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Issues paper on proposed revisions to the Mid-West and South -West Gas Distribution Systems Access Arrangement for 2020-2024

AGL Energy (AGL) welcomes this opportunity to provide comments to the Economic Regulation Authority (ERA) regarding proposed revisions to ATCO Gas Australia's (ATCO) Access Arrangement for the 2020-2024 period (AA5).

AGL is one of Australia's leading integrated energy companies with over 3.6 million electricity and gas accounts in New South Wales, Victoria, Queensland, Western Australia and South Australia and became an active retailer in the Western Australian retail gas market on 1 July 2017.

In Australian energy markets, all network charges are passed through to customers as part of their retail price so any increase (or reduction) in gas network charges has no direct commercial impact on retailers. However, AGL is highly interested in the outcome of the ATCO revised access arrangement because:

- the Western Australian retail gas market is highly competitive and AGL, as a second-tier retailer in this market, would like to see it operating effectively and better aligned with other Australian retail gas markets to harness scale efficiencies; and
- retailers are the single point of contact for customers and AGL will need to explain any price changes to our customers driven by the AA5 outcomes and to address any affordability issues that may arise.

AGL's immediate concern with the revised AA5 is the proposed significant increase in haulage tariffs for 2020. AGL understand this predicament is primarily due to circumstances outside of ATCO's control but believes the price-path that is currently proposed is untenable.

AGL is also concerned with the increase in capital expenditure proposed for AA5, especially given the reduction in gas demand signalled by ATCO. AGL would like to see any increase in haulage reference tariffs kept to a minimum.

These and other matters raised in the ERA's Issue Paper are discussed below.

Demand forecasts

ATCO has signalled significant decreases in demand in the AA5.

AGL is a relatively new entrant to the Western Australian gas market with a small but growing customer base. For example, we have no large industrial customers in our portfolio. It is therefore difficult for AGL to provide a rigorous analysis of the ATCO gas forecasts.

However, AGL would make the following comments:

- the ATCO gas forecast appears reasonable;
- ATCO's forecast for the B1, B2 and B3 tariffs relies on weather-normalised average consumption per customer and the number of customers. The weather normalisation strategy is sound and matches the industry standards;
- the measurements of the current average use and the assumptions used to project it in the future are in line with the current AGL view;
- the projected increase in number of residential and commercial connections has been based on the projections of Gross State Product (GSP) assumed for Western Australia. The Australian Bureau of Statistics (ABS) have a similar positive outlook for Western Australian GSP driven by increasing commodity prices. However, AGL is not confident that the increasing GSP will be reflected in the higher number of connections and believes the upward trend in the number of commercial and small business customers is moderately optimistic.

Reliability and Security of Supply Capital expenditure

Over half of the $509 million in capital expenditure that ATCO is proposing to spend during AA5 is for network asset replacement and performance.

AGL has no concerns with ATCO's forecast expenditure to support network growth but encourages the ERA to analyse whether the large investment in asset replacement and improvement is warranted given that:

- the ATCO network operates with a low level of UAFG; and
- is forecasting reductions in gas demand.

Alternatively, if forecast asset replacement is to progress then AGL would expect commensurate efficency improvements in operating expenditure given the expected reduction in asset failure and maintenance costs.

AGL relies on the ERA to review the networks' asset replacement programs for efficiency and avoid any advanced asset replacement in the long-term interest of consumers.

IT Capital Expenditure

AGL notes that ATCO has forecast material IT Capital Expenditure over AA5.

AGL expects this information technology expenditure to include the necessary enhancements for the Western Australian Retail Gas Market that are being considered, to align it with other retail gas markets. If it does allow for such changes then AGL would encourage ATCO to revisit this proposed expenditure. AGL would be disappointed if market initiatives, such as upgrading the Energy Schema from 11 to 36, were delayed due to insufficient provision expenditure in AA5.

Proposed Price Path

AGL has raised its concerns with ATCO directly and in various forums about ATCO's proposed price path for the B3 tariff customers (domestic) for AA5.

ATCO has proposed a 24.1 per cent real increase in its annual network bill in 2020 for B3 (residential) customers followed by a one per cent real annual increase for the remaining years of AA5.

ATCO considers that its customers prefer a step increase in charges in 2020 with price stability for the remaining years but also highlights that retailer concerns are unjustified because the gazetted retail tariffs are at a sufficient level to cover the network tariff increases proposed by ATCO in 2020.

AGL's view is that any spike in gas prices could drive customers away from gas or disincentive those customers who may be considering a gas connection at that time. As gas is an optional fuel, particularly I the Western Australian market, AGL believes that once customers have disconnected from gas, it is extremely difficult to bring them back to gas.

Although there may be no significant increase in gazetted retail tariffs as suggested by ATCO, there will be a significant impact on the contestable retail gas market and on the actual prices paid by consumers.

Current competitive market offers for Western Australian consumers are over 30 per cent below the gazetted retail tariffs. Without commensurate increases in gazetted tariffs, the increase in network charges in 2020 will drive significant increases in the retail market prices being offered to consumers, with a reduction in competitive discounts and markedly less competition. This will also impact the market both before and after 2020 with market offer soften set for two-year periods.

AGL believes a moderation of the step increase in 2020 followed by smaller annual increases in the remaining years of the period would be a compromise between competing objectives and provide a better outcome to the current proposal.

Operating expenditure

AGL supports the ATCO benchmarking that shows its level of operating expenditure was relatively efficient over the current regulatory period.

However, ATCO's forecast operating expenditure for AA5 includes step changes to account for a range of non-recurrent costs as well as escalations for output growth and input cost. AGL would also like to see ATCO's operating expenditure forecast incorporate:

- any step change reductions for operational costs that are no longer applicable;
- reductions in maintenance costs because of the capital expenditure on network replacement; and
- transparent productivity improvements for ATCO to maintain or improve its efficiency levels.

Assuming zero productivity over the next five years period would be unacceptable for a competitive firm and is unacceptable for a regulated gas network.

Taxation

The regulatory framework requires a calculation of corporate income tax costs for a notional efficient entity. AGL notes the difficulties the AER has in identifying the many causes for the difference between its efficient tax calculation and the statutory tax paid by different network owners.

In this instance, the ERA is regulating a single gas network so unless it believes that ATCO is paying materially less tax than it has estimated in its AA5, AGL does not support any fundamental changes to the treatment of tax.

AGL would encourage the ERA to consider the AER's final position on this matter when assessing ATCO's proposal.

New incentive mechanism

The proposed network innovation scheme would be administered by the ERA and allow ATCO to recover up to $1 million of expenditure incurred on eligible projects for each year of the AA5.

The objective of the scheme is to deliver medium to long-term improvements in Pipeline Services in the long-term interests of consumers of natural gas in Western Australia.

First, AGL would question whether the existing regulatory framework is preventing ATCO from investing in innovation and therefore, why the need for this mechanism?

Secondly, AGL does not perceive how any benefits of this scheme would be accrued and then shared between ATCO and consumers in the future, especially given the costs are being met upfront by consumers with little guarantee of benefits.

If this was accepted, AGL expects the ERA to ensure the process is managed and that there is appropriate reporting and auditing of these innovative solutions and new concepts as well as the expenditure.

Pipeline Services

Special Meter Reading Ancillary Service

AGL strongly supports the introduction of a new special meter reading service. This service is a key to competitive churn within a market and a clear price and service standard will support competition between retailers within the WA retail gas market.

AGL has reviewed the prosed ATCO charge for a special meter reading service ($12.82) and considers the charge to be consistent with other gas distribution service business charges for a special meter read and has no further comment on the price.

AGL recommends that this charge, like other ancillary services, should have a clear cancellation window which incurs no charge.

Introducing no charge for early cancellation of Services

AGL also wishes to raise the issue of payment for ancillary services not undertaken.

Tariffs for ancillary services include:

- the direct cost of operations staff and contractors providing the service;
- the direct administration cost of providing the service; and
- an allocation of corporate costs such as accounting services and IT services.

When such a service is not undertaken, there are no direct costs or administration costs. It can be argued that there may be some corporate costs, but when service requests are issued and cancelled within an IT system, these would be very minor, and in fact would be outweighed by the cost to invoice.

ATCO estimate the savings are $40k per annum to retailers with a single $50k spend. Noting that most service orders are initiated in respect to customer activities and are passed on to customers, AGL believes that the cost estimated by ATCO is not unreasonable in terms of overall market benefit.

In saying this, AGL does recognise that when staff are scheduled to do work and that work is cancelled, there is a direct opportunity cost to ATCO in not being able to re-schedule staff.

AGL therefore seek two components to the changes for the relevant services:

1. no charge when the service is cancelled before being scheduled - i.e. no impact on resources; and
2. a cancellation charge recognising that resources were allocated, and work cancelled, but that resources can be re-allocated to other work – i.e. colloquially known as a 'wasted truck' charge.

The Special Meter Read service is a good example as when one retailer may cancel a job, it is usual that another retailer may request a job. The proposition to charge the full fee for any cancellation (i.e. no resource impact) means that these costs inevitably flow back to the consumer.

Inversely, if ATCO do not provide for a 'no fee'/'wasted truck charge', then there is no incentive on retailers cancelling unnecessary service orders which do not impact customer supply. With five retailers now operating in the market, the impact on ATCO of all retailers not cancelling services could be highly inefficient.

ATCO has identified Special Reads as a key service regularly cancelled. If retailers are to pay the service fee regardless, then retailers will have no incentive to cancel the Service Order and ATCO will eventually be forced to increase its workforce to meet the increasing demand for a service that is not needed.

This change structure proposed by AGL provides an incentive mechanism for retailers to cancel unnecessary jobs or be charged a 'wasted' fee charge for late cancellations, which recognises allocated resources.

This should lead to a more efficient workforce utilisation for ATCO.

Negotiated Services

ATCO have proposed that there would be various non-reference services which would be directly negotiated, such as meter upgrades or street disconnections. AGL's experience is that while the number of services required is small, AGL would prefer to see a published price for this service, similar to the pricing schedules that other gas distributors provide.

Street Disconnection with Valve

Noting ATCOs innovation scheme and that AGL has raised this request with other gas networks.

Given the substantial cost in undertaking a street disconnection, retailers do not make these requests unless there are operational reasons that the network cannot gain access to disconnect the meter and the debt is substantial. In these instances, AGL would like an enhanced street disconnection.

The proposal is for a street valve to be installed, so that once the initial excavation works are completed, the customer can be re-connected or disconnected from the street using the valve, rather than by excavation.

The expectation is that the initial cost is higher, but the restoration cost and future disconnection costs are aligned more with the regulated Attach Meter Locks (AML) charge.

AGL has also included comments on clauses within the template Services Agreement in Attachment 1.

If you wish any further information, please contact Sarah Silbert on 0400 813 300 or Mark Riley on 0475 805 262.

Yours sincerely

Elizabeth Molyneux
GM of Energy Markets Regulation

Attachment 1: AGL Comments on the Retailer Services Agreement (Agreement)

AGL believes that a good contract provides equity and reasonableness in its terms and conditions, especially one provided by a regulated, monopoly service provider. AGL's comments focus on several clauses where we believe the balance is not appropriate. A good test of a contract is to swap the user and service provider within the contract and see if the other party thinks the contract is still reasonable.

Conditions Precedent

The conditions place specific requirements on Users, ranging from internal authorisations to gas delivery. AGL notes that there has been some initial discussion on changing the WA Swing Service to a Short-Term Trading Market (STTM). Such a change would separate out the shippers of gas on the transmission pipelines to those on the distribution network. AGL would like to ensure that there is a mechanism to see a clause inserted into the template agreement to support the new roles required by a market change.

Duration

AGL notes the dates and times specified in the duration clause but suggests that while a User may no longer be shipping gas, they will retain obligations to the retail market for settlement revisions, which the charging components of this agreement should cover, and suggest that the agreement should cover the period the User has market obligations.

4.3 Obligations to Pay

AGL has concerns with the operational implementation of this clause. Clause 4.3(a)(i) allows ATCO to charge a service fee, on the basis of an act or omission by AGL and in clause 4.3(a)(ii), where the service is not able to be provided.

It is unclear what defines an act or omission which would prevent ATCO from completing a service.

An example in another market of a service failure has been the inability of the retailer to provide customer details which has led a network to reject a service order, but still charge for that service. The service order was for a disconnection of a customer who had refused to identify themselves or enter into a contract with the retailer but continued to consume gas.

Another example is where the network has allowed customers to install covers or lock gates which provide access to the meter, but then charge the retailer when they are unable to access their own asset.

In both cases, the network in question used a similar clause as the basis for not undertaking the service but still applying the service charge. AGL does not consider this an appropriate outcome and seeks further clarification on how this clause would operate.

Equally, AGL would wish to see reciprocal clauses in the Agreement, consistent with those of the National Energy Retail Rules (NERR – Cl 105) with regard to payment obligations when the retailer is no longer able to recover revenue due to a failure by the network.

That is:

NERR Cl 105 Liability for ongoing charges

(1) If a distributor is required to de-energise a customer's premises within the timeframes for de-energisation in accordance with a distributor service standard,

and the distributor fails to do so, the distributor must (unless the failure is due to an act or omission of the customer or retailer):

(a) waive any network charges applicable to the premises after the timeframes expire; and

(b) pay charges for energy consumed at the premises after the timeframes expire, if the retailer has used all reasonable endeavours to recover the charges from the customer and has been unable to do so.

(2) If the retailer subsequently recovers from the customer all or any part of any amount that the distributor has waived or paid, the retailer must pay that recovered amount to the distributor.

4.4 Charges payable until Deregistration

This clause provides for the retailer to pay charges for a delivery point until it is deregistered. There is no consideration in this clause of ATCO's efficiency or lack of efficiency in undertaking the works to deregister that delivery point. AGL would seek to see that there is a reasonable agreed notice period, after which charges would cease, regardless of whether ATCO had completed the works or not. This will incentivise ATCO to ensure that a deregistration is undertaken efficiently and that the retailer is unduly impacted.

9.3 Access to Delivery Point and Relevant Land and Premises

This clause places the onus of providing and ensuring access to ATCOs equipment (e.g. customer meters) on the retailer, who has no field staff, no responsibility for the connection or regular visits to the customer site.

ATCO has prepared a safety case which details their processes and responsibilities. The ATCO gas safety case specifically lays out the assets which are ATCOs responsibility, including the service inlet, meter control valve, regulator and meter. These assets are included as part of ATCO's Asset Base and Asset Management Strategy.

As such, AGL does not accept that ATCO can exclude itself from providing services if ATCO does not have 'unfettered access to the land and premises'. AGL strongly believes that as the asset owner, and the party with the safety responsibilities for these assets, that ATCO needs to take responsibility when access is denied by customers.

Examples of this would be to ensure that requirements for gas meter connections include clear access or other methods of access – such as key safes or industry locks.

AGL accepts that within the WA Market, ATCO has no direct relationship with the end customer; nevertheless, AGL does not believe that the network can absolve itself from its responsibility. AGL believes that this clause should be modified to include clearly defined responsibilities on both parties in these situations.

10.1 Invoicing

Clause 10.1(a) allows ATCO to make twice monthly claims for payments, however, the retailer is generally only able to bill the customer monthly. AGL believes that, unless special circumstances prevail, the network should issue their invoice 10 business days after months end, as the retailer is required to pay 10 business days after the invoice is delivered (cl 10.2).

A fixed payment cycle will allow all users to manage their cash flow position most efficiently and ensure that invoicing dates and payments dates can be scheduled well into the future.

10.2 Payment Method

The Agreement allows ATCO to specify the Payment Method specified in the Payment Claim. AGL believes that the Payment Method (as defined) should not be unduly onerous on the retailer (or on ATCO).

AGL suggests that while the retailer may be making the bulk of the payments to ATCO, that as part of the agreement, the Payment Method to each party should be specified and agreed in advance and all payment clauses would use this mechanism unless otherwise agreed.

10.3 Disputes

This clause only allows a retailer 3 days to identify a payment issue and raise a dispute with ATCO for a network charge. AGL does not believe that this is a reasonable time for a retailer with a substantial number of customers to assess all charges, confirm their correctness and then raise a charge dispute.

The payment timing suggested by AGL above in 10.1 would allow a retailer a reasonable time to identify the obvious issues and provide a dispute notice to ATCO. Therefore AGL suggests that this clause should allow a dispute to be raised up to the 19^{th} business day (i.e. the day before payment) as part of the initial payment. After that point, the dispute would fall into clause 10.4.

10.4 Correction After Payment

AGL notes that this clause may require ATCO to pay a retailer if there is an agreed dispute, but there is no requirement to allow the retailer to specify the payment method. See comments in clause 10.2 regarding Payment Methods.

14.5 User Remains Liable

The requirements for ATCO to consent to a transfer or novation should not be unreasonably withheld. See reciprocal clause 14.8.

15.2 Default by User

Clause 15.2(b) seems overly onerous and imbalanced. A ‘default under any other agreement’ could be very minor and would not justify terminating this agreement.

AGL would expect a clause such as this to be reciprocal, and to have a measure of both parties acting reasonably.

15.5 Additional Remedies

This clause, like many of the others does not contain the concept of reciprocity or reasonableness. For instance, Cl 15.5(c) deals with a retailer reducing or suspending services as a trigger for termination. It is more likely that ATCO would suspend or reduce services to the retailer. However, the clause does not contemplate a termination of service if ATCO ‘suspends or reduces services’.

As previously stated, clauses such as this need an element of reasonableness and reciprocity.

16.1 Compliance with Obligations

In regard to requiring payments under this clause 16.1(a), AGL believes that ATCO should not be entitled to make these requests while the User meets the financial ratings described in clause 16.2.

In respect of the other compliance obligations, ATCO should be required to provide reasonable cause to request evidence of compliance with the Approved System Pressure Protection Plan or Gas Quality Specification / Gas Standards.

The equivalent might be a User requesting written evidence that ATCO is meeting its obligations under its Safety Management Plan, without reasonable cause.

23.1 Definitions

Applying a Meter Lock

This service is specifically described in the Access Arrangements. AGL notes that ATCO has also been trialling other methods to disconnect supply, which may be considered under the umbrella of 'applying a meter lock'.

Further, the Gas Service Order Transaction, which is required to be used under the Agreement, does not have a service order type except 'Apply Meter Lock' (AML). AGL expects that the service order type, AML, may get used for purposes beyond this single specified service. As such, AGL suggests that the definition be broadened to avoid the need for a schema change to implement similar services.

Business Day

Due to the variability and application of Business Days, most markets and agreements are structured under National Business days for notices and local Business days (Western Australia) for the provision of services.

AGL notes that the WA definition can lead to misunderstanding between parties who are used to operating under National Business days.

AGL therefore suggests that like other agreements, the provision of notices, payments etc. be undertaken in National Business days, while the provision of services (e.g. new connection, disconnection etc.) be undertaken in local business days.

Gas Day

AGL notes that there is a proposed change to the Gas Day in other jurisdictions and markets, which may at some stage be mirrored in Western Australia. AGL suggest that this definition contain some mechanism for that period to be easily changed.

Schedules

AGL notes that the schedules all require Service Orders to be paid, regardless of cancellation and refers the ERA to the comments in the submission above. AGL also notes that ATCO is requiring payment of Service Orders it is unable to complete due to access issues. As AGL has previously stated, AGL believes that rectification of this issue should not lie solely with the retailer, but also with the network.