



**Access Arrangement**  
for Envestra's  
Victorian Distribution System

14 November 2002

## **TABLE OF CONTENTS**

### **Part A Principal Arrangements**

<b>1</b>	<b>Introduction</b>	<b>1</b>
1.1	Background	1
1.2	Composition of Access Arrangement	1
1.3	Effective Date	1
<b>2</b>	<b>Definitions and Interpretation</b>	<b>2</b>
<b>3</b>	<b>Contact Details</b>	<b>3</b>
<b>4</b>	<b>Prior contractual rights</b>	<b>3</b>
<b>5</b>	<b>Elements set out in Section 3 of the Access Code</b>	<b>4</b>
5.1	Services Policy	4
5.2	Reference Tariffs and Reference Tariff Policy	5
5.3	Terms and Conditions	5
5.4	Capacity Management Policy	5
5.5	Queuing Policy	5
5.6	Extensions/Expansions Policy	6
5.7	Review and expiry of Access Arrangement	8
<b>6</b>	<b>Glossary</b>	<b>9</b>

### **Part B Reference Tariffs and Reference Tariff Policy**

### **Part C Terms and Conditions**

## **DISCLAIMER**

This document has been prepared solely for the purpose of compliance with the *Gas Pipelines Access (Victoria) Act 1998* and the *National Third Party Code for Natural Gas Pipeline Systems*, (“the Access Code”).

It is designed solely to enable Users and Prospective Users to understand the derivation of elements in the accompanying Access Arrangement and to form an opinion as to the compliance of that Access Arrangement with the provisions of the Access Code.

This document is not intended for any other purpose and should not be relied upon as the basis for any decision to transport or retail gas through the Distribution System or to buy or sell, or otherwise deal in, Envestra’s securities or for any other purpose.

# **Part A**

## **Principal Arrangements**

### **1 Introduction**

#### **1.1 Background**

This revision to the Access Arrangement approved by the Regulator on 17 December 1998 is submitted by Envestra (“the Service Provider”) in accordance with section 2 of the National Third Party Access Code for Natural Gas Pipeline Systems (the Access Code). The Access Arrangement as revised describes the terms and conditions on which Envestra will grant access to its Distribution System.

On 2 April 2002, Envestra submitted revisions to its Access Arrangement to the Regulator. On 4 July and 3 October 2002 the Regulator released its Draft Decision and Final Decision respectively, whereby certain aspects of the revisions were not approved. This Access Arrangement Information incorporates amendments required by the Regulator in the Final Decision.

Envestra submits this revision on behalf of Vic Gas Distribution Pty Ltd, which is a controlled entity within the Envestra Group. Envestra Victoria Pty Ltd, a wholly owned subsidiary of Envestra, has entered into a Business Management Agreement (BMA) with Vic Gas Distribution Pty Ltd (owned by the Origin Energy Group of Companies) which owns the Distribution System, whereby Envestra Victoria becomes entitled to and exposed to the full economic rewards and risks of operating the business. Under the BMA, Envestra Victoria is appointed by Vic Gas Distribution to operate and manage the Distribution System.

#### **1.2 Composition of Access Arrangement**

The Access Arrangement as revised comprises this document together with the plans of the Distribution System lodged with the Regulator.

Access Arrangement Information for the revisions to this Access Arrangement has been submitted in accordance with section 2.28 of the Access Code.

The document is in three Parts:

Part A - Principal Arrangements

Part B - Reference Tariffs and Reference Tariff Policy

Part C – Terms and Conditions

#### **1.3 Effective Date**

The Access Arrangement came into effect on 1 January 1999. Revisions to the Access Arrangement will come into effect in accordance with section 2.48 of the Access Code.

## 2 Definitions and Interpretation

- (a) In this Access Arrangement and supporting documents, where a word or phrase is capitalised:
- (1) it has the definition given to that word or phrase in the Access Code (unless the word or phrase is also defined in the glossary ("Glossary") contained in clause 6, in which case the word or phrase has the definition given to that word or phrase in the Glossary); or
  - (2) if the word or phrase is not defined in the Access Code, the definition given to that word or phrase in the Glossary,
- unless the context otherwise requires.
- (b) In this Access Arrangement, unless the context requires another meaning, a reference:
- (1) to Tariff D or Tariff V includes a reference to a new Haulage Reference Tariff introduced pursuant to the Reference Tariff Policy which supplements or replaces Tariff D or Tariff V respectively and related terms shall be construed accordingly;
  - (2) to the singular includes the plural and vice versa;
  - (3) to a gender includes all genders;
  - (4) to a document (including this Access Arrangement and a Regulatory Instrument) is a reference to that document (including any Appendices, Schedules and Annexures) as amended, consolidated, supplemented, novated or replaced;
  - (5) to an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding whether written or not;
  - (6) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with this Access Arrangement;
  - (7) to a person (including a party) includes:
    - (A) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or government agency; and
    - (B) the person's agents, successors, permitted assigns, substitutes, executors and administrators; and
    - (C) where that person ceases to exist, is reconstituted, renamed or replaced, or where its powers or functions are transferred to another body, a reference to the body which replaces it or which serves substantially the same purpose or has the same powers or functions;
  - (8) to a law:
    - (A) includes a reference to any legislation, treaty, judgment, rule of common law or equity or rule of any applicable stock exchange; and
    - (B) is a reference to that law as amended, consolidated, supplemented or replaced; and

- (C) includes a reference to any regulation, rule, statutory instrument, by-law or other subordinate legislation made under that law;
  - (9) to a thing (including, but not limited to, a right) includes any part of that thing;
  - (10) to a right includes a remedy, power, authority, discretion or benefit.
  - (11) to time is to Melbourne time and unless defined otherwise, a reference to a year means Calendar Year; and
  - (12) to the word 'including' or 'includes' means 'including, but not limited to', or 'includes, without limitation'.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
  - (d) Headings are for convenience only and do not affect interpretation.
  - (e) If a period occurs from, after or before a day or the day of an act or event, it excludes that day.
  - (f) All Reference Tariffs and Reference Tariff Components calculated under this Access Arrangement will be rounded to the accuracy, in terms of the number of decimal places, required by the relevant Service Provider's charging and billing systems.
  - (g) A Reference Tariff which has been calculated and rounded under the principles in part (f) above will not be rounded to a different level of accuracy when utilised in calculations made under this Access Arrangement.
  - (h) All values used in calculations made under this Access Arrangement, except those values to which parts (f) and (g) above apply, will not be rounded.
  - (i) When a calculation is required under this Access Arrangement:
    - a year "t" is the year in respect of which the calculation is being made;
    - a year "t-1" is the year immediately preceding year "t"; and
    - a year "t-2" is the year immediately preceding year "t-1".

### **3 Contact Details**

The contact officer for further details on this Access Arrangement is:

National Manager, Regulatory Affairs  
Envestra Limited  
Level 10, 81 Flinders Street  
Adelaide SA 5000  
Ph: 08 8227 1500 Fax: 08 8227 1511

### **4 Prior contractual rights**

No provision in this Access Arrangement deprives any person of a contractual right which was in existence prior to 3 November 1997 being the date on which this Access Arrangement was first submitted to the Regulator or deprives any person of a contractual right which was in existence prior to the date on which the proposed revisions to this Access Arrangement were submitted to the Regulator.

## **5 Elements set out in Section 3 of the Access Code**

This section, in compliance with section 2.29 of the Access Code, includes the elements set out in sections 3.1 to 3.20 of the Access Code which are applicable to the Service Provider.

### **5.1 Services Policy**

5.1.1 Envestra will make Haulage Reference Services and Ancillary Reference Services available to Users or Prospective Users of the Distribution System at the Reference Tariffs and in accordance with the Reference Tariff Policy and Terms and Conditions referred to in sections 5.2 and 5.3 respectively. The Reference Services, detailed below, are likely to be sought by a significant part of the market.

(a) Haulage Reference Services

A Haulage Reference Service consists of

- (i) allowing the injection of Gas at a Transfer Point;
- (ii) haulage of Gas from a Transfer Point to a DSP; and
- (iii) allowing the withdrawal of Gas at a DSP.

Two Haulage Reference Services will be provided at the commencement of the Second Access Arrangement Period:

- (i) Tariff D Haulage Reference Service; and
- (ii) Tariff V Haulage Reference Service

The Tariff V Haulage Reference Tariff includes the provision and maintenance of Connection assets that includes a 'standard metering installation' as defined in the Distribution System Code. The Tariff D Haulage Reference Tariff does not include the provision or maintenance of Connection and metering assets, as these are Negotiated Services.

(b) Ancillary Reference Services

The following Ancillary Reference Services are provided in relation to DSPs at which Gas is withdrawn by or in respect of a Residential Customer:

- (i) Meter and Gas Installation Test – on-site testing to check the accuracy of a Meter and the soundness of a Gas Installation, in order to determine whether the Meter is accurately measuring the Quantity of Gas delivered.
- (ii) Disconnection Service – Disconnection by the carrying out of work being
  - removal of the Meter at a Metering Installation; or
  - the use of locks or plugs at a Metering Installationin order to prevent the withdrawal of Gas at the DSP.
- (iii) Reconnection Service - Reconnection by turning on Supply including the removal of any locks or plugs used to isolate Supply or reinstallation of a Meter if it has been removed, performance of a safety check and the lighting of appliances where necessary.

The Ancillary Reference Services will be provided on Business Days during normal business hours as advised by Envestra from time to time.

5.1.2 The Service Provider will provide the Reference Services in accordance with the Regulatory Instruments.

5.1.3 The Service Provider will make Services other than Reference Services ("Negotiated Services") available to Users or Prospective Users as agreed or as determined in accordance with Section 6 of the Access Code.

## **5.2 Reference Tariffs and Reference Tariff Policy**

Reference Tariffs and the Reference Tariff Policy are set out in Part B, which covers the following key areas:

- **Reference Tariffs**

Section 1 of Part B describes the assignment of Reference Tariffs to DSPs. The Reference Tariffs for Haulage Reference Services and Ancillary Reference Services applicable from 1 January 2003 are set out in the schedules attached to Part B.

- **Haulage Reference Tariff Control Formula**

Section 3 of Part B describes the formula to be applied in varying, withdrawing or introducing new Haulage Reference Tariffs.

- **Processing changes to Reference Tariffs**

Section 4 of Part B describes the processes for varying, withdrawing or introducing new Reference Tariffs.

- **Calculation of Charges for Haulage Reference Tariffs**

Section 5 of Part B describes the calculation of Charges from the application of Haulage Reference Tariffs.

- **Effect of New Facilities Investment on Reference Tariffs**

- **Fixed Principles**

Section 7 of Part B describes a range of Fixed Principles that are to apply to the Access Arrangement. Section 7.1 sets out general Fixed Principles while section 7.2 describes the Efficiency Incentive and Carry-over Mechanism.

- **Change in Tax Pass-Through**

Section 8 of Part B describes the procedures to apply as a result of a new Relevant Tax or a change in a Relevant Tax.

## **5.3 Terms and Conditions**

The Terms and Conditions on which Envestra will supply each Reference Service are set out in Part C.

## **5.4 Capacity Management Policy**

The Distribution System is a Market Carriage Pipeline.

## **5.5 Queuing Policy**

### **5.5.1 Applicability**

This Queuing Policy is applicable to requests for access to the Distribution System and is subject to the Extensions and Expansions Policy.

### **5.5.2 Procedure**

Subject to the remainder of this clause, requests from Prospective Users will be processed in the order they are received.

Where there is sufficient Spare Capacity available in the Distribution System to meet the needs of a Prospective User (who is at the top of the queue) at a nominated point in the Distribution System, Envestra will offer the Spare Capacity at that point in the Distribution System to that Prospective User.



Where there is insufficient Spare Capacity available at a nominated point in the Distribution System to meet a Prospective User's request (having reached the top of the queue), Envestra will first offer that Prospective User any Spare Capacity that is capable of partly satisfying its request at that nominated point. The Service Provider may then undertake an investigation of Developable Capacity alternatives. Under these circumstances, Envestra may elevate the priority of other Prospective Users' requests affected by the proposed augmentation in the interests of optimising design and achieving efficiency in the structure and level of Reference Tariffs. The Service Provider will only take such action where it is reasonable to do so and where it will not foreseeably disadvantage other Prospective Users, other than in relation to their position in the queue.

## **5.6 Extensions/Expansions Policy**

### **5.6.1 Coverage**

- (a) Subject to sections 5.6.1(b), an Extension or Expansion to the Distribution System will be covered by this Access Arrangement where that Extension or Expansion is owned by Envestra.
- (b) An Extension will not be covered by this Access Arrangement:
  - 1. where the Extension is considered by Envestra to be a significant Extension ("Significant Extension") and Envestra gives written notice to the Regulator before the Extension comes into service that the Extension will not form part of this Access Arrangement; or
  - 2. where the Extension is not a Significant Extension and the Regulator agrees, unless the Extension was included in the calculation of the Reference Tariffs.
- (c) For the purposes of section 5.6.1(b), a Significant Extension is an Extension which will service a minimum of 5,000 customers.

### **5.6.2 Effect of Extension/Expansion on Reference Tariffs**

- (a) This section 5.6.2 describes how Users will be charged for a Reference Service where the provision of the Reference Service requires New Facilities Investment constituted by an Extension or Expansion covered by this Access Arrangement (such Users are Incremental Users). Where New Facilities Investment is required to provide a Service other than a Reference Service, Envestra will negotiate the charge in good faith with the relevant Users (subject to the relevant provisions of the Access Code).
- (b) Where New Facilities Investment passes the Economic Feasibility Test, Incremental Users will be charged at the prevailing Reference Tariffs and as permitted by section 8.15 of the Access Code, Envestra will seek to include the New Facilities Investment in the Capital Base at the next review of the Access Arrangement. The Service Provider may, at its discretion, seek the Regulator's agreement prior to the next review of the Access Arrangement that the New Facilities Investment passes the requirements of section 8.16 of the Access Code.
- (c) Where New Facilities Investment does not pass the Economic Feasibility Test:
  - (1) The Service Provider will seek to include the relevant part of the New Facilities Investment in the Capital Base at the next review of the Access Arrangement. Envestra may, at its discretion, seek the Regulator's agreement prior to the next review of the Access Arrangement that the relevant part of the New Facilities Investment passes the requirements of section 8.16 of the Access Code (as permitted by 8.21 of the Access Code);

- (2) the remaining New Facilities Investment may be (subject to the Access Code):
  - (A) recovered by charging Incremental Users according to the prevailing Reference Tariffs plus a Surcharge approved by the Regulator under section 8.25 of the Access Code;
  - (B) included in a Speculative Investment Fund under the Reference Tariff Policy in Part B, section 6.3 (in which case Incremental Users would be charged according to the prevailing Reference Tariffs); or
  - (C) recovered by a combination of these approaches (in which case Incremental Users would be charged according to the prevailing Reference Tariffs plus a Surcharge approved by the Regulator under section 8.25 of the Access Code); and
- (3) The Service Provider will notify the relevant Users of its choice between these approaches prior to the relevant New Facility entering in to service.
- (d) The Service Provider may, at its discretion, negotiate a Capital Contribution with a specific User or Users in respect of a New Facility, in which case, the charge for the User or Users shall be as agreed between the parties (for the purposes of determining Reference Tariffs, this New Facilities Investment shall be treated as if it were funded by Envestra and the User or Users shall be assumed to be paying a Surcharge (if any) that would be approved by the Regulator under section 8.25 of the Access Code).
- (e) Notwithstanding sections 5.6.2(c) to 5.6.2(d) above, where the Service Provider considers that some or all of the New Facilities Investment that does not pass the Economic Feasibility Test may pass the System Wide Benefits Test, the Service Provider may propose revisions to the Access Arrangement which have the effect of raising Reference Tariffs immediately (and thus permitting the part of the New Facilities Investment that would pass the System Wide Benefits Test to be included in the Capital Base and recovered through Reference Tariffs immediately). These revisions will be proposed and considered according to the process in section 2 of the Access Code and, if accepted, would amount to a change to this Access Arrangement.

### 5.6.3 Unreticulated Townships

Where an Extension to an unreticulated township was not included in the calculation of the Reference Tariffs or the subject of a competitive tender:

- 1) Envestra may approach the Regulator with details of the proposed extension with a view to agreeing on the regulatory treatment of the extension project.
- 2) where the agreed regulatory treatment is that the Extension is, if it proceeds, to be covered by this Access Arrangement:
  - The Service Provider will be permitted to recover in the subsequent Access Arrangement Period any cost (which includes the time value of money) not recovered in the Access Arrangement Period in which the extension commenced;
  - The Capital Base for the Access Arrangement Period commencing immediately after the commencement of the extension will be increased by the amount of the New Facilities Investment or Recoverable Portion;
  - The New Facilities Investment will not reduce the carry-over of cost-related efficiencies from the Access Arrangement Period in which the extension is commenced to any subsequent Access Arrangement Period.

- 3) The Service Provider's funding of extensions to unreticulated townships is, in accordance with 3.16(c) of the Access Code, conditional upon (among other things) Envestra having sufficient funds available on commercial terms acceptable to Envestra.

## **5.7 Review and expiry of Access Arrangement**

The Revisions Submission Date will be 30 March 2007.

The Revisions Commencement Date will be 1 January 2008.

## 6 Glossary

**Access Act** means the Gas Pipelines Access (Victoria) Act 1998;

**Access Arrangement** means this arrangement for access for third parties to the Distribution System lodged by Envestra with, and approved by, the Regulator under the Access Act and Access Code;

**Actual Meter Reading** has the same meaning as in the Retail Gas Market Rules;

**Additional Charge** means any charge imposed on Envestra by an Authority which is referable to the User or a Customer, and where such charge is referable to a class of Retailers or Customers rather than an individual Retailer or Customer. Where that charge will be allocated between the Retailers or Customers (as the case may be) on a fair and reasonable basis by Envestra, provided that Envestra is not prohibited from passing through that charge to Retailers or Customers under the Regulatory Instruments;

**Access Code** means the National Third Party Access Code for Natural Gas Pipeline Systems set out in Schedule 2 to the Gas Pipelines Access (South Australia) Act 1997;

**Agreement** means an agreement executed or to be executed by Envestra and a User on the Terms and Conditions or an agreement in respect of the terms and conditions for the provision of Services, as negotiated between Envestra and a User ;

**Ancillary Reference Service** means a Reference Service as set out in clause 5.1 of Part A of this Access Arrangement;

**Ancillary Reference Tariff** means the tariff for Ancillary Reference Services;

**Annual MHQ** means the greatest Quantity of Gas (in GJ) withdrawn at a DSP in any hour in a Calendar Year;

**Authority** means any:

- (a) government or regulatory department, statutory corporation (including the Regulator and VENCORP), body, instrumentality, minister, agency or other authority; or
- (b) body which is the successor to the administrative responsibilities of that department, body, instrumentality, minister, agency or authority.

**B2B Hub** means the electronic messaging system operated by VENCORP for the Gas industry in Victoria or any electronic messaging system which replaces that system;

**Bank Bill Rate** means the bank bill standard rate defined to be equal to:

- (a) the “bid rate” (rounded up to four decimal places) quoted on the page entitled “BBSY” of the Reuters Monitor System at or about 10:00 am on any Business Day for bank accepted bills of exchange which have a term of 30 days; or
- (b) if the Bank Bill Rate cannot be determined in accordance with paragraph (a), the rate in percent per annum agreed by the parties in good faith to be the appropriate rate having regard to comparable indices then available in the current bill market, and in default of agreement within 14 days, the rate nominated by Envestra and approved by the Regulator as an appropriate rate;

**Bank Guarantee** means an irrevocable bank guarantee from a trading bank conducting business in Australia in favour of Envestra substantially in the form set out in Schedule 1 of the Terms and Conditions, for the Required Bank Guarantee Amount;

**Business Day** means a day other than a Saturday, Sunday or a day which has been proclaimed to be a public holiday in the Melbourne metropolitan area;

**Calendar Year** means a twelve-month period commencing on 1 January;

**Certificate of Compliance** means a notice of installation, or completion of Gas Installation work, from a Gas Installer;

**Change in Taxes Event** means a variation, withdrawal or introduction of a Relevant Tax, or a change in the way or rate at which a Relevant Tax is calculated, which has a material impact on the costs to the distributor of providing the Reference Services;

**Charges** means the charges payable by the User to Envestra under clause 7 of the Terms and Conditions and includes:

- (a) the amount determined from the application of the Reference Tariffs in respect of the Reference Services provided to the User in respect of its Customers or such other amount as agreed in writing;
- (b) where the User is a gas retailer within the meaning of clause 12(9) and 13(10) of the Order in Council made under section 68 of GIA on 15 November 2001 (Gazette No. G. 46 at page 2865), the prices, fees and charges notified by Envestra under clauses 12 and 13 of that Order;
- (c) where Services other than Reference Services are provided by Envestra as set out in Schedule 3 of the Terms and Conditions, the Non-Reference Service Charge; and
- (d) Additional Charges;

**Claim** means any claim, action, dispute, proceeding, loss, liability, demand, cost or expense whether arising in contract, tort (including negligence), equity or otherwise in respect of an event occurring after the Commencement Date;

**Class A Inquiry** means an inquiry identified as an “A” inquiry in the Gas Leak and Emergency Calls Protocol and includes an inquiry relating to a Gas leak or Emergency;

**Class B Inquiry** means an inquiry identified as a “B” inquiry in the Gas Leak and Emergency Calls Protocol and includes an inquiry relating to a Gas leak or Emergency;

**Class C Inquiry** means an inquiry identified as a “C” inquiry in the Gas Leaks and Emergency Calls Protocol and includes an unplanned Interruption;

**Commencement Date** means in respect of an Agreement, the date of execution of the Agreement;

**Confidential Information** means all:

- (a) know-how, trade secrets, ideas, concepts, technical and operational information owned or used by the parties to an Agreement;
- (b) information concerning the affairs or property of or any business, property or transaction in which the parties to an Agreement may be or may have been concerned or interested;
- (c) details of any Customers of the User; and
- (d) any other information which is to be treated in a confidential manner under a Regulatory Instrument with which a party to an Agreement is required to comply;

**Connection** means the provision of a New Facility in relation to, and the joining of a Gas Installation to a DSP to allow, the flow of Gas to the Gas Installation through the DSP (but does not include Turn On);

**Connection Request** means a request in a form reasonably required by Envestra given by the User to Envestra requesting Connection or Turn On;

**Controller** has the same meaning as defined in the Corporations Act;

**Corporations Act** means the Corporations Act 2001;

**CPI** for a particular Calendar Year is:

- (a) consumer price index: all groups index for the eight State capitals as published by the Australian Bureau of Statistics for the September quarter immediately preceding the start of the relevant Calendar Year

**divided by**

- (b) consumer price index: all groups for the eight State capitals as published by the Australian Bureau of Statistics for the September quarter immediately preceding the September quarter referred to in paragraph (a)

**minus one;**

**Curtail** means to temporarily reduce the injection or withdrawal of Gas to or from the Distribution System;

**Customer** means a customer of the User who is capable of withdrawing Gas at a DSP;

**Customer MHQ** means the maximum hourly Quantity of Gas, expressed in gigajoules per hour (GJ/hour), for delivery to a Reference Tariff D DSP initially nominated by the User to Envestra and agreed to by Envestra in writing and then as agreed from time to time between the parties to an Agreement;

**Default Rate** means on any date the rate in percent per annum which is the aggregate of 2% per annum and the Bank Bill Rate;

**Deemed Contract** means a contract between Envestra and a Customer under section 48 of the GIA;

**Disconnection** means the carrying out of work to prevent the withdrawal of Gas at a DSP;

**Disconnection Request** means a request in a form reasonably required by Envestra given by the User to Envestra requesting the Disconnection and which must include the reason for requesting the Disconnection;

**Distribution Area** has the same meaning as defined in Schedule 2 of the Distribution Licence;

**Distribution Demand Tariff Component** means a Haulage Reference Tariff Component of Tariff D (as varied from time to time) expressed in \$/GJ of Annual MHQ;

**Distribution Fixed Tariff Component** means a Haulage Reference Tariff Component of Tariff V that does not vary according to the Quantity of Gas supplied each day, as set out in Schedule 1 of Part B (as varied from time to time) and is expressed in \$/day;

**Distribution Licence** means the licence of that name to provide services by means of a distribution pipeline granted to Envestra by the Regulator under the GIA;

**Distribution Pipeline** has the same meaning as in the GIA;

**Distribution Services** means:

- (a) Reference Services in relation to Customers;
- (b) where the User is a gas retailer within the meaning of clauses 12(9) and 13(10) of the Order-in-Council made under section 68 of the Gas Industry Act 2001 on 15 November 2001 (Gazette No. G 46 at page 2865), the activities and tasks set out in Schedule 1 of that Order;
- (c) such Services other than Reference Services that Envestra has agreed to provide to the User as set out in Schedule 3 of the Terms and Conditions (including a Tariff D Connection); and
- (d) Connection (other than a Tariff D Connection);

**Distribution System** is the Covered Pipeline which is the subject of this Access Arrangement, described in the plans lodged with the Regulator and any Extension or Expansion of the Distribution System that is covered by the Access Arrangement;

**Distribution System Code** means the Victorian Gas Distribution System Code issued by the Regulator, compliance with which is a condition of the Distribution Licence;

**Distribution Volume Tariff Component** means a Reference Tariff Component of Reference Tariff V, as set out in Schedule 1 of Part B (as varied from time to time), expressed in \$/GJ for GJs of Gas withdrawn in the Peak Period or in the Off-Peak Period ;

**DSP (Distribution Supply Point)** means a point on the Distribution System at which Gas is capable of being withdrawn from the Distribution System for delivery to a Customer, which is normally located at the outlet of a Meter;

**Economic Feasibility Test** means the test that determines whether the Anticipated Incremental Revenue generated by the New Facility exceeds the New Facilities Investment;

**Emergency** has the same meaning as in the Distribution System Code;

**ESC Act** means the Essential Services Commission Act 2001 (Victoria);

**Estimated Meter Reading** has the same meaning as in the Retail Gas Market Rules;

**Expansion** has the same meaning as in the Distribution System Code;

**Extension** means extending a Pipeline to enlarge the area to which Gas may be, or is, supplied, including (for the avoidance of doubt) extensions which connect together pre-existing pipeline systems;

**First Access Arrangement Period** means the period commencing on 1 January 1998 and ending on 31 December 2002;

**Force Majeure Event** has the same meaning as force majeure in the Distribution System Code;

**FRC (Full Retail Competition)** means the date on which there ceases to be in effect an Order in Council made under section 35 of the GIA;

**FRO (Financially Responsible Organisation)** has the same meaning as in the Retail Gas Market Rules;

**Gas** has the same meaning as gas in the Distribution System Code;

**Gas Day** has the same meaning as in the MSO Rules;

**Gas Distribution Company** has the same meaning as in the GIA;

**Gas Distribution System** has the same meaning as in the GIA;

**Gas Installation** has the same meaning as in the Distribution System Code;

**Gas Installer** has the same meaning as in the Distribution System Code;

**Gas Interface Protocol** has the same meaning as in the Retail Gas Market Rules;

**Gas Leaks and Emergencies Number** means the Service Provider's contact telephone number as stated in clause 9.1(d) of the Agreement;

**Gas Leaks and Emergencies Calls Protocol** means the Gas Leak and Emergency Calls, "A" to "C" Priority, version 1.2 as approved by the Victorian Gas Retail Rules Committee;

**Gas Retail Code** means the code of that name being a determination of the Regulator under section 43 of the GIA;

**GIA** means the Gas Industry Act 2001 (Victoria), as amended from time to time;

**GJ** means Gigajoule. 1 GJ is equal to one thousand million Joules (1,000,000,000J);

**GST** means goods and services tax or similar value added tax levied or imposed in the Commonwealth of Australia pursuant to the GST law;

**GST law** has the same meaning as in A New Tax System (Goods and Services Tax) Act 1999 (Cth);

**Guaranteed Service Levels** or **GSLs** means the standard of service that must be provided by the Service Provider in respect of certain Distribution Services as set out in a Regulatory Instrument;

**Guarantor** has the meaning given in clause 7.8(a)(1)(B) of the Terms and Conditions;

**Haulage Reference Services** means those services described in clause 5.1.1.

**Haulage Reference Tariff** means the tariff for Haulage Reference Services;

**Haulage Reference Tariff Component** refers to an individual price element comprising part of a Haulage Reference Tariff

**Heating Value** has the same meaning as in the Gas Safety (Gas Quality) Regulations 1999 (Victoria);

**Inquiry** means an inquiry or consultation commenced by the Ombudsman under its constitution;

**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 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 (other than by the Regulator pursuant to the party's licence under the GIA) 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;
- (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) if the User is constituted in another jurisdiction, any event having a substantially similar effect to any of the events specified in the preceding paragraphs happens to it under the law of that other jurisdiction;

**Intellectual Property** means all rights in all trade marks, patents, copyrights, designs and other similar legally enforceable rights anywhere in the world owned, used, or intended to be used, by the parties which are developed jointly by the parties in the provision of the Distribution Services whether or not registered, registrable or patentable;

**Interruption** means the planned or unplanned temporary stoppage of Supply to one or more DSPs;

**J** means Joule; a unit of energy as defined in AS1000-1979 "The International System of Units (SI) and its Application";

**Licence Fee** means the licence fee and other fees and charges in respect of the Distribution Licence paid (or payable) by the Service Provider under its Distribution Licence;

**Main** has the same meaning as in the Distribution System Code;



**Meter** has the same meaning as in the Distribution System Code;

**Meter Reading** has the same meaning as in the Retail Gas Market Rules including as if the reference in that definition to a “reading period” included the period of an invoice;

**Metering Installation** means the Meter and associated equipment and installations which may include correctors, regulators, filters, data loggers and telemetry relating to a DSP;

**Metering Data** means data pertaining to the measure of the Quantity of Gas flow obtained from a Metering Installation;

**MHQ** means the maximum Quantity of Gas (in GJ) withdrawn at a DSP in any hour;

**MIRN** means in relation to a DSP at any time, the metering installation registration number for that DSP including the checksum for that MIRN;

**MSO Rules** has the same meaning as defined in the GIA;

**Negative Pass Through Amount** means, in relation to the occurrence of a Change in Taxes Event, an amount that Envestra is required to pay to its Users or a factor by which amounts the User is required to pay Envestra are reduced;

**Non-Reference Service Charge** means the amount payable by the User for the provision of Services other than Reference Services, being the amount as set out in Schedule 3 of the Terms and Conditions or as agreed between the parties to an Agreement or determined pursuant to the Access Code;

**Off-Peak Period** means the period of a Calendar Year except the Peak Period;

**Ombudsman** means the Energy and Water Ombudsman (Victoria) or any other ombudsman approved by Regulator for the purposes of the User’s Retail Licence;

**Pass Through Amount** means a Positive Pass Through Amount or a Negative Pass Through Amount;

**Peak Period** means the period of 1 June to 30 September of a Calendar Year;

**Positive Pass Through Amount** means, in relation to the occurrence of a Change in Taxes Event, an amount that a User is required to pay to Envestra or a factor by which amounts the User is required to pay Envestra are increased;

**Quantity** means, in relation to Gas, the energy content of that Gas calculated by multiplying its volume in cubic metres at a temperature of 15 degrees Celsius and an absolute pressure of 101.325 kPa by its Heating Value;

**Reconciliation Amount** means that amount payable in respect of Unaccounted for Gas calculated by VENCorp in accordance with the Distribution System Code;

**Reconnect** means the Turn On for or in respect of a Customer following the Disconnection of the DSP at which Gas was prior to Disconnection, withdrawn by or in respect of that Customer;

**Reference Service** means the Haulage Reference Service and Ancillary Reference Service as defined in clause 5.1 of Part A of this Access Arrangement;

**Reference Tariff**, means the Haulage Reference Tariff or Ancillary Reference Tariff and as varied pursuant to the Reference Tariff Policy;

**Reference Tariff Class** refers to DSPs assigned the same Reference Tariff;

**Reference Tariff Component** refers to an individual price element comprising part of a Reference Tariff

**Reference Tariff Policy** means the Reference Tariff Policy set out in Part B of this Access Arrangement;

**Regulator** means the Essential Services Commission, a statutory corporation established under the ESC Act;

**Regulatory Instrument** means the Access Act, Access Law, Access Code, GIA, Gas Safety Act 1997 (Victoria) and other legislation, any subordinate legislation, licence, code, rules, sub-code, guideline, safety case, order or regulation regulating the gas industry in Victoria, or elsewhere if applicable, whether made under the GIA or other applicable legislation having jurisdiction over the relevant party, including the MSO Rules and the Distribution System Code;

**Related Body Corporate** means an entity which is related to another entity within the meaning of section 9 of the Corporations Act;

**Relevant Tax** means any royalty, duty, excise, tax, impost, levy, fee or charge (including, but without limitation, any GST) imposed by any Authority in respect of the repair, maintenance, administration or management of the Distribution System (or any part of it) or in respect of the provision of Reference Services, but excluding:

- (1) income tax (or State equivalent income tax) and capital gains tax;
- (2) stamp duty, financial institutions duty, bank account debits tax or similar taxes or duties;
- (3) fees and charges payable for Distribution Licences or any other membership, contribution or other charge payable to other regulatory bodies in the gas industry;
- (4) penalties and interest for late payment relating to any tax, royalty, duty, excise, impost, levy, fee or charge;
- (5) costs associated with changes in service standards, except where the Service Provider has been directed, ordered or required as a result of legislation or regulatory arrangements to make such a change in service standards;
- (6) any charge associated with the introduction of FRC; and
- (7) any tax or charge which replaces the taxes and charges referred to in (1) to (6).

For the avoidance of doubt, costs associated with a ‘retailer of last resort’ scheme are included within this definition of Relevant Tax.

**Required Bank Guarantee Amount** means the amount of the Bank Guarantee calculated by Envestra under clauses 7.8(b) or 7.8(c) of the Terms and Conditions;

**Residential Customer** means a Customer who uses Gas primarily for domestic purposes;

**Retail Contract** means a Contract as defined under the Gas Retail Code;

**Retail Gas Market Rules** means the rules approved by the Regulator under section 65 of the GIA;

**Retail Licence** means a licence to sell Gas granted to a Retailer by the Regulator under Part 3 of the GIA;

**Retail Services** means the following services that are provided by a User to Envestra at Envestra’s request:

- (a) processing of GSL payments under clause 7.6 of the Terms and Conditions;
- (b) notification of Reference Tariffs under clause 9.10(c) of the Terms and Conditions;
- (c) provision of information and documentation to Customers under clause 9.12(b) of the Terms and Conditions;
- (d) delivering to a Customer any notification, information or documentation as requested by Envestra under clause 9.12(e) of the Terms and Conditions; and
- (e) delivering to a Customer information as requested by the Service Provider under clause 13.2(b)(3) of the Terms and Conditions

but does not include any such services to the extent that the User is obliged to perform those services under the Regulatory Instruments;

**Retailer** has the same meaning as in the GIA;

**Second Access Arrangement Period** means a period commencing on 1 January 2003 and ending on 31 December 2007;

**Services Policy** means the policy contained in clause 5.1 of this Access Arrangement;

**Significant Extension** has the meaning given to it in clause 5.6.1(c).

**Specifications** means the quality specifications prescribed by the Gas Safety (Gas Quality) Regulations 1999 (Victoria);

**Substituted Meter Reading** has the same meaning as in the Retail Gas Market Rules;

**Supply** means the delivery of Gas;

**System Wide Benefits Test** means the test applied to determine whether a New Facility has system wide benefits that justify the approval of a higher Reference Tariff for all Users as set out in section 8.16 of the Access Code;

**Tariff Control Formula** means the formula described in clause 3 of the Reference Tariff Policy that applies to Haulage Reference Tariffs;

**Tariff D** (or **Haulage Reference Tariff D**) means the tariff that applies to the Tariff D Haulage Reference Service from time to time and comprises Distribution Demand Tariff Components.

**Tariff D Customer** or **Tariff V Customer** means a Customer in respect of whom the User is charged Tariff D or V respectively;

**Tariff D DSP** means a DSP assigned to Tariff D as set out in clause 1.2 of Part B;

**Tariff D Haulage Reference Service** means a Haulage Reference Service described as such in clause 5.1.1 of Part A of this Access Arrangement;

**Tariff V** (or **Haulage Reference Tariff V**) means the tariff which applies to the Tariff V Haulage Reference Service from time to time and comprises a Distribution Fixed Tariff Component and Distribution Volume Tariff Components;

**Tariff V Customer** means a Customer in respect of whom the User is charged Tariff D or V respectively;

**Tariff V DSP** means a DSP assigned to Tariff V as set out in clause 1.2 of Part B;

**Tariff V Haulage Reference Service** means a Haulage Reference Service described as such in clause 5.1.1 of Part A of this Access Arrangement;

**Terms and Conditions** means the terms and conditions referred to in clause 5.3 of Part A and as set out in Part C of this Access Arrangement;

**Third Access Arrangement Period** means a period of at least 5 Calendar Years commencing on 1 January 2008;

**Transfer Point** means a point at which Gas is transferred from:

- (a) a Transmission Pipeline to a Distribution Pipeline; or
- (b) a Distribution Pipeline to a Distribution Pipeline;

the Transfer Points existing upon execution of an Agreement being as set out in Schedule 2 of that Agreement;

**Transmission System** has the same meaning as in the Distribution System Code;

**Transmission Pipeline** has the same meaning as in the GIA;

**Turn On** means the act of turning on Supply including the removal of any locks or plugs used to isolate Supply or reinstallation of a Meter if it has been removed, performance of a safety check and the lighting of appliances where necessary;

**Unaccounted for Gas (UAG)** has the same meaning as in the Distribution System Code;

**VENCorp** means the Victorian Energy Networks Corporation established under Part 2A of the GIA and includes any successor body and any body who assumes the rights of VENCorp pursuant to any privatisation and any successor of that body;

**VENCorp Meter Register** has the same meaning as in the MSO Rules; and

**X** has the meaning given to it in clause 3.1 of Part B of the Access Arrangement.