



# **FINAL DECISION**

## **AusNet Services**

### **Gas access arrangement**

#### **2018 to 2022**

## **Overview**

November 2017

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## Note

This overview forms part of the AER's final decision on the access arrangement for AusNet Services for 2018-22. It should be read with all other parts of the final decision.

The final decision includes this Overview and the following attachments:

Attachment 2 - Capital base

Attachment 5 - Regulatory depreciation

Attachment 8 - Corporate income tax

Attachment 14 - Capital expenditure sharing scheme.

These have been numbered consistently with the equivalent attachments to our longer, draft decision. In these and other elements of our decision, our draft decision reasons form part of this final decision.

Our revisions are reflected in the *Approved access arrangement for AusNet Services 2018-22 (Parts A and B<sup>1</sup>)*, which gives effect to this decision.<sup>2</sup>

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<sup>1</sup> We have made no revisions to Part C of AusNet's revised proposed access arrangement,

<sup>2</sup> Rule 64(2) provides that the AER's proposal for an access arrangement or revisions is to be formulated with regard to (a) the matters the Law requires an access arrangement to include, (b) the service provider's access arrangement proposal, and (c) the AER's reasons for refusing to approve that proposal.

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## Shortened forms

Shortened form	Extended form
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AGN	Australian Gas Networks
ARS	Ancillary reference services
capex	Capital expenditure
CCP11	Consumer Challenge Panel, Sub-panel 11
CESS	Capital Expenditure Sharing Scheme
CPI	Consumer Price Index
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
opex	Operating expenditure
PTRM	Post tax revenue model
RBA	Reserve Bank of Australia
RFM	Roll forward model
SCADA	Supervisory control and data acquisition
WACC	Weighted average cost of capital

## About this decision

The Australian Energy Regulator (AER) works to make all Australian energy consumers better off, now and in the future. We regulate energy networks in all jurisdictions except Western Australia. We set the amount of revenue that network businesses can recover from customers for using these networks.

The National Gas Law and Rules (NGL and NGR) provide the regulatory framework governing gas networks. Our work under this framework is guided by the National Gas Objective (NGO):<sup>3</sup>

...to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.

AusNet Gas Services (AusNet) owns and operates a network of pipelines servicing customers in Victoria. These are regulated by the AER under an approved access arrangement.<sup>4</sup> This is our final decision on the access arrangement that will apply to AusNet's gas distribution network from 1 January 2018 to 31 December 2022.

The decisions we make and the actions we take affect a wide range of individuals, businesses and organisations. Effective and meaningful engagement with stakeholders across all our functions is essential to fulfilling our role, and it provides stakeholders with an opportunity to inform and influence what we do. Engaging with those affected by our work helps us make better decisions, provides greater transparency and predictability, and builds trust and confidence in the regulatory regime. This is reflected in our Stakeholder Engagement Framework and in the consultation process set out for our access arrangement reviews in the NGR, which we have followed in this review. Throughout this review we have also had the benefit of advice from our Consumer Challenge Panel (CCP11).

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<sup>3</sup> NGL, s. 23.

<sup>4</sup> The NGL provides for different types of regulation to apply to gas pipelines, based on competition and significance criteria. A 'full regulation' pipeline must periodically submit an access arrangement to the AER, setting out pricing for a reference service sought by a significant part of the market. 'Light regulation' pipelines are not subject to upfront price regulation. The light regulation model is more a negotiate-arbitrate approach, placing greater emphasis on commercial negotiation and information disclosure. The AER plays a role only if dispute resolution mechanisms are triggered.

# 1 Our final decision

Our final decision allows AusNet to recover \$1040.1 million (\$ nominal, smoothed<sup>5</sup>) from its customers over the 2018–22 access arrangement period.

Based on our estimates, this final decision will reduce the distribution component of the average annual residential gas bill in 2018 by about \$28 (nominal) compared to the current 2017 charges, followed by stable prices for the rest of the 2018–22 access arrangement period. We discuss these estimates more fully in section 1.3. While our decision only affects about a quarter of the average gas bill, stability in network charges can help reduce the impact of increases in some of the other components of gas bills, including wholesale costs. It is likely other components will change more significantly over the access arrangement period. As the ACCC's Interim Report in the 2017-2020 Gas Inquiry notes, high and increasing prices in the wholesale gas market are having significant effects on small businesses and households, particularly lower income households.<sup>6</sup> Modelling by the Australian Energy Market Operator (AEMO) also projects that the delivered wholesale cost of gas in Australia will continue to rise.<sup>7</sup>

In the sections below we discuss some of the key drivers of AusNet's revenue over the next five years, including what has changed since our draft decision in July. Our decision approves expenditure that will allow AusNet to continue to maintain the safety and reliability of its network—something its customers value<sup>8</sup>—while meeting continued demand for new connections.

Our assessment of AusNet's access arrangement commenced in December last year with the submission of AusNet's initial proposal. Throughout this review we have had the benefit of advice from our Consumer Challenge Panel (CCP11), which was supportive of the outcomes in AusNet's revised proposal. AusNet's own stakeholder engagement in the development of its initial and revised proposals has been effective in informing its customers about the regulatory process and its planned responses, including its response to our draft decision and the implications of accepting that draft decision.<sup>9</sup> This helped to give AusNet, and us, confidence that its revised proposal is consistent with the customer preferences put to AusNet, and in particular customer support for a decision that places downward pressure on overall gas costs.<sup>10</sup>

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<sup>5</sup> Nominal revenue includes the expected impact of inflation. Smoothed revenue spreads AusNet's total revenue requirement over the five years covered by this decision to provide a stable, predictable price path for AusNet's users over time.

<sup>6</sup> ACCC, *Gas Inquiry 2017-2020: Interim Report*, September 2017, p. 42

<sup>7</sup> AEMO, *National Gas Forecasting Report for Eastern and Southern Australia*, December 2016, p. 7.

<sup>8</sup> AusNet Services - Appendix 5E - Colmar Brunton - Energy Research Study 4 Report - 21 June 2016 - Public, p. 43.

<sup>9</sup> CCP11, *Final advice - AGN, AusNet and Multinet*, September 2017, p. 5

<sup>10</sup> AusNet Services - Revised Access Arrangement Information - 20170811 - Public, p. 4.



Our assessment of AusNet's revised proposal is consistent with our draft decision. We have not received any submissions which impact upon our reasoning as set out in the draft decision. As such, our draft decision reasons form part of this final decision.

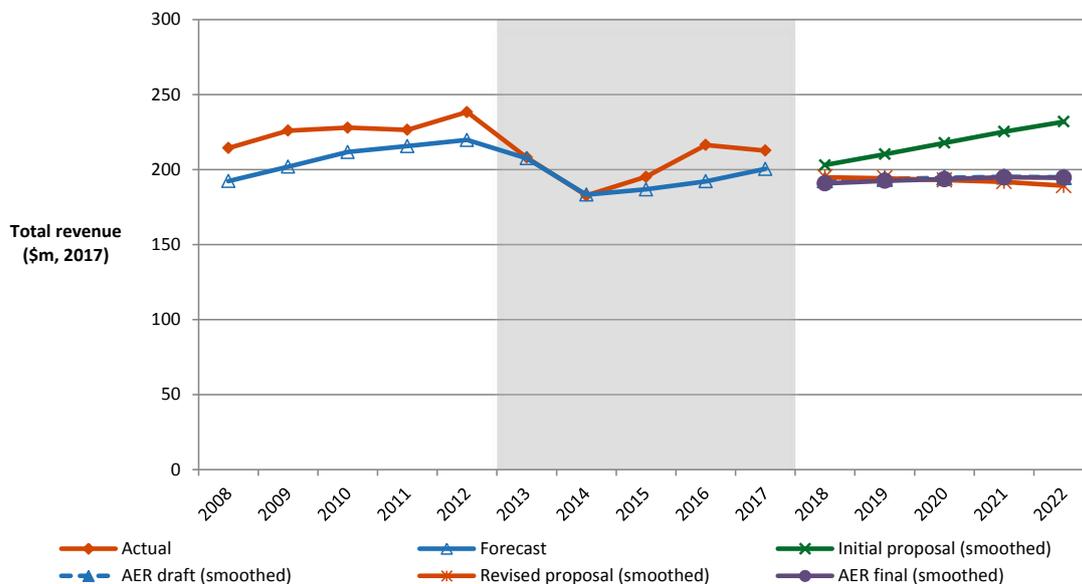
## 1.1 What is driving AusNet's revenue?

The forecast total revenue requirement we have approved in this decision is about the same—only \$3.9 million (\$ 2017), or 0.4 per cent, lower—as that used to set AusNet's reference tariffs throughout the 2013–17 period.

AusNet operates under a weighted average price cap. This means the tariffs we determine (including the means of varying the tariffs from year to year) are the binding constraint across an access arrangement period rather than the total revenue requirement set in our decision. Tariffs are derived from the total revenue requirement after consideration of demand for each tariff category. Where actual demand over the access arrangement period varies from the demand forecast in the access arrangement, AusNet's actual revenue will vary from the revenue allowance determined in our decision. In general, if actual demand is above forecast demand, AusNet's actual revenue will be above forecast revenue and vice versa.

Figure 1-1 shows how the revenue approved in this final decision for 2018–22 compares to the revenue forecast for, and recovered during, the current, 2013–17 access arrangement period. It also compares the final revenue approved in this decision to AusNet's initial proposal, our draft decision and its revised proposal.

**Figure 1-1 AusNet's past total revenue, proposed total revenue and AER final decision total revenue (\$ million, 2017)**



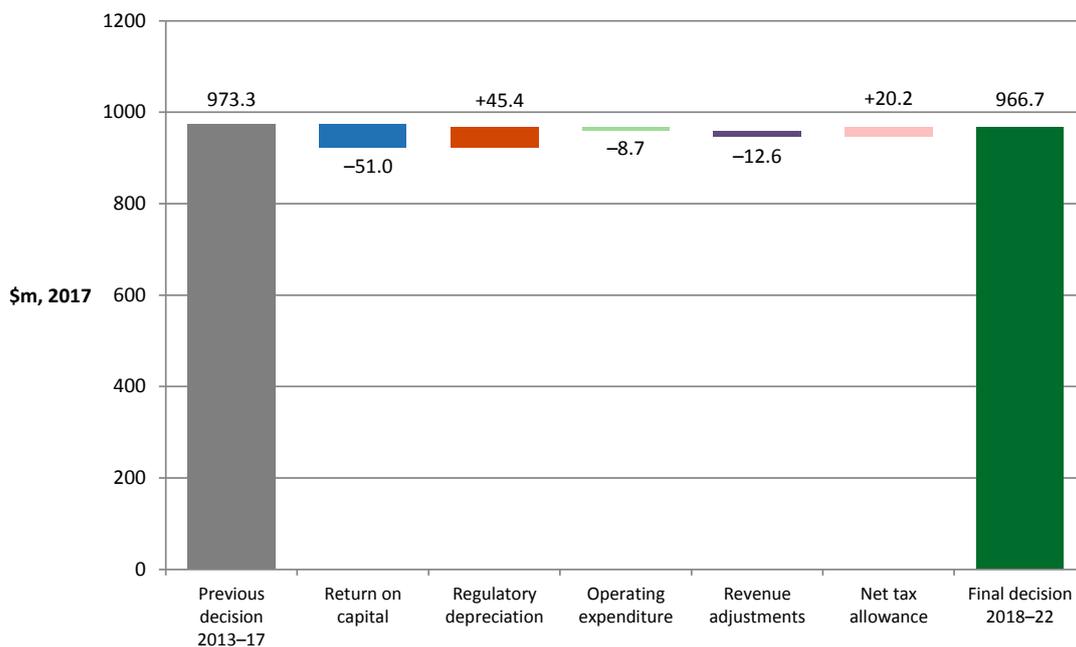
Source: AER analysis.

Note: The impact of inflation—which changes over time—makes it difficult to compare revenue from one period to the next on a like-for-like basis. To do this we use 'real' values based on a common year (in this case 2017), which have been adjusted to remove the impact of inflation.

The key factor in the minimal change in AusNet's forecast revenue from period to period is the reduction in the rate of return AusNet receives on its capital base, from 7.07 per cent in the current period to 5.94 per cent for 2018–22. This reflects improved market conditions since our last decision in 2013.

Figure 1-2 illustrates how this has helped to keep AusNet's forecast revenue requirement, and therefore its prices, stable over time by comparing this final decision for 2018–22 to AusNet's allowed revenue for the current, 2013–17 period, and breaking down the changes in the various components that make up total revenue.

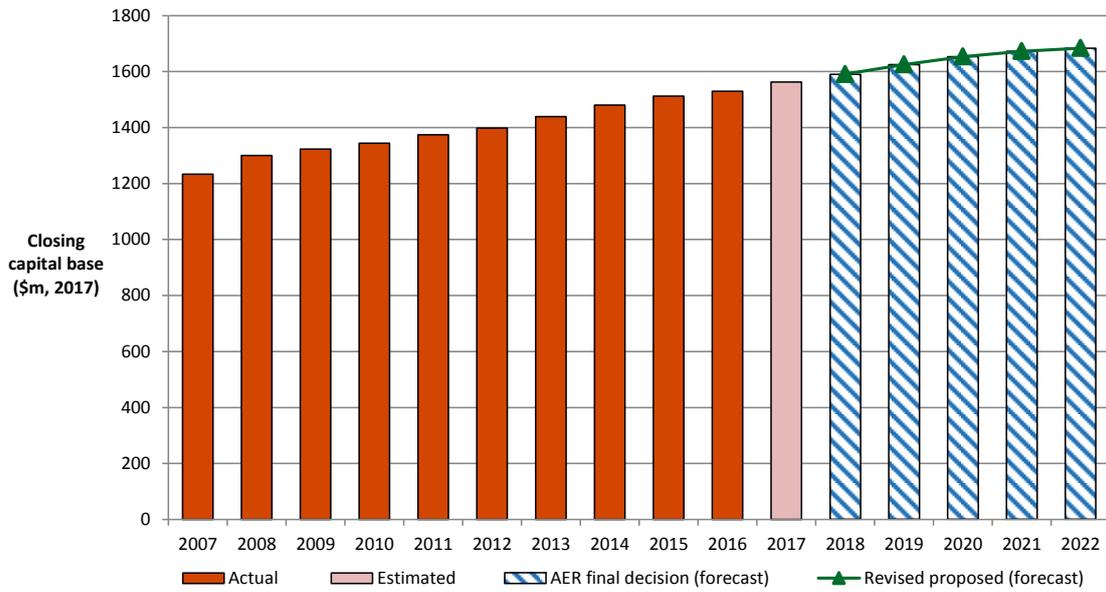
**Figure 1-2 Comparison of forecast revenue requirements for 2013–17 and 2018–22 (\$ million, 2017)**



Source: AER analysis.

The lower return on capital amount reflects the lower rate of return we mentioned above, which will reduce the impact of growth in AusNet's capital base, which increased by 11.8 per cent over the current period (in real terms) as AusNet invested in maintaining its network. This helps to offset the higher regulatory depreciation allowance, which increases as the capital base increases. Based on this decision, we expect growth in the capital base over the next five years to be smaller, around 7.7 per cent. Figure 1-3 shows the growth in AusNet's capital base over time.

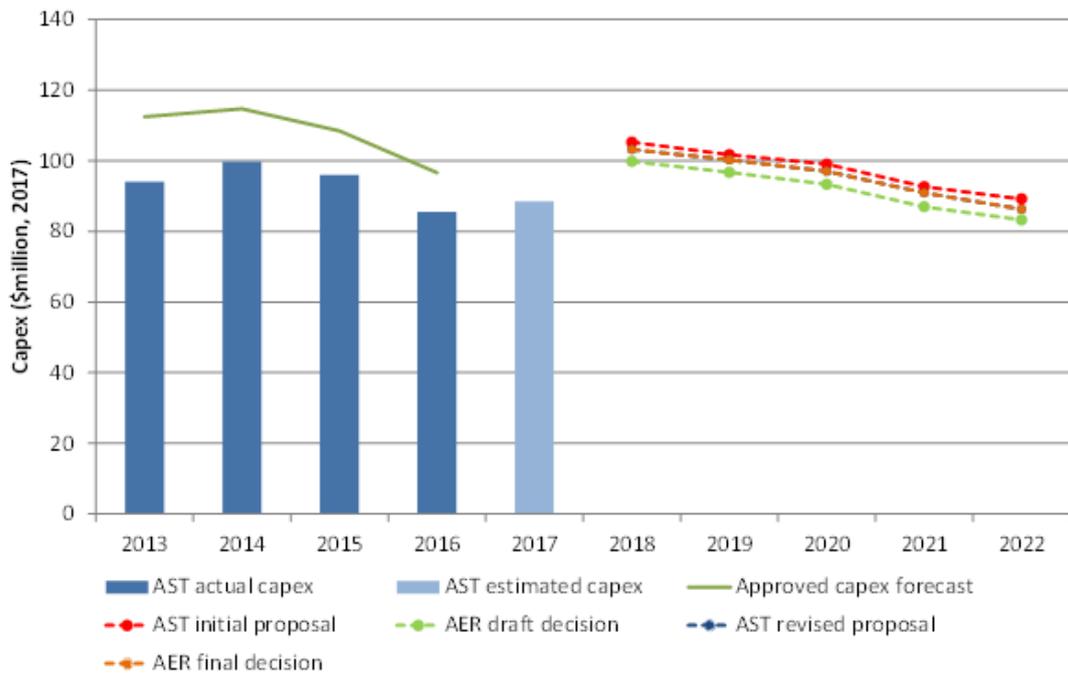
**Figure 1-3 Projected growth in AusNet's capital base (\$ million, 2017)**



Source: AER analysis.

The total forecast capex approved for 2018–22 is in line with AusNet's actual expenditure in the current period (see Figure 1-4) and will allow AusNet to continue to maintain the safety and reliability of its network, including through its ongoing mains replacement program.

**Figure 1-4 Final decision compared to AusNet's past capex (\$ million, 2017)**

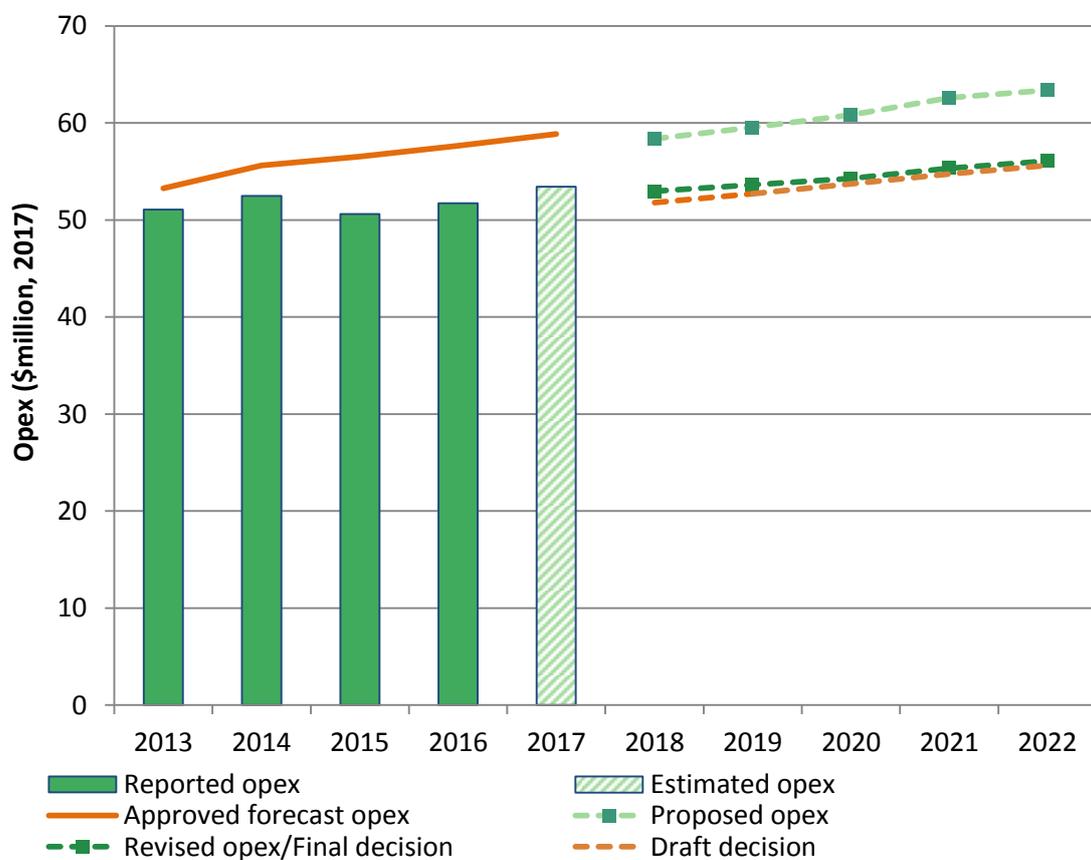


Source: AER analysis.

At the same time, the new capital expenditure sharing scheme (CESS) that will apply from 2018 will strengthen AusNet's incentives to find more and more efficient ways to maintain and operate its network.

The CESS will balance incentives under the existing opex efficiency carryover mechanism, which AusNet's performance over the current period suggests it is responding well to. Our final decision on AusNet's forecast opex is a reduction from the forecast used to set AusNet's revenue for 2013–17 (see Figure 1-5), and again will hold AusNet's expenditure at levels that are broadly in line with its actual opex in the current period.

**Figure 1-5 Final decision compared to AusNet's past opex (\$ million, 2017)**



Source: AusNet Services, *Gas access arrangement review 2018–22 regulatory templates*, 16 December 2016; AusNet Services, *Distribution GAAR Revised Proposal PTRM - 20170811 - Public*, 11 August 2017; AER analysis.

Note: Includes debt raising costs. Excludes movements in provisions and unaccounted for gas.

## 1.2 What's changed since our draft decision and AusNet's revised proposal?

Our draft decision accepted much of AusNet's initial proposal, but reduced AusNet's proposed revenue by 8.7 per cent (\$nominal, smoothed). Our decision to apply a value of imputation credits (gamma) of 0.4 in place of AusNet's 0.25 was a key driver of this difference. Where AusNet initially proposed increases to its operating (opex) and capital (capex) expenditure, our draft decision approved forecasts that were closer to its actual expenditure in the current period. AusNet's revised proposal adopted our draft decision, including these changes, in full. Our final decision is to accept AusNet's revised proposal (the components of which are summarised in section 2 of this overview).

A number of inputs to the revenue calculation have been updated (in AusNet's revised proposal and this final decision) with new and more reliable data. These updates, which include a lower opening capital base but higher capex and opex forecasts, are a normal part of the revenue setting process, and are made so that this final decision on AusNet's forecast revenue includes the most recent data available to us. Their combined effect in AusNet's case is that the forecast total revenue requirement approved in this final decision remains in line with our draft decision and AusNet's revised proposal.<sup>11</sup>

## 1.3 How will our final decision affect gas bills?

We estimate this final decision will reduce the contribution AusNet's distribution charges make to its customers' average annual bill by around \$28 (nominal) in 2018 for residential customers, and around \$46 for small business customers.

The annual gas bill for customers in Victoria reflects the combined cost of all the gas supply chain components (shown in Figure 1-6), not just those covered by this decision. Changes in gas bills over time reflect movements in one or more of these. Our decision on AusNet's access arrangement will affect the component of the bill related to distribution pipelines. For customers on AusNet's network, this makes up approximately 23 per cent of an average residential customer's annual gas bill, and 9 per cent for an average small business customer.<sup>12</sup>

Table 1-1 shows our estimate of the impact this final decision will have on average annual gas bills for residential and small business customers on AusNet's network over the five years covered by this decision. This is a simple estimate, which we have calculated by varying the distribution charges for an average residential and small business customer on AusNet's network in accordance with this final decision, but

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<sup>11</sup> The total revenue figure in this final decision is around 0.5 per cent lower than our draft decision, and only 0.4 per cent lower than AusNet's revised proposal.

<sup>12</sup> Proportions based on average annual distribution charges calculated within the PTRM and average standing residential offers at November 2017 on Switch On comparison tool using average annual consumption from the PTRM for each of AusNet's tariff zones (postcodes 3011, 3249, 3227 and 3260).

holding other components of the bill constant. Our estimates are in nominal terms (taking into account expected future inflation to determine what the nominal price levels will be in future periods) because inflation will factor into the amounts that consumers will be paying.

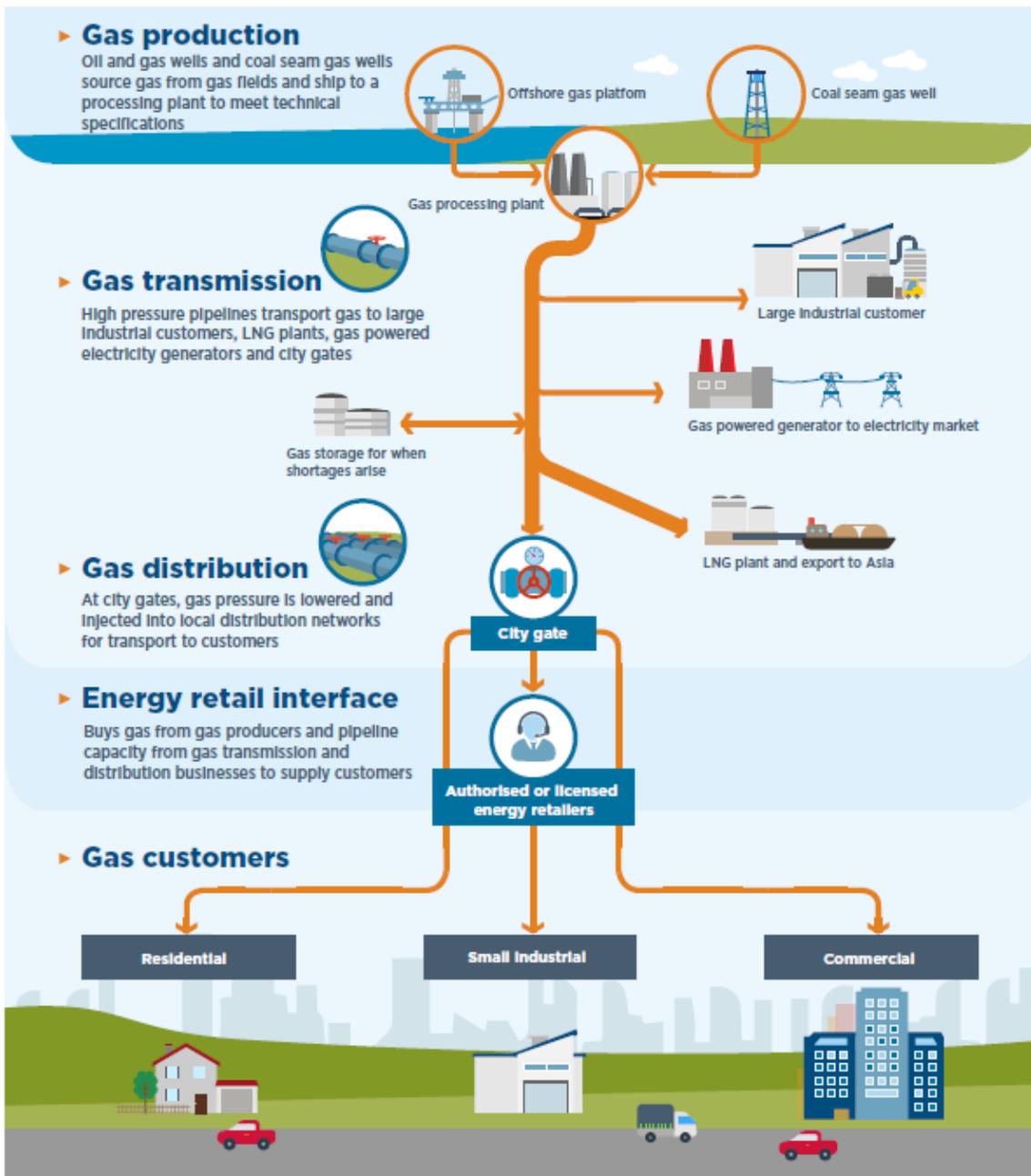
**Table 1-1 Estimated impact of our final decision on average annual gas bills for 2018–22 (\$ nominal)**

	2017	2018	2019	2020	2021	2022
Residential annual gas bill	1279 <sup>a</sup>	1251	1256	1261	1267	1272
Annual change <sup>c</sup>		-28 (-2.2%)	5 (0.4%)	5 (0.4%)	6 (0.4%)	5 (0.4%)
Small business annual gas bill	5566 <sup>b</sup>	5520	5528	5537	5546	5555
Annual change <sup>c</sup>		-46 (-0.8%)	8 (0.2%)	9 (0.2%)	9 (0.2%)	9 (0.2%)

Source: AER analysis, Switch On comparison tool, [www.compare.switchon.vic.gov.au](http://www.compare.switchon.vic.gov.au).

- (a) Based on average standing residential offers at November 2017 on Switch On comparison tool using average annual consumption calculated in the PTRM for each of AusNet's tariff zones (postcodes 3011, 3249, 3227 and 3260).
- (b) Based on average standing small business offers at November 2017 on Switch On comparison tool using average annual consumption calculated in the PTRM for each of AusNet's tariff zones (postcodes 3011, 3249, 3227 and 3260).
- (c) Annual change amounts and percentages are indicative. They are derived by varying the distribution component of 2017 bill amounts by the nominal weighted average expected change in tariffs. Actual bill impacts will vary depending on consumption and tariff class.

Figure 1-6 Gas supply chain



Source: AER, State of the Energy Market May 2017, p. 19.

## 2 Key components of our final decision

Gas pipelines that are subject to full regulation—like AusNet's—are regulated under an approved access arrangement.<sup>13</sup> This forms the foundation for negotiations between pipeline operators and users.

An access arrangement specifies certain pipeline services (reference services) and the price and non-price terms and conditions on which those reference services will be offered over the next five years (2018–2022).

The prices (reference tariffs) that apply to reference services are based on an approved forecast revenue requirement determined in this decision.

In the sections below we summarise the key components of our final decision on AusNet's access arrangement. Subject to the updates and corrections we mentioned in section 1.2, we have accepted AusNet's revised proposal for the reasons in our draft decision and in this final decision. We have not received any submissions—from AusNet or other stakeholders—which impact on our reasoning in the draft decision. As such, our draft decision reasons form part of this final decision.

### 2.1 Reference services and tariffs

#### 2.1.1 Services covered by the access arrangement

An access arrangement sets out at least one service likely to be sought by a significant part of the market (reference services). For each reference service, including services ancillary to the reference services, the access arrangement specifies the reference tariff and the other terms and conditions on which these services will be provided.<sup>14</sup>

AusNet is to provide access to its reference services, but may negotiate alternative terms and conditions at alternative prices with users. AusNet may also offer other non-reference services (negotiated services) which are not subject to regulation under the access arrangement. We may be called upon to determine the tariff and other conditions of access to services if an access dispute arises.<sup>15</sup>

Our draft decision approved AusNet's proposal to continue to offer the same reference services and ancillary reference services in 2018–22 as it has in the current 2013–17

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<sup>13</sup> The NGL provides for different types of regulation to apply to gas pipelines, based on competition and significance criteria. A 'full regulation' pipeline must periodically submit an access arrangement to the AER, setting out pricing for a reference service sought by a significant part of the market. 'Light regulation' pipelines are not subject to upfront price regulation. The light regulation model is more a negotiate-arbitrate approach, placing greater emphasis on commercial negotiation and information disclosure. The AER plays a role only if dispute resolution mechanisms are triggered.

<sup>14</sup> NGR, r. 48.

<sup>15</sup> NGL, Chapter 6.



period. This outcome is unchanged in AusNet's revised proposal and approved in this final decision.<sup>16</sup>

### 2.1.2 Reference tariff setting and the annual tariff variation mechanism

Our decision on AusNet's proposed access arrangement includes decisions on the structure of its reference tariffs and the mechanism by which those tariffs will be determined from year to year (the annual reference tariff variation mechanism).

Our draft decision accepted AusNet's proposed tariff structures. Again, this outcome is unchanged in AusNet's revised proposal and approved in this final decision.<sup>17</sup> CCP11 remains concerned with the complexity of distribution tariffs<sup>18</sup> and has suggested that in future access arrangements for gas distributors we work with interested stakeholders:<sup>19</sup>

- to probe a bit further with the distribution networks whether their more complex price structures are justifiable and effective; and
- to encourage further dialogue primarily between retailers and distributors, but also including consumer engagement, to try and achieve a more agreed approach between the parties.

CCP11 has not suggested, and we have not made, changes to AusNet's tariff structures in this final decision. The tariff structures we have approved are consistent with those that applied in the current period, and we remain satisfied that these are appropriate for 2018–22.

However, we agree with CCP11's suggestion that distributors' tariff structures are an area that would benefit from continued engagement in future gas access arrangement reviews, to ensure the tariff structures proposed as part of those reviews are justifiable, effective and cost-reflective. Cost-reflective distribution tariffs send signals to retailers about the cost of using the distribution network. Retailers can then determine if and how their retail offerings reflect these signals. This helps to support increased retailer innovation and greater tariff choice for end customers.

AusNet's revised proposal also adopts the revisions our draft decision required to its tariff variation mechanism (a weighted average price cap) without further amendment. The exceptions to this were:

- an improved definition of the retailer insolvency cost pass through event

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<sup>16</sup> AER, *Approved access arrangement for AusNet Services 2018-22 - Part A*, November 2017, cl. 5.2.1; Schedule 1.

<sup>17</sup> AER, *Approved access arrangement for AusNet Services 2018-22 - Part B - reference tariffs and reference tariff policy*, November 2017.

<sup>18</sup> CCP11, *Final advice - AGN, AusNet and Multinet*, September 2017, p. 48

<sup>19</sup> CCP11, *Final advice - AGN, AusNet and Multinet*, September 2017, p. 52.

- addition of a new clause to clarify the operation of the cost pass through mechanism where a pass through application spans the transition between two access arrangement periods.

For the reasons AusNet has provided<sup>20</sup>, we agree that the alternative definition proposed is preferable to that in our draft decision and the additional provision clarifying treatment of cross-period pass through applications is appropriate. Subsequent to our draft decision and AusNet's revised proposal, we identified minor drafting corrections required to clarify the application of a materiality threshold to two pass through events (the Insurer Credit Risk and Terrorism events). Our final decision addresses this by explicitly referencing materiality in both definitions.<sup>21</sup> Our final decision otherwise accepts the tariff variation mechanism in AusNet's revised proposal.<sup>22</sup>

This final decision includes a decision on the reference tariffs that will apply for the first year of AusNet's 2018–22 access arrangement period.<sup>23</sup> We have updated these tariffs to reflect our final decision on AusNet's forecast revenue requirement, which is slightly lower than its revised proposal. For each subsequent year, tariffs will be updated and submitted for our approval in accordance with the annual tariff variation mechanism.

### 2.1.3 Forecast demand

Our final decision accepts the demand forecasts in AusNet's revised proposal, which anticipate:

- a slight decline in total residential gas demand of around 0.1 per cent per year over the 2018-22 access arrangement period.<sup>24</sup> This compares to a growth of 2.4 per cent per year in the current period.<sup>25</sup> This reduced state of growth is due to a decline in consumption per connection of 0.05 per cent per year being offset by net customer growth of 2.1 per cent per year.<sup>26</sup>
- a growth in total small commercial demand of 0.3 per cent over the 2018-22 access arrangement period.<sup>27</sup> This compares to 1.1 per cent per year in the current period.

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<sup>20</sup> AusNet Services - Revised Access Arrangement Information - 20170811 - Public, pp. 13-14.

<sup>21</sup> AER - Approved access arrangement for AusNet Services 2018-22 - Part A, pp. 21, 27; AusNet Services, Email to AER - Materiality threshold for cost pass through events - potential drafting issue, 24 November 2017.

<sup>22</sup> AER, *Approved access arrangement for AusNet Services 2018-22 - Part B - reference tariffs and reference tariff policy*, November 2017

<sup>23</sup> AER, *Approved access arrangement for AusNet Services 2018-22 - Part B - reference tariffs and reference tariff policy*, November 2017, sections 9, 10.

<sup>24</sup> AER Analysis of the AusNet's usage model. See AusNet Services - *Usage forecasting model update* - 18 August 2017 - Public

<sup>25</sup> Note that figures in the current period include updated values for 2017 in AusNet's revised usage model. AusNet Services - *Usage forecasting model update* - 18 August 2017 - Public

<sup>26</sup> This compares to actual growth of 1.04 per cent for residential consumption per connection and a 2.38 per cent per year growth in customer numbers in the current access arrangement period.

<sup>27</sup> AER Analysis of the AusNet's usage model. See AusNet Services - *Usage forecasting model update* - 18 August 2017 - Public

This reduced growth is driven by a slight growth of 0.3 per cent per year in consumption per connection and an increase in commercial net connections by 1 per cent per year.<sup>28</sup>

- a decrease in industrial demand (AusNet's Tariffs D and M) of 1.3 per cent over the 2018-22 access arrangement period. This compares to a decrease of approximately 2.2 per cent per year in the current period.

Our draft decision largely accepted AusNet's initial demand forecasts, but made an adjustment to remove AusNet's projections of additional demand linked to a proposed increase in opex for marketing, which we did not include in our approved opex forecast. While supportive of this decision, CCP11 recommended we liaise with the AEMO to ensure that our final decision used the latest forecasts available.<sup>29</sup>

We are satisfied that AusNet's revised proposal has done this. AusNet has adopted our draft decision adjustment, and—consistent with the expectations in our draft decision and CCP11's advice—updated its demand forecast to reflect more recent data, including actual customer numbers from 2016 and new information from the Australian Energy Market Operator (AEMO) and Australian Bureau of Statistics (ABS).<sup>30</sup> AusNet also introduced a new factor to its demand forecasts to adjust forecast demand for the impact of appliance switching from electricity to gas, drawing on AEMO's 2016 National Gas Forecasting Report.<sup>31</sup> The combined impact of these adjustments was to reduce forecast consumption by 0.9 per cent, but increase forecast connection numbers by 10.7 per cent.<sup>32</sup>

Our final decision accepts AusNet's implementation of these updates, and the revised demand forecasts in AusNet's revised proposal.

Demand is an important input into the derivation of AusNet's reference tariffs. In simple terms, tariffs are determined by dividing cost (as reflected in forecast revenue) by total demand (GJ/day), so that an increase in forecast demand has the effect of reducing the tariff. In this instance, the slight increase in residential demand has not had a marked impact on tariffs.

Forecast demand also affects the forecasts of operating and capital expenditure (new connections) that form part of our decision on the total revenue requirement. We discuss the impact of AusNet's updated demand forecasts, in particular the increase in forecast connection numbers, on its capex and opex forecasts in sections 2.3.6 and 2.3.7 below.

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<sup>28</sup> This compares to actual growth of 1 per cent for commercial consumption per connection and a 1.1 per cent per year growth in net commercial customer numbers in the current access arrangement period.

<sup>29</sup> CCP11, *Final advice - AGN, AusNet and Multinet*, September 2017, p. 6.

<sup>30</sup> AusNet Services - *Revised Access Arrangement Information* - 20170811 - Public, p. 8 and AusNet Services - *Usage forecasting model update* - 18 August 2017 - Public

<sup>31</sup> AusNet Services - *Revised Access Arrangement Information* - 20170811 - Public, pp. 8-9.

<sup>32</sup> AusNet Services - *Revised Access Arrangement Information* - 20170811 - Public, p. 9.

## 2.2 Total revenue requirement

The total revenue approved in this final decision is a forecast of the efficient cost of providing gas distribution services over the access arrangement period. We determine forecast revenue in nominal terms—that is, including inflation—because it will be in nominal amounts that consumers pay. To do this, we take into account expected future inflation to determine what the nominal price levels will be in future periods.<sup>33</sup>

Table 2-1 sets out our final decision on AusNet's total revenue requirement.

**Table 2-1 Final decision on smoothed total revenue and X factors for 2018–22 (\$ million, nominal)**

Building block	2018	2019	2020	2021	2022	Total
Return on capital	92.9	96.8	101.3	105.6	109.4	506.0
Regulatory depreciation	41.6	31.0	33.8	37.2	41.6	185.1
Operating expenditure	54.3	56.3	58.4	61.0	63.3	293.2
Revenue adjustments	3.4	1.7	3.3	0.0	0.7	9.1
Corporate income tax	10.0	6.7	8.4	10.9	11.1	47.1
<b>Building block revenue – unsmoothed (including ARS)</b>	<b>202.0</b>	<b>192.5</b>	<b>205.2</b>	<b>214.7</b>	<b>226.1</b>	<b>1040.5</b>
Less: Ancillary reference services	2.8	2.9	3.0	3.1	3.2	15.0
Building block revenue – unsmoothed (excluding ARS)	199.3	189.6	202.2	211.6	222.9	1025.6
Building block revenue – smoothed (excluding ARS)	192.7	199.2	205.2	211.6	216.4	1025.1
<b>X factor<sup>a</sup></b>	<b>11.59%</b>	<b>0.50%</b>	<b>0.50%</b>	<b>0.50%</b>	<b>0.50%</b>	<b>n/a</b>
Inflation forecast	2.45%	2.45%	2.45%	2.45%	2.45%	n/a
Nominal price change	–9.4%	1.9%	1.9%	1.9%	1.9%	n/a
<b>Building block revenue – smoothed (including ARS)</b>	<b>195.5</b>	<b>202.1</b>	<b>208.2</b>	<b>214.7</b>	<b>219.6</b>	<b>1040.1</b>

Source: AER analysis.

n/a: not applicable.

- (a) Under the CPI–X form of control, a positive X factor is a decrease in price (and therefore in revenue). The X factor for 2018 is indicative only. The draft decision establishes 2018 tariffs directly, rather than referencing a change from 2017 tariffs.

<sup>33</sup> This decision uses 10 year inflation expectations on average to convert revenues to nominal values.

## 2.2.1 Revenue equalisation (smoothing) and tariffs

AusNet operates under a weighted average price cap. Under the tariff variation mechanism approved in this final decision<sup>34</sup> we determine the weighted average tariff change—or 'X factor'—for each year. We set the X factors in such a way that the sum of the smoothed revenues across the period equals the unsmoothed building block revenue in net present value terms.

The X factors represent the weighted average real change in tariffs (that is, excluding the impact of inflation). As part of the annual reference tariff variation process, we will combine the X factors we have determined in this decision with actual inflation to create nominal reference tariffs for the coming year.

Our final decision includes a number of updates to the building block inputs making up AusNet's total revenue requirement. These updates have resulted in a slightly higher smoothed total revenue requirement of \$1040.1 million (\$ nominal), compared to \$1036.4 million in AusNet's revised proposal.<sup>35</sup>

As a result (as shown in Table 2-2), we have also updated the 2018 tariffs set out in AusNet's revised proposal and its proposed 2018–22 tariff path. AusNet's revised proposal was for a weighted average decrease of 9.68 per cent in 2018 followed by weighted average decreases in real tariffs of 1.73 per cent per year from 2019 onwards. As a result of our changes to the total revenue requirement, our final decision is for a larger real decrease in weighted average tariffs of 11.59 per cent in 2018, followed by smaller decreases of 0.5 per cent in each of the remaining years of the access arrangement period.

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<sup>34</sup> AER, *Approved access arrangement for AusNet Services 2018-22 - Part B - reference tariffs and reference tariff policy*, November 2017.

<sup>35</sup> This is calculated by smoothing the unsmoothed building block revenue for the 2018–22 access arrangement period as set in this draft decision.

**Table 2-2 Comparison of final decision and revised proposal weighted average tariff change (X factors)**

	2018	2019	2020	2021	2022
<b>AER final decision</b>					
X factor <sup>a</sup>	11.59%	0.50%	0.50%	0.50%	0.50%
Nominal price change <sup>b</sup>	-9.4%	1.9%	1.9%	1.9%	1.9%
<b>AusNet revised proposal</b>					
X factor <sup>a</sup>	9.68%	1.73%	1.73%	1.73%	1.73%
Nominal price change <sup>b</sup>	-7.5%	0.7%	0.7%	0.7%	0.7%

Source: AER analysis.

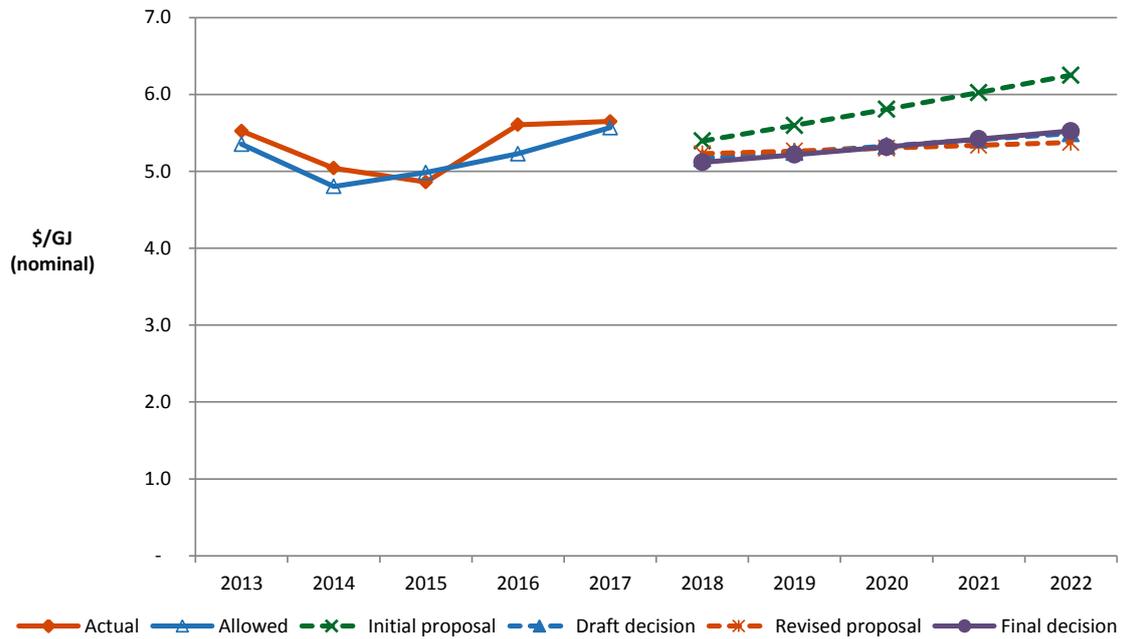
- (a) Under the CPI-X form of control, a positive X factor is a decrease in price (and therefore in revenue). For example, an X factor of 11.59 per cent in 2018 means a real price decrease of 11.59 per cent that year. After consideration of inflation (assumed at 2.45 per cent) this becomes a nominal price decrease of 9.4 per cent.
- (b) For comparison purposes the nominal price changes are derived from the real price changes for AusNet adjusted by AER's final decision forecast inflation of 2.45 per cent.

Figure 2-1 compares the tariff path that flows from this with that approved for the 2013–17 access arrangement.<sup>36</sup> This provides a broad overall indication of the average movement in tariffs across the two access arrangement periods.

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<sup>36</sup> The tariff path for 2013–22 uses actual inflation outcomes for the 2013–17 period, and forecast inflation for 2018–22.

**Figure 2-1 Indicative tariff paths for AusNet's reference services from 2013 to 2022 (\$/GJ)**



Source: AER analysis.

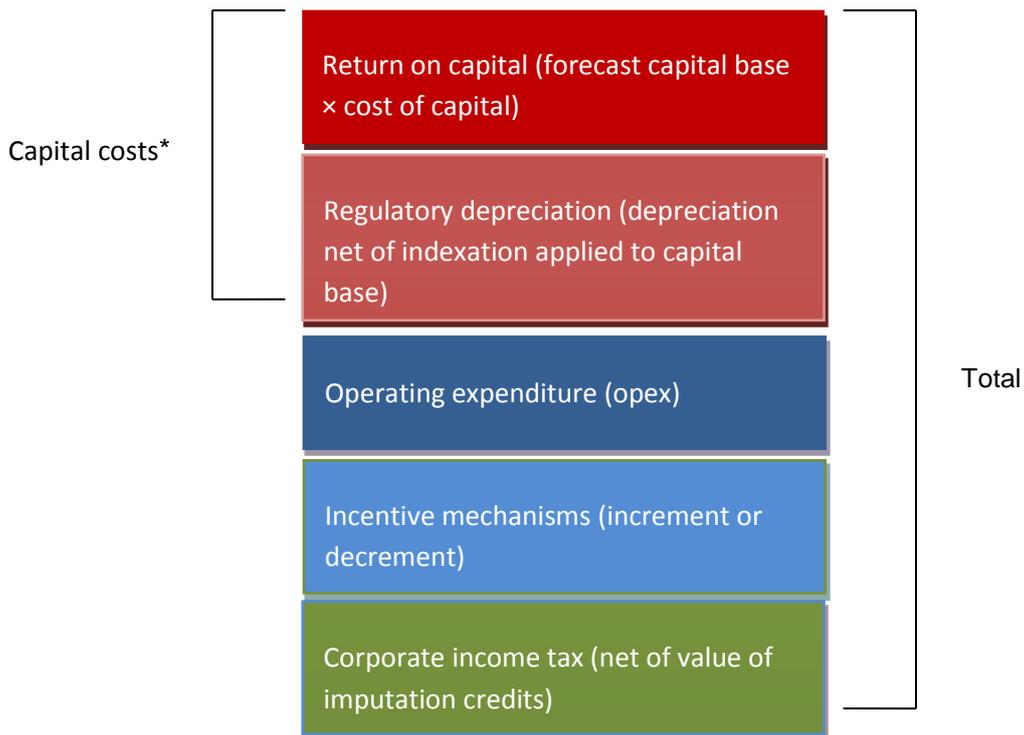
## 2.3 Key elements of decision on revenue

The total revenue requirement is based on forecasts of the efficient costs that AusNet is likely to incur in providing its reference services. This is commonly referred to as the building block approach. The building blocks, shown in Figure 2-2, include:<sup>37</sup>

- capital costs:
  - return on the projected capital base (return on capital)
  - depreciation of the projected capital base (return of capital)
- forecast opex
- revenue increments or decrements resulting from incentive schemes such as the efficiency carryover mechanism
- the estimated cost of corporate income tax.

<sup>37</sup> NGR, r. 76.

**Figure 2-2 The building block approach to determining total revenue**



Note: Capital expenditure (capex)—the capital costs incurred in the provision of pipeline services —mostly relates to assets with long lives and these costs are recovered over several access arrangement periods. AusNet recovers the costs of these assets through the return on capital and depreciation building blocks that form part of its total revenue. In this way AusNet recovers the financing cost and depreciation associated with these assets over the expected life of these assets.

AusNet's revised proposal has adopted our draft decision on all key elements of the building block calculation, subject only to the updates we discussed in section 1.2. In the following sections we explain how these updates have impacted the various components of our decision. Submissions have not raised any issues which impact on the reasoning set out in our draft decision. For the reasons set out in our draft decision, we have therefore accepted these elements of AusNet's revised proposal.

### 2.3.1 Capital base

The capital base roll forward accounts for the value of AusNet's regulated assets over the access arrangement period. The opening value of the capital base is used to determine the return of capital (regulatory depreciation) and return on capital building block allowances.



Our final decision approves an opening capital base value of \$1562.7 million (\$ nominal) as at 1 January 2018 for AusNet.<sup>38</sup> This includes AusNet's updates to its capex for 2016 (actual) and 2017 (revised estimate). Table 2-3 sets out our final decision on the roll forward of AusNet's capital base during the 2013–17 access arrangement period to determine the opening capital base as at 1 January 2018.

**Table 2-3 Capital base roll forward for 2013–17 (\$ million, nominal)**

	2013	2014	2015	2016	2017
Opening capital base	1275.3	1339.2	1407.4	1471.0	1510.6
Net capex	86.8	94.1	92.6	83.7	86.5
Indexation of capital base	25.6	28.9	32.5	22.1	19.6
Less: straight-line depreciation	48.5	54.8	61.4	66.2	70.5
Closing capital base	1339.2	1407.4	1471.0	1510.6	1546.3
Difference between estimated and actual capex in 2012					12.1
Return on difference for 2012 capex					4.4
<b>Opening capital base as at 1 January 2018</b>					<b>1562.7</b>

Source: AER analysis.

We approve a forecast closing capital base value of \$1899.2 million (\$ nominal) at 31 December 2022. Our final decision on the projected closing capital base reflects our changes to the opening capital base as at 1 January 2018 and forecast depreciation (section 2.3.5).<sup>39</sup> Table 2-4 sets out our final decision on the projected roll forward of the capital base for AusNet over the 2018–22 access arrangement period.

<sup>38</sup> This amount is \$1.2 million lower than AusNet's revised proposal. This is because we have adjusted 2016 gross capex values for movements in capitalised provisions and updated the values of 2017 customer contributions consistent with revisions provided by AusNet. Also we have converted the 2017 gross capex and customer contributions values in the RFM to mid-year dollar terms from end-of-year dollar terms, as required by the input sections for the RFM. AusNet's revised proposed RFM—and subsequent revisions—used these values presented in end-of-year dollar terms, which are consistent with its capex model.

<sup>39</sup> The combined effect of these changes is that our final decision on the closing capital base is \$3.0 million (or 0.2 per cent) lower than the \$1902.2 million (\$ nominal) in AusNet's revised proposal.

**Table 2-4 Projected capital base roll forward for 2018–22 (\$ million, nominal)**

	2018	2019	2020	2021	2022
Opening capital base	1562.7	1628.9	1704.9	1777.2	1841.8
Net capex	107.8	107.0	106.1	101.8	99.0
Indexation of capital base	38.3	39.9	41.8	43.5	45.1
Less: straight-line depreciation	79.8	70.9	75.5	80.7	86.7
<b>Closing capital base</b>	<b>1628.9</b>	<b>1704.9</b>	<b>1777.2</b>	<b>1841.8</b>	<b>1899.2</b>

Source: AER analysis.

For this final decision, we confirm the position taken in our draft decision and AusNet's revised proposal that the capital base as at 1 January 2023 is to be established using the approved depreciation schedules (straight-line) based on forecast capex at the asset class level.<sup>40</sup>

### 2.3.2 Rate of return (return on capital)

The allowed rate of return provides AusNet an expected return on capital to service the interest on its loans and give a return on equity to investors. The return on capital building block is calculated as a product of the rate of return and the value of the capital base.

In its initial proposal AusNet proposed to depart from the approach set out in our rate of return guideline in its approach to the risk free rate averaging period (by proposing an 8 month averaging period) and estimating the market risk premium parameter. It also proposed to exclusively use data from the RBA to estimate the required return on debt whereas in all recent determinations we have used data from both the RBA and Bloomberg to estimate the required return on debt.

Our draft decision generally implemented the approach outlined in our guideline. However, we made some departures from our guideline in response to decisions of the Tribunal, the Federal Court and the submissions we have received from stakeholders through the various gas and electricity determination processes we have conducted since our guideline was published. These departures relate to the following aspects of our approach:

- equity and debt averaging periods
- transitioning from the on-the-day approach to a trailing average to estimating the return on debt

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<sup>40</sup> NGR, r. 90.

- implementing contingency arrangements for estimating debt if there are difficulties in applying an average of the Bloomberg and RBA debt series
- estimating the value of imputation credits.

We determine the rate of return on a basis that is consistent with the estimate of the value of imputation credits used in calculating a tax allowance.<sup>41</sup> Each of these matters is discussed in detail in our draft decision.

In its revised rate of return proposal, AusNet adopted our draft decision. It accepted our market risk premium, equity averaging period and using the debt data source combination we have used in recent determinations (a simple average of debt yields based on data published by the RBA and Bloomberg).

Beyond noting its general concern that this represents 'a cautious regulatory approach that has been regarded as overly conservative by various consumer groups', CCP11 largely supported this outcome.<sup>42</sup>

We accept AusNet's revised rate of return proposal for reasons in our draft decision and in this final decision.<sup>43</sup> As such, our draft decision reasons form part of this final decision. The draft decision also sets out the future debt averaging periods to be used to update the cost of debt over AusNet's access arrangement period and the equity averaging period that has been used to update the cost of equity for its access arrangement period in this final decision.<sup>44</sup> The only changes we have made to our draft decision are to update the inputs and parameters of the rate of return to reflect the averaging periods we adopted in our draft decision (and accepted by AusNet in its revised proposal) and the prevailing market conditions, as close as practically possible to the start of the new access arrangement period.

Having considered the information before us, including the submission CCP11 and the most recent decisions of the Federal Court and Australian Competition Tribunal as discussed in our final decision for APA VTS,<sup>45</sup> we are satisfied that our rate of return and approach to updating this (as we transition to a trailing average cost of debt) contributes to the achievement the allowed rate of return objective and the NGO.<sup>46</sup> That is, we consider our allowed rate of return is commensurate with the efficient financing costs of a benchmark efficient entity with a similar degree of risk as that which applies to AusNet in providing reference services.<sup>47</sup>

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<sup>41</sup> NGR 87(4)(b)

<sup>42</sup> CCP11, *Final advice to AER following Draft Decision and Revised Proposals from AusNet, AGN and Multinet*, 12 September 2017,, p. 33

<sup>43</sup> AER, *Draft Decision AusNet Services Gas Access Arrangement 2018 to 2022 Attachment 3–Rate of Return*, (Confidential appendices O), July 2017.

<sup>44</sup> AER, *Draft Decision AusNet Services Gas Access Arrangement 2018 to 2022 Attachment 3–Rate of Return*, (Confidential appendices O), July 2017.

<sup>45</sup> AER, *Final Decision - APA VTS Australia Gas access arrangement 2018 to 2022 - Attachment 3 - Rate of return*, November 2017.

<sup>46</sup> NER, cl. 6.5.2(b); cl. 6A.6.2(b); NGR, cl. 87(2); NEL, s.16; NGL, s. 28.

<sup>47</sup> NER, cl. 6.5.2(c); cl. 6A.6.2(c); NGR, cl. 87(3); NEL, s.16; NGL, s. 28.

As noted above, updates to the return on debt (and overall WACC) will be made annually throughout the access arrangement period as we transition to a trailing average cost of debt and as part of the annual tariff variation process.

For 2018, this final decision applies the following values in the rate of return calculation:

**Table 2-5 Final decision on AusNet's rate of return (% nominal)**

	Previous allowed return (2013-17)	AusNet's revised proposal (2018-22) <sup>a</sup>	AER final decision (2018)	Allowed return over 2018 regulatory control period
Return on equity (nominal post-tax)	7.94	7.2	7.3	Constant (7.3%)
Return on debt (nominal pre-tax)	6.5	5.10	5.04	Updated annually
Gearing	60	60	60	Constant (60%)
Nominal vanilla WACC	7.07	5.94	5.94	Updated annually for return on debt
Forecast inflation	2.5	2.47	2.45	Constant (%)

Source: AER analysis; AusNet Services, Revised Access Arrangement Information, 11 August 2017. pp. 15–16.

a AusNet accepted our draft decision and did not submit updated indicative rate of return estimates in its revised proposal.

Our return on equity point estimate and the parameter inputs are set out in the table below.

**Table 2-6 Final decision on AusNet's return on equity (% nominal)**

	AER previous decision (2013–17)	AusNet's revised proposal (2018–22) <sup>a</sup>	AER final decision (2018)
Nominal risk free rate (return on equity only)	3.14%	2.6%	2.73%
Equity risk premium	4.8%	4.55%	4.55%
Market risk premium	6%	6.5%	6.50%
Equity beta	0.8	0.7	0.70
Nominal post-tax return on equity	7.94%	7.2%	7.3%

Source: AER analysis; AusNet Services, Revised Access Arrangement Information, 11 August 2017. pp. 15–16.

<sup>a</sup> AusNet accepted our draft decision and did not submit updated indicative rate of return estimates in its revised proposal.

### 2.3.3 Forecast inflation

For this final decision we have estimated expected inflation as the geometric average of 10 annual expected inflation rates. We use the RBA's forecasts of inflation for the first two annual rates and the mid-point of the RBA's inflation target band for the remaining eight annual rates. This is the same approach used in our draft decision and is our current approach. AusNet challenged this approach in its initial proposal, but has adopted it for the purposes of its revised proposal.

In its revised proposal AusNet noted that:

...the regulatory treatment of inflation and the best estimate of expected inflation are currently being reviewed in a separate process. We consider that the inflation review is the most appropriate process to determine which methodology produces the best estimate of expected inflation. We expect the conclusion of the review will be applied in the AER's final decision.<sup>48</sup>

As noted by AusNet, we are currently conducting an industry-wide view of approaches to estimating inflation for our regulatory decisions. In our draft decision we indicated that findings from that review may inform this final decision. However, the finalisation of that review is now expected in December 2017. The finalisation of that review is now expected in December 2017. Therefore, we discussed with AusNet whether we should apply a tariff variation mechanism. Such a mechanism would allow us to adjust the approved revenue in the event that the approach to estimating inflation in our final decision is inconsistent with the inflation review outcome.<sup>49</sup> AusNet advised that it would be comfortable with the outcomes of the inflation review not being adopted in the GAAR final decision, with inflation instead treated consistently with the AER's

<sup>48</sup> AusNet Services - Revised Access Arrangement Information - 20170811 – Public, p. 11.

<sup>49</sup> AER, Emails to AusNet - Timing of final decision vs inflation review - 24 and 27 November 2017.

preliminary position paper. We accept that this is the most appropriate approach in the circumstances.<sup>50</sup>

We released our inflation review preliminary position in October, which was that our current approach remains the most appropriate to derive the best estimate of expected inflation.<sup>51</sup> In its submission in response to the preliminary position paper, AusNet indicated that it maintains the position that the breakeven approach is likely to provide a more accurate indication of inflation expectations of investors. On the evidence before us, we consider that our current approach has the greatest strengths and fewest weaknesses and is therefore the best estimate of expected inflation. We assessed all the material before us and engaged all stakeholders in arriving at our preliminary position. The reasons discussed in that paper is relevant to this final decision as well.

### 2.3.4 Value of imputation credits (gamma)

Under the Australian tax system investors can receive imputation credits for tax paid at the company level. We make an adjustment to our taxation building block (section 2.3.9, below) to account for the value of imputation credits. The higher the value of gamma, the larger the adjustment to the corporate income tax allowance.

Our draft decision did not accept AusNet's proposed gamma value of 0.25, and instead applied a gamma of 0.4. For the purposes of its revised proposal, AusNet has adopted our draft decision on gamma. CCP11 again generally supported this position.<sup>52</sup>

Our final decision, consistent with our draft decision and AusNet's revised proposal, is to apply a gamma value of 0.4. Our reasons for this decision are principally set out in our draft gamma decision for AusNet.<sup>53</sup> However, in this final decision we have also had regard to:

- the recent Australian Competition Tribunal decision for ActewAGL [Gas] Distribution and Jemena Electricity Networks,<sup>54</sup>
- recent submissions on gamma by TransGrid; and updated tax and
- equity ownership data.

Our consideration of TransGrid's recent submissions on gamma, recent legal decisions and the most recent data, are set out in our draft electricity transmission determination for ElectraNet.<sup>55</sup>

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<sup>50</sup> AusNet, Emails to AER - Timing of final decision vs inflation review – 27 and 28 November 2017.

<sup>51</sup> AER, *Preliminary Position Paper - Regulatory treatment of inflation*, 13 October 2017.

<sup>52</sup> CCP11, *Final advice - AGN, AusNet and Multinet*, September 2017, p. 47.

<sup>53</sup> AER, *Draft Decision - AusNet Services Gas Access Arrangement 2018 to 2022 - Attachment 4 - Value of imputation credits*, July 2017.

<sup>54</sup> Australian Competition Tribunal, *Application by ActewAGL Distribution [2017] ACompT 2*, 17 October 2017.

<sup>55</sup> AER, *Draft Decision - ElectraNet transmission determination 2018 to 2023 - Attachment 4 - Value of imputation credits*, October 2017.

### 2.3.5 Regulatory depreciation (return of capital)

Our decision on AusNet's total revenue includes an allowance for the depreciation of the projected capital base (the 'return of capital'). Regulatory depreciation is used to model the nominal asset values over the 2018–22 access arrangement period and the depreciation allowance in the total revenue requirement.<sup>56</sup>

Our final decision approves forecast regulatory depreciation of \$185.1 million (\$ nominal) for AusNet over the 2018–22 access arrangement period, as set out in Table 2-7.<sup>57</sup>

**Table 2-7 Regulatory depreciation allowance 2018–22 (\$ million, nominal)**

	2018	2019	2020	2021	2022	Total
Straight-line depreciation	79.8	70.9	75.5	80.7	86.7	393.8
Less: indexation on capital base	38.3	39.9	41.8	43.5	45.1	208.6
<b>Regulatory depreciation</b>	<b>41.6</b>	<b>31.0</b>	<b>33.8</b>	<b>37.2</b>	<b>41.6</b>	<b>185.1</b>

Source: AER analysis.

### 2.3.6 Capital expenditure

Capital expenditure (capex) refers to the capital costs and expenditure incurred in the provision of pipeline services.<sup>58</sup> This investment mostly relates to assets with long lives, and these costs are recovered over several access arrangement periods. AusNet recovers the costs of these assets through the return on capital and depreciation building blocks that form part of its total revenue. In this way AusNet recovers the financing cost and depreciation associated with these assets over the expected life of these assets.

Our decision on AusNet's revenue includes an assessment of AusNet's actual capex in the current period, which is added to its opening capital base for 2018.<sup>59</sup> It also includes an assessment of AusNet's forecast capex for the 2018–22 access arrangement period, which is used to project the closing capital base in 2022.<sup>60</sup>

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<sup>56</sup> Regulatory depreciation allowance is the net total of the straight-line depreciation (negative) and the annual inflation indexation (positive) on the projected capital base.

<sup>57</sup> This is an increase of \$1.5 million (or 0.8 per cent) from the \$183.6 million (\$ nominal) in AusNet's revised proposal, reflecting our amendments to AusNet's opening capital base as at 1 January 2018 (section 2.3.1) and our update to the value of expected inflation for the 2018–22 access arrangement period (section 2.3.3).

<sup>58</sup> NGR, r. 69.

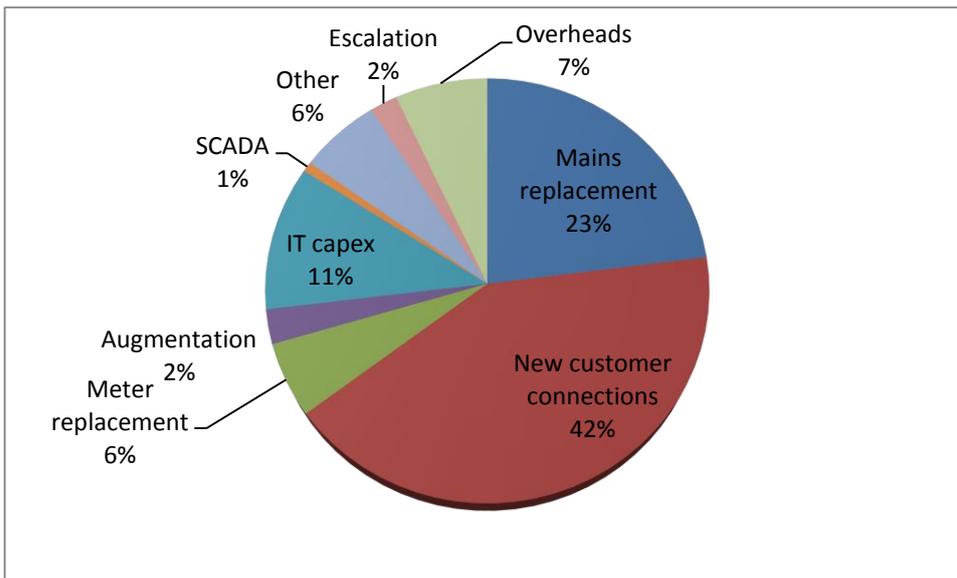
<sup>59</sup> NGR, r. 77.

<sup>60</sup> NGR, r. 78(b)

Over the current period AusNet has spent 12 per cent less than that contemplated in our final decision on the 2013–17 access arrangement.<sup>61</sup> Our final decision accepts AusNet's actual capex of \$463.2 million (\$2017) in the 2013–17 access arrangement period.<sup>62</sup>

Our final decision also approves AusNet's revised proposal for total forecast capex of \$477.5 million (\$2017). The composition of this forecast is shown in Figure 2-3. As in the current period, capex for new connections (growth) and mains replacement will continue to be key drivers of expenditure in 2018–22.

**Figure 2-3 Composition of gross forecast capex for 2018–22 (\$2017)**



Source: AER analysis

Our draft decision accepted most of AusNet's forecast capex, and approved total forecast capex of \$460.0 million. Our reduction to the scale of AusNet's proposed mains replacement expenditure was the key driver of the 5.7 per cent difference between our draft decision and AusNet's initial proposal. In its revised proposal AusNet noted that even with these reductions it "remains confident that sufficient funding will be provided to allow completion of the [low pressure] mains replacement by the end of the subsequent access arrangement period in 2027".<sup>63</sup>

AusNet's revised proposal has largely adopted our draft decision on its forecast capex. However, the updated residential demand forecasts in AusNet's revised proposal, which we have approved, suggest a higher number of customers connecting to AusNet's network than contemplated in our draft decision capex forecast. This

<sup>61</sup> AER - Access arrangement final decision - SP AusNet - Part 1 - March 2013

<sup>62</sup> This figure includes estimated capex for 2017. We will assess AusNet's actual capex for 2017 as part of our next review of its access arrangement.

<sup>63</sup> AusNet Services - Revised Access Arrangement Information - 20170811 - Public, p. 4.



changes the efficient level of capex required to meet demand, an increase of \$18 million to AusNet's total capex forecast (\$2017), which we have accepted is consistent with the updated demand forecasts.

Table 2-8 shows the composition of capex approved in this final decision for AusNet's current (2013–17) and forecast (2018–22) access arrangement periods.

**Table 2-8 Approved capex by category for 2013–17 and 2018–22 (\$ million, 2017) (\$million, 2017)**

Category	2013–17	2018–22	Difference (\$millions)
Mains replacement	117.2	114.5	-2.7
New customer connections	184.3	208.1	23.8
Meter replacement	24.6	28.3	3.6
Augmentation	14.5	13.1	-1.4
IT capex	49.2	54.9	5.7
Other (incl. SCADA)	80.6	34.0	-46.5
Escalation	- <sup>a</sup>	10.5	-
Overheads	56.3	34.6	-21.7
GROSS TOTAL CAPITAL EXPENDITURE	526.8	498.1	-28.8
Customer contributions	63.6	20.6	-43.0
NET TOTAL CAPITAL EXPENDITURE	463.2	477.5	14.3

Source: AusNet Services - *Distribution GAAR Revised Proposal Capex Model* - 20170811 - Public; AER analysis.

Note: a. Figures for 2013–17 already include escalation.

### 2.3.7 Operating expenditure

Operating expenditure (opex) is the operating, maintenance and other non-capital expenses incurred in the provision of reference services for a pipeline. Forecast opex is one of the building blocks we use to determine a service provider's total revenue requirement.

Our final decision approves AusNet's total forecast opex of \$272.3 million (\$2017) (see Table 2-9).<sup>64</sup> AusNet's revised proposal has adopted our draft decision forecast, subject to adjustments for updated throughput and forecast customer numbers. Those

<sup>64</sup> Includes debt raising costs.

updates increased AusNet's total opex forecast by \$3.7 million (or 1.4 per cent) compared to our draft decision.

**Table 2-9 Total opex for 2018–22 (\$million, 2017)**

	2018	2019	2020	2021	2022	Total
AusNet's revised proposal	53.0	53.6	54.3	55.3	56.1	272.3
AER final decision	53.0	53.6	54.3	55.3	56.1	272.3
Difference	–	–	–	–	–	–

Source: AusNet Services, *Distribution GAAR Revised Proposal PTRM - 20170811 - Public*, 11 August 2017; AER analysis.

Note: Includes debt raising costs.

Our draft decision reduced AusNet's proposed opex forecast by 11.9 per cent. The biggest difference was our decision not to include AusNet's proposed increase in marketing expenditure. We also made a number of adjustments to the rate at which AusNet's opex is projected to change (increase) over the next five years. While it accepted both of these changes, in its revised proposal AusNet suggested we consider two possible variations to our approach.

## Output growth

First, AusNet suggested that we consider a different approach to forecasting output growth to that we approved on the basis of its initial proposal. It now prefers the approach taken by Multinet Gas, which is based solely on customer numbers and network length rather than throughput.<sup>65</sup>

We agree that gas distributors are likely to face the same opex cost drivers. Ideally we would use a consistent approach to forecast output growth in our alternative estimate of opex. However, as we stated in our draft decision, we do not currently have the necessary dataset to undertake the modelling needed to determine a standard industry output specification for gas distribution. For electricity distribution and transmission networks, we have a consistent dataset that we use to undertake our annual benchmarking. We have collected this data only after an industry-wide consultation process. We also consulted with industry and other stakeholders on the output specification. We have yet to undertake this process with the gas distribution industry, and consequently do not consider we are currently in a position to establish a standard industry output specification for gas distribution.

<sup>65</sup> AusNet Services - *Revised Access Arrangement Information - 20170811 - Public*, pp. 12-13.

That is why we adopted the approach that we did to assess forecast output growth in our draft decision.<sup>66</sup> Under this approach we assessed the reasonableness of each gas distributor's output growth forecast against a reasonable range. Our acceptance of a distributor's output growth forecast was not an endorsement of the approach they adopted. For example, in our draft decision for Multinet, while we were satisfied with Multinet's output growth forecast, net of productivity growth, we expressed concerns with the method Multinet used.<sup>67</sup> Consequently, it would not be appropriate to adopt Multinet's approach for all gas distributors. Multinet's approach may not produce a reasonable output growth forecast for different distributors facing different output growth conditions.

## Treatment of marketing expenditure

In our draft decision we took the view that marketing—as a business as usual expense—was something AusNet should look to manage within its existing opex forecast where it was prudent and efficient to do so.

While AusNet has adopted the revisions in our draft decision to remove the increase in opex for marketing expenditure from its forecast, both AusNet and CCP11 have suggested there would be value in further engagement with us and other stakeholders on this topic.

AusNet suggested that marketing expenditure drawn from its opex forecast absent a step change would be 'unfunded', and expose it to potential penalties under the efficiency carryover mechanism. Perhaps in contrast, CCP11 has expressed concern that including (whether explicitly or implicitly) an allowance for marketing expenditure in regulated revenues may not encourage prudent and efficient expenditure. It suggested excluding marketing expenditure from the efficiency carryover mechanism.

In our draft decision we discussed the potentially different incentives to increase or decrease expenditure on marketing than for other types of opex.<sup>68</sup> However, we remain of the view that excluding marketing expenditure from the EBSS would not address this. We will continue to monitor this issue. If we consider that this incentive imbalance is resulting in inefficient levels of total opex we will reconsider whether alternative incentive arrangements are required for marketing expenditure.

### 2.3.8 Efficiency carryover mechanism

The opex efficiency carryover mechanism in AusNet's access arrangement provides an additional incentive for AusNet to pursue efficiency improvements in its opex over

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<sup>66</sup> AER - *Draft decision - AusNet Services gas access arrangement 2018-22 - Attachment 7 - Operating expenditure* - July 2017, p. 7-24.

<sup>67</sup> AER, *Draft decision - Multinet Gas Access arrangement 2018 to 2022, Attachment 7 - Operating expenditure*, July 2017, pp. 24–25.

<sup>68</sup> AER, *Draft decision - AusNet Services Gas access arrangement 2018 to 2022, Attachment 7 - Operating expenditure*, July 2017, p. 29.

an access arrangement period. It does this by allowing AusNet to retain efficiency savings achieved within a particular period for a longer period of time.

Our draft decision approved a positive carryover amount of \$8.6 million (\$2017) from the application of the efficiency carryover mechanism in the 2013–17 access arrangement period. AusNet's revised proposal adopted the carryover amounts approved in our draft decision.<sup>69</sup> Our final decision confirms those amounts, and a total efficiency carryover amount of \$8.6 million (\$2017).<sup>70</sup>

Table 2-10 shows our final decision on AusNet's proposed carryover amounts.

**Table 2-10 Carryover amounts under the opex efficiency carryover mechanism (\$million, \$2017)**

	2018	2019	2020	2021	2022	Total
AusNet Services' revised carryover	3.3	1.6	3.0	–	0.6	8.6
Final decision	3.3	1.6	3.0	–	0.6	8.6
Difference	–	–	–	–	–	–

Note: Numbers may not add up due to rounding.

AusNet's revised proposal adopted the changes made in our draft decision to the efficiency carryover mechanism that will apply for the 2018–22 access arrangement period. We have accepted AusNet's implementation of these changes and its revised proposal on the forecast expenditure amounts that will be used as the basis for measuring efficiencies under the efficiency carryover mechanism for 2018-22.<sup>71</sup>

### 2.3.9 Corporate income tax

AusNet has adopted the post-tax framework to derive its revenue requirement for the 2018–22 access arrangement period.<sup>72</sup> When determining the total revenue for AusNet, we therefore include an estimate of AusNet's cost of corporate income tax.

Our final decision on the estimated cost of corporate income tax is \$47.1 million (\$ nominal) for AusNet over the 2018–22 access arrangement period, as shown in Table 2-11.<sup>73</sup>

<sup>69</sup> AusNet Services - *Distribution GAAR Revised Proposal PTRM* - 20170811 - Public

<sup>70</sup> AER, Final decision post tax revenue model, November 2017.

<sup>71</sup> AusNet Services - *2018-22 Access arrangement - Part B - reference tariffs and reference tariff policy - clean* - 20170811 - Public, cl. 6.4.2(k).

<sup>72</sup> AusNet Services - *Distribution GAAR Revised Proposal PTRM* - 20170811 - Public.

<sup>73</sup> This is an increase of \$1.0 million (\$ nominal) or 2.2 per cent from the \$46.1 million (\$ nominal) in AusNet's revised proposal. The increase reflects our amendments to AusNet's revised proposed inputs for forecasting the cost of corporate income tax, including the opening tax asset base at 1 January 2018 and remaining tax asset lives. Our final decision adjustments to the return on capital (section 2.3.2) and regulatory depreciation (section 2.3.5) also affect revenues, which in turn impacts the tax calculation.

**Table 2-11 Corporate tax allowance 2018–22 (\$million, nominal)**

	2018	2019	2020	2021	2022	Total
Tax payable	16.6	11.2	14.1	18.2	18.5	78.5
Less: value of imputation credits	6.7	4.5	5.6	7.3	7.4	31.4
<b>Net corporate income tax allowance</b>	<b>10.0</b>	<b>6.7</b>	<b>8.4</b>	<b>10.9</b>	<b>11.1</b>	<b>47.1</b>

Source: AER analysis.

## 2.4 New capital expenditure sharing scheme

This final decision approves the application of a new incentive mechanism to AusNet's capital expenditure: a contingent capital expenditure sharing scheme (CESS).

The final form of the CESS that will apply to AusNet for the 2018-22 access arrangement period is set out in the approved access arrangement released with this decision<sup>74</sup>, and explained in attachment 14.

In its final advice to us on this review, CCP11 supported our decision to apply the new CESS to AGN and AusNet. It also commended the level of collaboration between us and the businesses to develop a robust measure of network health, and endorsed the adoption of those measures. However, CCP11 raised continued concerns—not specific to AusNet—about the adequacy of provisions to manage the risk that the CESS would reward a business for inefficient deferral of capital works from one period to the next.<sup>75</sup>

In this final decision we have explicitly detailed the operation of the CESS, including the methodology we will use to:

- calculate efficiency gains and losses
- account for the benefits and costs already accrued
- calculate the CESS reward or penalty (contingent on network health)
- undertake a final year adjustment to CESS rewards or penalties at the following access arrangement, and
- adjust CESS payments when capex has been deferred to the following access arrangement period.

Recognising the concerns that stakeholders—including CCP11—have raised throughout this process, the CESS has been designed so that any reward to AusNet under the CESS will be contingent on AusNet maintaining current service standards,

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<sup>74</sup> AER, *Approved access arrangement for AusNet Services 2018-22 - Part B - reference tariffs and reference tariff policy*, November 2017, cl. 6.4.3.

<sup>75</sup> CCP11, *Final advice - AGN, AusNet and Multinet*, September 2017, p. 25.

measured through a new network health index. If service standards decline, then AusNet will receive a reduced CESS reward or no reward at all.

Importantly, we consider the capex deferral mechanism in the approved CESS will operate to identify capex deferrals—for example where actual volumes of capex for mains replacement are lower than anticipated in our approved capex forecast—and potentially adjust CESS payments where such deferrals are not appropriately recognised as capex efficiencies.

## 2.5 Non-tariff components

The non-tariff components of an access arrangement include:

- the terms and conditions for the supply of reference services
- extension and expansion requirements—the method for determining whether an extension or expansion is a part of the covered pipeline and the effect this will have on tariffs
- capacity trading requirements—the arrangements for users to assign contracted capacity and change delivery and receipt points
- provisions for receipt and delivery point changes, and
- a review submission date and a revision commencement date.<sup>76</sup>

AusNet's revised proposal adopted our draft decision on these elements of its access arrangement without further amendment. Our final decision accepts these elements of the revised proposal in full.

Prior to the draft decision AusNet advised it would be prepared to change its review submission date from 1 January 2022 to 1 December 2021. While AusNet's revised proposal maintained the later of these dates, AusNet has subsequently confirmed it is happy to adopt 1 December 2021 as the review submission date.

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<sup>76</sup> Although not required in the present case, all transmission pipelines and some distribution pipelines are also required to set out how any spare or developable capacity will be allocated among prospective users ('queuing requirements') - see NGR, r. 103.

## A The National Gas Objective

The NGL requires us to make this decision in a manner that contributes, or is likely to contribute, to achieving the NGO.<sup>77</sup> The focus of the NGO is on promoting efficient investment in, and operation and use of, natural gas services (rather than assets) in the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.<sup>78</sup> This is not delivered by any one of the NGO's factors in isolation, but rather by balancing them in reaching a regulatory decision.<sup>79</sup>

In general, we consider that the long-term interests of consumers are best served where consumers receive a reasonable level of safe and reliable service, which they value, at least cost in the long run.<sup>80</sup> A decision that places too much emphasis on short term considerations may not lead to the best overall outcomes for consumers once the longer term implications of that decision are taken into account.<sup>81</sup>

There may be a range of economically efficient decisions that we could make in a revenue decision, each with different implications for the long term interests of consumers.<sup>82</sup> A particular economically efficient outcome may not be in the long term interests of consumers, depending on how prices are structured and risks allocated within the market.<sup>83</sup> There are also a range of outcomes that are unlikely to advance the NGO, or advance the NGO to the degree that others would. For example:

- the long term interests of consumers will not be advanced if our decisions encourage over-investment which results in prices so high that consumers are unwilling or unable to efficiently use the network.<sup>84</sup> This could have significant longer term pricing implications for those consumers who continue to use network services.
- equally, the long-term interests of consumers will not be advanced if we allowed revenues to result in prices so low that investors do not invest to sufficiently maintain the appropriate quality and level of service.<sup>85</sup> This could create longer term problems in the network, and could have adverse consequences for safety, security and reliability of the network.

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<sup>77</sup> NGL, s. 28(1)

<sup>78</sup> This is also the view of the Australian Energy Markets Commission (the AEMC). See, for example, the AEMC, *'Applying the Energy Objectives: A guide for stakeholders'*, 1 December 2016, p. 5.

<sup>79</sup> Hansard, *SA House of Assembly*, 26 September 2013, p. 7173. See also the AEMC, *'Applying the Energy Objectives: A guide for stakeholders'*, 1 December 2016, p. 7-8.

<sup>80</sup> Hansard, *SA House of Assembly*, 9 February 2005, p. 1452.

<sup>81</sup> See, for example, the AEMC, *'Applying the Energy Objectives: A guide for stakeholders'*, 1 December 2016, p. 6-7.

<sup>82</sup> *Re Michael: Ex parte Epic Energy* [2002] WASCA 231 at [143].

<sup>83</sup> See, for example, the AEMC, *'Applying the Energy Objectives: A guide for stakeholders'*, 1 December 2016, p. 5.

<sup>84</sup> NGL, s. 24(7).

<sup>85</sup> NGL, s. 24(6).

The legislative framework recognises the complexity of this task by providing us with significant discretion in many aspects of the decision-making process to make judgements on these matters.

## **A.1 Achieving the NGO to the greatest degree**

Our decisions on gas access arrangements are complex. In most cases, the provisions of the NGR do not point to a single answer, either for our decision as a whole or in respect of particular components. They require us to exercise our regulatory judgement. For example, part 9 of the NGR requires us to consider forecasts, which are predictions about unknown future circumstances. Very often, there will be more than one plausible forecast, and much debate amongst stakeholders about relevant costs. For certain components of our decision there may therefore be several plausible answers or several plausible point estimates.

When the components of our decision are considered together, this means there will almost always be several potential, overall decisions. More than one of these may contribute to the achievement of the NGO. In these cases, our role is to make an overall decision that we are satisfied contributes to the achievement of the NGO to the greatest degree.

We approach this from a practical perspective, accepting that it is not possible to consider every permutation specifically. Where there are choices to be made among several plausible alternatives, we have selected what we are satisfied would result in an overall decision that contributes to the achievement of the NGO to the greatest degree.

## **A.2 Interrelationships between the different components of our decision**

Examining individual components of our decision in isolation ignores the importance of the interrelationships between components of the overall decision, and would not contribute to the achievement of the NGO. We consider these interrelationships as part of our analysis of the various components of our decision. Examples include:

- underlying drivers and context which are likely to affect many constituent components of our decision. For example, forecast demand affects the efficient levels of capex and opex in the regulatory control period.
- direct mathematical links between different components of a decision. For example, the level of gamma has an impact on the appropriate tax allowance; the benchmark efficient entity's debt to equity ratio has a direct effect on the cost of equity, the cost of debt, and the overall vanilla rate of return.
- trade-offs between different components of revenue. For example, undertaking a particular capex project may affect the need for opex or vice versa.





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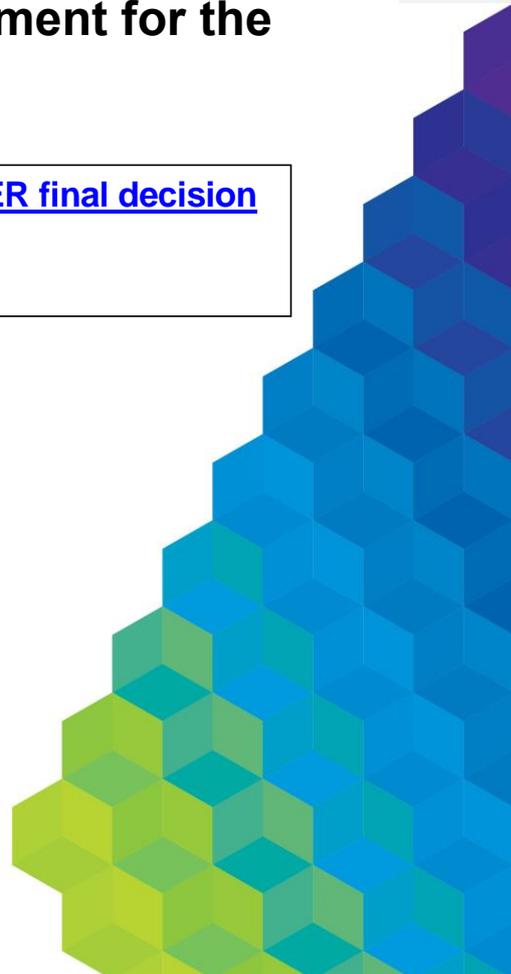
# Gas Access Arrangement Revision

2018-2022

Part A of the Access Arrangement for the  
Distribution System

[Incorporating revisions required by AER final decision  
30 November 2017](#)

missionzero



**Gas Access Arrangement Revision 2018-2022**

Please contact the indicated owner of the document for any inquiries.

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**Gas Access Arrangement Revision 2018-2022**

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## 1 Introduction

### Purpose of this Document

This document is the revision to AusNet Services' Access Arrangement dated July 2013, in accordance with rule 52 of the National Gas Rules. For ease of reference, the remainder of this document refers to the revision to the Access Arrangement as the "Access Arrangement".

The Access Arrangement sets out the terms and conditions on which the Service Provider will grant access to its Distribution System.

### Composition of Access Arrangement

This Access Arrangement is in three parts:

- Part A** this document including *Part A Schedule 1 Ancillary Reference Services & Part A Schedule 2 Access Arrangement Glossary*,
- Part B** *Reference Tariffs & Reference Tariff Policy* including *Part B Schedule 1 Initial Haulage Reference Tariffs* and *Part B Schedule 2 Initial Ancillary Reference Tariffs*; and
- Part C** *Terms & Conditions*.

The Access Arrangement also includes the plans of the Distribution System lodged with the Regulator.

### Effective Date

The Access Arrangement first came into effect on 1 January 1999. Revisions to the Access Arrangement came into effect on:

- (a) 1 January 2003 for the Second Access Arrangement Period;
- (b) 1 January 2008 for the Third Access Arrangement Period; and
- (c) 1 July 2013 for the Fourth Access Arrangement Period.

These revisions to the Access Arrangement for the Fifth Access Arrangement Period shall come into effect on 1 January 2018.

## 2 Definitions and Interpretation

In this Access Arrangement and supporting documents, where a word or phrase is capitalised:

- (a) it has the definition given to that word or phrase in the Glossary contained in Schedule 2 of Part A of this Access Arrangement; or
- (b) if the word or phrase is not defined in the Glossary, the meaning given to that word or phrase in the National Gas Law or National Gas Rules,

unless the context otherwise requires.

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If, during the Fifth Access Arrangement Period, the National Gas Rules, as in force at the date of the approval of the revisions to the Access Arrangement, are substantially amended or replaced and, as a result, a word or phrase defined under this Access Arrangement is no longer defined, to the extent permitted by law, that word or phrase shall continue to have the definition given to it in the National Gas Rules in force as at the date this Access Arrangement was approved for the duration of the Fifth Access Arrangement Period.

**3 Contact Details**

The contact officer for further details on this Access Arrangement is:

Manager – Economic Regulation  
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Level 31, 2 Southbank Boulevard  
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**4 Prior Contractual Rights**

No provision in this Access Arrangement deprives any person of a contractual right which was in existence prior to:

- (a) 3 November 1997 (when the Access Arrangement was first submitted to the Regulator);
- (b) 28 March 2002 (when the revisions to the Access Arrangement for the Second Access Arrangement Period were submitted to the Regulator);
- (c) 30 March 2007 (when the revisions to the Access Arrangement for the Third Access Arrangement Period were submitted to the Regulator);
- (d) 30 March 2012 (when the revisions to the Access Arrangement for the Fourth Access Arrangement Period were submitted to the Regulator);
- (e) 16 December 2016 (when the revisions to the Access Arrangement for the Fifth Access Arrangement Period were submitted to the Regulator).

**5 Requirements of National Gas Rules**

This section includes the elements set out in rule 48 of the National Gas Rules which are applicable to the Service Provider.

**Pipeline**

This Access Arrangement applies to the Service Provider's Distribution System, further details of which can be inspected at the Service Provider's website: [www.ausnetservices.com.au](http://www.ausnetservices.com.au).

**Services Policy**

5.2.1 The Service Provider will make Haulage Reference Services and Ancillary Reference Services available to Users or Prospective Users of the Distribution System at the Reference

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Tariffs and in accordance with the Reference Tariff Policy set out in section 5.3 below. The Reference Services are likely to be sought by a significant part of the market.

The Tariff V Haulage Reference Service is the Haulage Reference Service where the withdrawal of Gas is at a Tariff V Distribution Supply Point.

The Tariff M Haulage Reference Service is the Haulage Reference Service where the withdrawal of Gas is at a Tariff M Distribution Supply Point but does not include Tariff M Connection.

The Tariff D Haulage Reference Service is the Haulage Reference Service where the withdrawal of Gas is at a Tariff D Distribution Supply Point but does not include Tariff D Connection.

The Ancillary Reference Services are those services as described in Schedule 1 of Part A.

5.2.2 The Service Provider will provide the Reference Services in accordance with the Regulatory Instruments.

5.2.3 The Service Provider will make Distribution Services other than Reference Services available to Users or Prospective Users as agreed or as determined in accordance with any applicable Regulatory Instruments.

Distribution Services other than Reference Services include Tariff D Connection and Tariff M Connection.

5.2.4 Upon that Part coming into operation in Victoria, the procedures for the provision of Connection Services will be set out in Part 12A of the National Gas Rules.

An application for a Connection Service may be made by a Customer of the User but, except where rule 119O(2) of the National Gas Rules ("Payment of connection charges") applies, and the Customer is paying the charges directly under one of the circumstances set out in rule 119O(1), the charges for that service are payable by the User.

The charges for Connection Services will be determined in accordance with any applicable requirements of relevant Regulatory Instruments (including where provided for by those Regulatory Instruments by negotiation between the Customer and the Service Provider or between the User and the Service Provider in accordance with those Regulatory Instruments).

5.2.5 The amounts payable for Reference Services and Distribution Services other than Reference Services constitute distribution service charges for the purposes of rule 503 of Part 21 of the National Gas Rules ("Obligation to Pay").

**Reference Tariffs and Reference Tariff Policy**

Reference Tariffs and the Reference Tariff Policy applicable to this Access Arrangement are set out in Part B.

5.3.1 Reference Tariffs

Section 1 of Part B describes the application and assignment of Reference Tariffs to Distribution Supply Points. The Reference Tariffs for Haulage Reference Services and Ancillary Reference Services applicable from 1 January 2018 are set out in clauses 9 and 10 of Part B.

**Gas Access Arrangement Revision 2018-2022****5.3.2 Haulage Reference Tariff Control Formula**

Section 3 of Part B describes the formula to be applied in varying, withdrawing or introducing new Haulage Reference Tariffs.

**5.3.3 Processing changes to Haulage Reference Tariffs**

Section 4 of Part B describes the processes for varying, withdrawing or introducing new Haulage Reference Tariffs.

**5.3.4 Calculation of Charges for Haulage Reference Tariffs**

Section 5 of Part B describes the calculation of Charges from the application of Haulage Reference Tariffs.

**5.3.5 Reference Tariff Policy**

Section 6 of Part B sets out the Reference Tariff Policy which describes the principles used to determine a Reference Tariff. The policy includes:

- (a) 6.1 CPI-X Price path;
- (b) 6.2 New Facilities Investment;
- (c) 6.3 Speculative Capital Expenditure Account;
- (d) 6.4 Efficiency Mechanisms.

**5.3.6 Fixed Principles**

Section 7 of Part B describes the Fixed Principles that are to apply to the Access Arrangement.

**5.3.7 Relevant Pass Through Event**

Section 8 of Part B describes the procedures to apply as a result of a Relevant Pass Through Event.

**Terms and Conditions**

5.4.1 The terms and conditions on which the Service Provider will supply each Reference Service are set out in Part C.

5.4.2 The terms and conditions on which the Service Provider will supply each Distribution Service other than a Reference Service are set out in Part C.

**New Connections and Modifications****5.5.1 Applicability**

These queuing arrangements are applicable to requests for new Connections or modifications to existing Connections and are subject to the Extensions and Expansions Policy.

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## 5.5.2 Procedure

- (a) The Service Provider will administer requests by Prospective Users for Connection or a request by a User or Prospective User for a modification to an existing Connection in the following manner:
- (1) The Service Provider will administer requests in the order they are received (on a "first come, first served" basis), including advising the Prospective User as to the charge (if any) for undertaking or modifying the Connection; and
  - (2) the Service Provider may amend the charge first specified pursuant to clause 5.5.2(a)(1) prior to the Connection being made, if additional requests for undertaking or modifying a Connection are received and those additional requests allow the recovery of the charge over a larger or different group of Prospective Users or Users.

**Extensions/Expansions Policy**

## 5.6.1 Extensions

- (a) High pressure extensions
- (1) If the Service Provider proposes a high pressure pipeline Extension of the Covered Pipeline, it must apply to the Regulator in writing to decide whether the proposed Extension will be taken to form part of the Covered Pipeline and will be covered by this Access Arrangement.
  - (2) A notification given by the Service Provider under this clause 5.6.1 must:
    - (A) be in writing;
    - (B) state whether the Service Provider intends for the proposed high pressure pipeline Extension to be covered by this Access Arrangement;
    - (C) describe the proposed high pressure Extension and describe why the proposed Extension is being undertaken; and
    - (D) be given to the Regulator before the proposed high pressure pipeline Extension comes into service.
  - (3) The Service Provider is not required to notify the Regulator under this clause 5.6 to the extent that the cost of the proposed high pressure pipeline Extension has already been included and approved by the Regulator in the calculation of the Reference Tariffs.
  - (4) After considering the Service Provider's application, and undertaking such consultation as the Regulator considers appropriate, the Regulator will inform the Service Provider of its decision on the Service Provider's proposed coverage approach for the high pressure pipeline Extension.
  - (5) The Regulator's decision in clause 5.6.1(a)(4) may be made on such reasonable conditions as determined by the Regulator as will have the effect stated in the decision.



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- (b) Other extensions and expansions
  - (1) Any Extensions to the Distribution System which are not high pressure pipeline Extensions within the meaning of this clause will be covered by this Access Arrangement. Any Expansions in the Distribution System will be covered by this Access Arrangement.
  - (2) For the purposes of this clause, High Pressure means 1050kPa.

**5.6.2 Effect of Extension/Expansion on Reference Tariffs**

- (a) This clause 5.6.2 describes how Users will be charged for a Reference Service where the provision of the Reference Service requires Capital Expenditure constituted by an Extension or Expansion covered by this Access Arrangement (such Users are "Incremental Users"). Where Capital Expenditure is required to provide a Distribution Service other than a Reference Service, the Service Provider will negotiate the charge in good faith with the relevant Users (subject to the relevant provisions of the National Gas Rules).
- (b) Where Capital Expenditure passes the Economic Feasibility Test, Incremental Users will be charged at the prevailing Reference Tariffs and, as permitted by the National Gas Rules, the Service Provider will seek to include the Capital Expenditure in the Capital Base at the next review of the Access Arrangement. The Service Provider may, at its discretion, seek the Regulator's agreement prior to the next review of the Access Arrangement that the Capital Expenditure meets the New Capital Expenditure Criteria under the National Gas Rules.
- (c) Where Capital Expenditure does not pass the Economic Feasibility Test:
  - (1) the Service Provider will seek to include the relevant part of the Capital Expenditure in the Capital Base at the next review of the Access Arrangement. The Service Provider may, at its discretion, seek the Regulator's agreement prior to the next review of the Access Arrangement that the relevant part of the Capital Expenditure meets the New Capital Expenditure Criteria;
  - (2) the remaining Capital Expenditure may be (subject to the National Gas Rules):
    - (A) recovered by charging Incremental Users according to the prevailing Reference Tariffs plus a surcharge approved by the Regulator under rule 83 of the National Gas Rules;
    - (B) included in a Speculative Capital Expenditure Account under the Reference Tariff Policy in Part B, (in which case Incremental Users would be charged according to the prevailing Reference Tariffs); or
    - (C) recovered by a combination of these approaches (in which case Incremental Users would be charged according to the prevailing Reference Tariffs plus a surcharge approved by the Regulator under rule 83 of the National Gas Rules); and
  - (3) the Service Provider will notify the relevant Users of its choice between these approaches prior to the relevant New Facility entering into service.
- (d) The Service Provider may, at its discretion, negotiate a capital contribution with a specific User or Users in respect of a New Facility, in which case, the charge for the User or Users shall be as agreed between the parties. (For the purposes of determining Reference Tariffs, this Capital Expenditure shall be treated as if it were funded by the Service Provider and the User or Users shall be assumed to be paying a

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surcharge (if any) that would be approved by the Regulator under rule 83 of the National Gas Rules).

- (e) Notwithstanding clauses 5.6.2(c) and 5.6.2(d) above, where the Service Provider considers that some or all of the Capital Expenditure that does not pass the Economic Feasibility Test may pass the System Wide Benefits Test, the Service Provider may propose revisions to the Access Arrangement which have the effect of raising Reference Tariffs immediately (and thus permitting the part of the Capital Expenditure that would pass the System Wide Benefits Test to be included in the Capital Base and recovered through Reference Tariffs immediately).

**5.6.3 Unreticulated Townships**

- (a) The Service Provider's policy for Extensions to unreticulated townships where the Extension was not included in the calculation of the Reference Tariffs or the subject of a competitive tender is as follows:
- (1) Any proposal to reticulate a township, or request to the Service Provider to consider reticulation of a township, will undergo an initial feasibility assessment.
  - (2) If the feasibility assessment indicates that the Extension may be economic, the Service Provider will conduct further investigation that may include proposals for the regulatory treatment of the Extension.
  - (3) The Service Provider may approach the Regulator with details of the proposed Extension with a view to agreeing the regulatory treatment of the Extension.
  - (4) Where the agreed regulatory treatment is that the Extension is, if it proceeds, to be covered by this Access Arrangement:
    - (A) the Service Provider will be permitted to recover the Net Financing Cost incurred during the Access Arrangement Period in which the Extension is commenced in Reference Tariffs to take effect in one or more subsequent Access Arrangement Periods;
    - (B) the Capital Base for the Access Arrangement Period commencing immediately after the commencement of the Extension will be increased by the amount of the Capital Expenditure;
    - (C) the Capital Expenditure will not reduce the carry-over of cost-related efficiencies from the Access Arrangement Period in which the Extension is commenced to any subsequent Access Arrangement Period;provided the Extension:
    - (D) passes the Economic Feasibility Test; and
    - (E) would otherwise be uneconomic for the Service Provider if commenced prior to being included in the calculation of Reference Tariffs in future Access Arrangement Periods.
  - (5) Once agreement has been reached concerning the regulatory treatment of the proposed Extension, the Service Provider will undertake a detailed feasibility assessment. Should the outcome of this assessment establish or confirm that the Extension is economic (including the consideration of any capital contributions or surcharges) under the agreed regulatory treatment, the Extension will progress. Otherwise, further discussions will be held with the Regulator. If, in light of the detailed economic assessment and available

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- regulatory arrangements, the Extension is not economic, the Extension will not proceed.
- (6) Where the Extension is found to be uneconomic, the Service Provider may review the Extension should material changes occur.
  - (7) The Service Provider's funding of an Extension to an unreticulated township is conditional upon (among other things) the Service Provider having sufficient funds available on commercial terms acceptable to the Service Provider.
  - (8) The agreed regulatory treatment for a new town extension may involve a capital contribution together with existing zonal tariffs, a surcharge above zonal tariffs, or a separate new town tariff.
  - (9) Where the agreed treatment for a new town Extension is a separate new town tariff, there shall also be agreed a mechanism to integrate the new town tariff into the form of price control, including in relation to rebalancing constraints.
  - (10) Where the agreed treatment for a new town Extension is to utilise an existing tariff, a new town tariff is not a new tariff for existing customers and is not a new tariff for the purposes of the interpretation of the Reference Tariff control formula.

**Capacity Trading Requirements**

- 5.7.1 The Service Provider is a Distributor for the purposes of the Market Rules and is subject to those Market Rules to the extent they apply to Distributors.
- 5.7.2 There are no applicable capacity trading requirements for the purposes of rules 48(1)(f) or 105(1) of the National Gas Rules.

**Change of Receipt or Delivery Point**

- 5.8.1 Any change to a Receipt or Delivery Point on the Distribution System will require the consent of the Service Provider. Such consent will not be withheld unless there are reasonable technical or commercial grounds for withholding consent.
- 5.8.2 As the only Receipt Points on the Distribution System are custody transfer points between the Distribution System and other networks, it is unlikely the Service Provider would consent to a request to change a Receipt Point.
- 5.8.3 Requests for changes to any Customer Distribution Supply Point will be considered on a case-by-case basis, subject to technical and commercial feasibility, and will continue to be offered as a Service other than a Reference Service.

**Review and Expiry of Access Arrangement**

- 5.9.1 The Service Provider will submit revisions to this Access Arrangement to the Regulator on or before [1 December 2021](#).
- 5.9.2 The revision commencement date is 1 January 2023.

Deleted: 1 January 2022

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**Schedule 1 of Part A – Ancillary Reference Services**

The following Ancillary Reference Services are provided in relation to Distribution Supply Points at which Gas is withdrawn by or in respect of a Residential Customer:

- (a) **On-site meter and gas installation test** – Testing to check the accuracy of a Meter and the soundness of a Gas Installation, in order to determine whether the Meter is accurately measuring the Quantity of Gas delivered.
- (b) **Disconnection Service** – Disconnection by the carrying out of work, being:
  - (1) removal of the Meter at a Metering Installation, or
  - (2) the use of locks or plugs at a Metering Installation in order to prevent the withdrawal of Gas at the Distribution Supply Point.
- (c) **Reconnection Service** – Reconnection by turning on Supply, including the removal of locks or plugs used to isolate Supply or reinstallation of a Meter if it has been removed, performance of a safety check and the lighting of appliances where necessary.
- (d) **Special Meter Reading Service** – Meter reading for a Distribution Supply Point in addition to the scheduled meter readings that form part of the Haulage Reference Services.

The Ancillary Reference Services will be provided on Business Days during normal business hours as advised by the Service Provider from time to time.

## Schedule 2 of Part A – Access Arrangement Glossary

### S 2.1 Definitions

**Access Act** means the *National Gas (Victoria) Act 2008* (Vic);

**Access Arrangement** means this arrangement for access for third parties to the Distribution System lodged by the Service Provider with, and [as](#) approved by, the Regulator under the Access Act and National Gas Rules;

**Actual Meter Reading** has the same meaning as in the Retail Market Procedures (Victoria);

**Additional Charge** means any charge imposed on the Service Provider by an Authority which is referable to the User or a Customer, and where such charge is referable to a class of Retailers or Customers rather than an individual Retailer or Customer, that charge will be allocated between the Retailers or Customers (as the case may be) on a fair and reasonable basis by the Service Provider, provided that the Service Provider is not prohibited from passing through that charge to Retailers or Customers under the Regulatory Instruments;

**AEMO** means the Australian Energy Market Operator Limited ABN 94 072 010 327;

**AER** means the Australian Energy Regulator established by section 44AE of the *Competition and Consumer Act 2010* (Cth);

**Agreement** means an agreement executed or to be executed by the Service Provider and a User on the Terms and Conditions or an agreement in respect of the terms and conditions for the provision of Distribution Services, as negotiated between the Service Provider and a User;

**Ancillary Reference Service** means a Reference Service as set out in Schedule 1 of Part A of this Access Arrangement;

**Ancillary Reference Tariff** means the tariff that applies to an Ancillary Reference Service;

**Annual MHQ** means the greatest Quantity of Gas (in GJ) withdrawn at a Distribution Supply Point in any hour in a Calendar Year;

**Australian Consumer Law** means Schedule 2 to the *Competition and Consumer Act (Cth) 2010* (Cth);

**Authority** means any:

- (a) government or regulatory department, statutory corporation (including the Regulator and AEMO), body, instrumentality, minister, agency or other authority; or
- (b) body which is the successor to the administrative responsibilities of that department, statutory corporation, body, instrumentality, minister, agency or authority;

**Averaging Period** for a given Calendar Year means the averaging period corresponding to that year that is specified in the confidential attachment to the Regulator's final decision for the Service Provider for the Fifth Access Arrangement Period;

**B2B Hub** means the electronic messaging system operated by AEMO for the Gas industry in Victoria or any electronic messaging system which replaces that system;

**Bank Bill Rate** means, for a day, the bank bill standard rate defined to be equal to:

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- (a) the “bid rate” (rounded up to four decimal places) quoted on the page entitled “BBSY” of the Reuters Monitor System at or about 10:00 am on that day (or where the day is not a Business Day then on the most recent prior Business Day) for bank accepted bills of exchange which have a tenor of 30 days; or
- (b) if the Bank Bill Rate cannot be determined in accordance with paragraph (a) of this definition, the rate percent per annum agreed by the parties in good faith to be the appropriate rate having regard to comparable indices then available in the current bill market, and in default of agreement within 14 days, the rate nominated by the Service Provider and approved by the Regulator as an appropriate rate;

**Bank Guarantee** means an irrevocable bank guarantee from a trading bank conducting business in Australia in favour of the Service Provider substantially in the form set out in Schedule 1 of the Terms and Conditions, for the Required Bank Guarantee Amount;

**Business Day** means a day other than a Saturday, Sunday or a day which has been proclaimed to be a public holiday in the Melbourne metropolitan area;

**Calendar Year** means a twelve-month period commencing on 1 January;

**Capital Expenditure Sharing Scheme or CESS** means the scheme provided for in clause 6.4.3 of the Reference Tariff Policy (as varied from time to time);

**Certificate of Compliance** means a notice of installation, or completion of Gas Installation work, from a Gas Installer;

**Change in Taxes Event** means an event where:

- (a) any of the following occurs during the course of the Access Arrangement Period:
  - (1) a change in a Relevant Tax, in the application or official interpretation of a Relevant Tax, in the rate of a Relevant Tax, or in the way a Relevant Tax is calculated;
  - (2) the removal of a Relevant Tax;
  - (3) the imposition of a Relevant Tax; and
- (b) in consequence, the costs to the Service Provider of providing Reference Services are materially increased or materially decreased;

**Charges** means the charges payable by the User to the Service Provider under clause 7 of the Terms and Conditions and includes:

- (a) the amount determined from the application of the Reference Tariffs in respect of the Reference Services provided to the User in respect of its Customers or such other amount as agreed in writing;
- (b) where Distribution Services other than Reference Services are provided by the Service Provider as set out in Schedule 3 of the Terms and Conditions, the Non-Reference Service Charge;
- (c) Connection Charges; and
- (d) Additional Charges;

**Claim** means any loss, liability, damage, claim, action, dispute, proceeding, demand, cost or expense whether arising in contract, tort (including negligence), equity or otherwise in respect of an event occurring after the Commencement Date;

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**Class A Inquiry** means an inquiry identified as an “A” inquiry in the Gas Leak and Emergency Calls Protocol and includes an inquiry relating to a Gas leak or Emergency;

**Class B Inquiry** means an inquiry identified as a “B” inquiry in the Gas Leak and Emergency Calls Protocol and includes an inquiry relating to a Gas leak or Emergency;

**Class C Inquiry** means an inquiry identified as a “C” inquiry in the Gas Leaks and Emergency Calls Protocol and includes an unplanned Interruption;

**Clean Energy Regulator** means the Clean Energy Regulator established by the *Clean Energy Regulator Act 2011* (Cth) or any successor agency;

**Commencement Date** means in respect of an Agreement, the date of commencement of the Agreement as set out in that Agreement;

**Confidential Information** means:

- (a) in respect of a party to an Agreement, the know-how, trade secrets, ideas, concepts, technical and operational information owned by that party or which that party has rights to use;
- (b) in respect of a party to an Agreement, information concerning the affairs or property of or any business, property or transaction in which that party may be or may have been concerned or interested;
- (c) in respect of the User, details of any Customers of the User; and
- (d) any other information which is to be treated in a confidential manner under a Regulatory Instrument with which a party to an Agreement is required to comply;

**Connection** means a physical link between a distribution pipeline and a Customer’s premises to allow the flow of Gas (or such other meaning as may be given to the term “Connection” from time to time by the National Gas Rules);

**Connection Alteration** means an alteration to an existing Connection including an addition, upgrade, extension, expansion, augmentation or any other kind of alteration;

**Connection Charge** means the charge (if any) for a Connection Service as determined pursuant to, where applicable, the Access Arrangement, the Distribution System Code, the National Gas Rules and the National Energy Retail Law;

**Connection Request** means a request in a form required by relevant Regulatory Instruments and otherwise, to the extent permitted by those Regulatory Instruments, in a form reasonably required by the Service Provider given by the User to the Service Provider requesting a Connection Service or Energisation;

**Connection Service** means either or both of the following:

- (a) the establishment of a new Connection;
- (b) the making of a Connection Alteration;

**Controller** has the same meaning as defined in the Corporations Act;

**Corporations Act** means the *Corporations Act 2001* (Cth);

**CPI** has the same meaning as in clause 3.1 of the Reference Tariff Policy;

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**Curtail** means to temporarily reduce the injection or withdrawal of Gas to or from the Distribution System;

**Customer** means, as the context requires:

- (a) a customer of the User at a Distribution Supply Point;
- (b) a prospective customer of the User at a Distribution Supply Point (or a point which will become a Distribution Supply Point upon the making of a Connection);

**Customer MHQ** means the maximum hourly Quantity of Gas, expressed in gigajoules per hour (GJ/hour), for delivery to a Tariff D Distribution Supply Point or a Tariff M Distribution Supply Point initially nominated by the User to the Service Provider and agreed to by the Service Provider in writing and then as agreed from time to time between the parties to an Agreement;

**Default Rate** means on a day the default interest rate applying under the National Gas Rules in respect of that day or, if there is no such rate, then the rate percent per annum which is the aggregate of 2 percent per annum and the Bank Bill Rate applicable for that day;

**Deemed Contract** means one of:

- (a) a contract between the Service Provider and a Customer under section 48 of the GIA; or
- (b) a deemed standard connection contract between the Service Provider and a Customer (as referred to in section 67(a) of the National Energy Retail Law ("Kinds of customer connection contracts")); or
- (c) a deemed AER approved standard connection contract between the Service Provider and a Customer (as referred to in section 67(b) of the National Energy Retail Law ("Kinds of customer connection contracts"));

**Disconnection** means the carrying out of work to prevent the withdrawal of Gas at a Distribution Supply Point (also referred to as de-energisation in the National Energy Retail Rules);

**Disconnection Request** means a request in a form required by relevant Regulatory Instruments and otherwise, to the extent permitted by those Regulatory Instruments, in a form reasonably required by the Service Provider given by the User to the Service Provider requesting the Disconnection and which must include the reason for requesting the Disconnection and certification that the User is entitled to Disconnect the Customer;

**Distribution Area** has the same meaning as defined in Schedule 2 of the Distribution Licence;

**Distribution Demand Tariff Component** means a Haulage Reference Tariff Component of Haulage Reference Tariff D or of Haulage Reference Tariff M, as set out in clause 5(3) of the Reference Tariff Policy (as varied from time to time) expressed in \$/GJ for Annual MHQ;

**Distribution Fixed Tariff Component** means a Haulage Reference Tariff Component of Haulage Reference Tariff V, as set out in clause 5(1) of the Reference Tariff Policy (as varied from time to time) and is expressed in \$/day;

**Distribution Licence** means the licence of that name to provide services by means of a distribution pipeline granted to the Service Provider by the Regulator under the GIA (or any licence or authorisation (however described) that replaces that licence);

**Distribution Pipeline** has the same meaning as in the GIA;



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**Distribution Services** means:

- (a) Reference Services in relation to Customers;
- (b) such services other than Reference Services that the Service Provider has agreed to provide to the User as set out in Schedule 3 of the Terms and Conditions (including a Tariff D Connection and a Tariff M Connection); and
- (c) other Connection Services (to a Tariff D Connection and a Tariff M Connection);

**Distribution Supply Point** means a point on the Distribution System at which Gas is capable of being withdrawn from the Distribution System for delivery to a Customer, which is normally located at the outlet of a Meter and includes a “supply point” and an “ancillary supply point” as defined in the *Gas Industry (Residual Provisions) Act 1994* (Vic) in relation to a Distribution System;

**Distribution System** means that part of the Gas Distribution System which is more particularly described in the plan of the Distribution System lodged with the Regulator and any Extension or Expansion of the Distribution System that is covered by the Access Arrangement;

**Distribution System Code** means the Victorian Gas Distribution System Code issued by the Regulator, compliance with which is a condition of the Distribution Licence;

**Distribution Volume Tariff Component** means a Reference Tariff Component of Haulage Reference Tariff V, as set out in clause 5(2) of the Reference Tariff Policy (as varied from time to time), expressed in \$/GJ for gigajoules of Gas withdrawn in the Peak Period or in the Off-Peak Period;

**Economic Feasibility Test** means the test to determine whether capital expenditure is conforming capital expenditure as constituted by rule 79(1)(a) and rule 79(2)(a) or 79(2)(b) of the National Gas Rules;

**Emergency** means an event or circumstance:

- (a) which the Governor in Council declares by proclamation to be an emergency under Part 9 of the GIA; or
- (b) which it would be reasonable to believe constitutes a situation which may:
  - (1) threaten the personal safety of any person; or
  - (2) cause material damage to the Transmission System or some other Transmission Pipeline which connects to the Distribution System; or
  - (3) cause material damage to the Distribution System; or
  - (4) cause material damage to any property, plant or equipment; or
- (c) which constitutes a level two to level five emergency (as set out in the emergency command organisation arrangements adopted by the Service Provider); or
- (d) which constitutes an emergency pursuant to rule 333 of the National Gas Rules (“Emergency”); or
- (e) which otherwise constitutes an “emergency” pursuant to relevant Regulatory Instruments;

**Energisation** means the act of turning on Supply including the removal of any locks or plugs used to isolate Supply or reinstallation of a Meter if it has been removed, performance of a safety check and the lighting of appliances where necessary;

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**Energy Retail Code** means the code of that name being a determination of the Regulator under section 43 of the GIA;

**ESC Act** means the *Essential Services Commission Act 2001 (Vic)*;

**ESC** means the Essential Services Commission as constituted pursuant to the ESC Act;

**Estimated Meter Reading** has the same meaning as in the Retail Market Procedures (Victoria);

**Expansion** means the process of upgrading the capacity or service potential of the Distribution System by replacing or enhancing existing plant or equipment or adding new plant or equipment;

**Extension** means extending a Pipeline to enlarge the area to which Gas may be, or is, supplied, including (for the avoidance of doubt) extensions which connect together pre-existing pipeline systems;

**Fifth Access Arrangement Period** means a period commencing on 1 January 2018 and ending on 31 December 2022;

**Financial Year** means the 12 months from 1 July to 30 June;

**Financially Responsible Organisation (FRO)** has the same meaning as in the Retail Market Procedures (Victoria);

**First Access Arrangement Period** means the period commencing on 1 January 1998 and ending on 31 December 2002;

**Force Majeure Event** means an event beyond the reasonable control of a person which causes a delay in performance, or non-performance, by that person of an obligation and includes without limitation:

- (a) an Emergency;
- (b) a Participant force majeure event or system force majeure event as defined in the National Gas Rules;
- (c) an event consisting of, or analogous to, the issue of a direction under section 106 or section 107 of the *Gas Safety Act 1997 (Vic)*; or
- (d) an event consisting of, or analogous to, an act of nature, governmental intervention or act of war, neither anticipated nor controllable by the Service Provider;

**Fourth Access Arrangement Period** means a period commencing on 1 January 2013 and ending on 31 December 2017;

**Gas** means any substance which is "gas" for the purposes of the GIA;

**Gas Day** has the same meaning as "gas day" in the Market Rules;

**Gas Distribution Company** has the same meaning as in the GIA;

**Gas Distribution System** has the same meaning as in the GIA;

**Gas Installation** means any Gas equipment located at a Customer's premises that is not part of the Distribution System;

**Gas Installer** means a person authorised by Regulatory Instruments to install, repair, alter or make any addition to a Gas Installation or to any part of a Gas Installation;

**Gas Interface Protocol** has the same meaning as in the Retail Market Procedures (Victoria);

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**Gas Leaks and Emergencies Number** means the Service Provider's contact telephone number as stated in clause 9.1(e) of the Agreement;

**Gas Leaks and Emergencies Calls Protocol** means the Gas Leak and Emergency Calls, "A" to "C" Priority, version 1.2 as approved by the Victorian Gas Retail Consultative Forum, as that document is amended or replaced from time to time;

**GIA** means the *Gas Industry Act 2001* (Vic), as amended from time to time;

**GJ** means Gigajoule. 1 GJ is equal to one thousand million Joules (1,000,000,000J);

**Glossary** means this glossary;

**GST** means goods and services tax or similar value added tax levied or imposed in the Commonwealth of Australia pursuant to the GST Law;

**GST Law** has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**Guaranteed Service Levels** or **GSLs** means the standard of service that must be provided by the Service Provider in respect of certain Distribution Services as set out in a Regulatory Instrument;

**Guarantor** has the meaning given in clause 7.8(a)(1)(B) of the Terms and Conditions;

**Haulage Reference Services** means:

- (a) allowing injection of Gas at Transfer Points;
- (b) conveyance of Gas from Transfer Points to Distribution Supply Points; and
- (c) allowing withdrawal of Gas at Distribution Supply Points;

except to the extent that:

- (d) before the start of the Fifth Access Arrangement Period the Service Provider and the User have agreed in writing that specific pricing applies to that service;
- (e) after the start of the Fifth Access Arrangement Period, the Service Provider and the User agree in writing or in such other form as approved by the Regulator that the service is not to be a Haulage Reference Service; or
- (f) the services are provided to a Transfer Point between a Distribution Pipeline by means of which the Service Provider provides services and a Distribution Pipeline by means of which another Gas Distribution Company (which is not exempt from the requirement to hold a licence because of an Order under section 24 of the GIA) provides services;

**Haulage Reference Tariff** means the tariff that applies to Haulage Reference Services;

**Haulage Reference Tariff Component** means an individual price element comprising part of a Haulage Reference Tariff;

**Haulage Reference Tariff D** means the Haulage Reference Tariff that applies to the Tariff D Haulage Reference Service (including a new Haulage Reference Tariff to apply to that Service introduced pursuant to the Reference Tariff Policy);

**Haulage Reference Tariff M** means the Haulage Reference Tariff that applies to the Tariff M Haulage Reference Service (including a new Haulage Reference Tariff to apply to that Service introduced pursuant to the Reference Tariff Policy);

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**Haulage Reference Tariff V** means the Haulage Reference Tariff that applies to the Tariff V Haulage Reference Service (including a new Haulage Reference Tariff to apply to that Service introduced pursuant to the Reference Tariff Policy);

**Heating Value** means the heating value of Gas in the Distribution System as calculated by AEMO in accordance with the Retail Market Procedures (Victoria) or any rules or procedures made under the Retail Market Procedures (Victoria) including the Wholesale Market Energy Calculation Procedures (Victoria);

**Inquiry** means an inquiry or consultation commenced by the Ombudsman under its constitution;

**Insolvency Event** means the happening of any of the following events in relation to a party to an Agreement:

- (a) an order is made that it be wound up or that a Controller be appointed to it or any of its assets;
- (b) a resolution that it be wound up is passed;
- (c) a liquidator, provisional liquidator, Controller or any similar official is appointed to, or takes possession or control of, all or any of its assets or undertakings;
- (d) an administrator is appointed to it (other than by the Regulator pursuant to the party's Distribution Licence) or a resolution that an administrator be appointed to it is passed;
- (e) it enters into, or resolves to enter into, an arrangement, compromise or composition with any of, or any class of, its creditors or shareholders, or an assignment for the benefit of any of, or any class of, its creditors, in relation to a potential Insolvency Event in subparagraphs (a) to (d), or (f) to (g) occurring;
- (f) any action is taken by the Australian Securities and Investment Commission to cancel its registration or to dissolve it;
- (g) it is insolvent within the meaning of section 95A of the Corporations Act, as disclosed in its accounts or otherwise, states that it is unable to pay its debts or it is presumed to be insolvent under any applicable law; or
- (h) it stops or suspends:
  - (1) the payment of all or a class of its debts; or
  - (2) the conduct of all or a substantial part of its business; or
- (i) if the User is constituted in another jurisdiction, any event having a substantially similar effect to any of the events specified in the preceding paragraphs happens to it under the law of that other jurisdiction;

**Insurance Cap Event** means an event whereby:

- (a) the Service Provider makes a claim or claims on a relevant insurance policy and receives the benefit of a payment or payments under that policy;
- (b) the Service Provider incurs costs beyond the relevant policy limit; and
- (c) the costs beyond the relevant policy limit materially increase the costs to the Service Provider of providing Reference Services.

For the purposes of this Insurance Cap Event:

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- (d) a relevant insurance policy is an insurance policy held during the Fifth Access Arrangement Period or a previous period in which access to the pipeline services was regulated;
- (e) the Service Provider will be deemed to have made a claim on a relevant insurance policy if the claim is made by a related party of the Service Provider in relation to any aspect of the Distribution System or the Service Provider's business.

Note in making a determination in making a determination on an Insurance Cap Event, the Regulator will have regard to, amongst other things:

- (1) the insurance policy for the event;
- (2) the level of insurance that an efficient and prudent Service Provider would obtain in respect of the event; and
- (3) any assessment by the Regulator of the Service Provider's insurance in making its access arrangement decision for the relevant period.

**Insurer Credit Risk Event** means the Service Provider's insurer experiences an Insolvency Event, as a result of which the Service Provider:

- (a) in respect of a claim for a risk that ~~was~~ insured by the Service Provider's insurer, is subject to a materially higher or materially lower claim limit or a materially higher or materially lower deductible than was applied under that policy; or
- (b) incurs ~~material~~ additional costs associated with funding an insurance claim which would have otherwise been covered by the insolvent insurer;

Deleted: would have been

Note: In making its decision to approve or reject a proposed reference tariff variation arising from an Insurer Credit Risk Event, the Regulator will have regard to, amongst other things:

- (c) the Service Provider's attempts to mitigate and prevent the event from occurring by reviewing and considering the insurer's track record, size, credit rating and reputation.
- (d) in the event that a claim would have been made after the insurer became insolvent, whether the Service Provider had reasonable opportunity to insure the risk with a different insurer.

**Interruption** means the planned or unplanned temporary stoppage of Supply to one or more Distribution Supply Points;

**J** means Joule; a unit of energy as defined in AS1000-1979 "The International System of Units (SI) and its Application";

**Licence Fee** means the licence fee and other fees and charges in respect of the Distribution Licence paid or payable by the Service Provider under its Distribution Licence as directed by the Regulator;

**Main** means a low, medium or high pressure pipe in the Distribution System, other than a Service Pipe;

**Market Rules** means Part 19 of the National Gas Rules ("Declared Wholesale Gas Market Rules");

**Meter** means a device that measures and records quantities of Gas by reference to volume, mass or energy content;

**Metering Installation** means the Meter and associated equipment and installations which may include correctors, regulators, filters, data loggers and telemetry relating to a Distribution Supply Point;

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**Metering Data** means data pertaining to the measure of the quantity of Gas flow obtained from a Metering Installation;

**Meter Reading** has the same meaning as in the Retail Market Procedures (Victoria);

**MHQ** means the maximum Quantity of Gas (in GJ) withdrawn at a Distribution Supply Point in any hour;

**MIRN** means in relation to a Distribution Supply Point at any time, the metering installation registration number for that Distribution Supply Point including the checksum for that MIRN;

**National Energy Retail Law** means the National Energy Retail Law as set out in the *National Energy Retail Law (South Australia) Act 2011 (SA)*;

**National Energy Retail Rules** has the meaning given to that term in the National Energy Retail Law;

**National Gas Law** means the National Gas (Victoria) Law as defined in the Access Act;

**National Gas Rules** means the National Gas Rules made pursuant to the National Gas Law;

**Natural Disaster Event** means any natural disaster including, but not limited to, fire, flood or earthquake that occurs during the Fifth Access Arrangement Period and materially increases the costs to the Service Provider of providing Reference Services, provided the fire, flood or other event was not a consequence of the acts or omissions of the Service Provider.

Note: In assessing a Natural Disaster Event pass through application, the Regulator will have regard to, amongst other things:

- (a) whether the Service Provider has insurance against the event;
- (b) the level of insurance that a prudent Service Provider would obtain in respect of the event;

**Negative Pass Through Amount** means, in relation to the occurrence of a Relevant Pass Through Event, an amount that the Service Provider is required to pay to the User or a factor by which amounts the User is required to pay the Service Provider are reduced;

**Net Financing Cost** means, in respect of an Extension or Expansion, the surplus of the estimated conforming capital expenditure (as that term is used in rule 79 of the National Gas Rules), and the operating expenditure (complying with rule 91 of the National Gas Rules) in respect of, the Extension or Expansion within the Access Arrangement Period in which the Extension or Expansion is commenced over the present value of the estimated incremental revenue that would be derived directly from the Extension or Expansion within that period;

**Non-Reference Service Charge** means the amount payable by the User for the provision of Distribution Services other than Reference Services, being the amount as set out in Schedule 3 of the Terms and Conditions or as agreed between the parties to an Agreement or determined pursuant to the National Gas Rules or other relevant Regulatory Instruments;

**Non Residential Customer** means a Customer who is not a Residential Customer;

**Off-Peak Period** means the period of a Calendar Year except the Peak Period;

**Ombudsman** means the Energy and Water Ombudsman (Victoria) or such replacement entity as performs the function of Ombudsman for the purposes of relevant Regulatory Instruments;

**Pass Through Amount** means a Positive Pass Through Amount or a Negative Pass Through Amount;

**Peak Period** means the period of 1 June to 30 September of a Calendar Year;

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**Positive Pass Through Amount** means, in relation to the occurrence of a Relevant Pass Through Event, an amount that a User is required to pay to the Service Provider or a factor by which amounts the User is required to pay the Service Provider are increased;

**PTRM** means, in relation to the Tariff Control Formula, the Post-Tax Revenue Model used by the Regulator to determine X factors (in accordance with the National Gas Law and National Gas Rules) for each year of the Fifth Access Arrangement Period;

**Quantity** means, in relation to Gas, the energy content of that Gas calculated by multiplying its volume in cubic metres at a temperature of 15 degrees Celsius and an absolute pressure of 101.325 kPa by its Heating Value;

**Reconnect** means the Energisation for or in respect of a Customer following the Disconnection of the Distribution Supply Point at which Gas was prior to Disconnection, withdrawn by or in respect of that Customer (also referred to as re-energisation in the National Energy Retail Rules);

**Reference Service** means the Haulage Reference Service and Ancillary Reference Service as defined in clause 5.2 of Part A of this Access Arrangement;

**Reference Tariff** means the Haulage Reference Tariff and Ancillary Reference Tariff and as varied pursuant to the Reference Tariff Policy;

**Reference Tariff Class** refers to Distribution Supply Points which are assigned to the same Haulage Reference Tariffs;

**Reference Tariff Component** refers to an individual price element comprising part of a Reference Tariff

**Reference Tariff Policy** means the Reference Tariff Policy set out in Part B of this Access Arrangement;

**Regulator** means, as applicable:

- (a) the ESC or any successor agency that becomes responsible for functions conferred on the ESC under a Regulatory Instrument;
- (b) the AER or any successor agency that becomes responsible for the functions conferred on the AER under a Regulatory Instrument;

**Regulatory Change Event** means a change in a regulatory obligation or requirement that:

- (a) falls within no other category of Relevant Pass Through Event; and
- (b) occurs during the course of an Access Arrangement Period; and
- (c) substantially affects the manner in which the Service Provider provides Reference Services; and
- (d) materially increases or materially decreases the costs of providing Reference Services.

**Regulatory Instrument** means the Access Act, National Gas Law, National Gas Rules, GIA, Gas Safety Act 1997 (Victoria), the National Energy Retail Law, the National Energy Retail Rules and any other legislation, any subordinate legislation, licence, code, rules, sub-code, guideline, safety case, order or regulation regulating the gas industry in Victoria, or elsewhere if applicable, whether made under the GIA or other applicable legislation having jurisdiction over the relevant party, including the Market Rules and the Retail Market Procedures (Victoria);

**Regulatory Year** means a period of 12 months ending on 31 December each year;

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**Related Body Corporate** means an entity which is related to another entity within the meaning of section 9 of the Corporations Act;

**Relevant Pass Through Event** means:

- (a) a Change in Taxes Event;
- (b) an Insurer Credit Risk Event;
- (c) an Insurance Cap Event;
- (d) a Natural Disaster Event;
- (e) a Regulatory Change Event;
- (f) a Retailer Insolvency Event;
- (g) a Service Standard Event; or
- (h) a Terrorism Event;

For the purpose of any Relevant Pass Through Event that includes a reference to materiality, an event is considered to materially increase or materially decrease costs where that event has an impact which is equal to or greater than one per cent of the smoothed forecast revenue specified in the Regulator's Final Decision, in one or more of the years for the Access Arrangement Period in which the costs are incurred;

**Relevant Tax** is any Tax payable by the Service Provider, other than:

- (a) income tax and capital gains tax;
- (b) stamp duty, financial institutions duty and bank accounts debits tax;
- (c) penalties, charges, fees and interest on late payments, or deficiencies in payments, relating to any Tax; or
- (d) any Tax that replaces or is the equivalent of or similar to any of the taxes referred to in paragraphs (a) to (b) (including any State equivalent tax);

**Required Bank Guarantee Amount** means the amount of the Bank Guarantee calculated by the Service Provider under clauses 7.8(c) or 7.8(d) of the Terms and Conditions;

**Residential Customer** means a Customer who purchases Gas principally for personal, household or domestic use at the relevant Distribution Supply Point;

**Retailer** means a gas retailer for the purposes of the GIA or a retailer for the purposes of the National Energy Retail Law;

**Retail Contract** means a contract for the sale of Gas by the User to a Customer;

**Retailer Insolvency Event**, until such time as the National Energy Retail Law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* of South Australia is applied as a law of Victoria, has the meaning set out in the National Gas Rules as in force from time to time, except that:

- (a) where used in the definition of 'retailer insolvency event' in the National Gas Rules, the term 'retailer' means the holder of a licence to sell gas under the GIA; and



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- (b) other terms used in the definition of retailer insolvency event in the National Gas Rules as a consequence of amendments made to that definition from time to time, which would otherwise take their meaning by reference to provisions of the National Gas Law, the National Gas Rules or National Energy Retail Law not in force in Victoria, take their ordinary meaning and natural meaning, or their technical meaning (as the case may be).

Note: This Retailer Insolvency Event will cease to apply as a Relevant Pass Through Event upon commencement of the National Energy Retail Law in Victoria.

**Retail Market Procedures (Victoria)** means the Retail Market Procedures for Victoria as made pursuant to the National Gas Rules;

**Retail Licence** means a licence to sell Gas granted to a Retailer by the Regulator under Part 3 of the GIA or equivalent authorisation;

**Retail Services** means the following services that are provided by a User to the Service Provider at the Service Provider's request:

- (a) processing of GSL payments under clause 7.6 of the Terms and Conditions;
- (b) notification of Reference Tariffs under clause 9.10(c) of the Terms and Conditions;
- (c) provision of information and documentation to Customers under clause 9.12(b) of the Terms and Conditions;
- (d) delivering to a Customer any notification, information or documentation as requested by the Service Provider under clause 9.12(e) of the Terms and Conditions; and
- (e) delivering to a Customer information as requested by the Service Provider under clause 13.2(b)(4)(B) of the Terms and Conditions,

but does not include any such services to the extent that the User is obliged to perform those services under the Regulatory Instruments;

**Second Access Arrangement Period** means a period commencing on 1 January 2003 and ending on 31 December 2007;

**Service Pipe** means a pipe ending at a Metering Installation or, for an unmetered site a Gas Installation, which connects a Main or a Transmission Pipeline to a Customer's Premises (as determined by the Service Provider);

**Services Policy** means the policy contained in clause 5.2 of this Access Arrangement;

**Service Standard Event** means a legislative or administrative act or decision that falls within no other category of Relevant Pass Through Event that:

- (a) has the effect of:
  - (1) substantially varying, during the course of an access arrangement period, the manner in which the Service Provider is required to provide a Reference Service;
  - (2) imposing, removing or varying, during the course of an access arrangement period, minimum service standards applicable to Reference Services; or
  - (3) altering, during the course of an access arrangement period, the nature or scope of the Reference Services, provided by the Service Provider; and
- (b) materially increases or materially decreases the costs to the Service Provider of providing Reference Services;

**Seventh Access Arrangement Period** means the period commencing on 1 January 2028 and ending on 31 December 2032;

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**Sixth Access Arrangement Period** means the period commencing on 1 January 2023 and ending on 31 December 2027;

**Specifications** means the quality specifications prescribed by the Gas Safety (Gas Quality) Regulations 2007 (Victoria);

**Substituted Meter Reading** has the same meaning as in the Retail Market Procedures (Victoria);

**Supply** means the delivery of Gas;

**System Wide Benefits Test** means the test to determine whether capital expenditure is conforming capital expenditure as constituted by rule 79(1)(a) and rule 79(2)(c) of the National Gas Rules;

**Tariff Control Formula** means the formulae described in clause 3.1 of the Reference Tariff Policy that applies to Haulage Reference Tariffs;

**Tariff D Customer** means a Customer in respect of whom the User is charged Haulage Reference Tariff D;

**Tariff D Distribution Supply Point** means a Distribution Supply Point to which is assigned Haulage Reference Tariff D as determined by the application of clause 1 of the Reference Tariff Policy;

**Tariff D Connection** means the Connection and maintenance of the Connection at a Tariff D Distribution Supply Point;

**Tariff D Connection Charge** means a Non-Reference Service Charge for a Tariff D Connection;

**Tariff D Haulage Reference Service** means a Haulage Reference Service described as such in clause 5.2.1 of Part A of this Access Arrangement;

**Tariff M Customer** means a Customer in respect of whom the User is charged Haulage Reference Tariff M;

**Tariff M Distribution Supply Point** means a Distribution Supply Point to which is assigned Haulage Reference Tariff M as determined by the application of clause 1 of the Reference Tariff Policy;

**Tariff M Connection** means the Connection and maintenance of the Connection at a Tariff M Distribution Supply Point;

**Tariff M Connection Charge** means a Non-Reference Service Charge for a Tariff M Connection;

**Tariff M Haulage Reference Service** means a Haulage Reference Service described as such in clause 5.2.1 of Part A of this Access Arrangement;

**Tariff Report** means a report prepared and published in accordance with clause 1.5 of the Reference Tariff Policy;

**Tariff V Customer** means a Customer in respect of whom the User is charged Haulage Reference Tariff V;

**Tariff V Distribution Supply Point** means a Distribution Supply Point to which is assigned Haulage Reference Tariff V as determined by the application of clause 1 of the Reference Tariff Policy;

**Tariff V Haulage Reference Service** means a Haulage Reference Service described as such in clause 5.2.1 of Part A of this Access Arrangement;

**Tax** means any royalty (whether based on value, profit or otherwise), tax, duty, excise, levy, fee, rate or charge imposed from time to time during the term of this Access Arrangement by any government or any governmental, semi-governmental or other body authorised by law to impose that tax on or to:

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- (a) the Distribution System (or any of its components);
- (b) the operation of the Distribution System; or
- (c) the provision of services by the Service Provider;

**Terms and Conditions** means the terms and conditions referred to in clause 5.4 of Part A and as set out in Part C of this Access Arrangement;

**Terrorism Event** means an act (including, but not limited to, the use of force or violence or the threat of force or violence) of any person or group of persons (whether acting alone or on behalf of in connection with any organisation or government), which:

- (a) from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons (including the intention to influence or intimidate any government and/or put the public, or any section of the public, in fear); and
- (b) which materially increases the costs to the Service Provider of providing Reference Services.

Note for the avoidance of doubt, in making a determination on a Terrorism Event, the Regulator will have regard to, amongst other things:

- (c) whether the Service Provider has insurance against the event;
- (d) the level of insurance that an efficient and prudent service provider would obtain in respect of the event; and
- (e) whether a declaration has been made by a relevant government authority that an act of terrorism has occurred.

**Third Access Arrangement Period** means a period commencing on 1 January 2008 and ending on 31 December 2012;

**Transfer Point** means a point at which Gas is transferred from:

- (a) a Transmission Pipeline to a Distribution Pipeline; or
- (b) a Distribution Pipeline to a Distribution Pipeline;

**Transmission System** means a pipeline or a system of pipelines, for the high pressure transmission of Gas operated by AEMO principally in Victoria, and all related facilities, together with:

- (a) all structures for protecting or supporting the pipeline or system of pipelines;
- (b) facilities for the compression of Gas, the maintenance of the pipeline or system of pipelines and the injection or withdrawal of Gas;
- (c) all fittings, appurtenances, appliances, compressor stations, odourisation plants, scraper stations, valves, telemetry systems (including communications towers) and works and buildings used in connection with the pipeline or system of pipelines,

but excluding storage facilities (being facilities for storing large quantities of Gas) and the Distribution System;

**Transmission Pipeline** has the same meaning as in the GIA;

**Unaccounted for Gas (UAFG)** means the difference between the amount of Gas injected into the Distribution System at all Transfer Points and the amount of Gas withdrawn from the Distribution System at all Distribution Supply Points, including but not limited to leakage or other actual losses,

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discrepancies due to metering inaccuracies and variations of temperature, pressure and other parameters; and

X has the same meaning as in clause 3.1 of the Reference Tariff Policy.

**S 2.2 Interpretation**

- (a) In this Access Arrangement, unless the context requires another meaning a reference:
- (1) to the singular includes the plural and vice versa;
  - (2) to a gender includes all genders;
  - (3) to a document (including this Access Arrangement and a Regulatory Instrument) is a reference to that document (including any Appendices, Schedules and Annexures) as amended, consolidated, supplemented, novated or replaced;
  - (4) to an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding whether written or not;
  - (5) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with this Access Arrangement;
  - (6) to a person (including a party) includes:
    - (A) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or government agency; and
    - (B) the person's agents successors, permitted assigns, substitutes, executors and administrators; and
    - (C) where that person ceases to exist, is reconstituted, renamed or replaced, or where its powers or functions are transferred to another body, a reference to the body which replaces it or which serves substantially the same purpose or has the same powers or functions;
  - (7) to a law:
    - (A) includes a reference to any legislation, treaty, judgment, rule of common law or equity or rule of any applicable stock exchange; and
    - (B) is a reference to that law as amended, consolidated, supplemented or replaced; and
    - (C) includes a reference to any regulation, rule, statutory instrument, by-law or other subordinate legislation made under that law;
  - (8) to time is to Melbourne time; and
  - (9) to Haulage Reference Tariff D, Haulage Reference Tariff V or Haulage Reference Tariff M includes a reference to a new Haulage Reference Tariff introduced pursuant to the Reference Tariff Policy which supplements or replaces Haulage Reference Tariff D, Haulage Reference Tariff V or Haulage Reference Tariff M respectively and related terms shall be construed accordingly; and
  - (10) the word including or includes means including, but not limited to, or includes, without limitation.
- (b) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

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- (c) Headings are for convenience only and do not affect interpretation.
- (d) If a period occurs from, after or before a day or the day of an act or event, then, unless a contrary intention appears, it excludes that day.
- (e) A reference to a thing (including, but not limited to, a right) includes any part of that thing.
- (f) A reference to a right includes a remedy, power, authority, discretion or benefit.
- (g) All Reference Tariffs and Reference Tariff Components calculated under this Access Arrangement will be rounded to the accuracy, in terms of the number of decimal places, required by the relevant Service Provider's charging and billing systems.
- (h) A Reference Tariff which has been calculated and rounded under the principles in S 2.2(g) will not be rounded to a different level of accuracy when utilised in calculations made under this Access Arrangement.
- (i) All values used in calculations made under this Access Arrangement, except those values to which S 2.2(g) and S 2.2(h) apply, will not be rounded.
- (j) When a calculation is required under this Access Arrangement:
  - (1) a year "t" is the year in respect of which the calculation is being made;
  - (2) a year "t-1" is the year immediately preceding year "t"; and
  - (3) a year "t-2" is the year immediately preceding year "t-1".



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# Gas Access Arrangement Revision

2018-2022

Part B of the Access Arrangement for the  
Distribution System

Reference Tariffs and Reference Tariff Policy

[Incorporating revisions required by AER final decision](#)  
[30 November 2017](#)

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Please contact the indicated person with any inquiries about the document.

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AusNet Services  
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**1 Haulage Reference Tariffs****1.1 Haulage Reference Tariffs**

- (a) Haulage Reference Tariffs for 2018  
For Calendar Year 2018, the Haulage Reference Tariffs to apply from 1 January 2018 are the tariffs set out in clause 9 adjusted to comply with the Tariff Control Formula and rebalancing control formula in clause 3 and verified by the Regulator as if clause 4 applied (but for the timing requirements of clause 4.1).
- (b) Introduction of new Haulage Reference Tariffs
- (1) The Service Provider may develop one or more new Haulage Reference Tariffs for application to Users in certain circumstances, providing that any new Haulage Reference Tariff is consistent with the Service Provider's Reference Tariff Policy, as set out in clause 6.
  - (2) The Service Provider is required to notify the Regulator in writing of its intent to introduce new Haulage Reference Tariffs or new Haulage Reference Tariff Components at least 60 Business Days prior to the date on which it wishes the new Haulage Reference Tariffs to commence.
- (c) No Meter  
A Distribution Supply Point which does not have a Meter is assigned to Haulage Reference Tariff V, unless otherwise agreed between the Service Provider and the relevant User to whom Reference Services are provided at that Distribution Supply Point.
- (d) Distribution Area  
The Haulage Reference Tariffs apply to the Distribution System within the Service Provider's Distribution Area. The Distribution Area is divided into two zones as detailed in clause 9.

**1.2 Application of Haulage Reference Tariffs**

- (a) Assigned Haulage Reference Tariffs  
Where the Service Provider is charging a particular Haulage Reference Tariff in respect of Supply at a particular Distribution Supply Point, then the User at that Distribution Supply Point is to be regarded as being "assigned" to that Haulage Reference Tariff.
- (b) Haulage Reference Tariffs for existing Distribution Supply Points  
Unless a new Haulage Reference Tariff has been reassigned to a Distribution Supply Point, the Haulage Reference Tariff to apply to a Distribution Supply Point from 1 January 2018 is deemed to be the Haulage Reference Tariff assigned to that Distribution Supply Point as at 31 December 2017.
- (c) Haulage Reference Service provided at a Distribution Supply Point  
The Haulage Reference Service provided at a particular Distribution Supply Point is the Haulage Reference Service in respect of which there is a specified Haulage Reference Tariff which is assigned at that Distribution Supply Point.

**1.3 Assignment of New Haulage Reference Tariffs and New Haulage Reference Tariff Components**

- (a) Change in volume of gas consumed  
If, after the initial assignment of a Haulage Reference Tariff to a Distribution Supply Point, the Service Provider becomes aware that:
- (1) the Quantity of Gas withdrawn at that Distribution Supply Point has changed; or
  - (2) the User's Customer at that Distribution Supply Point has changed or will change; or

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- (3) the User's Customer at that Distribution Supply Point has changed or will change from being a Residential Customer to a Commercial Customer; or
- (4) the User's Customer at that Distribution Supply Point has changed or will change from being a Commercial Customer to a Residential Customer,

so that the Haulage Reference Tariff should no longer be assigned to the Distribution Supply Point to which it is currently assigned, the Service Provider may reassign an alternative Haulage Reference Tariff to that Distribution Supply Point.

(b) Change in demand or Connection characteristics

If the Service Provider believes that a User's demand characteristics or Connection characteristics (or both) have changed such that it is no longer appropriate for that User's Distribution Supply Point to be assigned to the Haulage Reference Tariff to which the User's Distribution Supply Point is currently assigned, then the Service Provider may reassign an alternative Haulage Reference Tariff to that Distribution Supply Point.

(c) Factors to be considered by the Service Provider

In determining the assignment of a Haulage Reference Tariff to a Distribution Supply Point the Service Provider will take into account:

- (1) the User's demand and Connection characteristics; and
- (2) Haulage Reference Tariffs assigned to Distribution Supply Points with the same or materially similar demand and Connection characteristics.

(d) Notification of proposed reassignment of Haulage Reference Tariff

If, after 1 January 2018, the Service Provider becomes aware that a Haulage Reference Tariff assigned to a Distribution Supply Point should be a different Haulage Reference Tariff, the Service Provider will advise the relevant User accordingly, prior to the reassignment occurring, unless otherwise agreed.

(e) Terms and Conditions for new and changed Distribution Supply Points

If a new Haulage Reference Tariff is assigned to a Distribution Supply Point or there is a change of User at a Distribution Supply Point, the Service Provider will supply to the relevant User, as soon as practicable after a request from that User, the terms and conditions which will apply to the relevant User at that Distribution Supply Point, and the Haulage Reference Tariff that is assigned to that Distribution Supply Point.

(f) Notification by User regarding a different Haulage Reference Tariff

Where a User receives notice under clause 1.3(d) that a Haulage Reference Tariff assigned to a Distribution Supply Point should be a different Haulage Reference Tariff, the different Haulage Reference Tariff will be assigned to that Distribution Supply Point unless the User submits a written and reasonable request to the Service Provider to remain on the original Haulage Reference Tariff and the Service Provider approves the request.

(g) Time period for reassignment

When introducing a new Haulage Reference Tariff and/or Haulage Reference Tariff Component, the Service Provider will assign the new Haulage Reference Tariff and/or Haulage Reference Tariff Component to the relevant Distribution Supply Point within 30 Business Days of the earlier of:

- (1) the receipt of a written notice that the Regulator has verified the Service Provider's proposed introduction of a new Haulage Reference Tariff and/or Haulage Reference Tariff Component; and
- (2) the date which is 20 Business Days from the date on which the Regulator received the Service Provider's notification under clause 4.1(c).

(h) Assignment to Haulage Reference Tariff D or Haulage Reference Tariff M

Where a Haulage Reference Tariff D or Haulage Reference Tariff M is assigned to a Distribution Supply Point, that Haulage Reference Tariff shall apply to that Distribution Supply Point for a minimum period of one year.

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- (i) Additional information required for new Haulage Reference Tariffs and new Haulage Reference Tariff Components
- Where the Service Provider is proposing to introduce a new Haulage Reference Tariff or a new Haulage Reference Tariff Component, the Service Provider will submit the following information to the Regulator, at the same time that it submits its Haulage Reference Tariff proposals, and in addition to the information required under clause 4.3:
- (1) a parent Haulage Reference Tariff(s), which is the Haulage Reference Tariff(s) currently assigned to those Distribution Supply Points to which the new Haulage Reference Tariff is proposed to apply;
  - (2) reasonable estimates of the Quantities that would have been distributed in relevant units if the new Haulage Reference Tariff Components had existed in the Calendar Year immediately prior to the current Calendar Year for each new Haulage Reference Tariff Component; and
  - (3) reasonable estimates of the Quantities that would have been distributed in relevant units if the new Haulage Reference Tariff Components had existed in the Calendar Year immediately prior to the current Calendar Year for each Haulage Reference Tariff Component of the parent Haulage Reference Tariff(s).
- (j) Switching rates
- Where the Service Provider submits information to the Regulator that the switching rate of Users moving from a given parent Haulage Reference Tariff to a new Haulage Reference Tariff will continue to be above zero from Calendar Year to Calendar Year, the Service Provider will also submit the following information:
- (1) the Quantities distributed in relevant units at the relevant Distribution Supply Point where the new Haulage Reference Tariff is already assigned to that Distribution Supply Point;
  - (2) reasonable estimates of the Quantities distributed in relevant units at those Distribution Supply Points at which the same new Haulage Reference Tariff is expected to apply during the course of the next Calendar Year; and
  - (3) the Quantities distributed in relevant units at those Distribution Supply Points at which the parent Haulage Reference Tariff continues to apply.
- (k) Details of estimates
- The Service Provider will provide details of and the basis for all estimates provided under clauses 1.3(i) and (j) to the Regulator, including (but not limited to) the information in clause 1.3(e).
- (l) Resubmission of estimates
- The Regulator can request that the Service Provider resubmit quantity estimates provided under clauses 1.3(i) and (j) where the Regulator considers the estimates to be incomplete, inconsistent or unsubstantiated. The Regulator must provide reasons for requesting such a resubmission.
- (m) Timing of information
- The elapsed time between the Regulator requesting that the Service Provider provide additional information under clause 1.3(l), and the Service Provider providing that information to the Regulator does not count towards the 20 Business Days under clause 1.3(g)(2).

**1.4 Withdrawal of Haulage Reference Tariffs**

- (a) Withdrawal of Haulage Reference Tariff
- When proposing the withdrawal of an existing Haulage Reference Tariff and/or Haulage Reference Tariff Component, the Service Provider will reassign alternative Haulage Reference Tariffs to all relevant Distribution Supply Points within 30 Business Days of the earlier of:

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- (1) the receipt of a written notice that the Regulator has verified the Service Provider's proposed withdrawal of the existing Haulage Reference Tariff and/or Haulage Reference Tariff Component; and
  - (2) the date which is 20 Business Days from the date on which the Regulator received the Service Provider's notification under clause 4.1(c).
- (b) Notification of withdrawal of Haulage Reference Tariff  
Prior to the withdrawal of the existing Haulage Reference Tariff and/or Haulage Reference Tariff Component, the Service Provider will as soon as practicable notify all affected Users in writing.
- (c) Additional information to be provided to Regulator  
When the Service Provider proposes to withdraw a Haulage Reference Tariff, in addition to the information required under clause 4.3, the Service Provider will:
- (1) notify the Regulator in writing of the Haulage Reference Tariffs that will replace the withdrawn Haulage Reference Tariffs;
  - (2) where Haulage Reference Tariffs will be reassigned to more than one Distribution Supply Point in Calendar Year  $t$ , provide a breakdown of the actual Quantities, in relevant units, that were distributed under each existing Haulage Reference Tariff Component to these Users under the existing parent Haulage Reference Tariffs in Calendar Year  $t-2$ ; and
  - (3) where Haulage Reference Tariffs have been reassigned to more than one Distribution Supply Point in Calendar Year  $t-1$ , provide a breakdown of the actual Quantities, in relevant units, that were distributed to these Users under each Haulage Reference Tariff Component which existed immediately prior to the reassignment under the parent Haulage Reference Tariffs that previously existed in Calendar Year  $t-1$ .

## 1.5 Provision of Information on Tariffs by the Distribution Business

- (a) The distribution business will prepare and publish a public Tariff Report, by 1 March of each Calendar Year. The Tariff Report should contain sufficient information to enable distribution customers to understand the basis for the tariff policies adopted by the distribution business.
- (b) The report:
  - (1) will be submitted to the Regulator 60 business days prior to the end of the Calendar Year where the Service Provider proposes to introduce new tariffs or amend tariff structures in the subsequent Calendar Year;
  - (2) will be submitted to the Regulator 35 business days prior to the end of the Calendar Year where the Service Provider does not propose to introduce new tariffs or amend tariff structures in the subsequent Calendar Year.

## 2 Ancillary Reference Tariffs

### 2.1 Existing Ancillary Reference Tariffs

The Ancillary Reference Tariffs for Ancillary Reference Services that will apply from 1 January 2018 are set out in clause 10.

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**2.2 Adjustments to Ancillary Reference Tariffs**

- (a) From January 2019 the Service Provider will make annual adjustments to the Ancillary Reference Tariffs in accordance with the formulae below. For the avoidance of doubt, Ancillary Reference Tariffs are not adjusted in accordance with the Tariff Control Formula or rebalancing control formula in clause 3.
- (b) The Ancillary Reference Tariff Control Formula for the Calendar Year 2019 to 2022 is:

$$ART_t = ART_{t-1} * (1 + \Delta CPI_t)$$

where:

$ART_t$  is the Ancillary Reference Tariff that applies in Calendar Year  $t$ ;

$ART_{t-1}$  is the Ancillary Reference Tariff that applies in Calendar Year  $t-1$ ;

$\Delta CPI$  is the annual percentage change in the ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in Calendar Year  $t_2$  to the June quarter in Calendar Year  $t_1$ , calculated using the following method:

The ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in Calendar Year  $t-1$

divided by

the ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in Calendar Year  $t-2$

minus 1.

If the ABS does not, or ceases to, publish the index, then CPI will mean an index which the Regulator considers is the best available alternative index.

**3 Haulage Reference Tariff Control Formula**

- (a) The Tariff Control Formula comprises the principles, procedures and formulae, which apply during the Fifth Access Arrangement Period for:
- (1) varying;
  - (2) withdrawing; and
  - (3) introducing new,
- Haulage Reference Tariffs.
- (b) For the avoidance of doubt, the Tariff Control Formula and the rebalancing control formulae do not apply to Ancillary Reference Tariffs.
- (c) Whenever the Service Provider proposes to vary, withdraw or introduce any new Haulage Reference Tariff, it will ensure that the proposed charge will be compliant with the relevant Tariff Control Formula set out in clause 3.1 and with the relevant rebalancing control formulae in clause 3.6 to the reasonable satisfaction of the Regulator, and it will comply with the procedures set out in clause 4.

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**3.1 The Tariff Control Formula**

## 3.1.1 Tariff Control Formula

- (a) The Tariff Control Formula adopted is consistent with the tariff basket form of price control.
- (b) The Tariff Control Formula is:

$$(1 + \Delta CPI_t)(1 - X_t)(1 + PT_t) \geq \frac{\sum_{i=1}^n \sum_{j=1}^m P_t^{ij} q_{t-2}^{ij}}{\sum_{i=1}^n \sum_{j=1}^m P_{t-1}^{ij} q_{t-2}^{ij}}$$

where the Service Provider has  $n$  Haulage Reference Tariff categories, each category having up to  $m$  Haulage Reference Tariff Components and where:

$\Delta CPI$  is the annual percentage change in the ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in Calendar Year  $t_2$  to the June quarter in Calendar Year  $t_1$ , calculated using the following method:

The ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in Calendar Year  $t-1$

divided by

the ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in Calendar Year  $t-2$

minus 1.

If the ABS does not, or ceases to, publish the index, then CPI will mean an index which the Regulator considers is the best available alternative index;

$t$  is the Calendar Year for which tariffs are being set;

$X_t$  is the X factor for each year of the Fifth Access Arrangement Period as determined in the PTRM as approved in the full access arrangement decision, and annually revised for the Return on Debt Update calculated for the relevant year in accordance with that approved in the full access arrangement decision;

$PT_t$  is the cost pass through adjustment factor for Calendar Year  $t$  as calculated in accordance with clause 3.1.3;

$n$  is the number of different Haulage Reference Tariffs;

$m$  is the different components, elements or variables ("components") comprised within a Haulage Reference Tariff;

$p_t^{ij}$  is the proposed component  $j$  of Haulage Reference Tariff  $i$  in Calendar Year  $t$ ;

$p_{t-1}^{ij}$  is the prevailing component  $j$  of Haulage Reference Tariff  $i$  in Calendar Year  $t-1$ ;

$q_{t-2}^{ij}$  is the audited Quantity of Haulage Reference Tariff Component  $j$  of Haulage Reference Tariff  $i$  that was sold in Calendar Year  $t-2$ .

## 3.1.2 Return on Debt Update

- (a) Overview
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The Return on Debt Update is the update to the annual return on debt component of the rate of return included in the PTRM at the time the Regulator made its final decision for the Fifth Access Arrangement Period and is determined in accordance with paragraphs (b) to (e) of this clause 3.1.2. The Averaging Period for each Calendar Year of the Fifth Access Arrangement Period must be used for the purposes of calculating the annual return on debt observation for that year.

## (b) Calculating the return on debt

The annual update of the return on debt component of the rate of return in each Calendar Year of the Fifth Access Arrangement Period, starting from 1 January 2018, is to be calculated as follows:

For 2018 Calendar Year:  $kd_{2018} = R_{2018}$

For 2019 Calendar Year:  $kd_{2019} = (0.9 \cdot R_{2018}) + (0.1 \cdot R_{2019})$

For 2020 Calendar Year:  $kd_{2020} = (0.8 \cdot R_{2018}) + (0.1 \cdot R_{2019}) + (0.1 \cdot R_{2020})$

For 2021 Calendar Year:  $kd_{2021} = (0.7 \cdot R_{2018}) + (0.1 \cdot R_{2019}) + (0.1 \cdot R_{2020}) + (0.1 \cdot R_{2021})$

For 2022 Calendar Year:  $kd_{2022} = (0.6 \cdot R_{2018}) + (0.1 \cdot R_{2019}) + (0.1 \cdot R_{2020}) + (0.1 \cdot R_{2021}) + (0.1 \cdot R_{2022})$

where:

$kd_t$  is the annual return on debt for Calendar Year  $t$  of the Fifth Access Arrangement Period;

$R_t$  is the annual return on debt observation for each Calendar Year  $t$  of the Fifth Access Arrangement period calculated in accordance with paragraph (c) below, other than Calendar Year 2018. For Calendar Year 2018,  $R_{2018}$  is 4.52 per cent.

## (c) Calculation of the annual return on debt observation

## (1) Overview

(A) The return on debt observation for each Calendar Year is calculated by automatic application of the following formula. This requires three steps:

Step 1: Calculate the adjusted RBA estimate;

Step 2: Calculate the adjusted BVAL estimate;

Step 3: Calculate the final estimate, where the RBA and BVAL estimates are combined using an arithmetic average.

(B) The steps in paragraph (c)(1) reflect the approach used by the Regulator to determine the return on debt included in the PTRM at the time the Regulator made its final decision for the Fifth Access Arrangement Period. In the event that data availability changes during the Access Arrangement Period, the formulae below will change to reflect the contingencies set out in the Regulator's final decision for the Fifth Access Arrangement Period.

(C) For the purpose of this clause 3.1.3(c) only, a business day means a day other than a Saturday, Sunday or a day recognised as a national public holiday or a public holiday in NSW.

## (2) Calculating the adjusted RBA estimate

To calculate the adjusted RBA estimate in Step 1:

(A) Download RBA table F3—'Aggregate measures of Australian corporate bond yields' from the RBA website.

(B) From this file, download the 7 and 10 year 'Non-financial corporate BBB-rated bonds—Yield' entries for dates:

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- (i) from the most recent published RBA date prior to the commencement of the nominated Averaging Period for debt;
- (ii) to the first published RBA date following the conclusion of the nominated Averaging Period for debt; and
- (iii) all published dates between (i) and (ii).
- (C) Download, from RBA table F16—'Indicative Mid Rates of Australian Government Securities', daily yields on CGSs for dates within the Service Provider's Averaging Period.

- (D) Linearly interpolate between the two nearest bonds straddling 7 years remaining term to maturity, and the two nearest CGS bonds straddling 10 years remaining term to maturity. This is to be done using the following formula:

$$Yield_{interpolated} = Yield_{lower\ straddle\ bond} + [(Yield_{upper\ straddle\ bond} - Yield_{lower\ straddle\ bond}) \times (Date_{10\ years\ from\ interpolation\ date} - Maturity\ Date_{lower\ straddle\ bond}) / (Maturity\ Date_{upper\ straddle\ bond} - Maturity\ Date_{lower\ straddle\ bond})].$$

- (E) Linearly extrapolate the published RBA 10 year yield (from paragraph (c)(2)(B)) from its published effective term to an effective term of 10 years using the formula below:

$$Yield_{10} = Yield_{10\ year\ published} + [(Spread\ to\ Swap_{10\ year\ published} - Spread\ to\ Swap_{7\ year\ published}) / (Effective\ Term_{10\ year\ published} - Effective\ Term_{7\ year\ published}) \times (10 - Effective\ Term_{10\ year\ published})].$$

- (F) Linearly extrapolate the published RBA 7 year yield (from paragraph (c)(2)(B)) from its published effective term to an effective term of 7 years using the formula below:

$$Yield_7 = Yield_{7\ year\ published} + [(Spread\ to\ Swap_{10\ year\ published} - Spread\ to\ Swap_{7\ year\ published}) / (Effective\ Term_{10\ year\ published} - Effective\ Term_{7\ year\ published}) \times (7 - Effective\ Term_{7\ year\ published})].$$

- (G) Subtract from the extrapolated 10 year RBA yield on each publication date the interpolated CGS yield on that date. For the 10 year term, use the RBA series as adjusted in paragraph (c)(2)(E). These are the **adjusted RBA 10 year spreads**.

- (H) Obtain daily RBA spread estimates by linear interpolation of the adjusted RBA spreads (from paragraphs (c)(2)(E) and (F)) for both 7 and 10 year terms between the published dates identified in paragraph (c)(2)(B). Use the adjusted RBA spread estimates as calculated in paragraph (c)(2)(D). This is to be done using the following formula:

$$Spread_{interpolated} = Spread_{first\ straddling\ publication\ date} + [(Date_{interpolation} - Date_{first\ straddling\ publication\ date}) \times (Spread_{second\ straddling\ publication\ date} - Spread_{first\ straddling\ publication\ date}) / (Date_{second\ straddling\ publication\ date} - Date_{first\ straddling\ publication\ date})]$$

If the annual return on debt estimate must be finalised before a final published RBA month-end estimate is available, hold the last observed RBA spread constant to the end of the Averaging Period.

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(I) Add to the daily spreads (from paragraph (c)(2)(G)), daily interpolated estimates of the CGS (from paragraph (c)(2)(D)) for all business days in the Service Provider's Averaging Period. Specifically:

- (i) add the 7 year interpolated CGS estimates to the 7 year interpolated RBA spreads. These are the **interpolated RBA daily 7-year yield estimates**;
- (ii) add the 10 year interpolated CGS estimate to the 10 year interpolated RBA spread. These are the **interpolated RBA daily 10-year yield estimates**.

(J) Convert the interpolated RBA daily 7-year yield estimates and the interpolated RBA daily 10-year yield estimates (from paragraph (c)(2)(I)) to effective annual rates, using the formula:

$$Effective\ annual\ rate = \left( \left( 1 + \frac{yield}{200} \right)^2 - 1 \right) \cdot 100$$

(K) Average the yield estimate for the 10 year RBA yield estimate over all business days in the Service Provider's Averaging Period. This is the **adjusted RBA estimate**.

(3) Calculating the adjusted BVAL estimate

To calculate the adjusted BVAL estimate in Step 2:

- (A) For dates after 14 April 2015, download the 10 year Corporate BBB rated Australian BVAL curve (BVCSAB10). For dates before 14 April 2015, download from Bloomberg the 7 year Corporate BBB rated Australian BVAL curve (BVCSAB07 index) for all business days in the Service Provider's Averaging Period.
- (B) For dates before 14 April 2015, add to the 7 year yield the difference between the 7 and 10 year daily RBA adjusted yields (as calculated in viii) of the RBA process). This is the **extrapolated daily estimate of the BVAL 10 year yield**.
- (C) For all dates, convert the 10 year yields into effective annual rates, using the formula:

$$Effective\ annual\ rate = \left( \left( 1 + \frac{yield}{200} \right)^2 - 1 \right) \cdot 100$$

(D) Average the extrapolated daily estimates of the BVAL 10 year yield over all business days in the service provider's Averaging Period. This is the **adjusted BVAL estimate**.

(4) Calculating the annual estimate of the return on debt

To calculate the final estimate in Step 3:

- (A) Take the simple average of the adjusted RBA estimate (from paragraph (c)(2)(K)) and the adjusted BVAL estimate (from paragraph (c)(3)(D)). This is the **annual estimate of the return on debt**.

(d) Annual return on debt observation where relevant data not available

For any Calendar Year of the Fifth Access Arrangement period (other than Calendar Year 2018) for which an annual return on debt observation cannot be calculated in accordance with paragraph (c) above due to changes in data availability, adjust the approach in accordance with the contingencies set out in the Regulator's final decision for the Fifth Access Arrangement Period.

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- (e) Notification and Regulator's determination of the annual return on debt observation
- (1) The Regulator will notify the Service Provider of the updated Return on Debt and X factor within 15 Business Days after the end of the Service Provider's Averaging Period.
- (2) In the 'PTRM input' sheet of the PTRM, update the relevant cell for the updated return on debt estimate ( $kd_t$ ). This is:
- |                         |             |            |
|-------------------------|-------------|------------|
| For 2018 Calendar Year: | $kd_{2018}$ | Cell G222  |
| For 2019 Calendar Year: | $kd_{2019}$ | Cell H222  |
| For 2020 Calendar Year: | $kd_{2020}$ | Cell I222  |
| For 2021 Calendar Year: | $kd_{2021}$ | Cell J222  |
| For 2022 Calendar Year: | $kd_{2022}$ | Cell K222. |
- (3) On the 'X factors' sheet of the PTRM, update the relevant X factor for the 2019–2022 Calendar Years as follows:
- |                         |             |                              |
|-------------------------|-------------|------------------------------|
| For 2019 Calendar Year: | $kd_{2019}$ | Select 'Set X2 (price cap)'  |
| For 2020 Calendar Year: | $kd_{2020}$ | Select 'Set X3 (price cap)'  |
| For 2021 Calendar Year: | $kd_{2021}$ | Select 'Set X4 (price cap)'  |
| For 2022 Calendar Year: | $kd_{2022}$ | Select 'Set X5 (price cap)'. |

## 3.1.3 Pass Through Adjustment Factor

- (a) Pass Through Adjustment Factor

$PT_t$  is the pass through adjustment to the Distribution price control in Calendar Year  $t$  for the Service Provider and is determined in accordance with paragraph (b) below.

- (b) Calculation of the Adjustment Factor

$$PT_t = \frac{(1 + PT'_t)}{(1 + PT'_{t-1})} - 1$$

where:

$t$  is the year for which tariffs are being set

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$PT_t, PT'_{t-1}$  is:

- (a) zero when Financial Year  $t-1$  refers to Calendar Year ending 31 December 2018;
- (b) the value of  $PT'_t$  determined in the Calendar Year  $t-1$  for all other Calendar Years in the Access Arrangement Period;

$PT'_t$  equals:

$$PT'_t = \frac{AP_t}{(1 + \Delta CPI_t)(1 - X_t) \sum_{i=1}^n \sum_{j=1}^m p_{t-1}^j q_{t-2}^j}$$

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where:

$AP_t$  is

- (a) any determined pass through amount that the Regulator approves in whole or in part in Calendar Year  $t$ ; and/or
- (b) any pass through amounts arising from any Relevant Pass Through Events (as that term is defined in the Access Arrangement applying to the Service Provider in the Fourth Access Arrangement Period) occurring in Fourth Access Arrangement Period that the Service Provider proposed to pass through in whole or in part in Calendar Year  $t$ ,

that includes an amount to reflect the time value of money between incurring the costs and recovering the costs, and excludes any amounts already passed through in Haulage Reference Tariffs.

$\Delta CPI$  is the annual percentage change in the ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in Calendar Year  $t_2$  to the June quarter in Calendar Year  $t_1$ , calculated using the following method:

The ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in Calendar Year  $t-1$

divided by

the ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in Calendar Year  $t-2$

minus 1.

If the ABS does not, or ceases to, publish the index, then CPI will mean an index which the Regulator considers is the best available alternative index;

$X_t$  is the X factor for each Calendar Year of the Fifth Access Arrangement Period as determined in the PTRM as approved in the full access arrangement decision, and annually revised for the Return on Debt Update calculated for the relevant year during the Fifth Access Arrangement Period in accordance with that approved in the full access arrangement decision;

$p_{t-1}^{ij}$  is the prevailing component  $j$  of Haulage Reference Tariff  $i$  in Calendar Year  $t-1$ ;

$q_{t-2}^{ij}$  is the Quantity of component  $j$  of Haulage Reference Tariff  $i$  that was sold in Calendar Year  $t-2$ .

### 3.2 New Haulage Reference Tariffs

- (a) Where the Service Provider is proposing to introduce new Haulage Reference Tariffs and/or new Haulage Reference Tariff Components the  $q_{t-2}^{ij}$  term in clause 3.1 will be interpreted in relation to:
  - (1) the reasonable estimates of the quantities that would have been distributed, in relevant units, if the Haulage Reference Tariff Components had existed in Calendar Year  $t-2$  as provided by the Service Provider, in accordance with clause 1.3(i); and
  - (2) the Haulage Reference Tariff Components of the parent Haulage Reference Tariff in Calendar Year  $t-2$  as provided by the Service Provider in accordance with clause 1.3(i).

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- (b) Where the Service Provider has introduced new Haulage Reference Tariffs and/or new Haulage Reference Tariff Components in Calendar Year  $t-1$ , the  $p_{t-1}^{ij}$  term in clause 3.1 will be interpreted in relation to the reasonable estimates of the Quantities that would have been distributed, in relevant units, if the Haulage Reference Tariff Components had existed in Calendar Year  $t-2$ , as provided by the Service Provider in accordance with clause 1.3(i).

**3.3 Withdrawal of Haulage Reference Tariffs**

- (a) Where the Service Provider is proposing to withdraw a Haulage Reference Tariff and to reassign only one other Haulage Reference Tariff to the Distribution Supply Point to which the Haulage Reference Tariff to be withdrawn applied, the  $p_t^{ij}$  term in clause 3.1 for the Haulage Reference Tariff that is proposed to be withdrawn will be interpreted in relation to the Haulage Reference Tariff Components of the Haulage Reference Tariff which will be reassigned to that Distribution Supply Point in Calendar Year  $t$ , in accordance with information submitted under clause 1.4.
- (b) Where the Service Provider is proposing to withdraw a Haulage Reference Tariff and to reassign more than one other Haulage Reference Tariff to the Distribution Supply Point to which the Haulage Reference Tariff to be withdrawn applied:
- (1) the  $p_t^{ij}$  term in clause 3.1 for the Haulage Reference Tariff that is proposed to be withdrawn will be interpreted separately in relation to the Haulage Reference Tariff Components of each of the Haulage Reference Tariffs which will be reassigned to those Distribution Supply Points in Calendar Year  $t$ , in accordance with information submitted under clause 1.4; and
  - (2) the  $q_{t-2}^{ij}$  term in clause 3.1 for the Haulage Reference Tariff that is proposed to be withdrawn in Calendar Year  $t$  will be the actual Quantities, in relevant units, of each Haulage Reference Tariff Component that were distributed under the parent Haulage Reference Tariff at those Distribution Supply Points to which the same Haulage Reference Tariff has been assigned in Calendar Year  $t$ , in accordance with information submitted under clause 1.4; and
  - (3) the  $q_{t-2}^{ij}$  term in clause 3.1 for the Haulage Reference Tariff that has been withdrawn in Calendar Year  $t-1$ , will be the actual quantities, in relevant units, of each Haulage Reference Tariff Component that were distributed under the parent Haulage Reference Tariff at those Distribution Supply Points to which the same Haulage Reference Tariff has been assigned in Calendar Year  $t-1$ , in accordance with information submitted under clause 1.4.

**3.4 Haulage Reference Tariff information**

Where the Service Provider submits information in accordance with clause 1.3(j) that switching rates of Users moving from a given parent Haulage Reference Tariff to a proposed new Haulage Reference Tariff will continue to be above zero from Calendar Year to Calendar Year, application of the Tariff Control Formula in clause 3.1 will distinguish between:

- (a) Distribution Supply Points to which the new Haulage Reference Tariff has already been assigned, in which case  $q_{t-2}^{ij}$  will be based on the actual Quantities distributed, in relevant units, at those Distribution Supply Points to which the new Haulage Reference Tariff has already been assigned and  $p_t^{ij}$  is the new Haulage Reference Tariff; and
- (b) Distribution Supply Points to which the new Haulage Reference Tariff is expected to be assigned during Calendar Year  $t$ , in which case  $q_{t-2}^{ij}$  will be based on the reasonable estimates of the Quantities which would have been distributed at those Distribution Supply Points, as submitted by the Service Provider in accordance with clause 1.3(i), and  $p_t^{ij}$  is the new Haulage Reference Tariff.

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**3.5 Rebalancing Controls on Haulage Reference Tariffs**

- (a) The Service Provider will maintain Haulage Reference Tariffs between:
- (1) an upper limit of the cost to bypass the network; and
  - (2) a lower limit of the marginal cost of supply.
- (b) In undertaking any rebalancing, the Service Provider will ensure that the proposed Haulage Reference Tariffs comply with the relevant Rebalancing Control Formula as set out in this clause 3.5.

## 3.5.1 Rebalancing Control Formula

The Rebalancing Control Formula is:

$$(1 + \Delta CPI_t)(1 - X_t)(1 + PT_t)(1 + 0.02) \geq \frac{\sum_{i=1}^n \sum_{j=1}^m P_t^{ij} Q_{t-2}^{ij}}{\sum_{i=1}^n \sum_{j=1}^m P_{t-1}^{ij} Q_{t-2}^{ij}}$$

where:

$\Delta CPI$  is the annual percentage change in the ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in year<sub>t,2</sub> to the June quarter in year<sub>t,1</sub>, calculated using the following method:

The ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in year  $t-1$

divided by

the ABS CPI All Groups, Weighted Average of Eight Capital Cities for the June quarter in year  $t-2$

minus 1.

If the ABS does not, or ceases to, publish the index, then CPI will mean an index which the Regulator considers is the best available alternative index;

$t$  is the Calendar Year for which tariffs are being set;

$X_t$  is the X factor for each Calendar Year of the Fifth Access Arrangement Period as determined in the PTRM as approved in the full access arrangement decision, and annually revised for the Return on Debt Update calculated for the relevant Calendar Year during the Access Arrangement Period in accordance with that approved in the full access arrangement decision;

$PT_t$  is the cost pass through factor for Calendar Year  $t$  as calculated in accordance with clause 3.1.3;

$n$  is the number of different Haulage Reference Tariffs;

$m$  is the different components, elements or variables (“components”) comprised within a Haulage Reference Tariff;

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- $p_t^j$  is the proposed component  $j$  for Haulage Reference Tariff  $i$  in Calendar Year  $t$ ;
- $p_{t-1}^j$  is the prevailing component  $j$  of Haulage Reference Tariff  $i$  in Calendar Year  $t-1$ ;
- $q_{t-2}^j$  is the audited Quantity of Haulage Reference Tariff Component  $j$  of Haulage Reference Tariff  $i$  that was sold in Calendar Year  $t-2$ .

### 3.6 Rebalancing Controls for New and Withdrawn Haulage Reference Tariffs

For the purposes of the application of the rebalancing control formulae as set out in clause 3.5:

- (a) Where the Service Provider proposed to introduce a new Haulage Reference Tariff and/or new Haulage Reference Tariff Components:
- (1) the term  $q_{t-2}^j$  in the rebalancing control will be interpreted in relation to the reasonable estimates of the Quantities that would have been sold, in relevant units, if the Haulage Reference Tariff Components existed in Calendar Year  $t-2$ ; and
  - (2) the term  $p_t^j$  in the rebalancing control will be interpreted in relation to the Haulage Reference Tariff Components of the parent Haulage Reference Tariff in Calendar Year  $t-2$ .
- (b) Where the Service Provider has introduced new Haulage Reference Tariffs and/or new Haulage Reference Tariff Components in Calendar Year  $t-1$ , the  $q_{t-2}^j$  term of the rebalancing control will be in relation to the reasonable estimates of the Quantities that would have been sold, in relevant units, if the Haulage Reference Tariff Components had existed in Calendar Year  $t-2$ .
- (c) Where the Service Provider proposes to withdraw a Haulage Reference Tariff and reassign those Distribution Supply Points to another Haulage Reference Tariff:
- (1) the  $p_t^j$  term in the rebalancing control for the Haulage Reference Tariff that is proposed to be withdrawn will be interpreted in relation to the Haulage Reference Tariff Components of the Haulage Reference Tariff that those existing Distribution Supply Points will be reassigned to in Calendar Year  $t$ ;
  - (2) the rebalancing control on Haulage Reference Tariffs will be applied separately in relation to each of the Haulage Reference Tariffs Distribution Supply Points are reassigned to, and:
    - (A) the  $p_t^j$  term in the rebalancing control for the Haulage Reference Tariff that is proposed is to be withdrawn will be interpreted in relation to the Haulage Reference Tariff Components of each of the Haulage Reference Tariffs that those existing Distribution Supply Points will be reassigned to in Calendar Year  $t$ ; and
    - (B) the  $q_{t-2}^j$  term in the rebalancing control for the Haulage Reference Tariff that is proposed to be withdrawn will be the breakdown of the actual Quantities, in relevant units, that were sold under each Haulage Reference Tariff Component of the parent Haulage Reference Tariffs to each Distribution Supply Point reassigned to the same Haulage Reference Tariff.



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**4 Approval of Haulage Reference Tariffs and New Haulage Reference Tariffs****4.1 Submission to the Regulator**

- (a) The Service Provider will, at least 50 Business Days prior to the commencement of the next Calendar Year, submit proposed Haulage Reference Tariffs to apply from the start of the next Calendar Year for verification of compliance by the Regulator, in accordance with clauses 4.2(a), (b), (c) and (d).
- (b) The Service Provider will ensure its proposed Haulage Reference Tariffs or proposed changes to Haulage Reference Tariffs submitted under clause 4.1(a) comply with the Tariff Control Formula and rebalancing control formulae in clause 3.

**4.2 Assessment by the Regulator**

- (a) The Regulator will provide the Service Provider with written notice of whether or not it has verified the Haulage Reference Tariffs proposed by the Service Provider and submitted under clause 4.1(a) as compliant with the Tariff Control Formula and the rebalancing control formula. If the Regulator declines to verify the proposed Haulage Reference Tariffs as compliant, the Regulator must provide a written statement of reasons for that decision.
- (b) The proposed Haulage Reference Tariffs will be deemed to have been verified as compliant in writing by the Regulator by the end of 30 Business Days from the date on which the Regulator received the Service Provider's notification under clause 4.1(a) unless the Regulator has notified the Service Provider in writing that it has declined to verify the proposed Haulage Reference Tariffs as compliant. The Regulator may require an extension of a specified duration. The Regulator will notify the Service Provider of the extension and its duration within 30 Business Days of receiving a notification from the Service Provider.
- (c) If the Regulator issues a written notice to the Service Provider that it has declined to verify proposed Haulage Reference Tariffs and/or Haulage Reference Tariff Components (including but not limited to any new Haulage Reference Tariff and/or any new Haulage Reference Tariff Component) as compliant for a Calendar Year  $t$ , then:
  - (1) if the relevant left-hand side of the price control formula set out in clause 3.1 is  $>1$  then the Haulage Reference Tariffs applying in Calendar Year  $t-1$  are scaled up by the relevant left-hand side of the price control formula set out in clause 3.1; or
  - (2) if the relevant left-hand side of the price control formula set out in clause 3.1 is  $<1$  then the Haulage Reference Tariffs applying in Calendar Year  $t-1$  are scaled down by the relevant left-hand side of the price control formula set out in clause 3.1.
- (d) If the Regulator has notified the Service Provider in writing that it has declined to verify as compliant the withdrawal of any existing Haulage Reference Tariffs and/or the withdrawal of any existing Haulage Reference Tariff Components proposed for Calendar Year  $t$ , then:
  - (1) if the relevant left-hand side of the price control formula set out in clause 3.1 is  $>1$  then the Haulage Reference Tariffs applying in Calendar Year  $t-1$  are scaled up by the relevant left-hand side of the price control formula set out in clause 3.1; or
  - (2) if the relevant left-hand side of the price control formula set out in clause 3.1 is  $<1$  then the Haulage Reference Tariffs applying in Calendar Year  $t-1$  are scaled down by the relevant left-hand side of the price control formula set out in clause 3.1.
- (e) The Service Provider may provide additional information and resubmit or revise its proposed Haulage Reference Tariffs in accordance with clause 4.1(a) if the Regulator declines to verify as compliant proposed Haulage Reference Tariffs under clause 4.2(a) provided that if, in a Calendar Year, changes to Haulage Reference Tariffs have been verified as compliant by the Regulator, the Service Provider will notify in writing all Users affected by the changes as soon as practicable.

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**4.3 Information Required from the Service Provider**

- (a) At the same time as submitting proposed Haulage Reference Tariffs to the Regulator, the Service Provider will also provide to the Regulator, information demonstrating that the proposed Haulage Reference Tariffs are, to the extent relevant, consistent with the Tariff Control Formula and rebalancing control formula in clause 3.
- (b) In respect of the annual variations of Reference Tariffs, the Service Provider will include a statement to support the gas quantity inputs in the tariff variation formula. The statement will be independently audited or verified and the quantity input will reflect the most recent actual annual quantities available at the time of tariff variation assessment.

**4.4 Default Haulage Reference Tariffs for new Calendar Year  $t$** 

- (a) If the Service Provider does not, at least 50 Business Days prior to the commencement of the next Calendar Year  $t$  submit proposed Haulage Reference Tariffs to apply from the start of the next Calendar Year  $t$  in accordance with clause 4.1(a) then:
- (1) where the left-hand side of the Tariff Control Formula to be applied for Calendar Year  $t$  is greater than one, the Haulage Reference Tariffs applying in Calendar Year  $t-1$  will be scaled up by the left-hand side of the Tariff Control Formula to be applied for Calendar Year  $t$  and will apply for Calendar Year  $t$  and the Haulage Reference Tariff Components applying in Calendar Year  $t-1$  will be scaled up and applied accordingly; and
  - (2) where the left-hand side of the Tariff Control Formula to be applied for Calendar Year  $t$  is less than one, the Haulage Reference Tariffs applying in Calendar Year  $t-1$  will be scaled down by the left-hand side of the Tariff Control Formula to be applied for Calendar Year  $t$  and will apply for Calendar Year  $t$  and the Haulage Reference Tariff Components applying in Calendar Year  $t-1$  will be scaled down and applied accordingly,

until such time as the Regulator has, or been deemed to have, verified Haulage Reference Tariffs and/or Haulage Reference Tariff Components for Calendar Year  $t$  as compliant in response to a submission by the Service Provider.

**5 Calculation of Charges for Haulage Reference Tariffs**

Haulage Reference Tariffs are charged in accordance with the calculations described below.

**5.1 Distribution Fixed Tariff Components**

The Distribution Fixed Tariff Components and consumption ranges shown in clause 9, as applicable, are daily amounts. The Distribution Fixed Tariff Component or consumption range applied to calculate a Charge for a billing period in Calendar Year  $t$  shall be the Distribution Fixed Tariff Component applying in Calendar Year  $t$  or consumption range shown in clause 9, as applicable, multiplied by the number of days in the billing period.

**5.2 Distribution Volume Tariff Components**

- (a) Distribution Volume Tariff Components are Charged according to the actual GJs of Gas withdrawn in the billing period, or an estimate of the GJs of Gas withdrawn in the billing period which is acceptable to the Service Provider.
- (b) Where some of the days in the billing period are in the Peak Period, the GJs of Gas withdrawn in the Peak Period are:

$$GPP = TAG \times \frac{PPBP}{TBP}$$

where:

$GPP$  is defined as the GJs of Gas withdrawn in the Peak Period;

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*TAG* is defined as the total actual GJs of Gas withdrawn in the billing period, or an estimate of the total GJs of Gas withdrawn in the billing period which is acceptable to the Service Provider;

*PPBP* is defined as the number of days in the billing period which are in the Peak Period; and

*TBP* is defined as the total number of days in the billing period.

### 5.3 Distribution Demand Tariff Components

- (a) Distribution Demand Tariff Components are charged according to the following formula:

$$MC = \frac{EAC - CBTD}{RBP}$$

where:

*MC* is the charge for a particular month in Regulatory Year *t*.

*EAC* is the estimated annual charge calculated by applying the relevant Haulage Reference Tariff Components to EAD;

*CBTD* is the sum of the charges for all prior billing periods of Regulatory Year *t*;

*RBP* is the remaining billing periods in Regulatory Year *t*, as set out below:

Month	RBP
January	12
February	11
March	10
April	9
May	8
June	7
July	6
August	5
September	4
October	3
November	2
December	1

*EAD* is:

- (1) for billing periods between January and September, the higher of:
  - (A) the forecast Annual MHQ for Regulatory Year *t*; and
  - (B) the Annual MHQ, as measured to date during Regulatory Year *t*, where the forecast Annual MHQ for Regulatory Year *t* is either:
    - (C) the actual Annual MHQ for Regulatory Year *t-1*; or
    - (D) a Quantity agreed between the Service Provider and the User;
- (2) for billing periods between October and December, the actual Annual MHQ for Regulatory Year *t*.

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- (b) Where a User's Customer withdraws Gas at a Distribution Supply Point and ceases to withdraw Gas at that Distribution Supply Point in a month:
- (1) the Service Provider may charge the User in respect of that Distribution Supply Point, for the whole of the month in which the Customer ceased withdrawal of Gas;
  - (2) the Service Provider will not charge the User in respect of that Distribution Supply Point, for any month after the month in which the Customer ceased withdrawal of Gas; and
  - (3) where another Customer starts to withdraw Gas at that Distribution Supply Point, the Quantity of forecast highest MHQ for the year for that Distribution Supply Point must be agreed between the Service Provider and the relevant User in respect of that Distribution Supply Point.
- (c) Where a User's Customer withdraws Gas at a Distribution Supply Point and ceases to be a Customer of that User during a month and becomes:
- (1) a Customer of another User; or
  - (2) a User,
- the Service Provider will charge:
- (3) the User from whom the Customer purchases its Gas at that Distribution Supply Point in that month; or
  - (4) the Customer as a User in that month,
- respectively, for that month.

#### **5.4 Unmetered Haulage Reference Tariff Components**

Where Haulage Reference Tariff V has been assigned to a Distribution Supply Point under clause 1.1(c) because it is an unmetered Distribution Supply Point, there is deemed to be no withdrawal of Gas at the Distribution Supply Point for charging purposes. For the avoidance of doubt, in such circumstances, Commercial Haulage Reference Tariff V is deemed to apply and any applicable fixed Haulage Reference Tariff Component may be charged as a fixed charge.

#### **5.5 Natural Gas Extension Project Haulage Reference Tariffs**

Tariffs apply to Distribution Supply Points where the Distribution Zone is as listed in clause 9.

## **6 Reference Tariff Policy**

This clause 6 sets out the principles that are to be used to determine a Reference Tariff (a Reference Tariff Policy).

### **6.1 CPI - X Price Path**

The CPI - X price path approach is consistent with the fixed principle in clause 7.2(a). The Service Provider adopts this approach.

### **6.2 New Facilities Investment**

- (a) The Service Provider may at its discretion undertake Capital Expenditure that does not satisfy the requirements of the New Capital Expenditure Criteria under the National Gas Rules. The Extensions / Expansions Policy in clause 5.6 of Part A of this Access Arrangement explains how Capital Expenditure in relation to a New Facility which is to be treated as part of the Covered Pipeline will affect Reference Tariffs.
- (b) Clause 6.3 below sets out the principles of a Speculative Capital Investment Account which the Service Provider may operate in relation to Capital Expenditure that does not satisfy the requirements of the New Capital Expenditure Criteria under the National Gas Rules.

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**6.3 Speculative Capital Expenditure Account**

In accordance with rule 84 of the National Gas Rules, the amount of the Speculative Capital Expenditure Account for the Service Provider at any time is equal to:

- (a) the difference between the Capital Expenditure and the amount which satisfies the requirements of the New Capital Expenditure Criteria under the National Gas Rules, less any amount the Service Provider notifies the Regulator (at the time the expenditure is incurred) that it has elected to recover through a surcharge under rule 83 of the National Gas Rules; plus
- (b) an annual increase in that amount calculated on a compounded basis at a risk adjusted rate of return approved by the Regulator; less
- (c) any part of the Speculative Capital Expenditure Account previously added to the Capital Base due to the type and volume of services provided using the increase in Capacity attributable to the New Facility change such that any part of the Speculative Capital Expenditure Account would then satisfy the requirements of the New Capital Expenditure Criteria under the National Gas Rules.

**6.4 Incentive Mechanisms**

Rule 98 of the National Gas Rules provides for an Access Arrangement to include an incentive mechanism to encourage efficiency in the provision of services by the Service Provider. An incentive mechanism may provide for carrying over increments for efficiency gains and decrements for losses of efficiency from one Access Arrangement Period to the next and must be consistent with the revenue and pricing principles.

## 6.4.1 General principles

- (a) The incentive arrangements that are to apply to cost-related efficiencies achieved by, and innovation initiatives sought by, the Service Provider, and the adjustment to preserve the incentive to meet efficient growth in demand are a combination of:
  - (1) a tariff basket form of price control;
  - (2) the carryover that would result in the Service Provider retaining the reward or penalty associated with an operating expenditure efficiency gain or loss for five years after the year in which the gain or loss was achieved; and
  - (3) the carryover that would result from the Service Provider retaining into the Sixth Access Arrangement Period, 30 percent of the Net Present Value (NPV) of any capital expenditure efficiencies gains or losses realised during the Fifth Access Arrangement Period.
- (b) There would be no claw-back of gains that have already been made (or losses that have been incurred) during the Fifth Access Arrangement Period.

## 6.4.2 Operating Expenditure Incentive Mechanism

An efficiency carryover mechanism will apply to operating expenditure. It will operate in the following way:

- (a) The incremental efficiency gain (or loss) for 2018 will be calculated using:

$$I_{2018} = (F_{2018} - A_{2018}) - [(F_{2017} - A_{2017}) - (F_{2015} - A_{2015})]$$

where:

$I_{2018}$  is the incremental efficiency gain (or loss) for 2018

$F_{2018}$  is the forecast operating expenditure for 2018

$A_{2018}$  is the actual operating expenditure for 2018

$F_{2017}$  is the forecast operating expenditure for 2017

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$A_{2017}$  is the actual operating expenditure for 2017

$F_{2015}$  is the forecast operating expenditure for 2015

$A_{2015}$  is the actual operating expenditure for 2015

- (b) The incremental efficiency gain (or loss) for 2019 to 2022 will be calculated using:

$$I_i = (F_i - A_i) - (F_{i-1} - A_{i-1})$$

where:

$I_i$  is the efficiency gain (or loss) in year  $i$  of the access arrangement period

$F_i$  is the forecast operating expenditure in year  $i$  of the access arrangement period

$A_i$  is the actual operating expenditure in year  $i$  of the access arrangement period

$F_{i-1}$  is the forecast operating expenditure in year  $i-1$  of the access arrangement period

$A_{i-1}$  is the actual operating expenditure in year  $i-1$  of the access arrangement period

- (c) Actual operating expenditure in the final year of the access arrangement period, 2022, is to be estimated using:

$$A_{2022}^* = F_{2022} - (F_b - A_b) + \text{non-recurrent efficiency gain}_b$$

where:

$A_{2022}^*$  is the estimate of operating expenditure for 2022

$F_{2022}$  is the forecast operating expenditure for 2022

$F_b$  is the forecast operating expenditure for the base year used to forecast operating expenditure in the Sixth Access Arrangement Period

$A_b$  is the actual operating expenditure for the base year used to forecast operating expenditure in the Sixth Access Arrangement Period

*Non-recurrent efficiency gain<sub>b</sub>* is the adjustment made to base year operating expenditure used to forecast operating expenditure for the access arrangement period expected to commence 1 January 2023 to account for operating expenditure associated with one-off factors.

- (d) To ensure efficiency gains or losses made in 2022 are retained for five years, operating expenditure for the Sixth Access Arrangement Period should be forecast in a manner consistent with the estimate for opex in 2022,  $A_{2022}^*$ , in paragraph (c) above. This provides the Service Provider the same reward had the expenditure level in 2022 been known.
- (e) For the avoidance of doubt, the incremental efficiency gains (or losses) are carried over from year to year in real dollars to ensure that these gains (or losses) are not eroded by inflation. The price indices used in this calculation are to be consistent with those used to forecast operating expenditure for the Sixth Access Arrangement Period.
- (f) Increments or decrements from the summation of annual efficiency gains or losses calculated in accordance with the approved incentive mechanism in the Access Arrangement Period will give rise to an additional 'building block' in the calculation of the Total Revenue amounts for each year of the Sixth Access Arrangement Period.
- (g) The following costs will be excluded from the operation of the efficiency carryover mechanism:
- (1) movements in provisions;
  - (2) losses on scrapping of assets;

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- (3) any cost category that is not forecast using a single year revealed cost approach in the Sixth Access Arrangement Period. These costs may include debt raising costs and unaccounted for gas expenses;
- (4) any other activity that the Service Provider and the Regulator agree to exclude from the operation of the efficiency carryover mechanism.
- (h) The forecast operating expenditure amount for each year of the Applicable Access Arrangement Period will be adjusted to include any Determined Pass Through Amounts or other AER approved expenditure arising from Cost Pass Through Events which apply in respect of that year.
- (i) Where the Service Provider changes its approach to classifying costs as either capital expenditure or operating expenditure during the Access Arrangement Period, the Service Provider will adjust the forecast operating expenditure in the access arrangement information (amended to reflect the AER's final decision on this access arrangement) so that the forecast expenditures are consistent with the capitalisation policy changes.
- (j) If there is a change in the Service Provider's approach to classifying costs as either capital expenditure or operating expenditure, the Service Provider must provide to the Regulator a detailed description of the change and a calculation of its impact on forecast and actual operating expenditure.
- (k) For the avoidance of doubt, the forecast expenditure amounts that are used as the basis for measuring efficiencies are equal to the forecast operating cost for that year as shown in the table below, which exclude the costs listed in clause 6.4.2(g)(1)-(4).

Approved forecast operating expenditure for the efficiency carryover mechanism (\$ million, 2017)

	2015	2016	2017	2018	2019	2020	2021	2022
Approved forecast opex	49.2	50.3	51.5	52.2	52.8	53.5	54.5	55.2

Note: excludes debt raising costs

### 6.4.3 Capital Expenditure Incentive Mechanism

The Capital Expenditure Sharing Scheme (**CESS**) operates as follows:

- (a) The annual efficiency gain or loss under the scheme will be calculated by subtracting the Service Provider's actual capex from the approved capex allowance (both net of contributions) in each year of the Access Arrangement Period. For the final year (and in some instances the penultimate year) an estimate of actual capex will be used.
- (b) For the purpose of calculating the annual efficiency gain or loss, the approved capex allowance is to be adjusted to take into account a change in the scope of activities in accordance with the approach outlined below or for any approved cost pass-through event.
- (c) The efficiency gain for year one is calculated as:
- $$\text{Year 1 efficiency gain} = \text{capex allowance for Year 1} - \text{actual capex in Year 1}$$
- (d) The efficiency gain for each year will be discounted into its Net Present Value (NPV) at the end of the Access Arrangement Period. In doing so, it is assumed that capex occurred in the middle of the year. To calculate the total efficiency gain the annual efficiency gains in NPV terms are added:
- $$\text{Total efficiency gain} = \text{NPV year 1 efficiency gain} + \text{NPV year 2 efficiency gain} + \text{NPV year 3 efficiency gain} + \text{NPV year 4 efficiency gain} + \text{NPV year 5 efficiency gain}.$$
- (e) The above calculations are represented by the following equation:

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$$\text{Total efficiency gain} = \sum_{n=1}^p \frac{1}{(1 + WACC)^{n-p-0.5}} \times (F_n - A_n)$$

where:

$n$  is the Access Arrangement year;

WACC is the average of the nominal weighted average cost of capital that are applied during each year of the Access Arrangement Period;

$p$  is the length of the Access Arrangement Period;

$F_n$  is the capex allowance for year  $n$ ;

$A_n$  is the actual capex for year  $n$ .

- (f) A sharing factor of 30 per cent will apply to the total efficiency gain or loss. This means the Service Provider will bear 30 per cent of any loss and will retain 30 per cent of any gain. The remaining 70 per cent will be returned to gas pipeline users.  
*Service Provider's sharing factor = 30%*  
*Service Provider's share = total efficiency gain x 30%*
- (g) The CESS takes into account benefits or costs that have already accrued to the Service Provider during the Access Arrangement Period in order to ensure that the power of the incentive is the same in each regulatory year. This is the financing benefit of any underspend and the financing cost of any overspend.
- (h) Capex is assumed to be incurred in the middle of each regulatory year and would be adjusted to end of year terms. In the year-case of the an underspend, the Service Provider will recover a financing benefit (in the year following an underspend) equal to the underspend, in the preceding years, multiplied by WACC. only half a year of benefit. In the following years, the Service Provider will retain a full year of benefit calculated as the underspend multiplied by the WACC. This is represented by the following equation:

$$\text{Year of financing benefit} = [1 + WACC]^{0.5} - 1 \times (F_n - A_n) + \sum_{j=1}^{n-1} WACC \times (F_j - A_j)$$

where:

$j$  is a regulatory year in the current Access Arrangement Period prior to year  $n$

$F_j$  is the capex allowance for year  $j$

$A_j$  is actual capex for year  $j$

- (i) The financing benefit from preceding years will be compounded, namely, the financing benefit for each year will be discounted to its NPV at the end of the Access Arrangement Period. In doing so it is assumed that A discount factor is applied to the benefits from each year to put the financing benefits in constant terms. The discount rate is calculated on the basis that financing benefits accrue at the end of the year. To calculate the total financing benefit, the annual The discounted financing benefits in NPV terms are summed. from each year are then summed to get a net financing benefit for the Access Arrangement Period. This is calculated using the following equation:

$$\text{Net financing benefit} = \sum_{n=1}^p \frac{1}{1 + WACC^{n-p}} \times \text{year } n \text{ financing benefit}$$

- (j) The CESS reward or penalty payable to the Service Provider is calculated by subtracting the net financing benefit from the Service Provider's share of the cumulative efficiency gain:

$$\text{CESS reward} = (\text{Service Provider share} - \text{net financing benefit}) \times \text{CPF}$$

where:



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CPF is the Contingent Payment Factor calculated as:

- (1) if the Service Provider's share > net financing benefit, and
    - (A) if the asset performance index (API) > ~~96.146100~~, = 1;
    - (B) if ~~74.97780~~ < API < ~~96.146100~~, CPF = (API - ~~74.97780~~) / (~~96.146100~~ - ~~79.27880~~); and
    - (C) if API < ~~74.97780~~, CPF = 0, or
  - (2) if the Service Provider's share is  $\leq$  net financing benefit, CPF = 1;
- API is the Asset Performance Index calculated for the Fifth Access Arrangement Period in accordance with Annexure A.

- (k) The CESS reward or penalty will be applied as an additional building block adjustment to the Service Provider's revenue during the Sixth Access Arrangement Period.
- (l) Actual capex for the final year of the Fifth Access Arrangement Period will not be available when the rewards or penalties for the CESS are calculated for that Access Arrangement Period. Instead, an estimate of capex will be used to calculate the efficiency gains or losses for the final year.
- (m) Prior to the revisions submission date for the Seventh Access Arrangement Period, actual capex data will be available for the final year of the Fifth Access Arrangement Period. Where the Service Provider's actual capex differs from the capex estimate used to calculate the CESS, an adjustment will be made to account for the difference. The adjustment for the final year of the Fifth Access Arrangement Period will be:

$$\text{Final year adjustment} = (A_p^* - A_p) \times \left[ \frac{\text{NSP sharing factor} - 1}{(1 + WACC)^{-0.5}} \right] + 1$$

where:

$A_p^*$  is the estimate of actual capex in the final year of the Access Arrangement Period that has been used to initially calculate the CESS rewards or penalties;

$A_p$  is actual capex in the final year of the Access Arrangement Period.

- (n) CESS payments will be adjusted where the Service Provider defers capex in the Fifth Access Arrangement Period and:
  - (1) the amount of the deferred capex in the Fifth Access Arrangement Period is material; and
  - (2) the amount of the estimated underspend in capex in the Fifth Access Arrangement Period is material; and
  - (3) total approved forecast capex in the Sixth Access Arrangement Period is materially higher than it is likely to have been if a material amount of capex was not deferred in the Fifth Access Arrangement Period.

If the AER determines that an adjustment will be made, the adjustment is the present value of the estimated marginal increase in forecast capex in the Sixth Access Arrangement Period attributable to capex deferred in the Fifth Access Arrangement Period.

- (o) Actual capex will be adjusted to remove any expenditure that is not rolled in to the Service Provider's regulatory asset base used to determine revenue over the Fifth Access Arrangement Period.
- (p) A discount rate will be applied to account for the time value of money. This adjustment will also be required for the penultimate year of the Access Arrangement Period where finalised actual capex figures are not available before finalising the regulatory determination.

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**6.5 Depreciation for establishing the capital base as at 1 January 2023**

- (a) The depreciation schedule (straight-line) for establishing the opening capital base as at 1 January 2023 will be based on forecast ~~operating capital~~ expenditure at the asset class level approved for the Fifth Access Arrangement Period.

**7 Fixed Principles****7.1 General**

- (a) Rule 99 of the National Gas Rules provides that a Full Access Arrangement may include certain principles that may be fixed for a stated period.
- (b) A fixed principle approved before the commencement of the National Gas Rules or approved by the Regulator under the National Gas Rules is binding on the Regulator and the Service Provider for the period for which the principle is fixed. The Regulator may vary or revoke a fixed principle at any time with the Service Provider's consent.
- € Each fixed principle will apply for different periods as described in this clause 7.
- (d) The period during which each fixed principle may not be changed is the Fixed Period (**Fixed Period**).

**7.2 Adoption of Fixed Principles**

In approving revisions to this Access Arrangement the Regulator is to adopt the fixed principles as set out below:

- (a) The Regulator will use incentive based regulation adopting a C-I - X approach and not rate of return regulation.  
This fixed principle will apply until the end of the Fifth Access Arrangement Period.
- (b) The Regulator will ensure that any mechanism for varying or adjusting the Haulage Reference Tariffs approved for the Fifth Access Arrangement Period will, to the extent required to give full effect to such variation or adjustment, be carried forward into the Sixth Access Arrangement Period.  
This fixed principle will apply until the end of the Sixth Access Arrangement Period.
- (c) Where a Relevant Pass Through Event occurs during an Access Arrangement Period but the impact of that Relevant Pass Through Event has not been fully recovered or reflected in adjusted Haulage Reference Tariffs and Haulage Reference Tariff Components prior to the end of that Access Arrangement Period, then the amount of the impact not fully recovered or reflected will be recovered or reflected in the next Access Arrangement Period by an adjustment to the Haulage Reference Tariffs and Haulage Reference Tariff Components for that next Access Arrangement Period.  
This fixed principle will apply until the end of the Fifth Access Arrangement Period.

**8 Procedure for a Relevant Pass Through Event Variation in Reference Tariffs**

- (a) The Service Provider may notify the Regulator of a Relevant Pass Through Event within 90 Business Days of the Relevant Pass Through Event occurring where the costs would lead to a Positive Pass Through Amount and must notify the Regulator of a Relevant Pass Through Event within 90 Business Days of the Relevant Pass Through Event occurring where the costs would lead to a Negative Pass Through Amount.
- (b) If the Service Provider gives such a notice then, when the costs of the Relevant Pass Through Event incurred are known (or able to be estimated to a reasonable extent), then those costs shall be notified to the AER. When making a notification to the AER, the Service Provider will provide the Regulator with a statement, signed by an authorised officer of the

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Service Provider, verifying that the costs of the Relevant Pass Through Event are net of any payments made by an insurer or third party which partially or wholly offsets the financial impact of that event (including self insurance)€.

- (c) The Regulator must notify the Service Provider of its decision to approve or reject the proposed variations to its Reference Tariffs within 90 Business Days from the later of the date it receives the Service Provider's statement above, and the date it receives any additional information required by the Regulator. The Service Provider must provide the Regulator with such additional information as the Regulator reasonably requires for the purpose of making a determination under this clause 8 within the time reasonably specified by the Regulator in a notice provided to the Service Provider by the Regulator for that purpose.
- (d) If the Regulator is satisfied that the making of a determination in respect of a Relevant Pass Through Event involves issues of such complexity or difficulty that the 90 Business Day time limit should be extended, the Regulator may, by written notice to the Service Provider, extend the time limit by a further period of up to 60 Business Days. The Regulator must give written notice to the Service Provider of that extension not later than 10 Business Days before the expiry of the 90 Business Day time limit and such notice must set out the length of the extension and the reason the extension is required.
- (e) Subject to the approval of the Regulator under the NGR, Reference Tariffs may be varied after one or more Relevant Pass Through Event(s) occurs.
- (f) Any such variation will take effect from the next 1 January. In making its decision on whether to approve the proposed Relevant Pass Through Event variation, the Regulator must take into account the following:
  - (1) whether the costs to be passed through are for the delivery of Pipeline Services;
  - (2) whether the costs are incremental to costs already allowed for in Reference Tariffs;
  - (3) whether the costs to be passed through meet the relevant National Gas Rules criteria for determining the building block for total revenue in determining Reference Services;
  - (4) the efficiency of the Service Provider's decisions and actions in relation to the risk of the Relevant Pass Through Event occurring, including whether the Service Provider has failed to take any action that could reasonably be taken to reduce the magnitude of the costs incurred as a result of the Relevant Pass Through Event and whether the Service Provider has taken or omitted to take any action where such action or omission has increased the magnitude of the costs; and
  - (5) any other factors the Regulator considers relevant and consistent with the NGR and NGL.

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**9 Haulage Reference Tariffs – 1 January 2018**

The structures and proposed indicative tariff levels for each tariff for the period commencing 1 January 2018 are outlined in the following tables. The Service Provider reserves the right to revise these tables for the period 1 January 2018 to 31 December 2018 in accordance with the Regulator’s final decision.

**9.1 Central Zone**

Postcodes: 3003, 3008, 3011, 3012, 3013, 3015, 3016, 3018, 3019, 3020, 3021, 3022, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3030, 3031, 3032, 3033, 3034, 3036, 3037, 3038, 3039, 3040, 3041, 3042, 3043, 3044, 3045, 3046, 3047, 3048, 3049, 3055, 3058, 3059, 3060, 3061, 3062, 3063, 3064, 3073, 3211, 3212, 3213, 3214, 3215, 3216, 3217, 3218, 3219, 3220, 3221, 3222, 3223, 3224, 3225, 3226, 3228, ~~3334~~, 3335, 3336, 3337, 3338, 3427, 3428, 3429, 3750

**Tariff V Residential (TNVDC)**

Distribution Fixed Tariff Component			\$0.29803045-/day
Consumption Range (GJ/day)	Distribution Volume Tariff component		
	Peak Period (\$/GJ)	Off-peak Period (\$/GJ)	
0-0.1	8.67328.4884	2.27432.2259	
> 0.1 – 0.2	5.20345.0925	1.88611.8459	
> 0.2 – 1.4	0.90980.8904	0.86540.8470	
> 1.4	0.71420.6990	0.29760.2913	

**Tariff V Non Residential (TNVNC)**

Distribution Fixed Tariff Component			- <del>\$0.3206</del> \$0.3138/day
Consumption Range (GJ/day)	Distribution Volume Tariff component		
	Peak Period (\$/GJ)	Off-peak Period (\$/GJ)	
0-0.1	1.44381.4752	1.37061.4004	
> 0.1 – 0.2	1.37481.4048	0.95860.9794	
> 0.2 – 1.4	1.22971.2564	0.79220.8094	
> 1.4	0.92280.9429	0.75410.7705	

**Tariff M (TNMC)**

Annual MHQ (GJ/hr)	Distribution Demand Tariff component (\$/MHQ)
0-10	802.5646820.0341
> 10 – 50	764.3472780.9847
> 50	159.1212162.5848

**Tariff D (D)**

Annual MHQ (GJ/hr)	Distribution Demand Tariff component (\$/MHQ)
0-10	366.3028374.2764
> 10 – 50	348.8597356.4533
> 50	169.3677173.0543

**9.2 West Zone**

Postcodes: ~~3241~~, 3249, 3250, 3266, 3277, 3280, 3282, 3300, 3305, 3340, 3342, 3350, 3352\*, 3355, 3356, 3357, 3358, 3377, 3380, 3400, 3401, 3430, 3437, 3444, 3450, 3451, 3460, 3461, 3464, 3465, ~~3467~~, 3550, 3551\*, 3555, 3556

**Tariff V Residential (TNVDW)**

Distribution Fixed Tariff Component			\$0.29803045-/day
Consumption Range (GJ/day)	Distribution Volume Tariff component		
	Peak Period (\$/GJ)	Off-peak Period (\$/GJ)	
0-0.1	4.83234.9375	1.51541.5484	

**Tariff V Non Residential (TNVNW)**

Distribution Fixed Tariff Component			\$0.31383206/day
Consumption Range (GJ/day)	Distribution Volume Tariff component		
	Peak Period (\$/GJ)	Off-peak Period (\$/GJ)	
0-0.1	2.36432.4158	0.98521.0066	

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Reference Tariffs and Reference Tariff Policy

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> 0.1 – 0.2	<u>3.4637-3.5391</u>	<u>1.34741-3.767</u>	> 0.1 – 0.2	<u>1.99112-0.0345</u>	<u>0.82980-8.478</u>
> 0.2 – 1.4	<u>1.11551-1.398</u>	<u>0.80709-8.246</u>	> 0.2 – 1.4	<u>1.09481-1.186</u>	<u>0.44870-4.585</u>
> 1.4	<u>1.06241-0.855</u>	<u>0.15660-1.600</u>	> 1.4	<u>0.40240-4.112</u>	<u>0.33140-3.386</u>

Tariff M (TNMW)

Annual MHQ (GJ/hr)	Distribution Demand Tariff component (\$/MHQ)
0-10	<u>802.5646820-0.0341</u>
> 10 – 50	<u>764.3472780-9.847</u>
> 50	<u>159.1212162-5.848</u>

Tariff D (D)

Annual MHQ (GJ/hr)	Distribution Demand Tariff component (\$/MHQ)
0-10	<u>366.3028374-2.764</u>
> 10 – 50	<u>348.8597356-4.533</u>
> 50	<u>169.3677173-0.543</u>

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9.3 Adjoining Central Zone

Postcodes: 3227, 3331

Tariff V Residential (TNVDAC)

Distribution Fixed Tariff Component			\$0.29803045/day
Consumption Range (GJ/day)	Distribution Volume Tariff component		
	Peak Period (\$/GJ)	Off-peak Period (\$/GJ)	
0-0.1	<u>12.111542.3754</u>	<u>5.62895.7514</u>	
> 0.1 – 0.2	<u>8.71538.9050</u>	<u>3.40073.4747</u>	
> 0.2 – 1.4	<u>3.13533.2035</u>	<u>2.98583.0508</u>	
> 1.4	<u>2.98583.0508</u>	<u>2.84282.9047</u>	

Tariff V Non Residential (TNVNAC)

Distribution Fixed Tariff Component			\$0.31383206/day
Consumption Range (GJ/day)	Distribution Volume Tariff component		
	Peak Period (\$/GJ)	Off-peak Period (\$/GJ)	
0-0.1	<u>5.0665.5.4017</u>	<u>4.8252.5.1444</u>	
> 0.1 – 0.2	<u>4.82505.1442</u>	<u>4.58164.8847</u>	
> 0.2 – 1.4	<u>4.59024.8938</u>	<u>4.35864.6469</u>	
> 1.4	<u>4.35824.6465</u>	<u>4.15064.4252</u>	

Tariff M (TNMAC)

Annual MHQ (GJ/hr)	Distribution Demand Tariff component (\$/MHQ)
0-10	<u>802.5646820.0344</u>
> 10 – 50	<u>764.3472780.9847</u>
> 50	<u>159.1212462.5848</u>

Tariff D (D)

Annual MHQ (GJ/hr)	Distribution Demand Tariff component (\$/MHQ)
0-10	<u>366.3028374.2764</u>
> 10 – 50	<u>348.8597356.4533</u>
> 50	<u>169.3677473.0543</u>

9.4 Adjoining West Zone

Postcodes: 3260, 3241, 3284, 3352\*, 3363, 3364, 3431, 3434, 3435, 3437, 3438, 3440, 3441, 3442, 3467, 3551\*

Tariff V Residential (TNVDAW)

Distribution Fixed Tariff Component			\$0.29803045/day
Consumption Range (GJ/day)	Distribution Volume Tariff component		
	Peak Period (\$/GJ)	Off-peak Period (\$/GJ)	
0-0.1	<u>8.45538.6393</u>	<u>5.13845.2503</u>	
> 0.1 – 0.2	<u>7.08677.2410</u>	<u>3.85863.9426</u>	
> 0.2 – 1.4	<u>3.65603.7356</u>	<u>2.94803.0122</u>	
> 1.4	<u>3.48143.5572</u>	<u>2.80772.8688</u>	

Tariff V Non Residential (TNVNAW)

Distribution Fixed Tariff Component			\$0.31383206/day
Consumption Range (GJ/day)	Distribution Volume Tariff component		
	Peak Period (\$/GJ)	Off-peak Period (\$/GJ)	
0-0.1	<u>5.98736.1176</u>	<u>4.60824.7085</u>	
> 0.1 – 0.2	<u>5.61415.7363</u>	<u>4.38874.4843</u>	
> 0.2 – 1.4	<u>4.71784.8205</u>	<u>4.07174.1604</u>	
> 1.4	<u>4.02514.1127</u>	<u>3.83333.9168</u>	

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## Tariff M (TNMAW)

## Tariff D (D)

Annual MHQ (GJ/hr)	Distribution Demand Tariff component (\$/MHQ)	Annual MHQ (GJ/hr)	Distribution Demand Tariff component (\$/MHQ)
0-10	802.5646820.0344	0-10	366.3028374.2764
> 10 – 50	764.3472780.9847	> 10 – 50	348.8597356.4533
> 50	159.1212162.5848	> 50	169.3677473.0543

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**\* Notes**

- (a) Postcode 3055 is shared with Envestra, AusNet Services Distribution Supply Points are in Galtes Crescent, Southam Street, Morrow Street, Hopetoun Avenue, Moreland Road, and Flannery Court.
- (b) Postcode 3551 is supplied under both West Zone and Adjoining West Zone. Adjoining West Zone rates apply to Distribution Supply Points west of Sparrowhawk Road and south of the Calder Highway and all Distribution Supply Points west of Maiden Gully Road.
- (c) Postcode 3352 is supplied under both West Zone and Adjoining West Zone. Adjoining West Zone rates apply to Distribution Supply Points in Forest Street, Gillies Road, and Olliers Road north of Western Freeway.

**Billing Parameters**

- (a) Distribution tariffs are charged in accordance with the billing parameters outlined in Part C of the *Access Arrangement* by AusNet Gas Services Pty Ltd (formerly TXU Networks (Gas) Pty Ltd) as varied by licence condition on 7 October 2004.
- (b) **DOMESTIC** – Domestic tariffs will be applied to premises where the predominant consumption of gas is for non-commercial or non industrial residential purposes.
- (c) **NON DOMESTIC** – Non Domestic tariffs will be applied to all premises where the predominant consumption of gas is for commercial or industrial purposes.
- (d) **TARIFF M** – A separate Operations & Maintenance (O&M) charge is not applicable to Tariff M customers. Customers may still be charged unrecovered infrastructure costs (LCC) where applicable.

## Gas Access Arrangement Revision 2018-2022

## 10 Initial Ancillary Reference Tariffs – 1 January 2018

Ancillary Reference Tariff	Price ( <del>exclusive</del> <u>inclusive</u> of GST)
<p><b>Disconnection</b></p> <p>Disconnection by the carrying out of work being the use of locks or plugs at a Metering Installation in order to prevent the withdrawal of Gas at the Distribution Supply Point.</p> <p><i>Disconnection means the carrying out of work to prevent the withdrawal of Gas at a Distribution Supply Point.</i></p>	\$58.41
<p><b>Reconnection of Meter</b></p> <p>Reconnection by turning on Supply, including the removal of locks or plugs used to isolate Supply or reinstallation of a Meter if it has been removed, performance of a safety check and the lighting of appliances where necessary.</p> <p><i>Turn On of service to a Distribution Supply Point which has previously been disconnected</i></p>	\$58.41
<p><b>Special Meter Reads</b></p> <p>Meter reading for a DSP in addition to the scheduled meter readings that form part of the Haulage Reference Services.</p> <p><i>Undertaken at the request of the User or Customer, not part of the periodic meter read schedule.</i></p>	\$9.05
<p><b>Meter and gas installation test</b></p>	\$175.23



## Gas Access Arrangement Revision 2018-2022

## Annexure A – Asset Performance Index

The Asset Performance Index is calculated for the Fifth Access Arrangement period as follows:

- (1) Calculate the arithmetic average of the annual unplanned SAIDI for all customers for each of the four Calendar Years from 1 January 2018 to 31 December 2021, measured for each year  $t$  as follows:

$$\text{Unplanned SAIDI}_t = \frac{\sum_{i=1}^{12} OUD_i^t}{\sum_j^{12} C_j^t / 12}$$

where:

$\sum_{i=1}^{12} OUD_i^t$  is the summation of the total number of unplanned minutes off supply for all customers on the Service Provider's network sourced from quarterly reports submitted to Energy Safe Victoria for the 12 months in Calendar Year  $t$

$\sum_j^{12} C_j^t / 12$  is arithmetic average of total customers of the Service Provider sourced from annual reports submitted to Energy Safe Victoria over the 12 months in Calendar Year  $t$ .

- (2) Calculate the arithmetic average of the annual unplanned SAIFI for all customers for each of the four Calendar Years from 1 January 2018 to 31 December 2021, measured for each year  $t$  as follows:

$$\text{Unplanned SAIFI}_t = \frac{\sum_{i=1}^{12} OUF_i^t}{\sum_j^{12} C_j^t / 12}$$

Where:

$\sum_{i=1}^{12} OUF_i^t$  is the summation of the total number of unplanned outages for all customers on the Service Provider's network sourced from quarterly reports submitted to Energy Safe Victoria for the 12 months in Calendar Year  $t$

$\sum_j^{12} C_j^t / 12$  is the arithmetic average of total customers of the Service Provider sourced from annual reports submitted to Energy Safe Victoria over the 12 months in Calendar Year  $t$ .

- (3) Calculate the arithmetic average of the annual publicly reported gas leaks for mains of the Service Provider for each of the four Calendar Years from 1 January 2018 to 31 December 2021, as reported to Energy Safe Victoria, adjusted to remove leaks identified as a result of leak surveys.
- (4) Calculate the arithmetic average of the annual publicly reported gas leaks for services of the Service Provider for each of the four Calendar Years from 1 January 2018 to 31 December 2021, as reported to Energy Safe Victoria.
- (5) Calculate the arithmetic average of the annual publicly reported gas leaks for meters of the Service Provider for each of the four Calendar Years from 1 January 2018 to 31 December 2021, as reported to Energy Safe Victoria.
- (6) Convert each of the averages from the measures in paragraphs (1), (2), (3), (4) and (5) above into index scores using the following formula:

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$$Index_n = 200 - \left( \frac{Actual_n}{Target_n} \right) \times 100$$

where:

$Index_n$  is the index score for each measure  $n = 1,2,3,4,5$  corresponding to the measures in paragraphs (1), (2), (3), (4) and (5) above respectively;

$Actual_n$  is the arithmetic average of the actual performance for each measure  $n = 1,2,3,4,5$  calculated as per paragraphs (1), (2), (3), (4) and (5) above;

$Target_n$  is the target performance for each measure  $n = 1,2,3,4,5$  as follows:

Unplanned SAIDI	$n = 1$	$Target_1 = 891.633$
Unplanned SAIFI	$n = 2$	$Target_2 = 20.519$
Mains leaks	$n = 3$	$Target_3 = 0.090$
Services leaks	$n = 4$	$Target_4 = 5.520$
Meter leaks	$n = 5$	$Target_5 = 15.986$

- (7) Calculate the weighted average of the index scores calculated in paragraph (6) above for each of the measures  $n = 1,2,3,4,5$  according to the following weights:

Unplanned SAIDI	25.0%
Unplanned SAIFI	25.0%
Mains leaks	20.4%
Services leaks	23.0%
Meter leaks	6.6%

The resulting average is the **Asset Performance Index**.

# **Gas Access Arrangement Revision**

**2018-2022**

**Part C of the Access Arrangement for the  
Distribution System**

Terms and Conditions

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**Gas Access Arrangement Revision 2018-2022**

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**Contact**

Please contact the indicated owner of the document with any inquiries.

Manager – Economic Regulation  
AusNet Services  
Level 31, 2 Southbank Boulevard  
Southbank Victoria 3006  
Ph: (03) 9695 6000

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### 1 Definitions and Interpretations

#### 1.1 Definitions

Where these Terms and Conditions form an Agreement or are incorporated by reference into an Agreement, and where a word or phrase is capitalised in that Agreement it has:

- (a) the definition given to that word or phrase in the Access Arrangement; or
- (b) if the word or phrase is not defined in the Access Arrangement, the definition given to that word or phrase below.

When clause 1.1(a) applies, and where the definition given to a word or phrase in the Access Arrangement refers to the Terms and Conditions, those references to the Terms and Conditions are to be read as references to the Agreement.

#### 1.2 Interpretation

- (a) In this Agreement, unless the context requires another meaning a reference:
  - (1) to the singular includes the plural and vice versa;
  - (2) to a gender includes all genders;
  - (3) to a document (including this Agreement and a Regulatory Instrument) is a reference to that document (including any Appendices, Schedules and Annexures) as amended, consolidated, supplemented, novated or replaced;
  - (4) to an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding whether written or not;
  - (5) to a party means a party to this Agreement;
  - (6) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with this Agreement;
  - (7) to a person (including a party) includes:
    - (A) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or government agency; and
    - (B) the person's successors, permitted assigns, substitutes, executors and administrators; and
    - (C) where that person ceases to exist, is reconstituted, renamed or replaced, or where its powers or functions are transferred to another body, a reference to the body which replaces it or which serves substantially the same purpose or has the same powers or functions;
  - (8) to a law:
    - (A) includes a reference to any legislation, treaty, judgment, rule of common law or equity or rule of any applicable stock exchange; and
    - (B) is a reference to that law as amended, consolidated, supplemented or replaced; and
    - (C) includes a reference to any regulation, rule, statutory instrument, by-law or other subordinate legislation made under that law;

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- (9) to proceedings includes litigation, arbitration and investigation;
- (10) to a judgment includes an order, injunction, decree, determination or award of any court or tribunal;
- (11) to time is to Melbourne time;
- (12) to Haulage Reference Tariff D, Haulage Reference Tariff V or Haulage Reference Tariff M includes a reference to a new Haulage Reference Tariff introduced pursuant to the Reference Tariff Policy which supplements or replaces Haulage Reference Tariff D, Haulage Reference Tariff V or Haulage Reference Tariff M respectively and related terms shall be construed accordingly;
- (13) the word including or includes means including, but not limited to, or includes, without limitation; and
- (14) references to provisions of:
  - (A) the National Energy Retail Rules are to the National Energy Retail Rules set out on the website [www.aemc.gov.au](http://www.aemc.gov.au), subject to any modification to those Rules (as they apply in Victoria) by Victorian legislation;
  - (B) Part 12A of the National Gas Rules are to Part 12A of the National Gas Rules subject to any modification to that Part (as it applies in Victoria) by Victorian legislation
  - (C) Part 21 of the National Gas Rules are to Part 21 of the National Gas Rules subject to any modification to that Part (as it applies in Victoria) by Victorian legislation,and such references extend to the provisions of those Rules as they are amended, consolidated, supplemented or replaced from time to time.
- (b) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) Headings are for convenience only and do not affect interpretation.
- (d) If a payment or other act must (but for this clause 1) be made or done on a day that is not a Business Day, then unless a contrary intention appears, it must be made or done on the next Business Day.
- (e) If a period occurs from, after or before a day or the day of an act or event, then, unless a contrary intention appears, it excludes that day.
- (f) This Agreement may not be construed adversely to a party only because that party was responsible for preparing it.
- (g) A promise or agreement by two or more persons binds them jointly and individually.
- (h) A promise or agreement in favour of two or more persons is for the benefit of them jointly and individually.
- (i) A reference to a thing (including, but not limited to, a right) includes any part of that thing.
- (j) A reference to a right includes a remedy, power, authority, discretion or benefit.
- (k) A reference to the National Energy Retail Law or National Energy Retail Rules applying in Victoria is to the National Energy Retail Law or Rules (as applicable) applying to the Victorian gas industry such that the User and the Service Provider become bound by the National Energy Retail Law or Rules.
- (l) A reference to Part 12A or Part 21 of the National Gas Rules applying in Victoria is to Part 12A or Part 21 (as applicable) applying to the Victorian gas industry such that the User and the Service Provider become bound by the relevant Part or Parts.

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**1.3 Standards**

In this Agreement, terminology used to describe units is, unless otherwise stated, in accordance with:

- (a) Australian Standard AS ISO 1000-1998 “The International System of Units (SI) and its Application”; and
- (b) the Commonwealth *Weights and Measures (National Standards) Act* 1960 - 1965 and regulations thereunder.

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**2 Compliance with Regulatory Instruments****2.1 Regulatory Instruments to take Precedence**

- (a) In the event of any inconsistency between:
- (1) a party's obligations or rights under a Regulatory Instrument; and
  - (2) its obligations or rights under this Agreement,
- its obligations and rights under the Regulatory Instrument shall take precedence to the extent of the inconsistency.
- (b) Where this Agreement contains provisions which regulate a matter in greater detail than the provisions of a Regulatory Instrument then the provisions of this Agreement will not be taken to be inconsistent merely by reason of the inclusion of that additional detail and the provisions of this Agreement will continue to apply to that matter to the extent permitted by the terms of the Regulatory Instrument.

**2.2 Parties Must Comply with Regulatory Instruments**

Notwithstanding any other provision of this Agreement, each party will comply with the obligations imposed on that party by the Regulatory Instruments.

**2.3 Parties Must Co-operate**

Each party will:

- (a) give to the other party all reasonable assistance; and
- (b) co-operate with the other party,

so as to allow that other party to comply with any obligations imposed upon that other party under this Agreement or by a Regulatory Instrument.

**2.4 Preservation of Rights**

Nothing in this Agreement will limit any right either party may have under a Regulatory Instrument unless the Regulatory Instrument permits that right to be limited by agreement, and this Agreement directly or indirectly limits that right.

**2.5 Waiver of Compliance**

- (a) Notwithstanding clauses 2.1 to 2.4 (inclusive), if:
- (1) a party has been excused from strict compliance with any aspect of a Regulatory Instrument; or
  - (2) the application of a Regulatory Instrument to a party has been varied,
- by express written consent from the Authority responsible for enforcing that aspect of the Regulatory Instrument, the relevant party will not be obliged under this Agreement to comply with that aspect of the Regulatory Instrument to the extent of the consent.
- (b) A party who has received a written consent described in clause 2.5(a) must provide to the other party a copy of any such consent if that consent is likely to affect the performance of the first party's obligations under this Agreement.

**2.6 Regulatory Relief**

For the purposes of this Agreement, a party shall not have breached the terms of a Regulatory Instrument if it has acted:

- (a) under the direction of a relevant Authority; or
- (b) in accordance with the terms of any relief from compliance granted in writing by a relevant Authority.

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**3 Customer Relationship**

- (a) Notwithstanding the existence of the Deemed Contract, the parties agree that the Service Provider will provide the Distribution Services to the User in respect of each Customer except in respect of a Distribution Service which meets the criteria in both paragraphs (1) and (2) below:
- (1) the Customer has contracted with the Service Provider to obtain that Distribution Service directly from the Service Provider; and
  - (2) the Customer has agreed with the Service Provider to directly pay the Service Provider for that Distribution Service (and the terms of the relevant Regulatory Instruments permit the Customer to pay the Service Provider directly for that Distribution Service).
- (b) Where clauses (3)(a)(1) and 3(a)(2) cease to apply in respect of a Distribution Service and a Customer then, from that time, the Service Provider will, under this Agreement, provide that Distribution Service to the User in respect of that Customer.

**3A How this Agreement applies where the User is an End-User**

- (a) To the extent that the User is acquiring Distribution Services from the Service Provider as an 'End-User' then all references in this Agreement to the 'Customer' will be read as a reference to the User taking delivery of Gas at the Distribution Supply Points at which it is an End-User (and to the extent required to give meaning to the relevant provisions the User will be regarded as operating in two separate capacities: a 'User' of the Distribution Services provided by the Service Provider and a 'Customer' taking delivery of the Gas distributed by those Distribution Services to the relevant Distribution Supply Points).
- (b) The User is to be taken as acquiring Distribution Services from the Service Provider as an End-User where Distribution Services are being provided to the User to distribute Gas to a Distribution Supply Point at which the Gas will be either:
- (1) consumed by the User; or
  - (2) further transported through an embedded distribution network before being supplied to premises for consumption (being premises that are connected to that embedded distribution network and not directly connected to the Distribution System); or
  - (3) provided by the User to other persons who consume the Gas after it has passed through the Distribution Supply Point and where the provision of that Gas by the User to those persons does not require the User to hold a Retail Licence (or, if that legislation has come into force in Victoria, a Retailer Authorisation under the National Energy Retail Law).
- (c) Without limiting the application of clause 3A(a) that clause means (where the User is acquiring Distribution Services as an End-User):
- (1) where a clause of this Agreement refers to the User ensuring the Customer does something, the clause must be interpreted so as to require the User to do that thing; and
  - (2) where a clause of this Agreement refers to the User providing details in respect of a Customer, the clause must be interpreted so as to require the User to provide those details in respect of its own consumption at the relevant Distribution Supply Point.
- (d) Provisions in specific clauses of this Agreement providing how this Agreement applies to the User in its capacity as an End-User do not limit the application of this clause 3A to other provisions of this Agreement.

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- (e) To avoid doubt, persons to whom the User on-supplies Gas which is taken by the User as an 'End-User' at a Distribution Supply Point are not Customers for the purposes of this Agreement.
- (f) Where the User is acquiring Distribution Services as an End-User then the User warrants to the Service Provider that:
  - (1) where the User is providing Gas to other persons, the User holds all relevant licences and exemptions to entitle it to lawfully do so;
  - (2) where the User is the owner or operator of an embedded distribution network, the User holds all relevant licences and exemptions to entitle it to lawfully (as applicable) own or operate that embedded distribution network and will ensure that such embedded distribution network is operated safely and in accordance with all applicable laws and good industry practice;
  - (3) the User will ensure that all pipe work, Gas Installations and other equipment, downstream of the Distribution Supply Point, through which Gas will be transported before it is used or which utilise Gas will be operated safely and in accordance with all applicable laws and good industry practice.
- (g) Nothing in this Agreement entitles the User to connect an embedded network to the Distribution System. If the User wishes to connect such an embedded network to the Distribution System it must make an application to the Service Provider, in accordance with all applicable Regulatory Instruments, and enter into a connection agreement with the Service Provider.

## **4 Distribution Services**

### **4.1 Provision of Distribution Services**

- (a) Subject to the User providing or substituting credit support as required under clause 7.8 or as may be required by Regulatory Instruments (including Division 4 of Part 21 of the National Gas Rules ("Credit Support Regime")), the Service Provider will, subject to clause 3, provide to the User in relation to each Customer the Distribution Services in accordance with:
  - (1) good gas industry practice; and
  - (2) the terms and conditions of this Agreement.
- (b) In respect of each Customer, this Agreement applies:
  - (1) from and including the date that the User requests (or is deemed under clause 4.2 to have requested) the provision of the Distribution Services in respect of the Customer (or any later date nominated by the User in any such request); and
  - (2) subject to clause 12, until and including the earlier of the dates described in clause 4.3(a) or 4.3(b) in relation to that Customer or, if clause 4.3(c) applies to the Customer, the date that the Customer is no longer entitled to be Reconnected by a User under the relevant Regulatory Instrument.
- (c) The parties acknowledge that the amounts payable by the User under this Agreement for the provision of the Distribution Services are distribution service charges for the purposes of Part 21 of the National Gas Rules ("Retail support obligations between distributors and retailers").
- (d) Clause 4.1(c) does not apply to the extent the User is not acquiring Distribution Services as a 'retailer', as that term is used in Part 21 of the National Gas Rules.

### **4.2 Deemed Request for Distribution Services**

The User shall be deemed to have requested the Service Provider to provide Distribution Services in respect of a person whilst that person is a Customer.

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### 4.3 Cessation of Provision of Distribution Services

The Service Provider shall cease to provide the Distribution Services to the User in respect of a Customer upon the first to occur of:

- (a) the time at which AEMO transfers financial responsibility for the Customer's MIRN from the User to another Gas Retailer or (unless the User is (by virtue of it taking Gas as an End-User) the Customer) to the Customer directly;
- (b) the date agreed between the User and the Service Provider for the purposes of this clause 4.3, on which the Customer ceases to, or ceases to be entitled to, receive Supply in respect of that Distribution Supply Point, which may or may not include Disconnection; or
- (c) the date on which the Service Provider, following request by the User, removes its Metering Installation relating to the Customer's Distribution Supply Point.

### 4.4 Entitlement to Refuse Service

- (a) Nothing in this Agreement requires the Service Provider to provide Distribution Services in respect of a Customer in circumstances where a Regulatory Instrument requires or permits the Service Provider to refuse to provide Distribution Services.
- (b) Without limiting clause 4.4(a) the Service Provider is not liable for any failure (whether in whole or in part) to provide Distribution Services in respect of a Customer where that Customer has not complied with the terms of any contract it has with the Service Provider or requirements of Regulatory Instruments and as a result of that non-compliance the Service Provider is entitled, by virtue of that contract or those Regulatory Instruments, to suspend, curtail or not provide Distribution Services to that Customer.
- (c) The Service Provider is not obliged to provide Distribution Services if the Gas which the User seeks to inject into or withdraw from the Distribution System:
  - (1) does not meet the Specifications; or
  - (2) contains any material or has properties that the Service Provider reasonably believes may be deleterious to the Distribution System or to the operation of the Distribution System,

and if Gas is delivered into the Distribution System whether by the User or another person which is Gas to which paragraphs (1) or (2) above applies then the Service Provider may curtail or interrupt the provision of Distribution Services, flare or release Gas or take whatever other steps the Service Provider considers necessary or desirable to ensure that Gas within the Distribution System meets the Specifications, does not contain deleterious material or properties and does not present a threat to any person or property.

- (d) The Service Provider will notify the User as soon as reasonably practicable if the Service Provider becomes aware that Gas of the type referred to in 4.4(c) is being injected.
- (e) The Service Provider is not obliged to provide the Distribution Services if the User:
  - (1) has not made payment of monies due under this Agreement within 7 days of receipt of a notice of default issued by the Service Provider under clause 12.2(a); and
  - (2) has not issued a notice of dispute under clause 14.2 in relation to that payment or disputed its liability to make that payment in accordance with relevant Regulatory Instruments.

### 4.5 Suspension for Supplier of Last Resort

- (a) If a person commences to act as "supplier of last resort" (as that concept is used in the GIA) or a "ROLR" (as that concept is used in the National Energy Retail Law) in respect of one or more Customers of the User then the Service Provider may suspend the provision of Distribution Services to the User in respect of those Customers under this Agreement and may take such action as the Service Provider considers is required to effect such suspension.



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- (b) Where pursuant to clause 4.5(a) the Service Provider suspends the provision of Distribution Services to the User in respect of all existing Customers of the User, the Service Provider has no further obligation to provide Distribution Services to the User, and the User must not take any steps to seek to obtain or utilise such Distribution Services, until the User has:
  - (1) paid to the Service Provider all amounts accrued due to the Service Provider but unpaid; and
  - (2) provided to the Service Provider any credit support required by clause 7.8 or as may be required by Regulatory Instruments; and
  - (3) otherwise satisfied the Service Provider (acting reasonably) the User is solvent and will be able to comply with its obligations under this Agreement.
- (c) If the User commences to act as “supplier of last resort” (as that concept is used in the GIA) or a “ROLR” (as that concept is used in the National Energy Retail Law) in respect of a person who is an End-User of Gas then, subject to any provisions to the contrary in Regulatory Instruments, for the period in which the User so acts as supplier of last resort or ROLR that End-User will be treated as a Customer of the User for the purposes of this Agreement.
- (d) The references in this clause 4.5 to a person or the User commencing to act are to the person or User commencing to act in respect of a specific RoLR event (as that term is used in the National Energy Retail Law) or trigger event (as that term is used in the GIA) (as compared to a person or the User being appointed to act as RoLR or supplier of last resort should future RoLR or trigger events (as applicable) occur).

**4.6 Conditions of Supply**

- (a) The User does not (and must not represent to any other person that the User or any other person can) acquire any right or title to, or interest in, the Distribution System or any part of the Distribution System under this Agreement.
- (b) The Service Provider does not dedicate any particular portion of the Distribution System to the Distribution Services provided to the User.
- (c) The Service Provider is not responsible for purchasing or arranging the transportation of Gas to a Transfer Point on behalf of the User.
- (d) If the relevant portion of the Distribution System is capable of delivering a Quantity of Gas to a Distribution Supply Point that exceeds Customer MHQ for that Distribution Supply Point, the Service Provider may agree with the User to allow withdrawal of that Quantity of Gas at a Distribution Supply Point and the Service Provider shall not unreasonably withhold such approval.
- (e) The Service Provider may co-mingle Gas injected into the Distribution System by the User with Gas injected into the Distribution System by any other person.
- (f) The User acknowledges and accepts that the quality of Gas delivered to a Customer at a Distribution Supply Point may not match the quality of the Gas injected into the Distribution System by the User.

**4.7 The User's Obligations/Capacity Management**

Unless otherwise agreed in advance with the Service Provider, the User must:

- (a) to the extent that such matters are within the User's reasonable control, take all reasonable actions to ensure that the volume or pressure of Gas delivered to a Transfer Point does not exceed the physical design capabilities of the Metering Installation at that Transfer Point, as advised to the User by the Service Provider;
- (b) pay for any damage caused to the Distribution System, where, and to the extent that, the Distribution System has been damaged as a result of the failure of the User to comply with clause 4.7(a). To the extent that any damage caused to the Distribution System is

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- attributable to two or more causes, one of which is the failure by the User to comply with clause 4.7(a), payment for such damage will be apportioned accordingly;
- (c) ensure that Gas injected into the Distribution System on its behalf complies with the Specifications and the User indemnifies the Service Provider and holds it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense suffered or incurred by or made or brought against the Service Provider in consequence of any breach by the User of this condition; and
  - (d) except where the Service Provider has given its permission to the User under clause 4.6(d), ensure that each of its Customers does not withdraw a Quantity of Gas at a Distribution Supply Point in any hour which exceeds its Customer MHQ at that Distribution Supply Point (and where a Distribution Supply Point is being used by the User as an 'End-User' ensure that there is not withdrawn a Quantity of Gas at that Distribution Supply Point in any hour which exceeds the Customer MHQ at that Distribution Supply Point).

### 4.8 Title to Gas

- (a) At all times, the User must ensure it has good title to Gas it causes to be injected into the Distribution System free and clear of all liens, encumbrances and claims of a nature inconsistent with the Service Provider's operation of the Distribution System and the User indemnifies the Service Provider and holds it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense suffered or incurred by or made or brought against the Service Provider in consequence of any breach by the User of this condition.

### 4.9 Custody and Control of Gas

- (a) Custody and control of Gas injected into the Distribution System at a Transfer Point by the User passes to the Service Provider at that Transfer Point.
- (b) The Service Provider ceases to have custody and control of Gas when it is withdrawn from the Distribution System at a Distribution Supply Point.

### 4.10 Unaccounted for Gas

- (a) The User accepts risk of loss of all Gas injected by it into the Distribution System and the Service Provider is not liable to the User for Unaccounted for Gas other than as provided for in this clause 4.10.
- (b) The parties acknowledge that in accordance with rule 317 of the National Gas Rules and the Distribution UAFG Procedures made pursuant to that rule (and in accordance with any other relevant Regulatory Instruments from time to time) AEMO will from time to time calculate the amounts (if any) payable by the User to the Service Provider or by the Service Provider to the User on account of Unaccounted for Gas (**Reconciliation Amounts**).
- (c) Subject to any provisions to the contrary in Regulatory Instruments, the party liable to pay a Reconciliation Amount must pay that Reconciliation Amount to the other party within 30 calendar days of being notified by AEMO that such amount is payable.
- (d) If a Reconciliation Amount is not paid in full in accordance with this clause 4.10 (c) or, where the time by which the amount is payable is set by a Regulatory Instrument, not paid in full by the time required by that Regulatory Instrument, the party who has failed to make the payment must pay interest on the outstanding amount from the day that the Reconciliation Amount was due for payment until payment in full of the Reconciliation Amount plus all accrued interest. Interest will be calculated at the Default Rate applicable on the first day of the month in which the invoice was issued and will be capitalised on the first day of each following month and calculated on actual days elapsed and a 365 day year.

## 5 Connection

- (a) In this clause 5 "Connection" includes Energisation but not Re-connection.

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- (b) If the User receives a request for Connection from a prospective Customer, the User must submit to the Service Provider a Connection Request in respect of the prospective Customer without delay, and, except to the extent relevant Regulatory Instruments allow a later time for submission of the Connection Request, no later than the next Business Day following receipt of the prospective Customer's request for Connection.
- (c) The User will provide to the Service Provider any information reasonably required by the Service Provider for the purposes of effecting the Connection. Without limiting the information required from a User under this clause 5(c), such information will include the information described in clause 9.4(a) (Customer details) and clause 9.5 (New Distribution Supply Point information).

## 6 Disconnection, Interruption and Curtailment of Customers

### 6.1 Disconnection and Curtailment

- (a) The User acknowledges that in addition to the Service Provider's rights under clauses 6.2 and 6.3 the Service Provider may:
  - (1) Disconnect; or
  - (2) Curtail or Interrupt,  
a Distribution Supply Point in:
    - (3) an Emergency; or
    - (4) in accordance with the Distribution System Code, the National Energy Retail Law and National Energy Retail Rules and any other applicable Regulatory Instruments; or
    - (5) circumstances where a direction or order to do so is issued to the Service Provider by an Authority and the Service Provider reasonably believes it is required to comply with that direction or order; or
    - (6) in respect of a Customer, in accordance with the terms of any contract between the Service Provider and that Customer.
- (b) If the Service Provider can choose which Distribution Supply Points it will Curtail, Interrupt or Disconnect, or the order in which it can Curtail, Interrupt or Disconnect Distribution Supply Points, then the Service Provider will, acting reasonably, determine the Distribution Supply Points to be Curtailed, Interrupted or Disconnected and that order in such manner as it considers appropriate having regard to the relevant circumstances known to the Service Provider.
- (c) Where practicable, the Service Provider will notify the User which Distribution Supply Points it will Curtail, Interrupt or Disconnect and the order in which it proposes to Curtail, Interrupt or Disconnect those Distribution Supply Points prior to the Curtailment, Interruption or Disconnection.

### 6.2 Disconnection at the Request of the User

- (a) The User may, but only where permitted by applicable Regulatory Instruments to make such a request, request, in a Disconnection Request, the Service Provider to Disconnect a Customer's Distribution Supply Point.
- (b) Subject to this clause 6.2, if the User provides a Disconnection Request to the Service Provider, the Service Provider will Disconnect the Distribution Supply Points specified in the Disconnection Request within the time prescribed by relevant Regulatory Instruments or where no time is so prescribed on the later of:
  - (1) the time specified in the Disconnection Request; and
  - (2) the soonest practicable time, which must be no more than 2 Business Days from the date of receipt by the Service Provider of the Disconnection Request.

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If the Service Provider receives a Disconnection Request after 3 p.m. on any day, it will be deemed to have been received on the next Business Day.

- (c) Subject to clause 6.2(d), if the Service Provider does not Disconnect the Customer or has not made a reasonable attempt to Disconnect the Customer in the time specified in clause 6.2(b), the Service Provider will from that time waive the Charges in respect of the provision of the Distribution Services in respect of the Customer, and be liable to pay to the User the costs incurred by the User in connection with the consumption of Gas by the Customer, provided that:
- (1) this will not render the Service Provider the retailer of the Customer; and
  - (2) the User has exercised all reasonable endeavours to recover the relevant Charges and consumption costs and has been unable to recover those costs directly from the Customer.

This clause 6.2(c) does not apply to Distribution Supply Points at which the User is acquiring Distribution Services from the Service Provider as an End-User.

- (d) If the User subsequently recovers from the Customer all or any part of any amount which the Service Provider has waived or paid under this clause 6.2(c), the User must promptly pay that recovered amount to the Service Provider.
- (e) Clause 6.2(c) and clause 6.2(d) will cease to apply as and from the date section 105 of the National Energy Retail Rules (“Liability for ongoing charges”) commences operation in Victoria.
- (f) The Service Provider may refuse to Disconnect, or defer or delay Disconnection of, a Distribution Supply Point in circumstances where a Regulatory Instrument allows or requires the Service Provider to refuse to Disconnect that Distribution Supply Point or defer or delay that Disconnection.
- (g) Except as provided to the contrary in applicable Regulatory Instruments, the Service Provider may refuse to Disconnect a Distribution Supply Point where the Service Provider reasonably considers that:
- (1) such Disconnection would be detrimental to the health or safety of any person (including the Customer) or the security of the Distribution System; or
  - (2) the User has issued a Disconnection Request in breach of the Regulatory Instruments; or
  - (3) due to threats made against the Service Provider’s personnel or other matters at the relevant premises (for example dogs) it is not safe (in the Service Provider’s reasonable opinion) for the Service Provider’s personnel to undertake the Disconnection.

In the case of clause 6.2(g)(1) or clause 6.2(g)(3), the Service Provider will use reasonable endeavours to remove or mitigate the risk of detriment or safety issue. In each case under this clause 6.2(g), the Service Provider must notify the User of the reasons for its refusal to Disconnect without delay.

- (h) Where the Service Provider refuses to Disconnect, or delays or defers Disconnection of, a Customer on any of the grounds set out in clause 6.2(f) or clause 6.2(g), the User will continue to be liable for the Charges in respect of the provision of the Distribution Services in respect of the Customer and the consumption of Gas by the Customer and clause 6.2(c) does not apply to the Service Provider in such instances.
- (i) By providing a Disconnection Request to the Service Provider, the User represents and warrants to the Service Provider that the User:
- (1) is entitled to make a request for Disconnection under its Retail Contract with the Customer and under any applicable Regulatory Instruments; and

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- (2) it has complied with the procedures for Disconnection prescribed in that contract and any other procedures under the Regulatory Instruments.
- (j) The User shall indemnify the Service Provider against all Claims arising from, or incurred by or made or brought against the Service Provider as a consequence of any Disconnection by the Service Provider of a Customer pursuant to a Disconnection Request, except to the extent that the Claim arises from the negligent or reckless act or omission of the Service Provider or from any breach or non-observance by the Service Provider of this Agreement or the Regulatory Instruments.

**6.3 Disconnection at the Request of a Customer**

- (a) If a Customer requests the Service Provider to Disconnect the Customer, the Service Provider must Disconnect the Customer in accordance with the relevant Regulatory Instruments (including if applicable the Distribution System Code, the National Energy Retail Law, and the National Energy Retail Rules) and notify the User of the request.
- (b) Where a person purporting to be or purporting to act on behalf of the Customer makes a request to the Service Provider for Disconnection but the Service Provider is not able to establish, to the Service Provider's reasonable satisfaction, that such person is or is authorised to act on behalf of the Customer, then the Service Provider may refuse to accept the request for Disconnection. The Service Provider may suggest to such person that they approach the User where the Service Provider reasonably considers the User may be able to more readily identify the person.
- (c) If the User receives from a Customer a request for Disconnection, the User must pass on to the Service Provider that request in a Disconnection Request as soon as reasonably practicable, in which case clause 6.2(b) will apply.
- (d) Clauses 6.3(a) to 6.3(c) apply subject to the requirements of Part 6 of the National Energy Retail Rules ("De-energisation (or disconnection) of premises - small customers").

**6.4 Reconnection or Restoration of Supply**

- (a) Subject to clause 6.4(b), the Service Provider must Reconnect and restore Supply to the affected Distribution Supply Point:
  - (1) when required to do so under the Regulatory Instruments, following Disconnection, Curtailment or Interruption; and
  - (2) when requested by the User in a form reasonably required by the Service Provider, following Disconnection at the request of the User.
- (b) The Service Provider may refuse to Reconnect or restore Supply to a Distribution Supply Point where the Service Provider is permitted by the Regulatory Instruments to do so, where in the Service Provider's opinion it is unsafe to do so or where the terms of any contract between the Service Provider and the relevant Customer (which terms are not overridden by a Regulatory Instrument) permit the Service Provider to do so.
- (c) The User will provide to the Service Provider any information reasonably required by the Service Provider in connection with the Reconnection or restoration of Supply to a Distribution Supply Point.
- (d) The Service Provider will undertake a Reconnection at the time required by relevant Regulatory Instruments or, where Regulatory Instruments do not prescribe such times, then the Service Provider will use its best endeavours to undertake Reconnection within the following timeframes:
  - (1) where the Service Provider receives notice of the requirement to arrange Reconnection prior to 3pm on a Business Day, then on that Business Day;
  - (2) where the Service Provider receives notice of the requirement to arrange Reconnection after 3pm but before 9pm on a Business Day and the User agrees to pay the Service Provider's fee from time to time for undertaking a same day Reconnection, then on that Business Day;

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- (3) where:
- (A) the Service Provider receives notice of the requirement to arrange Reconnection after 3pm but before 9pm on a Business Day and the User does not agree to pay the Service Provider's fee for undertaking a same day Reconnection; or
  - (B) the Service Provider receives notice of the requirement to arrange Reconnection after 9pm on a Business Day or receives notice of the requirement to arrange Reconnection on a day which is not a Business Day,
- on the following Business Day.

**6.5 Assistance**

The User must give to the Service Provider any assistance that the Service Provider reasonably requests in relation to the Curtailment, Interruption, Disconnection or, Reconnection of Customers or the restoration of Supply to Customers.

**7 Payment and Invoicing for Services****7.1 Charges**

- (a) Subject to clause 7.1(b), the User shall pay the Charges to the Service Provider.
- (b) The User is not obliged to pay a specific Charge to the Service Provider in respect of a Customer where that Customer is contractually obliged to pay that Charge directly to the Service Provider. To avoid doubt, this clause 7.1(b) does not apply in respect of Distribution Supply Points at which the User is acquiring Distribution Services from the Service Provider as an End-User.
- (c) The User shall pay the Service Provider the Charges in respect of:
  - (1) each Customer for the entire period after the Commencement Date during which the Customer is a customer of the User and during which the Service Provider provides Distribution Services to the User in respect of the Customer in accordance with this Agreement; and
  - (2) all Distribution Services acquired by the User as an End-User.
- (d) Subject to clause 7.4(d), the obligation of the User to pay the Charges to the Service Provider will not be affected by any failure of a Customer to pay the User in respect of the Distribution Services under the Retail Contract.
- (e) The User acknowledges and agrees that the Service Provider will be entitled to render an invoice to the User for any Charges incurred by or on behalf of the User where the Service Provider has been unable to carry out or complete the relevant Distribution Services as a result of any act or omission of the User or the Customer. Any such Charges will be invoiced and payable in accordance with this clause 7.
- (f) For the purposes of Part 21 of the National Gas Rules ("Retail support obligations between distributors and retailers") the parties agree that the retail billing period is:
  - (1) monthly, from the 20th day of the calendar month to the 19th day of the next calendar month; or
  - (2) twice monthly, from the 20th day of the calendar month to the 12th day of the next calendar month and from the 13th day of the calendar month to the 19th day of the calendar month; or
  - (3) such other period or periods as the Service Provider may, acting reasonably, nominate from time to time so as to maximise the likelihood that interval metering data (and other data required by the Service Provider for billing purposes) relating to the retail billing period is available to the Service Provider for use in the preparation of the invoice for that retail billing period.

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### 7.2 Retail Service Charges

- (a) The Service Provider shall pay the User fair and reasonable fees in respect of any Retail Services provided by the User to the Service Provider at the request of the Service Provider.
- (b) The User may render an invoice to the Service Provider upon the provision of any Retail Services.
- (c) An invoice issued under clause 7.2(b) shall be in a format determined by the User and must contain sufficient information as is reasonable to allow the Service Provider to assess the accuracy of the charges specified in the invoice.
- (d) If the Service Provider receives an invoice from the User the Service Provider must pay the User the aggregate amount stated in the invoice not later than 10 Business Days after having received the invoice.
- (e) If the Service Provider disputes the fairness or reasonableness of the charge for Retail Services or otherwise disputes its obligation to pay all or part of that invoice, the dispute will be resolved in accordance with the procedure set out in clause 7.7.
- (f) If an invoice is not paid in full in accordance with this clause 7.2, the Service Provider must pay interest on the outstanding amount (excluding any amount genuinely disputed in accordance with clause 7.7) from the day that the invoice was due for payment until payment in full of the amount of the invoice plus all accrued interest. Interest will be calculated at the Default Rate applicable on the date that the invoice was due to be paid and will be capitalised on the first day of each following month and calculated on actual days elapsed and a 365 day year.

### 7.3 Goods and Services Tax

- (a) For the purposes of this clause 7.3:
  - (1) terms defined in the GST Act have the same meaning in this clause 7.3 unless provided otherwise.
  - (2) **Adjustment Note** includes any document or record accepted by the Commissioner of Taxation as an adjustment note.
  - (3) **GST** includes any replacement or subsequent similar tax.
  - (4) **GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
  - (5) **Tax Invoice** includes any document or record accepted by the Commissioner of Taxation as a tax invoice.
- (b) If GST is or will be imposed on a taxable supply made under or in connection with this Agreement, the supplier may, to the extent that the consideration otherwise provided for that supply under this Agreement does not already include an amount in respect of GST on the supply:
  - (1) increase the consideration otherwise provided for that supply under this Agreement by the amount of that GST; or
  - (2) otherwise recover from the recipient the amount of that GST.All GST payable shall be payable at the time any payment to which it relates is payable.
- (c) The recovery of any amount in respect of GST by the supplier under this Agreement is subject to the issuing of the relevant Tax Invoice or Adjustment Note to the recipient.
- (d) If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST recovered by the supplier, as appropriate, the supplier:
  - (1) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount recovered; and

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- (2) must refund to the recipient the amount by which the amount recovered exceeds the amount of GST on the supply.
- (e) The recipient must pay any fine, penalty or other cost in respect of a failure to pay any amount described in clause 7.3(b) or 7.3(d) except to the extent that the fine, penalty or other cost is caused by the supplier's failure to lodge money received from the recipient before the due date for lodgement.
- (f) Costs required to be reimbursed or indemnified under this Agreement must exclude any amount in respect of GST included in the costs for which an entitlement arises to claim an input tax credit.

**7.4 Distribution Services - Invoicing, Payment and Interest**

- (a) The Service Provider may render invoices no more frequently than twice per month. Subject to clauses 7.4(b) and 7.4(e) the Service Provider will use its best endeavours to render invoices to the User in respect of Distribution Services on the same Business Days of each month or such other invoicing period as agreed between the Service Provider and the User.
- (b) The Service Provider may at any time render invoices for Distribution Services provided to the User in respect of a Customer if the Distribution Services were obtained as a result of the Customer's or the User's fraud or the use of Gas otherwise than in accordance with the Regulatory Instruments.
- (c) Invoices issued under this clause 7.4 shall be in a format determined by the Service Provider and must contain sufficient information as is reasonable to allow the User:
  - (1) to assess the accuracy of the Charges specified in each invoice; and
  - (2) to comply with its obligation under the Regulatory Instruments in relation to the provision to the Customer of information concerning such Charges.
- (d) Subject to clause 7.5(d), if the Service Provider renders an invoice for Distribution Services that were provided more than 9 months prior to the date of the invoice, the User will not be obliged to pay that invoice to the extent that the User is precluded from recovering those costs from the relevant Customers by operation of Regulatory Instruments.
- (e) The Charges for Haulage Reference Services included in an invoice for Distribution Services must only be in relation to Customers whose meters were due to be read in the period of the invoice (including where the User is acquiring Distribution Services from the Service Provider as an End-User where the User's meter(s) was due to be read in the period of the invoice), or in relation to the correction or substitution of previous Meter Readings relating to earlier invoicing periods. All other Charges for Distribution Services will be invoiced after provision of the Distribution Service unless otherwise agreed by the parties or required by the Regulatory Instruments.
- (f) Clause 7.4(d) and clause 7.4(e) will cease to apply as from the time Division 2 of Part 21 of the National Gas Rules ("Billing and Payment Rules") commences operation in Victoria.
- (g) Where Metering Data is not available for a Customer for a period as at the time the invoice relating to that period is being prepared then the Service Provider may either issue an invoice based upon an Estimated Meter Reading or include the Charges for that Customer for that period in a subsequent invoice issued by the Service Provider which invoice is issued after the time the Metering Data for that Customer and period becomes available. Where the Service Provider chooses to include the Charges in a subsequent invoice, it must issue such invoice as soon as reasonably practicable after the Metering Data becomes available.
- (h) Subject to clause 7.4(i) and clause 7.5, an Actual Meter Reading in respect of a Customer's Distribution Supply Point shall be evidence of Gas Supplied to a Customer and shall be the basis for determining the Charges.
- (i) Charges may be based upon Estimated Meter Readings. Estimated Meter Readings shall be determined by reference to the method set out in the Regulatory Instruments or, if there is no



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- such method, by reference to prior billing history or subsequent Meter Readings or any other method agreed between the parties.
- (j) Where the Actual Meter Reading becomes available subsequent to the issuing of an invoice based on an Estimated Meter Reading in accordance with clause 7.4(i), the Charge must, subject to the relevant Regulatory Instruments, be adjusted in accordance with clause 7.5.
  - (k) Subject to clause 7.7 (Disputed Invoices) and any rights to withhold payment under applicable Regulatory Instruments, the User must pay the amount specified in each invoice rendered to it in accordance with this Agreement within 10 Business Days from the date of issue specified on the invoice.
  - (l) All payments made under this clause 7.4 shall be made by way of deposit into a bank account nominated by the Service Provider, or in a manner otherwise agreed between the User and the Service Provider.
  - (m) If an invoice is not paid in full in accordance with this clause 7.4, the User must pay interest on the outstanding amount (excluding any amount genuinely disputed in accordance with clause 7.7) from the day that the invoice was due for payment until payment in full of the amount of the invoice plus all accrued interest. Interest will be calculated at the Default Rate applicable on the first day of the month in which the invoice was issued and will be capitalised on the first day of each following month and calculated on actual days elapsed and a 365 day year.
  - (n) Clause 7.4(m) will not apply where rule 511 of the National Gas Rules (“Interest”) regulates the payment of interest, provided that, to the extent permitted by relevant Regulatory Instruments, if it is not possible to determine a default rate for the purposes of rule 511 the Default Rate will be used as the default rate for the purposes of that Rule.

**7.5 Adjustment of Invoices**

- (a) This clause 7.5 applies subject to relevant Regulatory Instruments and any adjustment to an invoice must be made in accordance with the requirements of such Regulatory Instruments and may not be made where prohibited by those relevant Regulatory Instruments.
- (b) Subject to clause 7.5(c), an incorrect charge, or an omission of a charge, in an invoice rendered under this Agreement must be altered by the party rendering the invoice in a subsequent invoice to rectify the error or omission (or, in the case of meter tampering or bypass or theft of Gas, altered in a “revenue protection invoice” specifically issued to rectify the error or omission). Causes of error or omission may include, but are not limited to:
  - (1) meter tampering or bypass or other theft of Gas by a Customer; or
  - (2) errors or omissions in information provided by the User or a Customer; or
  - (3) defective meters or defective Meter Readings; or
  - (4) errors or omissions by AEMO in its provision of data to the Service Provider; or
  - (5) errors or omissions in the billed Gas consumption of a Customer; or
  - (6) differences between Estimated Meter Readings or Substituted Meter Readings and Actual Meter Readings obtained after the invoice is issued; or
  - (7) amounts imposed or adjusted by an Authority.
- (c) An adjusted invoice issued under clause 7.5(b) must include, or be accompanied by, an explanation of the reason why the adjusted invoice is being issued.
- (d) An alteration to an invoice to reflect an adjustment under clauses 7.5(b)(3), 7.5(b)(4), 7.5(b)(5) or 7.5(b)(6) must not be made where the User is precluded by the Regulatory Instruments from recovering the adjusted Charges from its Customers, except in the case where the incorrect charge arises as a result of an act of or omission by the User (or its agent) or a Customer.

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- (e) Clause 7.5(d) will cease to apply upon Division 3 of Part 21 of the National Gas Rules (“Other general billing and payment matters”) commencing operation in Victoria.

**7.6 Guaranteed Service Level Payments**

- (a) If the Service Provider is required to pay a Customer in accordance with a Regulatory Instrument for a failure by the Service Provider to satisfy the relevant Guaranteed Service Level, the Service Provider may notify the User that it wishes to make the payment of the required amount through the User, in which case:
- (1) the Service Provider must notify the User of the amount owing to the Customer;
  - (2) the User must pay that amount to the Customer or credit that amount to the Customer as soon as practicable, in accordance with the User’s Customer invoicing procedures; and
  - (3) subject to clause 7.6(b), the Service Provider must credit that amount to the next invoice that it issues to the User under this Agreement.
- (b) If:
- (1) the User receives notification of a matter and the User delays in passing on that notification to the Service Provider; and
  - (2) as a result of that delay, the Service Provider is required to make a payment to a Customer as a result of failing to satisfy a Guaranteed Service Level,
- then the User must either:
- (3) Reimburse the Service Provider for the payment made to the Customer; or
  - (4) If requested by the Service Provider, on behalf of the Service Provider, pay the required payment to the Customer or credit that amount to the Customer’s next bill,
- and the Service Provider is not required to reimburse or credit the User for that amount.
- (c) A User must notify a Service Provider where it is aware that the Service Provider is required to make a Guaranteed Service Level payment to a Customer under the Regulatory Instruments.
- (d) The Service Provider must notify the User where it makes a Guaranteed Service Level payment directly to a Customer under the Regulatory Instruments.
- (e) This clause 7.6 does not apply to the extent that the User is acquiring Distribution Services from the Service Provider as an End-User.

**7.7 Disputed Invoices**

- (a) A party in receipt of an invoice (“**Disputing Party**”) must notify the party which issued the invoice (“**Invoicing Party**”) not less than 2 Business Days before the due date for payment of an invoice under clauses 7.2 or 7.4 (“**Notice of Dispute**”) if it disputes its obligation under this Agreement to pay all or part of that invoice (“**Disputed Invoice**”) and must include in that notice its grounds for disputing the Disputed Invoice and the amount disputed.
- (b) Unless the Disputing Party gives a Notice of Dispute to the Invoicing Party, the Disputing Party must pay the Disputed Invoice in full, subject to its right to seek a subsequent adjustment under clause 7.5 (Adjustment of Invoices) or to dispute the amount of the invoice under clause 7.7(d) after the invoice has been paid in full.
- (c) If the Disputing Party notifies the Invoicing Party of a Disputed Invoice under a Notice of Dispute, the parties will seek to resolve that dispute in accordance with clause 7.7(d), and the Disputing Party will be required to pay the amount of the invoice not genuinely disputed by the Disputing Party.
- (d) Any dispute as to an invoice shall be resolved in accordance with this clause and neither party may refer the dispute to the dispute resolution procedure under clause 14 until the

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parties have satisfied paragraph (1) of this clause 7.7(d) and, if applicable, paragraph (2) of this clause 7.7(d).

The Invoicing Party will:

- (1) discuss with the Disputing Party any queries that the Disputing Party may have in relation to an invoice; and
- (2) if it receives a reasonable request in writing from the Disputing Party within 10 Business Days after receipt of the invoice setting out the grounds giving rise to the request, conduct an internal review of the invoice within 10 Business Days after receipt of the request, and report its findings to the Disputing Party as soon as practicable after completion of that review.

If the matter is not resolved within 2 Business Days from the receipt by the Disputing Party of the Invoicing Party's report under clause 7.7(d)(2), either party may refer the matter to dispute resolution under clause 14.

- (e) If, following the resolution of a dispute in accordance with clause 7.7(d) or clause 14, it is determined that the amount that is properly due to the Invoicing Party in relation to that invoice is:
  - (1) more than the amount already paid by the Disputing Party, then the Disputing Party must pay within 3 Business Days to the Invoicing Party the difference between the amount already paid and the amount determined to be payable, together with interest on that amount for the period of the underpayment;
  - (2) less than the amount already paid by the Disputing Party, then the Invoicing Party must pay within 3 Business Days to the Disputing Party the difference between the amount already paid and the amount determined to be payable, together with interest on that amount for the period of the overpayment,

provided that if the parties agree any required adjustment between the parties to reflect resolution of the dispute may instead be made by an adjustment to a subsequent invoice issued under this Agreement.

- (f) Interest on the difference payable under clause 7.7(e) shall be calculated at the Default Rate applicable on the first day of each month, capitalised on the first day of each month and calculated on actual days elapsed and a 365 day year for each day after that invoice was due to be paid up to and including the date the difference and any accrued interest payable under this clause 7.7(f) (if any) is paid.
- (g) Unless the parties otherwise agree, no party may set off or deduct any money which it owes to the other party against any money which the other party owes to the first party.
- (h) The payment by the Disputing Party of all or part of an invoice from the Invoicing Party (whether or not that invoice was disputed by the Disputing Party at the time) will not preclude the Disputing Party from subsequently challenging its liability to pay that invoice in accordance with this clause 7.7 or a part of that invoice (unless the challenge relates to a dispute which has already been finally determined in accordance with this clause 7.7).
- (i) Where a provision of a relevant Regulatory Instrument (including if in operation Division 3 of Part 21 of the National Gas Rules ("Other general billing and payment matters") regulates the process for disputing invoices issued under this Agreement, then that process will apply in place of the process set out in clauses 7.7(a) to 7.7(f) and clause 7.7(h).
- (j) The parties agree that where rule 510 of the National Gas Rules ("Disputed statements of charges") applies to a dispute in relation to an invoice, that once the User has given a notice under rule 510(a) the parties will, during the following 10 business days (as that term is defined in the National Gas Rules) use their best endeavours to resolve the dispute including each attending such meetings as may be reasonably required by a party to resolve the dispute.

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**7.8 Credit Support - Bank Guarantee**

- (a) The Service Provider may request the User to procure an undertaking under clause 7.8(b) only if, at the time of the request:
- (1) the User cannot demonstrate:
    - (A) that it has an unqualified:
      - (i) Standard & Poor's credit rating of at least BBB-; or
      - (ii) Moody's credit rating of at least Baa3; or
      - (iii) Fitch credit rating of at least BBB-,  
(an "**Acceptable Credit Rating**"); or
    - (B) that the performance of the User's payment obligations under clause 7 of this Agreement are guaranteed (on terms acceptable to the Service Provider) by another entity who has an Acceptable Credit Rating ("**Guarantor**"); or
  - (2) within the previous 12 months, (or where the Commencement Date occurs within the previous 12 months, since the Commencement Date) the User has failed to pay in full:
    - (A) 5 invoices within the required time limit for payment; or
    - (B) 3 consecutive invoices within the required time limit for payment; or
    - (C) 1 invoice within 25 calendar days of the due date; or
  - (3) any undisputed amounts owing by the User to the Service Provider in respect of the provision of Distribution Services in the period prior to the Commencement Date, are not paid in full within 30 calendar days of the Commencement Date; or
  - (4) AEMO calls upon any credit support provided by the User or its Guarantor to AEMO under Part 19 of the National Gas Rules; or
  - (5) the User ceases to be registered with AEMO under Part 19 of the National Gas Rules; or
  - (6) where the User purchases energy under an agreement from a person registered with AEMO under the National Gas Rules, and that person issues a notice of default to the User under that agreement,

provided that nothing in clause 7.8(a)(2) or 7.8(a)(3) shall permit the Service Provider to require a Bank Guarantee under clause 7.8(b) where the User has failed to pay the invoice or invoices or a relevant part of the invoices due to a bona fide dispute under clause 7.7.

- (b) The Service Provider may require the User to provide a Bank Guarantee to secure payment of the Charges and the User must provide the Bank Guarantee to the Service Provider within 7 calendar days of receipt of notice from the Service Provider as to the amount of the Bank Guarantee required.
- (c) The amount of the Bank Guarantee will be determined by the Service Provider after having regard to the User's average monthly Charges and payment history, provided that the Bank Guarantee shall not exceed the Service Provider's reasonable estimate of three months average Charges (calculated by reference to a twelve month period) ("**Required Bank Guarantee Amount**") payable by the User under this Agreement.
- (d) The Service Provider may require the User to increase the amount of the Bank Guarantee where the Service Provider's reasonable estimate of three months average Charges, calculated by reference to the immediately preceding twelve-month period, is greater than the amount of the Bank Guarantee. The User must, within 10 Business Days of receipt of a request from the Service Provider, increase the amount of the Bank Guarantee to the amount calculated under this clause 7.8(d).

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- (e) The User may request that the amount of the Bank Guarantee be decreased where the User's reasonable estimate of three months average Charges, calculated by reference to the immediately preceding twelve month period, is less than the amount of the Bank Guarantee. Where the Service Provider agrees that the amount of the Bank Guarantee should be reduced in accordance with this clause 7.8(e), the Service Provider must in conjunction with the User, do all things reasonably necessary to reduce the amount of the Bank Guarantee held by the Service Provider to the amount agreed by the Service Provider under this clause 7.8(e).
- (f) The Service Provider may present the Bank Guarantee for payment, in whole or in part, to the relevant bank to secure payment of the outstanding Charges where the User fails to pay the Charges invoiced by the Service Provider under clause 7.4 provided that the User has not paid the outstanding Charges within 7 calendar days of the receipt by the User of a notice of default issued by the Service Provider under clause 12.2(a).
- (g) The User must within 7 calendar days of the Service Provider informing the User in writing that the Bank Guarantee has been presented to the relevant bank for payment under clause 7.8(f), deliver to the Service Provider a further Bank Guarantee for the Required Bank Guarantee Amount in substitution for the Bank Guarantee previously provided by the User and which has been presented by the Service Provider to the bank for payment in whole or in part.
- (h) Payment under the Bank Guarantee does not limit the Service Provider's rights under this Agreement or operate as a waiver by the Service Provider of the User's breach of this Agreement.
- (i) No later than 90 Business Days after termination of this Agreement, if the Bank Guarantee has not been presented under clause 7.8(f) the Service Provider must return the Bank Guarantee to the User if there are no further Charges payable under this Agreement.
- (j) At the end of 6 months after the date on which the Bank Guarantee was originally requested under clause 7.8(a), and at the end of any 6 month period thereafter (or as otherwise agreed by the parties), the User may request the release of the Bank Guarantee, and the Service Provider must release the Bank Guarantee, if the User shows that, at that date, none of the criteria identified in clause 7.8(a) apply; and
- (k) The User must notify the Service Provider within 1 Business Day if the Service Provider becomes eligible to request a Bank Guarantee under clause 7.8(b) because of the operation of clauses 7.8(a)(1), (4), (5) or (6).
- (l) This clause 7.8 does not apply in circumstances where Division 4 of Part 21 of the National Gas Rules ("Credit Support Regime") applies to the provision of credit support in respect of the Charges due under this Agreement.
- (m) Where, upon the commencement of the application of Division 4 of Part 21 of the National Gas Rules ("Credit Support Regime") to the provision of credit support in respect of the Charges due under this Agreement, the credit support held by the Service Provider in respect of the User varies from that required to be provided pursuant to that Division 4 of Part 21, then the parties must promptly take such steps as required (including as required the return or issue of credit support) to ensure that the Service Provider holds an amount of credit support equal to that required to be provided pursuant to that Division 4.
- (n) Despite the commencement of the operation of Division 4 of Part 21 of the National Gas Rules in Victoria, if and to the extent that Division does not apply to Charges payable by the User where it is acquiring Distribution Services from the Service Provider as an End-User, then this clause 7.8 will continue to apply to such Charges and the User must, subject to the provisions of this clause 7.8, provide a Bank Guarantee as credit support for the payment of those Charges.

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**8 Information Exchange****8.1 Compliance with Privacy Laws**

Each party agrees that:

- (a) any obligation under this Agreement to provide information is subject to any applicable laws (including the Regulatory Instruments) imposing obligations in respect of privacy, disclosure, use or confidentiality of information; and
- (b) it will hold any information which it receives under this Agreement in accordance with any requirements of this Agreement and any applicable laws (including the Regulatory Instruments) relating to privacy, disclosure, use or confidentiality of information.

**8.2 Provision of Information**

- (a) To the extent permitted by law, and subject to any legislative, contractual or other obligations of confidentiality (including under the Regulatory Instruments), each party must use its reasonable endeavours to provide the other party at no cost and in a timely manner information or documentation which the other party reasonably requires to carry out its obligations under this Agreement or under the Regulatory Instruments.
- (b) For each Customer whose information is to be disclosed by the User to the Service Provider, the User must provide to that Customer on behalf of the Service Provider a privacy notice in such form as may be requested by the Service Provider from time to time for the purpose of the Service Provider discharging its obligations under privacy laws and the Regulatory Instruments. This clause 8.2(b) does not apply to the extent the User is acquiring Distribution Services from the Service Provider as an End-User.

**8.3 Use of information**

Subject to clause 17, a recipient may only use or disclose the information disclosed to it under clause 8.2:

- (a) for the purposes for which the information was provided by the party providing the information; or
- (b) to the extent that it is permitted to use or disclose the information under the law or any contractual obligation; or
- (c) in accordance with any guidelines issued by the Regulator.

**8.4 Gas Interface Protocol**

The parties acknowledge that the Gas Interface Protocol may apply to determine the method, format and content of notices or communications that are required to be provided by either party under this Agreement. The parties agree that where the Gas Interface Protocol does not prescribe a method, format or content for such notices or communications, the Service Provider may determine (acting reasonably) the method, format or content of such notices or communications.

**8.5 Changes in Information**

If either party becomes aware of any material change in any of the information provided under clause 8.2, that party must notify the other party as soon as reasonably practicable of that change.

**8.6 Accuracy of Information**

Each party must take all reasonable steps to ensure that all information which it provides to the other party (whether that information is generated by the first mentioned party or a third person) under this Agreement is accurate and complete.

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**9 Communications Regarding Customers and System Data****9.1 Answering Calls**

- (a) This clause 9.1 applies except to the extent that it would require a party to take an action in contravention of Division 3 (“Information requirements”) or Division 4 (“Shared customer enquiries and complaints”) of Part 5 of the National Energy Retail Rules once that part commences operation in Victoria. This clause 9.1 does not apply to the User to the extent it is acquiring Distribution Services from the Service Provider as an End-User.
- (b) Subject to clauses 9.1(d), and 9.1(k), if a Customer contacts the User by telephone about a Class A Inquiry or Class B Inquiry in the Service Provider’s Distribution Area, the User must:
- (1) transfer the Customer’s telephone call to the Service Provider’s Gas Leaks and Emergencies Number; and
  - (2) prior to transferring the Customer’s telephone call to the Service Provider, advise the Customer of the Service Provider’s Gas Leaks and Emergencies Number.
- (c) The User must not handle, deal with or advise on a Customer’s enquiry regarding a Class A Inquiry or Class B Inquiry other than to the extent that it is permitted to provide information to the Customer in the circumstances described in clause 9.1(d).
- (d) If the User:
- (1) is informed by the Customer that the Customer has been unable to contact the Service Provider through the Service Provider’s Gas Leaks and Emergencies Number; or
  - (2) believes on reasonable grounds that the Service Provider’s Gas Leaks and Emergencies Number is not properly functioning; or
  - (3) is informed by the Customer that the Customer declines to contact or (where appropriate) be transferred to the Service Provider,
- then the User may provide the Customer with the information regarding that Class A Inquiry or Class B Inquiry that has been provided to the User by the Service Provider in accordance with relevant Regulatory Instruments. The User must not provide any other information regarding the Class A Inquiry or Class B Inquiry to the Customer.
- (e) The Service Provider will provide to the User a contact telephone number which the User must publish on its Customers’ accounts as the “Gas Leaks and Emergencies Number”. Until otherwise notified, the Service Provider advises the User that the Gas Leaks and Emergencies Number is: 136 707.
- (f) The User must not call the Gas Leaks and Emergency Number or transfer a telephone call to the Gas Leaks and Emergency Number unless the User reasonably considers that the subject of the call comprises a Class A Inquiry or Class B Inquiry.
- (g) The User acknowledges and agrees that in accordance with the Gas Leaks and Emergencies Calls Protocol, the User must:
- (1) provide to Customers supply and appliance faults contact telephone numbers; and
  - (2) publish on its Customers’ accounts the “Supply and Appliance Faults Numbers” which may be a separate number for each of supply faults and appliance faults.
- (h) Subject to clauses 9.1(i) and 9.1(k), where a Customer contacts the User about a Class C Inquiry in the Service Provider’s Distribution Area, the User must:
- (1) respond to the Class C Inquiry; and
  - (2) if the User, based upon the information provided to it by the Customer, reasonably believes that the Class C Inquiry relates to a fault in the Distribution System, provide the Service Provider with details of the Class C Inquiry in accordance with the Gas

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Leaks and Emergencies Calls Protocol to enable the Service Provider to comply with its obligations under the Regulatory Instruments.

- (i) The User must only provide a Customer with information regarding a Class C Inquiry or any other inquiry which relates to the Distribution System (other than a Class A Inquiry or a Class B Inquiry) which the Service Provider has provided to the User under the relevant Regulatory Instruments.
- (j) The User is responsible for providing Customers with information relating to any interruption or curtailment or irregularity in the supply of Gas which is caused by the act or omission of the User (for example supply by the User to the Service Provider of Gas which does not comply with the Specifications).
- (k) Nothing contained in this clause affects particular arrangements between the Service Provider, the User and any Customer regarding notification of and dealing with Class A Inquiries, Class B Inquiries, Class C Inquiries or other inquiries which relate to the Distribution System.

### 9.2 Provision of Information Concerning Class A Inquiries, Class B Inquiries and Class C Inquiries

- (a) The Service Provider must, in the manner and to the extent required by the relevant Regulatory Instruments, make available to the User information regarding Class A Inquiries, Class B Inquiries, Class C Inquiries and other inquiries which relate to the Distribution System which the Service Provider is required to make available to a Customer under the Distribution System Code and other relevant Regulatory Instruments.
- (b) Any information described in clause 9.2(a) is not required to distinguish between Class A Inquiries, Class B Inquiries, Class C Inquiries or other inquiries which relate to the Distribution System affecting Customers and Class A Inquiries, Class B Inquiries, Class C Inquiries or other inquiries which relate to the Distribution System affecting customers of other Retailers.
- (c) Except to the extent not permitted by relevant Regulatory Instruments, information required to be provided under clause 9.2(a) may be provided by being published on a website maintained by or on behalf of the Service Provider. Where the Service Provider publishes information on a website maintained by or on behalf of the Service Provider under clause 9.2(c), the Service Provider must notify the User of that website's URL.
- (d) The User indemnifies the Service Provider against any liability to a Customer arising as a result of the User:
  - (1) providing information to the Customer other than the information made available by the Service Provider under the relevant Regulatory Instruments; or
  - (2) not providing information to the Customer as required under clause 9.1(h),
 provided that nothing in this clause 9.2(d) renders the User liable for providing information as required under a relevant Regulatory Instrument or where agreed to in writing by the Service Provider.
- (e) This clause 9.2 does not apply to the User to the extent it is acquiring Distribution Services from the Service Provider as an End-User.

### 9.3 Provision of Information for Planned Interruptions and Disconnections

- (a) The notification which the Service Provider sends out to Customers notifying them of any planned Interruptions or Disconnections which are not the subject of a Disconnection Request must bear the Service Provider's contact details and should state that any enquiries regarding planned Interruptions or such Disconnections should be directed to the Service Provider.
- (b) The Service Provider must make available to the User (placing on the Service Provider's website) information which the Service Provider is required to provide to a Customer under the Distribution System Code in respect of planned Interruptions within the same time period



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- as the information is required to be provided by the Service Provider to the Customer under the Distribution System Code.
- (c) If a Customer contacts the User about a planned Interruption or a Disconnection requested or proposed by a Service Provider, the User must:
    - (1) subject to paragraph (2), refer the Customer to the Service Provider; or
    - (2) where the Customer informs the User that it declines to contact or (where appropriate) be transferred to the Service Provider, deal with the Customer itself.
  - (d) Any information referred to in clause 9.3(b) in respect of planned Interruption must include information regarding specific premises where such information is readily available or otherwise must include at least information regarding the area in which the planned Interruption is to occur.
  - (e) This clause 9.3 will cease to apply upon Division 3 of Part 5 of the National Energy Retail Rules (“Information requirements”) commencing operation in Victoria.
  - (f) This clause 9.3 does not apply to the User to the extent it is acquiring Distribution Services from the Service Provider as an End-User.

**9.4 Customer Details**

- (a) In respect of each Customer, the User must provide to the Service Provider the following details:
  - (1) name;
  - (2) contact name;
  - (3) telephone number;
  - (4) address for service of notices;
  - (5) site address for MIRN;
  - (6) MIRN;
  - (7) the estimated Quantity of, and the period over which, Gas is to be Supplied including estimated Customer MHQ and annual Quantity requirements;
  - (8) for a typical 24 hour operation the estimated loads expected for each hour of that day;
  - (9) sensitive load flag;
  - (10) whether there are any medical exemptions relating to the Customer and, if the Customer is dependent upon any form of life support equipment which could be affected by a Gas supply outage, the nature of that equipment and a copy of the certificate from a medical practitioner confirming this and the nature of the condition;
  - (11) details of any special circumstances (such as meter access restrictions) of which the Customer has informed the User or of which the User is otherwise aware, and which the Service Provider requires to assist it to comply with its obligations under the Regulatory Instruments.
- (b) Information described in clause 9.4(a) must be provided in the following manner:
  - (1) on or before the Commencement Date, by an electronic transfer of the requisite details from the User’s database (except to the extent the details have already been provided by the User to the Service Provider);
  - (2) on a transaction by transaction basis or as the details described in clause 9.4(a) otherwise change; and
  - (3) by monthly electronic transfers of the requisite details from the User’s database (or at any other agreed intervals) for the purpose of the reconciliation of information provided under this clause 9.4 with the equivalent information held by the Service Provider.

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- (c) In respect of Distribution Services acquired by the User from the Service Provider as an End-User the User must provide to the Service Provider the information referred to in this clause 9.4 in respect of the User's own consumption and usage of Gas at the Distribution Supply Points at which it acquires Distribution Services as an End-User.

### 9.5 New Distribution Supply Points

The User must provide the following information to the Service Provider for each new Distribution Supply Point which the User wishes to be Connected:

- (a) Site address for the MIRN;
- (b) the MIRN, if known;
- (c) contact details for the proposed Distribution Supply Point and Distribution Supply Point location at which Gas is to be supplied to Customers;
- (d) the distance of the service entry point on the boundary of the premises of the Customer to be supplied by the new Distribution Supply Point from the nearest distribution main;
- (e) the distance of the service entry point on the boundary of the premises of the Customer to be supplied by the new Distribution Supply Point from the proposed Metering Installation;
- (f) the estimated Quantity of, and period over which, Gas is to be supplied including estimated Customer MHQ and annual Quantity requirements for any Customers of the User to be supplied by the new Distribution Supply Point;
- (g) whether a Customer to be supplied by the new Distribution Supply Point requests a Metering Installation or other connection equipment other than the standard Metering Installation or connection equipment;
- (h) prior to the Energisation of a Customer, the information as required under clause 9.4(a) and a Certificate of Compliance reference number and the name of the party who issued the Certificate of Compliance;
- (i) Customer characterisation;
- (j) licence number and/or registration number for any licensed or registered plumber who the Customer proposes perform work at the Customer's premises (on the Customer's side of the Metering Installation) in connection with the establishment of the Connection;
- (k) where a Certificate of Compliance reference number is not required, a Start Work Notice number; and
- (l) any other special requirement of a Customer to be supplied by the new Distribution Supply Point.

### 9.6 Acceptance by the Service Provider

Once the User provides to the Service Provider the information required by clauses 9.4 and 9.5, the Service Provider must for those Customers it reasonably considers will be Tariff D Customers, use its best endeavours to agree with the User the Customer MHQ for that Customer and in all cases respond to the User in sufficient time to permit each party to comply with its obligations under any applicable Regulatory Instrument and otherwise within such time and manner as may be agreed between the Service Provider and the User.

### 9.7 Enquiries or Complaints relating to the User

- (a) If a person contacts the User about an enquiry or a complaint (other than a Class A Inquiry, Class B Inquiry, Class C Inquiry or other inquiry which relates to the Distribution System) and the enquiry or the complaint relates to the User, the User must deal with the enquiry or the complaint and the User is not required to notify the Service Provider.
- (b) If a person contacts the Service Provider about an enquiry or a complaint (other than a Class A Inquiry, Class B Inquiry, Class C Inquiry or other inquiry which relates to the Distribution System) and the enquiry or the complaint relates to the User, the Service Provider must:

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- (1) where the enquiry or complaint is made by telephone, transfer the person directly to the User's enquiry or complaint telephone number where practicable; or
- (2) otherwise, as soon as practicable, but no later than the next Business Day after receiving the enquiry or complaint, provide the User with the details of the enquiry or the complaint, including contact details of both the person making the enquiry or complaint and the person who received the enquiry or complaint. The Service Provider must provide to the User on request copies of any documents or written records (including in electronic format) relating to the enquiry or complaint.

The User will then be responsible for resolving the enquiry or the complaint and must attempt to resolve the enquiry or complaint expeditiously.

- (c) This clause 9.7 will cease to apply upon rule 101 of the National Energy Retail Rules ("Enquiries or complaints relating to the retailer") commencing operation in Victoria.
- (d) This clause 9.7 does not apply to the User to the extent it is acquiring Distribution Services from the Service Provider as an End-User.

### 9.8 Enquiries or Complaints relating to the Service Provider

- (a) If a person contacts a Service Provider about an enquiry or a complaint and the enquiry or the complaint relates to the Service Provider, the Service Provider must deal with the enquiry or the complaint and is not required to notify the User.
- (b) If a person contacts a User about an enquiry or a complaint and the enquiry or the complaint relates to a Service Provider, the User must:
  - (1) where the enquiry or complaint is made by telephone, transfer the person directly to the Service Provider's enquiry or complaints telephone number where practicable; or
  - (2) otherwise, as soon as practicable, but no later than the next Business Day after receiving the enquiry or complaint, provide the Service Provider with the details of the enquiry or the complaint, including contact details of both the person making the enquiry or complaint and the person who received the enquiry or complaint. The User must provide to the Service Provider on request, copies of any documents or written records (including in electronic format) relating to the enquiry or complaint.

The Service Provider will then be responsible for resolving the enquiry or the complaint and must attempt to resolve the enquiry or complaint expeditiously.

- (c) This clause 9.8 will cease to apply upon rule 102 of the National Energy Retail Rules ("Enquiries or complaints relating to the distributor") commencing operation in Victoria.
- (d) This clause 9.8 does not apply to the User to the extent it is acquiring Distribution Services from the Service Provider as an End-User.

### 9.9 Ombudsman Complaints

- (a) If a party to this Agreement (**First Party**) receives an Enquiry, Consultation, Complaint or Dispute or notice of an Enquiry, Consultation, Complaint or Dispute from the Ombudsman and the Enquiry, Consultation, Complaint or Dispute relates to an act or omission of the other party to this Agreement (**Second Party**):
  - (1) the First Party must:
    - (A) notify the Second Party as soon as reasonably practicable, setting out the details of the Enquiry, Consultation, Complaint or Dispute (as applicable), including any relevant time frames;
    - (B) consult in advance with, and use its best endeavours to take into account the interest of, the Second Party in preparing any response to any Enquiry, Consultation, Complaint or Dispute (as applicable);
    - (C) keep the Second Party informed of the progress of the Enquiry, Consultation, Complaint or Dispute (as applicable); and

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- (D) use its best endeavours to take account of the Second Party's interests in deciding what compensation is payable or in incurring costs because of the Enquiry, Consultation, Complaint or Dispute (as applicable);
- (2) the Second Party must:
  - (A) as soon as practicable after receipt of the notification under clause 9.9(a)(1)(A) and in any case within sufficient time to permit the First Party to comply with its obligations to the Ombudsman, supply the First Party all information relevant to the Enquiry, Consultation, Complaint or Dispute (as applicable) which the Second Party would reasonably be expected to have, or have access to, as a User or the Service Provider (as applicable);
  - (B) provide all reasonable assistance that the Second Party could provide having regard to the nature of the Enquiry, Consultation, Complaint or Dispute (as applicable); and
  - (C) permit its employees, agents or sub-contractors to attend and provide information at any meeting, conference or interview convened by the Ombudsman to consider the case being investigated; and
- (3) both the First Party and the Second Party must use their best endeavours to resolve any Enquiry, Consultation, Complaint or Dispute (as applicable) as quickly as practicable in the circumstances provided, however, neither the First Party nor the Second Party shall be prevented from defending any Enquiry, Consultation, Complaint or Dispute (as applicable).
- (b) Prior to the First Party settling any Consultation, Complaint or Dispute relating to an act or omission of the other party, the First Party must provide not less than 5 Business Days advance written notification to the Second Party of the terms of the proposed settlement and must take into consideration any views expressed by the Second Party.
- (c) If following an Enquiry, Consultation, Complaint or Dispute the First Party is required or agrees to compensate a person, then to the extent that such compensation relates directly to acts or omissions of the Second Party, the Second Party will, within 7 Business Days of receipt of notification from the First Party (which notification shall include a copy of the Ombudsman's Binding Decision if applicable) reimburse the First Party for such part of the compensation required to be paid by the First Party as relates directly to the acts or omissions of the Second Party, including reasonable disbursements incurred by the First Party, including the Ombudsman's case handling charges because of the Enquiry, Consultation, Complaint or Dispute.
- (d) Subject to clause 9.9(b), nothing in this clause prevents the First Party from settling any Enquiry, Consultation, Complaint or Dispute.
- (e) In this clause 9.9, the terms "**Enquiry**", "**Consultation**", "**Complaint**" and "**Dispute**" mean any enquiry, question, consultation, discussion, written or verbal expression of dissatisfaction, dispute or disagreement (as applicable) arising from a person in relation to the Customer, the User or the Service Provider which the Ombudsman receives, facilitates, investigates or resolves.

**9.10 Assignment of and Changes in Reference Tariffs**

- (a) The Service Provider must assign a Reference Tariff to a Distribution Supply Point at which Gas is or may be withdrawn by or in respect of a Customer (including the User where taking Gas as an End-User) and notify the User of the Reference Tariff assigned to that relevant Distribution Supply Point in accordance with the Reference Tariff Policy.
- (b) Where the Regulator advises the Service Provider that changes to Reference Tariffs have been verified as compliant by the Regulator, the Service Provider must use all reasonable endeavours to notify the User within two Business Days of any changes that will occur to Reference Tariffs in accordance with the Reference Tariff Policy.

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- (c) If the Service Provider requests, the User must notify each affected Customer of any change in the Reference Tariff that has been verified as compliant by the Regulator in accordance with the Reference Tariff Policy.
- (d) The User must notify the Service Provider within 3 days if it is informed by a Customer of a change in the circumstances, use, consumption, demand characteristics or connection characteristics of the Customer which may result in the Customer no longer satisfying the conditions relating to the Service Provider's Reference Tariff applying to that Customer.
- (e) The User must advise the Service Provider as soon as is practicable after becoming aware of any change of circumstances, use, consumption, demand characteristics or connection characteristics of any of its Customers which may require the Service Provider to assign another Reference Tariff to the Customer.
- (f) If a Customer requests a User to re-assign the Customer to a different Reference Tariff, the User must refer the request to the Service Provider within 2 Business Days after receiving the request.
- (g) If the User refers a request to the Service Provider for a change in the Reference Tariff assigned to the Distribution Supply Point, the Service Provider must advise the User as soon as practicable either:
  - (1) that the change in the assigned Reference Tariff can occur, when that change will commence and the Charges for the change; or
  - (2) that the change in the assigned Reference Tariff cannot occur, with reasons.
- (h) If the Service Provider assigns Haulage Reference Tariff D to a Distribution Supply Point, the minimum payment the User shall make for Gas supplied to that Distribution Supply Point shall be for a MHQ of 1.15GJ.
- (i) In respect of Distribution Supply at which the User takes Gas as an End-User, the User must advise the Service Provider as soon as is practicable after becoming aware of any change in circumstances, use, consumption, demand characteristics or connection characteristics of any such point which may require the Service Provider to assign another Reference Tariff to the usage of Gas at that Distribution Supply Point or which may result in the End-User, at a Distribution Supply Point, no longer satisfying the conditions relating to the Reference Tariff currently applying to it at that Distribution Supply Point.

### 9.11 Theft of Gas

A party must promptly notify the other party if it reasonably believes that a person is committing or has committed theft of Gas from the Distribution System and the other party may be affected by the theft.

### 9.12 Information for Customers

Subject to clauses 9.1, 9.2, 9.3, 9.4 and 9.5:

- (a) If the User receives a request from a Customer for documentation or information required to be provided by the Service Provider under the Regulatory Instruments:
  - (1) where the request is for a copy of the Distribution System Code or standard document or other standard information approved by the Service Provider, the User may provide such documents and information to the Customer; otherwise
  - (2) where the request is for documentation or information that is not documentation or information of the type described under clause 9.12(a)(1) (**Non Standard Information**), the User must promptly notify the Service Provider of the request.
- (b) If the Service Provider requests the User to do so, the User will respond directly to a Customer's request for Non Standard Information, and the Service Provider shall use its reasonable endeavours to assist the User to respond to the request to the Customer's reasonable satisfaction.

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- (c) If the Service Provider elects to respond directly to a Customer's request for Non Standard Information, the Service Provider shall use its reasonable endeavours to respond to the request to the Customer's reasonable satisfaction, and the User shall use its reasonable endeavours to assist the Service Provider to respond.
- (d) If the Service Provider receives a request from a Customer for documentation or information required to be provided by the User under the Regulatory Instruments, the Service Provider will advise the Customer of the User's contact details or pass on any written request to the User as soon as reasonably practicable.
- (e) Where requested by the Service Provider, the User must deliver to a Customer any notification, information or documentation provided by the Service Provider for that Customer which is required to be provided by the Service Provider under this Agreement or the Regulatory Instruments.
- (f) This clause 9.12 does not apply to the User to the extent it is acquiring Distribution Services from the Service Provider as an End-User.

## 10 Force Majeure

### 10.1 Suspension of Obligations

If a party is unable wholly or in part to perform on time as required any obligation under this Agreement (other than an obligation to pay money) by reason of the occurrence of a Force Majeure Event, that obligation shall be suspended, without liability, so far as the party's ability to perform is affected by the Force Majeure Event.

### 10.2 Mitigation of Force Majeure

A party affected by a Force Majeure Event shall use all reasonable endeavours to remove the effect of each Force Majeure Event affecting its performance of this Agreement, but nothing in this clause 10.2 requires it to settle any industrial dispute otherwise than as that party in its absolute discretion sees fit.

### 10.3 Notice

If a party reasonably considers that a circumstance has arisen which constitutes or is likely to constitute or result in a Force Majeure Event, it shall as soon as reasonably practicable thereafter give to the other party notice containing full particulars of the Force Majeure Event including its nature and likely duration, the obligations affected by it and the nature and extent of its effect on those obligations and the steps taken, or to be taken, to remove, overcome or minimise its effects.

## 11 Enforcement of the Service Provider's Rights Against Customers

### 11.1 Restriction on the Service Provider's enforcement rights

Subject to clauses 11.2(a) and 11.2(c), the Service Provider is not entitled to enforce its rights directly against the Customer (whether under the Deemed Contract or otherwise) without notifying or consulting with the User.

### 11.2 Consultation prior to Disconnection

- (a) Prior to the Service Provider Disconnecting a Customer's Distribution Supply Point (other than pursuant to a Disconnection Request), the Service Provider and the User must use reasonable endeavours to agree:
  - (1) the procedure to be followed in effecting the Disconnection; and
  - (2) the charges to be incurred by the User.
- (b) If the Service Provider and the User fail to agree a procedure or price under clause 11.2(a) within 3 Business Days of the Service Provider first advising the User of its desire to

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Disconnect the Customer's Distribution Supply Point, the Service Provider may effect the Disconnection and otherwise enforce its rights against the Customer.

- (c) Notwithstanding clauses 11.2(a) and 11.2(b), the Service Provider may take action to Disconnect a Customer's Distribution Supply Point without notifying or consulting with the User where:
- (1) the Disconnection is due to an Emergency,;
  - (2) the Disconnection is undertaken due to a direction or order of an Authority (with which direction or order the Service Provider reasonably believes it is required to comply); or
  - (3) relevant Regulatory Instruments require or allow the Disconnection without notifying the User.

### 11.3 The Service Provider to indemnify the User

The Service Provider shall indemnify the User against Claims arising from, or incurred by the User as a consequence of, any action taken by the User under this clause 11 to enforce the Service Provider's rights at the request of the Service Provider, except to the extent that the Claim arises from the negligent or reckless act or omission of the User or from any breach or non-observance by the User of this Agreement or the Regulatory Instruments.

### 11.4 The User to notify Customer and the Service Provider

- (a) The User must notify the Customer of its obligations relating to matters set out in Schedule 2.
- (b) The User must notify the Customer if the User becomes aware that a Customer is, or may, breach any of its obligations under the Regulatory Instruments relating to matters set out in Schedule 2, and if the Customer does not take remedial action, the User must promptly notify the Service Provider of the breach or potential breach.

### 11.5 Limitation of the User's obligations

Nothing in this clause is intended to affect or impose on the User any of the Service Provider's rights or obligations under the Regulatory Instruments.

### 11.6 Non-Application to User as End-User

This clause 11 does not apply to the User to the extent it is acquiring Distribution Services from the Service Provider as an End-User and to avoid doubt does not apply to disconnection of any Distribution Supply Points at which the User takes Gas as an End-User.

## 12 Term and Termination

### 12.1 Term

This Agreement commences on the Commencement Date and continues until terminated under this clause 12, or as otherwise agreed by the parties.

### 12.2 Termination for default or insolvency of the User

- (a) Where:
- (1) the User defaults in due and punctual payment of any money at the time and in the manner prescribed under this Agreement or relevant Regulatory Instruments; or
  - (2) the User fails to provide credit support in accordance with clause 7.8 or relevant Regulatory Instruments; or
  - (3) the User defaults in the performance of any of its other promises or obligations under this Agreement which would cause material detriment to the Service Provider; or
  - (4) there is an Insolvency Event in relation to the User,

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then the User is in default and the Service Provider may give written notice of the default to the User stating:

- (5) that the Service Provider considers that the User is in default; and
  - (6) the cause of the default.
- (b) At the same time as giving any notice to the User under clause 12.2(a), the Service Provider must give a copy of that notice to the Regulator.
- (c) If the User does not remedy the default specified in the notice given under clause 12.2(a) within the following times:
- (1) in the case of a default described in clause 12.2(a)(2) or clause 12.2(a)(4), 5 Business Days; and
  - (2) in the case of any other default described in clause 12.2(a), 15 Business Days,
- then the Service Provider may give notice of its intention to terminate this Agreement under clause 12.3.
- (d) If a RoLR Event occurs in respect of the User (whether or not that RoLR Event is also an Insolvency Event) then the Service Provider may give notice of its intention to terminate this Agreement under clause 12.3.
- (e) The User must notify the Service Provider within 1 Business Day if AEMO notifies the User that despite an Insolvency Event in respect of the User AEMO has determined not to suspend the User from participation in the market established under Part 19 of the National Gas Rules.

**12.3 Notice of termination**

- (a) Where the Service Provider is entitled to give a notice under this clause 12.3, the Service Provider may give written notice to the User stating:
- (1) that the Service Provider intends to terminate this Agreement; and
  - (2) the cause or causes for terminating this Agreement.
- (b) At the same time as giving any notice to the User under clause 12.3(a), the Service Provider must give a copy of that notice to the Regulator.
- (c) The User must within 5 Business Days of the service of a notice of termination under clause 12.3(a) remedy or remove the cause or causes stated in the notice of termination.
- (d) If within the 5 Business Days referred to in clause 12.3(c) the User does not remedy or remove the cause or causes, the Service Provider may by further notice in writing to the User terminate this Agreement with effect from the date specified in the notice.

**12.4 Termination for jeopardising of the safety and integrity of the Distribution System**

- (a) If the User:
- (1) jeopardises the safety or integrity of the Distribution System; and
  - (2) the User is reasonably able to stop any action which jeopardises the safety or integrity of the Distribution System;
- then the Service Provider may serve a written notice on the User:
- (3) specifying the action which jeopardises the safety or integrity of the Distribution System; and
  - (4) specifying a reasonable period of time within which the User must take all reasonable actions within its control either to:
    - (A) ensure that the action which jeopardises the safety or integrity of the Distribution System ceases; or



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- (B) ensure that the action which jeopardises the safety or integrity of the Distribution System is not repeated,  
whichever is applicable.
- (b) If the User has not complied with the notice sent by the Service Provider under clause 12.4(a) within the time specified in that notice, the Service Provider may send a written notice to the User stating that:
  - (1) The Service Provider intends to terminate this Agreement if the breach is not rectified within 5 Business Days; and
  - (2) specifying the reasons for terminating this Agreement.
- (c) If the breach is not rectified by the User within 5 Business Days of receiving the notice specified in clause 12.4(b), the Service Provider may terminate this Agreement by further notice in writing to the User with effect from the date specified in the notice.

### 12.5 Termination where no Customers

If at any time there is no Customer in respect of whom the User requires Distribution Services under this Agreement and the User is not taking Gas as an End User, the User may, by notice to the Service Provider, terminate this Agreement.

### 12.6 Termination by the Service Provider

- (a) The Service Provider may terminate this Agreement on the giving to the User of 90 Business Days' notice, where, under the Regulatory Instruments, the Service Provider ceases to be obliged to provide Distribution Services to the User.
- (b) Should the Service Provider's Distribution Licence be revoked by the Regulator in accordance with clause 3.2 of its Distribution Licence, the Service Provider must by notice to the User, terminate this Agreement with effect from the date that the Distribution Licence is revoked.

### 12.7 Consequences of Termination

Upon termination or expiration of this Agreement, or replacement of this Agreement with an agreement having similar effect, this Agreement, other than clauses 7.1 to 7.7 (in so far as relevant to any Distribution Services which have been provided up to the date of termination or expiration), clause 7.8 (Credit Support), clause 12.9 (Preservation of rights), 12.10 (Distribution Services after termination), clause 13 (Liabilities and indemnities), clause 14 (Dispute Resolution), clause 17 (Confidentiality) and clause 18 (Law and Jurisdiction), is at an end as to its future operation except for the enforcement of any right or claim which arises on, or has arisen before, termination.

### 12.8 Remedies for Default

Subject to clause 12.7, without limiting any other rights of the parties under this Agreement or otherwise at law, if a party has defaulted on the performance of an obligation to pay any amount to the other party under this Agreement, the non-defaulting party may:

- (a) set off, apply or draw on (as the case may be) any Credit Support and any accrued interest for the amount then due and payable by the defaulting party to the non-defaulting party; or
- (b) sue the defaulting party for compensation for that default and exercise all available legal and equitable remedies including without limitation, suing for specific performance, injunctive relief or such other orders as it deems appropriate.

### 12.9 Preservation of rights

- (a) Nothing in clause 12 will operate to exclude, limit or otherwise affect the parties' rights, remedies or powers under statute, common law or in equity and the parties' rights under clause 12 to terminate this Agreement will be without prejudice to the parties' rights to pursue relief by way of damages, injunction or specific performance in respect of a breach of this Agreement.

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- (b) Without limiting the foregoing, each party shall be entitled to render an invoice to the other party for Distribution Services provided and not invoiced up to and including the date of termination, and any such invoice will be payable in accordance with clause 7 (payment and billing for Distribution Services).

### 12.10 Distribution Services after termination

- (a) Notwithstanding the termination of this Agreement, the Service Provider and the User acknowledge that the Service Provider may continue to provide Distribution Services to the User in respect of any Customer until the first to occur of the events specified in clause 4.3.
- (b) In respect of any such Distribution Services provided after termination of this Agreement, all provisions of this Agreement which relate to the provision of Distribution Services shall continue to apply.

## 13 Liabilities and indemnities

### 13.1 No Warranties

- (a) Subject to the *Competition and Consumer Act 2010* (Cth) and the express provisions of this Agreement, all warranties, terms and conditions in relation to the provision of the Distribution Services, or other products or services which may be otherwise implied by use, statute or otherwise are, to the extent that they may lawfully be, hereby excluded.
- (b) Nothing in clause 13.1(a) excludes the operation of the Guaranteed Service Levels required to be satisfied by the Service Provider under the Regulatory Instruments.

### 13.2 Liability for supply

- (a) The Service Provider shall indemnify the User against any Claim by a Customer (who is party to the Deemed Contract) against the User relating to the quality of, or Interruptions to, the Supply by the Service Provider, where the Service Provider would have been liable to that Customer under the Deemed Contract had that Customer claimed against the Service Provider, but only to the extent that the Service Provider would have been liable to that Customer under the Deemed Contract.
- (b) The Service Provider shall indemnify the User against any Claim against the User by a Customer for breach by the User of:
- (1) any guarantee which arises between the User and that Customer under Division 1 of Part 3.2 of the Australian Consumer Law; or
  - (2) implied conditions, warranties or terms (of a type equivalent to the guarantees set out in Division 1 of Part 3.2) implied under State legislation,
- which Claim arises in respect of the Supply by the Service Provider in relation to that Customer:
- (3) but only to the extent that the breach of guarantee, condition, warranty or terms has not occurred as a result of the acts or omissions of the User; and
  - (4) provided that this indemnity will not apply unless each of the following conditions are satisfied:
    - (A) the User has by its conduct and in its Retail Contract with that Customer limited or excluded its liability to that Customer for breach of any guarantee under Division 1 of Part 3.2 of the Australian Consumer Law or implied conditions, warranties or terms (of a type equivalent to the guarantees set out in Division 1 of Part 3.2) implied under State legislation to the maximum extent permitted by the Australian Consumer Law, applicable State legislation and by the Regulatory Instruments;

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- (B) the User has, at the Service Provider's request, delivered to the Customer any information published by the Service Provider concerning the inherent limitations in the quality and reliability of the Supply; and
  - (C) the User has not agreed to supply to the Customer Distribution Services in excess of the standard of Distribution Services to be supplied by the Service Provider to the User under this Agreement.
- (c) The indemnities in clauses 13.2(a) and 13.2(b) do not limit any other legal liability of the Service Provider but apply subject to the exclusions provided in sections 213, 233(1) and 233(3) of the GIA and in the Gas Safety Act and subject to any other exclusions or limitations on liability contained in relevant Regulatory Instruments including without limitation section 316 of the National Energy Retail Law.
  - (d) The User must demonstrate to the Service Provider its compliance with its obligations under clauses 13.2(b)(4)(A), 13.2(b)(4)(B) and 13.2(b)(4)(C) on reasonable request of the Service Provider from time to time.
  - (e) The liability of the Service Provider under this clause 13.2 shall be reduced to the extent that the User has caused or contributed to the Claim.
  - (f) A Claim under this clause 13.2 will be a Claim for the purposes of clause 13.9(a).
  - (g) This clause 13.2 does not apply to the User to the extent it is acquiring Distribution Services from the Service Provider as an End-User.

**13.3 Non-operation of limitations of liability**

- (a) The Service Provider may not rely on clause 13.2(b)(4)(A) of this Agreement to exclude any liability of the Service Provider to the User for any Claim made against the User by a Customer, to the extent that, at the time the User entered into its contract with the Customer, the User was prohibited by law (including the Regulatory Instruments) from including in that contract a provision which excluded the User from liability for that Claim.
- (b) Clause 13.2(b)(4)(A)(a) shall not apply in relation to any Customer to whom the User sells Gas under a contract executed before the Commencement Date to the extent that the contract does not exclude the User from the warranties, terms and conditions described in clause 13.2(b)(4)(A).

**13.4 Insurance**

Each party must obtain adequate insurance covering any liability which it may incur under this Agreement. A party must provide the other party with proof of the currency of this insurance and details of the adequacy of the insurance cover, on the other party's reasonable request from time to time.

**13.5 Indemnity by the User**

The User indemnifies the Service Provider against any:

- (a) liability incurred by the Service Provider for damage caused by the User to the Distribution System;
- (b) where the User is taking Gas as an End-User at a Distribution Supply Point, liability incurred by the Service Provider for damage caused, by anyone to whom the User on-supplies the Gas delivered at that Distribution Supply Point, to the Distribution System.
- (c) any penalty, damages, cost, expense or losses resulting due to Customers withdrawing in any hour a Quantity of Gas at each Distribution Supply Point exceeding the Customer's MHQ at that Distribution Supply Point; and
- (d) for Distribution Supply Points used by the User as an End-User, penalty, damages, costs, expenses or losses resulting due to the User withdrawing at a Distribution Supply Point in any hour a Quantity of Gas exceeding the Customer's MHQ at that Distribution Supply Point.

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### 13.6 Exemption of liability

- (a) The Service Provider is not liable to any penalty or damages for failing to convey Gas through the Distribution System to the extent that the failure arises out of any accident or cause, where that accident or cause is beyond the Service Provider's control.
- (b) A party (**First Party**) is not liable to the other party (**Second Party**) for:
- (1) any loss of revenue or profit suffered or incurred by the Second Party;
  - (2) any special loss suffered or incurred by the Second Party;
  - (3) any indirect loss suffered or incurred by the Second Party;
  - (4) any liability incurred by the Second Party to a third party (other than a Customer);
  - (5) any additional expenses suffered or incurred by the Second Party under any gas purchase contract or haulage agreement (other than this Agreement),
- whether arising due to the First Party's breach of this Agreement, tortious (including negligent) act or omission or any other act or omission of any nature whatsoever provided that nothing in this clause 13.6(b) limits:
- (6) any liability the First Party has to reimburse the Second Party for liability the Second Party incurs to a Customer under the National Energy Retail Law or under clause 13.2 of this Agreement
  - (7) the scope of, or liability under, any indemnity in this Agreement;
  - (8) the User's obligation to pay to the Service Provider Charges and any other amounts (for example GST) payable by the User under this Agreement;
  - (9) the User's liability for breach of clause 4.7(a).
- (c) For the avoidance of doubt, this clause 13.6 applies where the User is acquiring Distribution Services as an End-User, including where an End-User on-supplies Gas to another entity.

### 13.7 Preservation of statutory provisions

Despite any other provision of this Agreement, this Agreement:

- (a) does not vary or exclude the operation of sections 213, 233(1) or 233(3), of the GIA or the Gas Safety Act; and
- (b) does not constitute an agreement under section 233(2) of the GIA; and
- (c) does not vary or exclude any other exclusion, limitation or immunities arising pursuant to any other Regulatory Instrument (including section 316 of the National Energy Retail Law) nor constitutes an agreement to waive the operation of any such exclusion, limitation or immunity.

### 13.8 Australian Consumer Law and Liability as between the User and the Service Provider

- (a) The purpose of this clause 13.8 is to regulate any liability under Division 1 of Part 3.2 of the Australian Consumer Law arising as between the Service Provider and the User and this clause 13.8 does not limit the application of clause 13.2 .
- (b) No clause in this Agreement excludes, restricts or modifies or has the effect of excluding, restricting or modifying the application of Division 1 of Part 3-2 of the Australian Consumer Law, the exercise of a right conferred by such a provision or the liability of the Service Provider for failure to comply with a guarantee under that Division, to the extent that doing so would render that clause void.
- (c) Pursuant to section 64A of the Australian Consumer Law this clause 13.8(c) and clause 13.8(d) apply in respect of the goods or services supplied under this Agreement which are not of a kind ordinarily acquired for personal, domestic or household use or consumption, but this clause 13.8(c) and clause 13.8(d) will not apply if a party establishes that reliance on them would not be fair and reasonable. This clause 13.8(c) and clause 13.8(d) prevail over any inconsistent provisions in this Agreement.

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- (d) Liability of the Service Provider for failure to comply with a guarantee under Division 1 of Part 3-2 of the Australian Consumer Law (other than a guarantee under section 51, 52 or 53) is limited to:
- (1) in the case of goods, to any one of the following as determined by the Service Provider:
    - (A) the replacement of the goods or the supply of equivalent goods;
    - (B) the repair of the goods;
    - (C) the payment of the cost of replacing the goods or of acquiring equivalent goods;
    - (D) the payment of the cost of having the goods repaired;
  - (2) in the case of services, to any one of the following as determined by the Service Provider:
    - (A) the supplying of the services again;
    - (B) the payment of the cost of having the services supplied again.

**13.9 Third Party Claims and Demands**

- (a) A party (the **Indemnified Party**) must:
- (1) notify the other party (the **Responsible Party**) of any third party Claim, for which it may be indemnified by the Responsible Party under this clause 13;
  - (2) permit the Responsible Party (entirely at the Responsible Party's expense) to defend or settle that third party Claim as the Responsible Party sees fit, or where the Responsible Party does not elect to defend or settle that third party Claim, to have a watching brief and be kept fully informed by the Indemnified Party of the progress of that third party Claim; and
  - (3) provide the Responsible Party (at the Responsible Party's expense) with such assistance in respect of the third party Claim as the Responsible Party may reasonably request.
- (b) If the Responsible Party elects to take over conduct of a third party Claim as contemplated in clause 13.9(a) the Responsible Party must:
- (1) consult with and where reasonably possible, take account of the views of the Indemnified Party in relation to the progress of the third party Claim; and
  - (2) if it becomes aware that the Indemnified Party may have some liability in respect of that third party Claim for which the Indemnified Party will not be indemnified under this clause 13, notify the Indemnified Party of that fact, consult with and keep the Indemnified Party informed in respect of the progress of that third party Claim and comply with the provisions of clause 13.9 as if references in that clause to the Indemnified Party were to the Responsible Party, and vice versa.
- (c) If the Responsible Party elects not to take over the conduct of a third party Claim as contemplated in clause 13.9(a), the Responsible Party must indemnify the Indemnified Party against all costs (including reasonable legal costs) incurred by the Indemnified Party in defending the third party Claim, to the extent that those costs are not recovered from any other person.

**13.10 No Admissions**

Except where required by law to do so, the Indemnified Party must not, in relation to any Claim of the type referred to in clause 13:

- (a) make any admission or representation prejudicial to the Responsible Party;
- (b) agree to any compromise or settlement; and

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- (c) do anything else that may be prejudicial to the Responsible Party, without the Responsible Party's written consent.

### 14 Dispute Resolution

#### 14.1 Disputes

- (a) To the extent that the provisions of a dispute resolution scheme approved by the Regulator under clause 10 of the Distribution System Code apply to a dispute under this Agreement or the provisions of any other relevant Regulatory Instrument apply to resolution of a dispute under this Agreement, the parties agree to apply those provisions to that dispute.
- (b) Subject to clause 7.7 and clause 14.1(a), any dispute or difference arising between the parties out of or in connection with this Agreement must be resolved in accordance with this clause 14.

#### 14.2 Notice of Dispute

Should any dispute or difference arise between the parties out of or in connection with this Agreement, either party may give written notice of the dispute or difference to the other party. The notice shall state that it is a notice under this clause 14 and shall identify the dispute concerned and the clauses of this Agreement relevant to the dispute.

#### 14.3 Referral to Chief Executive Officers or nominees

If the parties fail to resolve a dispute or difference within 10 Business Days of a notice of dispute being given under clause 14.2, the dispute or difference must be referred for resolution to the respective chief executive officers (or the chief executive officer's nominee) of the parties whose decision shall be binding. Subject to clause 14.6, the parties waive their rights to commence court proceedings for resolution of the dispute prior to referral of the issue to the chief executive officers (or their nominees) under this clause. If the matter is not resolved within 5 Business Days of such referral either party may then take further action in accordance with clause 14.4 or clause 14.5.

#### 14.4 Mediation

- (a) The parties must comply with clauses 14.2 and 14.3 as a pre-condition to submitting a dispute to mediation in accordance with this clause 14.4.
- (b) If a dispute is not resolved by the chief executive officers (or nominees, as applicable) of the parties as contemplated in clause 14.3 within 5 Business Days of it being referred to those persons, either party may submit the dispute to mediation in accordance with and subject to the Institute of Arbitrators and Mediators Australia Mediation and Conciliation Rules by giving notice in writing to the other party, that the dispute remains unresolved and will be submitted to mediation.
- (c) The Service Provider and the User will bear their own costs in respect of the mediation.
- (d) If a dispute has been submitted to mediation in accordance with this clause 14.4, subject to clause 14.6, the parties waive their rights to commence court or arbitration proceedings for resolution of the dispute until completion of the mediation.
- (e) Once a party submits a dispute to mediation, the other party must participate in the mediation.

#### 14.5 Arbitration

- (a) The parties must comply with clauses 14.2 and 14.3 as a pre-condition to submitting a dispute to arbitration in accordance with this clause 14.5.
- (b) Subject to clause 2.6, if a dispute is not resolved by the chief executive officers (or their nominees, as applicable) of the parties as contemplated in clause 14.3, or if a dispute is not resolved in mediation pursuant to clause 14.4, either party may submit the dispute to arbitration in accordance with and subject to the Institute of Arbitrators and Mediators

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Australia Rules for the Conduct of Commercial Arbitrations (Victorian Chapter) (the **Rules**) by giving notice in writing to the other party, in accordance with the Rules, that the dispute remains unresolved and will be submitted to arbitration.

- (c) The Service Provider and the User will bear their own costs in respect of the arbitration.
- (d) Subject to clause 14.5(e), without limiting the generality of clause 17:
  - (1) any proceedings conducted under clause 14.5(b) will be private and confidential as between the parties;
  - (2) no party may cause or permit any part of proceedings or correspondence under clause 14.5(b) to be published in the press or other media; and
  - (3) all such proceedings and correspondence, the documentation and information relevant to such proceedings and correspondence, and the reasons for any award or other determination made under clause 14.5(b), must be kept confidential by the parties and may not be disclosed other than to the extent permitted under clause 17.
- (e) Nothing in clause 14.5(d) applies to or in relation to or restricts in any way:
  - (1) disclosure of information to an arbitrator or umpire in accordance with clause 14.5(b); or
  - (2) disclosure of the proceedings or correspondence or the reasons for the award or other determination in the course of legal proceedings relating to the arbitration, award or other determination made under clause 14.5(b), or in the course of any other judicial, arbitral or administrative proceedings between the parties.
- (f) Once a party submits a dispute to arbitration, the other party must participate in the arbitration.

### 14.6 Summary or Urgent Relief

- (a) Nothing in clause 14 shall prejudice the right of a party to seek urgent injunctive or declaratory relief in a court in respect of any matter arising under this Agreement.

### 14.7 Customer Disputes

- (a) If any Customer brings any legal proceedings in any court against any party to this Agreement (the **Defendant Party**) and the Defendant Party wishes to make a third party claim (as defined in clause 14.7(b)) against the other party to this Agreement, then the parties agree that the third party claim can be dealt with in the legal proceedings brought by the Customer rather than being dealt with under this clause 14.
- (b) For the purposes of clause 14.7(a), **third party claim** shall mean:
  - (1) any claim by a Defendant Party against the other party (whether or not already a party to the legal proceedings) for any contribution or indemnity; or
  - (2) any claim by a Defendant Party against the other party for any relief or remedy relating to or connected with the subject matter of the legal proceedings and substantially the same as some relief or remedy claimed by the Customer; or
  - (3) any requirement by a Defendant Party that any question or issue relating to or connected with the subject matter of the legal proceedings should be determined not only as between the Customer and the Defendant Party but also as between either or both of them and the other party (whether or not already a party to the legal proceedings).

### 14.8 Obligations Continuing

Notwithstanding a reference of a dispute to the dispute resolution procedure in this clause 14:

- (a) the parties shall, so far as it is reasonably practicable, continue to perform and comply with their respective obligations under this Agreement to the extent that such obligations are not the subject of that dispute; and

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- (b) the parties are not precluded by this clause 14 from exercising their rights of termination in accordance with clause 12.

## 15 Representations and Warranties

### 15.1 The User's Representations and Warranties

- (a) The User represents and warrants to the Service Provider that it holds and will continue to hold:
- (1) prior to the time the National Energy Retail Law commences operation in Victoria, a Retail Licence; and
  - (2) as from the time the National Energy Retail Law commences operation in Victoria, a Retailer Authorisation under the National Energy Retail Law,
- and will, for the duration of this Agreement, hold either a Retail Licence or Retailer Authorisation.
- (b) The User represents and warrants to the Service Provider that it has the right to have Gas delivered to the Transfer Point.
- (c) Clause 15.1(a) does not apply to the extent the User is not required by applicable Regulatory Instruments to hold, as applicable, a Retail Licence or Retail Authorisation.

### 15.2 The Service Provider's Representations and Warranties

The Service Provider represents and warrants to the User that it holds and will continue to hold a Distribution Licence for the duration of this Agreement.

### 15.3 Other Representations and Warranties

Each party to this Agreement represents and warrants that:

- (a) it is incorporated or established and validly existing;
- (b) it has full power, authority and legal right to execute, deliver and perform its obligations under this Agreement;
- (c) execution of and performance of that party's obligations under this Agreement will not amount to a breach of any contractual or other obligation owed by that party to a third party; and
- (d) as at the date of this Agreement an Insolvency Event has not occurred in respect of that party.

### 15.4 No Reliance

Except as otherwise provided in this clause 15, each party to this Agreement acknowledges that in entering into this Agreement it has not relied on any representations or warranties about its subject matter.

## 16 Notices

### 16.1 Method of Giving Notices

- (a) Unless otherwise agreed by the parties, and subject to clause 16.1(b), a notice, consent, approval or other communication (each a Notice) under this Agreement shall be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:
- (1) delivered;
  - (2) sent by pre-paid mail;
  - (3) transmitted by facsimile; or



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(4) transmitted electronically,  
to that person's address, as specified below:

(5) if to the Service Provider:

Address:

Attention:

Facsimile:

Telephone:

E-mail:

(6) if to the User:

Address:

Attention:

Facsimile:

Telephone:

E-mail:

(b) Notices that may be transmitted via the B2B Hub, shall be transmitted in the form required under the Gas Interface Protocol.

### 16.2 Time of Receipt of Notice

A Notice given to a person in accordance with this clause 16 is treated as having been given and received:

- (a) if delivered to a person's address, on the day of delivery if prior to 5:00 pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the third Business Day after posting;
- (c) if transmitted by facsimile and a correct and complete transmission report is received, on the day of transmission if the transmission report states that the transmission was completed before 5.00 pm on a Business Day, otherwise on the next Business Day;
- (d) if transmitted electronically, on the day of transmission if the information technology system of the person giving the notice states that the transmission was completed before 5.00 pm on a Business Day, otherwise on the next Business Day; or
- (e) if transmitted via the B2B Hub, once an electronic acknowledgment of receipt has been received (via the B2B Hub) by the person who transmitted the notice.

### 16.3 Time of Receipt of Invoices

An invoice payable under clause 7 is deemed to have been received when a summary statement of the invoice is delivered as if it were a Notice. The date of deemed receipt of an invoice will be extended by each day that the supporting documentation relating to the invoice is delivered after delivery of the invoice summary statement.

### 16.4 Confirmation of Electronic Delivery

Without prejudice to the effectiveness of service of a notice transmitted electronically, if a notice is given electronically under any of clauses 7.7(a), 7.8, 9.9(a)(1)(A), 9.9(b), 9.9(c), 9.10, 12.2, 12.3 and 14 the notice must also be sent as soon as reasonably practicable by any one of the means listed in clauses 16.1(a)(1) to 16.1(a)(3) (inclusive).

### 16.5 Change of Details

- (a) A party may change its details for service of notices (as specified in clause 16.1(a)) by notice issued in accordance with this clause 16.

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- (b) Any amendment of this Agreement under clause 19.2 does not vary the current details for service of notices as applying between the parties.

## 17 Confidentiality

### 17.1 General Obligation

Subject to clauses 7.8, 17.3 and 17.4 and any confidentiality requirement under the Regulatory Instruments, this Agreement and all information exchanged between the parties under this Agreement or during the negotiations preceding the Commencement Date is confidential to the party who provided it and may not be disclosed to any person except:

- (a) by a party, to:
- (1) its employees and contractors, and the employees and contractors of any of its related bodies corporate, within the meaning of the Corporations Act, requiring the information for the purposes of this Agreement (or any transactions contemplated by it);
  - (2) its legal and other professional advisers, requiring the information for the purposes of this Agreement (or any transactions contemplated by it) or for the purpose of advising that party in relation thereto;
  - (3) its insurance brokers and its insurers (and their employees and contractors) as required for the purposes of arranging insurance or making or administering any claim under an insurance policy; and
  - (4) its financiers (and their employees and contractors) for the purposes of arranging and administering a party's financing arrangements;
- (b) with the consent of the party who provided the information;
- (c) if the information is at the time lawfully in the possession of the proposed recipient of the information through sources other than the other party;
- (d) to the extent required by law or any Regulatory Instrument or by a lawful requirement of any Authority having jurisdiction over a party (whether pursuant to a licence held by that party or otherwise); or
- (e) to the extent required by a lawful requirement of any stock exchange having jurisdiction over a party or a related body corporate thereof (within the meaning of the Corporations Act);
- (f) if required in connection with legal proceedings or other dispute resolution relating to this Agreement or for the purpose of advising a party in relation thereto;
- (g) if the information is at the time generally and publicly available other than as a result of breach of confidence by the party wishing to disclose the information or a person to whom it has disclosed the information;
- (h) if the information relates to a Customer, in addition to the circumstances described in paragraphs (a) to (g) of this clause 17.1, the party may disclose that information to any person if the party has received the explicit informed consent in writing of the Customer to do so;
- (i) if disclosure is necessary to ensure the stability of the Distribution System or to protect the safety of personnel or equipment;
- (j) pursuant to, and in accordance with, clauses 8 and 9 ;
- (k) to confirm the existence of a haulage agreement between the parties; or
- (l) subject to the relevant person receiving the information executing an undertaking to keep it confidential (other than disclosure to employees, advisers and financiers who have also executed such an undertaking ), to any potential assignee or novatee of a party's rights or

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obligations under this Agreement or person considering an acquisition of all or part of a party's business or share capital.

For the purposes of this Agreement, information is not generally and publicly available merely because it is known to the Regulator, AEMO, another network service provider, a generator or another Retailer.

### 17.2 Representatives to Keep Information Confidential

Subject to clauses 17.3 and 17.4, each party shall procure that its employees and contractors, and the employees and contractors of any of its related bodies corporate, its legal and other professional advisers and its financiers and insurers do not disclose (otherwise than to the party) any information concerning the other party or a Customer obtained under this Agreement except in the circumstances specified in clause 17.1, or use the information other than for the purpose for which it was disclosed in accordance with this Agreement.

### 17.3 Conditions on Disclosure

- (a) In the case of a disclosure under clause 17.1(d) or 17.1(e), the party proposing to make the disclosure shall inform the proposed recipient of the confidentiality of the information and the party proposing to disclose shall take all reasonable precautions to ensure that the proposed recipient keeps the information confidential.
- (b) If a party is permitted to disclose any confidential information in accordance with this clause 17, the party proposing to disclose shall use reasonable endeavours to limit the disclosure to those matters which reasonably need to be disclosed in order to accomplish that purpose.

### 17.4 Notice to Other Party

Each party shall, where possible, not disclose any information under clause 17.1(e) or 17.1(f) unless the other party has been informed of the proposed disclosure.

## 18 Law and Jurisdiction

### 18.1 Governing Law

This Agreement is governed by the law in force in the State of Victoria.

### 18.2 Submission to Jurisdiction

The parties submit to the non-exclusive jurisdiction of the courts of the State of Victoria and any courts which may hear appeals from those courts in respect of any proceedings in connection with this Agreement.

## 19 General

### 19.1 Waiver

- (a) The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right.
- (b) A power or right may only be waived in writing, signed by the party to be bound by the waiver.

### 19.2 Amendment

- (a) Subject to the remainder of this clause 19.2, this Agreement may only be amended or supplemented in writing, executed by the parties in the same manner as the parties executed this Agreement.
- (b) It is the intention of the Service Provider and the User that the terms of this Agreement reflect so far as possible the Reference Service Terms.

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- (c) It is therefore agreed that if there is any change to the Reference Service Terms then the terms of this Agreement will, subject to any agreement in writing between the parties, and excluding clauses that state that they are not subject to this clause 19.2(c), be automatically amended (without the requirement for the parties to execute any form of documentation) such that they are the same as the Reference Service Terms.
- (d) In this clause 19.2 the Reference Service Terms means the terms and conditions upon which the Service Provider will provide Reference Services as set out in the Access Arrangement (which terms, as at the date of this Agreement, are set out in Part C of the Access Arrangement).

### 19.3 Attorneys

Each attorney who executes this Agreement on behalf of a party declares that the attorney has no notice of the revocation or suspension by the grantor or in any manner of the power of attorney under the authority of which the attorney executes this Agreement.

### 19.4 Severability

Any provision in this Agreement which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

### 19.5 Counterparts

This Agreement may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

### 19.6 Further Assurance

Each party shall do, sign, execute and deliver and shall procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts reasonably required of it or them by notice from another party to carry out and give full effect to this Agreement and the rights and obligations of the parties under it.

### 19.7 Entire Agreement

This Agreement is the entire agreement of the parties on the subject matter of this Agreement.

### 19.8 Assignment

- (a) Subject to clause 19.8(b) neither party may assign any of its rights or novate its obligations under this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed or given on unreasonable conditions.
- (b) The Service Provider may (in whole or in part) assign its rights and/or novate its obligations under this Agreement to a person who is the licensee under a Distribution Licence for all or any part of the Distribution System.
- (c) Where a party is entitled to assign its rights and/or novate its obligations under this Agreement then the other party must execute such documentation as reasonably required by the first party to evidence that assignment and/or novation.

### 19.9 Remedies Cumulative

The rights and remedies provided in this Agreement do not exclude any rights or remedies provided by law.

### 19.10 Review of Agreement

The parties acknowledge that the Regulatory Instruments to which this Agreement is subject may be the subject of ongoing changes and that those changes may in turn require amendments to be made to this Agreement. The parties agree to negotiate in good faith any amendments to this Agreement that may be reasonably required as a consequence of any changes to the Regulatory Instruments or in light of commercial experience.

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**19.11 No Agency or Partnership**

Nothing in this Agreement constitutes any agency, partnership or joint venture relationship between the parties.

**19.12 Restriction on Authority**

Neither party shall make or give any representation or warranty in relation to the other party or agree to any obligation on behalf of the other party, unless the representation, warranty or obligation has been expressly approved in advance in writing by the other party.

**19.13 Costs**

- (a) Each party will bear its own legal and other costs in relation to the negotiation and documentation of their Agreement.
- (b) Each party will bear half of any stamp duty payable in respect of this Agreement.

**19.14 Schedules**

The Schedules form part of this Agreement and in the event of inconsistency, the Schedules will prevail over the other terms of this Agreement.

**Gas Access Arrangement Revision 2018-2022**

**Schedule 1 – Approved Form of Unconditional Undertaking**

(Clause 7.8)

At the request of ..... ACN ..... ("the User") and in consideration of ..... ACN ..... ("the Service Provider") accepting this undertaking in respect of the contract for the provision of use of system services and other related services [{"the Use of System Agreement"}] ..... ACN ..... ("the Financial Institution") unconditionally undertakes to pay on demand any sum or sums which may from time to time be demanded by the Service Provider to a maximum aggregate sum of \$..... (..... dollars).

The undertaking is to continue until notification has been received from the Service Provider that the sum is no longer required by the Service Provider or until this undertaking is returned to the Financial Institution or until payment to the Service Provider by the Financial Institution of the whole of the sum or such part as the Service Provider may require.

Should the Financial Institution be notified in writing, purporting to be signed by ..... for and on behalf of the Service Provider that the Service Provider desires payment to be made of the whole or any part or parts of the sum, it is unconditionally agreed that the Financial Institution will make the payment or payments to the Service Provider forthwith without reference to the User and notwithstanding any notice given by the User not to pay same.

Provided always that the Financial Institution may at any time without being required so to do pay to the Service Provider the sum of \$..... (..... dollars ).less any amount or amounts it may previously have paid under this undertaking or such lesser sum as may be required and specified by the Service Provider and thereupon the liability of the Financial Institution hereunder shall immediately cease.

DATED at ..... this ..... day of ..... 20.....

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**Gas Access Arrangement Revision 2018-2022**

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**Schedule 2 – Matters to be Notified to Customer by User**

(Clause 11.4)

Customer obligations under the Regulatory Instruments relating to:

- (1) Prohibition against allowing Gas Supplied by the Service Provider to the Customer's supply address to be used at another Customer's supply address;
- (2) Prohibition against taking at the Customer's supply address Gas Supplied to another supply address;
- (3) Prohibition against Supplying natural gas to any other person unless permitted by Regulatory Instruments or agreed by the Service Provider;
- (4) Prohibition against interfering or tampering with, or permitting interference or tampering with, the Service Provider's Distribution System or any Metering Installation at the Customer's supply address;
- (5) Prohibition against allowing Gas Supplied to a Residential Customer to be used for non-domestic purposes other than for home office purposes;
- (6) Prohibition against allowing Gas Supplied under a specific purpose tariff to be used for another purpose;
- (7) Prohibition against bypassing or allowing Gas Supplied to the Customer's supply address to bypass the Meter;
- (8) Prohibition against allowing persons who are not licensed gas installers to perform any work on natural gas installations;
- (9) Maintenance of the Gas Installation or Service Provider's equipment at the Customer's supply address;
- (10) Prohibition against the use of Gas Supplied in a manner that may:
  - (A) interfere with the Service Provider's Distribution System or with Supply to any other Gas Installation, or
  - (B) cause damage or interference to any third party;
- (11) Protection of the Service Provider's equipment at the Customer's supply address from damage or interference
- (12) Informing the Service Provider of changes:
  - (A) to the major purpose for usage of Gas at the Customer's supply address,
  - (B) affecting access to the Customer's Metering Installation, and
  - (C) to the Customer's Gas Installation which may affect the quality or safety of the Supply of Gas to the Customer's supply address or any other person;
- (13) Informing the Service Provider about any Gas leak or other problem with the Service Provider's Distribution System;
- (14) Access rights for Connection or Disconnection;
- (15) Access rights for inspection or testing of Gas Installations or Metering Installations;
- (16) Access rights for undertaking inspection, repairs, testing or maintenance of the Distribution System;
- (17) Access rights for collection of Metering Data;
- (18) Service Provider's Interruption or Curtailment rights; and

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**Gas Access Arrangement Revision 2018-2022**

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- (19) Any matter that may threaten:
  - (A) the health or safety of any person;
  - (B) damage to the property;
  - (C) the integrity or safety of the Distribution System, or
  - (D) Supply to any other Gas Installation



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**Gas Access Arrangement Revision 2018-2022**


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**Schedule 3 – Services other than Reference Services**
**Non Reference Services to be charged at Recoverable Rates**
**(Ex GST)**

	<b>2018</b>
Provision of Service Pipe (\$/m)	\$44.47
Standard Hourly Labour Rate (\$/hr)	\$128.68
Disconnection – excavate & shut service tee	
Disconnection – illegal use, excavate & shut service tee	
Reconnection – following excavation & shut service tee	
Excess Service Charge - Customer Contribution	
Alter Meter Position (Meter Removal plus Reconnection, Single Visit)	
Mains Extension	
Meter Security and Protection	
Tracing Of Fitting Lines	
Detailed retake and test downstream of meter	
Upgrade Service Size	
Upgrade Meter Size	
Remove and Consolidate Fittings	
Such other services as may be agreed	



**FINAL DECISION  
AusNet Services  
Gas access arrangement  
2018 to 2022**

**Attachment 2 – Capital base**

November 2017

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## Shortened forms

Shortened form	Extended form
AER	Australian Energy Regulator
capex	Capital expenditure
NGL	National Gas Law
NGR	National Gas Rules
PTRM	Post tax revenue model
RFM	Roll forward model

## 2 Capital base

The capital base roll forward accounts for the value of AusNet's regulated assets over the access arrangement period. The opening value of the capital base for a regulatory year within the access arrangement period is rolled forward by indexing it for inflation, adding any conforming capital expenditure (capex), and subtracting depreciation and other possible factors (for example, disposals or customer contributions).<sup>1</sup> Following this process, we arrive at a closing value of the capital base at the end of each year of the access arrangement period. The opening value of the capital base is used to determine the return of capital (regulatory depreciation) and return on capital building block allowances.

### 2.1 Final decision

Our final decision approves an opening capital base value of \$1562.7 million (\$ nominal) as at 1 January 2018 for AusNet. This amount is \$1.2 million lower than AusNet's revised proposal. This is because we have:

- Adjusted 2016 gross capex values for movements in capitalised provisions and updated the values of 2017 customer contributions consistent with revisions provided by AusNet.<sup>2</sup>
- Converted the 2017 gross capex and customer contributions values in the roll forward model (RFM) to mid-year dollar terms from end-of-year dollar terms, as required for use in the input sections of the RFM. AusNet's revised proposed RFM—and subsequent revisions—used these values presented in end-of-year dollar terms, which is consistent with its capex model. As such, an adjustment is required to convert these values to mid-year dollar terms.

Therefore, we do not approve AusNet's revised proposed opening capital base as at 1 January 2018.<sup>3</sup>

In the draft decision, we approved AusNet's proposed opening capital base as at 1 January 2018.<sup>4</sup> We also noted that the proposed capex for 2016 and 2017 were estimates and that AusNet would provide the actual capex for 2016 in its revised proposal, and that it may revise the 2017 capex estimate based on more up to date information.<sup>5</sup> AusNet's revised proposal provided these updates to the 2016 and 2017

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<sup>1</sup> The term 'rolled forward' means the process of carrying over the value of the capital base from one regulatory year to the next.

<sup>2</sup> AusNet, *Email response 'RE: Current period capex - AusNet Services Gas Distribution'*, received 10 November 2017.

<sup>3</sup> NGR, r. 77(2).

<sup>4</sup> AER, *Draft Decision - AusNet Services Gas access arrangement 2018 to 2022 - Attachment 2 - Capital base*, July 2017, p. 2-5.

<sup>5</sup> AER, *Draft Decision - AusNet Services Gas access arrangement 2018 to 2022 - Attachment 2 - Capital base*, July 2017, p. 11.

capex. As discussed in the overview to this final decision, we accept AusNet's capex updates in its revised proposal as conforming capex during the 2013–17 access arrangement period. Therefore, we consider that actual conforming capex has been properly accounted for in the revised proposed capital base roll forward, consistent with the requirements of the NGR.<sup>6</sup>

Table 2-1 sets out our final decision on the roll forward of AusNet's capital base during the 2013–17 access arrangement period to determine the opening capital base as at 1 January 2018.

**Table 2-1 AER's final decision on AusNet's capital base roll forward for the 2013–17 access arrangement period (\$ million, nominal)**

	2013	2014	2015	2016	2017
Opening capital base	1275.3	1339.2	1407.4	1471.0	1510.6
Net capex	86.8	94.1	92.6	83.7	86.5
Indexation of capital base	25.6	28.9	32.5	22.1	19.6
Less: straight-line depreciation	48.5	54.8	61.4	66.2	70.5
Closing capital base	1339.2	1407.4	1471.0	1510.6	1546.3
Difference between estimated and actual capex in 2012					12.1
Return on difference for 2012 capex					4.4
<b>Opening capital base as at 1 January 2018</b>					<b>1562.7</b>

Source: AER analysis.

We approve a forecast closing capital base value of \$1899.2 million (\$ nominal) at 31 December 2022. This is \$3.0 million (or 0.2 per cent) lower than the \$1902.2 million (\$ nominal) in AusNet's revised proposal. Our final decision on the projected closing capital base reflects our changes to the opening capital base as at 1 January 2018, and our final decisions on expected inflation (section 2.3.3 of the overview) and forecast depreciation (attachment 5). Therefore, we do not approve AusNet's revised proposed forecast capital base as at 31 December 2022.<sup>7</sup>

Table 2-2 sets out our final decision on the projected roll forward of the capital base for AusNet over the 2018–22 access arrangement period.

<sup>6</sup> NGR, r. 77(2)(b).

<sup>7</sup> NGR, r. 78.

**Table 2-2 AER's final decision on AusNet's projected capital base roll forward for the 2018–22 access arrangement period (\$ million, nominal)**

	2018	2019	2020	2021	2022
Opening capital base	1562.7	1628.9	1704.9	1777.2	1841.8
Net capex	107.8	107.0	106.1	101.8	99.0
Indexation of capital base	38.3	39.9	41.8	43.5	45.1
Less: straight-line depreciation	79.8	70.9	75.5	80.7	86.7
<b>Closing capital base</b>	<b>1628.9</b>	<b>1704.9</b>	<b>1777.2</b>	<b>1841.8</b>	<b>1899.2</b>

Source: AER analysis.

Our final decision is to approve the provision in AusNet's access arrangement that the capital base as at 1 January 2023 is to be established using the approved depreciation schedules (straight-line) based on forecast capex at the asset class level.<sup>8</sup> AusNet included this provision in its revised proposal in response to our draft decision.<sup>9</sup>

In our draft decision, we also required AusNet to remove a fixed principle in its proposal and AusNet's revised proposal adopted our required amendments.<sup>10</sup>

## 2.2 Assessment approach

Our approach to the capital base is set out in section 2.3 of our draft decision. We have not changed that approach in this final decision.

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<sup>8</sup> NGR, r. 90.

<sup>9</sup> AusNet, *Revised Access Arrangement Proposal Appendix 1A: Summary Table of Access Arrangement Revisions* p. 1.

<sup>10</sup> AusNet, *Revised Access Arrangement Proposal Appendix 1A: Summary Table of Access Arrangement Revisions* p. 1. This document indicated that amendments were also made where the term 'Fifth Access Arrangement Period' replaced '2018–22 access arrangement period'. We accept this modification for the purposes of this final decision.





**FINAL DECISION**  
**AusNet Services**  
**Gas access arrangement**  
**2018 to 2022**

**Attachment 5 – Regulatory**  
**depreciation**

November 2017

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## Shortened forms

Shortened form	Extended form
AER	Australian Energy Regulator
capex	Capital expenditure
NGL	National Gas Law
NGR	National Gas Rules
SCADA	Supervisory control and data acquisition

## 5 Regulatory depreciation

When determining the total revenue for AusNet, we include an allowance for the depreciation of the projected capital base (otherwise referred to as 'return of capital'). Regulatory depreciation is used to model the nominal asset values over the 2018–22 access arrangement period and the depreciation allowance in the total revenue requirement.<sup>1</sup>

### 5.1 Final decision

Our final decision approves forecast regulatory depreciation of \$185.1 million (\$ nominal) for AusNet over the 2018–22 access arrangement period. This is \$1.5 million (or 0.8 per cent) higher than AusNet's revised proposal of \$183.6 million (\$ nominal). This is because we have:

- Amended AusNet's opening capital base as at 1 January 2018 (attachment 2).
- Updated the value of expected inflation for the 2018–22 access arrangement period.

We therefore do not accept AusNet's revised proposed regulatory depreciation allowance.<sup>2</sup> Our final decision on AusNet's regulatory depreciation allowance for the 2018–22 access arrangement period is set out in Table 5.1.

**Table 5.1 AER's final decision on AusNet's regulatory depreciation allowance for the 2018–22 access arrangement period (\$million, nominal)**

	2018	2019	2020	2021	2022	Total
Straight-line depreciation	79.8	70.9	75.5	80.7	86.7	393.8
Less: indexation on capital base	38.3	39.9	41.8	43.5	45.1	208.6
<b>Regulatory depreciation</b>	<b>41.6</b>	<b>31.0</b>	<b>33.8</b>	<b>37.2</b>	<b>41.6</b>	<b>185.1</b>

Source: AER analysis.

In the draft decision, we accepted AusNet's proposed year-by-year tracking real straight-line approach to calculate the regulatory depreciation allowance. However, we identified required changes to certain aspects of the regulatory depreciation allowance, including:

- An adjustment to AusNet's proposed year-by-year tracking depreciation model to account for the forecast depreciation approach applied to rolling forward the capital base over the 2013–17 access arrangement period.

<sup>1</sup> Regulatory depreciation allowance is the net total of the straight-line depreciation (negative) and the annual inflation indexation (positive) on the projected capital base.

<sup>2</sup> NGR, r. 89(1).

- Adjustments to other components of AusNet's proposal including the expected inflation and forecast capex for the 2018–22 access arrangement period.

AusNet's revised proposal adopted these draft decision amendments.<sup>3</sup>

Table 5.2 sets out our final decision on the standard asset lives for AusNet over the 2018–22 access arrangement period.

**Table 5.2 AER's final decision on AusNet's standard lives (years)**

Asset class	Standard asset life
Transmission pipelines	60.0
Distribution pipelines	60.0
Service pipes	60.0
Cathodic protection	60.0
Supply regulators/valve stations	50.0
Meters	15.0
SCADA and remote control	15.0
Buildings	40.0
Other - IT	5.0
Other - non IT	5.0
Equity raising costs	55.3

Source: AER analysis.

## 5.2 Assessment approach

We set out our approach to the regulatory depreciation allowance in section 5.3 of our draft decision. We have not changed that approach in this final decision.

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<sup>3</sup> AusNet Services, *Revised Access Arrangement Information - Public*, August 2017, p.3.



**FINAL DECISION**  
**AusNet Services**  
**Gas access arrangement**  
**2018 to 2022**

**Attachment 8 – Corporate**  
**income tax**

November 2017

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## Shortened forms

Shortened form	Extended form
AER	Australian Energy Regulator
capex	Capital expenditure
NGL	National Gas Law
NGR	National Gas Rules
PTRM	Post tax revenue model
RFM	Roll forward model
SCADA	Supervisory control and data acquisition
TAB	Tax asset base

## 8 Corporate income tax

When determining the total revenue for AusNet, we include an estimate of AusNet's cost of corporate income tax.<sup>1</sup> AusNet has adopted the post-tax framework to derive its revenue requirement for the 2018–22 access arrangement period.<sup>2</sup> Under the post-tax framework, a separate corporate income tax allowance is calculated as part of the building blocks assessment.

### 8.1 Final decision

We do not approve AusNet's revised proposed cost of corporate income tax.<sup>3</sup> Our final decision approves an estimated cost of corporate income tax of \$47.1 million (\$ nominal) for AusNet over the 2018–22 access arrangement period. This amount represents an increase of \$1.0 million (\$ nominal) or 2.2 per cent from the \$46.1 million (\$ nominal) in AusNet's revised proposal. This decision reflects our amendments to AusNet's revised proposed inputs for forecasting the cost of corporate income tax, namely, the remaining tax asset lives.

Our adjustments to the return on capital and regulatory depreciation building block costs affect revenues, which in turn impacts the tax calculation.

Our final decision on AusNet's estimated cost of corporate tax allowance for the 2018–22 access arrangement period is set out in Table 8.1.

**Table 8.1 AER's final decision on AusNet's estimate cost of corporate tax allowance for the 2018–22 access arrangement period (\$million, nominal)**

	2018	2019	2020	2021	2022	Total
Tax payable	16.6	11.2	14.1	18.2	18.5	78.5
Less: value of imputation credits	6.7	4.5	5.6	7.3	7.4	31.4
<b>Net corporate income tax allowance</b>	<b>10.0</b>	<b>6.7</b>	<b>8.4</b>	<b>10.9</b>	<b>11.1</b>	<b>47.1</b>

Source: AER analysis.

We approve AusNet's revised proposed opening tax asset base (TAB) value of \$706.8 million (\$ nominal) as at 1 January 2018 for this final decision.

In the draft decision, we identified a required change to AusNet's proposed roll forward of the TAB over the 2013–17 access arrangement period. We amended the opening

<sup>1</sup> NGR, r. 76(c).

<sup>2</sup> AusNet, *Access arrangement information 2018-2022*, December 2016, p. 256.

<sup>3</sup> NGR, r. 87A.

TAB value at 1 January 2013 to correctly account for asset disposals in 2012 of \$1.0 million (\$ nominal). AusNet accepted this amendment in its response to our information request and adopted this in its revised proposal.<sup>4</sup>

We also noted in the draft decision that the proposed capex for 2016 and 2017 were estimates and that AusNet would provide the actual capital expenditure (capex) for 2016 in its revised proposal, and that it may revise the 2017 capex estimate based on more up to date information. AusNet's revised proposal provided these updates to the 2016 and 2017 capex. As discussed in the overview to this final decision, we accept AusNet's capex updates in its revised proposal as conforming capex during the 2013–17 access arrangement period. Therefore, we consider that actual conforming capex has been properly accounted for in the revised proposed TAB roll forward, consistent with the requirements of the NGR.

Table 8.2 sets out our final decision on the roll forward of AusNet's TAB value for the 2013–17 access arrangement period.

**Table 8.2 AER's final decision on AusNet's tax asset base roll forward for the 2013–17 access arrangement period (\$ million, nominal)**

	2013	2014	2015	2016	2017
Opening tax asset base	503.3	541.9	605.5	644.4	670.9
Capex	93.8	119.1	95.7	84.4	95.7
Less: tax depreciation	55.3	55.5	56.8	57.8	59.8
Closing tax asset base	541.9	605.5	644.4	670.9	706.8

Source: AER analysis.

For this final decision and as set out in set out in Table 8.3:

- We confirm our draft decision on AusNet's standard tax asset lives for the 2018–22 access arrangement period.
- We confirm our draft decision on the approach for setting the remaining tax asset lives. In the draft decision, we accepted AusNet's proposal to transition to our standard straight-line depreciation approach to calculate the corporate income tax allowance for the 2018–22 access arrangement period, which required determining remaining tax asset lives for depreciating the opening TAB as at 1 January 2018. We accepted AusNet's proposed method of using the standard tax asset life for the asset class multiplied by the ratio of the capital base remaining asset life to the capital base standard asset life. However, as noted in the draft decision, this final

<sup>4</sup> AusNet, *Email response to IR006*, 8 March 2017; AusNet, *Revised Access Arrangement Information - Roll forward model*, August 2017.

decision updates AusNet's revised proposed remaining tax asset lives reflecting the amendments made to the opening capital base as discussed in attachment 2.<sup>5</sup>

**Table 8.3 AER's final decision on AusNet's standard tax asset lives and remaining tax asset lives as at 1 January 2018 for the 2018–22 access arrangement period (years)**

Tax asset class	Standard tax asset life	Remaining tax asset life as at 1 January 2018
Transmission pipelines	50	17.0
Distribution pipelines	50	27.7
Service pipes	50	32.4
Cathodic protection	50	21.4
Supply regulators/valve stations	40	28.4
Meters	15	9.3
SCADA and remote control	10	6.5
Buildings	35	17.7
Other - IT	4	2.5
Other - non IT	4	3.0
Equity raising costs	5	n/a

Source: AER analysis.

n/a Not applicable.

## 8.2 Assessment approach

Our approach to the corporate income tax allowance is set out in section 8.3 of our draft decision. We have not changed that approach in this final decision.

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<sup>5</sup> The amendments to the opening capital base affect the capital base remaining lives which then affect the tax remaining lives. The change to the year-by-year tracking approach for regulatory depreciation means that the capital base remaining lives are no longer recorded in the PTRM but they are still estimated in the RFM for use in calculating the remaining tax asset lives as at 1 January 2018.



**FINAL DECISION**  
**AusNet Services**  
**Gas access arrangement**  
**2018 to 2022**

**Attachment 14 – Capital**  
**expenditure sharing scheme**

November 2017

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## Shortened forms

Shortened form	Extended form
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
API	Asset performance index
capex	capital expenditure
CCP11	Consumer Challenge Panel, sub-panel 11
CESS	Capital Expenditure Sharing Scheme
CPF	contingent payment factor
NPV	net present value
NSP	Network service provider
WACC	weighted average cost of capital

## 14 Other incentive schemes

### 14.1 Final decision

Our final decision approves the application of a Capital Expenditure Sharing Scheme (CESS) in the 2018–22 access arrangement period.

AusNet initially proposed two incentive schemes to apply for the 2018–22 access arrangement period: a CESS and a Network Innovation Scheme (NIS). In our draft decision we accepted the introduction of a CESS, but did not accept the introduction of a NIS.<sup>1</sup> We also required AusNet to revise its access arrangement by inserting a clause giving effect to the deferral mechanism described in our Capital Expenditure Incentive Guideline for Electricity Network Service Providers.<sup>2</sup>

We have revised the Contingent Payment Factor (CPF) calculation in AusNet's access arrangement to reflect the calculation detailed in Appendix A. We have also refined our methodology for calculating the net financing benefit, which ensures that there is consistent treatment of cash flows in the regulatory framework.

In this attachment we detail the operation of CESS to apply in the 2018–22 access arrangement period. In response to the concerns of our Consumer Challenge Panel (CCP11), this attachment also explains the contingent payment and inefficient deferral mechanisms used to ensure that network businesses are not inappropriately rewarded under the CESS.

### 14.2 AusNet's revised proposal

AusNet's revised proposal accepted our draft decision.

### 14.3 Assessment approach

A full access arrangement may include (or we may require it to include) one or more incentive mechanisms to encourage efficiency in the provision of services by the service provider.<sup>3</sup> Incentive mechanisms may provide for carrying over increments for efficiency gains, or decrements for efficiency losses, from one access arrangement period into the next.<sup>4</sup> An incentive mechanism must be consistent with the revenue and pricing principles.<sup>5</sup>

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<sup>1</sup> AER, *Draft Decision AusNet Services Gas Access Arrangement 2018 to 2022, Attachment 14 - Other incentive schemes*, July 2017, p. 14-5.

<sup>2</sup> AER, *Draft Decision AusNet Services Gas Access Arrangement 2018 to 2022, Attachment 14 - Other incentive schemes*, July 2017, p. 14-16.

<sup>3</sup> NGR, r. 98(1).

<sup>4</sup> NGR, r. 98(2).

<sup>5</sup> NGR, r. 98(3).

We consider the following revenue and pricing principle is most relevant for assessing AusNet's proposed incentives:

A service provider should be provided with effective incentives in order to promote economic efficiency with respect to reference services the service provider provides.

The economic efficiency that should be promoted includes—

- (a) efficient investment in, or in connection with, a pipeline with which the service provider provides reference services; and
- (b) the efficient provision of pipeline services; and
- (c) the efficient use of the pipeline.<sup>6</sup>

Under the NGR we have full discretion in our decision as to whether to approve the introduction of an incentive scheme.

### 14.3.1 Interrelationships

The incentive scheme AusNet proposed relates to various areas of the business covered by the 2018–22 access arrangement.<sup>7</sup> For example, introduction of a CESS would affect the size of the capital base and may alter the balance of investment signals between capital expenditure (capex) and operating expenditure (opex). We aim to incentivise service providers such as AusNet to make efficient decisions on when and what type of expenditure to incur, and to balance expenditure efficiencies with service standards.

## 14.4 Reasons for final decision

As we previously noted in our draft decision, in deciding to implement a CESS we had regard to:

- the potential benefits and risks of the CESS, and
- how AusNet's proposed CESS mitigates these risks.

### 14.4.1 Benefits of a CESS

The benefits of a CESS are that a business would only incur efficient capex by:

- smoothing capex incentives throughout the access arrangement period,
- reducing capital base growth, and
- addressing the imbalance in the incentives applicable to decisions about whether to undertake capex or opex, particularly toward the end of the access arrangement period.

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<sup>6</sup> NGL, s. 24(3).

<sup>7</sup> The efficiency carryover mechanism for opex is a related scheme.

These benefits are described in further detail in our draft decision.<sup>8</sup>

#### 14.4.2 Mitigating risks

While a CESS will increase the incentives for service providers to seek capex savings, they could achieve these savings through reductions in service standards rather than through efficiency gains.

The AEMC noted one potential problem with capex sharing schemes is that it can be difficult to identify whether reductions in capex are from efficiency gains or inefficient deferral.<sup>9</sup> As we noted in our draft decision, capex deferrals have been observed during the operation of past incentive schemes.<sup>10</sup>

We have managed the risk that a CESS may lead to a reduction in service standards with a two-fold approach, by including:

- a contingency for any material reduction in the health of the network, and
- a deferral mechanism in the calculation of the CESS payment.

In its final advice CCP11 noted it had concerns regarding the effectiveness of these provisions. It noted that the capability of the inefficient deferral mechanism is largely untested, and it was not aware of any situations where this process had been applied without the full cooperation of the business concerned. CCP11 further noted that it was particularly concerned that network businesses that fail to deliver approved mains replacement volumes may qualify for CESS benefits. CCP11 advised considering additional safeguards such as a 'volumetric hurdle', whereby CESS benefits would not be achieved if a business failed to reasonably deliver the approved mains replacement volume.<sup>11</sup>

We consider that the contingent payment mechanism (described further below) and inefficient deferral mechanism (described further in Appendix A) will effectively mitigate the risk of a reduction in service standards.

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<sup>8</sup> AER, *Draft Decision AusNet Services Gas Access Arrangement 2018 to 2022, Attachment 14 - Other incentive schemes*, July 2017, p. 14-10.

<sup>9</sup> AEMC, *Final position paper – National electricity amendment (economic regulation of network service providers) Rule 2012 and National gas amendment (price and revenue regulation of gas services) Rule 2012*, 15 November 2012, p. 121.

<sup>10</sup> AER, *Draft Decision AusNet Services Gas Access Arrangement 2018 to 2022, Attachment 14 - Other incentive schemes*, July 2017, p. 14-12.

<sup>11</sup> CCP11, *Response to the AER's Draft Decisions and the Revised Proposals from AGN, AusNet and Multinet for a revenue reset/access arrangement for the period 2018 to 2022*, 12 September 2017.

## Contingent payment mechanism

As noted in our draft decision, AusNet revised its network health measures and proposed to no longer receive a full CESS reward if network health declines.<sup>12</sup>

The contingent payment mechanism is asymmetric—it is designed to offset CESS rewards only where performance reduces from historical outcomes (and not increase the CESS reward if performance improves).

AusNet's asset performance is measured using the Asset Performance Index (API). The API score accounts for customer service outcomes and the number of gas leaks on the network (specific to mains, services and meters). Scores are weighted according to the asset classes represented in AusNet's capital base and investment in the forecast access arrangement period. The API measures are outlined in Table 14.1.<sup>13</sup>

**Table 14.1 How API measures link to capex forecast and RAB assets**

Measure	Capex link	RAB link
Reliability - Unplanned SAIDI	Mains replacement - effects mains condition which influences repair times	All assets
	Augmentation - effects capacity availability and ability to backfeed which influences outage duration	
	Telemetry - effects SCADA which influences response times	
	IT - effects call centre performance and the ability to access customer and network data, which influences timeliness of outage notification and therefore repair times	
Reliability - Unplanned SAIFI	Mains replacement - effects mains condition which influences frequency of failure	All assets, particularly mains, services and meters
	Augmentation - effects capacity availability and ability to backfeed which influences outage frequency	
	Growth capex - effects the physical size of the network	
Leaks - mains	Mains replacement - effects mains condition which influences number of leaks	Mains
	Telemetry - effects SCADA which influences response times	
	Growth capex - effects the physical size of the network	
Leaks - services	Mains replacement - effects mains condition which influences number of leaks	Services
	Growth capex - increases the physical size of the network	
	Meter replacement - influences number of meter leaks	

<sup>12</sup> AER, *Draft Decision AusNet Services Gas Access Arrangement 2018 to 2022, Attachment 14 - Other incentive schemes*, July 2017, p. 14-13.

<sup>13</sup> Full calculation details of the API are provided in Annexure A of AusNet's Access Arrangement.

Measure	Capex link	RAB link
Leaks - meters	Meter replacement - influences number of meter leaks	Meters

Source: AGN, AusNet, *Joint submission on a revised Contingent Capital Expenditure Sharing Scheme for Australian Gas Networks and AusNet Services gas distribution networks for the 2018-22 Access Arrangement period*, 31 March 2017.

# A Operation of the CESS

The CESS provides ex ante incentives for businesses to undertake efficient capex during an access arrangement period. The following sets out how the CESS operates.

## *General application of the scheme*

This section describes how we calculate efficiency gains or efficiency losses, and the method by which efficiency gains or losses are shared between network service providers (NSPs) and network users. This involves four steps:

1. We calculate efficiency gains and losses in net present value (NPV) terms. We do this for each year of the access arrangement period and then the total efficiency gain/loss is calculated for the access arrangement period.
2. We apply a sharing factor to the total efficiency gain/loss to calculate the NSP's share of the gain/loss.
3. We calculate the financing benefits/ costs that accrue through the access arrangement period.
4. We calculate the CESS reward/penalty by subtracting the financing benefit/cost that has accrued from the NSP's share of the total efficiency gain/loss.

We discuss these steps in more detail below. The CESS penalty or reward forms a separate building block for the NSP's revenue allowance in the following access arrangement period.

## *Calculating efficiency gains and losses*

A NSP's allowance is our best estimate of efficient capex. In this way, if the NSP spends less than its capex allowance, we consider this is an efficiency gain for the purpose of applying the CESS. Conversely, if a NSP spends more than its allowance, this counts as an efficiency loss when applying the CESS.

To calculate the annual efficiency gain/loss, we subtract the NSP's actual capex from its capex allowance in each year of the regulatory control period (both net of contributions).

The capex allowance is calculated as our approved allowance (as determined prior to the start of the access arrangement period), plus any adjustments we allow from pass-throughs or reopening of capex.

When calculating the annual efficiency gain/loss we may make further adjustments for deferrals of capex, or where we exclude capex from the capital base after an ex post review.

For the final year (and potentially the penultimate year) of the regulatory control period, we will use an estimate of actual capex.

We will calculate the efficiency gain for year one as:

$$\text{Year 1 efficiency gain} = \text{capex allowance for year 1} - \text{actual capex in year 1}$$

We will discount the efficiency gain from each year into its NPV at the end of the regulatory control period. In doing so we will assume capex occurred in the middle of the year. To calculate the total efficiency gain, we add the annual efficiency gains in NPV terms.

$$\begin{aligned} \text{Total efficiency gain} = & \text{NPV year 1 efficiency gain} + \text{NPV year 2 efficiency gain} \\ & + \text{NPV year 3 efficiency gain} + \text{NPV year 4 efficiency gain} + \text{NPV year 5} \\ & \text{efficiency gain} \end{aligned}$$

The above calculations are represented by the following equation:

$$\text{Total efficiency gain} = \sum_{n=1}^p \frac{1}{(1 + WACC)^{n-p-0.5}} \times (F_n - A_n)$$

Where:

$n$  is the Access Arrangement year;

$WACC$  is the average of the nominal weighted average cost of capital that are applied during each year of the Access Arrangement period;

$p$  is the length of the Access Arrangement period;

$F_n$  is the capex allowance for year  $n$ ;

$A_n$  is the actual capex for year  $n$ .

### ***Applying the sharing factor***

We will apply a sharing factor of 30 per cent to the total efficiency gain/loss. This means that the NSP will bear 30 per cent of any loss and will retain 30 per cent of any gain. The remaining 70 per cent will go to network users.

$$\text{NSP sharing factor} = 30\%$$

$$\text{NSP share} = \text{total efficiency gain} \times 30\%$$

### ***Accounting for benefits and costs already accrued***

To ensure that the power of the incentive is the same in each year of the access arrangement period, the CESS takes into account any benefits or costs that have already accrued to the NSP during the access arrangement period. This is the financing benefit of the underspend or the financing cost of the overspend.

In order to account for any financing benefit, we will apply the following methodology:

- Capital expenditure is assumed to be incurred in the middle of each year. In order to calculate the underspend in NPV terms we will adjust capex to end of year terms.



- The financing benefit will be calculated by multiplying the underspend in NPV terms in a given year by the WACC in the following year. This means the NSP will recover the full benefit of an underspend, or incur a cost of an overspend, in the year that follows that underspend or overspend respectively.<sup>14</sup> This is in contrast with our previous methodology<sup>15</sup>, which assumed that a network business will immediately receive a financing benefits of any capex underspend or cost of overspend in the same year in which the capex is incurred.
- Finally, to put the financing benefits from each year into constant terms, we will apply a discount factor to the benefits from each year. We calculate this discount rate on the basis that financing benefits accrue at the end of each year. We will sum the discounted financing benefits from each year to get a net financing benefit for the regulatory control period. We will calculate this using the following equation:

$$Net\ financing\ benefit = \sum_{n=1}^p \frac{1}{(1 + WACC)^{n-p}} \times year\ n\ financing\ benefit$$

### ***CESS reward or penalty***

To calculate the CESS reward or penalty payable to the NSP, we then subtract the net financing benefit from the NSP's share of the cumulative efficiency gain.

$$CESS\ reward = (NSP\ share - net\ financing\ benefit) \times CPF$$

Where:

CPF is the Contingent Payment Factor calculated as:

If NSP share > net financing benefit, and

- if the asset performance index (API) > 100, = 1

- if 80 < API < 100, CPF = (API – 80) / (100 – 80), and

- if API < 80, CPF = 0, or

If NSP share is ≤ net financing benefit, CPF = 1.

API is the Asset Performance Index calculated in accordance with the NSP's access arrangement.

We will apply this CESS reward (penalty) as an additional building block adjustment to the NSP's revenue over the upcoming access arrangement period.

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<sup>14</sup> We have reviewed our methodology for calculating financing benefit and have revised our approach. See AER, *Framework and approach - Ausgrid, Endeavour Energy and Essential Energy Regulatory Control Period commencing 1 July 2019*, July 2017, p. 71.

<sup>15</sup> AER, *Capital Expenditure Incentive Guideline for Electricity Network Service Providers*, November 2013, p. 8.

### ***Final year adjustment***

Because access arrangements are finalised prior to the end of the current access arrangement period, actual capex for the final year of the access arrangement period will not be available when we calculate the CESS rewards or penalties. Instead, we will use an estimate of capex to calculate the efficiency gains or losses for the final regulatory year.

At the next access arrangement actual capex data will be available for that year. Where a NSP's actual capex differs from the capex estimate used to calculate the CESS, we will make an adjustment to take account for the difference. The adjustment for the final year of the regulatory control period will be:

$$\text{Final year adjustment} = (A_p^* - A_p) \times \left[ \frac{\text{NSP sharing factor} - 1}{(1 + WACC)^{-0.5}} \right] + 1$$

Where:

$A_p^*$  is the estimate of actual capex in the final year of the Access Arrangement Period that has been used to initially calculate the CESS rewards or penalties

$A_p$  is actual capex in the final year of the Access Arrangement Period

We will apply a discount rate to account for the time value of money. This adjustment may also be required for the penultimate year of the access arrangement period where finalised actual capex figures for that year are not available before our access arrangement final decision.

### ***Adjusting for deferral of capex***

In some circumstances, without an adjustment to the CESS, consumers may not share in the benefits where capex is deferred from one access arrangement period to the next access arrangement period. For instance, if a NSP's capex forecast for the next access arrangement period materially increases because capex was deferred in the current access arrangement period, a NSP's reward from deferring capex through the CESS, will likely exceed the benefit to consumers from the deferral.

To help consumers share in the benefits from deferred capex, we will make an adjustment to the CESS payments where a NSP has deferred capex in the current access arrangement period and:

- (a) the amount of the deferred capex in the current access arrangement period is material, and
- (b) the amount of the estimated underspend in capex in the current access arrangement period is material, and
- (c) total approved forecast capex in the next access arrangement period is materially higher than it is likely to have been if a material amount of capex was not deferred in the current access arrangement period.

Where we determine an adjustment will be made, we will reduce the CESS payments an NSP would have otherwise received in the next access arrangement period for capex underspends in the current access arrangement period.

The adjustment is the present value of the estimated marginal increase in forecast capex in the next access arrangement period attributable to capex deferred in the current access arrangement period. We will subtract this estimate from the total efficiency gain which is otherwise calculated in accordance with this appendix.