Pipeline information disclosure guidelines and Price reporting guidelines for Part 18A facilities

Draft guidelines – Explanatory note

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AUSTRALIAN ENERGY REGULATOR

Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601
Tel: 1300 585 165

Email: AERInquiry@aer.gov.au

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Shortened forms

Term	Definition
AER	Australian Energy Regulator
Guidelines	draft pipeline information disclosure guidelines and, where relevant, the draft price reporting guidelines
NGR	National Gas Rules
service provider	gas pipeline service provider
users	current and prospective gas pipeline users and, where relevant, current and prospective users of a Part 18A facility

1 Introduction

The Australian Energy Regulator (AER) exists to ensure energy consumers are better off, now and in the future. We are the economic regulator for electricity and gas networks in every state and territory in Australia except Western Australia. We regulate electricity networks under the National Electricity Law and National Electricity Rules (NER) and natural gas pipelines under the National Gas Law and the National Gas Rules (NGR).

1.1 About this document

This explanatory note accompanies the AER's draft pipeline information disclosure guidelines (Guidelines). These Guidelines are a requirement under Part 10 of the NGR and will help to improve transparency and bargaining power for current and prospective gas pipeline users (users). Broadly, the Guidelines:

- detail the financial and historical demand information gas pipeline service providers (service providers) must publish including information on the methods, principles and inputs used to calculate asset values, depreciation, allocation of costs and the return on capital
- specify the information that a service provider must report on as to the methodology used to calculate standing prices
- specify the level of detail of information required to enable users to negotiate on an informed basis with service providers
- specify where and how information a service provider is required to publish on their website.

Included in the Guidelines are the draft price reporting guidelines for service providers of a Part 18A facility. The price reporting guidelines:

- specify the information that a service provider must report on as to the methodology used to calculate standing prices
- specify the actual prices payable information that a service provider must report on
- specify where and how information a service provider is required to publish on their website.

This Explanatory Note summarises the issues raised by stakeholders in our consultation process on the issues paper to the Guidelines. We provide our response to these issues, including noting where our position has changed from the issues paper and providing an explanation where our position is different from those expressed by stakeholders.

Stakeholders have further opportunities to provide feedback during the consultation period on the draft Guidelines as we work to finalise the Guidelines. Written submissions regarding these draft Guidelines and related templates close on **23 August 2023**. We will also host a stakeholder workshop on **15 August 2023** to provide stakeholders with an opportunity to discuss any issues on the Guidelines and templates. Details on how to make a submission and attend the workshop are set out at page 1 of the draft Guidelines.

1.2 Role of the Guidelines

On 31 March 2022, Energy Ministers agreed to the final package of changes to the legal and regulatory framework required to give effect to the reforms to the gas pipeline regulatory framework. These reforms were implemented to provide a simpler and more effective regulatory framework that will continue to support efficient use of and investment in gas pipelines.

The reforms introduced a prescribed transparency regime under Part 10 of the NGR. Similar reporting regimes previously applied to non-scheme pipelines under the former Part 23 of the NGR, and to light regulation pipelines under the former Part 7 of the NGR.

Part 10 of the NGR sets out information that service providers must publish on their websites. This includes details of the pipeline services offered, the historical demand for the services, actual prices payable, and costs and revenues associated with each pipeline service.

Information published by service providers under Part 10 will help users assess the reasonableness of offers. This information will reduce information asymmetry, which will facilitate more timely and effective negotiations between service providers and users.

1.3 Consultation process

To ensure a comprehensive and inclusive approach, the AER undertook the following consultation activities.

On 5 April 2023 we held an introductory forum on the gas pipeline reforms, including an overview of the work that the AER will progress over the coming months. The forum, attended by around 100 participants, served as an opportunity for stakeholders to engage and gain insights into the Guidelines. The interactive discussion facilitated a valuable exchange of perspectives and ideas among industry stakeholders.

We published an issues paper on 6 April 2023 and invited stakeholders to provide feedback on various questions related to the Guidelines. The issues paper discussed our preliminary views on a number of matters. We encouraged stakeholders to provide submissions based on their expertise and experience.

The AER appreciates the active involvement and contributions of stakeholders throughout this consultation process, as their insights have been valuable in shaping the Guidelines.

We received submissions on our issues paper from the following stakeholders:

- Alinta Group
- APA Group
- AusNet Services
- Australian Gas Infrastructure Group
- Australian Pacific LNG
- Australian Pipelines and Gas Association

- Energy Users Association of Australia
- Epic Energy (SA) Pty Ltd
- Evoenergy
- Jemena
- Tasmanian Gas Networks.

The submissions are publicly available on our website.

We also received correspondence from three users as part of the consultation process. The information received is not public and we have not provided the feedback in this Explanatory Note. However, we have considered the feedback as we developed the Guidelines.

A summary of the submissions received in response to our issues paper, and our response, are detailed in Section 2 and summarised below.

1.4 Summary of Positions

Since the release of the issues paper, we have considered stakeholders' submissions and met with stakeholders to better understand their views. In reaching our positions in the draft Guidelines, we have sought to balance several factors including appropriate flexibility, cost of administration for pipelines and providing clear, consistent and accurate information to users.

Key issues

This summary outlines issues raised by stakeholders in their submissions and the positions we have taken in the Guidelines.

Table 1.1 Key issues raised by stakeholders and summary of AER position

	Issue	Position
1	Stakeholders raised concerns about providing forecasts for planned pipeline expansion and extension projects, including forecasting uncertainty and confidentiality concerns	The Guidelines will require service providers to report on planned projects only after they have reached the final investment decision stage
2	Stakeholders noted difficulties in calculating actual tax relating to a specific pipeline where it operated within a group structure, or historical tax prior to the service provider taking ownership of the pipeline	The Guidelines will allow service providers to estimate actual net tax liabilities, including using a tax benchmark that is a best estimate of net tax liabilities actually incurred by the service provider
3	Stakeholders highlighted that decommissioning costs were legitimate expenses that service providers must account for	The Guidelines will allow service providers to include decommissioning costs in the cost base, which must be accompanied with details of the methodology used and other supporting information
4	Stakeholders raised concerns about accessing some historical data for asset valuation, including construction cost of the pipeline	The Guidelines will allow service providers to estimate historical costs, after having taken all reasonable steps to identify actual costs.
5	Stakeholders raised issues with our proposal to prescribe a methodology for rate of return, noting that some elements (such as cost of debt) apply to the group level and are not appropriate at the pipeline level	The Guidelines require service providers to use the same methodology set out in the issues paper (with the exception of changes to the market risk premium estimate), as we consider that it provides sufficient flexibility, and that group level information is relevant to the actual costs incurred by the

	Issue	Position
		service provider in providing pipeline services on the pipeline.

More detailed explanation is given in Section 2.

1.5 Supporting templates

Feedback during the Government's consultation, *Improving gas pipeline regulation*, noted the need to make the information disclosed by service providers accessible and usable by the users of pipelines and Part 18A facilities.

The requirement for service providers to use standardised templates is one way that we have improved the usability of the information published under Part 10 and Part 18A of the NGR. These templates will allow users to compare different service providers across multiple metrics.

The AER seeks feedback from users on the useability of the information set out in the Guidelines, including the templates that service providers must publish for Part 10 financial information and Part 18A actual prices payable information.

The AER also seeks feedback from service providers on whether there are any improvements that can be made to the draft Guidelines or templates without compromising users' ability to access and use information.

Part 10 financial reporting template

Gas pipeline service providers must use the Part 10 financial reporting template to publish pipeline information, financial information, asset values and historical demand information. The template will be familiar to service providers that have previously completed financial templates under the former Part 7 or Part 23 of the NGR. Key changes to these templates are:

- a greater requirement to allocate revenues, costs and assets to pipeline services
  - this approach will provide more meaningful financial information to users and facilitates the calculation of cost-based pricing benchmarks in the pricing template
- the removal of weighted average price information and the addition of historical demand information, as required under Part 10 of the NGR.

Pricing template

The AER is required to publish a pricing template under rule 103A of the NGR. We have integrated this template into the Part 10 financial reporting template to minimise any need by users or service providers to enter or manipulate the data.

The template provides for two benchmarks for each pipeline service. They are intended to reflect a range of reasonable prices based on a pipeline's costs, revenues and depreciated asset value. The benchmarks are calculated by deriving minimum and maximum values for fixed operating costs, return of capital and return on capital using different methodologies and asset valuation methods. The approach reflects that taken by Brattle Group in its report on information disclosed by gas pipeline service providers under Part 23 of the NGR.[1]

Basis of preparation template

The draft pipeline information disclosure guidelines require service providers to complete a new standardised basis of preparation template. This template is formatted to align closely with, and complement, the Part 10 financial reporting template. The basis of preparation template will allow users to more easily access relevant information and assist the AER monitor compliance with the Guidelines, while still giving service providers flexibility to provide details in accordance with their particular circumstances.

Actual prices payable template

Service providers of a Part 18A facility must use the actual prices payable template to publish information required under rule 198G of the NGR. The use of a template for actual prices payable information will allow users to quickly compute and compare the total price that would be payable under similar terms offered to other users and by other Part 18A service providers.

1.6 Asset valuation methods

Depreciated book value method

Consistent with the financial templates required under the former Part 7 or Part 23 of the NGR, we require service providers of non-scheme pipelines to publish asset values using the depreciated book value method. This method provides an alternative to the recovered capital method that the NGR require service providers to publish, the key differences being how depreciation is derived and the allowance of acquisition cost under the depreciated book value method.

Recovered capital method and alternative asset valuation methods

The NGR stipulate that the Guidelines provide for service providers of non-scheme pipelines to publish asset values using the recovered capital method, or an alternative method if the recovered capital method is inconsistent with the asset valuation objective.[2] This method requires that initial asset values are based on the historical construction cost. Depreciation is derived from the return of capital calculation, which is in essence pipeline revenue less operating costs, an appropriate return on capital and net tax liabilities.

In some circumstances, the recovered capital method may be inconsistent with the asset valuation objective. For example, if the pipeline is sold for a price that is below the recovered capital value, then a lower valuation may be appropriate (i.e. because the asset value has been written down with the prior shareholders bearing the cost of the write down). Where a

[1] Brattle Group, *Financial Information Disclosed by Gas Pipelines in Australia under Part 23 of the National Gas Rules*, October 2019.

[2] The asset valuation objective is set out in NGR, r. 113Z(5)(a) and is: the value of any assets used in the provision of the pipeline service must be determined using asset valuation techniques consistent with the objective of facilitating access to pipeline services provided by means of non-scheme pipelines on reasonable terms, which is taken to mean at prices and on other terms and conditions that, so far as practicable, reflect the outcomes of a workably competitive market.

service provider determines that an asset valuation using the recovered capital method is inconsistent with the asset valuation objective, it must use an alternative asset valuation method that is consistent with the asset valuation objective.

We consider that an appropriate alternative asset valuation method would broadly reflect the approach that would apply if the pipeline was fully regulated and be based on the lesser of the historical construction cost (or an estimate) or the acquisition cost. We do not consider that a depreciated replacement cost of the asset is appropriate to set the initial capital base.

2 AER response to submissions to the issues paper

Our consideration of issues raised by stakeholders in submissions to the issues paper are set out in the table below.

	Issue	Submission	Comment	AER response
1	Asset valuation Historical data	Jemena Australian Gas Infrastructure Group Australian Pipelines and Gas Association APA Group	Implementing the recovered capital method for pipelines that are more than a decade old may be problematic. Allow ‘back cast’ historical information if construction cost unavailable.	We acknowledge the difficulties in providing historical data and note that the Guidelines account for situations where service providers encounter difficulties in accessing information on past capital costs, and in estimating historical cost of capital figures. If, after having taken all reasonable steps, a service provider is unable to obtain the construction cost, it must use an estimate of the construction cost. Back casting is permitted if the service provider deems this method to provide the best estimate in the circumstances, consistent with the access information standard (rule 101 of the NGR). We still require that these estimates be subject to assurance. However, the NGR require service providers of non-scheme pipelines to determine the value of assets using the recovered capital method where it is consistent with the asset valuation objective under rule 113Z(5)(a) of the NGR.
2	Asset valuation Rate of return	APA Group Epic Energy Jemena	Debt is raised at a consolidated group level, therefore cannot identify the cost of debt or capital structure for a pipeline. Inappropriate to apply a gamma value since imputation credits do not provide value or cash-flow to the service providers. Rate of return parameters should be set as guidance only, and not	We acknowledge the difficulties in providing information on a pipeline basis and the Guidelines provide some flexibility. Service providers must provide the best gearing ratio estimate in the circumstances, consistent with the access information standard (rule 101 of the NGR). This may include the gearing ratio from the AER’s rate of the return instrument current at the end of the financial year being reported. Where a pipeline is financed using debt raised at the consolidated group level, we consider that the business cost of debt and gearing ratio to be those applicable to that pipeline. This is because the Guidelines are intended to

	Issue	Submission	Comment	AER response
			binding in the event of an access dispute. Concerns that rate of return parameters for scheme pipelines may not be appropriate for non-scheme pipelines. The AER's rate of return instrument does not accurately reflect the actual risk-free rate averaging period for service providers.	facilitate transparency to users, by revealing to the extent practicable the actual costs incurred by the pipeline. We consider that it is appropriate to apply a gamma value, because the service provider, in whatever legal form it exists, operates for the profit of its investors and imputation credit benefits to its investors are a tangible return of value to these investors. In accordance with rule 101D of the NGR, an adjudicator, in making an access determination, is not bound by the information or by any methods, principles or inputs that have been used to calculate information published under rule 101D of the NGR, including the rate of return parameters. The Guidelines are intended to enable users to negotiate with pipelines on an informed basis. One of the ways in which the Guidelines achieves this is by reducing search and transaction costs of the negotiation process. As such, our position that service providers must use the Sharpe-Linter capital asset pricing model and follow a similar approach to that set out in the AER's rate of return instrument is to promote a consistent approach when calculating the return on capital between different pipelines. In doing so, the rate of return parameters can more clearly convey the differences in systematic risk between pipelines and over time. This transparency is in keeping with the objectives of the Guidelines, and better enables users to negotiate with pipelines on an informed basis. For the draft Guidelines, we have updated our requirements for historical estimates of the market risk premium. The new approach allows service providers to select a more fit-for-purpose estimate based on the circumstances for the year for which the estimate relates.

	Issue	Submission	Comment	AER response
3	Asset valuation Rate of return	Energy Users Association of Australia	Suggest that when the service provider moves away from the WACC calculation, they should be required to publish the variable and the methodology used to calculate that variable	Our position is that service providers of non-scheme pipelines must use the Sharpe-Lintner capital asset pricing model, following a similar approach to that set out in the AER's rate of return instrument. Service providers must demonstrate how they arrived at the parameter values, including providing all relevant models and calculations in their basis of preparation.
4	Asset valuation Opening asset values	APA Group Epic Energy	Non-scheme pipelines that were previously under full regulation should be allowed to roll forward the historical regulated asset values.	Where a non-scheme pipeline was previously under full regulation and a determination made on the asset values, the service provider may use the closing regulatory asset base as the opening asset value balance for the calculation under the depreciated book value method and rolled forward using the depreciated book value method as outlined in the Guidelines. Under the recovered book value method, the NGR requires non-scheme service providers to set the opening asset value using the construction cost of the pipeline. If a service provider uses an alternative asset valuation method, the Guidelines require the service provider to use best endeavours to use the construction cost or an estimate of the construction cost, where it is consistent with the asset valuation objective under rule 113Z(5)(a) of the NGR.
5	Asset valuation Reconciliation	Jemena APA Group Epic Energy (SA) Pty Ltd	Reconciliation should be at an aggregated (pipeline) level. It is unclear how to reconcile values under the depreciated book value method and the recovered capital method.	For clarity, the purpose of this reconciliation process is to help users understand the differences between asset valuation methods. High-level responses will be sufficient in most circumstances. Quantitative reconciliation is required only for values common between asset valuation methods, such as capex and disposals. Reconciliation may be at the aggregated (pipeline) level.

	Issue	Submission	Comment	AER response
				This approach will minimise queries by the AER to service providers during quality assurance and monitoring processes.
6	Asset valuation Tax liabilities	Australian Pipelines and Gas Association APA Group Jemena Australian Gas Infrastructure Group	Tax liabilities are incurred at the consolidated group level and may not be reasonably allocated to the pipeline. Recovered capital method value ignores intangible assets, whereas these costs are included in net tax liabilities. The practical constraints of recreating historical tax information should be considered when determining reporting requirements. A comprehensive assessment of tax incentives should be undertaken before making any determinations regarding the allocation of tax liabilities among pipelines.	We acknowledge the difficulties in identifying or apportioning tax to individual pipelines in some circumstances. We also acknowledge that the recovered capital method may be incompatible with actual tax liabilities that include intangible assets. However, it is important that users have visibility of the actual costs of the pipeline services so that they can access usable and transparent information to negotiate on an informed basis. Service providers are strongly encouraged to use actual net tax liabilities, or if this cannot be determined, an estimate of the actual net tax liabilities. If a service provider uses an estimate, it must explain why it is the best estimate of net tax liabilities actually incurred (after accounting for tax liability on intangible assets).
7	Asset life principles	Epic Energy (SA) Pty Ltd APA Group Australian Gas Infrastructure Group Jemena	Aligning with AASB will result in simpler and more efficient disclosure of information for service providers. Costs should be recovered over the lifespan of an asset to mitigate potential impacts on tariffs or intergenerational issues.	The Guidelines allow for service providers to adopt the standard service lives set out in Appendix B of the Guidelines, or to adopt alternative asset lives if considered appropriate, for example where an accelerated depreciation schedule is prudent. We do not require service providers to adopt a weighted average remaining useful life approach for non-scheme pipelines, which was an option raised in the issues paper.

	Issue	Submission	Comment	AER response
8	Decommissioning costs	Epic Energy APA Group Australian Pipelines and Gas Association	Excluding these costs would make financial information less consistent with GAAP.	We have amended our position since the issues paper. We will allow service providers to include decommissioning costs in the cost base. Service providers must provide the methodology and other information to support the estimate.
9	Expansions and extensions	APA Group Australian Gas Infrastructure Group Australian Pipelines and Gas Association Jemena	Clarity needed about when the AER intends for forecast expansions and extensions to be reported, and concerns about disclosing information that is commercial in confidence.	We note stakeholder concerns on publishing forecast expansion costs, and in particular the commercial in confidence nature of pipeline expansion projects until the final investment decision is made. As such, we have amended our position to require service providers to report all planned pipeline expansions or extension projects that have reached a final investment decision to proceed with the project. We consider that this requirement provides useful information to users, a reliable estimate of expected costs and avoids the risk of publishing commercially sensitive information.
10	Historical demand	APA Group	When data is already provided by respected sources, such as the AEMO Gas Bulletin Board (GBB), linking to that data should be considered sufficient to meet the Guidelines.	In accordance with rule 101A(3)(b) of the NGR, a service provider may, where the information is also required to be provided by the service provider to AEMO for publication on a Gas Bulletin Board, comply with the historical demand requirement by providing a publicly available link on its website to the part of the Gas Bulletin Board where the information is located.

	Issue	Submission	Comment	AER response
11	Pipeline services	APA Group	Features such as flexibility and imbalance allowances are inherent aspects of the service and do not have separate pricing arrangements.	The Guidelines and financial reporting template require a breakdown of pipeline services similar to those required under the Part 23 guidelines. The breakdown does not disaggregate services into features such as flexibility and imbalance allowances. We are happy to receive feedback on the appropriateness of the pipeline service categories specified. To avoid doubt, service providers must detail features such as flexibility and imbalance allowances, where relevant, in the standing terms and actual prices payable information.
12	Forecast capacity	APA Group	Concerns with providing specific forecasts for each service.	The outlook of the firm capacity of the pipeline that the service provider has available for sale or that it will have available is required under rule 101B(5) and is not required to be disaggregated by pipeline service.
13	Cost allocation	Epic Energy (SA) Pty Ltd APA Group Jemena	Prescribed cost allocation requirements should not apply to scheme pipelines, as the allocation of costs to services will have been reviewed and approved by the AER through the access arrangement process. Requiring the same cost allocation methodology across different pipelines with different physical characteristics and in different markets is problematic. Clarify if ‘allocation of costs between pipeline services’ means the allocation of costs to the types of pipeline service published by the	The Guidelines require service providers of a scheme pipeline to, as far as practicable, use the same allocation methodology adopted under the access arrangement. If the service provider owns more than one pipeline, the same allocation methodology should be used for each pipeline. If the service provider uses more than one allocation methodology it must detail the reasons for this in the basis of preparation for each pipeline. Importantly, all relevant costs must be allocated to all pipelines and each cost must not be allocated more than once. It is unclear why differences in physical characteristics would necessitate different cost allocation methodologies. Service providers must allocate costs and revenues to the pipeline services set out in Section 3.2 of the Guidelines. To avoid doubt, these categories of pipeline services may not

	Issue	Submission	Comment	AER response
			service provider under 101B(3) of the NGR, and not to individual contracts.	align with those published under rule 101B(3) of the NGR or within individual contracts.
14	Standing terms	APA Group	Suggests that it is unreasonable to require the application of standardised price methodologies that may not have been strictly followed in the past when deriving standard prices.	The Guidelines do not require service providers to apply a standardised price methodology, but instead that they must follow a set of principles to enable users to understand and replicate the calculations used by the service provider in its standard prices.
15	Basis of preparation	APA Group Australian Pipelines and Gas Association Jemena	The basis of preparation should allow for flexibility to accommodate the specific circumstances and complexities of each reporting entity, enabling them to provide comprehensive and meaningful explanations regarding their financial information.	We have developed a template that seeks to balance consistency and flexibility. We welcome stakeholder feedback on the template.
16	Assurance	Epic Energy (SA) Pty Ltd APA Group	Audit requirement benefits may not outweigh the costs.	The assurance requirements set out in the Guidelines is in line with those required under the Part 23 guidelines. We consider that the required level of assurance is appropriate to and ensures that users can access genuine information when negotiating access to pipeline service with service providers.
17	User Access Guide	Australian Pacific LNG	Category 1 exemption holders should be exempt from the requirement to develop, maintain, or publish a user access guide or interconnection policy.	A service provider for a pipeline for which an exemption has been granted under Category 1 in Part 10 of the NGR is not required to publish a user access guide but must develop and maintain a user access guide in accordance with rule 105C(1) of the NGR.
18	Time to publish information	Alinta Energy	The timeline between the publication of the Guidelines and the enforcement of the requirement for service providers to produce	We consider that the timeframe that we have set out is sufficient for service providers to publish service and access information, standing terms and actual prices payable

	Issue	Submission	Comment	AER response
			service and access information, standing terms and actual prices payable information. is insufficient for providers to prepare their information consistently with the guideline.	information. We note that the information requirements are set out in the NGR and the draft Guidelines. While we will publish the Guidelines by end October 2023, we do not expect service providers to publish service and access information, standing terms and actual prices payable information (as the case may be) until 22 December 2023. This allows approximately two months for service providers to publish this information. This compares with rules 9 and 11 of Schedule 6 of the NGR, which require service providers to prepare and publish their information 6 months after the commencement day, or one month after the Guidelines are required to be published under rules 13 of Schedule 6 of the NGR. Our requirement to publish information by 22 December 2023 will avoid delays in publishing information until after the holiday period.
19	Alignment with RIN	AusNet	Suggests a using a single template that covers both the regulatory information notice and Part 10 requirements.	It is not practical to align the two processes as they have different purposes. We have, however, tried to align categories and definitions between the two instruments where possible.
20	Price benchmarks	Energy Users Association of Australia	Tariffs should be based on the recovered capital method, as asset revaluation and/or goodwill may reflect expected monopoly rents.	We have developed cost-based pricing benchmarks that are based on two asset valuation methods: the depreciated book value method which considers actual prices paid by service providers, and the recovered capital method (or an alternative method), which excludes goodwill and other intangible assets but will increase in value for the years that the pipeline makes a financial loss. Users can assess both of these benchmarks in the context of the transparency information provided by service providers under Part 10 of the NGR.