



Attachment 15.4

Network Access

Response to AER Draft Decision

January 2023

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1 Network Access

We have accepted the majority of the AER's Draft Decision on our proposed AA Document and General Terms and Conditions and have considered recent rule changes.

1.1 Overview

This attachment sets out our response to the AER's Draft Decision on non-tariff components related to our proposed Access Arrangement (AA) Document and our proposed General Terms and Conditions (GTCs) of access to our Victorian gas distribution network over the next (2023/24 to 2027/28) AA period.

Our terms and conditions set the contractual arrangements between MGN and network users.

The AER's Draft Decision:

- Approves the majority of our proposed non-tariff components for the next AA period;
- Proposes minor drafting changes around customer details and calculation of distribution service charges which we have already agreed to;
- Suggests removal of credit support arrangements; and
- Asks us to address recent rule changes in our revised Final Plan.

In response to the AER's Draft Decision, our revised Final Plan:

- Accepts the minor drafting changes around customer details and calculation of distribution service charges;
- Explains our preference for retaining existing credit support arrangements in Victoria, but also provides an alternative credit support framework for the AER to consider; and
- Addresses recent rule changes.

1.2 Customer and Stakeholder Feedback

In preparing our revised Final Plan we have continued to engage with stakeholders, including our Reference Groups and through consideration of public submissions to the AER on our Final Plan and GSR Response.

A summary of customer and stakeholder feedback is provided in Table 1.1 below.

Table 1.1: Summary of submissions on network access

What we heard	Our response
Public submissions on our Final Plan and GSR Response	
<p>On General Terms and Conditions:</p> <ul style="list-style-type: none"> • Origin supports the proposal to align the services and terms and conditions across AGN and Multinet in Victoria.¹ • Red Lumo suggest amending Clause 32.2 - Customer details to include the phrase "to the extent permitted by the law".² • Red Lumo suggest renaming of Clause 18.2 or 18.3 to avoid confusion as they are both currently titled "Reconnection".³ • Red Lumo queries if Clause 18.3(a) is consistent with AEMO requirements.⁴ • Red Lumo considers the words "from time to time" should be removed from Clause 20 - Distribution Service Charges to avoid any confusion.⁵ 	<p>During the AER's review of our GSR Response, we agreed to a number of minor edits, including:</p> <ul style="list-style-type: none"> • The addition of the phrase "to the extent permitted by the law" in Clause 32.2; • Renaming clause 18.3 "Reconnection Request"; and • Removing the words "from time to time" from Clause 20. <p>In relation to Clause 18.3(a), we provided the AER and retailers with more information on the basis of this clause, including that the procedure it explains has been followed in practice at Multinet for the past 15 years, is lawful and not inconsistent with any other procedures and does not cause any loss or harm to retailers.</p>
<p>On credit support arrangements:</p> <ul style="list-style-type: none"> • Simply Energy expresses concern the credit support provisions for AGN, Multinet and AusNet in Victoria are more onerous than the credit support requirements that apply in all other jurisdictions and, in its view, do not reflect the actual credit risk that most retailers place on AGN, Multinet, and AusNet. Simply notes obtaining bank guarantees to satisfy the credit support requests are costly.⁶ • Sumo, 1st Energy and Energy Locals states credit support arrangements under the current AA are considerably more onerous than the credit support obligations that apply to Victorian electricity retailers, and those that apply to electricity and gas retailers in all other NEM jurisdictions.⁷ • Both Simply and Sumo, 1st Energy and Energy Locals propose Victorian gas distributors be permitted to apply for cost pass through for retailer insolvency, and accept there should be no materiality threshold applied.⁸ 	<p>Our preference would be to maintain existing credit support arrangements in Victoria and if changes are to be made, they should be made through a Rule change process. However, we acknowledge stakeholder feedback and the AER's Draft Decision and so, as an alternative, have provided drafting changes to our Access Arrangement to give effect to a credit support regime based on the National Energy Consumer Framework including other changes required to pass through arrangements in our AA.</p>

¹ Origin Energy, Submission to Victorian gas access arrangement proposals, September 2022, p 4 (Origin Submission).

² Red Lumo, September 2022, p 3 (Red Lumo Submission).

³ Red Lumo Submission, p 3.

1.3 AER Draft Decision

The AER's Draft Decision:

- Approves the majority of our proposed non-tariff components for the next AA period;
- Proposes minor drafting changes around customer details and calculation of distribution service charges which we have already agreed to;
- Suggests removal of credit support arrangements; and
- Asks us to address recent rule changes in our revised Final Plan.

A summary of the AER's Draft Decision on non-tariff components is provided in Table 1.2 below.

Table 1.2: Summary of AER's Draft Decision on Network Access

	AER Draft Decision	AER Comment
Terms and conditions	Modify	<p>The AER, in consultation with us, has made some minor wording changes to the General Terms and Conditions (GTCs) in response to retailer feedback.</p> <p>The AER has suggested we reconsider the credit support provisions highlighting retailer feedback that it is more onerous than in other states and does not reflect the actual credit risk to the distribution businesses from a retailer failure.</p> <p>The AER has asked that we address recent rule changes as they apply to our GTCs in our revised Final Plan.</p>
Proposed amendments to the AA Document	Accept	<p>The AER accepted our proposed amendments to the AA Document which included:</p> <ul style="list-style-type: none"> • date and wording changes to reflect the move from calendar year to financial year for regulatory years; • additional information to describe pipeline reference and ancillary reference services; and • removal of any reference to charging during period periods of disconnection. <p>The AER has asked that we address recent rule changes as they apply to our AA in our revised Final Plan.</p>

⁴ Red Lumo Submission, p 3.

⁵ Red Lumo Submission, p 4.

⁶ Simply Energy, Victorian gas distribution access arrangement proposals 2023-28, September 2022, p 1 (Simply Submission).

⁷ Sumo, 1st Energy and Energy Locals, Victorian gas distributor access arrangements 2023–28, September 2022, pp 1-2 (Sumo Submission).

⁸ Simply Submission, p 1 and Sumo Submission, p 2.

	AER Draft Decision	AER Comment
Revision submission and commencement	Accept	The AER accepted our proposed review submission date of 1 July 2027 as it complies with the minimum 12 months between the review submission date and the revision commencement date of 1 July 2028. However, the AER did ask us to consider aligning with AusNet's proposed review submission date of 1 June 2027.

Note: In this 'traffic light' table, green shading represents the AER's acceptance of our GSR Response, orange represents the AER's modification of our GSR Response and red shading represents the AER's rejection of our GSR Response.

The following sections provide further detail on the reasons for the AER's Draft Decision.

1.3.1 Credit support

The AER agrees that we should be allowed to take prudent steps to mitigate the risks unpaid distribution charges pose for our business. The AER has drawn on information on how our credit support arrangements have applied in practice over the current AA period and stated this suggests the risk in question may be a low probability, potentially high impact, event.

In this context, the AER considers an alternative and more proportionate form of protection to the existing credit support arrangements that manages that same risk at a lower upfront cost to retailers (and therefore to customers) is likely to sit better with the NGO, and better balance the competing interests of the service provider, network users and consumers in allocating that risk. The AER therefore requires us to consider and put forward an alternative credit support framework in our revised Final Plan.⁹

1.3.2 Recent rule changes

The AER notes the Australian Energy Market Commission (AEMC) has made the National Gas Amendment (DWGM Distribution connected facilities) Rule 2022 since we submitted our Final Plan. That rule amends the NGR to allow the participation of distribution connected facilities in the Victorian gas market and contemplates a range of matters to be addressed, or managed, in accordance with the terms and conditions of a distributor's access arrangement. The final rule will come into effect on 1 May 2024, within the first year of the 2023-28 period.

As the final rule was not made in time for our Final Plan, the AER states it expects to see the rule fully addressed in our revised Final Plan. This includes making all amendments necessary to give full effect to that rule from 1 May 2024.

The AER further highlights it is mindful there will be limited time for iterative engagement on options and solutions between submission of revised proposals in January 2023 and the close of stakeholder submissions in February 2023. The AER therefore encouraged us to make full use of the time available between the publication of the final rule in September and January 2023 to engage on options and solutions with a view to presenting a revised proposal that has stakeholder support.¹⁰

⁹ AER, Attachment 11: Non-tariff components | Draft decision – Australian Gas Networks (VIC & Albury) Access Arrangement 2023–28, p 8 (AER Draft Decision Non-tariff). The AER, Attachment 11: Non-tariff components | Draft decision – Multinet Access Arrangement 2023–28, p 1 refers to the draft decision discussion in the AGN attachment on non-tariff components.

¹⁰ AER Draft Decision Non-tariff, p 2.

1.3.3 Review submission date

While the AER has accepted our review submission date of 1 July 2027 in its Draft Decision, it encourages us to give further consideration to an earlier submission date of 1 June 2027 consistent with that proposed by AusNet. The AER highlights the earlier submission date would allow a period of 13 months in which to consult on and assess proposed revisions to the access arrangement before its commencement – one month longer than the minimum period required by the NGR – which provides valuable flexibility to the AER’s review process and the periods of time it will be able to allow for stakeholder submissions during that review.¹¹

1.4 Our revised Final Plan

In response to the AER's Draft Decision, our revised Final Plan:

- Accepts the minor drafting changes around customer details and calculation of distribution service charges;
- Explains our preference for retaining existing credit support arrangements in Victoria, but also provides an alternative credit support framework for the AER to consider; and
- Addresses recent rule changes.

A summary of our response to the AER’s Draft Decision on non-tariff components is provided in Table 1.3 below.

Table 1.3: Summary of AER's Draft Decision on Network Access

	AER Draft Decision	Our response	Our comment
Terms and conditions	Modify	Accept	<p>Our revised Final Plan adopts the minor wording changes to the GTCs proposed in the AER’s Draft Decision.</p> <p>We have provided further support for our preference to maintain the existing credit support arrangements but have also provided an alternative credit support framework for Victoria based on the National Energy Consumer Framework (NECF) approach that is applicable in our South Australia and Queensland networks. See 1.4.1 below for more detail on credit support.</p> <p>We have addressed recent rule changes in our GTCs. More information is provided at 1.4.2.</p>
Proposed amendments to the AA Document	Accept	Accept	<p>We welcome the AER’s Draft Decision to approve our AA document and have addressed recent rule changes as they apply to our AA document. More information is provided at 1.4.2.</p>

¹¹ AER Draft Decision Non-tariff, p 9.

	AER Draft Decision	Our response	Our comment
Revision submission and commencement	Accept	Modify	<p>AusNet proposed an earlier submission date of 1 June 2027 which the AER has also accepted. We therefore propose to change our revision submission date to 1 June 2027 to align with AusNet's proposal.</p> <p>We agree with the AER that allowing 13 months between the review submission date and revision commencement date may provide additional flexibility in the access arrangement review. We are also committed to our joint Victorian engagement program, so it makes sense to have the same submission date for all three Victorian distribution businesses.</p>

Note: In this 'traffic light' table, green shading represents our acceptance of the AER's Draft Decision, orange represents our modification of the AER's Draft Decision and red shading represents our rejection of the AER's Draft Decision.

The following sections provide more information on our response to the AER's Draft Decision on non-tariff components. Appendix A summarises our response on the required revisions to non-tariff components in the AA and GTCs. Consistent with our approach to harmonisation across all of our networks, our proposed Multinet AA and GTCs for the 2023/24 to 2027/28 period are based on the those proposed for the AGN Victoria and Albury networks for the 2023/24 to 2027/28 period. We have then made changes to the AGN Victoria and Albury AA and GTCs for their application to Multinet.

1.4.1 Credit support

In our revised Final Plan, our primary position is that the current credit support arrangements are appropriate. This reflects that:

- Credit support arrangements in Victoria and Albury are governed by the Access Arrangement;
- In other jurisdictions where NECF applies, Part 21 of the NGR sets out credit support arrangements that apply in those jurisdictions;
- In Victoria, a policy decision was made not to adopt the NECF and the credit support arrangements in Part 21 were specifically not adopted;
- There are differences between the two credit support regimes, each with their own advantages and dis-advantages. The current credit support arrangements are simple to apply and have been in place for some time. We consider it remains important for such credit support arrangements to be maintained, particularly in light of recent market pressures; and
- Given the previous policy position taken in relation to Part 21 in Victoria, if a change to the credit support arrangements was to be made, that should be done by way of a change to the NGR rather than through an amendment to the Access Arrangement.

We remain of the view that if the credit support arrangements in the AA Document were to be changed, given the context noted above, the appropriate way to do so would be through a Rule change process. However, we acknowledge the stakeholder feedback and AER's Draft Decision and with our revised Final Plan we have provided an alternative approach to credit support in respect of retailers. This approach is closely aligned to jurisdictions where the National Energy Customer Framework (NECF) applies.

The drafting in the Access Arrangement document seeks to replicate the effect of Division 4 of Part 21 of the National Gas Rules. Key components of the changes made include:

- Removing the requirement for upfront credit support to be provided by retailers;

- Ensuring there is no materiality threshold to a Retailer Insolvency Cost Pass Through Event; and
- Only requiring credit support from retailers in certain circumstances where statements of charges are not paid by the due date.

We note Fixed Principle (e) in the MGN AA, which allows MGN to recover costs of a Retailer Insolvency Event in the next AA period, if that is necessary. We note that this principle applies to all Cost Pass Through Events where the impact has not been fully recovered or reflected in reference tariffs prior to the end of the AA period. This principle ensures that, for example, losses that occur at the end of an AA period can be recovered in the next period. The Fixed Principle applies until the end of the 7th AA period.

These changes do not apply to other Network Users who are direct end users (Self Contracting Users).

1.4.2 Recent rule changes

Following the National Gas Amendment (DWGM Distribution connected facilities) Rule 2022 in September, we commenced a review to identify changes required, ancillary procedures and documents to be prepared and implemented by our businesses and the AEMC.

We have not identified any material changes that need to be made to our access arrangement or general terms and conditions. This is summarised in Table 1.4 below.

Table 1.4: Summary of our considerations of DWGM rule change

Rule change	Our comments	Our response
Part 5 – develop and maintain an interconnection policy to be published by 22 March 2023	Published prior to AA coming into effect. Won't form part of AA and no need to refer to it in AA.	No changes required.
Rule 220A (4) Custody, Control and Risk in Gas	The General Terms and Conditions (GTCs) for AGN and Multinet already address the passing of custody and control and risk of loss of gas – see clauses 15 and 16 of the GTCs and also clause 2.3.5 of the AA, which covers UAFG (that is, gas losses).	No changes required.
Rule 289F(4)(b) – Access to Information	This rule does not require a distributor to include anything an access arrangement	We don't consider it will be necessary to make any changes because we already have clauses that adequately address this (12.5, 32.1 and Rule 289A)
Rule 317C(1) – Curtailment of Gas Injections/Withdrawals	Our GTCs already address curtailment in clauses 4.3, 12.4, 13.4 and 17.	We don't consider there is a need to add anything further to AAs. Will be addressed in agreements with the distribution connected facility operator.

Rule change	Our comments	Our response
Rule 344(2)(b) – Tariff for Gas Injections	<p>We do not currently charge any tariff to anyone based on gas injections into the network.</p> <p>It is up to us whether we propose to develop the type of tariff contemplated by rule 344.</p>	<p>At this stage, we do not propose to alter proposed tariffs in response to rule 344.</p> <p>We also have the flexibility to introduce a new non-reference service within the period should it be required.</p>
References to Agreements or other things the Distributor must prepare	<p>Rule 287A(1) – Gas Quality Standards</p> <p>Case by case agreement with operator</p> <p>Rule 289E – Gas Quality Monitoring Plan</p> <p>Assumed we will be responsible, but a plan will not be required until someone wishes to inject into the system</p> <p>289F(2) – Gas Quality Monitoring</p> <p>Assumed we will be responsible, no obligation to develop standard agreements or principles and it is probably better that these arrangements are developed on a case-by-case basis</p> <p>Rule 290 – Metering</p> <p>Assume we will be responsible, no obligation to develop standard agreements or principles and it is probably better that these arrangements are developed on a case-by-case basis</p> <p>Rule 317B - DDS Constraint Methodology</p> <p>We will need to prepare a DDS constraint methodology which complies with AEMO's distribution operational co-ordination procedures which it has until 1 Feb 2024 to publish</p>	No changes required.

1.4.3 Review submission date

Our revised Final Plan proposes an earlier review submission date of 1 June 2027. We reconsidered our proposed review submission date in light of comments in the AER's Draft Decision and AusNet's proposal for the earlier review submission date. We consider allowing 13 months for the review may provide for additional flexibility. We also consider that applying the same submission date across the businesses is better aligned with a joint engagement program.

1.5 Summary

Our revised Final Plan accepts and includes all minor wording amendments in the AER's Draft Decision, proposes to maintain existing credit support arrangements (however, provides the necessary provisions required to give effect to a change to this approach), considers there are no amendments required to our AA or GTCs to give full effect recent rule changes and proposes a revised review submission date of 1 June 2027.

Appendix A Summary of revisions to AA and GTCs

Table 1.5 below outlines the AER's proposed revisions and our response on non-tariff components in the AA and General terms and conditions.

Table 1.5: Summary of revisions to AA and GTCs

Revision	AER Draft Decision	Our revised Final Plan
11.1	Make all amendments necessary to give full effect to the National Gas Amendment (DWGM Distribution connected facilities) Rule 2022 from 1 May 2024.	As discussed at 1.4.2 above, we do not consider there are any amendments required to our AA or GTCs to give full effect to the National Gas Amendment (DWGM Distribution connected facilities) Rule 2022 from 1 May 2024.
11.2	Annexure F clause 32.2 - Customer details Revise clause 32.2 to add the underlined: In particular, but without limitation, if the Network User is a Gas Retailer, then, if requested by MGN, <u>to the extent permitted by law</u> the Network User will promptly provide MGN with any information about a Shared Customer which is held by the Network User and required by MGN for a purpose or purposes relating to the operation, maintenance or management of the Network or the provision of Distribution Services or for other purposes permitted by law. If that information is provided to MGN, MGN must use it only for those purposes.	Our revised Final Plan includes this amendment.
11.3	Annexure F clauses 18.3 – Reconnection Change the title of this clause to 'Reconnection request'.	Our revised Final Plan includes this amendment.
11.4	Annexure F clause 20.4 - Distribution Service Charges – calculation of charges Revise clause 20.4 to remove the words 'from time to time': The Distribution Services Charges must be calculated from time to time in accordance with the Agreement and the Tariff Schedule applicable at the relevant time	Our revised Final Plan includes this amendment.

Revision	AER Draft Decision	Our revised Final Plan
11.5	<p>Access Arrangement clause 6.4; Annexure F clause 27 – credit support</p> <p>Present an alternative credit support framework that re-balances risk between MGN, retailers and customers by reducing the cost of pre-emptive, up-front risk management and balancing this with ex post recovery only where the risk is realised.</p> <p>This alternative may be based on Part 21 of the NGR (including related amendments to the retailer insolvency cost pass through event), current credit support arrangements for Victorian electricity distributors, or another model.</p>	<p>We remain of the view that the credit support arrangements currently in place are preferable and that if any change is to be made, they should be made through a Rule change process rather than through amendments to the Access Arrangement. However, we acknowledge the stakeholder feedback and AER’s Draft Decision and with our revised Final Plan we have provided an alternative approach to credit support in respect of retailers. This approach is closely aligned to jurisdictions where the National Energy Customer Framework (NECF) applies.</p> <p>The drafting in the Access Arrangement document seeks to replicate the effect of Division 4 of Part 21 of the National Gas Rules.</p> <p>Key components of the changes made include:</p> <ul style="list-style-type: none"> • Removing the requirement for upfront credit support to be provided by retailers; • Ensuring there is no materiality threshold to a Retailer Insolvency Cost Pass Through Event; • Only requiring credit support from retailers in certain circumstances where statements of charges are not paid by the due date; and • Noting Fixed Principle (e), which allows MGN to recover costs of a Retailer Insolvency Event in the next AA period, if that is necessary. This change applies until the end of the 7th AA period. <p>These changes do not apply to other Network Users who are direct end users (Self Contracting Users).</p>
11.6	Annexure D – Reference Tariff Control Formula	Update to Annexure D - Reference Tariff Control Formulae to include Safeguard Mechanism factor