
**Access Arrangement for ActewAGL
Gas Distribution System in
ACT and Greater Queanbeyan**

November 2004

ActewAGL Distribution
ABN 76 670 568 688

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1 Introduction

Access Arrangement

- 1.1 This Access Arrangement sets out the terms on which Users can access ActewAGL's gas distribution Network in the ACT and Greater Queanbeyan.
- 1.2 Users wishing to gain access should contact:

Network Access Manager
Agility Management Pty Limited
PO Box 6300
Frenchs Forest Delivery Centre NSW 1640
Phone (02) 8977 6541
Fax (02) 8977 6819

ActewAGL's Network

- 1.3 ActewAGL's gas distribution Network consists of approximately 3,600 km of pipelines. Approximately 96,000 Customers are served by the Network, 84,000 of these within the ACT. The residential sector accounts for around 97 per cent of Customers, but only 60 per cent of the total load.

Regulatory background - National Gas Code

- 1.4 In 1998 the National Third Party Access Code for Natural Gas Pipeline Systems was certified as an effective access regime for South Australia (effective for 15 years) by the Commonwealth Minister under section 44N of the *Trade Practices Act 1974* (Cth) (**TPA**).
- 1.5 The code was made law in South Australia under the *Gas Pipeline Access (South Australia) Act 1997* (SA), and forms Schedule 2 to that Act.
- 1.6 The code also applies in the ACT under the *Gas Pipeline Access Act 1998* (ACT) and was separately certified for the ACT by the Commonwealth Minister on 25 September 2000 (effective for 15 years).

Requirements for an Access Arrangement

- 1.7 Under the National Gas Code, the owner or operator of a Covered Pipeline is required to lodge an Access Arrangement with (and have it approved by) the Relevant Regulator.
- 1.8 ActewAGL's Network is a Covered Pipeline (Schedule A of the National Gas Code). The Relevant Regulator for the ACT is the Independent Competition and Regulatory Commission (**ICRC**).

- 1.9 The Access Arrangement must, as a minimum, contain the elements described in sections 3.1 to 3.20 of the National Gas Code. These include:
- (a) terms and conditions on which the owner will provide each Reference Service; and
 - (b) the owner's policy on Services, Reference Tariffs, trading, capacity management, queuing, and extensions.
- 1.10 The Access Arrangement must be accompanied by applicable Access Arrangement Information (section 2 of the National Gas Code).

Structure of this Access Arrangement

- 1.11 The structure of this Access Arrangement reflects the requirements of the National Gas Code discussed above, and is organised as follows:
- (a) Services Policy - Part 2;
 - (b) general terms and conditions for access - Part 3;
 - (c) Reference Tariff Policy, Reference Tariffs and Variations to Reference Tariffs - Parts 4-6;
 - (d) Extensions/Expansions Policy - Part 7;
 - (e) Trading Policy - Part 8;
 - (f) Queuing Policy - Part 9; and
 - (g) Capacity Management Policy - Part 10.
- 1.12 Details of the terms and conditions and Reference Tariffs for each Reference Service are set out in Attachment 3.
- 1.13 Supporting information is provided in the Access Arrangement Information that has been submitted as a separate document.

Commencement of this Access Arrangement

- 1.14 This Access Arrangement commenced on the date on which the approval of the Relevant Regulator took effect under section 2 of the National Gas Code.

Revisions to this Access Arrangement

- 1.15 ActewAGL will submit revisions to this Access Arrangement to the Relevant Regulator on or before **30 June 2009**.
- 1.16 The revisions to this Access Arrangement will commence on the later of **1 July 2010** and the date on which the approval by the Relevant

Regulator of the revisions to the Access Arrangement takes effect under the National Gas Code.

- 1.17 ActewAGL may, at any other time, submit to the Relevant Regulator proposed revisions to this Access Arrangement together with the applicable Access Arrangement Information in accordance with section 2.28 of the National Gas Code. Those revisions will commence in accordance with section 2.48 of the National Gas Code.

Access Arrangement subject to applicable Gas Law

- 1.18 All provisions in this Access Arrangement are subject to applicable Gas Law.

2 Services Policy

2.1 ActewAGL offers the following services:

- (a) six Reference Services;
- (b) Interconnection of Embedded Network Service; and
- (c) Negotiated Services.

Reference Services

2.2 There is a single **Tariff** Service available (Attachment 3E) - this is a transport service for one or more Tariff Delivery Points with charges determined on the basis of throughput of gas.

2.3 There are a number of **Non-Tariff** Services available:

- (a) capacity reservation service (Attachment 3A) - this is a transport service for a single Non-Tariff Delivery Point, with charges determined on the basis of capacity reservation (\$ per GJ of MDQ) and Overruns;
- (b) managed capacity service (Attachment 3B) - this is a transport service for a single Non-Tariff Delivery Point, with charges determined on the basis of capacity reservation (\$ per GJ of MDQ), but with no charges payable for Overruns;
- (c) throughput service (Attachment 3C) - this is a transport service for a single Non-Tariff Delivery Point with charges determined on the basis of throughput of gas (\$ per GJ of throughput) with a minimum charge per annum based on 10TJ, but no charges payable for Overruns;
- (d) multiple delivery point service (Attachment 3D) - this is a transport service for a number of Non-Tariff Delivery Points for a single User. The User will nominate each Delivery Point as subject to the conditions applying to a capacity reservation service, a managed capacity service or a throughput service.

2.4 There is a single meter data service available (Attachment 3F) - this is a service for the provision of:

- (a) meter reading at a Delivery Point; and
- (b) on-site data and communication equipment to a Delivery Point.

Interconnection of Embedded Network Service

2.5 There is an interconnection of embedded network service available (Attachment 3G) - this is a service to provide for the establishment of a single Delivery Point from the Network to an Embedded Network.

Negotiated Services

- 2.6 A Negotiated Service is any service negotiated to meet the needs of a User, which are not met by the Reference Services or the Interconnection of Embedded Network Service.

Availability of Reference Services

- 2.7 The availability of the Reference Services is as follows:
- (a) all Reference Services - to Delivery Points existing on the Network on the date this Access Arrangement takes effect;
 - (b) Capacity Reservation Service, Managed Capacity Service and Throughput Service - to new Delivery Points where the Network immediately upstream of the Delivery Point has a maximum allowable operating pressure of less than or equal to 1,050 kPa and where the MDQ is at least ten times the MHQ;
 - (c) Tariff Service - to new Delivery Points where the Network immediately upstream of the Delivery Point has a maximum allowable operating pressure of less than or equal to 500 kPa; and

Meter Data Service - to any Delivery Point for which a User has a Reference Service.

- 2.8 The Meter Data Service, or relevant elements of that service, will cease to be offered as a Reference Service, and at ActewAGL's discretion as a Service, on the date of the commencement of any Gas Law (or the lawful adoption of any requirement by any person or group of people appointed by Government or industry to implement retail contestability in the gas industry in the ACT or New South Wales) where that Gas Law or requirement permits the provision of gas meter reading or on-site data and communication equipment in the ACT and Greater Queanbeyan by a person other than ActewAGL.
- 2.9 If such a Gas Law or requirement is introduced in either the ACT or New South Wales, but not in both jurisdictions, then this clause will apply to the Meter Data Service only in so far as it relates to the area affected by the Gas Law or requirement.

Requests for Service

- 2.10 The procedure to be followed by a User seeking to obtain a Service is set out in Attachment 2.
- 2.11 Those procedures are subject to the Queuing Policy in Part 9 (if applicable).
- 2.12 ActewAGL will, on request from a User, connect premises to the Network:

- (a) for ACT premises - in accordance with section 31 of the *Utilities Act 2000* (ACT); and
- (b) for NSW premises - as agreed between ActewAGL and the User, and in accordance with the equivalent requirements (if any) under NSW Gas Law.

3 General Terms and Conditions for Access

General

- 3.1 The terms and conditions in this Part 3 apply to all Services.
- 3.2 Additional terms and conditions for each Service are set out in Attachment 3:
- (a) Capacity Reservation Service - Attachment 3A.
 - (b) Managed Capacity Service - Attachment 3B.
 - (c) Throughput Service - Attachment 3C.
 - (d) Multiple Delivery Point Service - Attachment 3D.
 - (e) Tariff Service - Attachment 3E.
 - (f) Meter Data Service - Attachment 3F.
 - (g) Interconnection of Embedded Network Service - Attachment 3G.
 - (h) Negotiated Services - Attachment 3H.
- 3.3 The policy for curtailment of supply set out in Attachment 4 applies to all Services.
- 3.4 The gas balancing mechanisms set out in Attachment 5 apply to all Users.

Business Rules and Minimum Network Standards

- 3.5 Since **1 January 2002** all Customers in the ACT and New South Wales have been eligible to choose their gas supplier. The Business Rules set out the rules to support full retail contestability. The Minimum Network Standards cover aspects of the relationship between gas distributors and gas suppliers in the ACT and Greater Queanbeyan.

Transport Services Agreement

- 3.6 A User is required to enter into a Transport Services Agreement with ActewAGL for a Service, before being given access to the Service¹.

¹ This requirement is satisfied if the User has an arbitrated access decision granting it access to the Network for the relevant Service, under section 6 of the National Gas Code (see the definition of "Transport Services Agreement").

- 3.7 Currently, ActewAGL has two standard form Transport Services Agreements:
- (a) one for Tariff Services; and
 - (b) one for Non-Tariff Services.
- 3.8 A separate agreement is required for the Interconnection of Embedded Network Service and Negotiated Services.
- 3.9 Subject to clause 3.10, a Transport Services Agreement may contain different terms and conditions to this Access Arrangement if agreed between the parties, with the exception of the Queuing Policy in Part 9, which is a mandatory requirement of the National Gas Code (section 2.50).
- 3.10 Clause 3.9 does not apply to an arbitrated access decision under section 10 of the National Gas Code, which may not be inconsistent with the terms and conditions of this Access Arrangement.²
- 3.11 ActewAGL and the User will perform their obligations under a Transport Services Agreement, and conduct their relations with each other, in a commercially reasonable manner, and in accordance with reasonable operating and management practices.
- 3.12 ActewAGL may amend the terms and conditions set out in a Transport Services Agreement to reflect changes to:
- (a) the Business Rules and Minimum Network Standards, to the extent the changes are consistent with this Access Arrangement; or
 - (b) other applicable Gas Law.
- 3.13 If there is a change in any applicable Gas Law which affects only either New South Wales or the Australian Capital Territory, ActewAGL may, in its discretion, also apply the amended terms and conditions referred to in clause 3.12 to the jurisdiction not affected.
- 3.14 ActewAGL will endeavour to give Users reasonable notice of any such amendments.

Right to access

- 3.15 ActewAGL may not discriminate between Users in the provision of Services on the basis of:

² See section 2 of the National Gas Code.

- (a) the identity of the User, except that ActewAGL may require different amounts of security under clause 3.49 taking into account, among other things, the User's credit record and past transactions and relationships with ActewAGL or other parties;
- (b) the fact that the User is a related party of ActewAGL; or
- (c) the source of the gas proposed to be transported, subject to the gas meeting the Specifications and the User having arrangements in place to monitor and control the quality of gas, that are acceptable to ActewAGL.

Obligation to transport

3.16 If a User delivers gas to a Receipt Point in accordance with clause 3.20, ActewAGL will:

- (a) receive the gas at the Receipt Point; and
- (b) take reasonable steps to deliver a thermally equivalent quantity of gas to the relevant Delivery Point, up to a maximum of the MHQ in any Hour, subject to the aggregate deliveries from all Users on a day being equal to or greater than the aggregate withdrawals by all Users on that day.

Invoicing

3.17 ActewAGL will invoice a User on a periodic basis, no less frequently than Monthly. Invoices are payable within 10 Business Days from the date of the invoice.

3.18 ActewAGL may charge interest on amounts that are not paid by the due date.

Responsibility for gas

3.19 ActewAGL is responsible for gas while the gas is in its control. ActewAGL will replace gas lost while in its control.

Receipt Point Pressure

3.20 A User will deliver gas to a Receipt Point within the pressure range set out in Attachment 7, or as otherwise required by ActewAGL.

New Receipt Points

3.21 Any person (including a User) seeking to interconnect with the Network for the purpose of enabling Users to deliver gas to the Network for onward transportation, may establish a new Receipt Point. If a person wishes to establish a new Receipt Point, they will enter into an agreement with ActewAGL that includes the matters outlined in Attachment 8.

3.22 A User will ensure that there is a Receipt Station immediately upstream of any new Receipt Point established during the term of this Access Arrangement, before gas is delivered to the Network at that Receipt Point.

Receipt Stations

3.23 Prior to installation of a Receipt Station, a User will:

- (a) prepare a detailed design for construction of the Receipt Station, that conforms with any technical requirements for such facilities published by ActewAGL from time to time and the requirements of clause 3.24;
- (b) submit the design, operation and maintenance principles for ActewAGL's approval (allowing a minimum of 4 weeks from the time of submission); and
- (c) build the Receipt Station to the specifications of the approved design.

3.24 The Receipt Station design will:

- (a) be in accordance with good industry practice for that type of facility;
- (b) comply with applicable Australian and internationally recognised standards and codes (including AS2885); and
- (c) comprise:
 - (i) a filtration and liquid separation system;
 - (ii) gas quantity measurement facilities;
 - (iii) a flow and pressure control system; and
 - (iv) if ActewAGL reasonably requires, gas quality measurement facilities.

3.25 ActewAGL may, on reasonable notice to a User, operate the pressure and flow control facilities at any Receipt Station not owned by ActewAGL. A User will have contractual arrangements in place with the owner of the Receipt Station to allow ActewAGL to exercise this right.

3.26 If a new Receipt Point is established for the Network, ActewAGL may recover certain costs from:

- (a) the User who established the Receipt Point; or

- (b) Users using, or proposing to use, that Receipt Point, to the extent that the costs have not been recovered from the party who established the Receipt Point.

3.27 The costs recoverable under clause 3.26 are:

- (a) costs incurred in modifying the Network as a result of the new Receipt Point;
- (b) costs incurred in installing any systems required to enable the new Receipt Point to be established and integrated into the operation of the Network; and
- (c) costs incurred in measuring or improving the measurement of gas quality at the Receipt Point.

Alterations to Receipt Points and Receipt Stations

3.28 ActewAGL may require Users to make alterations to, or install additional equipment at, a Receipt Station for the purpose of achieving upgraded measurement performance, or accommodating changes in gas demand characteristics.

3.29 ActewAGL may require Users to pay for the costs incurred by ActewAGL in altering, or adding equipment to any part of the Network for the purposes of the measuring gas quality at a Receipt Point.

Estimating consumption at Receipt Points

3.30 ActewAGL may estimate the quantity of gas delivered to a Receipt Point as agreed with the Users using that Receipt Point, or as otherwise reasonably determined by ActewAGL from time to time.

Delivery Points and Delivery Stations

3.31 Each Delivery Point will have only one Delivery Station unless ActewAGL in its discretion agrees to a request from a User for an additional Delivery Station at a Delivery Point.

3.32 Delivery Stations will be owned by ActewAGL, except for that part of those facilities that are not integral to the transportation of gas.

Measuring consumption at Delivery Points

3.33 Withdrawals at Delivery Points will be metered by Measuring Equipment provided by ActewAGL.

3.34 A User will take reasonable steps to provide ActewAGL with clear and safe access to each Delivery Point and Measuring Equipment. ActewAGL may enter a Delivery Point to obtain access to Measuring Equipment.

- 3.35 The quantity of gas delivered at a Delivery Point will be a product of the volume and the average heating value declared for the day for the Network, or as otherwise agreed.

Estimating consumption at Delivery Points

- 3.36 ActewAGL may estimate consumption:
- (a) for Customers to which the Gas General Metering Code applies - in the circumstances permitted by that code; and
 - (b) for other Customers - in the circumstances described in paragraph (a), and any other circumstances reasonably notified by ActewAGL from time to time.
- 3.37 An estimate will be calculated by ActewAGL using any of the following methods:
- (a) by agreement between ActewAGL and the User, or failing agreement, by successively using a check meter, calculating the percentage of error through calibration tests or mathematical calculation and varying the quantity by one half of the error, or by a deeming method; or
 - (b) as otherwise permitted or required by applicable Gas Law.

Relocating Measuring Equipment

- 3.38 ActewAGL may relocate Measuring Equipment at the User's expense if:
- (a) ActewAGL is unable to gain access to a Delivery Point or the Measuring Equipment; or
 - (b) metering data is not available for any other reason,
- or ActewAGL may cease providing the Service metered by that Measuring Equipment on reasonable notice.

Allocation of gas

- 3.39 Where gas is delivered to a Delivery Point for more than one User, or under more than one Service, the User or Users will establish allocation methodologies and notification processes reasonably acceptable to ActewAGL. Pending the establishment of such methodologies and processes, ActewAGL may adopt a reasonable methodology such as pro-rating based on MDQ to determine the allocation of the gas between Users or between the Services.

Title to and responsibility for gas

- 3.40 A User warrants that it has title to gas delivered into the Network by it or on its behalf. From time to time, ActewAGL may request a User provide satisfactory evidence that:
- (a) the User has title to gas at a Receipt Point; and
 - (b) the quantities of gas which the User is entitled to have delivered to the Receipt Point are consistent with the quantities of gas that the User is required to have delivered to the Receipt Point under gas balancing arrangements applying to that Receipt Point.
- 3.41 ActewAGL may co-mingle the gas in the Network.

Gas quality

- 3.42 A User will deliver gas to a Receipt Point that meets the Specifications and, subject to a User complying with this requirement, ActewAGL will ensure that gas delivered to a User's Delivery Point meets the Specifications.
- 3.43 ActewAGL may direct a User to cease the delivery of gas that does not meet the Specifications, or may refuse to accept such gas and notify the User accordingly.
- 3.44 From time to time, ActewAGL may require a User to demonstrate that it has contractual arrangements in place to prevent gas that does not meet the Specifications being delivered into the Network. From time to time, ActewAGL may require a User to provide facilities to enable ActewAGL to monitor the quality of gas at any point where gas is introduced into the system of pipes through which it is delivered into the Network.
- 3.45 Where gas quality is measured upstream of the Network the User will comply with gas testing requirements prescribed by applicable Gas Law (including provisions applying to ActewAGL). If during the term of this Access Arrangement there is no such law in place, the User will comply with any gas testing requirements notified by ActewAGL from time to time.

Gas source

- 3.46 A User will notify ActewAGL of:
- (a) all points where gas is introduced into the system of pipes through which gas is delivered by or on behalf of a User to a Receipt Point. This notice will include the contractual and all possible physical sources of the gas; and

- (b) any change to those points or sources, before the change takes effect.

Variations in quality and pressure, interruptions

- 3.47 ActewAGL's provision of Services is subject to a variety of factors, which include accidents, weather, the acts of third parties and the need to work on the gas transmission and distribution networks.
- 3.48 Accordingly, ActewAGL is unable to guarantee that there will be no:
 - (a) variations in the quality or pressure of gas supplied; or
 - (b) interruptions to the gas supply,within the limitations set by applicable Gas Law.

Security for payment

- 3.49 A User will, on request by ActewAGL:
 - (a) provide security for the performance of the User's obligations in connection with any of the Services. The security will be of a type, in an amount and on terms and conditions reasonably required by ActewAGL; and
 - (b) pay all amounts owing to ActewAGL to continue to receive the Services.

Force majeure

- 3.50 Subject to clause 3.51, if an event of Force Majeure affects or prevents a party's performance of its obligations in connection with any of the Services, the non-performance will not be a breach of the Transport Services Agreement or, where applicable, this Access Arrangement, but the party affected by the Force Majeure will take reasonable steps to put itself in a position to perform its obligations.
- 3.51 An event of Force Majeure does not relieve a party from its obligations:
 - (a) unless the party affected by the event gives written notice of the event within 24 Hours to the other party, including details of the nature of the event, its likely duration and the nature and extent of its effect on that party's ability to perform its obligations; and
 - (b) after the expiry of a reasonable period of time within which the event could have been remedied or overcome had reasonable steps been taken by the party affected.

- 3.52 Where there is a charge based on an MDQ, and ActewAGL is unable to perform its obligations due to an event of Force Majeure affecting the Network, the charge will be based on the actual amount withdrawn during that period (up to MDQ) rather than MDQ.
- 3.53 Clauses 3.50 to 3.52 do not apply to:
- (a) a party's failure to pay money; or
 - (b) a User failing to ensure that gas delivered to a Receipt Point meets the Specifications.

Suspension of supply - User request

- 3.54 A User may request ActewAGL to stop or suspend the delivery of gas to one or more Delivery Points on payment of the relevant ancillary charge by the User.
- 3.55 ActewAGL will, at the later of:
- (a) the earliest reasonably practical date after receipt of written notice from the User; and
 - (b) the date requested by the User,
- stop or suspend the delivery of gas to the Delivery Point or Points nominated in the notice.
- 3.56 Suspension of delivery under clause 3.55 does not relieve the User from its obligations to pay for the Service.
- 3.57 If requested by ActewAGL, a representative of the User will be present at the Delivery Point when ActewAGL stops or suspends the delivery of gas to that Delivery Point.

Suspension of supply - ActewAGL

- 3.58 ActewAGL may suspend the delivery of gas to a Delivery Point if:
- (a) the User does not or is unable to deliver sufficient gas to the Receipt Point to meet the User's withdrawal requirements (taking any gas balancing adjustments into account);
 - (b) the User has not ceased taking gas at a Delivery Point or the delivery of gas to a Receipt Point if notified to do so under the terms of this Access Arrangement or the User's Transport Services Agreement;
 - (c) the User is not a member of a scheme for the operation of the natural gas retail market in the ACT or New South Wales approved by the Minister (**Approved Scheme**); or

- (d) ActewAGL is requested by the manager of an Approved Scheme to suspend the delivery of gas to the Delivery Point.

Non-specification gas

- 3.59 A User acknowledges that gas delivered by or on behalf of the User to a Receipt Point will enter into the Network in close proximity to, and will be available for use by, a large number of persons, and that its failure to ensure that gas delivered at any Receipt Point meets the Specifications may result in those persons suffering damage.
- 3.60 Accordingly, a User indemnifies ActewAGL against all Loss, which ActewAGL suffers or incurs or is liable for arising out of or in connection with:
 - (a) that User failing to cease delivery of gas to a Receipt Point, or cease delivery of gas to any system of pipes through which gas is delivered to the Receipt Point, if directed to do so by ActewAGL under clause 3.43; or
 - (b) that User failing to ensure that gas delivered to a Receipt Point meets the Specifications.

Overruns

- 3.61 A User is liable for any Loss, which ActewAGL suffers or incurs or is liable for as a result of an Unauthorised Overrun.

Interruptions to supply

- 3.62 If ActewAGL interrupts, reduces, suspends or terminates the Services in accordance with a Transport Services Agreement or, where applicable, this Access Arrangement, ActewAGL is not liable to compensate the User for any Loss which that User suffers or incurs or is liable for arising out of or in connection with that interruption, reduction, suspension or termination of supply.
- 3.63 A User indemnifies ActewAGL against any Loss which ActewAGL suffers or incurs or is liable for arising out of or in connection with a Claim by a third party for an interruption, reduction, suspension or termination by ActewAGL in accordance with the Transport Services Agreement or this Access Arrangement.

Privacy

- 3.64 Each party indemnifies the other against any Loss which the other party suffers or incurs or is liable for arising out of or in connection with any breach of the *Privacy Act 1998* (Cth) by the first party.

Terms implied by statute

- 3.65 Consumer protection legislation implies terms into contracts for the supply of certain services that cannot be excluded (**Implied Terms**) but permits a supplier to limit its liability in respect of those terms in certain circumstances.
- 3.66 ActewAGL's liability for breach of an Implied Term applying to any Services provided to a User is limited at ActewAGL's option to one of the following remedies:
- (a) the supplying of the Services again; or
 - (b) the payment of the cost of having the Services supplied again.
- 3.67 ActewAGL's liability will not be limited in this way if:
- (a) the User establishes that such a limitation is not fair or reasonable in the circumstances; or
 - (b) the Implied Term is implied under section 69 of the *Trade Practices Act 1974* (Cth).

Exclusion of other implied terms

- 3.68 The only terms, conditions or warranties which apply to the Services are:
- (a) any Implied Terms, but subject to the preceding paragraphs of this clause; and
 - (b) the express terms of the Transport Services Agreement and, where applicable, this Access Arrangement.
- 3.69 All other terms, conditions or warranties implied by law (including statute), custom or usage are excluded to the fullest extent permitted by law.

Limitation of liability

- 3.70 Subject to clauses 3.65 to 3.67:
- (a) ActewAGL is not liable to a User for any Loss which that User suffers or incurs or is liable for unless that Loss is a direct result of ActewAGL's negligence or breach of a term of the Transport Services Agreement or, where applicable, this Access Arrangement;
 - (b) without limiting paragraph (a), unless ActewAGL negligently or wilfully delivers non-Specification gas to a Delivery Point, ActewAGL is not liable for any loss of profits, business, or anticipated savings, or for any indirect or consequential loss,

arising out of or in connection with ActewAGL's provision of Services or performance (including any breach) of a Transport Services Agreement, whether in contract, tort (including negligence) or otherwise.

- 3.71 A User is liable for any Loss which ActewAGL suffers or incurs or is liable for as a result of any Unauthorised Overrun.

Emergency contact information

- 3.72 The User will ensure that at all times ActewAGL has accurate emergency contact information for the User and for the Customer at each Delivery Point.

Indemnities

- 3.73 The indemnities in this Access Arrangement extend to all legal costs and expenses incurred by the party which is receiving the benefit of the indemnity on the higher of a solicitor and own client basis and a full indemnity basis.

4 Reference Tariff Policy

Principles

- 4.1 Reference Tariffs have been determined on the basis of a “price path” approach, whereby a series of Reference Tariffs are determined in advance for the period of this Access Arrangement to follow a path that is forecast to deliver a Total Revenue stream which is calculated consistently with the principles set out in section 8 of the National Gas Code.
- 4.2 Total Revenue was calculated using a Cost of Service methodology in accordance with section 8.3 of the National Gas Code. In accordance with section 8.4 of the National Gas Code, Total Revenue is the cost of providing all Services, and is calculated as:
- (a) a return on the Capital Base;
 - (b) depreciation of the Capital Base; and,
 - (c) operating, maintenance and other non-capital costs of providing all Services provided by the Network.
- 4.3 Price paths were determined that result in a return on capital of 7.0 per cent (pre tax real) over the period of this Access Arrangement. A current cost accounting approach to the Capital Base and depreciation using annual indexation by the CPI, and a real pre-tax cost of capital was applied to determine the price path. Details are provided in the Access Arrangement Information.
- 4.4 Revenue pools for each market segment were determined by allocating revenue to Services based on the operating and capital cost components for each segment. Capital costs were allocated between the Non-Tariff Services and the Tariff Service on the basis of fully distributed optimised replacement cost (ORC) values. Operating (non-capital) costs were allocated on the basis of an activity-based cost allocation.

Incentive mechanism

- 4.5 The incentive mechanism used in calculating the Reference Tariffs is that Reference Tariffs apply each year regardless of whether the forecasts on which the Reference Tariffs were determined are realised.

Capital redundancy mechanism

- 4.6 With effect from the Revisions Commencement Date, the Relevant Regulator may reduce the Capital Base by an amount representing:

- (a) any assets that in the reasonable opinion of the Relevant Regulator have ceased to contribute to the delivery of Services;
- (b) any assets that have been transferred by ActewAGL or in relation to which ActewAGL has entered into a binding agreement for its transfer: or
- (c) any assets that in the reasonable opinion of the Relevant Regulator have decreased in value because of a decrease in its utilisation resulting from a decline in the volume of sales of the Service.

4.7 In assessing the reduction in the Capital Base due to a decreased utilisation of assets resulting from a decline in the volume of sales of a Service, the Relevant Regulator may take into account the reduction in Total Revenue and any possible increase in Tariffs paid by Users resulting from the decline in utilisation of assets.

New Facilities Investment³

4.8 Reference Tariffs have been determined on the basis of:

- (a) the Capital Base; and
- (b) New Facilities Investment that is forecast to occur within the Access Arrangement Period and is reasonably expected to satisfy the requirements of section 8.16 of the National Gas Code (“**Forecast Capital**”).

4.9 ActewAGL may increase the Capital Base for the Network for any part of the New Facilities Investment that satisfies section 8.16 of the National Gas Code.

4.10 ActewAGL may undertake New Facilities Investment that does not satisfy section 8.16 of the National Gas Code. Where ActewAGL does so, ActewAGL may increase the Capital Base for any part of that New Facilities Investment that does satisfy section 8.16(a) of the National Gas Code.

4.11 The amount that does not satisfy the requirements of section 8.16 of the National Gas Code forms part of the Speculative Investment Fund (as contemplated by the National Gas Code). ActewAGL may increase the Capital Base if a part of the Speculative Investment Fund subsequently satisfies the requirements of section 8.16 of the National Gas Code.

4.12 Any increase in the Capital Base under clauses 4.8 to 4.11 takes effect from the Revisions Commencement Date.

³ New Facilities Investment that satisfies the requirements of section 8.16 of the National Gas Code may be recovered as an increase to the Capital Base under clauses 4.8 to 4.12, or by way of a Surcharge under clause 4.13, but not both. See section 8.25 of the National Gas Code.

Surcharge

4.13 ActewAGL may charge Users a Surcharge where permitted by the National Gas Code.

Capital Contributions

4.14 ActewAGL may charge Users a Capital Contribution to New Facilities Investment where permitted by the National Gas Code.⁴

Review of Capital Base after expiry of an Access Arrangement

4.15 The Capital Base at the commencement of the next Access Arrangement Period and each subsequent Access Arrangement Period will be assessed by the Relevant Regulator using the information in relation to those assets in:

- (a) the asset register; and
- (b) the database on capital contributions.

Asset register

4.16 ActewAGL will maintain an asset register. The asset register will include information on:

- (a) economic asset lives and remaining asset lives underlying the Capital Base at 1 January 2005;
- (b) asset components (i.e. asset types and asset quantities) consistent with the regulatory Capital Base at 1 January 2005. The asset components should be consistent with those used in its Access Arrangement Information; and
- (c) new capital expenditure incurred after 1 January 2005 including information on economic asset lives and asset quantities.

Database

4.17 ActewAGL will maintain a database that records the following information in relation to capital contributions (as defined in the National Gas Code) made to ActewAGL:

- (a) the amount of a capital contribution made by a User in respect of a New Facility;
- (b) the amount of any charges paid by a User which exceeds the charges that would apply under a Reference Tariff for a Reference Service (or

⁴ See sections 8.23 and 8.24 of the National Gas Code.

in relation to another Service under the Equivalent Tariff) where the excess is paid by the User in relation to the funding of a New Facility;

- (c) the date that the capital contribution is made under clause 4.17(a) or the charges are paid under clause 4.17(b);
- (d) the name of the User and the User's contact details; and
- (e) a description of the New Facility in relation to which the capital contribution is made under clause 4.17(a) or the charges are paid under clause 4.17(b).

Fixed principles

4.18 Clauses 4.9, 4.10 and 4.11 are fixed principles for the purposes of section 8.47 of the National Gas Code.

4.19 The fixed principles shall apply for the term of this Access Arrangement.

5 Reference Tariffs

General

- 5.1 Numerical values for Reference Tariffs are expressed in real 2004/2005 dollars throughout this Access Arrangement. The actual Reference Tariff applicable in a particular year is the real 2004/2005 value escalated at CPI to that year in accordance with Part 6 of this Access Arrangement.
- 5.2 The Reference Tariffs shown in this Access Arrangement are inclusive of GST. A full schedule of prices in 2004/2005 dollars exclusive of GST is attached as an addendum to the Access Arrangement Information. The schedule will be updated each year and published by ActewAGL.

Date of application of Reference Tariffs

- 5.3 Reference Tariffs apply from the date on which the approval of the Relevant Regulator takes effect under section 2 of the National Gas Code.

Reference Tariffs after 30 June 2010

- 5.4 If the Revisions Commencement Date is later than 1 July 2010, the Reference Tariffs and terms for a Reference Service as at 30 June 2010 will continue to apply until the Revisions Commencement Date.
- 5.5 Upon the introduction of new Reference Tariffs or terms, those Tariffs or terms will apply to the Reference Services regardless of whether the Reference Services are existing Services being supplied to a User as at the Revisions Commencement Date.
- 5.6 If the categories of services under the revised Access Arrangement have changed, the applicable Reference Tariff and terms for an existing Service being supplied to a User as at the Revisions Commencement Date are the Tariff and terms for the nearest comparable service under the revised Access Arrangement.

Reference Tariffs for each Reference Service

- 5.7 Reference Tariffs for each Reference Service are shown in Attachment 3 (A to F).
- 5.8 The structure of the Reference Tariffs for the Capacity Reservation Service, Managed Capacity Service, Throughput Service and Tariff Service is shown in the table below.

Table 5.1 Structure of Reference Tariffs

<i>Capacity Reservation Service</i>	<i>Managed Capacity Service</i>	<i>Throughput Service</i>	<i>Tariff Service</i>
General	General	General	General
- MDQ	- MDQ	- Throughput	- Fixed
- Provision of Basic Metering Equipment	- Provision of Basic Metering Equipment	- Provision of Basic Metering Equipment	- Throughput
- Short Term Capacity Charge			- Provision of Basic Metering Equipment
Overrun charges			
Gas Balancing charges	Gas Balancing charges	Gas Balancing charges	Gas Balancing charges
Ancillary services charges	Ancillary services charges	Ancillary services charges	Ancillary services charges
			Alternative tariffs may be offered.

5.9 Charges for the Multiple Delivery Point Service depend on the Service used at each point.

5.10 Charges for the Meter Data Service comprise:

- (a) provision of meter reading charge, and
- (b) provision of on-site data and communication equipment charge,

as described in Attachment 3F.

6 Variations to Reference Tariffs

Varying Reference Tariffs within the Access Arrangement Period

- 6.1 Section 2.49 of the National Gas Code provides that Reference Tariffs may vary during the Access Arrangement Period pursuant to an Approved Reference Tariff Variation Method.
- 6.2 This Part 6 sets out the Approved Reference Tariff Variation Method for this Access Arrangement.

Reference Tariff variation applications

- 6.3 If a Specified Event occurs, ActewAGL may provide a notice to the Relevant Regulator containing the information set out in section 8.3C of the National Gas Code by 30 June in the financial year the Event occurred or by 30 June in the financial year following the Event. This timing allows the Relevant Regulator to assess applications at the same time as the annual escalation of Reference Tariffs. This approach results in administrative simplicity and ensures that Users only face one Reference Tariff change per year.
- 6.4 If ActewAGL otherwise wishes to vary a Reference Tariff in accordance with the Approved Reference Tariff Variation Method in this Part 6, ActewAGL will provide a notice to the Relevant Regulator containing the information set out in section 8.3C of the National Gas Code.
- 6.5 Unless the Relevant Regulator has disallowed the variation in accordance with section 8.3E of the National Gas Code, the Reference Tariff will be automatically varied in accordance with the notice under clause 6.3 or clause 6.4, from the date specified in the notice (subject to any extension of time under section 8.3D of the National Gas Code).
- 6.6 The date for commencement of the variation specified in the notice under clause 6.3 or 6.4 will provide the Relevant Regulator a reasonable time of up to 30 days to appoint an independent auditor (if the Relevant Regulator wishes) and to have that auditor review and report to the Relevant Regulator (on the basis of the information given by ActewAGL to the Relevant Regulator) on the following:
- (a) the impact of these costs on Reference Tariffs; and
 - (b) any other matters that the Relevant Regulator may reasonably require.
- 6.7 The Relevant Regulator may initiate a Reference Tariff variation application under clause 6.3, where it considers that the costs faced by ActewAGL were materially changed by a Specified Event and where

ActewAGL has not made an application under this Part 6 in respect of that Specified Event.

CPI Variation of Reference Tariffs

6.8 Subject to clause 6.5, the Reference Tariffs may be varied on 1 July of each year during the Access Arrangement Period as follows:

(a) On 1 July 2005, Reference Tariffs may be adjusted by CPI_{2005} :

$$CPI_{2005} = \left(\frac{CPI_{Mar2004} + CPI_{Jun2004} + CPI_{Sep2004} + CPI_{Dec2004}}{CPI_{Mar2003} + CPI_{Jun2003} + CPI_{Sep2003} + CPI_{Dec2003}} - 1 \right) \times 100\%$$

(b) On 1 July in subsequent years during the Access Arrangement Reference Tariffs may be adjusted by CPI_t :

$$CPI_t = \left(\frac{CPI_{Mar\ t-1} + CPI_{Jun\ t-1} + CPI_{Sep\ t-1} + CPI_{Dec\ t-1}}{CPI_{Mar\ t-2} + CPI_{Jun\ t-2} + CPI_{Sep\ t-2} + CPI_{Dec\ t-2}} - 1 \right) \times 100\%$$

Where:

CPI means the Consumer Price Index, All Groups index number for the weighted average of eight capital cities as published by the Australian Bureau of Statistics, or if the Australian Bureau of Statistics does not or ceases to publish the index, then CPI will mean an index determined by the Relevant Regulator that is its best estimate of the index.

CPI Dec2004 means the CPI for the December quarter for the year 2004 and similarly for other periods.

Year t is the year for which tariffs are being set.

Year t-1 is the previous year.

Cost pass-through

6.9 Subject to clause 6.5, the Reference Tariffs may be varied if there is a Material Impact on the cost of providing Reference Services as a result of one of the cost pass-through events listed below (**Cost Pass Through Events**), where that cost was not incorporated in the determination of Reference Tariffs at the Commencement Date of the Access Arrangement or, if there has been a previous review of the Reference Tariffs, at that review. Cost pass-through events include:

(a) a Change in Tax Event;

- (b) a Service Standard Event; and
- (c) a Terrorism or Natural Disaster Event.

Definitions

6.10 In this Part 6:

Authority means any government or regulatory department, body, instrumentality, minister, agency or authority or any body which is the successor to the administrative responsibilities of that department, body, instrumentality, minister, agency or authority.

Annualised Cost of a Cost Pass-Through Event in any year, means the amount of additional non-capital expenditure incurred in that year as a result of the Cost Pass-Through Event, plus 15% of the additional capital expenditure incurred in that year.

Change in Tax Event means:

- (a) a change in the way or rate at which a Relevant Tax is calculated (including a change in the application or official interpretation of a Relevant Tax); or
- (b) the removal of a Relevant Tax or imposition of a new Relevant Tax;

which, in each case, occurs after the Commencement Date of the Access Arrangement.

Material Impact means a Cost Pass-Through Event for which the Annualised Cost incurred, or forecast to be incurred, by ActewAGL as a result of the event occurring, is at least \$0.5 million (in 2004-05 dollar terms) in any one year above the costs incorporated in the determination of Reference Tariffs at the Commencement Date of the Access Arrangement or, if there has been a previous review of the Reference Tariffs, at that review.

Relevant Tax means any tax (including any rate, duty, charge or levy or other like impost) that is imposed by or payable directly or indirectly by ActewAGL to the Commonwealth of Australia, a State or Territory, or an Authority of the Commonwealth or of a State or Territory (including goods and services tax), but excluding:

- (a) income tax (or State or Territory equivalent income tax) or capital gains tax;
- (b) stamp duty, financial institutions duty, bank account debits tax or similar taxes or duties;
- (c) penalties and interest for late payment relating to any tax; and

- (d) any tax which replaces a tax referred to in (a) - (c) above, where “tax” includes any rate, duty, charge or other like impost.

Service Standard Event means any decision made by the Relevant Regulator or any other Authority, or any introduction of or amendment to applicable law or Gas Law, after the Commencement Date which:

- (a) has the effect of:
 - (i) imposing or varying standards (including Network Design and operational standards) on ActewAGL relevant to any one or more of the Services, that are more onerous than the standards imposed at the Commencement Date; or
 - (ii) altering the nature or scope of services that comprise any one or more of the Services; or
 - (iii) substantially altering the manner in which ActewAGL is required to undertake any activity forming part of, or ancillary to, any one or more of the Services (including through rules for the operation of competitive gas markets); and,
- (b) results in ActewAGL incurring (or being likely to incur) materially higher costs in providing any one or more of the Services than it would have incurred but for that event.

Specified Event means:

- (a) a change in CPI as set out in clause 6.8; and
- (b) a Cost Pass-Through Event.

Terrorism or Natural Disaster Event is an act of terrorism or a natural disaster (including fire, flood or earthquake) which results in costs which are substantially different to those incorporated in the determination of Reference Tariffs at the Commencement Date of the Access Arrangement or, if there has been a previous review of the Reference Tariffs, at that review.

7 Extensions/Expansions policy

- 7.1 Subject to this Part 7, all extensions to, and expansions of the Capacity of, the Network carried out by ActewAGL will be treated by ActewAGL as a Covered Pipeline and will automatically be covered by this Access Arrangement.
- 7.2 If ActewAGL proposes that an extension or expansion should not be covered by this Access Arrangement, it must give the Relevant Regulator a written notice to that effect, before the extension or expansion comes into service.
- 7.3 An extension or expansion will not be covered by this Access Arrangement (and will not be a Covered Pipeline) if:
- (a) ActewAGL gives the Relevant Regulator a notice under clause 7.2; and,
 - (b) The Relevant Regulator gives ActewAGL a written notice stating that the Relevant Regulator considers that the extension or expansion is significant and may be excluded from the coverage of this Access Arrangement on that basis.
- 7.4 Clauses 7.2 and 7.3 do not apply where the cost of the extension or expansion has been included in the calculation of Reference Tariffs.
- 7.5 If an extension or expansion is treated as a Covered Pipeline, ActewAGL will offer Reference Services for that extension or expansion at the Reference Tariffs.
- 7.6 ActewAGL may increase the Capital Base, or charge Users a Surcharge or Capital Contribution, in connection with an extension or expansion that is treated as a Covered Pipeline, in accordance with Part 4 of this Access Arrangement.

8 Trading policy

Bare transfer

- 8.1 A User may make a Bare Transfer to another person (**the transferee**).
- 8.2 Prior to utilising any transferred Contracted Capacity, the transferee will notify ActewAGL of the:
- (a) portion of the Capacity subject to the Bare Transfer; and
 - (b) the nature of the Capacity subject to the Bare Transfer.

Other transfer

- 8.3 A User will obtain ActewAGL's prior consent to Transfer all or part of its Contracted Capacity other than by way of a Bare Transfer.

Change of Receipt Point or Delivery Point

- 8.4 A User may change the Receipt Point or Delivery Point specified in a Transport Service Agreement where that is required as a result of a Bare Transfer, or other transfer of Contracted Capacity, with the prior written consent of ActewAGL.

ActewAGL's consent

- 8.5 ActewAGL may:
- (a) give or withhold its consent under clause 8.3 or 8.4, on reasonable commercial and technical grounds; and
 - (b) impose reasonable conditions on that consent, subject to the requirements of the National Gas Code.⁵
- 8.6 ActewAGL will reply to any request from a User for ActewAGL's consent to a Transfer under clause 8.3, or for a change of Receipt Point or Delivery Point under clause 8.4, within 14 Business Days of receiving the request accompanied by information which is reasonably necessary to enable ActewAGL to consider the request.
- 8.7 If at the time the request is made a User informs ActewAGL that due to hardship the User requires an urgent reply to its request, ActewAGL will take reasonable steps to respond to the request within 2 Business Days of receiving the request.

⁵ Refer to sections 3.10 and 3.11 National Gas Code.

9 Queuing Policy

- 9.1 This Queuing Policy explains how ActewAGL manages requests for Services when there is insufficient Capacity in the Network to satisfy those requests.
- 9.2 The policy applies to requests for access to both Developable Capacity and Spare Capacity.
- 9.3 The Request for Service procedure in Attachment 2 describes how the policy is triggered.

Forming the queue

- 9.4 If:
- (a) ActewAGL receives a Request from a User; and
 - (b) there is insufficient Capacity to satisfy the Request,
- then
- (c) ActewAGL will advise the User that their request will be placed in a queue; and
 - (d) the User will advise ActewAGL whether they wish to proceed with the request;
- then
- (e) if there is an existing queue - ActewAGL will add the Request to the queue; or
 - (f) otherwise - a new queue will be formed by ActewAGL.
- 9.5 At the time a Request is placed in a queue, ActewAGL will advise the User of:
- (a) its position in the queue;
 - (b) the aggregate Capacity sought under Requests which are ahead in the queue;
 - (c) its estimate of when Capacity may become available; and
 - (d) the amount of any Surcharge that may apply.
- 9.6 When the position of a Request changes relative to other Requests which are ahead in the queue (such as where a Request ceases to be in the queue) or where the timing of availability of a new tranche of

Developable Capacity or Spare Capacity changes, ActewAGL will provide revised information to the User.

- 9.7 Where a Request is made for a service to a Delivery Point and ActewAGL is satisfied that the Request is for the same tranche of capacity which is already provided to the User, or to another User, in respect of that Delivery Point, then ActewAGL may make that tranche of capacity available in response to the Request before satisfying any other requests in a queue to the extent that the existing User is otherwise entitled to maintain or extend that tranche of capacity.

Conditions applicable on queue

9.8 The following conditions apply:

- (a) a User may reduce, but not increase, the Capacity sought in a Request that is in a queue;
- (b) once every 3 Months, ActewAGL may seek confirmation from a User that it wishes to continue with a Request or Requests. If the User fails to respond within 14 days, the relevant Requests will lapse;
- (c) a User will advise ActewAGL if it does not wish to proceed with a Request, which will then lapse;
- (d) a lapsed Request will be removed from the queue and priority will be lost;
- (e) if either party raises a dispute under the National Gas Code in connection with a Request, the Request will not lapse, and will retain its priority in the queue pending the resolution of the dispute in accordance with the National Gas Code;
- (f) if a Request is placed in a queue, the User will, on request, demonstrate to ActewAGL's reasonable satisfaction that the User will have access to a sufficient supply of gas at the time it is anticipated that the User will be offered access to the Service;
- (g) a User may only assign a Request in a queue to a bona fide purchaser of the User's business or assets. Any such assignment is subject to the purchaser:
 - (i) meeting ActewAGL's reasonable requirements concerning licensing, and technical and financial capacity; and
 - (ii) providing ActewAGL with any security reasonably requested by ActewAGL; and

- (h) a Request lapses if a User assigns the Request contrary to clause 9.8(g).

Procedure when Capacity can be made available

- 9.9 If Capacity becomes available it will be offered to the Users in the queue:
 - (a) whose Request requirements can be fully satisfied by the available Capacity; and
 - (b) in order of their respective priorities in the queue.

Priority of Users in obtaining Services

- 9.10 ActewAGL will advise a User if their Request is incomplete.
- 9.11 If the User completes the Request within 7 days, the priority of the Request for queuing purposes will be determined by ActewAGL based on the time and date on which ActewAGL first received the Request.
- 9.12 Otherwise, the priority will be determined by ActewAGL based on the time and date on which ActewAGL receives the completed Request.
- 9.13 A Request for a Reference Service will have priority over a Request for a Negotiated Service.
- 9.14 A Request for Short Term Capacity has the lowest priority.

Requirement for Transport Services Agreement

- 9.15 A User will have a Transport Services Agreement with ActewAGL for a Service before an offer of Capacity under that Service may be accepted.⁶
- 9.16 If Capacity becomes available, but a User has not entered into a Transport Services Agreement with ActewAGL for the relevant Service, the User's Request will lose priority to other Users who have entered into a Transport Services Agreement relevant to their Request, until the first User has entered into the required Transport Services Agreement.
- 9.17 Alternatively, ActewAGL may agree to reserve Capacity for the User for a period nominated by ActewAGL, to enable a Transport Services Agreement to be finalised. In that case, the User will not lose priority,

⁶ This requirement is satisfied if the User has an arbitrated access decision granting it access to the Network for the relevant Service, under section 6 of the National Gas Code (see the definition of "Transport Services Agreement").

and the parties will use all reasonable endeavours to finalise the Transport Services Agreement within the period.

- 9.18 ActewAGL may agree to extend a period during which Capacity is reserved under clause 9.17, or any extended period under this clause.

Compensation for reserving Capacity

- 9.19 ActewAGL may require the User to pay compensation for ActewAGL agreeing to commence a Service more than 30 days from the execution of a Transport Services Agreement where the commitment of capacity to meet the requirements of the User contributes to:

- (a) the continuation of a queue,
- (b) the formation of a queue at any time prior to the commencement date, or
- (c) the acceleration of investment for Developable Capacity (including pre-construction investment, such as planning and design for that capacity) by ActewAGL to provide capacity for other Users.

- 9.20 The User will pay compensation under clause 9.19 within 30 days of receipt of a notice from ActewAGL specifying the compensation and providing reasonable substantiation.

10 Capacity Management Policy

10.1 The Network is a Contract Carriage Pipeline.