



**FINAL DECISION**  
**Australian Gas Networks**  
**Victoria and Albury**  
**Gas Distribution Determination**

**2023 to 2028**

**Reference Services**

November 2021

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Inquiries about this publication should be addressed to:

Australian Energy Regulator  
GPO Box 520  
Melbourne Vic 3001

Tel: 1300 585 165

Email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

## Note

This AER final decision applies to Australian Gas Networks Victoria and Albury's reference services for the 2023–28 gas access arrangement period commencing 1 July 2023 to 30 June 2028.

Under the National Gas Rules (NGR), gas network service providers are required to submit their reference service proposals to the AER twelve (12) months in advance of the submission date for their access arrangement revisions proposal.

The NGR require us to complete our assessment of a reference service proposal no later than six (6) months in advance of the due date for submission of the relevant access arrangement revisions proposal.

Australian Gas Networks Victoria and Albury's access arrangement revisions submission date is 1 July 2022. We are required to conclude our assessment no later than 31 December 2021.

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## Shortened forms

Shortened form	Extended form
ACCC	Australian Competition & Consumer Commission
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
AGN	Australian Gas Networks
COAG	Council of Australian Governments
Cl.	clause
ESC	Essential Services Commission
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
NSP	Network Service Provider

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# 1 Overview

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 transmission and distribution networks. Our work under this framework is guided by the National Gas Objective (NGO):<sup>1</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

Australian Gas Networks (AGN) Victoria and Albury distributes gas to residential, commercial and industrial business customers in Victoria and Albury.

On 1 July 2021 AGN Victoria and Albury submitted to the AER a reference service proposal for its gas distribution network. We have assessed the proposal against the requirements set out in the NGR.

Our final decision is to approve AGN Victoria and Albury's reference service proposal. We consider the proposal is consistent with the NGR requirements.

We published AGN Victoria and Albury's proposal on the AER website and called for submissions. In response, we received a submission from Red Energy and Lumo Energy (Red and Lumo) on 30 July 2021.

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<sup>1</sup> *National Gas (South Australia) Act 2008*, s. 23.

## 2 Background

This section discusses the new reference service requirements in the NGR and describes AGN Victoria and Albury's gas distribution network.

### 2.1 AGN Victoria and Albury's gas distribution network

AGN Victoria and Albury's gas distribution network services Melbourne's CBD, northern, eastern and outer southern areas of metropolitan Melbourne, the Mornington Peninsula, and northern, eastern and south eastern areas of Victoria. A small section extends to Albury in NSW. It comprises around 11,518 km of pipeline, serving more than 732,000 customers.<sup>2</sup>

### 2.2 Background

In March 2019, the Australian Energy Market Commission (AEMC) made a final determination to implement a range of NGR improvements to regulation of covered transmission and distribution gas pipelines across Australia.<sup>3 4</sup>

These new rules follow a COAG Energy Council rule change request based on recommendations in the AEMC's recent review of Parts 8-12 of the National Gas Rules to address concerns that customers may be paying more than necessary for gas pipeline services.<sup>5</sup>

The new rules are designed to help gas pipeline users negotiate lower prices and better deals. This will make it cheaper to move gas around the market, helping to keep gas and electricity prices for consumers as low as possible.<sup>6</sup>

In deciding whether a pipeline service should be specified as a reference service, the AER must have regard to the reference service factors.<sup>7</sup> These factors are summarised in section 2.2.2 of this paper.

Services which we determine meet the reference service factors will be determined to be reference services. Services which we determine do not meet the reference service factors will be treated as non-reference services.

Determining a service to be a reference service, as compared to it being a non-reference service, makes a significant difference to how the service is regulated. Reference services are subject to AER price regulation. That is, we set maximum prices, or price caps, which gas networks may charge network users for reference

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<sup>2</sup> Australian Gas Networks Victoria and Albury, *Reference service proposal*, July 2021, p. 2.

<sup>3</sup> Covered pipelines are those pipelines that are regulated under Parts 8 to 12 of the National Gas Rules by the Australian Energy Regulator or the Economic Regulation Authority of Western Australia.

<sup>4</sup> AEMC, *Regulation of covered pipelines*, March 2019.

<sup>5</sup> AEMC, *New AEMC rules for stronger regulation of covered gas pipelines*, March 2019.

<sup>6</sup> AEMC, *New AEMC rules for stronger regulation of covered gas pipelines*, March 2019.

<sup>7</sup> NGR, cl. 47A(14).

services. Gas networks may choose to charge network users less than the price caps we determine but they may not charge more. Services we determine to be non-reference services are not subject to price regulation. This means gas networks set their own charges for non-reference services.

Within this package of reforms the AEMC introduced a new approach to determine which pipeline services should be specified as reference services for a full regulation pipeline's access arrangement. This included:<sup>8</sup>

- a new process requiring identification of reference services at the start of an access arrangement assessment process
- new criteria for determining appropriate reference services.

### **2.2.1 New process**

In terms of process, gas network service providers (NSPs) are now required to submit a separate reference service proposal to the AER for assessment. Previously, a reference service proposal was an element of a NSP's broader access arrangement revisions proposal.

Further, NSPs must now submit their reference service proposals to the AER twelve (12) months in advance of the submission date for their access arrangement revisions proposal.

The amended NGR require us to complete our assessment of a reference service proposal no later than six (6) months in advance of the due date for submission of the relevant access arrangement revisions proposal.

AGN Victoria and Albury's access arrangement revisions submission date is 1 July 2022. This means AGN Victoria and Albury was required to submit its reference service proposal to the AER by no later than 1 July 2021, which it did. We are required to conclude our assessment no later than 31 December 2021.

### **2.2.2 Criteria**

In preparing its reference service proposal and in undertaking our assessment, the NGR require AGN Victoria and Albury and ourselves to have regard to the reference service factors specified in the NGR.<sup>9</sup> The factors include:<sup>10</sup>

- the actual and likely demand for the pipeline's services and the number of prospective users
- the extent to which the pipeline service is substitutable with another service
- the feasibility of allocating costs to the pipeline service

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<sup>8</sup> NGR, cl. 47A.

<sup>9</sup> NGR, cl. 47A(1)(c); 47A(13)(a); 47A(14).

<sup>10</sup> NGR, cl. 47A(15).



- the usefulness of specifying the pipeline service as a reference service in supporting negotiations and dispute resolution
- likely regulatory costs for all parties in specifying the pipeline service as a reference service.

Relevant elements of cl. 47A are listed in our detailed compliance assessment in section 4 of this decision paper.

### 3 AGN Victoria and Albury's reference service proposal

This section outlines AGN Victoria and Albury's reference service proposal including the stakeholder consultation it undertook in developing its proposal.

#### 3.1 AGN Victoria and Albury's stakeholder consultation

AGN Victoria and Albury submitted that it undertook a joint program for the design and delivery of engagement activities with the other Victorian gas distribution businesses - AusNet Services and Multinet Gas Networks (MGN). This involved a four stage approach to engage and involve customers and stakeholders in its planning process. The Draft Engagement Plan can be found on its website.

AGN Victoria and Albury submitted that its engagement program included undertaking ongoing stakeholder consultation by:<sup>11</sup>

- engaging with its Victorian Gas Networks Stakeholder Roundtable (VGNSR)
- engaging with its Retailer Reference Group (RRG).

AGN Victoria and Albury described its VGNSR as representing a wide cross section of the community which reflects the diversity of its customer base.<sup>12</sup> AGN Victoria and Albury met with VGNSR on 3 March, 29 March and 27 May 2021.

AGN Victoria and Albury described its RRG as comprising representatives from gas retailers who operate in markets it serves, including Victoria and Albury. It met with the RRG on 11 March, 31 March and 28 May. AGN Victoria and Albury submitted that the agenda for each meeting included a discussion on services and the rule requirements for this Reference Service Proposal.

Two written submissions on the draft Reference Service Proposal were received by AGN Victoria and Albury. It held a separate RRG meeting on 16 June 2021 to review feedback and provide responses prior to finalising its Reference Service Proposal.

A summary of customer and stakeholder feedback to AGN Victoria and Albury is provided in table 3-1.

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<sup>11</sup> Australian Gas Networks Victoria and Albury, Reference service proposal, July 2021, p. 3.

<sup>12</sup> Australian Gas Networks Victoria and Albury, Reference service proposal, July 2021, p. 3.

**Table 3-1 Summary of customer and stakeholder feedback**

Topic	Feedback on draft reference service proposal
Alignment of services, terminology and descriptions	<p>Stakeholders support efforts to align reference services across the gas distribution businesses, however they consider alignment should only be pursued if it leads to better outcomes for customers.</p> <p>One retailer submitted that gas distribution businesses should align the terminology and naming of services to facilitate consistent understanding and use by retailers.</p>
Haulage reference services	<p>Stakeholders support AGN Victoria and Albury's proposal to retain current haulage reference services.</p>
Ancillary reference services	<p>Stakeholders support the continuation of current ancillary reference services.</p> <p>One retailer acknowledges the 'Disconnect in Street' service has seen minimal to no usage (to date) but considers that both the economic changes brought about by COVID and the latest changes arising from the Essential Services Commission (ESC) Victoria changes to the Energy Industry Act (in relation to disconnections) may see an uptake of this service. It would prefer the service to be available (at least as a non-reference service) until the next AA period.</p>
Non-reference services	<p>Stakeholders generally support the continuation of current non-reference services but raised the following issues:</p> <ul style="list-style-type: none"> <li>• one retailer is concerned that the 'Cross Meter Investigation' service continues to be a non-reference service</li> <li>• in relation to the 'Same Day Premium' service, one retailer observes that is unclear what premium would be added to which services (reference and non-reference)</li> <li>• one retailer would support an 'After-Hours Reconnection' service (currently offered by Multinet Gas Networks).</li> </ul>
Price transparency around non-reference services	<p>One retailer is concerned that non-reference services will not be subject to a form of price regulation. It submitted that any customer that is required to pay for a non-reference service should have the power to question the cost of that service. The consumer should be entitled to ask the Victorian gas distributor for a breakdown of the costs for the relevant non-reference service. They should have 30 days to review those costs to determine if they are satisfied that they are reasonable. If they are not, they should be able to take their case to an independent arbitrator such as the ESC or the AER for review.</p>

#### Other matters

One retailer submitted that:

- for standing charges post disconnection, amendments should be made to existing arrangements where standing charges would be halted (like Jemena Gas Networks, Electricity) for the period when a Meter Installation Registration Number is disconnected
- for zero consumption sites, the retailer would like to work more closely with gas distribution businesses to identify and establish an agreed process for managing zero consumption (periods > 12-18 months) sites.

## 3.2 AGN Victoria and Albury's reference service proposal

AGN Victoria and Albury proposes to largely maintain its current haulage, ancillary and non-reference services.<sup>13</sup> It is only proposing to reclassify Appointment for Special Read service from a non-reference service to an ancillary reference service under the Special Meter Read service.<sup>14</sup> It states that in changing the classification to an ancillary reference service, it will not alter the service to the customers and does not foresee the proposal having an impact on its customers.<sup>15</sup>

### Reference service

The reference services comprise:

- haulage reference service - transportation of gas for its domestic, commercial and demand customers
- ancillary reference service - commonly used services ancillary to providing a haulage service.

### Non-reference services

AGN Victoria and Albury considers that other services do not require classification as reference services as they represent only 0.5% of annual revenues.<sup>16</sup>

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<sup>13</sup> Australian Gas Networks Victoria and Albury, Reference service proposal, July 2021, p. 8-9.

<sup>14</sup> Australian Gas Networks Victoria and Albury, Reference service proposal, July 2021, p. 9.

<sup>15</sup> Australian Gas Networks Victoria and Albury, Reference service proposal, July 2021, p. 9.

<sup>16</sup> Australian Gas Networks Victoria and Albury, Reference service proposal, July 2021, p. 9.

## **4 AER assessment**

Our final decision is to approve AGN Victoria and Albury's reference service proposal. We consider the proposal is consistent with NGR cl. 47A. Only a minor change was made. There was stakeholder support for efforts to align the reference services offered across the three Victorian gas distribution businesses.

This section sets out the AER's assessment of AGN Victoria and Albury's reference service proposal, including the stakeholder consultation we undertook.

### **4.1 AER stakeholder consultation**

We published AGN Victoria and Albury's reference service proposal on the AER's website on 9 July 2021. We called for written submissions by no later than 30 July 2021.

To alert stakeholders to this process, we issued a communications notice on 9 July 2021 which was emailed to all AER website subscribers.

In response, we received a submission from Red Energy and Lumo Energy (Red and Lumo) on 30 July 2021 which supports efforts to align the reference services offered across the three Victorian gas distribution businesses.

However, Red and Lumo submitted that it has concerns about non-reference services offered by the Victorian gas distributors not being subject to some form of price regulation. It considers the Energy and Water Ombudsman of Victoria (EWOV) is not an appropriate body to manage disputes for non-reference services. Rather it would prefer an economic regulator to be responsible for this, such as the AER.

In response to Red and Lumo's concerns, we note that AGN Victoria and Albury submitted that it expects its proposed non-reference ancillary services to have low demand, as noted above, representing less than 0.5% of its revenue. We are satisfied that the proposed non-reference services do not comply with the reference service factors in clause 47A(15) of the NGR. The benefits attributable to applying full price regulation must be weighed against the administrative cost of doing so.

### **4.2 AER assessment of AGN Victoria and Albury's reference service proposal**

To assess AGN Victoria and Albury's reference service proposal we considered the extent to which it conforms to each regulatory requirement set out in NGR cl. 47A. Our detailed assessment is set out in Table 4-1.

**Table 4-1 Summary of NGR cl. 47A reference service requirements**

NGR cl. 47A requirement	Compliance assessment
<p>(1) A service provider in respect of a full regulation pipeline must, whenever required to do so under subrule (3), submit to the AER a reference service proposal in respect of a forthcoming full access arrangement proposal that:</p>	
<p>(a) identifies the pipeline and includes a reference to a website at which a description of the pipeline can be inspected;</p>	<p>Compliant. See section 1.3 of AGN Victoria and Albury's reference service proposal.</p>
<p>(b) sets out a list of all the pipeline services that the service provider can reasonably provide on the pipeline and a description of those pipeline services having regard to the characteristics in subrule (2);</p>	<p>Compliant. See Table 3 of AGN Victoria and Albury's reference service proposal.</p>
<p>(c) from the list referred to in subrule (1)(b), identifies at least one of those pipeline services that the service provider proposes to specify as reference services having regard to the reference service factors including any supporting information required by the AER; and</p>	<p>Compliant. See section 1 of AGN Victoria and Albury's reference service proposal.</p>
<p>(d) if the service provider has engaged with pipeline users and end users in developing its reference service proposal, describes any feedback received from those users about which pipeline services should be specified as reference services.</p>	<p>Compliant. See section 1.5 of AGN Victoria and Albury's reference service proposal.</p>
<p>(2) A pipeline service is to be treated as distinct from another pipeline service having regard to the characteristics of different pipeline services, including:</p>	<p>AGN Victoria and Albury's reference service proposal appropriately defines pipeline services in regard to their characteristics, priority and receipt points.</p>
<p>(a) the service type (for example, forward haul, backhaul, connection, park and loan);</p>	
<p>(b) the priority of the service relative to other pipeline services of the same type; and</p>	
<p>(c) the receipt and delivery points.</p>	

(14) In deciding whether or not a pipeline service should be specified as a reference service, the AER must have regard to the reference service factors.

We have had regard to the reference service factors in assessing AGN Victoria and Albury's reference service proposal.

(15) The reference service factors are:

(a) actual and forecast demand for the pipeline service and the number of prospective users of the service;

AGN Victoria and Albury's reference service proposal is premised on there being ongoing high demand for the haulage reference service. Demand for its proposed ancillary reference services ranges from relatively low to high, but low demand reference services are not substitutable with other services (discussed below).

In respect of AGN Victoria and Albury's proposed non-reference services, it submitted that demand is either moderate (but the service is substitutable) or low to non-existent, meaning that the cost of direct regulation outweighs any benefits for customers.

We note that services such as Same Day Premium Charge and Incomplete Meter Fix are in effect extensions of services already directly regulated as reference services.

Services such as Disconnect Service in Street for Debt – Requiring Excavation and Attend Meter Fix After Faults Rectified are demanded by customers or retailers only rarely or not at all.

The service Alter Meter Position is charged to customers by quote to reflect the different circumstances in which the service is provided. Charges for individual customers range from \$90 to \$2,000 depending on the context. We note that directly regulating this service as a reference service would result in customers seeing averaged charges that would be less representative of the actual cost in a given context.

(b) the extent to which the pipeline service is substitutable with another pipeline service to be specified as a reference service;

The haulage reference service and proposed ancillary reference services are not substitutable with other services. The proposed non-reference services tend to be substitutable with other services or have little

	demand from retailers or customers (as discussed above).
(c) the feasibility of allocating costs to the pipeline service;	Costs may be allocated to the proposed reference services, including the proposed reference haulage service.
(d) the usefulness of specifying the pipeline service as a reference service in supporting access negotiations and dispute resolution for other pipeline services, such that:	
(i) reference services serve as a point of reference from which pipeline services that are not reference services can be assessed by a user or prospective user for the purpose of negotiating access to those other pipeline services;	AGN Victoria and Albury submitted that tis reference services form the basis for negotiated access.
(ii) a reference tariff serves as a benchmark for the price of pipeline services that are not reference services; and	As above.
(iii) reference service terms and conditions serve as a benchmark for the terms and conditions of pipeline services that are not reference services;	As above.
(e) the likely regulatory cost for all parties (including the AER, users, prospective users and the service provider) in specifying the pipeline service as a reference service.	By specifying the current reference services, including the haulage service, as reference services the current arrangements will be continued. As a result, regulatory costs for all parties will be minimised. The cost associated with making Special Meter Read a reference service is minor.