

IN THE AUSTRALIAN COMPETITION TRIBUNAL

File No. ACT 7 of 2011

Re: Application under section 245 of the National Gas Law for a review of a full access arrangement decision made by the Australian Energy Regulator in relation to Envestra Limited pursuant to Rule 64 of the National Gas Rules

Applicant: Envestra Limited (ABN 19 078 551 685)

ORDERS

TRIBUNAL: Justice Mansfield (President)
Mr R Davey
Professor D Round

DATE OF ORDER: 10 February 2012

WHERE MADE: Adelaide

THE TRIBUNAL ORDERS THAT:

- 1 The determination of the Australian Competition Tribunal (**Tribunal**) dated 11 January 2012 be given effect to by, in the full access arrangement decision of the Australian Energy Regulator (**AER**) under rule 64(4) of the National Gas Rules (**NGR**), dated 7 July 2011, and entitled, *Decision: Access arrangement: Envestra Ltd's South Australian gas distribution network 8 July 2011 – 30 June 2016, July 2011*, deleting the heading "Further final decision" and the two paragraphs under that heading on page 2, and inserting a new



heading, "Decision on the access arrangement", and inserting the following words under that new heading:

"In accordance with rule 64(4) of the NGR and section 259(2) of the NGL, the Access Arrangement, including the Access Arrangement Information, for Envestra's South Australian gas distribution network is as set out in Annexure A to the Order of the Australian Competition Tribunal dated 10 February 2012."

2 There be no order as to costs.

Date entered: 10 February 2012



K. Lynch
DEPUTY REGISTRAR
Australian Competition Tribunal

ACCESS ARRANGEMENT

for Envestra's

South Australian Gas Distribution System

8 July 2011 – 30 June 2016

July 2011

Amended by order of the Australian Competition Tribunal
10 February 2012

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1. INTRODUCTION

1.1 Purpose of this Document

Envestra Limited (ABN 19 078 551 685) (**Envestra**) submitted revisions to its Access Arrangement for its South Australian Gas Distribution System (the **Network**) on 1 October 2010, in accordance with section 10.1 of its Access Arrangement and Rule 52 of the National Gas Rules 2008 (**Rules**). On 17 June 2011, the AER released its Draft Decision on Envestra's revisions.

Envestra is a publicly listed company and owner of the Network. Envestra is not a local agent of a Service Provider nor is it acting on behalf of another Service Provider.

The geographical spread of the Network is shown in Annexure A, with further detail provided in the Access Arrangement Information. A description of the Network can be found at www.envestra.com.au.

This Access Arrangement as revised describes the terms and conditions on which access will be granted to the Network, and contains the required elements of an Access Arrangement as described in Rule 48 of the Rules. This Access Arrangement is accompanied by a revised Access Arrangement Information.

1.2 Revisions Commencement Date

Revisions to the Access Arrangement will come into effect on the later of 1 July 2011 and the date on which the revisions to the Access Arrangement take effect in accordance with the Rules.

1.3 Definitions and Interpretation

In this Access Arrangement and the Access Arrangement Information, unless the context indicates otherwise:

- (a) where a word or phrase begins with a capital letter:
 - (1) it has the meaning given to it in the glossary that is set out in section 10 of this Access Arrangement;
 - (2) if it is not defined in the glossary, it has the meaning given to it in the Rules; and
 - (3) a reference to a "Rule" is a reference to the relevant section of the Rules.
- (b) where a word or phrase is defined, its other grammatical forms have a corresponding meaning; and
- (c) headings are for convenience only and do not affect interpretation.

1.4 Contact Details

The contact person for further details in relation to this Access Arrangement is:

Mr Andrew Staniford
Group Manager, Commercial
Envestra Limited
Level 10, 81 Flinders Street
Adelaide SA 5000
Ph: (08) 8227 1500 Fax: (08) 8227 1511

2. SERVICES

2.1 General

The Network Services which Envestra will make available to Network Users and Prospective Network Users in accordance with the Rules comprise:

- (a) three Haulage Reference Services, which are described in section 2.2;
- (b) three Ancillary Reference Services, which are described in section 2.3; and
- (c) Negotiated Services, which are described in section 2.4.

To the extent practicable and reasonable, a Network User or Prospective Network User may obtain a Network Service which includes only those elements that the Network User or Prospective Network User wishes to be included in the Network Service.

To the extent practicable and reasonable, Envestra will provide a separate Tariff for an element of a Network Service if requested to do so by a Network User or Prospective Network User.

Envestra has no associate contracts (as defined in the National Gas Law).

2.2 Haulage Reference Services

2.2.1 Domestic Haulage Service

The Domestic Haulage Service is a Haulage Reference Service that comprises the delivery of Gas through an existing Domestic Delivery Point in accordance with, and subject to, the terms and conditions referred to in section 6.

A Delivery Point (DP) is a Domestic DP for a given period if the Gas delivered through that DP during that period was used primarily for domestic purposes. Gas will have been used primarily for domestic purposes if 50 percent or more of that Gas was used for domestic purposes.

Envestra will determine from time to time whether Gas delivered through a DP during any period was used primarily for domestic purposes or primarily for other purposes. Envestra's determination will bind the Network User, unless proven incorrect.

2.2.2 Demand Haulage Service

The Demand Haulage Service is a Haulage Reference Service that comprises the delivery of Gas through an existing Demand DP, in accordance with, and subject to, the terms and conditions referred to in section 6.

A DP is a Demand DP at a given time if:

- (a) that DP is not a Domestic DP at that time; and
- (b) the Quantity of Gas delivered through that DP during the then most recent Metering Year was equal to or greater than 10TJ in total.

In this section, a reference to the Quantity of Gas delivered is a reference to Gas delivered whether to or for the account of the Network User or another person or persons.

The tariff in relation to Demand DPs is based on MDQ.

2.2.3 Commercial Haulage Service

The Commercial Haulage Service is a Haulage Reference Service that comprises the delivery of Gas through a Commercial DP in accordance with, and subject to, the terms and conditions referred to in section 6.

A DP is a Commercial DP at a given time if that DP is not a Demand DP or a Domestic DP at that time.

2.2.4 Classification of New DPs

Envestra will classify a new DP as a Domestic DP, a Demand DP or a Commercial DP. In determining the classification of a DP, Envestra will take into account:

- (a) the Network User or Prospective Network User's stated demand and connection characteristics for the DP; and
- (b) Reference Tariffs assigned to DPs with the same or materially similar demand and connection characteristics.

A new DP classified by Envestra as a Domestic DP, a Demand DP or a Commercial DP will be treated as a Domestic DP, a Demand DP or a Commercial DP (as the case may be) for the purposes of this Access Arrangement (and for the purposes of each Agreement) until such time as it becomes apparent to Envestra that another classification is appropriate. The

Reference Tariff applicable in respect of the DP will be determined from time to time on the basis of the classification of that DP.

2.2.5 Associated Services

As a part of each Haulage Reference Service, Envestra will also provide meter reading data on a quarterly basis for Domestic DPs and Commercial DPs and on a monthly basis for Demand DPs in accordance with, and subject to, the terms and conditions referred to in section 6.

For the avoidance of doubt, Unaccounted for Gas is supplied by Envestra. The cost of Unaccounted for Gas has been taken into account in the determination of the Reference Tariffs.

The Haulage Reference Services do not include any of the Network Services described as Ancillary Reference Services (see section 2.3) or Negotiated Services (see section 2.4).

2.3 Ancillary Reference Services

The Ancillary Reference Services comprise the following Network Services:

- (a) Special Meter Reading – this Reference Service comprises a meter reading for a DP and provision of the associated meter reading data, that is in addition to the scheduled meter readings that form part of the Haulage Reference Services described in section 2.2 above;
- (b) Disconnection – this Reference Service comprises the use of locks or plugs at the Metering Installation of a Domestic or Commercial DP in order to prevent the withdrawal of Gas at the DP;
- (c) Reconnection – this Reference Service comprises action to restore the ability to withdraw Gas at a DP, following an earlier Disconnection (that is, the removal of any locks or plugs used to isolate supply, performance of a safety check and, where necessary, the lighting of appliances).

Each Ancillary Reference Service will be provided in accordance with, and subject to, the terms and conditions referred to in section 6.

2.4 Negotiated Services

Any Network User or Prospective Network User may request Envestra to provide a Negotiated Service. A Negotiated Service is a Network Service that is different from the Reference Services.

The terms and conditions on which Envestra will provide Negotiated Services will be the same as the terms and conditions referred to in section 6, where Envestra determines that those terms and conditions are appropriate and applicable to the requested Negotiated Service.

2.5 Gas Balancing

Gas balancing refers to the process of ensuring that the Quantity of Gas delivered through DPs to or for the account of a Network User is equivalent to the Quantity of Gas delivered through Receipt Points by or for the account of the Network User.

In the case of the Adelaide Metropolitan Network, gas balancing is regulated through the short term trading market established pursuant to the National Gas Rules (as amended by the National Gas (Short Term Trading Market) Amendment Rules 2010).

In the case of the remainder of the Network, gas balancing is regulated through the Retail Market Procedures (and, in particular, chapter 5 of the Retail Market Procedures).

Network Users and Prospective network users should familiarise themselves with the National Gas Rules and the Retail Market Procedures and satisfy themselves that their interest in relation to gas balancing is appropriately protected. Envestra is not responsible to ensure that the Quantity of Gas delivered through a Receipt Point, by or for the account of a Network User, will be delivered through DPs to or for the amount of that Network User. Envestra takes no responsibility for gas balancing within the Network or within any Sub-Network.

2.6 Network Service Standards

Envestra will provide each Network Service, including each Reference Service, in accordance with, and subject to, the requirements of any Distribution Licence or applicable law.

3. REFERENCE TARIFFS

3.1 Haulage Reference Tariffs

The Reference Tariffs for the Domestic Haulage Service, Commercial Haulage Service and Demand Haulage Service are known as "Tariff R", "Tariff C" and "Tariff D" respectively. The Tariff Schedule set out as Annexure B to this Access Arrangement shows the initial Reference Tariffs that will apply to Reference Services.

The initial Reference Tariffs will apply from the commencement of the Third Access Arrangement Period (1 July 2011), until those Reference Tariffs are varied in accordance with section 4 of this Access Arrangement.

All Haulage Reference Tariffs have been designed to effectively increase by CPI+12.44% on 1 July 2011 and for subsequent years by CPI+8% 15.83%, CPI+8% 15.83%, CPI+7% 0% and CPI+6% 0% respectively.

The Charges payable under Tariff D vary according to the Region of the Network in which the Demand DP is located. The Network comprises seven Regions. They are the Adelaide Region, the Peterborough Region, the Port Pirie Region, the Riverland Region, the South East Region, the Whyalla Region and the Tanunda Region. These are shown on the map set out in Annexure C.

In the case of a Demand DP within the Adelaide Region, the Charges payable under Tariff D also vary according to the Zone within which the DP is located. There are three Zones, which are shown on the map set out in Annexure D.

The Reference Tariffs for Reference Services will be set out in Tariff Schedules that Envestra will publish from time to time on its website at "www.envestra.com.au".

3.2 Ancillary Reference Service

The initial Ancillary Reference Tariffs are set out in Table 5 of the Tariff Schedule in Annexure B. These tariffs will increase by CPI on 1 July 2011 and thereafter by CPI for each remaining year of the Third Access Arrangement Period.

4. REFERENCE TARIFF POLICY – GENERAL

4.1 Determination of Reference Tariffs

Reference Tariffs have been determined based on a revenue requirement that uses a building block or Cost of Service approach. This approach provides for total revenue to be calculated on the basis of a rate of return on the capital base plus depreciation plus non-capital costs associated with operating the Network.

A CPI-X approach to determining Haulage Reference Tariffs has been adopted, using a tariff basket approach to price control. To ensure price stability, Reference Tariffs for the Access Arrangement period have been set on the basis of a smoothed revenue, so that Tariffs move in a uniform and consistent manner as much as possible.

Reference Tariffs are designed to meet the objectives of the Rules. A key objective of the Rules is to recover the efficient costs of providing Services, with emphasis on the safety and integrity of the Network, while providing certainty to Users and signalling appropriate development of the market through extension of the Network.

The Reference Tariffs are designed to be cost reflective to the extent possible, so that Reference Tariffs recover the efficient cost of providing the relevant Reference Service. The revenues associated

with the Reference Tariffs also reflect efficient pricing principles, in that the revenue for each Reference Tariff has been set between incremental and stand-alone prices.

4.2 Assignment of Haulage Reference Tariffs

Where Envestra is charging a particular Haulage Reference Tariff in respect of a particular DP, then that particular Haulage Reference Tariff is to be regarded as being "assigned" to that DP.

Haulage Reference Tariffs will be assigned to DPs in accordance with the criteria set out in sections 2.2.1-2.2.4 of this Access Arrangement.

4.3 Reference Tariff Variation Mechanism

Rule 97 allows Reference Tariffs to vary within an Access Arrangement Period through a Reference Tariff Variation mechanism. For the purposes of this Access Arrangement, Reference Tariffs will be varied through two mechanisms, namely:

- (a) Reference Tariff Control Formulae, as described in section 4.4; and
- (b) a Cost Pass Through Event Adjustment, which is described in section 4.5.

Variations to Reference Tariffs are subject to the Regulator's approval (or deemed approval) in accordance with the Rules and this section 4.

Envestra will publish a revised Tariff Schedule on its website at www.envestra.com.au whenever variations to Reference Tariffs have been approved.

4.4 Reference Tariff Control Formulae

4.4.1 Haulage Reference Tariffs

Subject to the approval of the Regulator under the Rules, Envestra will have the right to vary the Reference Tariffs for Haulage Reference Services as it thinks fit from time to time provided that the variations comply with the two Reference Tariff Control Formulae set out in Annexure E to this Access Arrangement.

The first Reference Tariff Control Formula is designed to ensure that the average revenue (in \$/GJ) that Envestra receives from a Haulage Reference Service after 30 June 2011 does not increase, as a result of any proposed variation to Reference Tariffs, at a rate that is greater than the change in CPI – X (where X is the factor described in Annexure E).

The second Reference Tariff Control Formula is designed to ensure that the average revenue (in \$/GJ or \$/GJ of MDQ) that Envestra receives from any single type of Haulage Reference Service, after any proposed variation to Reference Tariffs, does not increase by more than CPI plus 2%.

Both Reference Tariff Control Formulae set out in Annexure E compare the revenue from the pre-existing Reference Tariffs with revenue from the Reference Tariffs as varied, based on the Quantities of Gas (or other units of measurement, such as GJ or MDQ) that applied in the year two years prior to the year in which the Reference Tariffs are to be varied. These historical quantities are to be audited.

Subject to compliance with the two Reference Tariff Control Formulae, Envestra will have the ability to vary the Reference Tariffs for Haulage Reference Services within its discretion, subject to the Rules.

Variations to the Reference Tariffs may be effected:

- (a) through changes in the components, elements or variables comprised within any Reference Tariff (such as a change in the base charge or fixed charge within the Reference Tariff or a change in the steps, or the level of the steps, within the Reference Tariff);
- (b) through the introduction of a new Reference Tariff for any Haulage Reference Service

(to apply in place of any pre-existing Reference Tariff, either in all circumstances or in certain circumstances);

- (c) through the withdrawal of any Reference Tariff; or
- (d) through any combination of these changes.

4.4.2 Ancillary Reference Services

Subject to the approval of the Regulator, Envestra will have the right to vary the Reference Tariffs for Ancillary Reference Services, initially on 1 July 2011, and thereafter annually during the Third Access Arrangement Period, on the basis of the following Reference Tariff Control Formula:

$$ART_t = ART_{t-1} \times CPI_t$$

where:

ART_t is the Reference Tariff that will apply to an Ancillary Reference Service in year t ;

ART_{t-1} is the Reference Tariff that applied to that Ancillary Reference Service in year $t-1$; and

CPI_t is calculated as the CPI for the year ending 31 March immediately preceding the start of year t , divided by the CPI for the year ending 31 March immediately preceding the start of year $t-1$.

Where the Reference Tariff for an Ancillary Reference Service (as varied) is less than \$20, the Reference Tariff (as varied) will be rounded to the nearest 10 cents (with five cents rounded upwards). Where the Reference Tariff for an Ancillary Reference Service (as varied) is \$20 or more, the Reference Tariff (as varied) will be rounded to the nearest dollar (with 50 cents rounded upwards).

4.5 Cost Pass Through Event Adjustment

Subject to the approval of the Regulator under the NGR, Reference Tariffs may be varied after one or more Cost Pass Through Event/s occurs, in which each individual event materially increases or materially decreases the cost of providing the reference services. Any such variation will take effect from the next 1 July.

In making its decision on whether to approve the proposed Cost Pass Through Event variation, the AER must take into account the following:

- the costs to be passed through are for the delivery of pipeline services
- the costs are incremental to costs already allowed for in reference tariffs
- the total costs to be passed through are building block components of total revenue
- the costs to be passed through meet the relevant National Gas Rules criteria for determining the building block for total revenue in determining reference services
- any other factors the AER considers relevant and consistent with the NGR and NGL.

Cost Pass Through Events are:

- a Regulatory Change Event;
- a Service Standard Event;
- a Tax Change Event;
- a Terrorism Event;
- a Network User Failure Event;

- an Insurer Credit Risk Event;
- an Insurance Cap Event;
- a Natural Disaster Event;

where

'Regulatory Change Event' means:

A change in a regulatory obligation or requirement that:

- (a) falls within no other category of Cost Pass Through Event; and
- (b) occurs during the course of an access arrangement period; and
- (c) affects the manner in which Envestra provides reference services (as the case requires); and
- (d) materially increases or materially decreases the costs of providing those services.

'Service Standard Event' means:

A legislative or administrative act or decision that:

- (a) has the effect of:
 - (i) varying, during the course of an access arrangement period, the manner in which Envestra is required to provide a reference service; or
 - (ii) imposing, removing or varying, during the course of an access arrangement period, minimum service standards applicable to prescribed reference services; or
 - (iii) altering, during the course of an access arrangement period, the nature or scope of the prescribed reference services, provided by Envestra; and
- (b) materially increases or materially decreases the costs to Envestra of providing prescribed reference services.

'Tax Change Event' means:

A tax change event occurs if any of the following occurs during the course of an access arrangement period for Envestra:

- (a) a change in a Relevant Tax, in the application or official interpretation of a Relevant Tax, in the rate of a Relevant Tax, or in the way a Relevant Tax is calculated;
- (b) the removal of a Relevant Tax;
- (c) the imposition of a Relevant Tax; and

in consequence, the costs to Envestra of providing prescribed reference services are materially increased or decreased.

'Terrorism Event' means:

An act (including, but not limited to, the use of force or violence or the threat of force or violence) of any person or group of persons (whether acting alone or on behalf of in connection with any organisation or government), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons (including the intention to

influence or intimidate any government and/or put the public, or any section of the public, in fear) and which materially increases the costs to Envestra of providing a reference service.

'Network User Failure Event' means:

A network user failure event means the occurrence of an event whereby an existing network user becomes insolvent or is unable to continue to supply gas to its customers, and those customers are transferred to another network user, and which materially increases the costs of Envestra providing reference services.

'Insurer Credit Risk Event' means:

An event where the insolvency of the nominated insurers of Envestra occurs, as a result of which Envestra:

- (a) incurs materially higher or lower costs for insurance premiums than those allowed for in the access arrangement; or
- (b) in respect of a claim for a risk that would have been insured by Envestra's insurers, is subject to a materially higher or lower claim limit or a materially higher or lower deductible than would have applied under that policy; or
- (c) incurs additional costs associated with self funding an insurance claim, which would have otherwise been covered by the insolvent insurer.

'Insurance Cap Event' means:

An event that would be covered by an insurance policy but for the amount that materially exceeds the policy limit, and as a result Envestra must bear the amount of that excess loss. For the purposes of this Cost Pass-through Event, the relevant policy limit is the greater of the actual limit from time to time and the limit under Envestra's insurance cover at the time of making this access arrangement. This event excludes all costs incurred beyond an insurance cap that are due to Envestra's negligence, fault, or lack of care. This also excludes all liability arising from the Envestra's unlawful conduct, and excludes all liability and damages arising from actions or conduct expected or intended by Envestra.

'Natural Disaster Event' means:

Any major fire, flood, earthquake, or other natural disaster beyond the control of Envestra (but excluding those events for which external insurance or self insurance has been included within Envestra's forecast operating expenditure) that occurs during the forthcoming access arrangement period and materially increases the costs to Envestra of providing reference services.

Materiality threshold is defined as:

For the purpose of any defined event, an event is considered to materially increase or decrease costs where that event has an impact of one per cent of the smoothed forecast revenue specified in the Access Arrangement Information, in the years of the access arrangement period that the costs are incurred.

4.6 Procedure for Variation in Reference Tariffs

4.6.1 Routine Variations

Envestra will notify the Regulator in respect of any Reference Tariff variations, such that variations occur on the first of July of any year. The notification will be made at least 50 business days before the date of implementation and include:

- (a) the proposed variations to the Reference Tariffs; and
- (b) an explanation and details of how the proposed variations have been calculated.

If Envestra proposes variations to the Reference Tariffs (otherwise than as a result of a Cost Pass Through Event) and those variations have not been approved by the next 1 July then the Reference Tariffs will be varied with effect from that next 1 July by the same percentage increment or decrement as occurred on the previous 1 July, until such time as variations to Reference Tariffs are approved by the Regulator.

If it appears that any past tariff variation contains a material error or deficiency because of a clerical mistake, accidental slip or omission, miscalculation or misdescription, the AER may change subsequent tariffs to account for these past issues.

Within 30 Business Days of receiving the Service Provider's Variation Notice, the AER will inform the Service Provider in writing of whether or not it has verified the proposed Haulage Reference Tariff and/or Haulage Reference Tariff Components in the Service Provider's Variation Notice as compliant with the Annual Tariff Variation Mechanism.

The 30 Business Day periods may be extended for the time taken by the AER to obtain information from the Service Provider, obtain expert advice or consult about the notification. However, the AER must assess a cost pass through application within 90 Business Days, including any extension of the decision making time.

4.6.2 Cost Pass Through Event Variations

Envestra will notify the AER of Cost Pass Through Events within 90 business days of the Cost Pass Through Event occurring, whether the Cost Pass Through Event would lead to an increase or decrease in Reference Tariffs.

When the costs of the Cost Pass Through Event incurred are known (or able to be estimated to a reasonable extent), then those costs shall be notified to the AER. When making such notification to the AER, Envestra will provide the AER with a statement, signed by an authorised officer of Envestra, verifying that the costs of any Cost Pass Through Events are net of any payments made by an insurer or third party which partially or wholly offsets the financial impact of that event (including self insurance).

The AER must notify Envestra of its decision to approve or reject the proposed variations within 90 Business Days of receiving the notification. This period will be extended for the time taken by the Regulator to obtain information from Envestra, obtain expert advice or consult about the notification.

The AER will endeavour to make its decision on whether Envestra should vary Reference Tariffs due to the occurrence of a Cost Pass Through Event within 90 business days of receiving a notification from Envestra.

However, if the AER determines the difficulty of assessing or quantifying the effect of the relevant Cost Pass Through Event requires further consideration, the AER may require an extension of a specified duration. The AER will notify Envestra of the extension, and its duration, within 90 business days of receiving a notification from Envestra.

4.7 Notice to Network Users

Envestra will notify Users in writing as soon as practicable if it proposes any variations to any Reference Tariffs (whether as a result of a Cost Pass Through Event or otherwise).

4.8 New Tariff Schedule

Whenever any Reference Tariff is varied in accordance with this section 4, Envestra will publish a Tariff Schedule on its website at www.envestra.com.au, showing the Reference Tariffs (as varied) for the Reference Services.

4.9 Regulator's Decision is Conclusive

The Regulator's decision to allow a proposed variation in Reference Tariffs will be binding and conclusive on Network Users as to the Reference Tariffs that apply to Reference Services. Network Users will not have the right to challenge or otherwise dispute the Reference Tariffs as allowed from time to time by the Regulator or the basis on which those Reference Tariffs were calculated or determined.

4.10 Default Tariffs for the Fourth Access Arrangement Period

If revisions pertaining to the Fourth Access Arrangement Period have not come into effect by 1 July 2016, then:

- (a) the Reference Tariffs for the Haulage Reference Services for the period between 1 July 2016 and the date the revisions come into effect will be adjusted on 1 July each year by Envestra, commencing on 1 July 2016, in a manner that is designed to change the average price per GJ (or per GJ of MDQ) for each Reference Tariff by the percentage change in the CPI; and
- (b) the Reference Tariffs for the Ancillary Reference Services for the period between 1 July 2016 and the date the revisions come into effect will be adjusted on 1 July each year by Envestra, commencing on 1 July 2016, by the percentage change in the CPI.

4.11 Treatment of Capital Expenditure for 2010/11

In rolling forward the Capital Base, the capital expenditure for 2010/11 is as set out in section 3.4 of the Access Arrangement Information. Prior to commencement of the Fourth Access Arrangement Period, the actual capital expenditure for 2010/2011 will be known.

Any difference between this estimated capital expenditure and actual capital expenditure for 2010/2011 is to be taken into account when the roll-forward occurs at the next review, prior to the commencement of the Fourth Access Arrangement Period, in accordance with Rule 77(2)(a).

5. REFERENCE TARIFF POLICY – INCENTIVE MECHANISM

5.1 Principles of Incentive Mechanism

The principles of the incentive mechanism are:

- Only an operating expenditure incentive mechanism should apply;
- For the first year of access arrangement period commencing on 1 July 2011, the operating expenditure annual efficiency gain (or loss) will be calculated as:

$$E_1 = F_1 - A_1$$

where:

F₁ = the forecast Opex in year one of the access arrangement period

A₁ = the actual Opex in year one of the access arrangement period

- The operating expenditure annual efficiency gain (or loss) in the second, third and fourth year of the access arrangement period will be calculated as:

$$E_i = (F_i - A_i) - (F_{i-1} - A_{i-1})$$

where:

E_i is the efficiency gain in year *i* of the access arrangement period

F_i is the forecast opex in year *i* of the access arrangement period

A_i is the actual opex in year *i* of the access arrangement period

- The estimate for Opex in the final year of the access arrangement period is to be estimated using the following equation:

$$A_5^* = F_5 - (F_4 - A_4)$$

where:

A₅^{}* is the estimate of Opex for the final year of the access arrangement period

F₅ is the forecast Opex for the final year of the access arrangement period

F₄ is the forecast Opex for the penultimate year of the access arrangement period

A₄ is the actual Opex for the penultimate year of the access arrangement period

Carryover amounts for the final year of the access arrangement period are to be estimated using the following equation:

$$E_5 = (F_5 - A_5^*) - (F_4 - A_4)$$

where:

E₅ is the efficiency gain for the final year of the access arrangement period

F₅ is the forecast Opex for the final year of the access arrangement period

A₅^{}* is the estimate of Opex for the final year of the access arrangement period

F₄ is the forecast Opex for the penultimate year of the access arrangement period

A₄ is the actual Opex for the penultimate year of the access arrangement period

- Carryover amounts for the first year of the access arrangement period commencing 1 July 2016 are to be estimated using the following equation:

$$E_6 = (F_6 - A_6) - (F_5 - A_5) + (F_4 - A_4)$$

where:

E₅ is the efficiency gain in the first year of the next access arrangement period

F₆ is the forecast Opex for the first year of the next access arrangement period

A₅ is the actual Opex for the first year of the next access arrangement period

F₅ is the forecast Opex for the final year of the access arrangement period

A₅ is the actual Opex for the final year of the access arrangement period

F₄ is the forecast Opex for the fourth year of the access arrangement period

A₄ is the actual Opex for the fourth year of the access arrangement period

- The positive carryover that would result in Envestra retaining the reward associated with an efficiency-improving initiative for five years after the year in which the gain was achieved, ie. a reward earned in one year of an Access Arrangement Period would be added to the Total Revenue and carried forward into the Fourth Access Arrangement Period if necessary, until it has been retained by Envestra for a period of five years. Similarly, the negative carryover that would result in Envestra retaining the penalty associated with inefficiencies for five years after the year in which the penalty was incurred, ie. a penalty incurred in one year of an Access Arrangement Period would be subtracted from the Total Revenue and carried forward into the Fourth Access Arrangement Period if necessary, until it has been retained by Envestra for a period of five years.
- Operating expenditure efficiencies achieved or inefficiencies incurred in accordance with the approved incentive mechanism in the Access Arrangement Period will give rise to an additional 'building block' in the calculation of the Total Revenue amounts.
- The costs associated with an Impost or complying with any retailer of last resort requirements will be excluded from the operation of the efficiency carryover mechanism. Further, the following costs will also be excluded from the operation of the efficiency carryover mechanism:
 - amounts for approved cost pass through events
 - debt raising costs
 - insurance costs
 - superannuation costs for defined benefits and retirement schemes
 - other specific uncontrollable costs incurred and reported by Envestra during the access arrangement period, which the AER considers should be excluded in accordance with the NGL and NGR.
- Any other activity that Envestra and the Regulator agree to exclude from the operation of the efficiency carryover mechanism will be so excluded.
- For the avoidance of doubt, the forecast expenditure amounts that are used as the basis for measuring efficiencies relate to the expenditure benchmarks approved by the Regulator, with the following exception:
 - the carryover of cost-related efficiency gains will be calculated in a manner that takes account of any change in the scope of the activities which form the basis of the determination of the original benchmarks, but only where the scope changes arise from exogenous factors and where they impose material additional costs to Envestra. Any adjustment will be made following the provision of relevant information to the

Regulator and the assessment of that information by the Regulator and will, without limitation, quantify and substantiate the impact of the scope changes on the original benchmarks.

- Where Envestra changes its approach to classifying costs as either Capex or Opex during the access arrangement period, Envestra will adjust the forecast Opex used to calculate the carryover amounts so that the forecast expenditures are consistent with the capitalisation changes.
- If there is a change in Envestra's approach to classifying costs as either Capex or Opex, Envestra must provide to the AER a detailed description of the change and a calculation of its impact on forecast and actual Opex.

6. TERMS AND CONDITIONS

6.1 Reference Services

Reference Services will be provided to Network Users under this Access Arrangement on and subject to the terms of an Agreement that will comprise:

- (a) the Specific Terms and Conditions, in the form set out in Annexure F; and
- (b) the terms and conditions set out in Annexure G (**the General Terms and Conditions**).

The Specific Terms and Conditions is a standard form document that contains details which will vary from Network User to Network User and from Agreement to Agreement. The blank spaces in the standard form are to be completed and the document signed by Envestra and the Network User to evidence the Agreement between them.

As is apparent from the form of the Specific Terms and Conditions set out in Annexure F, the details to be completed are as follows:

- (a) details of each User Receipt Point at which Gas is to be delivered to Envestra by or for the account of that Network User pursuant to the Agreement;
- (b) details of each User DP at which Gas is to be delivered by Envestra to or for the account of that Network User pursuant to the Agreement;
- (c) the period for which the Agreement is to remain in force (assuming it is not terminated earlier in accordance with the General Terms and Conditions);
- (d) the date on which Envestra is to commence providing Reference Services pursuant to the Agreement;
- (e) where required, details of the maximum Quantity of Gas Envestra is obliged to deliver through each User Demand DP to or for the account of the Network User during any Network Day and during any period of 60 minutes; and
- (f) an address and facsimile number for the purposes of the service of notices on the Network User pursuant to the Agreement.

As regards paragraphs (a) and (b), it is possible that a Network User will wish to deliver Gas to Envestra through multiple/different Receipt Points that vary over the term of the Agreement or requires Envestra to deliver Gas through multiple/different DPs that will vary over the term of the Agreement. In this case, the Specific Terms and Conditions will describe how those Receipt Points and DPs will be determined and identified from time to time over the term of that Agreement. In the case of Network Users who wish to be able to deliver Gas through multiple/different DPs that vary over the time, Envestra expects that the User DPs will be defined as those DPs in respect of which the Network User is the current user under the Retail Market Procedures.

As regards paragraph (e), the MDQ for a User DP will be determined by negotiation between Envestra and the Network User. If no MDQ has been or is agreed for a User DP, then the MDQ will be

determined by Envestra acting reasonably, having regard to historical data about the Quantities of Gas delivered through the relevant User DP and any other factors Envestra considers relevant.

6.2 Negotiated Services

A Negotiated Service is a Network Service that is different from the Reference Services. If a Network User or a Prospective Network User requires a Network Service on terms and conditions that differ in any way to the General Terms and Conditions, then the Network User or Prospective Network User requires a Negotiated Service.

The terms and conditions on which Envestra will provide a Negotiated Service (including the Tariff for that Negotiated Service) will be determined through negotiation between Envestra and the Network User who requires that Negotiated Service, or in default of agreement, through dispute resolution in accordance with Chapter 6 of the National Gas Law.

The terms and conditions on which Envestra will provide a Negotiated Service will be the same as the General Terms and Conditions to the extent that the General Terms and Conditions are appropriate and applicable to the Negotiated Service requested by the Network User or Prospective Network User.

Once the terms and conditions of a Negotiated Service have been agreed or determined through dispute resolution in accordance with Chapter 6 of the National Gas Law, Envestra and the Network User will sign a document to evidence those terms and conditions.

The document will comprise the Specific Terms and Conditions, the General Terms and Conditions (to the extent that they apply to the Negotiated Service) and a schedule setting out the terms and conditions applicable to that Negotiated Service (as agreed or determined through dispute resolution). The schedule is known as the Special Terms and Conditions and will show how the terms and conditions applicable to the Negotiated Service differ from the General Terms and Conditions.

6.3 Pre-Conditions to Network Services

A Prospective Network User that requires a Network Service must satisfy a number of pre-conditions before Envestra is required to provide that Network Service. These pre-conditions are as follows:

- (a) the Network User must satisfy Envestra that the Network User meets the requirements of Envestra's Credit Policy;
- (b) the Network User must satisfy Envestra that the Network User is registered under the Rules as a registered participant in the relevant registrable capacities;
- (c) the Network User must satisfy Envestra that the Network User has adequate arrangements in place to ensure that the Network User will comply with its obligations to Envestra in relation to the Network Service; and
- (d) the Network User must execute a written agreement setting out or incorporating the terms and conditions on which Envestra is to provide the Network User with the Network Service.

6.4 Credit Policy

Envestra will not be required to provide Network Services to a Network User, or Prospective Network User, who does not meet the requirements of Envestra's Credit Policy. The Credit Policy requires that:

- (a) a Network User must be resident in Australia or have a permanent establishment in Australia;
- (b) (if the Network User is incorporated or constituted under any law other than the Corporations Act 2001) the Network User must have provided Envestra with a legal opinion in form and substance satisfactory to Envestra that confirms:
 - (i) the due incorporation and good standing of the Network User;

- (ii) the legal capacity of the Network User to enter into and perform the Agreement between the Network User and Envestra; and
- (iii) the due execution of that Agreement and the enforceability of that Agreement against the Network User;
- (c) the Network User must be capable of being sued in its own name in courts established under the laws of South Australia and other States;
- (d) the Network User must not enjoy any immunity from legal proceedings or legal process (including, but without limitation, any immunity from execution);
- (e) the Network User must have an acceptable credit rating, or provide Envestra with security acceptable to Envestra, on terms and conditions acceptable to Envestra;
- (f) the Network User must have the necessary financial capability to discharge its present and future obligations in relation to Network Services; and
- (g) the Network User must not be an externally-administered body corporate or insolvent under administration (as defined in the Corporations Act 2001) or under a similar form of administration under any laws applicable to the Network User in any jurisdiction.

For the purposes of paragraph (e), Envestra will from time to time determine what constitutes an acceptable credit rating. Until otherwise determined by Envestra, an acceptable credit rating is a rating of BBB or higher for long-term unsecured counterparty obligations of the entity, as rated by Standard & Poors (Australia) Pty Ltd.

Whenever Envestra decides to alter the acceptable credit rating, it will notify all Network Users and Prospective Network Users of the acceptable credit rating or ratings as altered. This information will also be included in the Information Package that Envestra is required to maintain under the Rules.

For the purposes of paragraph (e), acceptable security will be

- (a) a bank guarantee, given by an Australian bank acceptable to Envestra, for an amount of not less than Envestra's reasonable estimate of three months average Charges (calculated by reference to a 12 month period); or
- (b) a guarantee of the Network User's obligations given by an entity, acceptable to Envestra, that has an acceptable credit rating (as defined above).

7. CAPACITY TRADING

7.1 Transactions subject to Retail Market Procedures

Transfers of Contracted Capacity will be undertaken:

- (a) where the relevant parties are registered as participants under the Retail Market Procedures - in accordance with the Retail Market Procedures; or
- (b) if the relevant parties are not so registered - in accordance with rules 105 and 106 of the NGR, and this part 7.

7.2 Bare Transfers

A Network User is permitted to transfer or assign all or part of its Contracted Capacity without the consent of Envestra if:

- the Network User's obligations under the Agreement related to that Contracted Capacity remain in full force and effect after the transfer or assignment; and
- the terms of that Agreement are not altered as a result of the transfer or assignment (a Bare Transfer).

Prior to using any Contracted Capacity that is the subject of a Bare Transfer, the transferor must notify Envestra of the nature of the Contracted Capacity that is subject to the Bare Transfer. The transferor must notify Envestra of:

- the subcontract and its likely duration;
- the identity of the transferee; and
- the amount of contracted capacity transferred.

7.3 Other Transfers

A Network User is permitted to transfer or assign all or part of its Contracted Capacity (other than by way of a Bare Transfer) with the prior written consent of Envestra, where the transfer or assignment is commercially and technically reasonable. Following such a transfer, the transferor's rights against, and obligations to Envestra are terminated or modified in accordance with these capacity trading requirements. A contract then arises between the transferee and Envestra on terms and conditions in accordance with the capacity trading requirements.

Envestra may withhold its consent only on reasonable commercial and technical grounds, and may make its consent subject to conditions, but only if they are reasonable on commercial and technical grounds.

Examples of the reasonable commercial or technical grounds upon which Envestra will withhold its consent or make its consent subject to conditions include:

- where there is insufficient Capacity at any point in the Network (either before or as a result of the transfer) to enable the proposed Contracted Capacity to be transferred or assigned to the proposed User Delivery Point;
- where Envestra would receive less revenue as a result of the proposed transfer or assignment of Contracted Capacity; and
- where the proposed transferee is unable to satisfy Envestra that it is able to meet the requirements set out in section 6 of this Access Arrangement.

7.4 Delivery and Receipt Points

A Network User is permitted to change a Delivery Point and/or Receipt Point from that specified in an Agreement with the prior written consent of Envestra where the change is commercially and technically reasonable.

Envestra may withhold its consent only on reasonable commercial and technical grounds, and may make its consent subject to conditions, but only if they are reasonable on commercial and technical grounds. An example might be, if Envestra would not receive at least the same amount of revenue it would have received before the change.

7.5 Procedure

The following procedure is to be followed in relation to transfers or assignments of Contracted Capacity (other than Bare Transfers) and changes to Delivery and/or Receipt Points:

- the party requesting the transfer/assignment or a change to a Delivery Point/Receipt Point shall submit a written request to Envestra, setting out the applicable details. A fee of \$100, payable at the time of the request, will apply to each request.
- Envestra will complete an analysis to determine whether the request is technically and commercially feasible and reasonable. The cost of completing this analysis will be borne by the party that makes the request. Charges for the analysis may be made in relation to Demand Delivery Points only, and may vary depending on the complexity of analysing the request, but will

be agreed in advance with the party making the request. Costs will be based on an hourly rate of \$100 per person per hour for each hour after the first hour.

Envestra will reply to requests for a transfer (other than a bare transfer) or for a change in Receipt Point or Delivery Point, within 14 Business Days of receiving the request, provided the request is accompanied by information which is reasonably necessary to enable Envestra to consider the request.

If, at the time the request is made, the Network User informs Envestra that, due to hardship, the Network User requires an urgent reply to its request, Envestra will use reasonable endeavours to respond to the request within two Business Days of receiving the request, provided the request is accompanied by information which is reasonably necessary to enable Envestra to consider the request.

8. NETWORK EXTENSIONS AND EXPANSIONS

8.1 High pressure extensions

If Envestra proposes a high pressure pipeline extension of the covered pipeline, it must apply to the AER in writing to decide whether the proposed extension will be taken to form part of the covered pipeline and will be covered by this access arrangement.

For the purposes of this section 8, a high pressure pipeline extension means a pipeline that exceeds one kilometre in length and is proposed to be built to a postcode area previously not serviced by reticulated gas.

A notification given by Envestra under this clause 8.1 must:

- (a) be in writing;
- (b) state whether Envestra intends for the proposed high pressure pipeline extension to be covered by this Access Arrangement;
- (c) describe the proposed high pressure pipeline extension and describe why the proposed Extension is being undertaken; and
- (d) be given to the AER before the proposed high pressure pipeline extension comes into service.

Envestra is not required to notify the AER under this clause 8.1 to the extent that the cost of the proposed high pressure pipeline extension has already been included and approved by the AER in the calculation of Reference Tariffs.

After considering Envestra's application, and undertaking such consultation as the AER considers appropriate, the AER will inform Envestra of its decision on Envestra's proposed coverage approach for the high pressure pipeline extension.

The AER's decision referred to above may be made on such reasonable conditions as determined by the AER and will have the effect stated in the decision.

8.2 Treatment of covered pipelines

If an extension or expansion is to be treated as a covered network under the access arrangement, Envestra will offer reference services for that extension or expansion at reference tariffs (ie no change to the reference tariffs). Envestra may levy a surcharge on users to recover non-conforming capital expenditure in accordance with rule 83 of the NGR.

Envestra will notify the AER to seek approval of any proposed surcharge to be levied on users of incremental services, and designed to recover non-conforming capital expenditure or a specified

portion of non-confirming capital expenditure (non-confirming capital expenditure which is recovered by means of a surcharge will not be rolled into the capital base). Surcharges will only be approved subject to rule 84(4) of the NGR.

8.3 Other extensions and expansions

Any extensions to and expansions of the capacity of the Network which are not high pressure pipeline extensions within the meaning of clause 8.1 will be treated as part of the Network and covered by this Access Arrangement.

All extensions of low or medium pipelines and expansions of the capacity of the Network carried out by Envestra will be treated as covered under this Access Arrangement.

9. REVIEW OF THE ACCESS ARRANGEMENT

9.1 Revisions Submission Date

Envestra will submit revisions to this Access Arrangement to the Regulator on or before 1 July 2015.

9.2 Revisions Commencement Date

The revisions to this Access Arrangement referred to in section 9.1 will commence on the later of 1 July 2016 and the date on which their approval takes effect under the Rules.

10. GLOSSARY

In this Access Arrangement and the Access Arrangement Information, unless the contrary intention appears:

- (1) **'Adelaide Region'** means the area shown in Annexure C as the Adelaide Region.
- (2) **'Agreement'** means the contract between Envestra and a Network User for the provision of Network Services.
- (3) **'Ancillary Reference Service'** means a Network Service described in section 2.3 of this Access Arrangement.
- (4) **'Business Day'** means a day other than a Saturday, Sunday or public holiday in South Australia.
- (5) **'Central Zone'** means the area within the Adelaide Region that is shown in Annexure D as the Central Zone.
- (6) **'Charges'** means the charges payable by the Network User under the Agreement and, in relation to a User DP, means the charges payable by the Network User in relation to that DP as determined in accordance with the Agreement.
- (7) **'Commercial DP'** has the meaning given to it in section 2.2.3 of this Access Arrangement.
- (8) **'Commercial Haulage Service'** means the Network Service that is described in section 2.2.3 of this Access Arrangement.
- (9) **'CPI'** means the Consumer Price Index (All Groups Weighted Average for the Eight Capital Cities) as published by the Australian Bureau of Statistics or its successor or, if that Consumer Price Index is not published for any reason, whatever alternative index Envestra determines (with the Regulator's approval) from time to time is reasonably equivalent to that Consumer Price Index.
- (10) **'Credit Policy'** means the policy described in section 6.4 of this Access Arrangement.
- (11) **'Cubic Metre'**, in relation to Gas, means the amount of that Gas which, at Standard Conditions, would occupy a volume of one cubic metre.
- (12) **'Customer'** means any person to whom Gas is, or is to be, supplied through the Network.
- (13) **'Cycle'**, in relation to a Demand DP, means the period between any two meter readings for that DP which are 30 days, or approximately 30 days, apart and, in relation to a Volume DP, means the period between any two meter readings for that DP which are 90 days, or approximately 90 days, apart.
- (14) **'Delivery Point'** or **'DP'** means a point on the Network at which Gas is, or is to be, delivered out of the Network.
- (15) **'Demand DP'** has the meaning given to it in section 2.2.2 of this Access Arrangement.
- (16) **'Demand Haulage Service'** means the Network Service that is described in section 2.2.2 of this Access Arrangement.
- (17) **'Disconnection'** has the meaning given to it in section 2.3 of this Access Arrangement.
- (18) **'Distribution Licence'** means a licence granted to Envestra under the Gas Act 1997 (SA), which authorises the operation of the Network or any part of it.
- (19) **'Domestic DP'** has the meaning given to it in section 2.2.1 of this Access Arrangement.
- (20) **'Domestic Haulage Service'** means the Network Service that is described in section 2.2.1 of this Access Arrangement.
- (21) **'Fourth Access Arrangement Period'** means the period from 1 July 2016 to 30 June 2021.
- (22) **'Gas'** has the meaning given to 'natural gas' in the National Gas Law.
- (23) **'Gas Delivery Zone'** means an area which Envestra from time to time defines as a Gas Delivery Zone having regard to whether it is physically possible to deliver Gas from a given User Receipt Point to a given User DP (and, for this purpose, the Gas Delivery Zones as at the date of this Access

Arrangement are the areas defined as Gas Delivery Zones on the map set out as Annexure H to this Access Arrangement).

- (24) **'General Terms and Conditions'** has the meaning given to it in section 6.1.
- (25) **'GJ'** means a gigajoule, which is 1000 megajoules.
- (26) **'Gross Heating Value'** means the energy produced by the complete combustion of one Cubic Metre of Gas with air, at Standard Conditions, the product of combustion cooled to a temperature of 15 degrees Celsius and the water vapour formed by the combustion condensed to a liquid state.
- (27) **'Haulage Reference Service'** means the Commercial Haulage Service, the Demand Haulage Service or the Domestic Haulage Service.
- (28) **Heating Value Zone** means any discrete part of the Network (as defined by Envestra) for which a Gross Heating Value has been determined for the purposes of clause 23.2 different from that which applies (for the purposes of that clause) to adjacent parts of the network or other parts of the Network.
- (29) **'Insolvency Event'** means the happening of any of the following events in relation to a party to an Agreement:
- (a) an order is made that it be wound up or that a 'controller' (as defined in the Corporations Act 2001) be appointed to it or any of its assets;
 - (b) a resolution that it be wound up is passed;
 - (c) a liquidator, provisional liquidator, Controller or any similar official is appointed to, or takes possession or control of, all or any of its assets or undertakings;
 - (d) an administrator is appointed to it or a resolution that an administrator be appointed to it is passed;
 - (e) it enters into, or resolves to enter into, an arrangement, compromise or composition with any of, or any class of, its creditors or shareholders, or an assignment for the benefit of any of, or any class of, its creditors, in relation to a potential Insolvency Event in subparagraphs (a) to (d), or (f) to (g) occurring;
 - (f) any action is taken by the Australian Securities and Investment Commission to cancel its registration or to dissolve it;
 - (g) it is insolvent within the meaning of Section 95A of the Corporations Act, as disclosed in its accounts or otherwise, states that it is unable to pay its debts or it is presumed to be insolvent under any applicable law; or
 - (h) it stops or suspends:
 - the payment of all or a class of its debts; or
 - the conduct of all or a substantial part of its business; or
 - (i) any other event happens under any law (including the laws of another jurisdiction) that has the same effect, or a substantially similar effect, as any of the events specified in the preceding paragraphs.
- (30) **'Interest Rate'** means the Commonwealth Bank of Australia corporate overdraft reference rate, as varied from time to time.
- (31) **'Maximum Daily Quantity' or 'MDQ'**, in relation to a DP, means the maximum Quantity of Gas which Envestra agrees to deliver through that DP to or for the account of a Network User during any Network Day, as specified in, or determined in accordance with, the Specific Terms and Conditions and the General Terms and Conditions, or any other agreement.
- (32) **'Maximum Hourly Quantity' or 'MHQ'**, in relation to a DP, means the maximum Quantity of gas (in GJ) which Envestra is obliged to transport and deliver to a particular Delivery Point on behalf of the User in any Hour (excluding Overruns).
- (33) **'Metering Installation'**, in relation to a User DP, means the meter and associated equipment and installations (which may include correctors, regulators, filters, data loggers and telemetry relating to a DP) owned or operated by Envestra at that User DP and, in relation to a User Receipt Point, means the

metering installation owned or operated by Envestra at that User Receipt Point or, if Envestra does not own or operate metering installation at that User Receipt Point, the metering installation provided by or on behalf of the Network User at that Receipt Point.

- (34) **'Metering Year'**, in relation to a DP, means the period between any two meter readings at that DP which are 12 months, or approximately 12 months, apart.
- (35) **'Negotiated Service'** means a Network Service of the type described in section 2.4 of this Access Arrangement.
- (36) **'Network'** means the distribution mains that are the subject of this Access Arrangement from time to time, together with inlets, regulators, Metering Installations, pipes and all ancillary equipment.
- (37) **'Network Day'** means a period of 24 consecutive hours that commences at 6:00am Central Standard Time.
- (38) **'Network Service'** means a Service provided by means of the Network.
- (39) **'Network User'** means a person who has a current contract for a Network Service or where there has been an arbitration, has an entitlement to a Network Service.
- (40) **'Network User's Customer'** means any Customer to whom Gas is supplied, or is to be supplied, through a User DP.
- (41) **'Northern Zone'** means the area within the Adelaide Region that is shown in Annexure D as the Northern Zone.
- (42) **'Overrun Rate'** in relation to a given Network Day, means the amount specified as the Overrun Rate in the Tariff Schedule applicable on that Network Day.
- (43) **'Peterborough Region'** means the area shown in Annexure C as the Peterborough Region.
- (44) **'Port Pirie Region'** means the area shown in Annexure C as the Port Pirie Region.
- (45) **'Prospective Network User'** means a person who seeks or who is reasonably likely to seek to enter into a contract for a Network Service and includes a Network User who seeks or may seek to enter into a contract for an additional Network Service.
- (46) **'Quantity of Gas'** means the quantity of Gas determined in accordance with the Agreement.
- (47) **'Receipt Point'** means a point on the Network at which Gas is, or is to be, received into the Network.
- (48) **'Reconnection'**, has the meaning given to it in section 2.3 of this Access Arrangement.
- (49) **'Reference Service'** means a Haulage Reference Service or an Ancillary Reference Service.
- (50) **'Reference Tariff'** means the tariff that corresponds to a Haulage Reference Service or an Ancillary Reference Service.
- (51) **'Region'** means the Adelaide Region, the Peterborough Region, the Port Pirie Region, the Riverland Region, the South East Region, the Whyalla Region or the Tanunda Region.
- (52) **'Regulator'** means the Australian Energy Regulator.
- (53) **'Related Haulage Agreement'** (in an Agreement between Envestra and a Network User) means any other agreement between Envestra and that Network User under which Envestra delivers, or is to deliver, Gas to or for the account of that Network User.
- (54) **'Relevant Tax'** means any royalty, duty, excise, tax, impost, levy, fee or charge (including, but without limitation, any goods and services tax) imposed by the Commonwealth of Australia, any State or Territory of Australia, any local government or statutory authority or any other body (authorised by law to impose such an impost, tax or charge) on or in respect of the Network (or any part of it) or on or in respect of the operation, repair, maintenance, administration or management of the Network (or any part of it) or on or in respect of the provision of any Network Service (other than a levy, fee or charge that arises as a result of Envestra's breach of a law or failure to pay a tax or charge by the due date for payment).

- (55) **'Retail Market Procedures'** means the retail market procedures made by the Australian Energy Market Operator from time to time under section 91M of the National Gas Law.
- (56) **'Riverland Region'** means the area shown in Annexure C as the Riverland Region.
- (57) **'Rules'** means the National Gas Rules under the National Gas Law.
- (58) **'Second Access Arrangement Period'** means the period from 1 July 2006 to 30 June 2011.
- (59) **'South East Region'** means the area shown in Annexure C as the South East Region.
- (60) **'Southern Zone'** means the area within the Adelaide Region that is shown in Annexure D as the Southern Zone.
- (61) **'Specific Terms and Conditions'** means the specific terms and conditions as described in section 6.1 (and, in relation to an Agreement between Envestra and a Network User, means the Specific Terms and Conditions which form part of that Agreement).
- (62) **'Standard Conditions'** means a temperature of 15 degrees Celsius and an absolute pressure of 101.325 kilopascals.
- (63) **'Start Date'**, in relation to an Agreement, means the date on which Envestra commences, or is to commence, providing Network Services to a Network User pursuant to that Agreement as specified in, or determined in accordance with, the Specific Terms and Conditions.
- (64) **'Sub-Network'** means any part of the Network that is physically discrete from the remainder of the Network (in the sense that, having regard to the physical configuration of the Network and the flow of Gas within the Network, it is physically impossible to transport Gas delivered at a User Receipt Point on that part of the Network to DPs on the remainder of the Network).
- (65) **'Tanunda Region'** means the area within the boundary of postcode 5352.
- (66) **'Tariff C'** means the tariff for the Commercial Haulage Service.
- (67) **'Tariff D'** means the tariff for the Demand Haulage Service.
- (68) **'Tariff R'** means the tariff for the Domestic Haulage Service.
- (69) **'Tariff Schedule'** means the tariff schedule contained in Annexure B to this Access Arrangement or, if Envestra has published a revised tariff schedule, the tariff schedule in effect from time to time.
- (70) **'Technical Regulator'** has the meaning given to it in the *Gas Act 1997 (SA)*.
- (71) **'Term'**, in relation to an Agreement, means the period on and from the Start Date of that Agreement up to, and including, the date on which the Agreement terminates in accordance with its terms.
- (72) **'Third Access Arrangement Period'** means the period from 1 July 2011 to 30 June 2016.
- (73) **'TJ'** means a terajoule, which is 1000 gigajoules.
- (74) **'Upstream Operator'** means the operator of a transmission pipeline, a distribution network or another facility through which Gas is delivered to any Receipt Point.
- (75) **'Unaccounted for Gas' or 'UAFG'** means the difference between the Quantity of Gas received into the Network and delivered out of the Network, over a specified period of time.
- (76) **'User DP'**, in relation to a Network User, means a DP through which Gas is delivered, or is to be delivered, to or for the account of the Network User, as specified in, or determined in accordance with, the Specific Terms and Conditions.
- (77) **'User Receipt Point'**, in relation to a Network User, means a Receipt Point through which Gas is delivered, or is to be delivered, to or for the account of that Network User, as specified in, or determined in accordance with, the Specific Terms and Conditions.
- (78) **'Volume DP'** means a Commercial DP or a Domestic DP.
- (79) **'Volume of Gas'** means volume in Cubic Metres.
- (80) **'Whyalla Region'** means the area shown in Annexure C as the Whyalla Region.

- (81) 'Year' means any period of 12 consecutive months.
- (82) 'Zone' means the Central Zone, the Northern Zone or the Southern Zone.

ANNEXURE A

Envestra SA Gas Distribution System



ANNEXURE B

Tariff Schedule - 2011/12

Table 1: Tariff R (Domestic Haulage Reference Service) – all areas excluding Tanunda - GST exclusive dollars

Daily Charges	
Base Charge (\$/day)	0.35
Charge for the first 0.0274 GJ of Gas delivered (\$/GJ)	16.14
Charge for the next 0.0219 GJ of Gas delivered (\$/GJ)	9.91
Charge for additional Gas delivered (\$/GJ)	4.35

Table 2: Tariff R (Domestic Haulage Reference Service) – Tanunda - GST exclusive dollars

Daily Charges	
Base Charge (\$/day)	0.35
Charge for the first 0.0274 GJ of Gas delivered (\$/GJ)	20.99
Charge for the next 0.0219 GJ of Gas delivered (\$/GJ)	12.89
Charge for additional Gas delivered (\$/GJ)	5.65

Notes:

1. The total daily Charge will comprise the Base Charge plus a Charge for the Quantity of Gas delivered (or estimated to have been delivered) through the Domestic Delivery Point.
2. The Charge for the Quantity of Gas delivered (or estimated to have been delivered) through the Domestic Delivery Point will be calculated at the rates shown in the table.
3. A reference in the table to the Gas delivered through the Domestic Delivery Point is a reference to Gas delivered through the Domestic Delivery Point whether for the account of the Network User or for the account of any other person or persons.
4. Charges will be calculated to the nearest cent, with one-half of a cent rounded upwards.

Table 3: Tariff C (Commercial Haulage Reference Service) – all areas excluding Tanunda - GST exclusive dollars

Daily Charges	
Base Charge (\$/day)	0.71
Charge for the first 0.9863 GJ of Gas delivered (\$/GJ)	10.15
Charge for the next 4.2740 GJ of Gas delivered (\$/GJ)	5.44
Charge for the next 11.1780 GJ of Gas delivered (\$/GJ)	2.38
Charge for additional Gas delivered (\$/GJ)	0.99

Table 4: Tariff C (Commercial Haulage Reference Service) – Tanunda - GST exclusive dollars

Daily Charges	
Base Charge (\$/day)	0.71
Charge for the first 0.9863 GJ of Gas delivered (\$/GJ)	13.19
Charge for the next 4.2740 GJ of Gas delivered (\$/GJ)	7.08
Charge for the next 11.1780 GJ of Gas delivered (\$/GJ)	3.09
Charge for additional Gas delivered (\$/GJ)	1.29

Notes:

1. The total daily Charge will comprise the Base Charge plus a Charge for the Quantity of Gas delivered (or estimated to have been delivered) through the Commercial Delivery Point.
2. The Charge for the Quantity of Gas delivered (or estimated to have been delivered) through the Commercial Delivery Point will be calculated at the rates shown in the table.
3. A reference to the Gas delivered through the Commercial Delivery Point is a reference to Gas delivered through the Commercial Delivery Point whether for the account of the Network User or for the account of any other person or persons.
4. Charges will be calculated to the nearest cent, with one-half of a cent rounded upwards.

Table 5 - Tariff D (Demand Haulage Reference Service - Adelaide Region)

MDQ at Delivery Point	Monthly Charge (exc GST)		
	Northern Zone	Central Zone	Southern Zone
50GJ or less	\$3,092.56	\$3,092.56	\$3,092.56
Next 50GJ \$/GJ of MDQ for MDQ over 50GJ	\$39.27	\$46.80	\$55.19
Next 900GJ \$/GJ of MDQ for MDQ over 100GJ	\$24.60	\$29.75	\$34.56
Additional GJ \$/GJ of MDQ for MDQ over 1000GJ	\$7.38	\$8.53	\$10.42

Table 6 – Tariff D (Demand Haulage Reference Service - Other Regions)

MDQ at Delivery Point	Monthly Charges (exc GST)					
	Port Pirie Region	Riverland Region	South East Region	Peterborough Region	Whyalla Region	Tanunda Region
50GJ or less (\$/GJ)	3,092.56	4,375.94	3,092.56	4,375.94	3,092.56	3,092.56
Next 50GJ \$/GJ of MDQ for MDQ over 50GJ	39.26	57.42	39.26	57.56	39.41	39.27
Next 400GJ \$/GJ of MDQ for MDQ over 100GJ	20.06	35.35	20.06	35.35	20.06	24.60
Next 500GJ \$/GJ of MDQ for MDQ over 500GJ	8.46	36.23	20.55	36.23	20.55	7.38
Greater than 1000GJ \$/GJ of MDQ for MDQ over 1000GJ	6.88	7.44	7.46	7.44	7.46	7.38

Notes:

1. The Charges shown in Tables 3 and 4 are charges for a complete calendar month.
2. The Charge for a calendar month will accrue from day to day in equal portions.
3. Charges will be calculated to the nearest cent, with one-half of a cent being rounded upwards.
4. For the purpose of calculating daily overrun charges pursuant to clause 6 of the General Terms and Conditions, the overrun rate is \$15 per GJ (excl GST).

**Table 7 – Ancillary Reference Tariffs
(exc GST)**

Ancillary Reference Service	Tariff
Special Meter Read	\$9.20
Disconnection	\$63
Reconnection	\$63

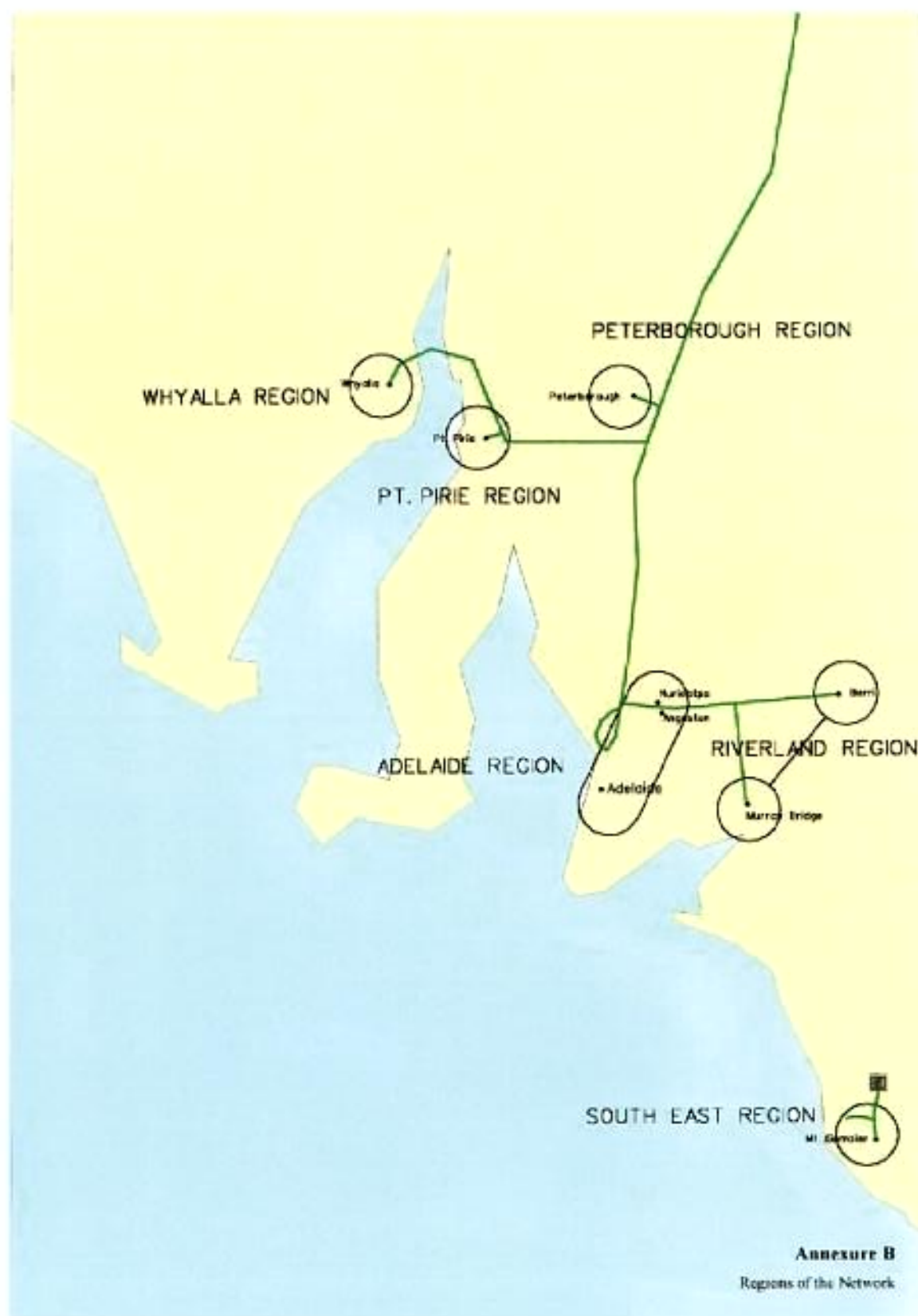
Note:

Where the Reference Tariff for an Ancillary Reference Service (as varied) is less than \$20, the Reference Tariff (as varied) will be rounded to the nearest 10 cents (with five cents rounded upwards). Where the Reference Tariff for an Ancillary Reference Service (as varied) is \$20 or more, the Reference Tariff (as varied) will be rounded to the nearest dollar (with 50 cents rounded upwards).

ANNEXURE C

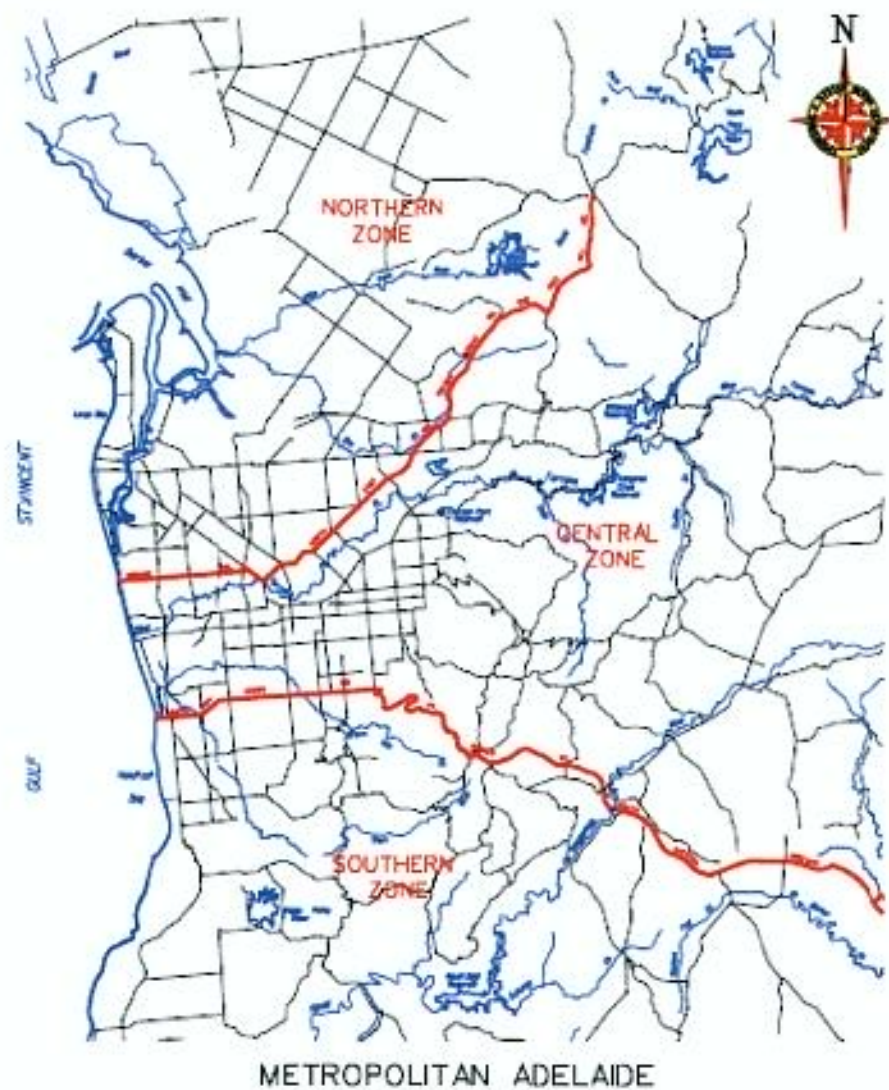
Map showing Regions* of the Network

(*excluding Tanunda Region)



ANNEXURE D

Map showing Tariff Zones within the Adelaide Region



ANNEXURE E

Reference Tariff Control Formulae

Any proposed variations to the Haulage Reference Tariffs pursuant to section 4.1 of this Access Arrangement must comply with the formulae set out in this Annexure.

BOX 1: TARIFF CONTROL FORMULA

The following formula applies separately to each of Tariff R, C and D:

$$(CPI_t)(1 - X_t) \geq \frac{\sum_{i=1}^n \sum_{j=1}^m p_t^j \cdot q_{t-2}^j}{\sum_{i=1}^n \sum_{j=1}^m p_{t-1}^j \cdot q_{t-2}^j}$$

where:

CPI_t is calculated as the CPI for the year ending 31 March immediately preceding the start of year t , divided by the CPI for the year ending 31 March immediately preceding the start of year $t-1$;

X_t is ~~-0.08~~ -15.83 for 20012/13;

X_t is ~~-0.08~~ -15.83 for 20013/14;

X_t is ~~-0.07~~ 0.00 for 20014/15;

X_t is ~~-0.0175~~ 0.00 for 20015/16;

n is the number of different Reference Tariffs;

m is the different components, elements or variables ("components") comprised within a Reference Tariff;

p_t^j is the proposed component j of Reference Tariff i in year t ;

p_{t-1}^j is the prevailing component j of Reference Tariff i in year $t-1$; and

q_{t-2}^j is the audited quantity of component j of Reference Tariff i that was sold in year $t-2$ (expressed in the units in which that component is expressed (eg, GJ)).

BOX 2: REBALANCING CONTROL FORMULA

$$(CPI_t)(1 - X_t)(1 + Y_t) \geq \frac{\sum_{j=1}^m p_t^j \cdot q_{t-2}^j}{\sum_{j=1}^m p_{t-1}^j \cdot q_{t-2}^j}, i = 1, \dots, n$$

where:

CPI_t is calculated as the CPI for the year ending 31 March immediately preceding the start of year t , divided by the CPI for the year ending 31 March immediately preceding the start of year $t-1$;

X_t is ~~0.08~~ -15.83 for 20012/13;

X_t is ~~0.08~~ -15.83 for 20013/14;

X_t is ~~0.07~~ 0.00 for 20014/15;

X_t is ~~-0.0175~~ 0.00 for 20015/16;

Y_t is 0.02;

m is the components comprised within Reference Tariff ;

p_t^j is the proposed component j of Reference Tariff in year t ;

p_{t-1}^j is the prevailing component j of Reference Tariff in year $t-1$;

q_{t-2}^j is the audited quantity of component j of Reference Tariff that was sold in year $t-2$ (expressed in the units in which that component is expressed (eg, GJ)); and

n is the number of different Reference Tariffs.

ANNEXURE F

Specific Terms and Conditions

Network User ¹
User Receipt Points The Receipt Points identified in, or identified in accordance with, Schedule 1 to these Specific Terms and Conditions (as that Schedule may be amended from time to time by agreement in writing between the Network User and Envestra).
User Delivery Points [Each Delivery Point in respect of which the Network User is the current user (as defined in the Retail Market Procedures) from time to time.] ²
Start Date
Term [Commencing on the Start Date and ending on a date to be agreed between the Network User and Envestra (or, if the Agreement is terminated earlier, the period from the Start Date until the date on which the Agreement is terminated).] ³

MDQ For a User Delivery Point which is a Demand Delivery Point, the MDQ is: <ul style="list-style-type: none">(a) the MDQ shown in relation to that User Delivery Point in Attachment 1 to these Specific Terms and Conditions; or(b) if the MDQ is not shown in that Attachment, the MDQ as agreed between Envestra and the Network User or, in default of agreement, as determined by Envestra, in accordance with, or determined in the manner set out in, the Access Arrangement (as defined below)² (in either case, as increased or decreased from time to time in accordance with the General Terms and Conditions (as defined below)).
Notice Details (for the Network User) Address: Telephone: Facsimile: E-mail:

¹ Insert the name and ABN of the Network User.

² Amend as appropriate to define the Delivery Points to which Gas is to be delivered.

³ Amend as appropriate to describe the Term.

Provisions of Agreement

This document evidences that Envestra Limited and the Network User have entered into a haulage agreement (the **Agreement**) for the provision of Network Services on and subject to the terms of the Agreement, which comprises:

- (a) the Specific Terms and Conditions set out in this document; and
- (b) the terms and conditions applicable to Haulage Reference Services under the Access Arrangement (including, but without limitation, the pre-conditions set out in sections 6.3 and 6.4 of the Access Arrangement) (**the General Terms and Conditions**).

Unless the context otherwise requires, terms used in the Agreement will have the same meanings as they have for the purpose of the Access Arrangement.

In these Specific Terms and Conditions, "**Access Arrangement**" means the access arrangement as in force from time to time under the National Gas Law (as defined in the *National Gas (South Australia) Act 2008 (the Act)*) in relation to Envestra's South Australian gas distribution system.

EXECUTED as an Agreement on day of 200_

Executed by

(ABN _____)

in accordance with Section 127 of the Corporations Act

.....
Director

.....
Director/Secretary

.....
Name
(BLOCK LETTERS)

.....
Name
(BLOCK LETTERS)

Executed by
ENVESTRA LIMITED
(ABN 19 078 551 685)

in accordance with Section 127 of the Corporations Act

.....
Director

.....
Director/Secretary

.....
Name
(BLOCK LETTERS)

.....
Name
(BLOCK LETTERS)

ANNEXURE F cont'd

SCHEDULE 1

USER RECEIPT POINTS

1. The outlet of the Elizabeth Gate Station;
2. The outlet of the Gepps Cross Gate Station;
3. The outlet of the Taperoo Gate Station;
4. The outlet of the Nuriootpa Gate Station;
5. The outlet of the Angaston Gate Station;
6. The outlet of the Berri Gate Station;
7. The outlet of the Murray Bridge Gate Station;
8. The outlet of the Whyalla Gate Station;
9. The outlet of the Port Pirie Gate Station;
10. The outlet of the Peterborough Gate Station;
11. The outlet of the Mount Gambier Gate Station;
12. The downstream flange of the Epic Energy-owned Freeling Gate Station;
13. The outlet of the SEAGas Cavan Interconnection Pipeline; and
14. Any other point that Envestra and the Network User may from time to time agree in writing is a User Receipt Point for the purposes of the Agreement.⁴

⁴ Amend as appropriate to describe the Receipt Points through which Gas will be delivered by or for the account of the Network User.

ANNEXURE F cont'd

ATTACHMENT 1

MDQs for DEMAND DELIVERY POINTS

This Annexure lists the User Delivery Points at the Start Date that are Demand Delivery Points at the Start Date and shows the MDQ for those User Delivery Points as at the Start Date. The User Delivery Points are the Delivery Points located at the addresses shown in the table below, which have been assigned the MIRNS shown in the table below (where MIRN has the meaning given to it in the Retail Market Procedures).

No.	Customer	MIRN	Address	MDQ (in GJ)

ANNEXURE G

General Terms and Conditions

(see separate document)