Submission on Evoenergy Access Arrangement 2026-31 (GN26) – Reference Service Proposal (RSP)

This submission has been prepared by the 5 members of Evoenergy's Energy Regulatory Advisory Panel (ERAP).

ERAP was established in November 2023 to provide independent feedback to Evoenergy to promote the long-term interests of energy consumers in accordance with the National Gas Objective (NGO) and challenge Evoenergy on key issues relating to GN26[1].

This submission sets out our comments on Evoenergy's RSP, which it lodged with the AER on 1 July 2024. It largely replicates feedback we gave to Evoenergy on this proposal. The following sections set out the important context in which these comments were provided.

1. Introduction

The transition from gas to electricity for around 150,000 ACT gas customers over the next 20 years is an energy transition project without precedent in Australia.

> The ACT Government has set a clear direction for the transition away from gas to electricity through to 2045. The ACT Government's first Integrated Energy Plan 2024–30[1] sets the pathway for a phased customer exit from the gas service and subsequent decommissioning of the gas network.
>
> An energy transition of this nature is unprecedented, and while it will bring benefits to the community, the transition also presents technical, economic, and social risks and challenges for Evoenergy and our customers.

Source: Evoenergy RSP, Executive Summary

In summary, we see the incompatibility between the regulatory timetable and the policy cycle as a key risk to achieving the NGO in the ACT and Queanbeyan-Palerang during this transition.

In the context of the ACT Government's roles as both policy maker and Evoenergy shareholder, we have formed a view that the proximity of the 19 October 2024 ACT Election[2] has materially constrained Evoenergy's engagement with ACT energy consumers and with the ACT government on matters relevant to the RSP.

2. Integrated Energy Plan

The ACT Government released a Draft Integrated Energy Plan (IEP) in the second half of 2023. The Listening Reports on the IEP Draft were rich and insightful and set out the myriad, complex challenges. The Listening Reports are recommended reading for all involved[3].The Final IEP published in June 2024 offered the following content directly relevant to the gas network regulatory process:

- "*Next Steps: Develop policy and regulatory frameworks to support safe, efficient and equitable decommissioning of the gas network*" (p17)

[1] More information about ERAP can be found on Evoenergy's website. See for example ERAP operational guidelines here

[2] https://www.elections.act.gov.au/

[3] https://yoursayconversations.act.gov.au/pathway-to-electrification

"… *it is important to investigate whether the current regulatory process is fit-for-purpose and is achieving a balance of safe, efficient, cost effective and equitable outcomes*" (IEP p54)

> **New action**
>
> **Develop policy and regulatory frameworks to support safe, efficient and equitable decommissioning of the gas network**
>
> Given the ACT Government has signalled the eventual shut down of the gas network, it is important to investigate whether the current regulatory process is fit-for-purpose and is achieving a balance of safe, efficient, cost effective and equitable outcomes. A gas meter abolishment policy will be developed in partnership with the AER, Evoenergy and the Utilities Technical Regulator ahead of the AER's consideration of Evoenergy's 2026 Gas Network Access Arrangement. The existing technical and legislative frameworks will be reviewed in partnership with government regulators. This work will feed into broader policy considerations relating to a future gas network decommissioning policy and associated technical codes.

- '*The AER identified that without regulatory certainty and appropriate management by regulators, there is a risk that the impact of declining gas demand will lead to a significant increase in prices to access gas for consumers who remain on the fossil fuel gas network. The ACT Government will work closely with the AER to consider options for how best to apportion future costs*'. (IEP p54)

In the context of the ACT Government intending to "… *investigate whether the current regulatory process is fit for purpose*…", Evoenergy lodging the RSP with the AER on 1 July 2024, a week after the release of the IEP, is too early to reflect any well-informed consumer perspectives for a regulatory period starting on 1 July 2026.

It's also worth noting that the IEP also states *"In 2027 the ACT Government will undertake a mid-point review of IEP1 to assess progress and update the community".*

The ACT will hold an election again in October 2028.

Our experience to date has brought us to the view that forcing such a significant, complex energy transition project into a rigid 5-year regulatory cycle will never be in the long-term interests of consumers.

Our **recommendation to the AER** is to work with Evoenergy and the ACT Government to provide flexibility in the application of the regulatory framework to better align with the policy cycle and consumers' ability to have informed input into the process.

Consideration should be given to derogations from the timetable set out in the National Gas Rules (NGR), shorter regulatory cycles and/or easily triggered re-openers in order to promote the NGO.

3. Feedback on the RSP

With this broader context in mind, we present here our feedback on Evoenergy's RSP. We have no comments and generally support the proposal to have two reference services and the proposal to amend the descriptions of disconnection services. Likewise, we have no specific comments on Evoenergy's preliminary proposal for tariff structures, noting the intention to continue engagement with stakeholders on these and on rebalancing within various customer tariff classes.

The remainder of our feedback is on the proposal in the draft RSP to shift from a price cap to a revenue cap for transport and metering services. We are concerned about the strong preliminary position to move to a revenue cap for the following reasons:

1. ***the difficulties of engaging with consumers on these complex matters at this early stage in the regulatory process, and the need for a provisional position to enable ongoing, iterative engagement.***

   We understand Evoenergy's decision to engage on tariff variation mechanisms (TVM) this early in the process was driven by the AER's final decision in the Review of gas tariff variation mechanisms[4]. Evoenergy has acknowledged in the RSP that the positions proposed by it are preliminary only[5]. However, we think it is important that the AER understand the complexities associated with trying to elicit views from consumers on these complex matters without the information they require to express an informed view.

   Our observations are that early engagement with customers on TVM through the community forum did not reveal clear support for any particular TVM and highlighted the complexity of these matters and questions that remained for customers. In particular, customers requested information on the financial and other impacts that changes to the TVM could have. Providing this information is challenging, given uncertainty in demand and the impacts of other decisions such as how stranding risk and decommissioning costs are dealt with.

   These challenges indicate to us the importance of ongoing and iterative engagement on these issues, and thus the need for provisionality in the RSP. We note that the NGR do not require this to be settled as part of the RSP, which is intended to be a placeholder position, and we question the value of trying to do so at this early stage. Our understanding is that Evoenergy intends to undertake further consultation with consumers once it has the information required to elicit informed views (p.15 of the RSP), thus '*equipping consumers to genuinely guide the development of the regulatory proposal*' as required in the AER's Better Resets Handbook. We feel that a provisional position is important in framing that ongoing engagement and setting out such a strong position risks prejudicing future customer engagement. We understand that Evoenergy's Energy Consumer Reference Council (ECRC) has expressed a similar view[6].

2. ***our concerns about the proposal shifting demand risk onto consumers, and the gaps in awareness and capacity that consumers have to understand those risks and manage them;***

   The period covered by GN26 probably represents the greatest uncertainty to date for the demand for gas, and we are very concerned that a revenue cap will shift that demand risk onto consumers. We are particularly concerned that once customers are aware of this, those who are able to will choose to electrify and leave the gas network,

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[4] See Review of gas distribution network reference tariff variation mechanism and declining block tariffs October 2023 at p. 1

[5] See RSP at p. 32

[6] Ibid. at p. 28

leaving the more vulnerable and harder to shift customers to carry the risk (including stranded asset risk), volatility and higher prices. These customers include those with limited resources to change their demand or electrify; those in rental properties that can't electrify; and those in complex buildings or in small, medium and large business who face particular challenges to electrifying.

Whilst Evoenergy's revenue would be protected under a revenue cap from deviations in forecast demand, customers would bear those risks. ERAP does not agree with the suggestion that "*[u]nder a revenue cap, reliance upon the demand forecast is minimised…*"[7]. Rather, in our view, Evoenergy would need to seek greater accuracy in its demand forecasts to ensure that consumers have the appropriate information to manage the risks they would be exposed to.

A recent proposal by AGN to retain a price cap in South Australia emphasised the importance to consumers of managing price volatility. Likewise, while a revenue cap may remove a theoretical incentive for Evoenergy to increase demand, the resultant price volatility and likely price increases will incentivise customers to leave the network. There does not seem to be a regulatory option that does not influence customer choice over the transition path in some way. This underlines the importance of ongoing engagement in formulating Evoenergy's access arrangement.

Finally, the asymmetric risk referred to in the second dot point on p. 34 of the RSP is not, in our view, a reason to place all the risk onto customers of uncertain demand under the revenue cap. While we understand that this risk was cited by the AER in the final TVM review decision, the same risk can also be said to arise under the revenue cap, because consumers cannot seek a re-opener if prices increase significantly over the period (e.g. if demand is much lower than expected)[8].

3. ***the need to explore the possibility of a hybrid TVM or other tariff design options that could be used to share risks between customers and Evoenergy;***

   Evoenergy raised the issue of hybrid approaches in one community forum and participants expressed an interest in such approaches to share and balance risk. The reasons for not using hybrid approaches raised in the RSP are summarised below, with our reactions.

   - Requirement for new concepts, processes and complexity – while seeking regulatory simplicity is valuable, we feel that it does not outweigh long-term consumer interests and can lead to complexity for consumers in navigating risk and volatility. We are faced with unprecedented challenges that may require new mechanisms. We also note Jemena's recent proposal to employ a hybrid approach in NSW will trigger the further development of these tools.
   - Risks of price instability are managed by robust annual demand forecast updates – it is unclear how these updates can shield customers from price volatility associated with customers leaving the network more rapidly than forecast.
   - A hybrid approach like a price cap places demand risk with Evoenergy, which may not be able to manage these risks and recover efficient costs - this could equally be said of customers, who have even less capacity to manage these risks and

[7] See RSP at p. 34

[8] We would also observe that the asymmetric risk associated with a price cap could be addressed by Evoenergy including a trigger mechanism in its access arrangement (under rule 51 of the NGR) that would allow the access arrangement to be re-opened if demand exceeds forecasts by an agreed amount. However, this has not been employed to date

cover costs. Importantly, under a hybrid approach these risks would be shared between Evoenergy and customers and not borne solely by Evoenergy.

- A hybrid approach may create adverse incentives for Evoenergy to try and increase demand - we expect that any adverse incentives will be constrained by the policy environment.

Evoenergy has not yet sought reactions from customers on these detailed arguments. We recognise the considerable uncertainty that **both Evoenergy and its customers** are facing in GN26. Given the shared nature of this risk, we believe that the various TVMs should by further explored in ongoing engagement with consumers, as new information becomes available for participants to express informed views on these approaches. Jemena's recent proposal to employ a hybrid approach in NSW provides an example that could inform these discussions.

4. ***the interaction between energy regulatory decisions and ACT government policy developments.***

The proposed shift to a revenue cap could accelerate the need for the ACT Government to develop plans for hard to abate customers, including initiatives to support electrification of complex buildings and businesses, and complementary measures and other financial supports for vulnerable and low income customers. The ACT Government has flagged several initiatives, including providing limited support for vulnerable customers during the consumer led phase of its 2024-2030 IEP[9].

There are strong interactions between the energy regulatory decision cycles for Evoenergy and roll-out of the ACT IEP. The ACT election later this year seems to be creating a cautious environment for future planning. We believe this creates an imperative for regulatory decision making to adopt a cautious and iterative approach, which does not close off options for dealing with the challenges of transition out to 2045.

We also note that explicit consideration has not yet been given to the impact of regulatory changes on NSW consumers, who are not subject to the ACT Government's policy. We feel that explicit consideration and engagement is needed to deal with the long-term needs and interests of these customers as the ACT moves ahead with electrification.

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9th August 2024

[9] See 2024-2030 The Integrated Energy Plan published on 20 June 2024 which includes limited support for hard to abate customers between 2024-2030