

## Summary table of responses and submissions

Issue	Details	AER response	Submissions
<p><b>Status of draft guideline</b> AAG 1.2</p>	<p>The draft guideline should explain how the AER will approach the task of assessing and approving proposals, that is, whether it is an aid or the AER intends to give it considerable weight.</p> <p>APIA queries whether it is mandatory and its status in relation to the WA ERA processes.</p>	<p>As the <i>Access Arrangement Guideline</i> notes in 1.2, the guideline will assist service providers in the preparation of access arrangement proposals and aid interested parties in fully participating in the relevant decision making processes involved within the NGL and NGR framework.</p> <p>Parties should nonetheless refer to the NGL and NGR for the provisions relating to access arrangements discussed in the <i>Access Arrangement Guideline</i>. The <i>Access Arrangement Guideline</i> seeks to provide guidance for participants in this process when making submissions.</p> <p>The ERA is a separate decision making body to the AER and interested parties should seek guidance from the ERA in relation to any specific requirements that it may have for interested parties involved in decision making processes it has jurisdiction of under the NGL.</p> <p>The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p>	<p>APIA, Envestra</p>
<p><b>Pre-proposal submission process</b> AAG 3.1.1</p>	<p>Any information or positions put forward in pre-submission processes by the service provider may be varied or withdrawn without penalty or comment.</p> <p>Service providers should not be held to preliminary information or positions.</p>	<p>The <i>Access Arrangement Guideline</i> notes at p. 14 that:</p> <p>Any information provided in this process to assist in formulating a service provider’s proposal can generally be provided on a without prejudice basis.</p>	<p>APIA</p>

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<p><b>Draft decision</b> AAG 3.1.3</p>	<p>Statement that the process does not envisage substantive issues being raised and deliberated on after the draft decision is made is too restrictive. (Rule 60(1)). Rule 60(2) also envisages further amendments subject to AER approval.</p> <p>Submissions claim that this is inconsistent with the NGR which allows for additions and amendments and, if new substantive matter were properly raised, the AER would be legally obliged to consider and deliberate on them.</p>	<p>The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p> <p>Under r. 60(1), service providers may, within the revision period, submit additions or other amendments to the access arrangement proposal to address matters raised in the access arrangement draft decision. This is subject to r. 60(2) which states that amendments must be limited to those necessary to address matters raised in the access arrangement draft decision unless the AER approves further amendments.</p> <p>The AER has amended the <i>Access Arrangement Guideline</i> to outline the relevant rules and clarify the AER's position on the nature of issues that may be raised by a service provider after the draft decision is made. It should be noted that the grounds for reconsidering issues after the draft decision are generally limited to changes in circumstances.</p>	<p>APIA, Jemena</p>
<p><b>Final decision</b> AAG 3.1.4, 3.2.4</p>	<p>The process which occurs if an access arrangement is not approved should be expanded as the process had changed markedly from the Code practice.</p>	<p>The <i>Access Arrangement Guideline</i> seeks to explain the law as it now exists. The AER considers that 3.1.4 and 3.2.4 adequately explain its processes on refusing an access arrangement proposal.</p>	<p>APIA</p>
<p><b>Decision notification</b> AAG 3.1.3, 3.14</p>	<p>APIA submits that the AER should inform interested parties by email in the event of any notices.</p> <p>Jemena submits that the guideline should state that the service provider will be notified and provided with a copy of the draft decision.</p>	<p>The AER has outlined that it will generally email service providers and interested parties, including any person who had made a submission on the proposal, in addition to placing its decisions on its website and reflected the NGR requirement for the AER to provide a copy of the draft decision to the service provider (r. 59(5)(a)).</p>	<p>APIA, Jemena, Multinet</p>

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	<p>Multinet submits that the AER should inform service providers on decisions via an email as well as in notices in national newspapers.</p>	<p>The AER has amended the <i>Access Arrangement Guideline</i> to confirm consistent with its current practice that the AER will send an email notification after decisions are made in addition to other notifications required under the NGR.</p>	
<p><b>Decision-making time and process for assessing a full access arrangement</b> AAG 3.1.5</p>	<p>Confusion as to whether it is a six month or thirteen month process with the current wording.</p> <p>The guideline should be more explicitly state that ‘stop-the-clock’ processes are not counted toward the six month decision making process.</p>	<p>The decision making time period for a final decision for a full AA is six months from the receipt of the proposal. This period, however, can be extended by two distinct means.</p> <p>Firstly, broad consultation processes and information gathering process will ‘stop-the-clock’ and thereby extend the time period. The ‘stop-the-clock’ processes are elaborated on in 3.6.</p> <p>The process can also be extended by a further two months (r. 62(8)). Both of these circumstances are subject to an absolute time limit of 13 months (r. 13).</p> <p>The AER has amended the <i>Access Arrangement Guideline</i> to clarify how the ‘stop-the-clock’ processes work.</p>	<p>APIA</p>
<p><b>When a service provider fails to submit an access arrangement proposal</b> AAG 3.4</p>	<p>The guideline should comment on the procedure in the event of a service provider failing to submit an access arrangement on time but it is submitted shortly after the deadline.</p>	<p>Under s.132(1) a covered pipeline service provider must submit to the AER, for approval by the AER under the Rules, a full access arrangement or revisions to an applicable access arrangement that is a full access arrangement, in respect of the pipeline services the provider provides or intends to provide in the circumstances and within the period of time specified by the Rules.</p> <p>Furthermore, where information and documentation relevant to a service provider’s access arrangement</p>	<p>APIA</p>

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		<p>proposal is sought through a regulatory information instrument, penalties may apply for non-compliance with the timeframes for provision of information and documentation set out in the regulatory information instrument.</p> <p>The purpose of the <i>Access Arrangement Guideline</i> is to provide general guidance about processes consistent with the NGL and NGR requirements. Consequently, the AER has updated the <i>Access Arrangement Guideline</i> to reflect the statutory obligation in s. 132(1) to provide a full access arrangement in the circumstances and within the period of time specified by the Rules.</p>	
<p><b>Non-material variations</b> <i>AAG 3.5.1</i></p>	<p>The guideline should indicate the variations that the AER would consider to be non-material.</p>	<p>The AER will consider whether a variation is non-material on a case-by-case basis. As outlined in 3.5.1 of the <i>Access Arrangement Guideline</i>, in making this decision the AER will take into account the significance of the proposed variation on the terms and conditions of access including as relevant the impact (if any) on reference tariffs.</p> <p>The AER has amended the <i>Access Arrangement Guideline</i>.</p>	<p>APIA</p>
<p><b>Submissions</b> <i>AAG 4.1.3</i></p>	<p>The guideline sets out an overly prescriptive format in which submissions are to be submitted.</p> <p>APIA considers that the requirement that submissions be “succinct, logically structured, outlining key issues in dispute and the party’s position in respect of these issues” is subjective.</p>	<p>The <i>Access Arrangement Guideline</i> provides parties with guidance on how they might prepare and provide submissions.</p> <p>The <i>Access Arrangement Guideline</i> does not state that submissions that are not in this form will not be considered if they are received within the relevant</p>	<p>APIA</p>

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	<p>The draft guideline proposes that information relied on in submissions be provided in those submissions, even if the document has previously been provided.</p> <p>This creates an unnecessary administrative burden and that the use of referencing should be sufficient.</p> <p>APIA submits that the AER has an obligation to consider all submissions.</p>	<p>timeframe set down for consultation in public notices.</p> <p>The AER has modified the <i>Access Arrangement Guideline</i> to note that information and documentation relied on in submissions need only be included if they have not already been provided as part of the same regulatory process.</p> <p>The <i>Access Arrangement Guideline</i> notes at 4.1.2 that the AER is required to consider every submission it receives within a submission period that it sets for public consultation for its key regulatory decision making processes.</p>	<p>APIA, Envestra, Multinet</p> <p>APIA</p>
<p><b>Submitting and handling commercial-in-confidence material</b> <i>AAG 4.1.4 and AAG 4.1.5</i></p>	<p>Submissions queried the basis of the proposed approach to publishing confidential information.</p>	<p>The AER notes that the NGL and NGR contemplate the publication of confidential information in certain circumstances. Sections 324-330 outline that the AER may disclose confidential material in certain circumstances. Rule 44 specifically acknowledges that if there is a requirement to publish or provide copies of an access arrangement (proposal) that this also means relevant access arrangement information.</p> <p>Rule 43(2) outlines that the AER may permit the service provider to submit access arrangement information in a form, approved by the AER, in which the sensitive information:</p> <p>(a) is aggregated or generalised so as to avoid disclosure of the elements that make it sensitive; or</p> <p>(b) if that is not possible – is entirely suppressed.</p> <p>The <i>Access Arrangement Guideline</i> outlines the form</p>	<p>APIA, Jemena, Multinet</p>

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		<p>the AER requires confidential or sensitive information to be submitted, so that information is in a suitable form for publication as is required under the NGL and NGR. This guidance will be most relevant for service providers and of assistance to other interested parties that may participate consultation processes.</p> <p>The AER has modified the <i>Access Arrangement Guideline</i> to include some further information on these matters.</p>	
	<p>Submissions queried the need to provide two submissions in the case where confidential information is provided.</p>	<p>The AER has modified the <i>Access Arrangement Guideline</i> to clarify why two submissions are required in the case of confidential information being provided. The AER outlines that this requirement is supported by Rule 43(2) as outlined above.</p>	<p>APIA</p>
	<p>APIA noted that the draft guideline stated that further discussion on submitting confidential information is available at 3.1.4 but that this section does not refer to confidential material.</p>	<p>The AER has amended the <i>Access Arrangement Guideline</i> in response to this issue to rectify this reference.</p>	<p>APIA</p>
	<p>Submissions queried the basis of the proposed approach to give confidential information less weight.</p>	<p>Rule 43(3) states that if information submitted as access arrangement information is, in the AER's opinion, deficient in its comprehensiveness or in any other respect, the AER may require revisions necessary to correct the deficiency and to re-submit the access arrangement information or a further addendum to the information already submitted.</p> <p>The AER has amended the <i>Access Arrangement Guideline</i> in response to this matter by stating that the AER may give confidential information less</p>	<p>ActewAGL, APIA, Envestra, Jemena, Multinet</p>

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	<p>Submissions queried the use of the word ‘truly’ in relation to the nature of information deemed confidential as it was subjective.</p>	<p>weight, subject to legislative requirements.</p> <p>ACCC/AER experience in regulatory matters affirms that sometimes information that is provided as confidential information may not be confidential in part or whole. AER needs to confirm, with reference to NGL and NGR requirements, if information is confidential and if it can be provided in the form prescribed in r. 43(2) so to avoid r. 43(3), particularly as it may need to be published per r. 44.</p> <p>The <i>Access Arrangement Guideline</i> reflects the AER’s approach to confidential submissions set out in the <i>ACCC/AER Information Policy: The collection, use and disclosure of information</i>, which was published after the release of the draft guideline on 23 October 2008 (<i>Information Policy</i>). It should be noted that the general approach to confidential submissions in the <i>Access Arrangement Guideline</i> and <i>Information Policy</i> is subject to the requirements of the NGL. These requirements are reflected in 4.1.4 and 4.1.5</p> <p>The AER notes that the use of ‘truly’ reflects the <i>Information Policy</i> and thus the AER does not propose to change the <i>Access Arrangement Guideline</i> in response to this issue.</p>	<p>APIA, Envestra, Jemena, Multinet</p>
<p><b>Regulatory Information Notice</b> AAG 4.2.2</p>	<p>Query as to whether the AER is actually intending a change in approach towards the use of RINs.</p>	<p>The power to serve a RIN is a power under the NGL, which the AER assumed from 1 July 2008, when it became the economic regulator of natural gas pipelines in relevant jurisdictions except WA. The</p>	<p>ActewAGL, SP AusNet</p>

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	<p>It is inappropriate for the AER to use its information powers to prescribe the information to be provided as part of a proposal. The NGL and NGR do not include this level of prescription but rather provides scope for the service provider to set out a proposal.</p>	<p>AER does not understand therefore what is meant by a change in approach towards the use of RINs.</p> <p>The NGL stipulates in s. 48(1) that the AER may employ regulatory information instruments if it considers it reasonably necessary for the performance or exercise of its functions or powers under the NGL and NGR. Section 27(1)(e) states that among the AER’s functions or powers is its economic regulatory functions or powers.</p> <p>Furthermore, the AER is not precluded from using its general information gathering powers under s. 42. The AER does not consider that it is inappropriate to consider the use of powers subject to meeting the requirements under the NGL/NGR in relation to those powers. A RIN by its very nature is specifically served on a service provider for a particular purpose, the level of detail that may or may not be contained in a RIN is a matter to be considered by the AER in consultation with individual service providers. The AER notes that a regulatory information instrument may be useful to ensure the nature of the issues and detail of coverage of those issues in an access arrangement proposal submission is compliant with the NGL and NGR requirements. This may be particularly useful for service providers with a diverse range of practices and experiences across different jurisdictions and in the context of a new legislative framework with new provisions and rules covering key areas of a service provider’s proposal.</p>	



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		Regulatory information instruments can be employed by the AER in the exercise of its economic regulatory functions including in making an access arrangement decision where it is considered necessary. Accordingly, the AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.	
<b>Elements of an access arrangement proposal</b> AAG 5	The guideline should provide clarity on what the AER views as ‘elements’.	Under the NGL framework the relevant elements to be approved by the AER in accordance with r. 41 will be dependent on the nature of the service provider’s proposal and its operating context. Any approval of the relevant elements of a service provider’s proposal will need to be considered on a case-by-case basis in accordance with the relevant NGR requirements.  The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.	APIA
<b>Building block approach</b> AAG 5.4.2.3	<i>Asset classes</i> Envestra submits that the broad categories of asset classes are transmission focused and do not reflect those used previously by regulators in gas distribution reviews.	The list of broad categories of asset classes is indicative only. However, the AER has modified the <i>Access Arrangement Guideline</i> to include types of distribution assets for illustrative purposes.	Envestra
	<i>Estimated income tax</i> Submissions queried the AER’s statement that under a pre-tax revenue approach, the appropriate tax rate is the effective tax rate (rather than the corporate tax rate) and there was a preference for a post-tax revenue approach.	The AER reiterates its position in the draft guideline that either the pre-tax or post-tax revenue approach may be used and though a post-tax revenue approach is preferred it is not prescribed. In addition, r. 74(2) states that a forecast or estimate must be arrived at on a reasonable basis and must represent the best forecast or estimate possible in the	ActewAGL

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		<p>circumstances.</p> <p>A service provider must in proposing one tax method over another must be able to demonstrate how this method satisfies the specific criteria relating to that building block component and specific rules such as r. 74(2) regarding estimates as well as consistency with the national gas objective (s. 23) and the revenue and pricing principles (s. 24).</p> <p>The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p>	
	<p><i>NPV</i></p> <p>APIA considers that the issue of a shift from NPV to cost of service part way through an assets life, which will potentially disadvantage the service provider, may best be addressed by separate discussions with pipeline owners rather than the guideline.</p>	<p>The AER considers that the pre-submission consultation process is the most appropriate forum to discuss the transition from an NPV valuation to the building block approach, particularly because this issue is of limited applicability to most regulated pipelines.</p> <p>The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p>	APIA
	<p><i>Rate of return</i></p> <p>Jemena and APIA consider that the implication that the rate of return will be based on the AER electricity WACC review findings is inappropriate.</p>	<p>The <i>Access Arrangement Guideline</i> does not discuss the AER electricity WACC review findings.</p> <p>The AER reiterates that regulatory decisions contain the most up-to-date analysis and current views on a relevant rate of returns and are thus appropriate as guides to service providers.</p> <p>The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p>	APIA, Jemena

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	<p><i>Incentive mechanism</i> Decisions relating to the “various Victorian service providers” (p 61) were made by a different regulator.</p>	<p>The AER notes that the decisions referred to in this submission were made by a different regulator and the <i>Access Arrangement Guideline</i> has been modified accordingly.</p>	<p>APIA</p>
	<p>APIA submits that some of the negative aspects of incentive mechanisms should be discussed.</p>	<p>The AER considers that without further information about specific issues, that incentive mechanisms are provided for under r. 98. and need to be assessed on the merits of the incentive mechanism proposed against this criteria. The pre-submission consultation period may be an appropriate time to discuss this issue.</p> <p>The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p>	<p>APIA</p>
	<p><i>MSP case study</i> APIA submits that the MSP case is not a useful example - other cases better illustrate the establishment of an initial capital base for a covered asset.</p>	<p>The AER has modified the <i>Access Arrangement Guideline</i> to omit the MSP case study.</p>	<p>APIA</p>
	<p><i>Overall economic value</i> Suggestion that the net value to service providers be included in the list of benefits.</p>	<p>The AER notes that, in relation to this issue, the <i>Access Arrangement Guideline</i> is quoting a document published by NERA.</p> <p>The AER has modified the <i>Access Arrangement Guideline</i> to include a note that in addition to the benefits outlined by NERA, r. 79 states that in considering the overall economic value of expenditure as positive, consideration needs to be given only to the economic value directly accruing to service providers.</p>	<p>APIA</p>

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<p><b>Extensions and expansions requirements</b> AAG 5.4.15</p>	<p>A statement concerning expansions' inclusion as part of the covered pipeline should be deleted as the treatment of each extension/expansion should be considered on its merits in accordance with the approved extensions and expansions policy.</p> <p>Guidance is sought as to how the inconsistencies arising from other jurisdictional regulatory instruments (such as the Victorian Gas Distribution System Code) will be treated.</p>	<p>Consistent with the NGL, the <i>Access Arrangement Guideline</i> outlines that extensions and expansions are part of a covered pipeline if this is the extension and expansion policy in the applicable access arrangement for the covered pipeline.</p> <p>The AER reiterates that, because of the different characteristics of extensions, it may be appropriate for an access arrangement to provide that the service provider retains discretion over whether to elect that an extension is included as part of the pipeline subject to an access arrangement.</p> <p>The AER will consider inconsistencies on a case-by-case basis, subject to transitional arrangements, at a pre-submission conference.</p> <p>The AER does not propose to amend the <i>Access Arrangement Guideline</i> in response to these specific issues but again notes that a pre-submission conference is an appropriate forum to discuss these issues, as being specific to a service provider's circumstances.</p>	<p>APIA, Envestra</p>
<p><b>Clerical errors</b> AAG 5.6</p>	<p>The guideline should outline the process for amending clerical errors.</p>	<p>A specific rule allows the AER to correct for clerical errors. Section 5.6 of the <i>Access Arrangement Guideline</i> outlines the circumstances in which errors will be amended.</p> <p>The <i>Access Arrangement Guideline</i> provides sufficient detail about this issue.</p>	<p>APIA</p>

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<p><b>Tariff variation mechanism framework</b> <i>AAG 6.1</i></p>	<p>Further discussion is required in relation to CPI-X as an incentive mechanism.</p>	<p>The NGR does not specify the nature of incentive mechanisms that may be included in an access arrangement.</p> <p>Under the NGL framework, the onus is on the service provider to propose the incentive mechanisms it considers appropriate for its operating context, and demonstrate how this incentive mechanism meets the relevant criteria in r. 98.</p> <p>However, as is the past experience under the Code a mechanism such as CPI-X was a formula used to vary tariffs over the term of an access arrangement. Under the NGR, such a mechanism will need to meet the requirements of r. 97.</p> <p>The AER considers that the issue of CPI-X is adequately addressed as relevant (i.e. as an example of a formula to vary tariffs over the term of an access arrangement) and has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p>	<p>APIA</p>
	<p>A less prescriptive regulatory approach for gas infrastructure is more suited to gas assets as it provides an opportunity for service provider to submit their own innovative approaches and solutions.</p> <p>APIA submits that the AER is seeking to regulate gas infrastructure using an electricity regulatory template and terminology e.g. variable caps. APIA states that such an approach is unlikely to result in</p>	<p>The AER considers that it is not seeking to regulate gas infrastructure using an electricity regulatory template but is merely reflecting terminology used in the NGL and NGR.</p> <p>The AER notes that the example given to illustrate that electricity terminology is being used, i.e. variable caps, is a term derived from the NGR (r. 97(3)(a)). That said, there is commonality in terminology, and</p>	<p>APIA</p>

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	optimal outcomes.	<p>even certain powers and functions across the NEL and NGL, reflecting the policy intent in developing a consistent national regulation framework across the transmission and distribution infrastructure in the energy sector, which will in time be extended to certain retail functions.</p> <p>The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p>	
<b>Schedule of fixed tariffs</b> <i>AAG 6.1.1</i>	Suggestion that it would be more appropriate to seek an adjustment at the draft decision stage as timing will be known with more certainty.	The AER has amended the <i>Access Arrangement Guideline</i> in response to this issue to omit the statement.	APIA
<b>Cost pass through</b> <i>AAG 6.1.3, 6.1.4</i>	<p>Submissions consider that starting reference tariffs cannot be known ahead of time and therefore should be removed from the draft guideline. Likely costs are considered at the time of a pass through application. Where the costs of events can be calculated at the time of submission, they are usually included in forecast expenditure. Information on costs of past through events are unlikely to be available for inclusion in the proposal.</p> <p>The statement that the access arrangement must provide for a symmetrical mechanism is too prescriptive and not in the NGR.</p> <p>Scope should remain for pass through applications to be made throughout the year and for those applications to nominate whether costs should be reflected in the annual tariff variation process or</p>	<p>The AER has modified the <i>Access Arrangement Guideline</i> in response to this issue to omit this statement.</p> <p>The AER has modified the <i>Access Arrangement Guideline</i> in response to this issue by providing an example and acknowledging that certain events may be asymmetric.</p> <p>The AER states its preference is that cost pass through applications are considered together with other tariff variation reviews as this has been the common policy and practice with previous</p>	<p>ActewAGL, Envestra, Jemena</p> <p>ActewAGL, Jemena</p> <p>ActewAGL, Jemena</p>

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	another process.	jurisdictional regulators. The purpose of this is to reduce administrative costs of multiple variations to tariffs in any one year for both the service provider and AER but which is also in the long –term interests of consumers in respect of the price of natural gas. The AER further notes that rule 97(3)(b) specifically requires that the AER must have regard to the possible effects of cost pass throughs (as a tariff variation mechanism) on the administrative costs of the AER, service providers and users. Service providers will need to demonstrate how proposed cost pass through mechanisms that depart from this guidance also meet the requirements of r. 97(3)(b) and also r. 97(4).	
	Materiality threshold is unnecessary.	The AER notes that rule 97(3)(b) specifically requires that the AER must have regard to the possible effects of cost pass throughs (as a tariff variation mechanism) on the administrative costs of the AER, service providers and users. Service providers will need to demonstrate how proposed cost pass through mechanisms that depart from this guidance meet the requirements of r. 97(3)(b) and also r. 97(4).	Jemena
<b>Cost pass through notifications</b> <i>AAG 6.1.4</i>	<i>AAG 6.1.4.2</i> should be deleted as it would be superfluous as it requires a distributor to notify by way of a pass through notification that no pass through is being sought.  An obligation to report periodically that no pass through event has occurred is administratively inefficient and heavy-handed.	The AER has amended the <i>Access Arrangement Guideline</i> to omit the guidance on notification if a cost-pass through is not being sought, however the AER notes that notwithstanding submissions that this approach may be ‘inefficient and heavy-handed’ it merely reflects that some access arrangements currently require a service provider to inform the regulator that it is not seeking a cost-pass through in	Envestra, Jemena

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		<p>a particular year. Omission of guidance on this issue in the <i>Access Arrangement Guideline</i> does not obviate the requirement for service providers to report such information if required to do so under their access arrangements.</p> <p>The AER also notes that rule 97(3)(b) requires that the AER must have regard to the possible effects of cost pass throughs (as a tariff variation mechanism) on the administrative costs of the AER, service providers and users.</p> <p>The AER has amended the <i>Access Arrangement Guideline</i> to omit this statement.</p>	
	<p>Clarification is required regarding the statement about where the service provider fails to provide notification of a cost pass through event.</p>	<p>The AER has amended the <i>Access Arrangement Guideline</i> to omit this statement.</p>	<p>Jemena</p>
	<p>The form of notification is a matter for the service provider.</p>	<p>The AER considers that the form of a notification is sufficiently general to provide guidance as to the contents of a cost pass through application. Rule 97(4) provides for the AER to have adequate oversight or powers of approval over the tariff variation mechanism and support in the rules for establishing a generic form of notice that would assist service providers in providing an application that contains what the AER will need to assess and approve a cost pass through application.</p> <p>The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p>	<p>Jemena</p>



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<p><b>Merits review by the Tribunal</b> <i>AAG 7.1</i></p>	<p>A discussion on merits review is not warranted in the guideline as it is outside the reason for the guideline and the role of the AER.</p>	<p>The <i>Access Arrangement Guideline</i> provides information to service providers and interested parties about the content of access arrangements and access arrangement proposals and the AER’s decision making processes relating to access arrangements under the NGL and NGR.</p> <p>Part 7 of the <i>Access Arrangement Guideline</i> provides information about judicial and merits review as decisions made by the AER in relation to access arrangement proposals are, in certain circumstances, subject to a limited merits review by the Tribunal and/or judicial review by the Federal Court. This section in the guideline merely articulates the existing law.</p> <p>The AER has not amended the <i>Access Arrangement Guideline</i> in response to this issue.</p>	<p>APIA, Envestra, Multinet</p>
<p><b>Transitional Arrangements</b></p>	<p>Guidance is sought on the intended operation and practical effect of the transitional provisions (s 3, 8, 10.8 of the Code).</p>	<p>The <i>Access Arrangement Guideline</i> has been formulated to provide information on the AER’s decision making process relating to access arrangements under the NGL and NGR. The provisions of the Code do not relate to this process.</p> <p>The AER has amended the <i>Access Arrangement Guideline</i> in response to this issue, for the opening capital base and continuity of speculative investment funds and capital redundancy mechanisms from the former access regime.</p>	<p>APIA</p>