

# Attachment 11

Network access

Access arrangement information

ACT and Queanbeyan-Palerang gas  
network 2021–26

Submission to the Australian Energy Regulator

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# 11 Revisions to the Access Arrangement

## Key points

Evoenergy proposes to revise the current (2016-2021) access arrangement including the Reference Services Agreement (RSA) for the 2021-2026 access arrangement period.

The key revisions proposed relative to the current access arrangement involve:

- changes to introduce a capital expenditure sharing scheme (CESS); and
- changes to provide for intra-year reference tariff variations.

The key changes proposed to the RSA are:

- a rebalancing of the liability and indemnity regime;
- new requirements for insurance for users and for Evoenergy; and
- updating of the clauses for disconnection processes and arrangements.

Other changes to the access arrangement and the RSA are proposed to reflect recent regulatory and market changes and to modernise, simplify and clarify the drafting.

### 11.1 Overview

Evoenergy proposes to revise the current (2016-2021) access arrangement including the Reference Services Agreement (RSA) for the 2021-2026 access arrangement period. The access arrangement contains the details of the arrangements and reference service tariffs that Evoenergy will offer users to access Evoenergy's gas pipeline network. The RSA is located within Schedule 5 of the access arrangement and sets out the contractual terms and conditions for the reference service offered to users.

This attachment sets out the key changes that Evoenergy proposes to make to the current access arrangement and RSA for the 2021-2026 access arrangement period and provides the reasons for the changes. Appendices to this attachment contain the details of the changes as well as explanations for the changes.

The structure of this attachment is as follows:

- this section, 11.1, summarises the overall approach taken by Evoenergy to update the access arrangement and RSA;
- section 11.2 summarises the key changes to the access arrangement and the reasons for those changes;
- section 11.3 summarises the key changes to the RSA and the reasons for those changes; and
- section 11.4 describes our engagement with users in relation to these changes.

There are four appendices that provide details of the changes and the reasons for the changes proposed to the access arrangement and RSA.

- Appendix 11.1 provides the current access arrangement marked up to show the changes proposed for the 2021-26 access arrangement;
- Appendix 11.2 provides the RSA for the current access arrangement marked up to show the changes proposed for the RSA for the 2021-2026 access arrangement;
- Appendix 11.3 provides explanation of the changes to the current access arrangement;
- Appendix 11.4 provides explanation of the changes to the current RSA.

### **11.1.1 Approach to proposed changes**

The approach taken by Evoenergy to update the current access arrangement and RSA for the 2021-2026 access arrangement period is to make such changes that are necessary to:

- introduce a Capital Expenditure Incentive Scheme (CESS),
- to reflect recent regulatory and market changes and
- to simplify drafting.

Many of the changes proposed by Evoenergy are consistent with the changes proposed by Jemena Gas Networks (JGN) in their 2020-2025 access arrangement. However, some specific changes proposed are unique to Evoenergy's circumstances and some of changes proposed by JGN were also not appropriate for the Evoenergy network.

Evoenergy separately considered the changes that JGN proposed both in its June 2019 access arrangement proposal and January 2020 revised access arrangement proposal to assess its suitability to Evoenergy's network. As part of this consideration, we paid close attention to the AER's draft and final decisions on JGN's access arrangement and RSA, the feedback obtained by JGN from their users, and public submissions made on the June 2019 and January 2020 proposals.

There are several advantages for Evoenergy network users from alignment of Evoenergy's access arrangement with JGN's access arrangement, including that:

- Consistency between Evoenergy's and JGN's access arrangements, where appropriate, is advantageous since both networks are commonly operated and maintained.
- For network users operating in both networks, consistent access arrangements between Evoenergy and JGN allow the same operational processes to be used which lowers costs for users and therefore customers, compared to different processes by network.
- All users in the Evoenergy network are users on the JGN network.
- Evoenergy has engaged with existing and new users about the changes proposed. Evoenergy users have been generally supportive of the proposed changes to the RSA and key components of the access arrangement.

### **11.1.2 Principles relevant to our review**

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<sup>1</sup>*

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.<sup>2</sup> Evoenergy agrees with the AER and has sought to reflect this principle in the revised access arrangement and RSA.

## **11.2 Changes to the access arrangement**

The purpose of an access arrangement is to set out 'terms and conditions about access to pipeline services.'<sup>3</sup> The access arrangement covers the arrangements for the services policy, incentive mechanisms, capital expenditure, fixed principles, return on debt, tariffs and tariff variation mechanisms, extensions and expansions, capacity trading, changing receipt and delivery points, queuing and liability.

The proposed changes can be categorised into three groups:

- key changes to the access arrangement;
- changes to better align the access arrangement with regulatory and gas market changes; and
- changes to modernise, simplify and clarify the drafting.

High level summaries of the proposed changes are provided below under these three categories.

### **11.2.1 Key Changes to the access arrangement**

The key changes proposed to the access arrangement are:

- changes to introduce a capital expenditure sharing scheme (CESS); and
- changes to provide for intra-year reference tariff variations.

#### **11.2.1.1 CAPITAL EXPENDITURE SHARING SCHEME (CESS)**

The CESS is a new incentive scheme that is introduced into the access arrangement at Section 4 and Schedule 9.

Evoenergy believes that our proposed CESS is in the long-term interests of our customers and will help further improve the efficiency of our capital expenditure program, keeping downward pressure on bills. When operating in conjunction the existing operating expenditure efficiency carryover mechanism, the CESS helps provide a balanced incentive to reduce expenditure and avoid inefficient substitution between capital expenditure and operating expenditure. Evoenergy consulted widely on the CESS, with a particular focus on ensuring our proposal reflects customers' priorities for network safety and reliability.

Evoenergy's proposed CESS is based on the designs recently approved by the AER for gas distribution businesses in Victoria and NSW. The details of the CESS are set out in Attachment 9 to this access arrangement information.

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

<sup>2</sup> Ibid.

<sup>3</sup> NGL, Chapter 1, Part 1, s.2

### 11.2.1.2 INTRA YEAR VARIATION

Evoenergy proposes to modify the existing reference tariff variation mechanism to enable intra-year applications for unexpected costs that may arise during the course of a financial year. This compares to the current access arrangement where applications can only be made at the end of the relevant financial year. Other pipeline service providers have this mechanism in their access arrangement, including JGN in their 2015-2020 and 2020-2025 access arrangements.

Evoenergy previously proposed such a mechanism for the current access arrangement. The main reason provided by the AER for rejecting the proposed mechanism in 2015 was that customers were going to need time to adjust to new tariff structures being introduced in that access arrangement, and that the existing reference tariff variation mechanism should not be changed at the same time.<sup>4</sup> For the 2021-2026 access arrangement, Evoenergy is proposing no significant tariff structure changes and therefore considers that customers should be able to respond to any intra-year price changes where these occur.

Section 8 of the access arrangement contains the details of Initial Reference Tariffs and Variations to Reference Tariffs. These are discussed in Attachment 10 of this access arrangement information.

### 11.2.2 Response to regulatory and gas market changes

There are a number of changes proposed that will align Evoenergy's access arrangement with changes to the Rules, regulations, procedures and developments in gas markets. These are set out below.

#### 11.2.2.1 SERVICES POLICY

Section 2 of the access arrangement contains the details of the pipeline services offered by Evoenergy. The services proposed to be offered by Evoenergy under the 2021-2026 access arrangement have been approved by the AER under the new reference service proposal process included in the Rules in 2019 under clause 47A.

In its Reference Service Proposal dated 28 June 2019, Evoenergy proposed a single reference service—the haulage of natural gas. The proposed reference service is not changing from that in the current (2016-21) access arrangement. A high-level description of the haulage service is that it comprises:

- transportation of gas;
- meter reading and associated data activities; and
- ancillary activities such as disconnections, special meter reading etc. as may be required by a user.

The terms and conditions for the reference service are contained in the Reference Services Agreement in Schedule 5 of the access arrangement.

In its Reference Services Proposal, Evoenergy also proposed to continue to offer two non-reference services. These are the interconnection service and the negotiated service. The details of the interconnection service are in Schedule 6 of the access arrangement. A negotiated service is provided where a prospective user has specific

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<sup>4</sup> AER (2015) Attachment 11 Reference tariff variation mechanism- Final Decision: ActewAGL Distribution Access Arrangement 2016-21 p.20

needs which differ from those which would be satisfied by the haulage service or the interconnection service.

The AER made a final decision to accept Evoenergy's Reference Services Proposal on 25 November 2019. The proposed access arrangement is consistent with the final decision.

#### **11.2.2.2 RETURN ON DEBT**

Section 7 of the access arrangement contains the details of the return on debt.

The proposed changes to this section are to add a reference to the AER's Rate of Return Instrument as the approach to how the rate of return is to be calculated. Several clauses are removed as a consequence of this.

#### **11.2.2.3 CAPITAL EXPENDITURE**

Section 5 of the access arrangement contains the details of the arrangements for the capital base. In this section, the former clauses 4.4—*Asset register* and 4.5—*Database of capital contributions* are no longer required as they are legacy provisions and therefore have been removed. The access arrangement states that the roll-forward of the capital base will occur in accordance with the Rules. The basis of depreciation is addressed in clause 5.2 of the proposed revised access arrangement and in Attachment 4 to this access arrangement information.

#### **11.2.2.4 FIXED PRINCIPLES**

The purpose of fixed principles is to allow principles within the access arrangement to continue for a period extending over two or more access arrangement periods. Fixed principles allow costs incurred within the period that will not be recovered within the period to be recovered in subsequent periods. Fixed principles also allow a principle to continue beyond the access arrangement period for a specified period.

Evoenergy proposes to add three fixed principles to Section 6 of the access arrangement. These are for the:

- automatic adjustment factor for costs which are incurred but not passed through within an access arrangement period may be passed through in the subsequent access arrangement period;
- operating expenditure efficiency carryover mechanism; and
- capital expenditure incentive mechanism.

Adding these fixed principles will ensure that the automatic adjustment factor and the incentive mechanisms operate in the way they are intended to under the Rules and improves internal consistency of the access arrangement. Specifically:

- Including a fixed principle for the automatic adjustment factor facilitates the operation of the formulae across access arrangement periods. This is required because the automatic adjustment factor uses lagged cost data for the cost parameters, for example, the relevant tax factor. Including a fixed principle removes risk that the costs incurred in the latter years of an access arrangement period that are not recovered in that access arrangement period will be able to be recovered in the subsequent access arrangement period.
- Including fixed principles for each of the two incentive mechanisms allows these mechanisms to continue to be fixed for the 2026 and subsequent access

arrangement periods so that the incremental gains or losses arising from the 2021-2026 access arrangement can be accounted for in future periods.

#### **11.2.2.5 COST PASS THROUGH**

Section 8 of the access arrangement contains the provisions setting out the cost pass through arrangements. The definitions of four cost pass through events are proposed to be modified, as follows, to reflect new regulations and changes in market conditions:

- the definition of Service Standard Event is proposed to be expanded to include Evoenergy's unique circumstances relating to potential expiration of Evoenergy's ring-fencing waiver from legal separation of the gas and electricity distribution businesses;
- the Network User Failure Event is proposed to be removed since it is no longer required as it is now included in the Rules;
- the definition of the Regulatory Change Event is proposed to include changes to existing regulatory obligations as well as new regulatory obligations; and
- the definition for Natural Disaster Event is amended to include epidemics. This inclusion clarifies that events such as the novel coronavirus pandemic are included as natural disaster events. Epidemics are unpredictable natural events and the damage they cause is outside Evoenergy's control to manage.

#### **11.2.2.6 EXTENSIONS AND EXPANSIONS**

The extensions and expansions policy in section 10 has been updated to align with Rule 104, which clarifies that the access arrangement will apply to all expansions and extensions of capacity of the network made during the relevant access arrangement period unless the regulator determines the extension or expansion is not part of the network. The drafting of the policy has also been simplified.

#### **11.2.2.7 QUEUING POLICY**

Section 13 of the current access arrangement contains Evoenergy's queueing policy. Evoenergy proposes to remove the queueing policy from the 2021-2026 access arrangement.

Since the AER has not given notice under Rule 103 that Evoenergy's access arrangement must include a queueing requirement, there is no requirement for a queueing policy in the 2021-2026 access arrangement.

#### **11.2.2.8 DEFINITIONS**

Schedule 1 of the access arrangement contains definitions. The following changes are made to update two definitions with current regulations.

- Delete the definition of 'Minimum Network Standards' (and the reference to this in the definition of "Applicable Law"). This term is replaced with 'Guaranteed Service Levels' in the *Consumer Protection Code 2020* published by the Independent Competition and Regulatory Commission in December 2019, which takes effect on 1 July 2020. The code is already included in the definition of 'Applicable Law' as it is an industry code under Part 4 of the *Utilities Act 2000* (ACT); and
- define 'UAG Cost' (used in the calculation of the UAG factor amount in Schedule 4). The definition is drafted to allow for the possibility that unaccounted-for gas may, in



the future, be replenished by means other than purchasing gas via the market. This may facilitate the markets for renewable gas.

Other changes made to definitions in Schedule 1 are for simplification, clarification, updates to years, or changes for consistency with the RSA and implementing the key issues discussed in this Attachment 11.

#### **11.2.2.9 REQUEST FOR SERVICE PROCEDURE**

Schedule 2 of the access arrangement contains the process for users to follow to request network services. The process is expanded so that, in addition to requests for new reference services, it is also used for requests for non-reference services. It now also applies to requests to vary the maximum daily quantity (MDQ) or maximum hourly quantity (MHQ) applicable to a Delivery Point under the RSA and adding a new Delivery Point to the RSA. The process for requests for the reference service contains new requirements for legal status under the *Corporations Act 2001* and credit worthiness under Rule 21 and simplifications where the process is already detailed in Rule 112.

#### **11.2.2.10 INTERCONNECTION SERVICE**

Schedule 6 of the access arrangement contains the details for the Interconnection Service. The title is proposed to be simplified from Interconnection of Embedded Network Service to Interconnection Service, which is consistent with the Reference Services Proposal. It has also been updated to apply to newly defined terms for Downstream Network and Upstream Facility, which more clearly describes the nature of the interconnection service.

#### **11.2.2.11 OPERATIONAL SCHEDULE**

Schedule 7 of the access arrangement contains the details for operational arrangements. Several clauses are proposed to be relocated between Schedule 6 and Operational Schedule 7, where they are more appropriately placed. Specifically:

- a number of clauses are relocated from Schedule 6 to Part 4 of the Operational Schedule 7 as they relate to delivery station and delivery points, metering, load shedding, cathodic protection, installation and operation, and abandonment and disconnection. These are all operational provisions.
- a clause specific to Evoenergy's systems that facilitates the provision of interconnection services was relocated from Schedule 7 to 6.

Further, the terms of RSA Annexure 4 regarding Receipt Stations have been moved to Part 3 of the Operational Schedule. This relocation is required because these requirements need to apply to new (as well as existing) receipt stations and if located in the RSA would not apply to a person establishing a new receipt point who is not a party to a RSA.

### **11.2.3 Clarification and simplification**

In addition to the changes described above, there are several changes that are proposed to improve drafting by enhancing clarity, removing unnecessary clauses, or consolidating provisions between the access arrangement and the RSA as appropriate.

There are a large number of changes throughout the access arrangement that are proposed in order to simplify and clarify the drafting. A full list of all the proposed changes is located in Appendix 11.3.

### **11.3 Changes to the RSA**

The RSA is contained in Schedule 5 of the access arrangement. The purpose of the RSA is to set out the terms and conditions by which the reference services are offered in the form of a contract.

This section summarises the key changes proposed to the RSA. See Appendix 11.2 for a marked-up copy of the RSA and Appendix 11.4 for a full explanation of the reasons for the changes.

The key changes proposed to the RSA are:

- a rebalancing of the liability and indemnity regime;
- new requirements for insurance for users and for Evoenergy; and
- updating of the clauses for disconnection processes and arrangements.

Note that, as with the access arrangement, many changes have been made to the RSA in order to modernise, simplify and add clarity to the drafting. Changes to modernise and simplify drafting are not discussed in this attachment.

#### **11.3.1 Liability and indemnity regime**

Evoenergy proposes to amend the liability regime in the RSA. These changes will assist in ensuring risk is allocated to the party best placed to manage it.

The current RSA contains a number of indemnities and exclusions of liability. These clauses are proposed to be replaced with a single indemnity clause for indemnities (clause 26) and a single clause covering limitations and exclusions (clause 27).

The single user indemnity in favour of Evoenergy replaces and simplifies the numerous broader indemnities that were previously located throughout the RSA. This significantly improves users' position compared to the current RSA.

The other key change proposed to the liability regime is that liability is generally limited for both parties to the sum recovered under insurance or, if insurance is not applicable, to a cap of \$500,000 per financial year per party. As Evoenergy is party to numerous RSAs on the network, there is also an overall cap on Evoenergy's liability of \$2 million in a year across all parties. This contrasts with the current RSA which caps Evoenergy's liability at the insured amount and provides that Evoenergy's liability is zero where a liability is not covered by insurance.

#### **11.3.2 Insurance**

A new obligation at clause 28 is proposed to require both Evoenergy and users to obtain relevant insurance policies. Under the current RSA there is no requirement to acquire insurance.

Adding this requirement provides Evoenergy and users with confidence that the other party will hold appropriate insurances. The insurances required to be held by Evoenergy are public liability insurance and any other insurance necessary to cover liability up to the amounts required under its licence, authorisations or as otherwise reasonably determined.

The insurances required to be held by the user are public liability insurances for the risks a person carrying on a business or retailing would prudently insure, or, if not a retailer, other insurances Evoenergy reasonably specifies.

### 11.3.3 Disconnection Process

We have simplified the procedure to be followed in respect of requests for 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;
- the addition of a new clause to remove ambiguity in relation to situations where we are unable to disconnect delivery points; and
- clarification of information that must be provided to us in order for us to complete a disconnection request.

## 11.4 Engagement with users

### 11.4.1 Engagement Process

The current users on Evoenergy's network are ActewAGL Retail, Origin Energy, Energy Australia, Weston Energy, Globird and Red Energy. Evoenergy engaged with all six network users regarding the proposed changes to the access arrangement and RSA. Users were provided with a high-level summary of Evoenergy's proposed key changes to tariffs and the RSA and were invited to advise if they required further information or wished to meet to discuss any questions or issues they might have.

As part of this, Evoenergy provided to interested users copies of the information provided by JGN to the AER in relation to the proposed changes to their RSA. The JGN information is relevant to Evoenergy users as Evoenergy is proposing to generally adopt the JGN changes for our proposed RSA.

### 11.4.2 Feedback Received

Only ActewAGL Retail and Weston Energy responded to the offer of a meeting with Evoenergy to discuss the proposed changes to the access arrangement and the RSA.

- Weston Energy was supportive of the approach to the RSA, including adopting the changes aligned with the changes that JGN made to its RSA.
- Weston Energy also advised that they wish to explore the mechanism for calculating and allocating operational balancing gas. Evoenergy intends to review this mechanism and will engage further with Weston Energy and other network users during that review. If changes are identified to the mechanism which are agreed by network users, Evoenergy proposes to reflect those changes in its response to the AER's draft decision on the proposed 2021-2025 access arrangement.
- Meetings were held with ActewAGL Retail. ActewAGL Retail did not raise any particular concerns with the proposed approach to revising the RSA. ActewAGL Retail was also supportive of the simplified tariff options for volume customers.

The remaining users (Origin Energy, Energy Australia, Globird and Red Energy) are all users on the JGN network and had the opportunity to make submissions to the AER in relation to the proposed changes to the JGN access arrangement and RSA. In developing the proposed revised RSA, Evoenergy has considered the published feedback that users provided on JGN's proposed changes.

## Shortened forms

Term	Meaning
AA	Access Arrangement
ACT	Australian Capital Territory
ACT climate change strategy	ACT Government's Climate Change Strategy 2019-25
ACTCOSS	ACT Council of Social Service
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ANU	Australian National University
ARENA	Australian Renewable Energy Agency
BISOE	BIS Oxford Economics
CABS	A Jemena Ltd proprietary system providing retailer billing, demand customer management, network balancing and retailer nomination services.
CALD	culturally and linguistically diverse (community)
capex	capital expenditure
CCP, CCP24	the AER's Consumer Challenge Panel (number 24)
CEG	Competition Economists Group
CEPA	Centre for Efficiency and Productivity Analysis (University of Queensland)
CESS	Capital Expenditure Sharing Scheme
CIE	Centre of International Economics
CIT	Canberra Institute of Technology
CPI	consumer price index
DAE	Deloitte Access Economics
DAMS	Distribution asset management services (agreement)
DC	Demand Capacity Tariff
DT	Demand Throughput Tariff
E2G	Electricity-to-gas
EEIS	Energy Efficiency Improvement Scheme
ECM	Efficiency Carryover Mechanism
ECRC	Energy Consumer Reference Council
EGWWS	electricity, gas, water and waste services (sector)
EI	Economic Insights
EIL	Energy Industry Levy
ETC	Estimated cost of corporate income tax
EPSDD	ACT Environment, Planning and Sustainable Development Directorate

Term	Meaning
<b>GDBs</b>	gas distribution businesses
<b>GN21</b>	Evoenergy gas network access arrangement 2021–26
<b>GJ</b>	gigajoule = $10^9$ joules
<b>GWh</b>	gigawatt hour
<b>I&amp;C</b>	Industrial and commercial
<b>ITAUUF</b>	Information Technology Asset Utilisation Fee
<b>km</b>	kilometre
<b>LPG</b>	liquid petroleum gas
<b>MDLs</b>	Meter Data Loggers
<b>NGL</b>	National Gas Law
<b>NGO</b>	National Gas Objective
<b>NSW</b>	New South Wales
<b>opex</b>	operating expenditure
<b>PPF</b>	Partial Factor Productivity
<b>PJ</b>	petajoule = $10^{15}$ joules
<b>PLS</b>	Pressure Limiting Station
<b>PPA</b>	power purchase agreement
<b>PTRM</b>	post-tax revenue model
<b>QPRC</b>	Queanbeyan–Palerang Regional Council (local government authority)
<b>RAB</b>	regulatory asset base
<b>RFM</b>	roll-forward model
<b>RIN</b>	Regulatory Information Notice
<b>Rules</b>	National Gas Rules
<b>SDRS</b>	Secondary District Regulator Sets
<b>TAB</b>	tax asset base
<b>TJ</b>	terajoule = $10^{12}$ joules
<b>UAG</b>	unaccounted for gas
<b>UNFT</b>	Utilities Network Facilities Tax
<b>VB</b>	Volume Boundary (tariff class)
<b>VI</b>	Volume Individual (tariff class)