

Jemena Gas Networks (NSW) Ltd - Initial response to the draft decision

Appendix 2.1

SCO responses to stakeholder consultations on the National Gas Rules

19 March 2010



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SCO responses to stakeholder consultations on the National Gas Rules.

The following document contains the SCO policy responses to issues raised in response to;

- The second exposure draft of the National Gas Rules (NGR), which was released for general consultation in July 2007; and,
- The final exposure draft of the NGR, which was released to key stakeholders for targeted consultation in March 2008.

Some issues raised and answered during consultation on the second exposure draft were revisited by key stakeholders in response to the final exposure draft. Where this has occurred, readers are directed in the second exposure draft responses to the final exposure draft for the definitive SCO policy response.

Note that the consultation process for the National Gas Service Bulletin Board Rules (which have been incorporated into the NGR) was conducted by the industry-led Gas Market Leaders Group (GMLG). The GMLG's response to the issues can be found [here](#).

SCO policy responses to issues raised about the second exposure draft of the NGR, released July 2007.

Note: NGR section references are to the second exposure drafts and final draft of the NGR. NGL references refer to the National Gas (South Australia) Bill, 2008 as introduced into the South Australian Parliament.

Second Exposure Draft Clause	Final Draft clause	Issue	Stakeholder	SCO Response
Multiple	Multiple	The definition of time limits in terms of days can be problematic for short time periods, especially around public holidays.	ENA	Accepted - The NGR now refers to periods of less than two months in terms of business days, for consistency with the NGL.
Multiple	Multiple	A "full description" of a pipeline might be onerous to provide.	APIA	Accepted - "Full" descriptions are no longer required under the NGR. Decision-makers and service providers will be able to agree to an appropriate level of detail to include in a "description" of a pipeline, as is appropriate for different regulatory purposes.
3 Interpretation	3	The definition of "contact details" doesn't seem to contemplate the concept of a representative.	APIA	Not Accepted - Item 29 of Schedule 2 of the NGL adequately provides for interpretation of provisions requiring contact with service providers or other entities.
5 AER's public information role (now Discussion papers on regulatory issues).	5	The AER's "public information role" under Rule 5 should capture guidelines.	MEU	Partly Accepted - Rule 5 limits the AER's public information role to being in relation to "regulatory issues". "Regulatory issues" are defined as being matters concerning the AER's functions or powers under the Law. Therefore, the heading of this section may be misleading, and has been amended to make clear that the AER does not have a distinct "public information role", but rather all those functions and powers given it by the NGL. One of these functions, as per NGL 74(3)(e) is, where the Rules provide the

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				issuing of guidelines by the AER.
6 Submissions, comments and public discussions.	6	Service providers should be able to initiate a discussion on a regulatory issue, and the AER should be obliged to consider submissions on a regulatory issue.	APIA	Not Accepted - Service providers are entitled to make any representations to the AER. As a matter of good regulatory practice, the AER will consider representations made to it on regulatory matters. Imposing a mandatory process on regulators to consider representations would be unwieldy and unnecessary.
8 Standard Consultative Procedure	8	Generally, the timeline and process for the standard consultative procedure is unclear. The time in which a proponent can modify its proposal should not be limited to 21 days after the draft decision.	APIA	Partly Accepted - Under the second exposure draft the time available for the proponent to modify its proposal in light of consultation is not specified or limited. The provisions have been redrafted to allow the decision maker to provide at least a 15 day period to comment on the draft decision and, if applicable, the modified proposal. Note that this clause primarily applies to 'coverage' type procedures rather than standard access arrangements.
8(2)(c)	8(2)(c)	The notion of "desirable changes" in a draft decision under the standard consultative procedure implies that a decision-maker is not necessarily bound by the rules in making its draft decision	ENA, APIA	Accepted - The word "desirable" is misleading and has been removed. The NGR are equally binding on service providers and decision makers, and so changes required by a decision-maker in a draft decision must comply with the relevant requirements of the Law and Rules.
8 and 9 Standard Consultative	8 and 9	A decision-maker should be required to provide reasons as part of draft decisions in the standard or expedited consultative	ENA, APIA	Accepted - Decision-makers are now required to provide reasons with both draft and final decisions for both the standard and expedited consultative

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Procedure (8) and Expedited consultative procedure (9)		procedures.		procedures.
8 and 9	8 and 9	Decisions under the standard and expedited consultative procedures should not commence until at least 14 days after the decision is made.	APIA	Noted - The general rule is that these decisions will commence 10 business days after they are made but there is flexibility for other periods to be specified.
11 Calculation of Time	11	The clock should stop when the AER is prevented from releasing confidential information under the NGL, or where a decision to release confidential information is subject to a merits review.	AER	Accepted - These circumstances will trigger a stopping of the clock in the NGR (see new rule 11(e)).
16(2)(a) (ii) Relevant ministers determination application.	17(2)(a) (ii)	A coverage determination, or coverage revocation determination, should be provided to the service provider. The current drafting of the NGR may create a contrary intention.	APIA	Noted - The wording of 17(2)(a)(ii) does not create a contrary intention, and a service provider will be provided with a coverage determination under 17(2)(a)(i).
17 and 34 Application for coverage revocation determination	18 and 34	The requirement to describe "all locations served by the pipeline" is problematic for distribution pipelines.	ENA	Accepted - Distribution pipelines will be required to describe the "geographical area served by the pipeline".
Part 5 generally Competitive Tendering	Part 5 generally	The competitive tender process (CTP) is problematic in that it may not further the achievement of access principles, and CTP pipelines are not required to pass the prudency test.	QMGUG, MEU	Not Accepted - The competitive tender process will further the achievement of the national gas objective by giving regulatory certainty to investments in new pipelines developed to serve unproven markets. To achieve this aim, the CTP provisions do not require

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				compliance with the revenue and pricing principles, or the new capital investment criteria. The revenue and pricing principles guide, and the new capital investment criteria are applied in, the regulation of pipelines with substantial market power, and do not necessarily provide an appropriate regulatory approach to pipelines in unproven markets with low market power.
29 Imposition of additional ring fencing requirement	30	AER decisions to give an exemption from a minimum ring-fencing requirement should be subject to consultation.	EUAA	Accepted - The AER is now required to follow the expedited consultative procedure when deciding whether to give an exemption from a minimum ring-fencing requirement.
30(4) Exemptions from minimum ring fencing requirements	31(4)	The terminology of this rule is not clear.	QMGUG	Accepted -This provision has been clarified to make clear that increased "competition in a market" is the test in this circumstance. It will also make clear that the AER is not required to undertake a "cost-benefit analysis", but simply an assessment of costs of compliance and potential public benefit. The provision has also adopted wording closer to Gas Code 4.15(b) for clarity.
31(2) Approval of associate contracts etc	32(2)	The Rules should provide that an associate contract offering a reference service at the reference tariff must be approved.	APIA	Not Accepted - Such a contract would unambiguously meet the criteria set down in this rule. Making specific provision for this case is unnecessary.
31(3)	32(3)	The associate contract provisions should make clear what will happen in the event that a service provider notifies the AER of	APIA	Noted - The AER's view that a non-approved associate contract does breach the law could only be finally determined by Court action. If the contract does

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		an associate contract and does not seek approval, and the AER subsequently decides that the contract breaches the relevant provisions.		in fact breach the prohibitions in the Law, civil penalties would be available.
31(5)	32(5)	The AER should have 30 business days to make a decision before an associate contract is deemed to be approved.	AER	Not Accepted - 20 business days is an adequate time for this decision. This timeframe supports the policy goal of timely decision-making.
32 Notification of associate contracts	33	Service providers should be required to notify regulators of variations of associate contracts, as well as of entering into an associate contract.	ERA	Accepted -The NGR now makes it clear that entering into an associate contract includes the variation of an existing associate contract.
34 NCC's decision on the application	35	The NCC should not be required to consult with the AER when making light regulation determinations.	ENA	Not Accepted - The involvement of the regulator is appropriate in the context of these decisions, as regulators will possess information relevant to the NCC's considerations.
36 Service provider must provide information about access negotiations for light regulation services	37	The intent of the provisions requiring light regulation pipelines to report on access negotiations is not clear	APIA, EUAA, QMGUG	Partly Accepted - Reports under these provisions are equally subject to the confidentiality provisions of the NGL. However, the ability of regulators to appropriately constrain what information will enter the public domain has been strengthened by making clear that the public report is developed by the AER and will not necessarily capture all the information provided by the service provider to the AER in the first instance. The AER will, subject to the confidentiality provisions of the NGL, determine what is appropriate for public

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				release in a report under rule 37(3).
39(1) AER's discretion in decision making process regarding access arrangements	40(3)	The scope of where "full discretion" applies is not clear	APIA, ENA	Accepted - See final draft table.
39(2)	40(2)	The concept of the AER regarding as acceptable an element of an access arrangement creates a double test and confuses the implementation of fit-for-purpose.	APIA, ENA	Accepted - This provision has been redrafted to make clear that the AER must not withhold approval of an element of an access arrangement if the relevant requirements are satisfied.
39(2)	40(2)	Allowing the test for a limited discretion element of an access arrangement to be at the regulator's satisfaction means that "limited discretion" is in fact "full discretion"	ENA	Not Accepted - Depending on the precision of the criteria an element of an access arrangement is being assessed against, the threshold of compliance will generally be against the satisfaction of the relevant decision-maker, namely the regulator. The difference between limited discretion and full discretion is that a compliant element of an access arrangement can be rejected by the regulator under full discretion. This is not possible under limited discretion.
41 General requirements	42	It should be clear that access arrangement information (AAI) is for users and prospective users to understand the basis	APIA	Partly Accepted – See final draft table.

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for access arrangement information		of an access arrangement.		
42(2) Requirement to provide access arrangement information	43(2)	Confidential information may relate to users and prospective users, as well as to service providers.	MEU	Accepted - The NGR has been amended for consistency with 2.8 of the Code in this respect.
44(1)(b), 50(b), 126(1)(b) Requirement to describe services offered in access arrangement	45(1)(b), 48(b), 129(1)(b)	The requirement for a service provider to describe all pipeline services it is offering in an access arrangement might limit the scope of services the service provider is able to offer over the course of a regulatory period.	APIA	Accepted - The NGR requirements for description of services in access arrangements has been returned to a future-looking approach, where access arrangements must describe "the pipeline services the service provider proposes to offer".
44(2)(b) and 126(2)(b) Key performance indicators	45(2)(b) and 129(2)(b)	Key performance indicators should not be required for limited access arrangements.	ENA	Not Accepted - Key performance indicators provide useful benchmarking data for light regulation pipelines.

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44(2)(c), 76(1)(m) and 126(2)(c) Regulatory information Instruments	45(2)(c), 71(1)(m) and 129(2)(c)	Information required by regulatory information instruments should not be included in access arrangement information.	APIA	Accepted - Regulators are free to use regulatory information instruments to obtain information required for regulatory purposes under the NGL. This information need not be included as access arrangement information, and the Rules have been amended to reflect this. Access arrangement information has the primary purpose of being publicly released so stakeholders can understand the basis on which the access arrangement has been determined and represents a subset of all the information available to the regulator.
48 Division or consolidation of access arrangements	53	The NGR should allow service providers to apply for a division or consolidation of an access arrangement, as well as allowing the regulator to require these processes to occur.	ENA	Noted - The division or consolidation can only occur with regulatory approval, if a service provider wants this to happen they should be discuss it with the AER who would then make the appropriate direction.
50(c) Review of Access Arrangements	50(c)	The requirement for a service provider to describe all services that "are... sought by a significant part of the market" as reference services might inadvertently require service providers to offer currently contracted services as reference services.	APIA	Accepted - The NGR requirements for the specification of reference services in access arrangements will return to a future-looking approach, where access arrangements must specify as reference services all services "that are likely to be sought by a significant part of the market".
50(e) and (f) Requirements of a full access arrangement	48(e) and (f)	Queuing requirements and capacity trading requirements should not be required for all distribution pipelines.	ENA	Partly Accepted - All pipelines are required to have capacity trading requirements under the Gas Code, and this will remain the case. However, the Code provided for some distribution pipelines to not include queuing requirements. The NGR has been amended to make clear that distribution pipelines are only

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				required to include queuing requirements where the AER determines.
54(2) Expiry date	49(2)	Limited access arrangements should not be able to continue indefinitely.	QMGUG	Accepted - The NGR has been amended to ensure that a limited access arrangement for a light regulation pipeline must have either a review submission date or an expiry date (or both). A limited access arrangement for an international price regulation exemption pipeline must have an expiry date.
61(3)(b) Decision on limited access arrangement	59(3)	The AER should not unreasonably withhold its consent to a service provider's revisions to an access arrangement proposal. For example, significant changes to the environmental regulation of pipelines may occur between the draft and final decisions, requiring revisions of an access arrangement proposal.	ENA	Noted - The NGL requires the AER to carry out all its functions and powers in a manner that will or is likely to contribute to the achievement of the national gas objective. Unreasonably withholding consent to revisions to an access arrangement proposal, such as when there were significant changes to the environmental regulation of pipelines, would not meet this test
62(4) and 65(5) Reasons for access arrangement decisions	59(4) and 62(4)	The AER should be required to give reasons with its draft and final decisions on an access arrangement proposal.	APIA, ENA	Accepted - The first exposure draft of the NGL provided for reasons with draft and final decisions. The NGR has been amended to provide the same.
63(1) Revision of access arrangement proposal in	60(1)	Service providers should be able to amend an access arrangement proposal with the consent of the AER during the revision period, in addition to doing so to address matters addressed in the draft decision.	APIA	Accepted - This is the policy intention. The drafting of clauses providing that service providers can submit revisions to its access arrangement proposal at any time with the consent of the AER has been clarified to ensure this intention is implemented.

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response to draft decision				
64 Hearing relating to access arrangement draft decision	61	The AER should be required to notify the applicant of a decision to hold a hearing on an access arrangement draft decision.	APIA	Not Accepted - As a matter of good regulatory practice, the AER would do this without being required to do so. Such a requirement is unnecessary.
65(4) Access Arrangement Final Decision	62(4)	The provision allowing the AER to refuse to approve an access arrangement in a final decision on the basis of what services are designated as reference services is unclear.	ENA	Accepted - The designation of reference services must be done in the access arrangement itself. The Rules have been amended to this effect. With that change, the provision in question is not necessary as the designation of reference services will be accepted or rejected as for any other aspect of an access arrangement.
66(1) AER's power to make or revise access arrangement on failure of service provider to submit	63(1)	The circumstances under which the AER can formulate an access arrangement are not clear.	APIA	Accepted - The relevant provisions have been drafted to make clear the circumstances under which this can occur.
67 AER's power to make or revise access arrangement	64	The AER should be explicitly prevented from making an access arrangement that goes beyond the minimum scope required of access arrangements.	APIA	Noted - See final draft table.

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on refusal to approve.				
68 Requirement to be consistent with national gas objective.	100	The intent of this rule is not clear.	ENA	Partly Accepted - The intent of this rule is to generally capture all terms and conditions of access that are not explicitly governed by specific Rules. The regulator will have the ability to prevent the inclusion of such terms and conditions if they are considered to be inconsistent with the national gas objective.
69 Queuing requirements	103	The AER should have limited discretion when considering whether to approve a service provider's proposed queuing requirements.	APIA	Not Accepted - The Rules do not contain clear criteria against which queuing requirements can be just accepted or rejected, and so it is appropriate to give the regulator greater discretion to consider the general appropriateness of each proposal on a case-by-case basis.
69	103	The Rules should replicate the Gas Code approach of not requiring all distribution pipelines to have queuing requirements.	ENA	Accepted - The Rules now replicates the approach in 3.12 of the Gas Code, such that the AER will have discretion to determine whether particular distribution pipelines should provide queuing requirements.
69(1)	103(3)	Queuing requirements may consist of "mechanisms" as well as "processes".	APIA	Accepted - The Rules now reflect the fact that queuing requirements can include mechanisms.
69(3)	103(3)	Queuing requirements should be sufficiently detailed to allow users to understand their position in the queue.	ERAA	Accepted -The Rules have been amended to reflect this important aspect of queuing requirements.
70 Capacity Trading Requirements	105	The AER should have limited discretion when considering whether to approve a service provider's proposed capacity trading requirements.	APIA	Not Accepted - Full discretion is appropriate, as the Rules will require the regulator to consider the appropriateness of circumstances that service providers may nominate in advance as constituting "reasonable technical and commercial grounds" for

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				refusing a transfer of contracted capacity.
70	105	The operation of this Rule is unclear.	EUAA	Accepted - The Rule have been amended to make clear that a contract arises between the service provider and the third party in certain circumstances, not between the transferor and the third party.
71 Extension and expansion requirements	104	The AER should have limited discretion when considering whether to approve a service provider's proposed extension and expansion requirements.	APIA	Not Accepted - The extension and expansion requirements perform the crucial role of determining the extent of coverage of a pipeline in the event of a significant investment in the pipeline. The regulator appropriately has full discretion in considering the content of these requirements.
71(2)	104(2)	The example of levying a surcharge on incremental users is confusing.	APIA	Accepted - This example does not provide clarity, and so it has been deleted.
72 Change of receipt or delivery point by user	106	The AER should have limited discretion when considering whether to approve a service provider's proposed approach to allowing users to change receipt or delivery points.	APIA	Not Accepted - Full discretion is appropriate, as the Rules will require the regulator to consider the appropriateness of circumstances that service providers may nominate in advance as constituting "reasonable technical and commercial grounds" for refusing a change of receipt or delivery point.
72(b)(i)	106(b)(i)	The Gas Code concept of "commercially and technical reasonable" should be retained, in place of reasonable grounds "based on technical or economic considerations".	APIA	Accepted - The concept of commercially and technically reasonable grounds has been reinstated.
Part 8 generally Price and Revenue	Part 9 generally	This part should not apply to limited access arrangements. The NGL definition of an applicable access arrangement includes limited access arrangements.	ENA	Noted - The definition of an "applicable access arrangement" is redefined for the purposes of Part 8 to only capture full access arrangements. However, the policy intent will be strengthened by creating a

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Regulation.				substantive provision that makes clear that the Part is intended to only apply to full access arrangements.
74 Definitions	69	The definition of "operating expenditure" should capture working capital or self-insurance costs.	APIA, ENA	Not Accepted - Operating expenditure includes self-insurance costs in the phrase "other costs... of a non-capital nature". The approach to working capital depends largely on the treatment of timing of revenues and costs taken by regulators. The current framework has sufficient flexibility.
76(1)(a) (i) and (ii) Specific requirements for access arrangement information	72(1)(a) (i) and (ii)	Access arrangement information on operating and capital expenditure should include benchmarking data, or information on forecast figures provided at the beginning of the regulatory period.	MEU, QMGUG	Not Accepted - Forecast operating and capital expenditure figures from the beginning of a regulatory period are publicly available. The AER will be capable of comparing such figures, or using its own benchmark figures, to assess service provider proposals as appropriate.
76(1)(a) (ii) and (iii)	71(1)(a) (ii) and (iii)	Various terms used in this rule are not clear.	ENA	Accepted - The term "function and input type" has been replaced with "category" for flexibility. "Customer type" has been replaced with "tariff class" to reflect the policy intention.
76(1)(a) (iii)	71(1)(a) (iii)	Transmission pipelines do not analyse demand by "customer type".	APIA	Accepted - Transmission pipelines are now required to provide demand figures by receipt or delivery point.
76(1)(a) (iii)	71(1)(a) (iii)	Information about the seasonal variability in minimum and maximum demand is not always relevant for distribution pipelines and should be optional.	ENA	Not Accepted - Information on the seasonal variability in demand for distribution pipelines is relevant to the determination of tariffs and should be provided as access arrangement information.
76(1)(d)	71(1)(d)	It is not always possible or meaningful to provide figures on the "capacity" of a distribution pipeline.	ENA	Accepted -See final draft table.
76(1)(f)	71(1)(f)	Key performance indicators should not be	APIA	Accepted - Key performance indicators are now to be

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		used to "determine the reasonableness" of forecast expenditure.		used, as per the Gas Code, to "justify" the expenditure in question, but expenditure forecasts must be ultimately accepted or rejected against the specific criteria in the Rules.
76(2)	71(2)	It is unclear how to determine what information is relevant to an access arrangement variation proposal.	APIA	Not Accepted - The AER will determine what information is relevant to a variation proposal, consistent with 42(3) of the second exposure draft.
78 New Capital Expenditure	79	Requiring forecasts and estimates to be arrived at on a reasonable basis undermines fit-for-purpose decision making.	ENA	Not Accepted - This issue was addressed in the context of the first exposure draft of the NGR – see NGR response 9.1. Whether the basis of a forecast or estimate is reasonable is a separate consideration from whether the outcome of a forecast or estimate satisfies the requirements of relevant Rules.
78(2)(a) and (b) Basis on which financial information is to be provided	72(2)(a) and (b)	These provisions should be more closely linked.	APIA	Not Accepted - The current drafting reflects the policy intent.
80 Information about Total Revenue	76 and 42	Total revenue should be required to be provided as access arrangement information, not required to be included in the access arrangement itself.	APIA	Accepted - A calculation of total revenue is now generally required as access arrangement information under Rule 72(1)(m).
80 Non-Conforming Capital	81	The AER should have limited discretion when calculating total revenue for a pipeline.	APIA	Not Accepted - This rule is simply a mechanical calculation of values determined under other rules. The level of regulatory discretion here is irrelevant and must be determined in accordance with the

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Expenditure				relevant rules.
80 and 96 Building Blocks	76 and 93	The terminology of "building blocks" is unclear, particularly in the context of the calculation of total revenue and the allocation of total revenue.	APIA	Not Accepted - See final draft table.
81 and 82 Total Revenue and Opening Capital Base	77 and 78	The terms "actual depreciation" and "forecast depreciation" are not clear	APIA, AER, ERA	Noted - The differentiation between "actual depreciation" and "forecast depreciation" is, in practice, whether the capital base that is being depreciated includes actual capital expenditure over a period, or capital expenditure that is or was forecast to be made over a period. The approach to be applied in this respect should be self-explanatory in most circumstances, and so the words "actual" and "forecast" are felt to be confusing and have been removed. In establishing the initial capital base of a pipeline, or adjusting the capital base of a pipeline that was once regulated and has returned to regulation, actual capital expenditure will be included in the capital base and be depreciated as there is no forecast to apply. To determine the "forecast capital base" under Rule 78, forecast capital expenditure will be included in the capital base. The policy intent is that in rolling forward a capital base in the revision of an access arrangement, there is a regulatory choice between depreciating actual or forecast capital expenditure. This choice will be made explicit through the inclusion of rule 90 to achieve this effect.
81(2)	77(2)	It is not clear when, or how, re-used	APIA	Accepted - The provisions detailing the roll-forward of

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		redundant capital or investments that are in a speculative investment account and subsequently become conforming capital expenditures can be included in the capital base.		the capital base now make clear that re-used redundant assets, and investments that are in a speculative investment account and subsequently become conforming capital expenditures can be included in the capital base from the commencement of an access arrangement period.
81(2)(d)	77(2)(e)	The AER should not be required to remove redundant capital from the capital base.	ENA	Noted - Rule 80 gives the AER a discretion to include or not include a redundant capital mechanism in an access arrangement. If no mechanism is included, redundant capital cannot be removed from the capital base.
81(2)(e) and (3)(d)	77(2)(f) and (3)(d)	The value of disposed assets to be removed from the capital base is not clear.	APIA	Not Accepted - Under different circumstances the sale price of the asset or the regulatory value of the asset may be removed from the capital base. The value to be applied will need to be discussed on a case-by-case basis in the process of determining the capital base for a new access arrangement period.
81(3)(a) Capital contributions	82(3)(a)	The concept of a "notional access arrangement" is unclear.	APIA	Not Accepted - This is a drafting matter. The policy intent is that regulator should determine what the capital base of a pipeline would be had the previous access arrangement period been completed, and the regulator had been required to roll-forward the capital base for a "notional access arrangement" taking effect at that point. The capital base calculated in this way is then adjusted to account for capital expenditure, depreciation and disposed assets since that date.
82 Surcharges	83	The AER should have limited discretion when calculating the projected capital base for a pipeline.	ENA	Not Accepted - This rule is simply a mechanical calculation of values determined under other rules. The level of regulatory discretion here is irrelevant

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				and must be determined in accordance with the relevant rules.
83(3)(a) New Capital Expenditure Criteria	79(2) (b)	The term "expected incremental revenue" is not defined and is not clear.	AER, ERA, ENA, APIA	Accepted - This term is essentially equivalent to "Anticipated Incremental Revenue" under the Gas Code. The concept has been clarified in 79(4)(a) to (c).
83(3)(b)	79(2)(b)	The application of the test that the "economic value of the investment is positive" is not clear.	APIA, ENA	Noted - See final draft table.
83(3)(c)	79(2)(c)(i) and (ii)	Including investments that "improve" the safety and integrity of services may lead to "gold-plating".	AER	Partly Accepted - See final draft table.
83(3)(c)	79(2)(c)(i)	The meaning of "maintain the service provider's capacity to meet contractual obligations or provide services" is not clear.	AER, ERA	Accepted - The policy intention is that service provider's are entitled to invest to maintain their capacity to continue to meet existing contractual obligations, or to continue to provide existing services. The Rules now reflect this intention.
83(4)	79(3)	The benefits to be considered by regulators in determining whether an investment exhibits positive economic value should include benefits accruing to service providers.	APIA	Accepted - See final draft table.
85 Capital Contributions	82(1)	The provisions dealing with capital contributions allows service providers to "double-dip" by getting a return on an investment that was partly or wholly funded by users.	MEU, AER	Accepted - The NGR now incorporates two approaches to dealing with capital contributions to deal with the problem of "double-dipping". One approach is to allow capital contribution in the capital base, but that the regulator must adjust regulated return to offset the amount of the capital contribution in net present value terms. The second approach is to

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				prevent the capital contribution being included in the capital base.
85	82	The Rules should not exclude capital contributions made by end users from the concept of a capital contribution.	ENA	Not Accepted - A capital contribution relies on the provider of the capital having a contractual agreement with the pipeline to determine the detailed terms and conditions of access in light of the contribution. End users who are not users should not be expected to make capital contributions to develop a pipeline.
87(1) Speculative Capital Expenditure Account	83(1)	Service providers do not "elect" to levy a surcharge, as they are subject to regulator approval.	QMGUG	Accepted - The word "elects" will be replaced with "proposes" to better reflect the policy intention.
87(4)	83(4)	The test for approving a surcharge does not reflect the Gas Code test.	APIA	Accepted - The test has been structured in line with the Gas Code, such that "the AER must not approve a surcharge unless it is satisfied that the amount to be recovered" satisfies certain criteria.
88(2) Depreciation Criteria	89(2)	The wording of the speculative investment provisions implies that the return on the speculative investment is akin to a return on debt, rather than a return on both equity and debt.	APIA	Accepted - This provision has been reworded to make clear that the return on the speculative investment is not "compound interest", but, simply, a rate of return. In practice, this rate of return may or may not be the weighted average cost of capital.
91 Rate of Return	87	The AER should have limited discretion when approving the rate of return to be applied in determining reference tariffs.	ENA	Not Accepted - The rate of return is a key component in determining the cost of pipeline services. Regulators must have full discretion in determining this value to ensure appropriate and consistent regulatory returns are applied.
91	87	The drafting of this rule is not clear and	ENA, APIA	Accepted - The rule has been amended to clarify that

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		confuses the intent. For example, the Capital Asset Pricing Model is not used to determine the rate of return on capital, but rather the cost of equity.		the purpose of the rule is not to determine the "return on capital", but the "rate of return on capital". It also makes clearer the role of a formula, such as the weighted average cost of capital, in determining the rate of return on capital by considering the cost of both equity and debt, and that the role of the Capital Asset Pricing Model is to determine the cost of equity, not the overall rate of return on capital. Also see comments on this clause in final response table below.
95(1) Criteria Governing Operating Expenditure	91(1)	Operating expenditure should "reasonably reflect" the criteria set out in this rule for consistency with the AEMC electricity transmission rules.	ENA	Not Accepted - The decision thresholds for different rules are set out in the "fit-for-purpose" provision that overarches decision making under the Rules. Introducing a different decision threshold for a single role is not appropriate.
96(2)(c)	93(2)(c)	Costs should not necessarily be allocated between services in the ratio of costs that are directly attributable to all directly attributable costs.	AER, APIA	Accepted - Costs will be allocated between all reference services and all non-reference services, and between individual reference services, on the basis of a cost allocation methodology that is consistent with the revenue and pricing principles.
97-99 Reference tariff variation	97	The use of "control mechanisms" represents a significant shift in regulation of the gas industry.	APIA	Partly Accepted - The terminology of the rules has confused the policy intent and implied a more significant shift in price regulation than is intended. The "control mechanisms" used under the Rules are really "reference tariff variation mechanisms", and therefore have been captured under Rule 97, which provides for a variable reference tariff. The only true "control mechanism" in the gas regime is a reference tariff, but reference tariffs themselves can vary over

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				the life of an access arrangement in many ways.
97(2)	97(2)	The terms used to describe possible "control mechanisms" are not widely or universally understood.	APIA, AER, ERA	Accepted - The choice of control mechanisms have been downgraded to the status of examples, to avoid unnecessary definitional debates about the application of the mechanisms, whilst retaining the indicative value that these mechanisms can be validly used in access arrangements.
97(2)	97(2)	The choice of control mechanism should be within the discretion of the service provider, and so the AER should have limited discretion in respect of this decision.	ENA	Not Accepted - The rules as amended will increase the flexibility with which service providers can propose variation mechanisms. However, it is appropriate for the regulator to retain significant discretion when approving the use of these mechanisms.
100 Tariffs – distribution pipelines	94	The principles governing the determination of tariffs for distribution pipelines are not clear.	ENA	Not Accepted - The principles were developed in the context of application to both electricity and gas distribution tariffs.
100(2)(a)	94(2)(a)	End users, as well as users, may make up tariff classes for distribution pipelines.	ENA	Accepted - The Rules will be amended to allow this.
101 Tariffs- Transmission pipelines	95	Costs need to be allocated in such a way as to ensure that reference tariffs are cost reflective for all users.	MEU, AER	Partially Accepted - A new rule, Rule 95 covers the application of 8.42 of the Gas Code to ensure that reference tariffs for transmission pipelines are set so that they are cost reflective for all users or groups of users. For distribution networks, the concept of long run marginal cost in rule 94 should address this issue.
102 Prudent discounts	96	There should be a "prudency" test for prudent discounts.	APIA, AER, ERA	Accepted - The Rule now replicates the prudency test of 8.43(a) and (b), to ensure that discounts offered to particular users are prudent.
103 Incentive	98	The AER should have limited discretion when considering whether to approve a	ENA	Not Accepted - The AER should have significant discretion to reject unsuitable incentive mechanisms,

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Mechanism		service provider's proposed incentive mechanism.		and to require an incentive mechanism be included in an access arrangement where none has been proposed.
103(1)	98(1)	The requirement that an access arrangement must include an incentive mechanism is too onerous.	ENA, AER	Accepted - The inclusion of incentive mechanisms in access arrangements are optional, but the AER has been empowered to require the inclusion of an incentive mechanism where it considers such a mechanism necessary.
103(2)	98(2)	Incentive mechanisms should not provide for decrements to be carried over.	APIA, ENA	Not Accepted - The Rules do not require decrements to be carried over. This will depend on the operation of individual mechanisms.
104 Fixed principles	99	Fixed principles should not be overridden by the rules.	APIA, ERA	Not Accepted - The policy is that the rules prevail where fixed principles are inconsistent with the rules. To do otherwise would allow the AER to act in a manner inconsistent with the Rules. Any transitional issues for particular service providers will need to be argued in the rule change process.
104	99	The drafting of this rule may not work.	APIA	Not Accepted - The drafting captures the key concept of a fixed principle, without importing the detail of the Code in terms of Market Variable Elements and Structural Elements.
105(2) Availability of applicable access arrangement and other information	107(2)	The AER should not be able to determine what information service providers have to provide to prospective users when requesting information about obtaining access.	APIA	Not Accepted - The current approach is consistent with 5.2 of the Gas Code.

Second Exposure Draft Clause	Final Draft clause	Issue	Stakeholder	SCO Response
106 Information about Tariffs	108	It is not clear what the intent of this provision is.	APIA	Partly Accepted - This provision, and rule 110 of the second exposure draft (Rule 109 of this draft), are intended to be successor provisions of 3.2(b) of the Gas Code. Similar provisions were in the first exposure draft of the NGL (s.193). These two rules have been brought together to clarify the intent of their operation, which is that prospective users must be able to obtain a discrete service, at a stand-alone tariff, without being required to purchase other services that they do not seek access to.
106(2)	108(2)	The timeframe in this rule does not reflect the reality of commercial negotiations for pipeline services.	APIA	Accepted - The 14 day requirement has been amended to require that a tariff be provided "as soon as practicable".
115 and 116 Expansion of capacity	118 and 119	The interaction between the rules dealing with how an access arrangement may be varied in an access determination do not appear consistent with the general rules dealing with capital expenditure.	APIA	Not Accepted - It is not intended that these rules will be subject to the new capital investment criteria, for example. The arbitrator of an access dispute should have discretion to deal with the pricing and revenue and pricing implications of an expansion of capacity, taking into account all relevant circumstances. The requirement that an expansion be economically feasible is unrelated to the requirement that a service provider initiated capital expenditure should demonstrate positive economic value.
116 Access Determination	119	The decision to vary an access arrangement in an access determination should be subject to merits review.	APIA	Not Accepted - Access determinations may only make "consequential amendments" to an access arrangement. Making such decisions subject to merits review would be out of proportion with the scope of the amendments envisaged.
127	129	It is not clear what processes are to be	AEMC	Accepted - The general application of process

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International pipelines		followed in finalising a limited access arrangement for an international price regulation exemption pipelines.		provisions to international price regulation exemption pipelines have been clarified by moving substantive provisions from Part 7 of the second exposure draft to Part 13 of new rules).
134 Confidentiality	137	If the regulator releases the confidential information of a shipper that is provided by a service provider, this should not be seen as a confidentiality breach by the service provider.	APIA	Noted -The rule only prohibits disclosure by the service provider, the regulator's disclosures are dealt with by the NGL.
135 Gas supply information	138	A person to whom gas supply information relates (the relevant person) appears to apply more broadly than the user or the person to whom the user supplies gas.	APIA	Not Accepted - The relevant person is the person to whom gas supply information relates. Such information must be disclosed if the relevant person requests it be released, or consents to it being released.

SCO policy responses to issues raised about the final exposure draft of the NGR, released March 2008.

*Note – References to Allen Consulting Group refer to the input provided by Mr Jeff Balchin of that organisation, whose services were sought by MCE to review the final draft of the NGR. NGR section references are to the second exposure drafts and final draft of the NGR.

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8(5) & 9(5) Standard and Expedited Consultative Processes	8(5) & 9(5)	These clauses should be amended to be that regardless of whether the decisions specifies a date or not, a decision should take effect “ at least 10 business days after the date of the decision”, rather than being subject to a 10 business day maximum. This provides added flexibility in instances where a decision may be appealed or where a decision requires physical action to be taken (e.g. configuration of IT system, configuration of pipeline etc).	APIA	Not Accepted – SCO considers the current arrangements to allow adequate flexibility, as the service provider can request a date for decision commencement from the AER that provides enough time for physical action to be taken.
9(2)(c) Expedited Consultative Process as it applies to limited access arrangements.	9(2)(c)	There should be opportunity for the proposal to be changed following the release of a draft decision. If a proposal is submitted, for the proponent to change it, it will have to restart the approvals process from scratch.	APIA	Not Accepted - If in its draft decision the AER does not accept the service providers limited access arrangement proposal, the service provider is not prevented from approaching the AER to include its suggestions for the AER's access arrangement proposal to be made under rule 64. Alternatively the service provider has been provided with an explicit right to withdraw its access arrangement proposal in rule 55.
11(1)(e)	11(1)(e)	Court proceedings initiated by	APIA	Accepted – The term "proponent" has been

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Calculation of Time		stakeholders other than the "proponent" should be included in the scope of items to be disregarded by the Regulator in the calculation of time.		removed to address this issue.
13 Absolute Time Limit for Full Access Arrangement Proposal	13	APIA questions the need for an absolute time for assessing a full access arrangement proposal.	APIA	Not Accepted – SCO considers this clause necessary to ensure that both the AER and networks work to ensure that access arrangement negotiations are concluded within a reasonable time limit. SCO notes that clause 14 allows for decisions to be made out of time, but that a reason must be given for this.
40(1) AER discretion	40(1)	An element of an access arrangement should be defined	ERAWA	Not Accepted – SCO considers element to be a broad concept which is unnecessary to define and that a definition would risk creating unforeseen exclusions. Also, the concept of element is used in the Code (see e.g. section 3.2(c)) and what it means there has not proved to be an issue.
40(3)	40(3)	The scope of where “full discretion” applies is not clear.	APIA and ENA	Accepted – The definition of full discretion has been amended to allow the AER to withhold approval where in the AER’s opinion, a preferable alternative exists, only where that alternative complies and is consistent with any applicable requirements in the Law.
42 Access Arrangement	42	The primary purpose of this clause should be to provide information to users and prospective users, with the	APIA and ENA	Accepted – The AER has sufficient information gathering powers to conduct its functions in the law. This clause has been amended to clarify

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Information		information gathering benefits to the AER being incidental.		that access arrangement information is that which is necessary for users and prospective users to deal with the regulated entity.
52(3) Access Arrangement Revision Proposal	New Sub Clause 52(3)	The period for submitting an access arrangement revision proposal should be able to be extended. A minor delay in submitting could result in the AER having to make its own access arrangement. This is unintended outcome.	APIA	Accepted – Sub Clause 46(3) replicated in 52.
53 Division or Consolidation of Access Arrangements	53	The AER should be required to consult when deciding on the division of or consolidation of access arrangement proposals	APIA	Accepted – A requirement to consult with service providers and any other persons whom it considers appropriate has been added to this clause.
60(2) Revision of Access Arrangement Proposal	60(2)	Guidance needed as to how AER would exercise discretion in revising an access arrangement proposal.	APIA	Accepted – An note has been inserted, providing an example of how the AER might exercise this discretion
64 AER power to make or revise access arrangement on refusing to approve	64	As per the previous Code provision, the AER should not be able to impose content in an access arrangement that meets the minimum content requirements in a proposed access arrangement and the Rule should make this clear.	APIA	Noted – Access arrangements are now to be formulated with regard to the requirements of the Law. The clause has been redrafted to reflect this. This change echoes section 2.24 and 2.25 of the Code.
New Rule AER may vary or revoke	68	The AER should be able to vary or revoke an access arrangement due to error or the provision of misleading or	AER	Accepted – New rule added to this effect.

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access arrangement		false information as in electricity.		
68 Part 9 Definitions	69	The definition for capital expenditure does not capture costs for which there is no expenditure, e.g. self insurance.	APIA and ENA	Accepted – A definition for capital expenditure has been added to address this.
71 Price and revenue specific access arrangement information	72	Terminology and information requirements for transmission and distribution networks differ. Clause needs to reflect this.	APIA and ENA	Accepted – Clause amended accordingly.
71	72	It is not meaningful to ask for information regarding the capacity of a distribution pipeline.	ENA	Accepted – This is now only required to the extent practicable.
71	72	Regulators require average figures on demand and seasonal variations.	ERAWA	Accepted – Requirement to include average demand included in the clause.
71	72	The words justify and justification in many of the clauses do not reflect the intention of the sub rule.	APIA	Accepted – Where used the words justify and justification have been changed to words that better reflect the intent of the relevant clause.
71	72	The term regulatory year is not defined and should be defined by reference to each year of an access arrangement period.	APIA	Not Accepted – The term regulatory year, which means what APIA has suggested, is commonly used in regulatory economics and the electricity rules and does not need to be defined.

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71	72	Price is not defined in the NGR and should not be used in this clause	APIA	Accepted – References to price will be changed to tariff.
72 Basis upon which financial information is decided.	73	It was queried whether to include inflation information explicitly	ERAWA	Not Accepted - It is not necessary to include inflation information explicitly.
75 Total revenue	76	Building block approach is not defined and has the potential to create confusion. It is unclear what calculation the regulator is to apply to the building block.	APIA	Not Accepted – The term "building block approach" is now standard energy regulatory language in Australia and will be used to create consistency between the gas and electricity regimes. It is clear from the drafting that the building block approach is used to calculate the total revenue requirement. It is clear from the nature of each of the building blocks that calculation the regulator is to incorporate each into the calculation. The AER uses the building block approach now for electricity networks and knows that each of the building blocks refer to a value to be added or subtracted from the building blocks calculation.
75	76	The clause should be amended to explicitly allow for quarterly determination of total revenue.	ERAWA	Not accepted – The current drafting does not preclude quarterly modelling.

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76 Opening Capital Base	77	The term "pipeline" in 76(b)(1) does not capture the cost of construction of other assets used to run a pipeline.	APIA	Accepted – Amended to "Pipeline Assets".
77(d) Projected Capital Base	78(d)	It is inappropriate to include a forecast of redundant capital in the projected regulatory asset base.	Allen Consulting Group	Accepted – Sub clause removed
78(1)(a) New Capital Expenditure Criteria	79(1)(a)	The definition of capital expenditure excludes capital costs that do not qualify as expenditure.	APIA and ENA	Accepted – See new definition in 69 (addressed above).
78(1)(a)	79(1)(a)	The rules should allow capital expenditure to be "incurred" rather than "made". The term "incurred" captures costs that have been agreed to but not yet paid, while "made" only captures those that have been paid.	APIA	Accepted – "made" changed to "incurred".
78(2)(a)	79(2)(a)	The policy intent of the overall economic value test needs to be explained to industry.	APIA	Noted – the policy intent of this clause was explained to industry at the consultation forum and outlined in the second reading speech for the NGL as follows, "The initial Rules will now include a "positive economic value" test for investment in existing pipelines designed to capture net increases in producer and consumer surpluses in upstream and downstream gas markets, whilst also capturing the system security and reliability

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				benefits that were considered by regulators to constitute system-wide benefits. This test will ensure the assessment of pipeline investments unambiguously includes benefits that accrue to users and end users of gas when they are able to purchase additional quantities of gas, or to gas producers when they are able to sell additional quantities of gas. This should assist in promoting efficient investment in our existing pipeline network to meet our increasing demand for natural gas."
78(2)(b)	79(2)(b)	There is an asymmetry in approach here. The proposed test compares the present value of expected revenue against the expected actual expenditure. The comparison should be present value of expected revenue with present value of capital expenditure.	APIA	Accepted – the clause has been amended to compare the present value of incremental revenue with the present value of capital expenditure.
78(2)(c)(i)	79(2)(c)(i)	Capital expenditure should be approved to both maintain and improve the safety and integrity of services.	APIA	Partially accepted – Expenditure will be allowed to maintain and improve safety, but only to maintain integrity of services. This is in recognition of the emphasis placed on safety by governments, but avoids "gold plating" to maintain the integrity of services.

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78(2)(c)(iii)	79(2)(c)(iii)	Clause needs to be clarified to ensure that capital expenditure is to be approved where it maintains the service providers' capacity meet contractual obligations that exist at the time of the application for approval.	APIA	Partially accepted – Clause amended to require approval for contracts that exist at the time of the decision for existing assets, but not for contractual obligations that are dependent on an expansion of capacity. This is to prevent service providers signing contracts for expansion in anticipation of a determination that would allow them to bypass the positive economic value test.
78(2)(d)	79(2)(d)	This clause is too narrow. Should allow simultaneous use of all three limbs of new capital expenditure test.	APIA	Not accepted – This represents a significant shift from SCO's existing policy position and would require analysis that would threaten the timeline for the 1 July, 2008 commencement of the regime. At the present time It has not been demonstrated that using all three limbs is possible without double counting of benefits. If stakeholders wish to pursue the matter, they should seek an AEMC rule change.
78(3)	79(3)	The positive economic value test should be extended to include benefits to pipeline operators.	Allen Consulting Group	Accepted – Clause amended accordingly.
78(3)	79(3)	The positive economic value test should be extended to include indirect benefits to electricity generators.	APIA	Partially Accepted – Officials considered this to represent a significant shift from SCO's current policy which would require further expert analysis before a position could be reached. As such analysis would threaten the timeline for the commencement of the regime on 1 July, 2008, it was decided not to make the change at this

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				<p>time. If stakeholders wish to pursue the matter, they should seek an AEMC rule change.</p> <p>However, as a broader approach under the gas code has been adopted in WA, a transitional provision will be inserted to provide regulatory consistency by allowing Western Australia to continue with this approach for the next for the next access arrangement period and roll forward in the subsequent access arrangement period.</p> <p>This allows time for consideration of a broadening of the test should be considered through the rigorous AEMC rule change process.</p>
78(4)(b)	79(4)(b)	The word attributable should be removed from this sub clause and replaced with incremental. Attributable has an accepted accounting meaning that may lead the attribution of fixed costs to the incremental revenue test which it is not supposed to capture	Allen Consulting Group	Accepted – Clause amended accordingly.
81 Capital Contributions	82	This rule creates confusion about the way in which capital contributions are treated and needs redrafting.	APIA	Partly Accepted – The rule has been amended to clarify the first approach for the treatment of capital contributions, i.e. that capital expenditure is to be rolled into the capital base, with any

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				component of that resulting from a capital contribution by a customer not being included in the capital expenditure to be rolled in. The wording has been clarified the operation of the alternative approach where capital expenditure is completely rolled in, as long as an adjustment is made to prevent over-recovery by the service provider..
81	82	Drafting needs to be clarified to ensure that negotiated or determined arrangements are accommodated	APIA	Noted – Negotiated arrangements are not precluded by the clause.
81(3)	82(3)	The concept of "rolling in" is not clear.	APIA and ENA	Not Accepted – The concept is clear with the new drafting.
84 Capital redundancy	85	More accurate to say that redundant assets should be "removed from" rather than being "not reflected in" capital base.	APIA	Accepted – Clause redrafted accordingly.
84(2)	85(2)	A reduction in capital base should only occur from the commencement of the access arrangement period that follows on from the period during which the mechanism was first included. This would reflect the Gas Code and maintains an existing protection to service providers	Allen Consulting Group	Accepted – Clause redrafted accordingly.
86 Rate of Return	87	A better description of the objective of the clause would be desirable and the clause should capture the requirement to assume that firms meet benchmarking financing structures and level of	Allen Consulting Group	Accepted – Rules amended to incorporate these requirements.

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		efficiency.		
88 and 89 Depreciation Schedule	89	The requirement for the AER to have regard to the service provider's cash flow should be incorporated into the depreciation criteria for the initial design of the depreciation schedule.	ERA	Accepted – Clause 89 moved into clause 88(new 89).
90 Calculation of depreciation for roll forward	90	The use of the term ancillary determination is confusing and should be removed. The calculation of depreciation for the rolling forward of the capital base from one access arrangement period should be described as occurring in the context of an access arrangement	APIA	Accepted – Amended accordingly
91 Operating expenditure	91	This rule should refer to pipeline services rather than reference services, to capture all possible inputs into operating expenditure.	Allen Consulting Group	Accepted – Amended accordingly.
92 Basis of reference tariff	92	"Basket of tariffs" implies that individual tariffs must be equalised in NPV terms over the course of an access arrangement. This precludes the use of some types of reference tariff variation mechanisms.	Allen Consulting Group	Accepted – "basket of tariffs" amended to read "reference tariff variation mechanism".
93 Allocation of total revenue and costs	93	The building block approach does not refer to costs. This creates uncertainty.	APIA	Not Accepted – See response to 75.

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93	93	There should be a set of allocation rules outlined in the Rules which the AER is to apply.	APIA	Noted – The clause provides adequate guidance to the AER on making cost allocation decisions.
93(2)(c)	93(2)(c)	The words determined and approved by the AER are redundant because this decision is a full discretion decision. They should be deleted.	APIA	Not accepted – The words serve to guide the reader as to the functioning of the clause.
95 Transmission Tariffs	95	Rule 95 is limited discretion Rule and the AER having the role of determining or approving a cost allocation is in appropriate. The words "determined or approved by the AER" should be deleted.	APIA	Not Accepted – The AER's role in the allocation of costs between reference services are not intended to be overly intrusive. However, given that this has been a contentious issue in previous access arrangement determinations, SCO thought it prudent to give the AER a wider discretion on this question than is the case with the rest of the rule.
96(2) Prudent Discounts	96(2)	The notion that overall tariffs may fall due to the provision of a prudent discount is counter-intuitive and requires explanation.	Allen Consulting Group	Accepted – A note to this effect has been added under the clause.
96(3)	96(3)	The rule should not require the AER to allocate the cost of a discount, rather allow the AER to approve the allocation of cost. This will allow service providers to propose an acceptable method of allocating the cost of the discount	APIA	Accepted – Amended accordingly.
97	97	Transaction costs should not be	APIA	Not Accepted – Advice from Allen Consulting

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Variability of reference services		considered when deciding whether a tariff variation mechanism is appropriate		and ERA suggests that transaction costs are a significant issue and should be considered. This matches the equivalent rule in electricity.
97	97	There is no provision for what regulators are to do with respect to adjusting reference tariffs, if the completion of a new access arrangement is delayed.	Raised by Officials	New Policy Position – The rule will be varied to allow existing reference tariffs to be continued without adjustment.. Pipelines will be compensated for any CPI adjustments in the next access arrangement. Officials agreed that this is necessary to balance the need provide regulatory certainty in the event of a delay, with appropriate incentives for businesses and the AER to complete access arrangement negotiations on time.
101 Statement of reference services	101	Rule 101 is ambiguous with regard to the definition of a reference service and how and access arrangement is to specify reference services.	APIA	Accepted – Rule amended to clarify these points.
106 Change of receipt or delivery point	106	The rule should state that the service provider can withhold consent if the user fails to provide an indemnity reasonably required by the service provider, if the change of receipt or delivery point involves modification to the pipeline, or involves other expense for the service provider.	APIA	Noted – The ability of the service provider to withhold consent if it has reasonable commercial grounds, is adequate to cover the instance where a user fails to provide such an indemnity. These are to be set out in the access arrangement.
112(2)(b) Request for	112(2)(b)	To enable a Service Provider to determine whether it can provide a	APIA and ENA	Accepted – The clause has been amended to require information about entry and exit points

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Access		<p>requested service and to determine what additional capacity may be required to be provided in order to meet the access request, it is imperative that the prospective user provide details relating to both inlet and outlet points on a pipeline. This applies equally to transmission and distribution pipelines.</p> <p>The one exception to this is for a connection service where only a receipt point or delivery point location is required.</p>		to be required for a haulage service.