

Final decision

AusNet Gas Services
Gas distribution access arrangement
1 July 2023 to 30 June 2028

Attachment 11 – Non tariff components

June 2023

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11 Non tariff components

This attachment sets out our final decision on the following non-tariff components of AusNet’s proposed access arrangement for the 2023–28 access arrangement period:

- queuing requirements – a process or mechanism for establishing an order of priority between prospective users of spare and/or developable capacity
- extension and expansion requirements – the method for determining whether an extension or expansion is 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 receipt and delivery points
- change of receipt or delivery point by the user – the process or mechanism for changing a user’s receipt or delivery point
- the terms and conditions for the supply of reference services
- a review submission date and revision commencement date for the next access arrangement period.

11.1 Final decision

As in our draft decision, our final decision approves the majority of the non-tariff components of AusNet’s proposed access arrangement for the 2023–28 period, including:

- proposed queuing¹, extension and expansion², and capacity trading requirements³
- the proposed approach to changing users’ receipt or delivery points⁴
- the proposed review submission date (the date by which AusNet must submit its next access arrangement proposal) of 1 June 2027⁵
- the proposed revision commencement date (the date on which AusNet’s next access arrangement period will commence) of 1 July 2028.⁶

In response to stakeholder submissions, our draft decision set out a small number of elements of the terms and conditions set out in Part C of AusNet’s proposed access arrangement that required revision. AusNet’s revised proposal has now addressed the required amendments.

We also required more substantive revisions to AusNet’s proposed retailer credit support requirements. Our draft decision required AusNet to consider and put forward an alternative to its current credit support framework, to re-balance the risk of a retailer failing to pay

¹ NGR, rr. 68D.

² NGR, rr. 48(1)(g), 68E.

³ NGR, rr. 48(1)(f), 68F.

⁴ NGR, rr. 48(1)(h), 68G.

⁵ NGR, rr. 48(1)(i), 49.

⁶ NGR, rr. 48(1)(i), 49.

AusNet’s charges between AusNet, retailers and customers. In its revised proposal, AusNet proposed amendments to its access arrangement with a view to replicating the credit support model in Part 21 of the National Gas Rules (NGR), which applies to retailers and gas distributors in other jurisdictions. Our final decision accepts these revisions, with a small number of drafting refinements we have discussed with AusNet to achieve the intended alignment more clearly. We discuss this further below.

We have also accepted AusNet’s minor revisions to its proposed access arrangement to give effect to the *National Gas Amendment (Declared Wholesale Gas Market (DWGM) Distribution connected facilities) Rule 2022* when it commences on 1 May 2024.

11.2 Reasons for final decision

Our final decision to accept AusNet’s proposed queuing, extension and expansion, and capacity trading requirements, its proposed approach to changing users’ receipt or delivery points, and its proposed review submission and revision commencement dates, is consistent with our draft decision. These elements of the proposed access arrangement are, with the exception of the transition of access arrangement periods from calendar year to financial year cycles required by the *National Gas (Victoria) Act 2008*, substantively unchanged from those approved for the current, 2018–22 period. We received no submissions on these elements of the proposed access arrangement. For the reasons already set out in our draft decision, we remain satisfied that they meet the requirements of the NGR and the National Gas Law (NGL).⁷

Our draft decision recognised that the *National Gas Amendment (DWGM Distribution connected facilities) Rule 2022*, which was not made in time for AusNet’s initial proposal, will come into effect on 1 May 2024.⁸ That rule identified a number of things that are to be addressed, or managed, in accordance with the terms and conditions of a distributor’s access arrangement. We have accepted the minor revisions AusNet’s revised proposal made to its proposed access arrangement, which are largely to update definitions to more clearly capture the new rule.⁹ We received no submissions on this aspect of our draft decision or AusNet’s revised proposal.

11.2.1 Terms and conditions

Our draft decision also set out a small number of elements of the terms and conditions set out in Part C of AusNet’s proposed access arrangement around customer data that required revision. We are satisfied that AusNet has now addressed the required amendments in its revised proposal:

⁷ AER - *AusNet 2023-28 - Draft Decision - Attachment 11 - Non-tariff components* - December 2022, sections 11.2-11.4, 11.6.

⁸ AER - *AusNet 2023-28 - Draft Decision - Attachment 11 - Non-tariff components* - December 2022, pp. 1-2.

⁹ Revisions proposed and accepted in this final decision are largely to definitions and can be found in mark-ups to definitions of ‘gas’ and ‘Specification’ Part A, Schedule 2 of the access arrangement and to clauses 4.4(b) and (c), 4.9(a), (c), (d) and (e). See ASG - *Revised proposal - Access Arrangement 2024–28 - Part A - Tracked* - 24 January 2023.

Table 11.1 AusNet’s response to revisions required by the draft decision

Required revision	Revised proposal
<p>Access Arrangement Part C, clause 1.1 – Definitions</p> <p>Replace the reference to “the National Electricity Law or the National Electricity Rules” with “the National Gas Law or the National Gas Rules”.</p>	<p>Clause 1.1 now correctly refers to the National Gas Law and Rules.</p>
<p>Access Arrangement Part A, S2.1 - Definitions</p> <p>Amend the definition of “Gas Leaks and Emergency Calls Protocol to refer to a website on which it can be reliably located throughout the access arrangement period.</p>	<p>Part A, Schedule 2 and Part C, clauses 9.1 and 9.2 now refer to, and adopt terminology and criteria consistent with, AEMO’s Gas Interface Protocol (Victoria).</p>
<p>Access Arrangement Part C, clause 9.4</p> <p>Review and amend proposed clause 9.4:</p> <ul style="list-style-type: none"> to cross reference information requirements for life support customers to the Gas Retail Market System’s B2B procedures and to the energy retailer code of practice to make clearer that the requirements in clause 9.4 apply ‘except to the extent the details have already been provided by the User to the Service Provider’ to update clause 9.4(b)(3) to retain a 1 month timeframe requirement for being notified of a change in customer details (via the gas B2B transactions) <p>to make clearer where requirements apply only where information is available to the retailer.</p>	<p>Part C, clause 9.4 now includes these clarifications.</p>

Source: AER - *AusNet 2023-28 - Draft Decision - Attachment 11 - Non-tariff components* – December 2022, p. 9; ASG - *Access Arrangement - Part A - RAAP - Tracked - 24 January 2023*; ASG - *Access Arrangement - Part C - RAAP - Tracked - 24 January 2023*; ASG – *GAAR 2024-28 – Appendix 3 – Response to changes required to the AA – 24 January 2023*.

We received no further submissions on these elements of the access arrangement proposal. We remain satisfied that, with these revisions, these elements of the terms and conditions now meet the requirements of the NGR. For the reasons already set out in our draft decision, our final decision is to accept them.¹⁰

We required more substantial revisions to AusNet’s proposed retailer credit support requirements.¹¹ Our draft decision recognised concerns raised by retailers that AusNet’s

¹⁰ AER - *AusNet 2023-28 - Draft Decision - Attachment 11 - Non-tariff components* - December 2022, sections 11.5.1-11.5.2, 11.7.

¹¹ AER - *AusNet 2023-28 - Draft Decision - Attachment 11 - Non-tariff components* - December 2022, sections 11.5.3, 11.7.

current credit support requirements were more onerous than those applied by gas distributors in other jurisdictions, and also more onerous than those applied by AusNet's electricity distribution business. We considered an alternative, more proportionate form of protection that manages the risks unpaid distribution charges pose for AusNet at a lower upfront cost to retailers (and therefore to consumers) was likely to sit better with the National Gas Objective (NGO)¹², and better balance the competing interests of the service provider, network users and consumers in allocating that risk.¹³

We therefore required AusNet to consider and put forward an alternative credit support framework. We specified that the alternative—which could be based on Part 21 of the NGR, the credit support arrangements that apply to electricity distributors in Victoria, or another model—was to seek to re-balance risk between AusNet, retailers and customers by exploring ways to reduce the cost of pre-emptive, up-front risk management and balancing this with ex post recovery only where the risk is realised.¹⁴

In its revised proposal, AusNet put forward amendments to Part C, clause 7.8 of its access arrangement with a view to replicating the model in Part 21 of the NGR, which applies to retailers and gas distributors in other jurisdictions. Our final decision accepts this approach, which was the option most preferred by retailers in submissions on AusNet's initial proposal¹⁵ and was also supported in AGL's submission on our draft decision and AusNet's revised proposal.¹⁶

We have, however, made a small number of additional drafting changes after discussions with AusNet. These revisions are listed in Table 11.2 below, and marked up in the approved access arrangement published with this final decision:

- To add a definition of 'credit support' to the access arrangement, given frequent use of the term throughout the access arrangement and its importance to agreements between AusNet and retailers.
- We have removed redundant language from clause 7.8(b)(1) addressing circumstances in which an agreement between AusNet and a retailer has been in place for less than 12 months. The clause makes clear that criteria for the requirement of credit support can be met at any stage within the 12-month period (e.g. so that if 2 consecutive invoices are not paid within 6 months, that being a period that is within 12 months, the credit support requirements are triggered).
- To directly align circumstances in which credit support can be required of a retailer with those in Part 21 of the NGR, we have amended clause 7.8(b)(1)(C) so that credit

¹² We are required to do this under NGR, r. 68B(1)(a). The National Gas Objective is set out in NGL, s. 23.

¹³ We are required to have regard to these arrangements under NGR, r. 68B(2).

¹⁴ AER - *AusNet 2023-28 - Draft Decision - Attachment 11 - Non-tariff components* - December 2022, section 11.7

¹⁵ Simply Energy - *Victorian gas distribution access arrangement proposals 2023-28* - October 2022, p. 1; Sumo, 1st Energy and Energy Locals - *Victorian gas distributor access arrangements 2023-28* - September 2022, p. 2.

¹⁶ AGL - *Victorian Gas Distribution Access Arrangements 2023 - 2028: Draft Decisions and Revised Proposals* - February 2023, p. 2.

support can be required if 1 invoice has not been paid within 15 *business* days of the due date, rather than 15 calendar days in AusNet’s revised proposal.

We have made other, less substantive changes to AusNet’s proposed drafting so that language is consistent with Part 21 and less likely to raise unintended issues of alternative interpretations.

Table 11.2 – AER’s final decision revisions to retailer credit support requirements

Clause	Required revision
Part A, Schedule 2, clause A.1	Add the following definition: <u>Credit support means an amount requested by the Service Provider in accordance with clause 7.8 or 7.9 of Part C (as applicable) and which may, subject to those clauses (as applicable) and without limitation, take the form of a financial guarantee, undertaking or cash deposit.</u>
Part C, clause 7.8(b)	(b) The Service Provider may only require the User to procure <u>provide</u> credit support if, at the time of the request: (1) 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) 3 invoices within the required time limit for payment; or (B) 2 consecutive invoices within the required time limit for payment; or (C) 1 invoice within 15 calendar <u>business</u> days of the due date; or (2) 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.
Part C, clause 7.8(c)	(c) The Service Provider may only require the User to provide credit support up to an amount equal to the Charges contained in the most recent invoice that gave rise to the requirement for the User to provide credit support <u>under clause 7.8(b)</u> .

With these final revisions, we are satisfied that the revised retailer credit support requirements are consistent with the requirements of the NGL and NGR for the non-tariff terms and conditions of an access arrangement and will better serve the NGO than those that have applied in the current period. We are also satisfied that they are an appropriate complement to the related revisions to the retailer insolvency event we discuss in Attachment 10 to this final decision.

Glossary

Term	Definition
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AusNet	AusNet Gas Services Limited
DWGM	Declared Wholesale Gas Market
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules