

# AEMC Rule Change Proposal

Connection and permanent  
abolishment charges

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## 1 Introduction

At Australian Gas Infrastructure Group (AGIG), our Vision is to deliver infrastructure essential to a sustainable energy future. Our infrastructure reaches across every Australian mainland state and the Northern Territory, reliably delivering gas to homes, businesses and communities, and supporting key drivers of Australia's economy including power generation, mining, and manufacturing through transport and storage.

Established over 150 years ago, our gas distribution networks support economic growth and attract industry. Today, our customers value the stability and reliability of our infrastructure with only 0.3% of customers experiencing an unplanned outage last year,<sup>1</sup> and connections increasing by 1%.<sup>2</sup> Those customers choose to rely on gas for a wide range of reasons from lifestyle preferences to operational requirements, and are also highly diverse in terms of location, infrastructure needs, and cultural preferences.<sup>3</sup> Throughout the transition to net zero, our infrastructure will support choice, security, and affordability for all customers.

Our Net Zero Ambition and emissions reduction targets outline our ongoing dedication to a sustainable energy future. We are targeting net zero emissions in our own operations by 2050 and aim to enable net zero emissions for our customers by delivering the natural gas needed today and advancing solutions for the future – including through renewable gas. Since 2021, our Hydrogen Park South Australia facility has been delivering blended renewable hydrogen to hundreds, then thousands, of homes. In 2024 we commenced production at our second facility, Hydrogen Park Gladstone and a third facility, Hydrogen Park Murray Valley, is currently under construction. In 2025 we also announced our first biomethane connection agreement.<sup>4</sup>

In this document, we provide our response to the Australian Energy Market Commission's (AEMC) [Consultation Paper Gas Distribution Networks: Connection and permanent abolishment charges](#), which summarises two proposed rule changes from Energy Consumers Australia (ECA) and the Justice and Equity Centre (JEC) dealing with connection and disconnection charges respectively.

We can see a case could be made for connection and disconnection charges, though not of the exact type that the ECA and JEC propose which each contain some issues. However, the basis of the decision is important, and we note that the AEMC still needs to undertake further analysis to properly inform its decision.

A key concern, in respect of both submissions, and the AEMC's Consultation paper is a lack of clarity of the key economic issues the rule changes are seeking to address. In particular, a proper understanding of the economic nature of the assets in question (the dedicated connection assets versus the common assets shared by all customers) helps guide the appropriate response in terms of charges. In addition, a proper understanding of the economic nature and consequences of demand reduction for a monopoly asset helps guide questions such as where risk should be borne.

In considering the rule change request, the AEMC has identified five criteria against which it will assess the requests. The criteria include an assessment of outcomes for customers, safety security and reliability, ensuring economic efficiency and good regulatory practice and emissions reductions.

We agree that some of these factors are important in assessing the rule change requests. However, to apply these criteria, particularly the economic efficiency and good regulatory practice aspects, it is important to understand the economic principles underpinning the current framework and the factors identified as requiring change.

Chapter Two of this submission provides some of what we consider to be the key economic principles that should inform the assessment of the rule changes proposed. Based upon these, we conclude Chapter Two with our preferred approach, in broad terms. Chapter 3 then responds to each of the AEMC's questions and, through these responses, fine-tunes our principled position on the approach in Chapter 2.

<sup>1</sup> 2024 AER Operational Performance Data for AGIG networks in South Australia and Victoria, for the 2023 year, [AER - Operational performance data 2024 - Gas Distribution Networks.xlsx](#).

<sup>2</sup> AGIG ESG Data Book 2024, growth from 2023 to 2024; Publications | AGIG.

<sup>3</sup> GPA Engineering; AGIG Victorian Distribution Network Overview; 240899-INT-003-r1-AGIG-Victorian-Distribution-Network-Overview-Final.pdf.

<sup>4</sup> AGIG Media Release; 14 April 2025 (available [here](#)).

## 2 Our View on Appropriate Reforms

The two proposed rule changes are the first of six which propose changes to the National Gas Rules.<sup>5</sup> We understand the AEMC is also proposing to undertake a more wide-ranging review of the degree to which the gas regulation framework remains fit for purpose in coming months (see Consultation Paper p3). In this context, we consider some of the basic economic principles underpinning issues such as the connection assets which are the subject of these proposed rule changes, the nature and consequences of falling demand for a monopoly asset and the nature of change in the energy sector form a crucial backdrop to any consideration of the regulatory framework, and it is not clear whether this backdrop is being properly reflected.

If the economic foundations are not understood and assessed, this will lead to overly rigid rules which may create unforeseen consequences due to being misdirected or based on a misunderstanding of the issues to be addressed. Such an approach will drive poor outcomes because the resulting rules will be unable to deal with anything other than one version of how the energy sector might evolve.

Given the scale and scope of forthcoming reviews, we consider it is important to set out some of these issues now, before much change is effected and so it can be considered by the AEMC ahead of future rule change processes. In this context, we are concerned with a view expressed by the AEMC at the outset of its Consultation paper that:<sup>6</sup>

*A key focus area under the Australian Energy Market Commission's (AEMC or Commission) strategic narrative is to consider how the gas regulatory framework can best support consumers and the electricity system as we transition to a net-zero system.*

The primary purpose of economic regulation, of all infrastructure, is to attempt to replicate the pressures of a competitive marketplace.<sup>7</sup> Ideally, where competitive forces emerge, regulation should guide the industry or market being regulated so that competition can flourish, and regulation is no longer needed, or to promote the eventual emergence of competition in the regulated sector.

In this context, we are concerned that the AEMC's approach, referred to in the paper as the "strategic narrative", is not more directly focussed on promoting or replicating the pressures of a competitive marketplace. It appears that the AEMC has made some assumptions about the direction of state energy policies and has already 'picked a winner' in the evolving energy market. That is, we perceive the AEMC is, through the wording in this consultation paper, seeking to ensure the gas sector is utilised to support the transition to electrification, without considering any other alternative energy transition pathways. If that is the case, it will have serious ramifications for any forthcoming wider review of gas network regulation.

Our key concern in all aspects of energy policy is maintaining choice, as customers and customer needs are diverse. Our customers consistently tell us through our engagement processes that choice is very important to them. Some may choose electrification to varying degrees, but all want to be able to make that choice themselves, rather than it being forced upon them by policymakers.

In the first section below, we outline two key principles which have direct relevance to the proposed rule changes in this Consultation Paper, as well as wider relevance. In the second section, we provide a brief summary of our view of the wider evolution of the energy sector and what this means for regulation. In the concluding section, we provide our position on the appropriate resolution of the issues raised in the Consultation Paper, based on the discussion in the preceding sections.

### 2.1. General Principles – Networks and Monopoly

In this section, we provide some background on two aspects of the economics of networks:

- The nature of networks as a mix of private and common assets; and
- The declining cost nature of monopolies.

We discuss how each of these impinges on the Consultation Paper, and its broader ramifications.

<sup>5</sup> The ECA rule change proposal on connections is [here](#), the JEC proposal on disconnections is [here](#). There are three further pending rule changes from the ECA on [depreciation](#), [capex criteria](#) and [gas network planning](#), and a pending rule change from the JEC on [depreciation](#) measures.

<sup>6</sup> AEMC Consultation Paper (i) and 2. We note that the AEMC's narrative statement quoted on p2 reflects consumer choice more widely than just what kind of electrification ought to occur (see [here](#), p25, for example)

<sup>7</sup> We agree with the ECA (see submission, p13) on this point, although we would point, contrary to the remainder of the relevant paragraph from the ECA, that we already minimise our capex, for precisely the reasons the ECA outline. A more detailed exposition of the point is available [here](#).

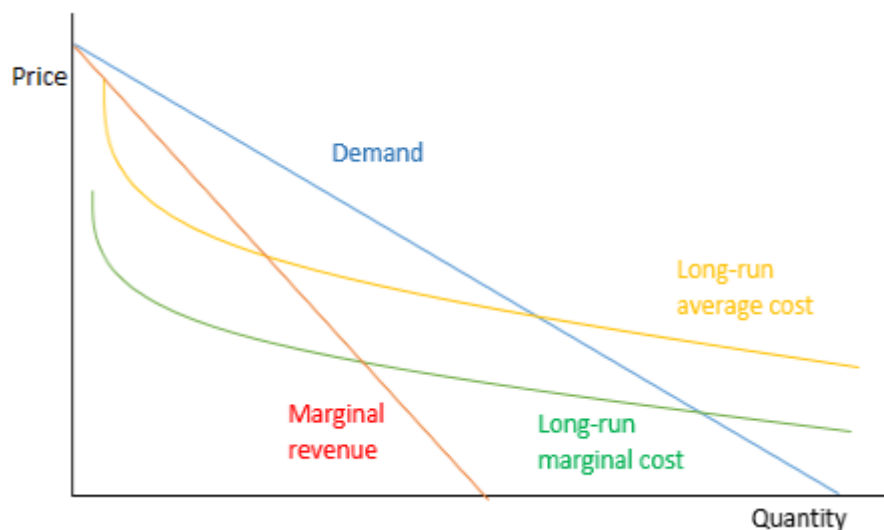
Economists often classify the provision of goods and services and their governance on the basis of the “excludability” of consumption of the good or service and the “rivalrousness” of the good or service. Excludability reflects the degree to which someone can be prevented from consuming the good or service and rivalrousness reflects the degree to which consumption of the good or service by one consumer impinges upon consumption of the same good or service by another consumer. Pure private goods are excludable and rivalrous (the seller controls whether the buyer can consume the good and consumption of the good by one person means it is not available to someone else). Pure public goods are non-excludable and non-rivalrous (the “seller” cannot prevent consumption and consumption by one person does not preclude consumption by another – defence is often given as an example).<sup>8</sup>

Infrastructure is a different combination, being excludable but, except when it reaches capacity, non-rivalrous. That is, a physical connection is needed to access a gas network, but, once a customer has access to the network, so long as the network has spare capacity, the amount of gas transported by one customer does not affect the ability of another customer to transport gas.

However, the same is not true of all parts of a gas network (and similarly for other infrastructure). In particular, the service line and meter each customer needs to access the network (the dedicated assets) are both excludable and rivalrous in consumption, and are therefore pure private goods. Pure private goods are typically paid for by the customer consuming them, and not by all customers collectively.<sup>9</sup> This is the basis of the “beneficiary pays” (AEMC Consultation Paper p4) framework both rule change proponents put forward; and is sufficient reason for beneficiaries to pay for these services without potential decline in future demand needing to play a motivating role.

Historically, the dedicated assets of gas networks (for retail customers at least) have not been subject to a beneficiary pays approach, due to the second of the principles outlined above; the nature of monopoly assets. The basic characteristic of monopoly is highlighted in Figure 1.

**Figure 1:** *Monopoly and declining average cost*



Since networks have high fixed costs, a new entrant seeking to enter and serve, say, 100 customers as a starting point, would never be able to compete with an incumbent serving 10,000 customers, meaning the incumbent is a monopolist and is therefore regulated. Our regulated prices are based on average costs. In the past, when demand was relatively small, it was considered that there may be significant benefits to all customers if customers joined networks more quickly and, to assist that, the dedicated assets which would normally be charged as private goods to those using them were instead socialised across all customers via their

<sup>8</sup> See Frischman BM, 2012, *Infrastructure: The social value of shared resources*, Oxford University Press, NY, particularly the table on p25 and associated discussion.

<sup>9</sup> One might argue that there ought to be a “market” in connection services for the same reason. However, each connection also touches the gas network as a whole and a lack of control over who is doing the connecting would present an unacceptable safety risk (in economic terms, the externalities one consumer imposes on another would be too great). A solution whereby connection costs are reviewed by the regulator for efficiency is preferable. The “market” for disconnection services (which the JEC suggests might be made contestable) is subject to essentially the same issues in terms of externalities, and has the same solution (see Section 3.8)



inclusion in the Regulatory Asset Base (RAB). Whether this departure from a beneficiary pays framework continues to be an appropriate approach depends upon two factors:

- Whether policymakers believe that customers *ought not* connect to gas networks due to wider government objectives which dictate this.<sup>10</sup> We would note that this is something which sits outside the remit of the AEMC, as its role is not to make normative determinations such as this.
- Whether there is evidence that the price-lowering capacity of new entry has essentially run its course (so demand has reached the point in Figure 1 when the average cost curve starts to flatten out) so that the marginal benefit a new customer brings to existing customers is very small. This is an issue which the AEMC can and should investigate as it involves assessment of objective market forces, rather than subjective views on the “right” policy.

A third factor could also be considered; the question of whether new customers will remain connected to the network long enough to repay their connection costs through tariffs. This is essentially the argument the ECA makes (see AEMC Consultation Paper p9). However, if this is the motivating factor, it is not necessary to switch away from the status quo as the socialisation of connection costs is something that only happens when a customer leaves the network, if they leave before they have paid back the cost of their dedicated assets. Up until this point, they are simply contributing to the payment of their dedicated assets.

To prevent socialisation, one approach would be to shorten the asset lives of dedicated assets in the RAB or require customers leaving the network to pay off the unrecovered balance of their dedicated assets (or both). The proper economic consideration of a shift away from the status quo, back towards a more typical beneficiary pays approach should be based on the factors above and a relevant cost-benefit analysis; something which is missed if change is motivated by network decline and it may be harder to sustain a case for change where customer numbers are not declining. We note that the relevant analysis has yet to be undertaken by the AEMC, and we look forward to engaging further on this issue as the rule change process continues.

#### **Box 1: Average cost, asset stranding and allocating risk**

Figure 1 has wider consequences for the ongoing review and highlights the way that the “narrative” can become detached from the underlying economics. Just as increasing demand leads to lower average costs, and thereby lower regulatory prices, declining demand leads to higher average costs and higher prices. This appears well understood, but some of the ramifications of what flows from it and more importantly, some of the risks created by it, appear to be playing less of a role in the wider debate. Two examples illustrate this.

One of these is the contention that customers are bearing the risk of network “stranded assets” as demand declines. This is not true as a matter of definition as asset stranding happens when the last customer leaves and some invested capital is not recovered. Networks always bear this risk. The risk that customers bear is essentially the risk that the decisions of other customers will force all customer back up the average cost curve shown in Figure 1. This is quite a different risk, and one which comes about because of impacts customers have on each other.

A second, leading from this, is the AEMC concept of allocating risk to the party best able to bear it (AEMC Consultation Paper p27)). The idea is not problematic, in itself but needs to be applied carefully. Where a risk cannot be managed by an individual customer, the solution is not to automatically allocate it to a network as (particularly in cases where the risk is created by an individual customer making a decision which affects other customers) the network may be in no better position to manage the risk. The issue is not that it is “unfair” to allocate said risks to networks, but rather that doing so stands in the way of working out solutions to what is actually happening.

What we think is actually happening is this. Simplistically, decades past, investors agreed to invest in certain assets to provide services demanded by consumers and consumers, *as a group*, agreed to pay those assets back through time (with interest). This was mediated through the “regulatory compact” managed by the AER. Subsequently, some customers have decided (for completely legitimate reasons of their own) to defect from the group, and to no longer pay back the gas assets. The collective approach turned out to be more fragile than policymakers anticipated.

The key question is not who to allocate risk to, but to work out what, if anything, can replace this collective approach moving forward, to ensure the industry can still meet the long run interests of consumers as these evolve. We propose a framework we think can help in our recent SA Access Arrangement Proposal (Attachment 6.1, Section 3.1) which we are happy to discuss with the AEMC and other stakeholders as the review continues.

<sup>10</sup> Note that we do not consider that a government net zero position is, in and of itself, a reason to assume that demand for gas networks must go to zero. Demand for gas itself and demand for gas networks are two different things. A customer could, for example, use an air-conditioner most of the time, and use gas only on the coldest days, at which point in time, its benefits are sufficient to pay the whole cost of the gas connection. Here, emissions, particularly if this gas is renewable (we note the ECA’s comments, pp12-13 of its submission, on the capacity of renewable gas and, whilst we disagree with its view, note that comparisons with current gas demand are not necessarily relevant for the future) might be very low, meeting the government’s target, whilst the network remains viable. This is not necessarily the case, of course, suffice to say that the presence of a net zero commitment is not sufficient for the AEMC to conclude therefore that gas network demand must go to zero.

## 2.2. General Principles – Energy Market Evolution

The ECA and JEC proposals, and even the AEMC Consultation Paper appear to take the decline of gas networks as axiomatic; given that the networks are either in or will soon be in decline, what should we do to manage this decline?

We do not subscribe to this view and, whilst different views about the future are unsurprising at this point in time when the future of the energy sector is so unclear, it is the consequences of a single-minded view that we focus on here, particularly, as we outline in Section 2.1, when a concern about network decline does not lead necessarily to connection charges as the only option.

One consequence is policy incongruous with the evidence. The ECA spends several pages (see, in particular, p9 and 10 of the ECA submission) quoting research and models which suggest that electric homes are cheaper and that all customers, particularly all new customers, ought to adopt an electric alternative given the financial advantages. We do not accept this narrative; quite apart from issues with the models cited, it ignores the fact that relative cost is not the only reason people make fuel choices and the fact that gas has value to our consumers.

Even if the ECA approach was correct, then the only logical conclusion is that no new customer would ever seek a gas connection in any event because, even with no up-front charge for the connection itself as electric options are cheaper. If no new customer is likely to request a gas connection, then the change in the connection charge regime will make no real difference to uptake of new gas connections, and the benefits of the proposed change might exist in theory but would be negligible in practice. The only real point of making the change would be as insurance, just in case customers do not behave as the models the ECA puts forward suggest they ought to.<sup>11</sup> This is not a sound basis for change.

The consequences are much more pervasive, however, than proposed changes that are incongruous with the evidence provided to support them. If regulators and rule-makers act as though the future will turn out like the models and narratives produced by one set of stakeholders,<sup>12</sup> and ignore all other possibilities, then they run the risk of producing policy to match a narrative, giving rise to unforeseen consequences if the energy sector in a net-zero world does not turn out that way.

By way of an example, our view of the energy sector as a whole is that entirely new forces of competition will emerge as customers become familiar with the benefits that increasing sovereignty over their own energy demand can provide. We consider that these competitive forces will impact both electricity and gas networks as they emerge, providing threats and opportunities for both. Further details on this view are provided in our most recent Access Arrangement submission for our South Australian network (See Attachment 6.1 Chapter 2) and we are happy to expand on these views as the AEMC's review continues.

It would be problematic if the AEMC, in line with its "strategic narrative" spent the next several years designing gas network regulation to support electricity networks (as per the quotation at the outset of this chapter), only to find that new sources of competition changed the way energy networks evolve in the future; most particularly if, by "supporting" the electricity networks, the rules devised by the AEMC allowed much more cost to be injected into these networks to be passed on to customers. It remains our view that in a net-zero future, gas networks will continue to play a role and may find new niches that give substantial benefits to customers as their energy needs evolve. The regulatory framework under assessment today should not constrain such future opportunities and favour only one pathway to decarbonisation.

We consider that the appropriate approach for a rule-maker to take is not to pick winners, nor even to try and support winners that some policymakers might currently be favouring. Rather, the appropriate approach is to design rules which promote flexibility, regardless of which options customers choose for their energy as markets develop, and to focus not on supporting a chosen winner, but on creating rules which support the development of options for customers to continue to make their own choices in respect of energy. This is an issue we intend to discuss with the AEMC in more detail as the review proceeds.

<sup>11</sup> In this context, we note that, where policy designed to reduce gas connections and use does not drive decisions, connections to the gas network are still increasing; (see discussion below) even as demand for gas itself falls amongst residential customers. In this context we note that demand for gas is not the same thing as demand for gas networks, and that customers still find value in having the network available, even if they use it less. Finally, we note that, in Victoria, where the charge against gas was most fierce, the government has subsequently walked back from the more extreme policies (the final policy is available [here](#), the process by which the original proposed changes were assessed is [here](#), along with stakeholder feedback) in the face of significant opposition from stakeholders across the community. This suggests that an assumption of ever-tightening policy is not sound either.

<sup>12</sup> We note the ECA does not cite any evidence which does not agree with its view of gas network decline.

### 2.3. Principles-Based Connection and Disconnection Charge Approaches

Before we outline our preferred approach, we would like to point out an error in the AEMC's consultation paper. On page 10, the AEMC says:

*The ESCV has updated its Gas Distribution Code of Practice which requires Victorian gas distributors to charge the full cost of new connections upfront from 1 January 2025.*

*The ESCV's final decision states that gas distributors must calculate standard charges to provide basic (involving no or minimal augmentation of distribution pipelines) connection services for residential customers.*

This is not quite correct. In fact, the Gas Distribution Code of Practice says (p25, Section 4.2.3):

*For connection applications made from 1 January 2025, the connection charge to be paid by a customer for a connection service must be the sum of:*

- a) the cost of purchasing and installing the dedicated facilities to that customer; and*
- b) the cost of augmentation of the shared distribution system which may be required to support the additional load resulting from the connection service.*

That is, the connection charge in Victoria must include both the private costs of the service and meter to the customer in question *and* any network augmentation needed to serve that load. That is, when a customer wishes to connect to a network that is already at capacity, that customer must pay the full cost of upgrades to network capacity. This, in economic terms is that the approach gives rise to short run marginal cost pricing, which gives rise to much more volatility than long run marginal cost pricing and less efficient investment decisions;<sup>13</sup> which is why long run marginal cost pricing is more frequently used by regulators, seeking to meet objectives like the National Gas Objective with its focus on efficient investment.<sup>14</sup> This approach also raises concerns with equitability and in terms of practicality.

In respect of equity, we illustrate our point with an example of a network near capacity with space for two more customers. The next two customers who come along get access for a very low cost as no additional capacity needs to be built. The third customer breaches the capacity of the network and has to pay the full cost of the network upgrade to meet their capacity. If the upgrade is able to cover more than one additional customer (as is usually the case) then the fourth customer again gets very low-cost access. This is inequitable; there is nothing to distinguish these four customers save for the order they appear.

Rawls (1971) suggests that equity (or "social justice" in his terminology) would be achieved if decisions about resource allocation in a society were made from behind a "veil of ignorance", or before the members of society knew who they would be in said society; in this context, before the four customers knew the order at which they arrived at the network seeking access.<sup>15</sup> We are doubtful that any group of customers would prefer a means of charging for network access which made one of them pay a very high price and the rest pay a very low price if they didn't know which customer they would be.

There is also a more practical concern, which causes wider efficiency concerns. If the four customers aren't (as they usually are not; Rawls is deliberately making a thought experiment) behind a "veil of ignorance", they will do all they can not to be the third customer in the queue. To the extent that this causes some to move earlier than they otherwise would, or some to delay seeking the service, the consequence will be a misallocation in the markets which depend on access to gas networks and the gas services they supply. This is one key reason why regulators rely on long run marginal cost pricing and not short run marginal cost pricing for infrastructure.

These equity and efficiency concerns are the key reason we do not think the Victorian approach should be extended nationwide. Indeed, as we discuss in Section 3.3, to the extent that it can be rolled back in Victoria to reflect only dedicated assets, our customers would benefit.

Instead, we consider that the only form of connection charge that should be considered, in the vast majority of cases, should be one which is based on dedicated assets only. Further, we consider that:

<sup>13</sup> See Turvey R, 1969, "Marginal Cost", *The Economic Journal*, 79(314), 282–99, available [here](#), and Mann, PC, Saunders, RJ and Warford, JJ, 1980, "A Note on Capital Indivisibility and the Definition of Marginal Cost", *Water Resources Research*, 16(3), 602–4 available [here](#) on the point on volatility and Williamson OE, 1966, "Peak-Load Pricing and Optimal Capacity under Indivisibility Constraints", *American Economic Review*, 56(4), 810–27, available [here](#) on capacity investment.

<sup>14</sup> We note, for example, that the National Electricity Rules (see 6.18.5 (f)) requires tariffs based on long run marginal cost, as does Rule 94 (4(a)) on the National Gas Rules.

<sup>15</sup> See Rawls, J, 1971, *A Theory of Justice*, Cambridge, MA: Harvard University Press, with a shorter summary of Rawls' ideas available [here](#).



- It would be impractical to assess the dedicated costs of every customer individually, and there should instead be scope to group customers together (all residential customers, for example) in a standard charge, but flexibility for more complex cases. We are aware of gas networks in the United States for example, where the first few feet of pipe plus the meter are included in a standard charge but longer connection pipes, difficult terrain and so on are charged separately.<sup>16</sup>
- A requirement for each customer to pay for their dedicated asset is not the same thing as requiring said payment to happen up-front, and it is not clear why a beneficiary pays framework necessarily requires an up-front payment. It may be more appropriate for the Rules to contain the principle on beneficiary pays, leaving it for networks to determine how the charge is given effect. The only requirement would be that, whatever choice the network makes, risk is shared between the network and each new customer individually and cannot be socialised across other customers.
- Rule 119M should not be removed in its entirety. There may be some large customers whose particular needs require substantial mains upgrades, and other customers should have some protection from the potential for this to raise costs. A modified form of Rule 119M, designed to accommodate these special cases, should be retained, with an expectation that it would be used rarely.

We note that the case for a departure from the status quo should still be made, based on an assessment of the benefits brought by price-reducing new entry and the costs of a departure from a beneficiary pays framework; it is not sufficient (nor even appropriate) to make the case solely on an expectation of network decline. In particular, we note that some networks are still growing connection numbers albeit at lower rates than in the past (see here, p66, with the ACT being the only jurisdiction with negative growth in customer numbers; note that we are still forecasting connection growth in South Australia in our most recent Access Arrangement proposal to the AER), and basing the change on an expectation of network decline alone may be insufficient in these jurisdictions even though customers may benefit from such a charge because the ability of new customers to lower prices has diminished.<sup>17</sup>

It is not clear whether there are sufficient data available to formally quantify the cost benefit analysis, but we believe the AEMC should step through its process of reasoning carefully to make sure it is acting based on sound economic principles. We would be happy to assist in such a process as it unfolds.

If a beneficiary pays approach is adopted for connection charges, then it would be logically inconsistent for a similar change not to be applied to disconnection charges, as the basic issues of private costs being socialised across many users is the same. We note, however, that the direct costs of disconnecting a customer are not the only costs which a departing customer could cause to be socialised across remaining customers. If a customer departs having paid back only part of their dedicated assets (the service line to the home and the meter) through their tariffs then the remainder of these costs will be socialised across remaining customers.<sup>18</sup>

Additionally, new customers and existing customers are not being treated symmetrically. Assume a new customer who joins tomorrow and an existing customer who joined yesterday both depart the network in five years' time. The new customer will leave no costs from their dedicated assets to be recovered from other users, but the existing customer will leave costs. This is not equitable treatment between the two customers if the accepted position today is that dedicated assets should be paid for by their beneficiary.<sup>19</sup>

Ideally, the departing customer, regardless of when they joined the network, should pay both the direct costs of their disconnection and whatever remaining dedicated asset costs have not been recovered. In practice, however, this would be very difficult to calculate. We know how long each connection (though not each customer; a house that is sold still keeps the same Meter Identification Reference Number - MIRN) has been active and can compare with the life of each dedicated asset, but, in reality, some portion of the fixed costs of service provision are reflected in variable charges, and it would be next to impossible to work out

<sup>16</sup> The exact way this is done is currently under debate in Minnesota (among other places). A summary of what gas networks actually do is contained in one of the submissions to this review, available [here](#).

<sup>17</sup> These jurisdictions are all jurisdictions where state government has not sought to actively destroy gas network demand. We note further that some stakeholders may expect connection growth to slow in these states, but question whether, in this instance, expectation alone is sufficient for the AEMC to act.

<sup>18</sup> On the basis of the AEMC's criterion involving allocating risk with the party who can best address it (See Consultation paper p27), it would not be appropriate for the value of the disconnected dedicated asset to be written off and taken out of the RAB. The decision to leave the network is entirely in the hands of the customer making the decision to leave and cannot be managed in any way by the network investor. It would be inappropriate to make investors wear a risk which they are unable to manage.

<sup>19</sup> The existing customer might argue that they did not join the network knowing this would happen, but this misunderstands the nature of the "regulatory compact" which allows for change. The AER would not allow a network investor to claim they should face no consequences for a risk or a change in rules that they did not know would arise when they invested in the network, and customers should be treated similarly; particularly in issues like this when it is the rights of one customer compared to another and has nothing to do with the network at all.

how much each disconnecting customer had contributed to the provision of their dedicated assets when they leave. Instead we would suggest that:

- Where additional depreciation is allowed, this be applied to the asset classes which comprise the dedicated assets of each customer. This does not solve the problem, but can help make it smaller; and
- If this is insufficient, consider making the asset lives of these assets much shorter, conceivably as long as the life of the gas-using appliances a customer has (on the assumption that the customer would be less likely to disconnect when appliances are still operational) to remove the issue more rapidly. We note that this would not require a rule change, just a change in practice by the AER.

As a final point, although we agree with the notion of a disconnection charge, we do not agree with all of the aspects of the particular charges proposed by the JEC. We deal with these in answering the AEMC's questions in Chapter 3.

### 3 Response to AEMC Questions

In this section we respond to each of the AEMC's 15 questions. The italicised text at the start of each response is the note from the AEMC to provide context to the question. Our response follows.

#### 3.1. Question 1: How should connection charges be treated in the context of the projected decline of residential and commercial gas demand?

*Do you consider the current approach to socialise connection costs across all network customers (if the NPV of expected revenue from a new connection exceeds the capital expenditure associated with the new connection) is fit-for-purpose in the context of the projected decline of residential and small commercial gas demand?*

*Do you consider the issue raised by the ECA – the socialisation of connection costs leading to inequitable cost sharing across network customers – is a material issue?*

We note at the outset that in our view, the premise behind this question is incorrect; the context for making a change to connection charges is not one of declining demand, but rather a reconsideration of the costs and benefits of departing from a "beneficiary pays" framework as discussed in Section 2.1.

Having said that, we can see how properly considering the issue, in the right context could lead to the approach to connection charges changing, as we discuss in Section 2.1. Finally, as per the discussion in Section 2.2, if the evidence the ECA puts forward is correct, the issue cannot be material; if electrification as favourable to customers as suggested, the number of new gas connections would be so small that changes to the connection charging regime would make little difference to the outcome.

#### 3.2. Question 2: Would the ECA proposed solution address the issue of inequitable cost sharing?

*Do you consider ECA's proposed solution - to charge new gas customers the full upfront costs of their connection – would address the issue of inequitable cost sharing?*

Although it is not clear whether the ECA is making its argument on the basis of equity, we can see how a connection charge could be more efficient and equitable, as we discuss in Section 2.1.

However, the specific connection charge proposed by the ECA, which replicates the Victorian approach across the nation, is neither efficient nor equitable, given how it attempts to treat changes in common costs. We discuss this in Section 2.3, and we discuss an option which is both efficient and equitable.

Although not its main point, we note that the ECA proposes as a "second best" option if its main proposal is not accepted, that networks who choose to socialise connection costs rather than adopting a beneficiary pays framework be fully exposed to any risk that is created (the ECA expresses a desire to extend this to all new capital expenditure, which exacerbates the problem) which, they suggest (p17) should be extended to immediately writing off the asset if the new customer changes their mind, sells the house or any other action which leads to a disconnection). There appears to be a logical inconsistency here; it is not appropriate to expose customers to the actions of other customers who decide to leave the network, presumably because remaining customers cannot control the actions of those who leave, but this does not mean that it is appropriate to expose networks, who can likewise do nothing to control the decisions of individual customers, to these risks either. If the AEMC is going to adopt a position that risk should be allocated to those who can best manage it, this alternative would be untenable.

#### 3.3. Question 3: What distribution networks and customers should ECA's proposed solution apply to?

*Do you think the proposed solution should apply to:*

- a) Scheme distribution pipelines only, or also non-scheme distribution pipelines?
- b) All jurisdictions or only those in which the NERR applies?
- c) Retail customers only, or also non-retail customers?

The answer to this question lies in a proper understanding of what is being proposed. That is, a properly formulated beneficiary pays approach (See Section 2.3) is what would exist in a competitive marketplace. Where a competitive market does not exist due to the specific market forces which exist in that market, risk is taken by the network operator. The situation which currently exists

in scheme pipelines exists because policymakers determining a departure from normal competitive market practices was appropriate decades ago because it was believed that the benefits of doing so outweighed the costs (discussed above).

For this reason, in our view there is no need to extend the proposed rule to non-scheme pipelines. By virtue of being non-scheme, they are not networks which have significant market power. Therefore, it would be expected that non-scheme pipelines already adopt efficient practices; there is no problem to solve. The same is true of non-retail (large commercial and industrial) customers, to whom we already charge up-front connection charges, because their connection costs are often very high. Again, there is no problem for a rule change to solve.

There is a case for extending a properly formulated connection charge (see Section 2.3) to Victoria, which is not currently subject to the jurisdiction of the NERR, to the extent that this is possible. This is because we consider the version of the connection charge currently in force in Victoria is inequitable and inefficient. We would encourage the AEMC to consider this position further and discuss with the Essential Services Commission who have applied the charge in that State through the Gas Distribution Code.

### **3.4. Question 4: What are your views on the costs and benefits of ECA's proposed solution?**

*What do you consider are the benefits and costs of the proposal to charge new gas customers the full upfront cost of their new gas connections? Is there anything the Commission could do in designing a rule that would help to minimise the costs and maximise the benefits?*

In respect of the benefits of the connection charge, as we discuss in Section 2.2, if the ECA's evidence is correct, these benefits must be very small, because their evidence suggests very few new customers would choose gas.

In respect of costs, the ECA misses a key cost of its proposal. To the extent that new customers have a low cost of service relative to the average existing customer, a new customer will lower the average and therefore price. If a connection charge dissuades the new customer from connecting to the network, the existing customers will lose this benefit. Considering this issue should be part of the benefit cost analysis as the AEMC's review progresses.

There is an additional distributional cost which the ECA has not considered. Tariffs are based on average costs for the network as a whole. Currently, those costs include all the costs associated with the dedicated assets of existing customers. Those same costs for new customers, under the ECA's proposal, will be paid for outside the tariff mechanism. So new customers will pay for their own dedicated assets and those of existing customers, whilst existing customer will pay only for the (collective) cost of their dedicated assets, and for only part of that to boot. There is no double-counting here; the network still only recovers costs incurred. This means that the cost to society has not increased. However, there is an additional inequity for new customers. This could be addressed by establishing a different set of tariffs, but this would be administratively complex and may not be worthwhile if new entry is indeed limited.

Although we look forward to further analysis from the AEMC, we consider at present that the lowest costs and highest benefits might be obtained by our preferred connection charge approach (see Section 2.3), which is why we suggest making changes to the ECA proposed approach.

### **3.5. Question 5: What implementation considerations should the AEMC contemplate for the ECA proposal?**

*What are the issues that might affect the approach and timeline to implement any changes? How might these timeframes interact with upcoming access arrangement decisions? Would the proposed solution require additional guidance material from the AER?*

In respect of a beneficiary pays change levied just on the dedicated assets associated with connection, and provided we are able to group customers into classes (see Section 2.3, then the implementation issues are relatively small, and amount to some one-off changes to our billing framework to accommodate the payment of fees. We have already done this for our Victorian customers where we are required to charge connection costs; our standard costs include only dedicated assets and we use both standard charges and flexible additional charges to deal with special and more complex cases.

However, in respect of the specific proposal by the ECA, we foresee significant implementation issues. This is because the ECA proposal requires the Victorian approach, which includes every cost associated with new connection to be levied up-front to customers, including costs associated with upgrading the network via short run marginal cost pricing. Quite apart from being inefficient, inequitable and out of step with standard regulatory practice, this would be extremely difficult to administer. In our case, we have not yet faced the issue in Victoria of newly connecting customers requiring augmentation of the network and have yet to incorporate these into our charging regime, given the challenges of doing so.

To understand some of the challenges, consider the simple case of a new main down a new street. This would serve only the customers on that street so, under the ECA rule change, would need to be charged to said customers before the main is laid. However, how would we do this in practice? In a new subdivision, the houses are sold one by one, and some of the new customers might not want a gas connection. If we wait until the lots on the street are all sold and we know exactly who wants a gas connection, before laying the main, we could allocate the costs correctly, but those costs would be much higher because we could not take advantage of a common trench to lay the gas pipeline with other utilities when the subdivision is developed. Instead, we would need to dig up existing streets after the subdivision was finished. Alternatively, we could lay the pipes in a common trench, at a low cost, but the developer would then need to cover that cost until the lots are sold, and the cost can be recovered from whichever customers decide they want a gas connection. It is not clear whether developers would be prepared to wear this cost.

Moreover, for the developer in the instance of a new estate and for us if we are digging up the road for an existing street (so there is no cost advantage from common trenching), there is an additional issue of timing. Say, for example, there is a street with no gas main, and one customer wants a connection. Do we charge that customer the full cost of the main? What happens if a second customer now says they want a gas connection? Do they get it for free because the first customer has paid for the main, or do we charge the second customer half the cost of the main and pass this on to the first customer.<sup>20</sup>

The practical issues above are magnified with larger mains pipes. Under the scheme the ECA proposes, if a suburb is at capacity in respect of its main, and one new customer comes along wanting to connect their house, would we charge them a fee running into millions of dollars to dig up a large-scale mains pipeline and replace it with a bigger one? Would we then return those millions to the single householder as the next ten thousand customers who can use the capacity of the larger pipeline come along?

The practical upshot of this is that elements of the ECA proposal are likely to render the approach impossible to implement which is a good reason not to implement this proposal in its entirety.

### **3.6. Question 6: Are there alternative, more preferable solutions to address the issues with the existing gas connection arrangements?**

*Do you have any views on the alternative solutions presented in this paper or are there other solutions that would address the issue more efficiently than ECA's proposed solution? In relation to the alternative options of:*

- *maintaining the status quo but using updated assumptions for the NPV analysis*
- *including the costs of permanent abolishment in the costs of a new connection as part of the NPV calculation*

*Do you have views on what guidance the rules should provide to calculate the NPV for new connections? What are the benefits and risks of these options?*

Our preferred alternative, if a change is made to the connection charging regime, is to include only dedicated asset costs, as we outline in Section 2.3 above. This is preferable to the particular proposal the ECA has made, as we make clear in this submission.

In respect to the first of the alternatives the AEMC proposes, this is a more logical end point if the analysis starts with a proposition that the issue to be solved is one of declining demand. However, it requires an additional element to give rise to essentially the outcome which the connection charge would give. Since (see Section 2.1) the socialisation of the dedicated asset cost happens when the customer leaves the network before the tariffs paid have been sufficient to recover the dedicated asset costs (before then, they are simply paying off their dedicated assets), simply changing assumptions in the NPV analysis would not address the issue of socialisation. Instead, a regulator would need directly address those costs; by shortening the lives of dedicated assets or requiring the departing customer to pay the balance that has not been paid to date for those dedicated assets, or both. This may in fact lead to greater benefits as it would not dissuade potentially cost-reducing entry and yet would still solve the problem of socialisation of dedicated asset costs. However, as discussed in Section 2.3, implementing this approach would be highly problematic.

In respect of the second option, disconnection charges being included in the Net Present Value (NPV) calculation, it is not clear how this would be equitable for new customers. In effect, unless their marginal cost of connection was very low, the net effect of doing this would be for some part of the cost of leaving the network to be levied on the customer before they enter the network. We are unaware of any business in a workably competitive market that charges customers to leave before they have even entered.

<sup>20</sup> *And so on for subsequent customers; the third customer pays one third, and we pass this on to the second and first customer, the fourth pays a quarter and so on. This is something that can happen with transmission lines and large customers who keep a connection for decades, but it seems entirely unworkable for distribution; in the example above, what happens if the first customer sells their house before the fourth customer comes along and the new owner of the first house decides to go all electric and has no gas connection?*



Moreover, in order to undertake the NPV analysis, we would need to make an assumption about how long the new customer would remain on the network before departing. Since applying this test would likely result in real cash costs to the customer themselves, we would be under an obligation to refund the customer if they stayed on the network longer than we assumed,<sup>21</sup> and would probably need to keep records to ensure this could happen. This would rapidly become unworkably complex.

### **3.7. Question 7: Do you consider there is a regulatory gap in relation to gas disconnection/abolishment?**

*Do you agree with JEC that there is a regulatory gap in relation to gas disconnection/abolishment in the:*

- a) NGR?
- b) NERR?

It is not clear that there is a regulatory gap in relation to disconnection charges. We consider that a cost-reflective disconnection charge is feasible within the context of the NGR as it stands, which is why we proposed such a charge in our Victorian Access Arrangement proposals. We note also that the reasons the AER gave for rejecting the charge were not based on an inability to impose the charge under the NGR, but were primarily due to safety concerns that could arise if departing customers sought to avoid the charge and implement an unsafe disconnection. Additionally, other regulators, notably the ERA in Western Australia, operating under the same set of rules, have allowed such charges (see for ATCO [here](#)) and that the AER has allowed them in the past (see [here](#), p20 for Jemena and [here](#) for more detail).

In respect of the National Energy Retail Rules, we are less familiar with the detail of its operation as it deals with the operations of retailers and has only limited intersection with our activities. However, we note that it imposes some obligations on retailers and distributors in respect of both connection and disconnection. We note in respect of disconnections specifically, there is significant detail about disconnections which are temporary and associated with issues such as network faults, notice provisions and so on, but it does not appear to contemplate permanent abolishment. What changes the AEMC needs to make, however, will depend upon what it decides is appropriate, in principal for connection and disconnection.

### **3.8. Question 8: Do you agree with the JEC proposal to introduce a framework for disconnection/abolishment in the rules?**

*Do you agree with JEC's proposal to introduce a framework for gas disconnection/abolishment:*

- a) in the NGR?
- b) in the NERR, in addition to the current rules in Part 6?

*Do you agree with the proposal to define different services - temporary disconnection, permanent abolishment, remediation services - in the NGR and/or NERR? Do you agree with the proposal for the AER to develop binding AER Disconnection guidelines to define the scope of works required for different services?*

#### **Permanent abolishment:**

*Do you agree the NGR should impose such a duty on gas distribution network operators to provide an abolishment to a minimum make safe standard? In what circumstances should the duty apply? What services are required to provide an abolishment to a minimum standard that safely discontinues the supply of gas?*

#### **Temporary disconnection:**

*Do you agree with the proposal to limit temporary disconnections?*

#### **Remediation services:**

*Do you agree that meter removal and removal of pipelines or other assets on the customer's property would describe remediation services that go beyond making safe a permanent abolishment?*

#### **Contestable provision of services:**

*Do you agree that rules should explicitly allow for any of these services to be contestable?*

<sup>21</sup> We suspect consumer lobbyists would insist upon this clause. We might find it much harder to levy an additional charge on customers if they stayed for less time than we assumed they would, so there is a potentially a lack of symmetry built in here and, where connect assets and their costs that have not been recovered are socialised across other customers, they pay the price of this asymmetry.

We agree with the JEC that the current AER approach is inequitable. We do not think that a change in the rules is required, but we accept that it might be necessary to provide certainty, rather than relying on the exercise of discretion. If a change is made to the National Gas Rules, then we consider the rule should be principles based, outcomes focussed and as simple as possible.

For example, a rule which required that there be a temporary and permanent disconnection service defined in the AA (with the ability to have a bespoke charge for more costly work), each with fully cost-reflective prices would probably be sufficient, and work much better than prescriptive rules. This is because each network is different. In particular, each state has a different safety regulator, and prescriptive national rules would likely never be able to meet the requirements of each safety regulator, still less meet them as they change through time. Appendix A of the JEC submission is very detailed, but we do not think it is detailed enough to capture all of the variation between jurisdictions, still less to anticipate the changes jurisdictions might make in future.

By way of an example, several of the proposals made by the JEC do not appear to be workable. For example:

- Whilst a delineation between permanent and temporary disconnection is probably necessary, but the level of detail is too prescriptive, and likely to be restricting. The cut-off at 12 months is arbitrary, and the prescriptive descriptions of capping services (AEMC p19) fail to capture a lot of particulars which might apply in particular jurisdictions and even in a given property (the connection point, in particular, is much harder to pin down than the JEC suggest (see pp10-11 of the JEC proposal).
- Whilst there is likely a need to be able to include additional charges for more complex disconnections, the particular "remediation service" proposed by the JEC is unworkable due to its treatment on meters. If meters do not need to be removed as part of the minimum service, then the presence or absence of a meter at a property ceases to be a visible indicator of gas at the property, which likely gives rise to a safety issue. We also cannot understand the basis of the JEC's suggestion (see p12 of the submission) that customers need to ask networks to be charged for meter removal, otherwise the meter stays on the property and is written off from the RAB with no compensation. This is contrary to the AEMC's proposed principle that risk should be allocated with those who can manage it. Here, not only does the network have no control over the customer's decision in respect of what to do with the meter, but the proposed rule seems to actively encourage the customer to hand liability to the network operator by making this the lower cost option for the customer. Meters, as one of the dedicated assets for network connection, should be part of the connection charge, and the disconnection charge.
- Whilst we can see the theoretical merits of a contestable abolishment services to keep prices low, this is unlikely to work, or to be needed in practice. In most cases, networks sub-contract the actual work of connecting and disconnecting and put the service to competitive tender and those that perform these works have specific training in order to do so safely. It is unclear how this would lead to a different result in terms of cost from contestability. Further, disconnection requires contact with the gas main. Moreover, if networks cannot control how this happens because disconnection is contestable, it is unclear how they could meet their safety requirements. It is therefore likely to prove unworkable in practice.

In respect of the NERR, we refer back to our response to Question 7; the changes would depend upon what the AEMC decides is prudent in respect of the approach towards disconnections.

### **3.9. Question 9: How should costs for disconnection/abolishment services be recovered?**

*Do you agree with JEC's proposal to introduce cost reflective service charges? Would cost reflective charges significantly affect consumers' decisions to electrify their premises? Alternatively, would socialising abolishment charges significantly affect remaining gas consumers?*

We agree with the JEC's general point that the charge should reflect full efficient costs, on a beneficiary pays basis. This should be consistent across connection and disconnection charges as we discuss in Section 2.3. We disagree in respect of aspects of the remediation service, discussed above, but believe it should also be cost-based. The key is that there should be no socialisation of charges, as this is likely to impact remaining gas customers. In fact, it would be illogical to provide for a connection charge on the basis that failure to do so might one day increase costs to remaining customers if the new customer eventually leaves the network and not provide a full cost recovery disconnection charge for customers currently on the network.

The JEC point to a diversity in charges (submission p5) between jurisdictions and appear to suggest that this may represent inconsistency between regulatory decisions (submission p7). In fact, to our knowledge (it is certainly the case for our proposals) the abolishment charges were consistently based on the minimum cost of undertaking the service in the jurisdiction concerned. Rather what is happening is that different jurisdictions have different costs. Jemena provide a good example of this in their most recent submission to the AER (see [here](#), pp5-8) where they point out that they must pay local councils for remediation of roads and other council property after a trench is dug to remove a service, whereas other jurisdictions can do their own remediation.

We believe that there may be a possibility that the disconnection charge may lead some customers at the margin to delay electrification of their homes. However, for most customers who believe electrification is appropriate, this is a principled position unlikely to be swayed by a disconnection charge. Moreover, if the various studies the ECA cites (see pp9-10 of their submission) are to be believed, the savings from electrification may outweigh the disconnection charge in any event and therefore mean that the disconnection charge should not dissuade a customer who focuses solely on cost from leaving the gas network.<sup>22</sup> We accept that, for some customers, the up-front cost may be an issue, but this is dealt with by targeted subsidies from government, rather than using regulation which lumps all customers together.

### **3.10. Question 10: What consequential NERR changes would be required to complement any changes in the NGR?**

*What complementary changes in the NERR would be required to deal with changes related to disconnection/abolishment in the NGR?*

See our responses in respect of Question 7 and 8.

### **3.11. Question 11: What distribution networks and customers should the proposed JEC solution apply to?**

*From a policy perspective (noting that legal restrictions will apply), do you think the proposed solution should apply to:*

- a) Scheme distribution networks only, or also non-scheme pipelines?*
- b) All jurisdictions or only those in which the NERR applies?*
- c) Retail customers only, or also non-retail customers?*

It is not clear what the rationale is for extending the requirement to charge disconnection fees to non-scheme pipelines or non-retail customers as we have the ability to charge these customers already and would not need an explicit requirement to do so.

### **3.12. Question 12: What are your views on the costs and benefits of JEC's proposed solution?**

*What do you consider are the benefits and costs of JEC's proposal? Is there anything the Commission could do in designing a rule that would help to minimise the costs and maximise the benefits?*

The JEC, in looking at benefits, focuses on customers who remain on the network, and who do not have to pay for the socialisation of costs caused by the decisions of others. However, the consideration is broader than that; absent of a cost-reflective disconnection charge, customers are imposing externalities on each other by not facing the full cost of their actions. This leads to inefficient outcomes affecting all customers, including those who leave the network. With costs of disconnection being too low, an economically inefficient amount of exit occurs. We note that the JEC's proposal in respect to meters, discussed in Section 3.8, also fails in this context of efficient signals. This should be an important consideration of regulators, and we agree with the point (AEMC p23) that it sends better signals to policymakers for this reason.

The safety perspective is more difficult to ascribe benefits or costs to. Just defining the relevant services more carefully and setting appropriate charges may have a limited effect. Even with socialisation as at present, some customers refuse to pay any fee on principle. And the nature of there being two clear charges does not mean that some customers will not choose the cheapest option regardless and hope not to be discovered. The issue of consumer behaviour around these charges, and the implications for safety are complex, regardless of whether costs are allocated equitably as the JEC suggests or socialised. For this reason, it would be unwise to draw any firm conclusions about relative costs. This does not mean, however, that disconnection charges should not be imposed, just that the issues around safety and behaviour are complex, requiring a lot of thought outside this rule change process.

### **3.13. Question 13: What implementation considerations should the AEMC contemplate for the JEC proposal?**

*What are the issues that might affect the approach and timeline to implement any changes? How might these timeframes interact with upcoming access arrangement decisions? Are there any issues with requiring gas distributors to provide amended access arrangement proposals?*

<sup>22</sup> Note that we do not endorse this research, merely point out the logical inconsistency of believing the research the ECA cites and believing that a disconnection charge could prevent people from electrifying.

If the JEC proposal for disconnection fees was adopted as proposed exactly by the JEC, there would be a wide range of implementation issues, as discussed in Section 3.8. A simpler principles and outcomes-based approach in the National Gas Rules would likely have far fewer issues, because the actual regimes could be tailored to each jurisdiction.

There will remain, however, issues of implementation due to human behaviour around these charges (see Section 3.12 above), regardless of what is actually implemented. This need not prevent implementation, however, as the same issues exist in respect of governing the status quo, and it is important to consider exactly what the counter-factual actually is, rather than being distracted with issues associated with the implementation of any disconnection charge regime.

As a final point, we do not consider that a “guideline” produced by the AER would be necessary. Several networks have already proposed simple, principles-based, outcomes focussed and cost-reflective abolishment charges already, without any such guideline. In fact, to the extent that the new rule is sufficiently complex to need a guideline, we suggest that this is a good indication that it is more complex than it needs to be.

### **3.14. Question 14: Can the problem be solved in a different way?**

*Are there alternative solutions to JEC’s proposal that you think would better promote the long-term interests of consumers?*

We consider that the existing framework does allow the AER to impose abolishment charges based on full cost recovery. However, if it is determined that a rule is required to make this obligatory, the simple, cost reflective, principles-based and outcomes focussed approach which allocates the full cost of abolishment to the customer seeking it is the best approach. A rule which put a “hybrid” approach (AEMC paper p24) would seem to entrench the AER’s current approach of recent Access Arrangement decisions in the Rules, and we agree with the JEC that we should be moving in the opposite direction.

### **3.15. Question 15: Assessment framework**

*Do you agree with the proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant?*

Our concerns with the criteria proposed by the AEMC lie in the first and fourth criteria. The first criteria, with its focus on “equity” and “allocating costs and benefits” appears reasonable on the face of things, but a problem lies in respect of meaning. Where efficiency is concerned (Criteria 3), there is a great deal of economic theory and practice which allows stakeholders to clearly understand what the AEMC means by such a criteria. However, what is the foundation of its “equity” concerns? This is not to say that foundations do not exist (note, for example, our example from Rawls, in Section 2.3), but the AEMC would need to be clearer about meaning. Otherwise, stakeholders may be unable to judge how the AEMC makes its decisions. Additionally, as we discuss in Box 1, considerations of risk allocation are complex.

The criteria also needs to be grounded firmly in the National Gas Objective which focuses on efficiency as the means to meeting the long run interests of consumers (see AEMC Consultation Paper p26). This is made quite clear in the second-reading speech introducing the objective, which states:<sup>23</sup>

*The national gas objective is to promote efficient investment in, and efficient use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, reliability and security of supply of natural gas.*

*The national gas objective is an economic concept and should be interpreted as such.*

*The long term interest of consumers of gas requires the economic welfare of consumers, over the long term, to be maximised. If gas markets and access to pipeline services are efficient in an economic sense, the long term economic interests of consumers in respect of price, quality, reliability, safety and security of natural gas services will be maximised. By the promotion of an economic efficiency objective in access to pipeline services, competition will be promoted in upstream and downstream markets.*

Whilst we do not oppose consideration of equity per se, it is not clear whether the case has been made which links it to the National Gas Objective.

<sup>23</sup> See SA House of Assembly Hansard 9 April 2008, p 2885, available [here](#).

The fourth criteria is concerning insofar as it focuses on “broad directions of reform”. What does “broad” mean? If Victoria and the Australian Capital Territory had one policy framework and South Australia, New South Wales and Queensland has another, which policy framework would apply in the national rules? Would an assumption be made that one jurisdiction was “leading” and others would follow? If so, how would changes in policy be accounted for? In our view and as noted above, the national rules should not apply a rigid framework based on a particular policy approach at a particular time. They should be flexible enough to cater for change as the energy transition occurs and policy positions also change. Specific jurisdictional differences should be dealt with at the jurisdictional level if applicable.