

Appendix 11.4

Explanation of reasons for changes to Reference Service Agreement

Access arrangement information

ACT and Queanbeyan-Palerang gas
network 2021–26

Submission to the Australian Energy Regulator

June 2020

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1. Overview

Our Reference Service provides for the receipt of gas into the network, delivery of gas to any eligible delivery point on the network and includes meter reading and data provision. The Reference Service also includes various ancillary services (for example, disconnection, reconnection and special meter reading).

Evoenergy provides the Reference Service on the terms of the Reference Service Agreement (**RSA**). The RSA forms part of the approved Access Arrangement (**AA**). The current version of the RSA is dated July 2019 and forms part of the 2016-21 AA (**2016 RSA** or **current RSA**).

This document outlines the principal changes we have made to the 2016 RSA as part of this regulatory reset. Once approved, the RSA, with any approved changes, will form part of the 2021-26 AA (**revised RSA**).

We have structured this document as follows:

- Section 1 – summarises the general approach we have taken in applying the National Gas Objective (**NGO**) to this review
- Section 2 – explains our approach in seeking to simplify the current RSA
- Section 3 – sets out changes made to the RSA in respect of the disconnection of delivery points
- Section 4 – details the amended liability regime
- Section 5 – outlines the new insurance requirements for both us and our users
- Section 6 – sets out other changes.

1.1 Focus of our review

We have focused this review on a simplification of the current RSA. Instead of producing an entirely new document, we have amended the drafting of our current RSA. We hope this eases the burden of review for both the AER and our users. Section 2 of this document sets out our approach to simplification.

In addition, we have:

- updated the provisions dealing with disconnections (see section 3)
- reviewed the allocation of risk between us and our users (see section 4)
- amended both our own, and users' insurance requirements (see section 5).

1.2 Principles relevant to our review of the RSA

The AER emphasises the importance of appropriately allocating risk between service providers, users and customers stating that, “*the NGO requires the AER to assess and balance the competing interests of the Service Provider, Network Users and*

consumers".¹ The AER goes on to state that risk is minimised where it is borne by the party best able to manage it, leading to greater efficiency and lower prices.² We agree with the AER and have sought to reflect this principle in our revised RSA.

The commercial and operational characteristics of our network have a significant effect on how we allocate risk, in particular:

- There are around 146,000 consumers connected to our network and gas is delivered to those consumers under RSAs with six users.
- Our network is regulated by both the ACT and NSW governments. This scheme of regulation applies in respect of both our network's technical and operational requirements and the quality and reliability of our network. This dual scheme of regulation places a substantial regulatory burden on Evoenergy.
- Gas is supplied to our network from production fields via a chain of bilateral contractual relationships between gas producers, wholesalers, pipeline operators, retailers and self-contracting users. Given that we are not party to these arrangements, we rely on our users to ensure that the gas we receive and on-deliver meets regulatory requirements. This approach differs from that of Victoria where the Australian Energy Market Operator (**AEMO**) assumes responsibility for controlling supply and demand, the quality of gas and other aspects of the system.

1.3 Notes

So that the changes we have made can be properly understood, we have provided a mark-up to the current RSA as Appendix 11.2 to the AA proposal. We note that the mark-up does not show formatting changes.

Within this document, unless otherwise stated, references to clauses of the RSA are references to the revised RSA.

To ensure that the revised RSA is relatively easy to review, where we have deleted a clause, we have inserted 'Not used'; this means that the numbering remains consistent as between the current RSA and the mark-up of the revised RSA.

¹ See page 293 of the AER's Access Arrangement Draft Decision for Envestra (Victoria) 2013-2017.

² Ibid.

2. Simplification

2.1 Our approach to simplifying the RSA

To simplify the RSA, we have:

- updated definitions (see 2.2 below)
- removed clauses and definitions that are no longer relevant or necessary (see 2.3 below)
- where definitions are only relevant to one clause, relocated those definitions to the relevant clauses (see 2.4 below)
- moved some clauses from the RSA to the AA (see 2.5 below)
- removed or updated clauses covered by regulatory obligations (see 2.6 below).

In addition to the changes outlined in this section, we have made a number of revisions to clarify the intended operation of the RSA. These changes are outlined in section 6 below. We have also included a number of new definitions to account for new terms.

2.2 Updated definitions

2.2.1 Definitions of ‘Customer’ and ‘End Consumer’

We have amended the definitions of ‘Customer’ and ‘End Consumer’ (previously ‘End Customer’) for clarity. We have made these changes to make it clear that when we refer to a ‘Customer’ we are referring to a party with whom Evoenergy has a direct relationship. When we use ‘End Consumer’ we are referring to a person who buys and uses gas delivered by Evoenergy, but who does not have a direct relationship with Evoenergy (and, accordingly, is not a Customer). The new definitions are extracted below with clarifications (where relevant).

Customer means:

- (a) a person who consumes the Gas delivered by Evoenergy at a Delivery Point or Energy produced from that Gas and whose Energy consumption is individually metered by Evoenergy to measure Gas withdrawn at the Delivery Point; [for example, users whose consumption is directly metered by us]
- (b) a person who on-supplies to third parties Gas delivered by Evoenergy at a Delivery Point or Energy produced from that Gas; [for example, embedded network providers or the operators of cogeneration facilities or similar]
- (c) the User, where the User consumes the Gas delivered by Evoenergy at a Delivery Point or Energy produced from that Gas; or [for example, a “self-contracting user” – a major gas consumer who contracts directly with Evoenergy for delivery of gas to their site]
- (d) the User, where the User is not an Authorised Retailer or an Exempt Seller and on-supplies to third parties Gas delivered by Evoenergy at a Delivery Point or Energy produced from that Gas; [for example, an

embedded network provider or the operator of cogeneration facilities who contract directly with us for delivery of gas to the site]

End Consumer means any person who buys or and consumes Gas delivered by Evoenergy to a Delivery Point or Energy produced from that Gas, and who is not a Customer;

As the definitions now expressly contemplate the situation where a user fits the definition of 'Customer', we have deleted clause 1.6 of the RSA.

2.2.2 Definition of 'Delivery Point'

We have reviewed and amended the definition and use of the term 'delivery point' throughout the RSA.

Under both the current and revised RSA, a 'Delivery Point' is a point upon Evoenergy's network where gas is delivered, that is listed on a Customer List. Customer Lists include all delivery points at which gas is delivered to a user under an RSA. This contrasts with a 'delivery point' which is where gas is delivered outside of an RSA. A 'delivery point' is also added to a customer list and becomes a 'Delivery Point' where the user at that delivery point is the Financially Responsible Organisation or the Local Area Retailer.

The definitions and use of the phrase 'delivery point' have been reviewed and amended for consistency and to ensure the meaning is clear throughout the RSA. We have also added a definition of 'Customer List' for ease of reference.

2.3 Deleted definitions and clauses

We have deleted a number of definitions that are no longer used in the current RSA including:

- Our name has changed since the last RSA so we have deleted the definition of 'ActewAGL' and replaced it with 'Evoenergy'
- The definition of 'Director General' – this role has been changed, as such the definition of 'Safety Regulator' has been amended and the term Safety Regulator is used in preference
- 'Network Code' – the previous Network Code ceased to apply to Evoenergy following the introduction of the National Energy Customer Framework in 2016
- 'Queue' and 'Queuing Policy' – the revised AA does not refer to a 'queue' or 'queuing policy', accordingly these terms have been removed from the revised RSA
- The definition of 'Unaccounted for Gas' – this term is no longer used and we have instead included a definition of 'Replacement Gas'.
- The defined term 'Gas Law' – this has been replaced with the term 'Law'.

2.3.1 Clause 11.4

Clause 11.4 of the existing RSA provides a mechanism for the transfer of 2010 Service Delivery Points and the clause is not required in the revised RSA. We have also deleted certain definitions relating to the 2010 Access Arrangement.

2.4 Definitions relocated to other parts of the RSA

Where a defined term is only relevant to one clause, we have relocated the definition to that clause as follows:

- 'Change in Law' – relocated to clause 25.2
- 'LG Period and LG Quantity' – relocated to clause 9.5
- 'Local Area Retailer' – relocated to clause 11.5
- 'Transportation Quantity' – relocated to clause 3.4(b).

2.5 Clauses and definitions moved to the AA

2.5.1 Requirements for establishing new receipt points

The requirements for establishing new receipt points need to apply to any person seeking to add a new receipt point onto our network, not just those who have agreed to an RSA with us. Accordingly, we have relocated those requirements from clause 14 of the RSA to the Operational Schedule of the AA (Schedule 7) with minor amendments given the location of the clauses in the AA.

The same rationale applies to the requirements for new and existing receipt stations; these requirements have also been moved to the Operational Schedule of the AA.

2.6 Clauses covered by regulatory obligations

There are several clauses in the current RSA that either directly or effectively repeat regulatory obligations. These have been deleted to avoid the potential for inconsistency between the revised RSA and the regulatory regime. In particular, we have:

- Deleted clause 3.5 as any such obligations apply by force of law.
- Deleted clause 17.2 of the current RSA, this clause sets out how users are to notify us if they believe their meter data is incorrect and how we are to investigate such matters. We have deleted this clause as section 3.7 of the Retail Market Procedures (**RMP**) sets out a similar procedure.
- Deleted the obligation in clause 23.2(c)(i) to give 4 business days' notice of a scheduled interruption as the requirement to give notice of a scheduled interruption is contained in r 90(1B) of the National Energy Retail Rules (**NERR**).
- Deleted the requirement in clause 23.3(b) to provide an emergency telephone information service, as NERR r 91 imposes a similar regulatory requirement.

We have also amended clauses 17.4(d) and (e) (formerly 17.1(d) and (e)) to reflect the RMP at sections 3.1.1.(d) and 3.1.5 which require network operators to use reasonable endeavours to read meters within the specified timeframe.

3. Disconnection of delivery points

3.1 Disconnection of delivery points

We have simplified the procedure to be followed in respect of requests for the disconnection and made a number of changes to the RSA to reflect this:

- amendments to clause 12 in respect of when a disconnected delivery point is deleted from a Customer List (section 3.2 below)
- the addition of a new clause to outline what happens in circumstances where we are unable to disconnect delivery points (section 3.3 below)
- changes to clause 15.9 in respect of how users are to request disconnections for Demand Customer delivery points (section 3.4 below)
- clarification of what must be provided to us by customers in order for us to complete a disconnection request (section 3.5 below).

In addition to the above, we have also made a number of minor amendments to clauses 12 and 15 to improve the clarity of their drafting.

Finally, in section 3.6 we outline changes made to clause 22 of the RSA. As currently drafted, the interaction between this clause and clause 15.9 was unclear and in the revised RSA we have sought to remedy any ambiguity.

3.2 Disconnection of delivery points (clause 12)

3.2.1 Current RSA

The current RSA differentiates between Small Customers³ (also referred to as Small Volume Customers) and Large Volume Customers⁴ as well as between Volume Customers and Demand Customers. Pursuant to clause 12(a), in respect of Small Customers, the current RSA provides that where the supply of gas to a Small Volume Customer is disconnected, the delivery point will be deleted from the Customer List on a date as agreed between Evoenergy and the user. For Large Volume Customers and Demand Customers, the delivery point is deleted from the Customer List upon disconnection (clause 12(b)).

We have revised this clause as it is impractical to have different timeframes apply for different types of users.

3.2.2 Proposed changes

To simplify the process, we have amended clause 12 so that Volume Customer delivery points will be automatically deleted 20 Business Days after the date of disconnection – this is consistent with the position that has applied since 2019. Demand Customer Delivery Points are deleted from the date of disconnection unless Evoenergy and the user agree to a different arrangement pursuant to clause 15.9 (see discussion in 3.4).

³ A Small Customer as defined in NECF – a customer consuming less than 1 TJ of gas per year.

⁴ A Large Volume Customer is a customer consuming 1-10TJ of gas per year.

3.3 When we are unable to disconnect – new clause 15.9(c)

3.3.1 Circumstances where we are unable to disconnect

Like all gas distribution network operators we depend on customers' co-operation in providing access to their properties to enable us to meet our obligations, including to disconnect delivery points. Whilst the current RSA requires users to use reasonable endeavours to provide us with access, in our experience, customers do not always provide access, for a variety of reasons. Certain actions outside of our control can lead to us being unable to disconnect customers, including:

- customer actions (e.g. making threats, refusing access or installing gates or similar that prevent access)
- third party actions (e.g. building managers refusing access or developers designing an apartment building that prevents utility workers accessing meters)
- customer details not being provided to Evoenergy, or incorrect details being provided
- the presence of animals.

Former building design codes allowed for meters to be installed internally within premises – this has caused legacy issues for both us and retailers. We revised our network requirements in 2014 to require meters to be in common areas. Change is required to avoid the possibility of disputes arising when customers use gas without paying for it (as exists under the current RSA).

3.3.2 Proposed new clause 15.9(c)

Our proposed revised RSA includes a new clause 15.9(c). New clause 15.9(c) clarifies that where we are unable to safely access a property and/or relevant equipment, having used reasonable endeavours to do so, we will not be in breach of our contractual obligations to disconnect or abolish a delivery point. We consider this to be fair as these are circumstances outside our control.

3.4 Disconnection request process for Demand Customer delivery points (clause 15.9)

3.4.1 Disconnection request process under the current RSA

Clause 15.9 of the current RSA requires us to disconnect or decommission a delivery point upon a user's request unless we reasonably consider that regulatory or contractual obligations have not been met, or the user has not provided us with sufficient information and/or paid the relevant ancillary charge. If our costs of disconnection or abolishment exceed the applicable ancillary charge in the AA, the current RSA also makes the user liable for those additional costs. This means that the user does not have visibility over the charges until they are invoiced.

3.4.2 Changes in the revised RSA

Under the revised RSA, we maintain an obligation to disconnect or abolish a Volume Delivery Point by such means as we reasonably determine.

Upon a user request to have a Demand Customer Delivery Point *abolished*, we are obliged to, as soon as practicable (and in any event within 30 days) provide the user with an offer to abolish, including an estimate of the cost of works and a timeframe for their

performance. If the user accepts our abolishment offer we must abolish the delivery point in accordance with our offer.

If a user requests to have a Demand Customer Delivery Point *disconnected*, we must, as soon as practicable (and in any event within 15 days), provide the user with two options for disconnection, including a statement of the Ancillary Charge of performing the disconnection and a timeframe for performing the works in respect of each option. The two options refer to:

- Option A: the delivery point is disconnected but remains on the Customer List (meaning that only the Ancillary Charge is payable if the user wishes the delivery point to be reconnected at a later date). Under Option A, all obligations (i.e. both ours and the user's) continue to apply. This mirrors the Temporary Disconnection under the current RSA.
- Option B: the delivery point is disconnected and deleted from the Customer List (meaning that reconnection would require a new Request for Service and incur relevant charges). Under Option B, both our, and the user's, obligations in respect of the delivery point cease upon disconnection. This mirrors the standard Disconnection under the current RSA.

If the user accepts the offer, we must disconnect the Delivery Point accordingly. Where our disconnection costs exceed the applicable Ancillary Charge, the revised RSA allows us to recover reasonable additional costs from the user.

We have also sought to make it clear in the revised RSA that a new connection is required where a delivery point has been abolished or disconnected pursuant to Option B (see clause 15.9(d)).

Finally, we have inserted clause 15.9(f) to provide that where we are disconnecting or abolishing a Large Customer delivery point, we can request the presence of a representative of the user. This ability was previously located in clause 22.1, but with the deletion of that clause it has been relocated to 15.9. The ability to request the attendance of the party who has requested the abolishment or disconnection is appropriate as the disconnection or abolishment of a Large Customer delivery point will result in interruption or shut-down of the customer's business.

These changes clarify the various procedures for users and make the processes easier to select between. The amendments have the further benefit of making the cost implications of disconnection clear.

3.5 Pre-requisites to disconnection (clause 15.9)

3.5.1 Current RSA

Currently, clause 15.9(b) of the RSA provides that:

15.9(b) *The User must:*

- (i) *prior to making a request [for disconnection or decommissioning] have complied with all obligations placed on the User under relevant Laws relating to arranging for the disconnection of the premises served by a Delivery Point or the decommission[ing of] a Delivery Point (as applicable);*
- (ii) *provide ActewAGL with sufficient information to enable ActewAGL to determine the appropriate method of disconnection or decommissioning, including the reasons for disconnection; and*
- (iii) *pay the applicable Ancillary Charge*

3.5.2 Proposed changes

We have revised 15.9(b)(ii) (now 15.9(e)(ii)) to also require users to provide us with information to enable us to access the site and perform the requested works.

3.6 Suspension of delivery of gas to delivery points (clause 22)

3.6.1 Current RSA

As it stands, clause 22.1 of the RSA allows the user to request a temporary disconnection, or 'suspension' of the delivery of Gas to a delivery point. This clause is not needed in the current RSA because it is replaced by clause 15.9(b1)(iii). As such, given the substantial amendments to clause 15.9, we have deleted clause 22.1 from the revised RSA.

We have retained clause 22.2 (now clause 22.1) as this clause is crucial in allowing Evoenergy to suspend the delivery of gas in certain circumstances, including to protect the network and public from the threat of injury or damage.

4. Changes to liability and indemnity scheme

As part of this review we have undertaken an assessment of the various liability and indemnity clauses throughout the current RSA. These changes will assist in ensuring risk is allocated to the party best placed to manage it, as discussed in paragraph 1.2 above.

Collectively, the changes we have made are beneficial to users in that we have:

- reduced user indemnities
- capped users' liability
- increased the scope of Evoenergy's potential liability.

We have also replaced the term 'damage' in the current RSA, with 'loss' in the revised RSA. The definition of 'loss' covers a more extensive and clearer range of loss and damage than the current definition of 'damage'. This change benefits both parties.

4.1 Current RSA

The current RSA contains a number of limitations on our liability and indemnities from users. These clauses are dispersed across the document as follows:

- clause 5.6(c) – Evoenergy revocation of an authorised overrun
- clause 6.2 – unauthorised overruns
- clause 7.4 - failing to deliver sufficient quantities of gas into the network
- clause 9.4(b) – anything relating to gas prior to its receipt by or after its delivery from the Network
- clause 10.1(d) – delivery of out-of-specification gas at a receipt point
- clause 10.3(c) – Evoenergy giving directions for or ceasing to accept out-of-specification gas at a receipt point
- clause 14.9(b) – gas that does not meet pressure requirements being delivered to a receipt point
- clause 15.12 – disconnection of a delivery station
- clause 22.3 – suspension of delivery of gas at a delivery point
- clause 23.7 – load shedding, interruption, curtailment, reduction or cessation of gas deliveries.

As part of our simplification efforts, we have sought to consolidate these clauses into clauses 26 and 27 of the revised RSA. We have also limited the numbers of indemnities and liabilities for both ourselves and our users.

4.2 Indemnities (new clause 26)

4.2.1 Mutual indemnity (new clause 26.2)

Under new clause 26.2 each party under the RSA indemnifies the other for Loss in respect of:

- bodily injury, death or loss of, or damage to, property caused by negligence or wilful misconduct
- breach of the RSA

caused by the Indemnifying Party.

The drafting of the new mutual indemnity mirrors the current RSA, but has been simplified and now extends the same indemnity to Evoenergy. The new clause 26.2 is subject to the limitations described below.

4.2.2 User indemnity (new clause 26.3)

The revised clause 26.3 replaces numerous indemnities as well as the 'catch-all' indemnity currently located in clause 26.1(b) of the RSA. The revised clause 26.3 also seeks to simplify the regime and represents a marked improvement for users when compared to the current RSA.

Under the revised clause 26.3, the user indemnifies Evoenergy for Loss, for which the user is directly responsible for, or over which Evoenergy has no, or only limited control, in relation to:

- unauthorised overruns, or our revocation of an authorised overrun
- the user's delivery of gas at a receipt point which does not meet quality specification or pressure requirements
- acts or omissions of the user (or any Customer or End-Consumer) resulting in interruption of delivery of gas
- disconnection or abolishment of a delivery point at the request of the user.

We believe this is fair as, where the user is directly responsible and/or Evoenergy has no, or only limited, control the user is best placed to manage this risk. These indemnities also recognise that Evoenergy relies on its users to comply with their contractual obligations, particularly in circumstances where:

- Evoenergy is subject to a comprehensive set of regulatory requirements and must operate its distribution network accordingly
- users are largely unregulated
- the revisions to the revised RSA are largely in users' favour (see 4.3.2 below).

These amendments allow Evoenergy to appropriately ensure that we can safely and efficiently operate our network.

4.3 Liability limitations (new clause 27)

Liability limitation clauses 26.3 to 26.8 of the current RSA (except for clause 26.6⁵) have each been moved to new clause 27 for clarity and ease of reference. Some of these clauses remain unchanged from the current RSA, whilst others have been amended or replaced.

⁵ The substance of clause 26.6 of the current RSA has been included in the drafting of new clause 27.2-27.4.

4.3.1 Unchanged provisions (relocated 27.1, 27.6 & 27.7)

The drafting of clauses 27.1, 27.6 and 27.7 remains substantially unchanged from the current RSA. Where changes have been made, these are merely of a typographical nature.

4.3.2 New provisions (relocated 27.2 & 27.3)

New clause 27.2 comprises former clauses 26.3 and 26.4 and 27.3 contains the definition of 'Insured Sum', a term used in 27.2.

The new clause provides greater clarity for both users and Evoenergy as well as greater liability limitation protection. In summary, the new clause 27.2 provides that:

- consequential loss is generally excluded for both parties
- liability for other loss is limited as follows:
 - to amounts under that party's insurance policies
 - if the loss is not recoverable under the party's insurance policies, then:
 - » for both users and us, to \$500,000 in the aggregate for all claims by the other party (or a related body corporate or associates) in a financial year or in respect of all events arising in a financial year
 - » in our case, to \$2 million in the aggregate for all claims, by all persons, in a financial year and in respect of all events arising in a financial year.

This improves the position for users under the current RSA clauses 26.3 and 26.4 as our liability is currently capped at the amount we can recover under insurance policies, and there is currently no liability cap for users.

4.3.3 Carve outs (new 27.4)

The improved liability provisions discussed at 4.3.2 are subject to a number of 'carve outs' located in new clause 27.4. These carve outs mirror those located in clause 26.5 of the current RSA, but we have updated the drafting for simplicity and clarity.

Upon review, we are satisfied that the revised position is fair and balanced in that it:

- retains the position under the current RSA that limitations and exclusions do not apply to a user's liability for our loss relating to gas having been delivered into our network for the user which does not meet the quality specification or pressure requirements under the RSA
- does not allow for limitations or exclusions to apply where the user has failed to have sufficient gas delivered to our network to meet its withdrawals
- mirrors current clause 26.5(b) in ensuring that the exclusion for consequential loss does not apply to our liability where a user's loss is the result of our negligence or wilful default in delivering gas that does not meet the specification, provided the gas met the specification when it was injected into our network.

The carve outs also ensure that the limitations and exclusions do not apply to a user's liability in relation to:

- charges and amounts payable under the RSA – rather, the limitations and exclusions relate to liability for bodily injury, death or loss of, or damage to, property or breach of the RSA

- our loss resulting from the user failing to deliver sufficient gas into the network on a day to meet its withdrawals.

4.3.4 Additional Evoenergy liability limitation (new 27.5)

In addition to the changes discussed above, we have included new clause 27.5 in the revised RSA. New clause 27.5 takes the previously dispersed liability limitations (see 4.1 above) and locates them in one clause. In addition, we have reviewed each of the ten former limitations and propose to replace them with four limitations moving forward. The proposed limitations relate to:

- unauthorised overruns (or revocation of an authorised overrun)
- disconnection, abolition or cessation of delivery of gas at a delivery station requested by the user or otherwise in accordance with law
- interruption of delivery of gas in accordance with the RSA
- anything arising with respect to gas prior to its receipt into the network or after its delivery at a delivery point.

This revision provides users with a more favourable position when compared to the more extensive limitations under the current RSA.

Evoenergy is of the view that the continued operation of the four liability limitation protections is justified and fair as they each relate to matters over which Evoenergy has little, or no, control.

5. Insurance

The current RSA does not oblige Evoenergy nor users to acquire insurance.

Given the enhancements to the liability provisions described in section 4 above, it is appropriate that each party obtains and maintains relevant insurance policies. New provisions designed to bring this position into effect are described below.

5.1.1 Our insurance obligations

Whilst we are already under a regulatory obligation to acquire and maintain appropriate insurance in NSW and an obligation to provide insurance information upon request by the ACT regulator, we have included similar obligations under the revised RSA, to provide comfort to users.

New clause 28.1 requires us to obtain and maintain public liability insurance and any other insurance necessary to cover liability up to the amounts required under our licence, authorisations or as otherwise reasonably determined.

We have also included a requirement that Evoenergy provide evidence to users of such insurance policies upon reasonable request.

5.1.2 Users' insurance obligations

We have included a similar clause in respect of users' insurance at new clause 28.2. Given the changes to the limitation of users' liability under the revised RSA to amounts recoverable under insurance, we consider it fair to require users to obtain and maintain such insurance policies.

The revised RSA requires users that are retailers to obtain and maintain public liability insurances and other such insurances in respect of any risks a person carrying on a business of retailing gas would prudently insure. Where the user is not a retailer, the user must obtain and maintain public liability insurance and other insurances as reasonably specified by Evoenergy.

As required of Evoenergy, users are required to provide evidence of having such policies to Evoenergy, upon its request. Should the user fail to maintain or obtain such coverage, the user is required to notify Evoenergy and Evoenergy is permitted to take out insurance on the user's behalf, at the user's cost.

6. Other changes

We have made a number of other changes to the RSA in addition to those described above. The majority of these change are relatively minor and help to clarify the intended meaning of provisions of the current RSA.

Some of these changes require no further explanation. A number, however, are worth mentioning and are discussed in further detail below.

6.1 Consolidation of metering clauses

Gas metering provisions are currently dispersed across the RSA and many overlap with one another. These include:

- determination of gas quantity delivered (clause 8)
- Evoenergy's provision of basic metering equipment (clauses 15.4, 15.6, 15.7 & 15.11)
- measuring equipment – access, safety and estimation (clause 16)
- meter reading and data (clause 17).

To aid in the RSA's interpretation, we have consolidated these clauses into clauses 16 and 17.

- Clause 16 (Measuring equipment) now covers:
 - the provision of basic metering equipment (formerly found in clauses 15.4, 15.6, 15.7 & 15.11)
 - measuring equipment access, safety and estimation (current clause 16 other than 16.7 which has been moved to clause 17)
- Clause 17 (Meter reading and data) now covers meter reading, measurement and data and includes the material formerly located in:
 - clause 8 of the current RSA
 - clause 16.7 of the current RSA
 - clause 17 of the current RSA.

6.2 Circumstances where amendments to the RSA are approved by the AER or other body (clause 1.2)

Clause 1.2 of the current RSA requires us to provide notice to users when changes to the RSA are approved by the AER, or made pursuant to orders of any Court or the Australian Competition Tribunal. Clause 1.2 also provides for the parties' agreement that any such changes are effective 10 Business Days from the date of the notice (unless such timeframe does not allow for the user's compliance).

We have amended clause 1.2 to require us to provide notice *promptly* after becoming aware of any amendment, and to make changes effective *no less than* 10 Business Days from the date of notice. This provides us with the ability to provide more than 10 Business Days' notice, rather than having to time the giving of notice precisely 10 Business Days from the date on which the amendment becomes effective.

6.3 Deletion of clause 1.3 – change in law

The current clause 1.3 provides for the amendment of the RSA where there has been a change in law. We have deleted this clause as any change in law sufficiently material to require amendment of the RSA should properly be addressed under the AA variation regime.

This procedure has a number of benefits over former clause 1.3, namely:

- the AER can consult with market participants
- if the AER considers amendments to be appropriate, such amendments will apply to all users from the same date meaning that we can provide parity of service to all our users.

6.4 Gas day harmonisation (clause 1.7)

Last year the AER approved an amendment to the current RSA to include clause 1.7 in respect of the pending introduction of gas day harmonisation in October 2019. By the time the revised RSA is approved and effective, gas day harmonisation will have been implemented. Accordingly, the revised RSA:

- updates relevant definitions to refer to 6:00 am rather than 6:30 am
- does not contain clause 1.7, as this clause is no longer relevant.

6.5 Process for changes to MDQ, MHQ and Chargeable Demand (clause 4)

Clause 4 deals generally with the setting of, and changes to, MDQ, MHQ and Chargeable Demand (this is, the quantity of gas used to determine demand-based charges for Demand Customers).

Generally, we have revised clause 4 to provide greater clarity. We have also removed references to the queueing policy as the 2021-26 AA does not include such a policy. Further changes to clause 4 are discussed below.

6.5.1 Clause 4.7 decreases in Chargeable Demand

We have relaxed the circumstances in which a user can request a decrease in chargeable demand by removing the requirement that such a request can be granted only where:

- a user's chargeable demand has not been reduced in the 13 months prior to the user's request
- Evoenergy has not rejected any requests from the user in the 6 months prior to the user's request.

6.6 Overruns (clauses 5.4-5.6, clause 6)

Clauses 5.4-5.6 set out the procedure that applies when a user requests delivery of gas in excess of its Capacity Entitlement. Clause 6 applies when a user has withdrawn gas in excess of its Capacity Entitlement without Evoenergy's prior approval.

6.6.1 Changes to clause 5.4 (approval of overruns)

Under the current RSA, users are required to request overrun approval by no later than 4:00 pm on the day prior to the day on which the overrun is requested to occur. Given that Evoenergy has two hours to respond to a user request, this means that users may not be informed of Evoenergy's response until 6:00 pm. Where Evoenergy can approve part, but not all, of the requested overrun, a user's response to Evoenergy then may not be received until 8:00 pm.

In the revised RSA, we have amended the timing requirements to provide Evoenergy with a more realistic window in which to consider user requests. The changes also allow for Users to respond in situations where we state we can approve only part of an overrun request. Given the low numbers of overrun requests we receive, we believe this to be a fair and balanced amendment.

The clause has also been revised for clarity and an exception to the usual position that references to timing are references to AEST has been included (a similar change has also been made to clause 5.5).

6.6.2 Changes to clause 5.6 (revocation of overruns)

Clause 5.6 allows for Evoenergy to revoke approval for an overrun where there is insufficient capacity on the Network. We have amended this clause to require a user to use reasonable endeavours to inform the customer of any such revocation.

6.6.3 Changes to clause 6 (unauthorised overruns)

Clause 6 permits Evoenergy to install flow control mechanisms at a Delivery Point where there has been an unauthorised overrun. We have included a new clause 6.1(c) to only allow Evoenergy to exercise its rights under clause 6 where, after consultation with the user, Evoenergy reasonably considers that installation of such mechanisms is necessary for the safe, secure or efficient operation of the Network.

6.7 UAG changes (clause 9.5)

Clause 9.5 sets out our obligation in respect of Unaccounted for Gas (**UAG**) now called 'Replacement Gas' including the obligation to acquire UAG on a commercial basis.

We have amended clause 9.5 for clarity, and to address the possibility that we may wish to use gas produced by a Related Body Corporate as Replacement Gas. In addition, we have amended clause 9.5(f) with the effect that if we procure gas from a Related Body Corporate our recoverable costs can be no higher than they would have been had we procured the gas from a third party.

6.8 Gas quality (clause 10)

Clause 10 provides a specification for the quality of gas. We have made several amendments to clause 10 for the sake of simplicity and clarity. These amendments include:

- In clauses 10.5 and 10.6, clarifying that Users are only obliged to satisfy Evoenergy's request referred to in that clause where such request is reasonable. We have also included a reasonableness standard in a number of sub-clauses.
- The insertion of new clause 10.8 to account for a Safety Regulator issuing a direction or exemption under the *Gas Supply (Safety and Network Management) Regulation*

2013 (NSW). The amendment makes it clear that any direction or exemption applies to Evoenergy's obligations under the Specification and does not act to relieve users of their obligations.

6.9 The addition of delivery points to a Customer List (clause 11.3)

We have reordered clauses 11.3(i) and (j) so that the common situation (being a connection under a NGR Part 12A connection contract) is dealt with first.

6.10 Attendance at site inductions (clause 16.6)

Clause 16.6 provides for Evoenergy to have access to delivery points including to access measuring equipment.

We have amended the clause to allow for Evoenergy's participation in site inductions or safety training required by the user where the user agrees to reimburse our associated costs. This amendment has been made in response to sites where our technicians are required to participate in numerous, lengthy inductions or trainings. In these circumstances we think it fair that the cost is borne by the user (and passed on to the end-consumer where relevant).

6.11 Meter reading (clause 17.4)

Clause 17.4 deals with meter reading and includes our obligation to:

- read meters at particular frequencies (clause 17.4(b), (d) and (e))
- perform a special meter reading on a user's request (clause 17.4(f))
- advise users of the quantity of gas consumed at delivery points within specified timeframes (clause 17.4(g)).

We have amended clauses 17.4(d) and (e) to include an obligation for Evoenergy to use reasonable endeavours in seeking to read meters. We have also amended the drafting of 17.4(g) for clarity and to provide that the timeframes in that clause do not apply where the RMP provides more stringent obligations.

6.12 Security required for non-retailer users (clause 30(b))

Clause 30 establishes when we can require a user to provide credit support in respect of their obligations under their RSA.

6.12.1 Change to clause 30

We have revised clause 30(b) of the RSA in respect of the amount of security that we can request from a user who is not an authorised retailer. Previously the relevant amount was equal to two consecutive billing periods, we have changed this to three consecutive billing periods. While this is a larger amount, the amendment is in the user's favour as it allows the user more time to pay and greater payment flexibility for outstanding Charges as they should take longer to accrue to a level reaching the amount of security held by Evoenergy.

In making this change, we have had regard to:

- the credit support regime under NGR Part 21 Division 4 (Rules 513-519) (which applies to authorised retailers, but not to self-contracting users and exempt retailers)

- the retailer insolvency regime under the NGR (Rule 520) (which only provides us with a remedy in the event of insolvency of an authorised retailer – the regime does not apply where the user is an exempt seller or a self-contracting user)
- the fact that we have removed network user failure as a cost pass-through event previously in clause 7.6(h) of the 2016-21 AA (see proposed clause 8.6 of the 2021-26 AA).

6.13 Consultation

We have amended a number of provisions (including clauses 4.7(j), 6.1(c), 15.9(f), 16.2, 16.5(e) and 16.7(d)) to require us to consult with the user and/or to provide supporting information when we propose to exercise our rights under the RSA.

6.14 Changes to annexures

6.14.1 Annexure 4 (Receipt Stations)

We have relocated the requirements of Annexure 4 (Receipt Stations) to the Operational Schedule of the AA.

We have made this change so it is clear that these requirements apply to any party seeking to establish or use a receipt station, regardless of whether that party is a user under an RSA.

6.14.2 Annexure 5 (Gas Pressure at Receipt Points and Guidance to Users on the Network Minimum Quantity Requirements)

We have updated Annexure 5 (Gas Pressure at Receipt Points and Guidance to Users on the Network Minimum Quantity Requirements).