

## **Part 10                      Other provisions of and concerning access arrangement**

### **Division 1                      General**

#### **100                      General requirement for consistency**

- (1) The provisions of an access arrangement must be consistent with:
  - (a) the national gas objective; and
  - (b) these rules and the Procedures as in force when the terms and conditions of the access arrangement are determined or revised.
- (2) In deciding whether the non-tariff terms and conditions of an access arrangement are appropriate, the AER must have regard to the risk-sharing arrangements implicit in the reference tariff.

#### **101                      [Deleted]**

#### **102                      Variable operation of access arrangement**

- (1) The operation of an applicable access arrangement may vary according to factors, or in accordance with a formula, stated in the arrangement.
- (2) A variation in the operation of an applicable access arrangement that is made, or occurs, in accordance with the provisions of the access arrangement, is not to be regarded as a variation of the access arrangement itself.

### **Division 2                      Specific provisions**

#### **103                      Queuing requirements**

- (1) An access arrangement must contain queuing requirements if:
  - (a) the access arrangement is for a transmission pipeline; or
  - (b) the access arrangement is for a distribution pipeline and the AER notifies the service provider that the access arrangement must contain queuing requirements.
- (2) If the AER gives a notification under subrule (1), the access arrangement must contain queuing requirements as from the commencement of the first *access arrangement period* to commence after the date of the notification (but this requirement lapses if the AER, by notice to the service provider, withdraws the notification).
- (3) Queuing requirements must establish a process or mechanism (or both) for establishing an order of priority between prospective users of spare or developable capacity (or both) in which all prospective users (whether associates of, or unrelated to, the service provider) are treated on a fair and equal basis.

- (4) Queuing requirements might (for example) provide that the order of priority is to be determined:
  - (a) on a first-come-first-served basis; or
  - (b) on the basis of a publicly notified auction in which all prospective users of the relevant spare capacity or developable capacity are able to participate.
- (5) Queuing requirements must be sufficiently detailed to enable prospective users:
  - (a) to understand the basis on which an order of priority between them has been, or will be, determined; and
  - (b) if an order of priority has been determined – to determine the prospective user's position in the queue.

## **104 Extension and expansion requirements**

- (1) Extension and expansion requirements may state whether the applicable access arrangement will apply to incremental services to be provided as a result of a particular extension to the pipeline made during the access arrangement period or may allow for later resolution of that question on a basis stated in the requirements.
- (2) Extension and expansion requirements may, if the service provider agrees, state that the applicable access arrangement will apply to incremental services to be provided as a result of a particular extension to the pipeline made before the revision commencement date for the applicable access arrangement.
- (3) Extension and expansion requirements must state that the applicable access arrangement will apply to incremental services to be provided as a result of any expansion to the capacity of the pipeline during the access arrangement period and deal with the effect of the expansion on tariffs.
- (4) Extension and expansion requirements included in a full access arrangement must, if they provide that an applicable access arrangement is to apply to incremental services provided as a result of an extension to the pipeline:
  - (a) in the case of extensions made before the revision commencement date for the applicable access arrangement deal with:
    - (i) the effect of the extension on the opening capital base under rule 77(2)(c1); and
    - (ii) the effect of the extension on the description of reference services specified in the *access arrangement proposal*; and
  - (b) in all cases, deal with the effect of the extension on tariffs.
- (5) The extension and expansion requirements cannot require the service provider to provide funds for work involved in making an extension or expansion unless the service provider agrees.

## **105 Capacity trading requirements**

- (1) Capacity trading requirements must provide for transfer of capacity:

- (a) if the service provider is registered as a participant in a particular gas market – in accordance with rules or Procedures governing the relevant gas market; or
  - (b) if the service provider is not so registered, or the relevant rules or Procedures do not deal with capacity trading – in accordance with this rule.
- (2) A user may, without the service provider's consent, transfer, by way of subcontract, all or any of the user's contracted capacity to another (the **third party**) with the following consequences:
  - (a) the transferor's rights against, and obligations to, the service provider are (subject to paragraph (b)) unaffected by the transfer; but
  - (b) the transferor must immediately give notice to the service provider of:
    - (i) the subcontract and its likely duration; and
    - (ii) the identity of the third party; and
    - (iii) the amount of the contracted capacity transferred.
- (3) A user may, with the service provider's consent, transfer all or any of the user's contracted capacity to another (the **third party**) with the following consequences:
  - (a) the transferor's rights against, and obligations to, the service provider are terminated or modified in accordance with the capacity trading requirements; and
  - (b) a contract arises between the service provider and the third party on terms and conditions determined by or in accordance with the capacity trading requirements.
- (4) The service provider must not withhold its consent under subrule (3) unless it has reasonable grounds, based on technical or commercial considerations, for doing so.
- (5) An adjustment of rights and liabilities under subrule (3) does not affect rights or liabilities that had accrued under, or in relation to, the contract before the transfer took effect.
- (6) The capacity trading requirements may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.

## **106 Change of receipt or delivery point by user**

- (1) An access arrangement must provide for the change of a *receipt or delivery point* in accordance with the following principles:
  - (a) a user may, with the service provider's consent, change the user's *receipt or delivery point*;
  - (b) the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so.

- (2) The access arrangement may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.