out in attachments 12 and 13 of this AAI, and the demand in the adjusted PTRM as set out in appendix 11.04 for 2015-21.

This method is very similar to the true-up mechanism applied by the AER in relation to prices in the ACT for electricity distribution services classified as alternative control services for the transitional year 2014/15.²³

Applying this method, ActewAGL Distribution estimates that the Adjustment Amount would be approximately \$9.5 million (nominal) and that amount would be smoothed across the 2016/17 to 2020/21 regulatory years as shown in Table 11.3 below. ActewAGL Distribution's adjusted RFM and PTRM are included as appendices 11.03 and 11.04 to this AAI.

Table 11.2 ActewAGL Distribution total revenue, 2015-21

\$ million (nominal)	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Annual Revenue Requirement (unsmoothed)	60.0	67.9	68.1	71.6	75.9	78.4
Expected revenue (smoothed)	69.5	69.7	69.5	69.4	69.7	70.0
Real price change (%)	-2.49	1.70	1.70	1.70	1.70	1.70
Inflation forecast (%)	2.55	2.55	2.55	2.55	2.55	2.55
Nominal price change (%)	0	0.81	0.81	0.81	0.81	0.81

²³ See the AER's PTRM for alternative control services in the final decision for ActewAGL Distribution in April 2015.

Abbreviations used in this document

Abbreviation	Full term
AA	access arrangement
AAD	ActewAGL
AAI	access arrangement information
ACT	Australian Capital Territory
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
capex	capital expenditure
CPI	Consumer Price Index
EBT	earnings before tax
GJ	gigajoule(s)
JAM	Jemena Asset Management Pty Ltd
JGN	Jemena Gas Networks (NSW) Ltd
LRMC	long-run marginal cost
na	not applicable
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules (also 'the Rules')
NPV	net present value)
NSW	New South Wales
opex	operating and maintenance expenditure
PJ	petajoules
PTRM	post-tax revenue model
RAB	regulatory asset base
RBA	Reserve Bank of Australia
RFM	roll-forward model
RIN	Regulatory Information Notice
TJ	terajoule(s)
WACC	weighted-average cost of capital