

EnergyAustralia Response to Envestra's Application for Revocation of Coverage - Wagga Wagga Gas Distribution System

Supplement 1

Further to Energy Australia's original submission to the NCC submitted on 27 May 2013 we make the following additional comments under the previously submitted section headings.

2. Coverage criterion (a) material increase in competition

2.6 Retail Market Entry and Exit

When a retailer enters a gas market such as Wagga Wagga they do this on the understanding that they intend to participate in this market for the long term.

Entering a market requires:

- Registration and certification with AEMO (Australian Energy Market Operator)
- Obtaining transmission haulage to the network receipt points
- Obtaining distribution system haulage
- Procuring suitable gas supply from producers
- Procuring/managing gas supply hedges to offset risks in the wholesale gas market
- Establishing the business to business protocols including new connections and other service orders
- Building suitable tariffs and tariff structures to manage distribution network tariffs and retail risks
- Building processes and protocols to manage network billing
- Establishing new connections processes
- Ensuring customer contracts and terms address regulatory obligations and distributor processes
- Educate operational staff on the market issues of each network including emergency management

Once a retailer wins customers in a network they are obligated to supply them until such time as they transfer to another retailer or they no longer use gas. This is a long-term commitment and can only be ended by a trade sale of the customer base or market default triggering a retailer of last resort event. Both of these unplanned events are suboptimal to a retailer's brand reputation.

Therefore a regulated network's access arrangement provides retailers with a level of certainty that better aligns with its obligations to customers and the level of investment required to participate in a gas distribution system. A retailer's participation would normally be expected to transverse across multiple reviews of a gas access arrangement synonymous with a customer's expected appliance life for a specific fuel.

2.7 The Effect of Coverage on Retail Competition

Uncovered networks do not encourage retailers to enter a network area. We note that the areas in table 1 are for the most part are geographically close, are generally similar in nature, and could be attractive markets for retailers to enter. However, only the covered networks have more than one retailer currently supplying gas to small customers.

Table 1: Small NSW (and NSW/Victorian border) gas distribution areas

Area name	Towns included	Distributors	Coverage status	Retailers
Wagga	Wagga	Envestra	Covered	Origin, EA
Albury	Albury, Jindera	Envestra	Covered	Origin, EA
Murray Valley	Yarrawonga, Finley, Rutherglen, Tocumwal	Envestra	Covered	Origin, EA, AGL
Queanbeyan	Queanbeyan	ActewAGL	Covered	Origin, EA, ActewAGL
Tumut towns	Adelong, Gundagai & Tumut	Envestra	Uncovered	Origin (CE)
Monaro towns	Bombala & Cooma	Envestra	Uncovered	Origin (CE)
Riverina towns	Temora, Culcairn, Holbrook, Henty & Walla Walla	Envestra	Uncovered	Origin (CE)
Central Ranges	Tamworth	APA	Uncovered	Origin
Mildura	Mildura	Envestra	Uncovered	Origin

Source: AER website, Retailers' websites, CE: Country Energy

For all the reasons outlined in the rest of our submission we believe it is very unlikely that any uncovered network areas will obtain any new retail market entrants. Competitive retail markets are generally considered to be effective in achieving efficient retail pricing outcomes for customers. However this effect would be severely diminished in an area where customers have a choice of only one retailer.

2.8 Threat of Re-coverage of the Network

Envestra states¹ that revocation is not permanent and any party can lodge a coverage application to the NCC at any time. While this is true in practice, now that retailers are operating in, one of, if not, the most competitive energy market in the world, they would be unlikely to expend the resources required to mount an application to the NCC for coverage as the benefits would be shared across multiple competitors. It is far easier for a retailer once already in a market to simply lessen their exposure in a non-favourable market and move onto another market where the regulatory regime is more favourable.

¹ Wagga Wagga Network Revocation Submission paragraph 86

An example of this is the Queensland electricity market where retail pricing was frozen during 2012/13. During this period the level of retail competition in Queensland diminished as many retailers refocused on other jurisdictions. Therefore Wagga Wagga customers would be far better served by extending coverage and reinforcing the ongoing certainty that this regulatory approach can provide for existing and new participants.

2.9 Negotiation Precedents Set in Previous Regulatory Access Arrangement Reviews

As EnergyAustralia has never retailed to customers in an uncovered network area, we do not have access to evidence that demonstrates how distributor-retailer negotiations proceed for an uncovered network area. However, we have investigated several access arrangement reviews conducted by the AER or the Queensland Competition Authority (QCA) that demonstrate the issues and outcomes that have occurred in relevant covered network situations.

The reviews selected for comparison are:

1. Envestra Albury 2013-17 access arrangement review – AER²
2. Country Energy Wagga Wagga 2010-2015 access arrangement review – AER³
3. Envestra Queensland revised access arrangement 2006 review – QCA⁴

Terms

Appendix A below outlines some of the contentious matters under review of interest to retailers where the regulator acted to resolve issues relating to terms contained in the access arrangement. In our view, these are not unusual positions for a distributor to take and indicate some of the matters we may have to negotiate with Envestra in future if coverage of the Wagga Wagga network were to be revoked.

While the AER and QCA have not made decisions in retailers' favour on all matters in these reviews, we believe that it is important for retailers to have the support of a regulatory review process to establish access arrangements terms and conditions. The resources, level of knowledge, effort and coordination required for retailers to undertake such a review for an uncovered network would be so substantial that they would prevent negotiations occurring on an equal footing. We share the concerns of Origin Energy submitted to the AER for the recent Albury access arrangement review:

*"The balance of interests between service providers and [users] is such that the service provider can refuse an amendment and the user has no choice but to accept this. This leaves little scope for genuine negotiation."*⁵

² AER: Access arrangement final decision, Envestra Ltd, 2013–17, Part 2: Attachments, <http://www.aer.gov.au/node/14473>, March 2013

³ AER: Access arrangement proposal, Wagga Wagga natural gas distribution network, 1 July 2010–30 June 2015, <http://www.aer.gov.au/node/3909>, March 2010

⁴ QCA: Envestra Queensland revised access arrangement 2006 review, <http://www.qca.org.au/gas/2006-access-review/FinalDecision.php>, May 2006

Pricing

Another key area that we rely on the AER for is the review of network expenditure and operations for each network area to ensure that network tariffs are set efficiently and consistently with the National Gas Objective (NGO). In carrying out its analysis, the AER has access to a great deal of confidential information that would not be available to retailers even if the network was uncovered.

It is common for the final pricing decision by the AER to be significantly lower than the original proposal by the distribution company. The three reviews selected above to assess the outcomes on terms and conditions all exhibit a lowering of the revenue requirements in the final outcome. This process has thus produced lower price outcome for customers than would have otherwise occurred (table 2).

Table 2: Pricing outcomes for the selected access arrangement reviews

Review	Proposal	Final decision	Reference
1 (Albury)	\$31.5 mill	\$29.5 mill	6
2	\$48.8 mill	\$46.1 mill	7
3	CPI + 2% each year	CPI + 1.1% each year	8

4. Summary

In recent discussions with Envestra, they indicated that the terms and conditions for an uncovered Wagga Wagga network would be similar to what currently exists for the Albury covered gas network also owned by Envestra.

While this appears a reasonable starting point for negotiations, now that NECF is to be introduced into NSW from 1 July 2013 many distributor retailer provisions are contained in NECF and therefore we would prefer a more fundamental change to any uncovered contract terms and conditions. Therefore, the Envestra proposal does not provide us with any guarantee of a suitable outcome and still imposes risks and uncertainty.

⁵ AER: Access arrangement final decision, Envestra Ltd, 2013–17, Part 2: Attachments, <http://www.aer.gov.au/node/14473>, March 2013, pages 279-280

⁶ AER: Access arrangement final decision, Envestra Ltd, 2013–17, Part 1, March 2013, page 10

⁷ AER: Access arrangement proposal, Wagga Wagga natural gas distribution network, 1 July 2010–30 June 2015, <http://www.aer.gov.au/node/909>, March 2010, page 3

⁸ Total revenue figures were not available for comparison of the proposal and final determination, so price path figures were used instead. Envestra: Access Arrangement Information for Envestra's Queensland Network, September 2005, page 2. QCA: Envestra Queensland revised access arrangement 2006 review, <http://www.qca.org.au/qas/2006-access-review/FinalDecision.php>, May 2006, page ii

Appendix A

Review	Distributor's Position	Retailer's Concerns	Regulator's Decision	Reference
1	Envestra proposed that they should be able to charge for ancillary reference services on a pro rata basis if they were unable to fully provide a service because of an act or omission by a Network User.	This would allow Envestra to charge when it is unable to obtain access to a property to carry out the work.	It is not consistent with the National Gas Objective (NGO) to permit charging for a service that has not been provided, or even partially provided.	Pg 255-256
1	Envestra should be allowed to terminate the contract with a Network User on the grounds of outstanding monies.	The inclusion of a seven days notice for termination outside of when permitted by law does not provide for the efficient operation of a network. Termination following failure to pay any amount due is a harshly disproportionate outcome for Network Users and is not in the best interests of customers.	Envestra should not be permitted to terminate on the grounds of outstanding monies where there is a dispute over the statement of charges to which the subject monies relate.	Pg 262-266
1	Envestra should be permitted to cease delivering gas and performing any other obligations if the Network User fails to pay any amount due.	This clause does not align with the NGO and another clause exists that will allow termination if the situation warrants it. Envestra could use the proposed clause to randomly target 'innocent customers'.	The AER does not allow Envestra to cease delivering gas and cease performing any of its other obligations if the Network User fails to pay any amount due. It would otherwise allow for responses that are disproportionate to any harm caused and fails to provide adequate protection for Network Users and consumers.	Pg 258
2	Country Energy submitted that it did not amend the force majeure provision to have this apply for the benefit of all parties.	None quoted by the AER	The force majeure provision set out in the standard user agreement must be amended, as it is not consistent with the NGO.	Pg 82-83
2	Country Energy proposed not to report annually to the AER on all expansions of the capacity of the pipeline as this imposes costs on Country Energy for which there is no economic benefit, does not contribute to the NGO and is not within the AER's powers to review.	None quoted by the AER	The AER's interpretation of the National Gas Rules clearly envisages that the AER can determine whether incremental services can be provided as a result of an extension to the pipeline, particularly if these services are priced at the current reference tariff as if they are regulated services. The AER does not approve Country Energy's proposed extensions and expansions requirements because a preferable alternative exists that is consistent with the National Gas Law and National Gas Rules.	Pg 87-89
3	Envestra proposed to adjust the volume of gas at previous readings of the meter on whatever basis Envestra considers reasonable.	Important that discretionary powers in the terms and conditions are restricted.	Envestra must bring terms and conditions back into line with those that were approved during the previous review of access arrangements, as there is the potential for Envestra to shift risk from itself to users.	Pg 12
3	Envestra proposed that network charges should be invoiced in advance.	Normal custom for other networks that changes are paid in arrears. Advance payment requires complex and error prone adjustments of forecast amounts. Envestra has other ways of protecting against bad debt.	The payment terms proposed by Envestra are not reasonable and network charges must be invoiced one month in arrears.	Pg 13-18

Review	Distributor's Position	Retailer's Concerns	Regulator's Decision	Reference
3	Envestra doesn't have any influence over the quality of gas once it has entered the network and therefore requires the user (retailer) to ensure that gas delivered to Envestra, by or for account of the user, meets the specifications imposed by law.	Gas quality standards between Allgas (another Queensland distributor) and Envestra should be consistent.	It is not reasonable for Envestra to have no obligation for the quality of gas that is being transported through its network if its actions can influence the quality of gas. Envestra must amend its terms and conditions to include a requirement to maintain the quality of gas injected into the network.	Pg 18-19
3	Envestra did not agree with the requirement to provide sufficient information to allow reconciliation of DUOS charges at an individual customer level.	It is important for Envestra to provide sufficient information to allow reconciliation at an individual customer level and this is the normal practice in other markets.	Envestra must adjust its invoicing policy so that it is required to provide sufficient information to allow reconciliation of DUOS charges at an individual customer level.	Pg 19-21