



Economic Regulation Authority

Gas Access Arrangement Guideline

A procedural guideline for the economic regulation of
Western Australian gas pipelines

25 July 2022

Economic Regulation Authority

Level 4, Albert Facey House

469 Wellington Street, Perth WA 6000

Telephone 08 6557 7900

Email info@erawa.com.au

Website www.erawa.com.au

This document can also be made available in alternative formats on request.

National Relay Service TTY: 13 36 77

© 2022 Economic Regulation Authority. All rights reserved. This material may be reproduced in whole or in part provided the source is acknowledged

Gas Access Arrangement Guideline

– A procedural guideline for the economic regulation of Western Australian gas pipelines

Contents

About this guideline	iii
1. Regulation of gas pipelines	4
2. Nature of pipelines and pipeline services	6
2.1 Scheme pipelines	8
2.2 Non-scheme pipelines	9
3. Access arrangement framework	11
3.1 Full access arrangements	11
3.2 Limited access arrangements	18
3.3 Competitive tender access arrangements.....	19
3.4 Regulator proposed access arrangements	19
3.5 Varying an access arrangement.....	20
3.6 Legislated timeframes	21
4. Consultation and information collection	23
4.1 Consultative procedures	23
4.2 Collecting information	26
4.3 Optional papers	29
4.4 Inviting and making submissions.....	30
4.5 Confidential information.....	32
4.6 Communicating with specific parties	33
5. Reference service proposal	34
5.1 Content of a reference service proposal	34
5.2 Reference service proposal and approval process	36
5.3 Legislated timeframes	40
6. Access arrangement proposal	42
6.1 Content of an access arrangement proposal	42
6.2 Requirement for access arrangement information	47
6.3 Access arrangement proposal and approval process	56
6.4 Legislated timeframes	61
7. Reference tariff variations	63
8. Reviewing decisions	64
List of appendices	
Appendix 1 List of Tables	65
Appendix 2 List of Figures	66
Appendix 3 Abbreviations	67
Appendix 4 Reference service proposal checklist	68

Appendix 5 Access arrangement proposal checklist 70

Appendix 6 Confidentiality template 75

Appendix 7 Penalties 76

About this guideline

The ERA is Western Australia's independent economic regulator and is responsible for ensuring that Western Australian consumers and businesses have access to competitive and efficient markets. This is particularly relevant for markets that provide essential services, such as electricity and gas. Service providers, including infrastructure providers, in these essential markets within Western Australia effectively operate as monopolies and require some form of economic regulation.

The *National Gas Law* and *National Gas Rules*, as implemented in Western Australia by the *National Gas Access (WA) Act 2009*, establish the framework for the economic regulation of gas pipelines in Western Australia. Under this framework, some service providers of regulated pipelines must propose and submit an access arrangement to the ERA for approval. Access arrangements detail the terms and conditions, including prices, under which third party users (such as gas retailers and large mining operators) can access the regulated pipeline to transport and receive gas.

This gas access arrangement guideline (Guideline) aims to cover the procedural matters related to access arrangements that fall within the framework for the economic regulation of gas pipelines within Western Australia, and the role of the ERA in administering this regulation. The ERA has published separate guidelines and instruments concerning other aspects of the regulatory framework, including an instrument for determining the rate of return for gas pipelines and financial and arbitration guidelines for non-scheme pipelines.

This Guideline is written for both service providers and other interested parties who wish to be involved in the access arrangement decision making process. It is focused on the processes involved, rather than the specific matters that the ERA considers when deciding whether to approve a service provider's access arrangement.

Comments on this Guideline

This Guideline has been prepared by the ERA as an optional information guideline (that is, there is no legislative requirement for the ERA to produce an access arrangement guideline). Interested parties can comment on the matters discussed in the guideline and any other relevant issues or concerns not already raised in the guideline by contacting the ERA's Assistant Director Gas Access via email (info@erawa.com.au) or telephone (08 6557 7900).

Note:

All references to legislation in this Guideline are, unless otherwise specified, references to **sections** of the *National Gas Law (NGL)* and **rules** of the *National Gas Rules (NGR)* as implemented in Western Australia.

1. Regulation of gas pipelines

The National Gas Law (NGL) and National Gas Rules (NGR), as enacted by the *National Gas (South Australia) Act 2008*, establish the legislative framework for the independent regulation of certain gas pipelines in Australia. The *National Gas Access (WA) Act 2009* implements the NGL and NGR in Western Australia.¹

The legislative framework for the regulation of gas pipelines includes a central objective, being the national gas objective, which is set out in section 23 of the NGL:

... to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.

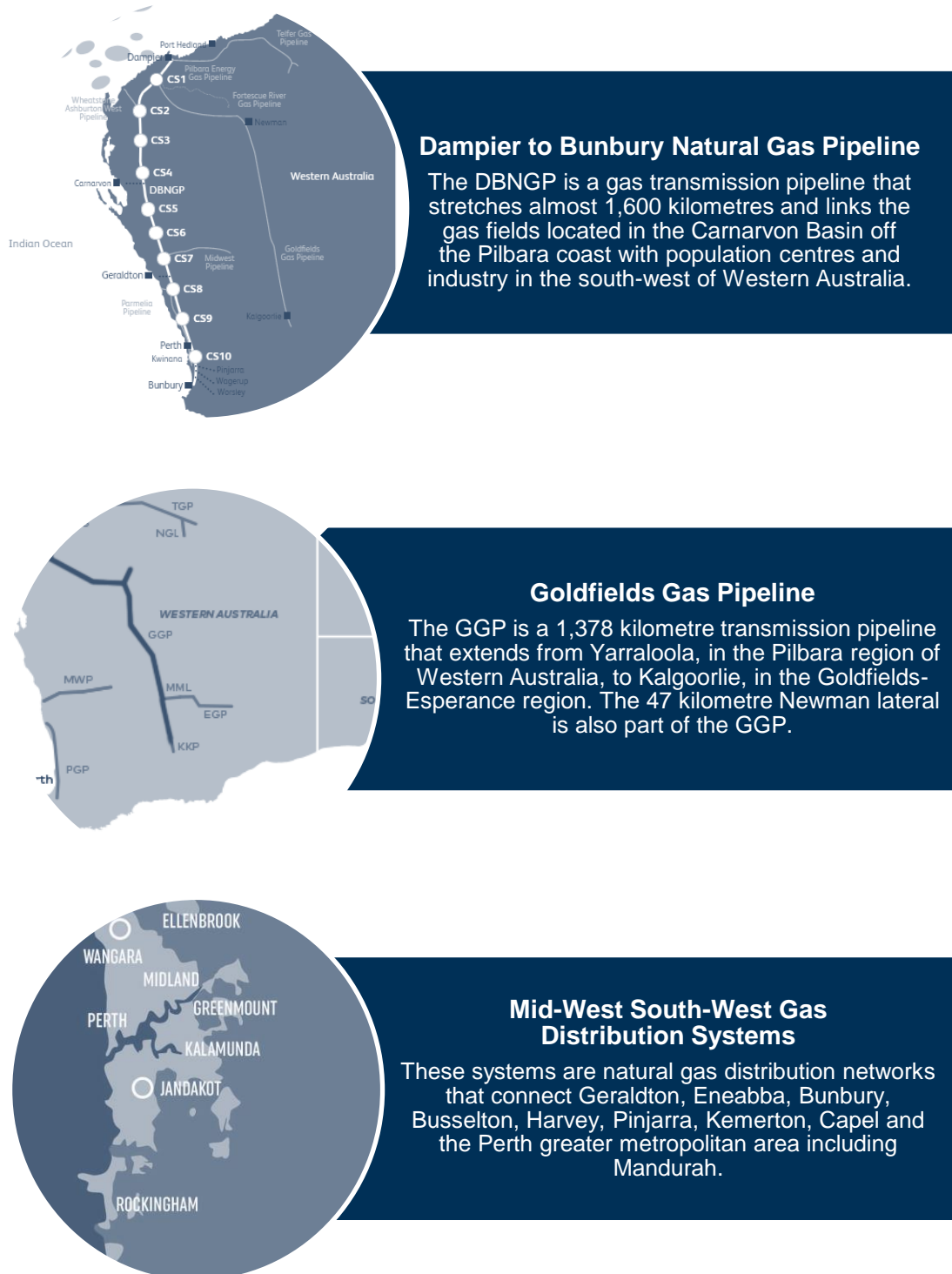
Under the legislative framework, the Economic Regulation Authority (ERA) is responsible for regulating third party access to covered (regulated) pipelines in Western Australia. At the time of this publication, there are three fully regulated pipelines in Western Australia (Figure 1):

- The Dampier to Bunbury Natural Gas Pipeline.
- The Goldfields Gas Pipeline.
- The Mid-West South-West Gas Distribution Systems.

The legislative framework requires fully regulated pipelines to have an access arrangement. An access arrangement provides details of the terms and conditions, including prices, upon which a service provider may be required to provide access, to a third party, to pipeline services that are provided by means of the pipeline to transport and receive gas.

The service provider of a regulated pipeline is responsible for developing and proposing a relevant access arrangement for the pipeline. The ERA is responsible for assessing the proposed access arrangement against the legislative requirements set out in the NGL and NGR and approving a compliant access arrangement. Once approved, the access arrangement serves as a benchmark for negotiating access to pipeline services that are offered by means of the regulated pipeline. That is, an approved access arrangement can act as a standard form contract for access to pipeline services in circumstances where a mutually beneficial contract between relevant parties cannot be negotiated. The access arrangement can also be used to guide an arbitrator if an access dispute arises.

¹ The NGL as implemented in Western Australia is set out as a note in the *National Gas Access (WA) Act 2009*. This note does not form part of the Act but shows the text that applies as the *National Gas Access (Western Australia) Law*. In this Guideline, references to the “NGL” are references to the Western Australian National Gas Access Law text, unless otherwise specified.

Figure 1 Fully regulated gas pipelines in Western Australia²

² Australian Gas Infrastructure Group, 'The Pipeline: Dampier to Bunbury Pipeline' ([online](#)) (accessed June 2022).

APA, 'Goldfields Gas Pipeline' ([online](#)) (accessed June 2022).

ATCO, 'WA Gas Network: The Network' ([online](#)) (accessed June 2022).

2. Nature of pipelines and pipeline services

Under the NGL, a “pipeline” broadly means the whole, or part of, a pipe or system of pipes for the transport of natural gas, and any tanks, reservoirs, machinery or equipment directly attached to that pipe or system of pipes. A “pipeline service” is a service provided by means of a pipeline and includes services for the transport of gas and the interconnection of pipelines and any service ancillary to the provision of these services, but does not include the production, sale or purchase of natural or processable gas.³ In Western Australia, the NGL (including associated gas regulations) also applies to pipelines that are used to transport gas other than natural gas if the pipeline is a distribution pipeline that is licensed by the ERA, or a pipeline for which a trading licence is in effect (unless an exemption is in place that allows an entity to not obtain such a licence in those circumstances).⁴

Section 13 of the NGL provides that a pipeline is classified by its technical characteristics as either a transmission or distribution pipeline.⁵ The classification is either designated under the legislation or made by the National Competition Council (NCC) as part of the Council’s initial coverage recommendation to the relevant Minister.⁶

Whether a pipeline should be subject to coverage (regulation), and what form that coverage should take, is decided by the relevant Minister through a coverage determination. A coverage determination is essentially a decision about whether a pipeline will be required to have a relevant access arrangement and in what form (that is, a full or light access arrangement).

The access arrangement framework, including the different types of access arrangements, is discussed in Chapter 3 of this Guideline. The remainder of this chapter outlines the main classifications of pipelines under the NGL. Figure 2 provides an overview of the various classifications, with the broadest classification of pipelines being scheme pipelines and non-scheme pipelines.

³ See NGL, section 2 for the full definitions for these terms.

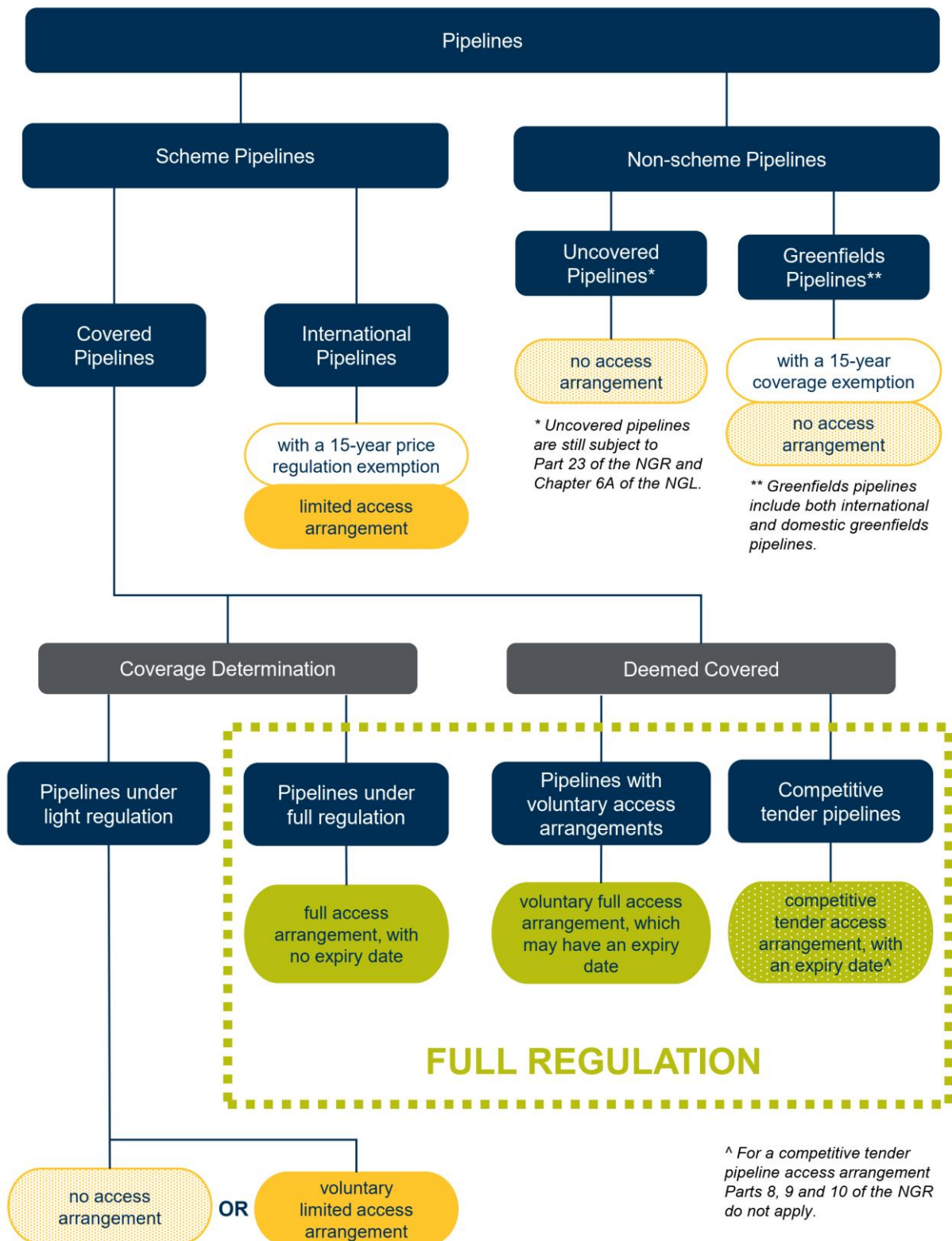
⁴ See *National Gas Access (WA) Act 2009*, section 6A ([online](#)) (accessed June 2022).

Section 6A ensures that gases other than natural gas, such as liquefied petroleum gas (LPG), fall within the gas access framework (*National Gas Access (Western Australia) Bill 2008 Explanatory Memorandum*, p.4.

⁵ Section 13(1) of the NGL sets out the criteria for classifying a pipeline, which relates to the primary function of the pipeline. Where the primary function of the pipeline is *to reticulate gas within a market* – the pipeline is a distribution pipeline. Where the primary function of the pipeline is *to convey gas to a market* – the pipeline is a transmission pipeline.

⁶ See *National Gas Access (WA) (Part 3) Regulations 2009*, Schedule 1 (Designated pipelines) and NGL, section 98 (Initial classification decision to be made as part of recommendation) ([online](#)) (accessed June 2022).

Figure 2 Classification of pipelines under the National Gas Law⁷



⁷ In preparing this figure and overview, the ERA acknowledges the access arrangement guideline published by the Australian Energy Regulator (AER, *Access arrangement guideline*, March 2009).

2.1 Scheme pipelines

Section 2 of the NGL defines a “scheme pipeline” as a covered pipeline or an international pipeline to which a price regulation exemption applies.

Covered pipelines

Covered pipelines include pipelines that have a coverage determination or are deemed to be covered.

Pipelines with coverage determinations are either under full regulation or light regulation:

- Light regulation pipelines
 - Under section 112 of the NGL, a service provider can apply to the NCC for a light regulation determination that the pipeline services provided by its covered pipeline are light regulation services. If the NCC determines to make the pipeline a light regulation services pipeline, the service provider may voluntarily submit a limited access arrangement for the pipeline.⁸ Otherwise, no access arrangement is required.
- Full regulation pipelines
 - A full regulation pipeline is a pipeline that has been subject to a full Ministerial coverage determination and is required to have a full access arrangement in place. Once in place, the access arrangement continues in effect, with scheduled revisions, until coverage is revoked, or a subsequent light regulation determination is made for the pipeline.

There are two types of pipelines that are deemed to be covered pipelines:

- Pipelines with voluntary access arrangements
 - Section 127 of the NGL allows service providers of uncovered pipelines to voluntarily submit a full access arrangement proposal at any time. Where this is the case, the pipeline is deemed to be a covered pipeline on the day the voluntarily submitted full access arrangement takes effect as an applicable access arrangement. The pipeline remains a covered pipeline until the access arrangement expires (a voluntary full access arrangement may contain an expiry date), or until coverage is revoked.
- Competitive tender pipelines
 - The NGR deals with coverage for a pipeline that is constructed through a competitive tender process.⁹ The competitive tender process must be approved with a tender approval decision, which is to be made in accordance with provisions set out in the rules. Once a tender approval decision becomes irrevocable, the proposed pipeline to which the tender decision relates becomes a “CTP pipeline”.¹⁰ The service provider (who is the successful tenderer) for the CTP pipeline must then, at least six months before the pipeline is commissioned, submit an access arrangement for the CTP pipeline.

⁸ See NGL, section 116 (Submission of a limited access arrangement for light regulation services).

⁹ See NGR, Part 5 (Competitive tendering), rules 21 to 29.

¹⁰ Rule 3 defines a “CTP pipeline” as “a pipeline to which an irrevocable tender approval decision relates”.

- Under section 126 of the NGL, a pipeline to which a tender approval decision relates is deemed to be a covered pipeline on and from the date the tender approval decision becomes irrevocable. The pipeline remains covered until the applicable access arrangement expires or until coverage is revoked.

International pipelines

Section 2 of the NGL defines an international pipeline as a pipeline that is used for the transport (haulage) of gas from a foreign source.

Under the NGL, the service provider of an international pipeline may apply to the NCC for a 15-year price regulation exemption.¹¹ The application for a price regulation exemption must be made before the pipeline is commissioned. Where granted, a 15-year price regulation exemption means that the services provided via the pipeline are not subject to price or revenue regulation for a period of 15-years from the commissioning of the pipeline.

However, for a price regulation exemption to be effective, an approved limited access arrangement must be in place for the pipeline. Section 168 of the NGL requires the service provider to submit a limited access arrangement proposal for approval within 60 business days after a price regulation exemption is granted. Without an approved limited access arrangement in force, the 15-year price regulation exemption is ineffective.

2.2 Non-scheme pipelines

A non-scheme pipeline is a distribution or transmission pipeline that is not a scheme pipeline. Non-scheme pipelines can be further classified as either *uncovered pipelines* or *greenfields pipelines*.

Uncovered pipelines

Uncovered pipelines are not subject to the access arrangement framework and do not require any form of access arrangement. Service providers who operate an uncovered pipeline are still subject to other requirements under the legislation. For example, service providers of non-scheme (uncovered) pipelines must comply with the requirements set out in Chapter 6A of the NGL and Part 23 of the NGR:

- Chapter 6A contains provisions dealing with access disputes over pipeline services that are provided by means of a non-scheme pipeline.¹²
- Part 23 contains provisions dealing with gaining access to non-scheme pipelines. These provisions aim to facilitate access to pipeline services that are provided by means of a non-scheme pipeline on reasonable terms that, where practicable, reflect the outcomes of a competitive market.¹³

Over time some uncovered pipelines may be subject to a coverage application under the NGL, which may result in an uncovered pipeline becoming a covered pipeline.¹⁴

¹¹ See NGL Chapter 5 Part 3 (Price regulation exemptions), sections 160 to 170.

¹² See NGL Chapter 6A (Access disputes – non-scheme pipelines), sections 216A to 216V.

¹³ See NGR Part 23 (Access to non-scheme pipelines), rules 546 to 590.

¹⁴ The NGL (section 92(1)) provides that any person may apply for a pipeline to undergo a coverage determination.

Greenfields pipelines

The NGL provides specific access arrangement exemptions for greenfields (new) pipelines, which may be a domestic pipeline or international pipeline.

Under the NGL, a service provider of a greenfields pipeline may apply to the NCC for a 15-year no-coverage determination to exempt the pipeline from being a covered pipeline.¹⁵ A service provider of a greenfields international pipeline can only apply for a 15-year no-coverage determination if the international pipeline has an applicable 15-year price regulation exemption.¹⁶

The application for a no-coverage determination must be made before the pipeline is commissioned, unless a price regulation exemption has been granted for an international pipeline (in which case the service provider can make the application after the pipeline is commissioned but before the term of the price regulation exemption comes to an end).¹⁷ Where granted, a 15-year no-coverage exemption means that the pipeline will remain uncovered for 15-years from the commissioning of the pipeline. While uncovered, the greenfields pipeline is not subject to the access arrangement framework and does not require any form of access arrangement.

¹⁵ See NGL Chapter 5 Part 2 (15-year no-coverage determinations), sections 151 to 159.

¹⁶ Where a greenfields international pipeline is granted a 15-year no-coverage exemption, the 15-year no-coverage determination supersedes the 15-year price regulation exemption, which is subsequently terminated. See NGL, section 167(3).

¹⁷ See NGL, section 151(2).

3. Access arrangement framework

Access arrangements are written arrangements that provide the terms and conditions under which third party users can access pipeline services that are provided (or to be provided) via a pipeline. Chapter 2 of this Guideline explains the nature of pipelines and pipeline services, and the situations where an access arrangement is required.

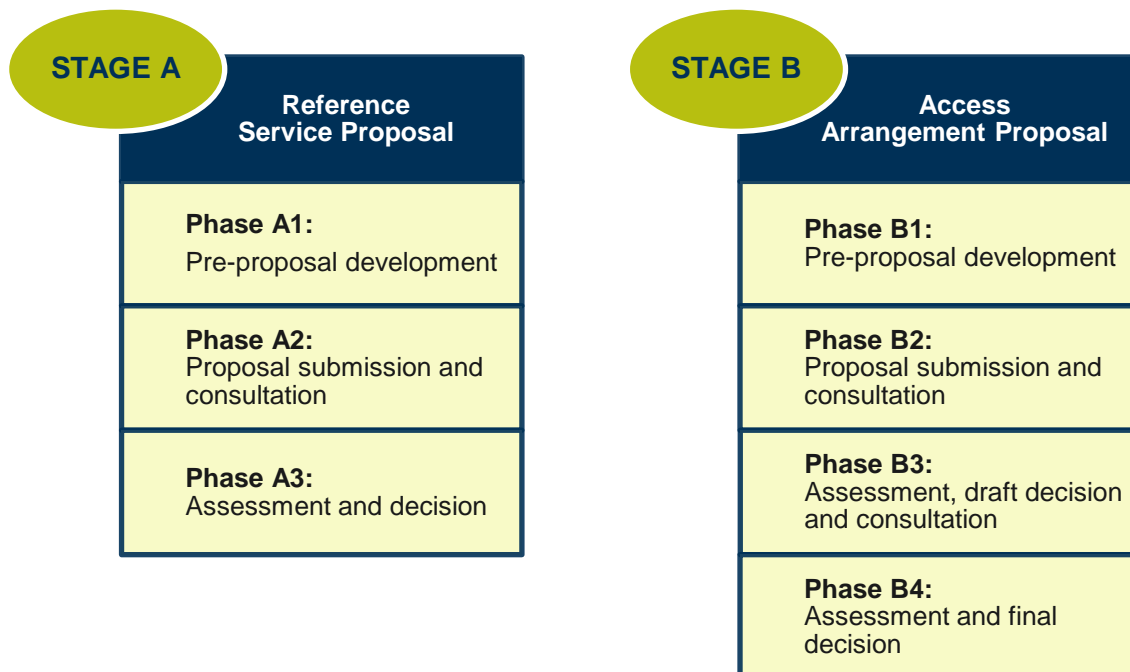
A key feature of the legislation for the regulation of gas pipelines is the framework for access arrangements. This framework covers the process for establishing an access arrangement for a pipeline and, while prescriptive in nature, varies according to the type of access arrangement and proposal being made. For example, the process for proposing and approving a *full* access arrangement is significantly more involved, compared to the process for proposing and approving a *limited* access arrangement, with the former requiring multiple prescribed public consultation periods. While this chapter covers the processes for both full and limited access arrangements, the focus of this Guideline is to provide guidance on the more involved process for proposing and approving a full access arrangement.

3.1 Full access arrangements

A “full access arrangement” is described in section 2 of the NGL as an access arrangement that provides for price or revenue regulation as required by the NGR, and deals with all other matters addressed in the rules, including the required content for a full access arrangement.¹⁸

There are two key stages to the decision making process for a full access arrangement, with each stage consisting of several key phases as set out in Figure 3.

Figure 3 Stages to the decision making process for a full access arrangement



¹⁸ The required content for a full access arrangement is set out in rule 48.

The phases for each stage are similar, involving pre-proposal development, submission and consultation, and assessment and decision phases. A point of difference between the stages is that the access arrangement proposal stage (Stage B) involves an additional phase due to a requirement for the ERA to make a draft decision for consultation before making a final decision.

STAGE A: Reference Service Proposal

Figure 4 (page 14) provides an overview of the Stage A processes.

A reference service proposal must be submitted by the service provider and assessed by the ERA, as the regulator, before an access arrangement proposal can be submitted for assessment (rule 46(1)). The reference service proposal is focused on identifying the full range of pipeline services that can be offered by means of the pipeline and determining which of these services should be specified as a reference service under the access arrangement. A “reference service” is a pipeline service that has a reference tariff that is set (approved) by the regulator under the access arrangement framework, with the reference tariff being the price that a pipeline operator can charge its customers.

There are three main phases that encompass the decision making process for a reference service proposal. A basic description of the phases is provided below, with the specifics of the individual processes within the phases covered in Chapter 5 of this Guideline.

- **Phase A1: Pre-proposal development**

- The pre-proposal development phase covers the activities that the service provider undertakes to develop its reference service proposal. As the legislative framework does not prescribe any activities that the service provider must undertake when developing its proposal, this phase will vary between service providers.
- While there are no prescribed pre-proposal development activities, the NGR contemplates the service provider engaging with pipeline users and end users when developing its reference service proposal and providing evidence of this engagement in its proposal.¹⁹

- **Phase A2: Proposal submission and consultation**

- After completing its pre-proposal development, the service provider must formally submit its reference service proposal to the ERA for a determination (decision). While there is no specified form that the proposal must take, the NGR does specify the required content for the proposal.²⁰
- The legislative framework requires the ERA to publish the service provider’s proposal and invite submissions on it (over a minimum 15 business day period) before making its decision (rule 47A(6)(e)). Submissions from interested parties are a valuable source of information for the ERA when undertaking its decision making functions, and in this case, making a reference service proposal decision. While not required, the ERA may prepare and publish an issues paper to assist interested parties in making submissions by highlighting specific issues on which the ERA is seeking comment.
- In instances where a service provider fails to submit a reference service proposal when it is required to do so, the legislative framework provides that the ERA must

¹⁹ Rule 47A(1)(d) states: “if the service provider has engaged with pipeline users and end users in developing its reference service proposal, [the proposal must describe] any feedback received from those users about which pipeline services should be specified as reference services”.

²⁰ The required content for a reference service proposal is set out in rule 47A(1).

propose its own reference service proposal and undertake the same consultation requirements as if the proposal were submitted by the service provider (rules 47A(5) and (6)). Further information concerning regulator proposed proposals is discussed elsewhere in this chapter (see: “3.4 Regulator proposed access arrangements”, page 19).

- **Phase A3: Assessment and decision**

- Following the receipt of submissions, the ERA must undertake its assessment of the service provider’s reference service proposal and, in doing so, must have regard to the reference service factors, submissions received in response to its invitation for submissions, any feedback the service provider has received from pipeline users and end users, and any other matters that ERA considers relevant (rule 47A(13)).
- The legislative framework sets out specific criteria (the “reference service factors”) that the ERA must consider when making its decision to either approve or not approve the reference service proposal. The reference service factors are set out in Figure 10 (page 35) of this Guideline.
- Reasons for the ERA’s decision must be outlined in the ERA’s reference service proposal decision. A copy of the decision must be provided to the service provider and published on the ERA’s website (rule 47A(9)).
- In instances where the reference service proposal is not approved, the ERA must make its own revised proposal and make a decision to give effect to the revised proposal. In making a revised proposal, the ERA must have regard to the matters required to be included in a reference service proposal, the service provider’s proposal and the ERA’s reasons for refusing to approve that proposal (rules 47A(11) and (12)).
- The approved reference service proposal (whether the service provider’s original proposal or the ERA’s revised proposal) and associated decision must be published by the ERA for public access. The publication of an approved reference service proposal allows the service provider to proceed with the submission of an access arrangement proposal (that is, Stage B of the decision making process for a full access arrangement).

Figure 4 Decision making process for a full access arrangement – Stage A (Reference Service Proposal)

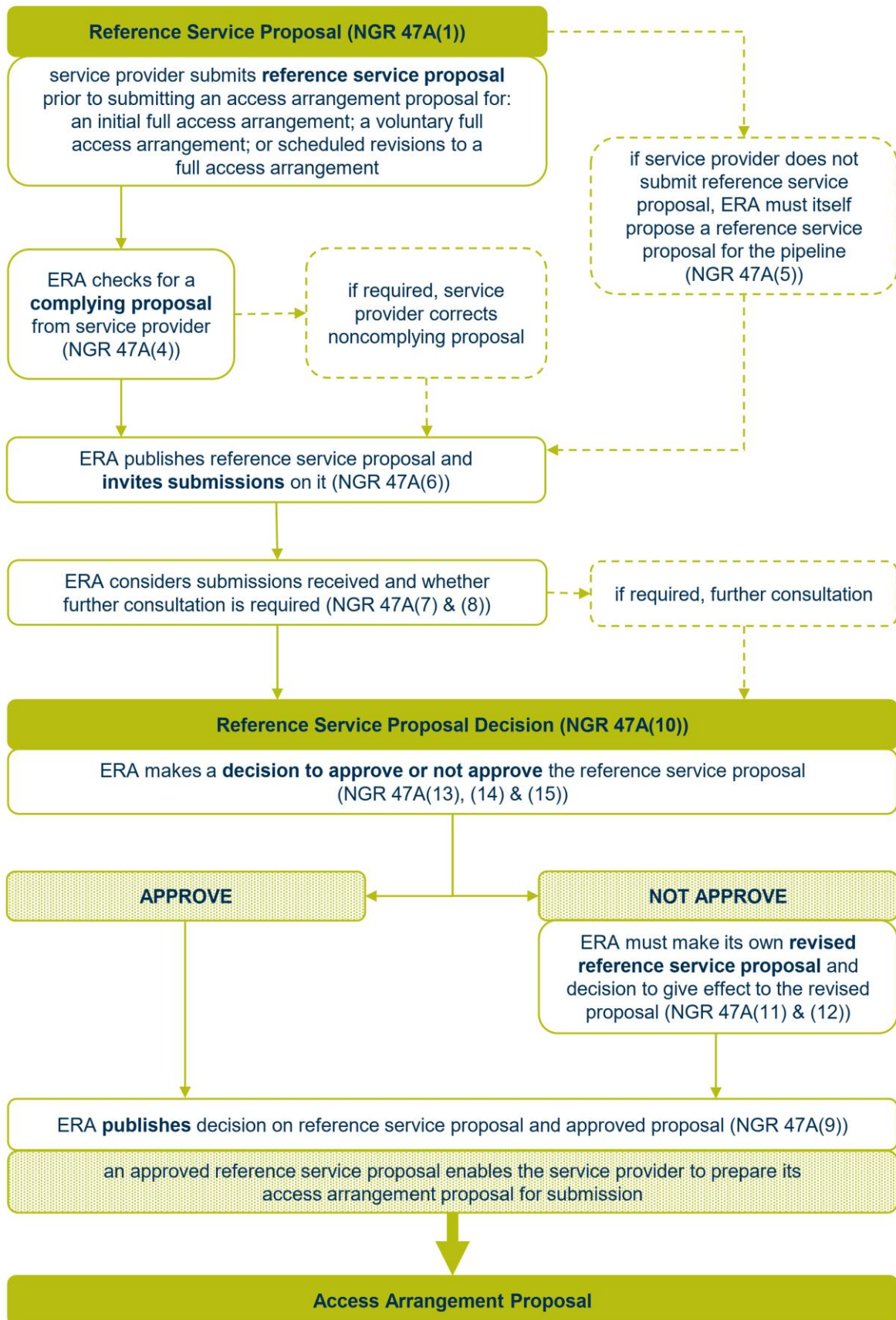
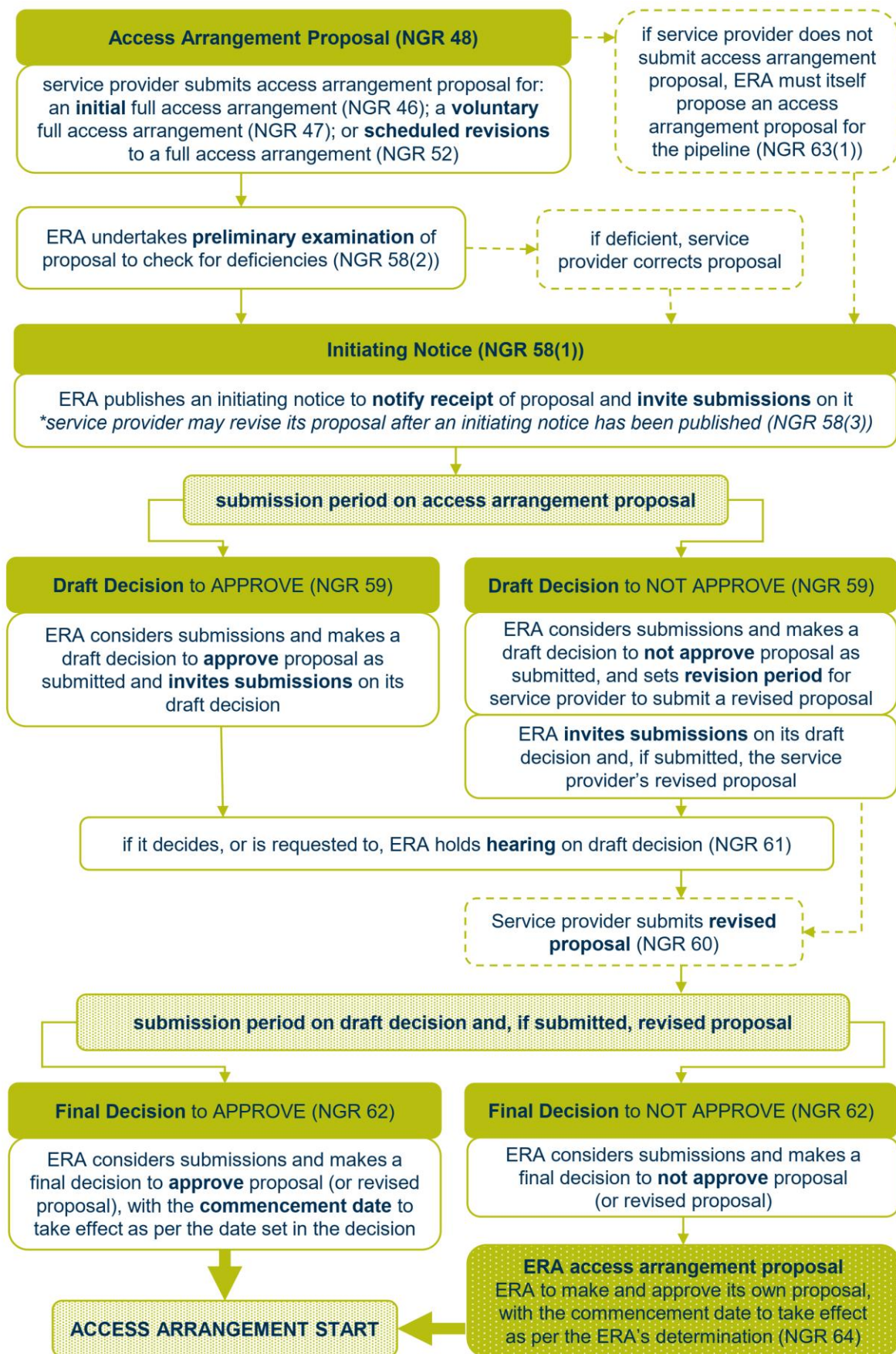


Figure 5 Decision making process for a full access arrangement – Stage B (Access Arrangement Proposal)



STAGE B: Access Arrangement Proposal

Figure 5 (page 15) provides an overview of the Stage B processes.

A service provider must submit an access arrangement proposal for the ERA to assess after a reference service proposal decision has been made for the relevant pipeline (rule 46(1A)). The approved reference service proposal determines which pipeline services are to be specified as reference services under the access arrangement – that is, the reference service proposal forms part of the service provider’s access arrangement proposal. In addition to specifying the pipeline services to be offered as reference services, the access arrangement proposal sets out the terms and conditions, including prices, under which third party users can access the services that are provided by means of the pipeline.

There are four main phases that encompass the decision making process for an access arrangement proposal. A basic description of the phases is provided below, with the specifics of the individual processes covered in Chapter 6 of this Guideline.

- **Phase B1: Pre-proposal development**

- Like the pre-proposal development phase for the reference service proposal, the pre-proposal development phase for the access arrangement proposal covers the development of a service provider’s proposed access arrangement. The legislative framework does not prescribe any activities that the service provider must undertake when developing its proposal, meaning that this phase will vary between service providers.
- While there are no prescribed pre-proposal development activities, the ERA encourages service providers to consult with prospective and existing users to develop and propose an access arrangement that is reflective of the service needs of its users. Such user (customer) engagement provides the service provider with evidence that can be used to directly support elements of its access arrangement proposal.

- **Phase B2: Proposal submission and consultation**

- After completing its pre-proposal development, the service provider must formally submit its access arrangement proposal to the ERA for a determination (decision). The service provider’s access arrangement proposal submission will comprise the access arrangement proposal itself, access arrangement information and other supporting information that the service provider considers relevant to substantiate its proposal.
- The NGR specify the required content for an access arrangement proposal and access arrangement information.²¹ Access arrangement information – or AAI – contains information that is reasonably necessary for interested parties (such as, users and prospective users) to understand the background to an access arrangement and the derivation of certain elements of the access arrangement. Such elements include, for example, those that are used to determine the prices that users pay and the revenue that the service provider can earn under the access arrangement. In this case, rule 72 of the NGR sets out specific requirements for access arrangement information relevant to price and revenue regulation.
- The legislative framework requires the ERA to publish the service provider’s access arrangement proposal and invite submissions from interested parties before making a draft decision. This consultation requirement is commenced by the ERA

²¹ The required content for an access arrangement proposal is set out in rule 48, while the general requirements for access arrangement information are set out in rules 42, 43 and 44.

publishing an “initiating notice” (rule 58(1)). Prior to publishing this notice, the ERA will perform a preliminary check of the service provider’s access arrangement proposal and require the service provider to resubmit its proposal if it is found to be deficient (for example, the proposal does not contain all the elements as required by the NGR).

- The NGR prescribe a minimum consultation period of 20 business days for interested parties to make submissions (rule 58(1)(c)). As stated throughout this Guideline, submissions from interested parties are a valuable source of information for the ERA when undertaking its decision making functions. While not required, the ERA will generally prepare and publish an issues paper to assist interested parties in making submissions by highlighting specific issues on which the ERA is seeking comment. The ERA may also hold a public forum for interested parties to explain and discuss matters related to the decision making process for a full access arrangement.
- In instances where a service provider fails to submit an access arrangement proposal when it is required to do so, the legislative framework provides that the ERA must propose its own access arrangement proposal and undertake the same consultation requirements as if the proposal were submitted by the service provider. Further information concerning regulator proposed proposals is discussed elsewhere in this chapter (see: “3.4 Regulator proposed access arrangements”, page 19).

- **Phase B3: Assessment, draft decision and consultation**

- After considering the service provider’s access arrangement proposal, submissions received on it and other relevant documentation, such as consultant reports that the ERA may commission, the ERA must make a draft decision.²² The draft decision indicates whether the ERA is prepared to approve or not approve the service provider’s proposal. Reasons for the ERA’s decision must be provided, and where the decision is to not approve the ERA must indicate what amendments are required for the ERA to approve the proposal.
- The legislative framework requires the ERA to publish its draft decision and allow a set timeframe (a “revision period” of at least 30 business days) for the service provider to respond with a revised access arrangement proposal (rule 59(3)). In addition to allowing the service provider to respond to the draft decision, the ERA must invite submissions from interested parties to comment on the draft decision and revised access arrangement proposal, if submitted, before making a final decision. The required consultation period is prescribed as a minimum of 20 business days from the end of the set revision period (rule 59(5)(c)(iii)).
- There is no requirement for a service provider to submit a revised access arrangement proposal in response to the ERA’s draft decision. Where the service provider decides to submit one, the requirements for a revised access arrangement proposal (for example, what the revised proposal can and cannot address) are set out in rule 60 of the NGR.
- In addition to inviting submissions from interested parties on the draft decision and revised access arrangement proposal (if submitted by the service provider), the ERA may hold a hearing about the draft decision (rule 61). The hearing may be held on the ERA’s own initiative or at the request of any person. A request for a hearing does not mean that a hearing must be held – the NGR allows the ERA to

²² Specific requirements for the ERA’s draft access arrangement decision are set out in rule 59.

refuse to hold a hearing after assessing a person's request for one, provided valid reasons are given for the refusal.

- **Phase B4: Assessment and final decision**

- After considering the service provider's revised access arrangement proposal (if submitted), submissions received and any other relevant documentation, the ERA must make a final decision.²³ The final decision is a decision to approve or not approve the service provider's proposal (or, if submitted, the service provider's revised proposal). Reasons for the decision must be provided and the decision must be published on the ERA's website for public access.
- If the ERA's final decision is to not approve, the ERA must propose its own access arrangement for the pipeline and make a decision to give effect to this access arrangement. The requirements for an ERA proposed access arrangement are set out in rule 64 of the NGR and include an option for the ERA to consult on its proposed access arrangement.

3.2 Limited access arrangements

A "limited access arrangement" is described in section 2 of the NGL as an access arrangement that is not required to make provision for price or revenue regulation but deals with all other matters required by the NGR (such as, for example, the required content of a limited access arrangement as specified in rule 45). As outlined in Chapter 2 of this Guideline, limited access arrangements apply to international pipelines with a 15-year price regulation exemption and pipelines under light regulation.

The process for proposing and approving a limited access arrangement is far less involved, compared to the process for a full access arrangement, due to the expedited consultative process under the legislative framework.²⁴ The prescribed timeframes for completing the decision making process for access arrangements under the legislative framework are reflective of this, allowing four months for the regulator to make a final decision on a limited access arrangement proposal (rule 55(4)), compared to eight months to make a final decision on a full access arrangement proposal (rule 62(7)).

There are four main phases that encompass the decision making process for a limited access arrangement proposal.

- **Phase 1: Pre-proposal development**

- A service provider that is required to submit a limited access arrangement will undertake activities to develop its proposal. Such activities are likely to involve consultation pipeline users (customers) to confirm their service needs. The legislative framework does not prescribe any pre-proposal activities that the service provider must undertake when developing its proposal, meaning that this phase will vary between service providers.

- **Phase 2: Proposal submission**

- After completing its pre-proposal development, the service provider must formally submit its limited access arrangement proposal to the ERA for a determination (decision). The required content for a limited access arrangement proposal is set out in rule 45(1) of the NGR.

²³ Specific requirements for the ERA's final access arrangement decision are set out in rule 62.

²⁴ Provisions for the expedited consultative process are set out in rule 9.

- Unlike the process for a full access arrangement proposal, the ERA is not required (under the expedited consultative process) to consult on the service provider’s proposal prior to making a draft decision.
- **Phase 3: Draft decision and consultation**
 - The ERA must make a draft decision to approve or not approve the service provider’s limited access arrangement proposal. The ERA’s draft decision must include the reasons for the decision.
 - The legislative framework requires the ERA to publish its draft decision and invite submissions on it (over a minimum 15 business day period) before making a final decision.
- **Phase 4: Final decision**
 - In making a final decision, the ERA must consider all submissions and comments received on the draft decision. The ERA must provide reasons for its final decision to approve or not approve the limited access arrangement proposal. The final decision and approved access arrangement (whether the service provider’s proposal or ERA’s proposal, see below) must be published on the ERA’s website for public access.
 - Where the ERA’s final decision is to not approve the service provider’s limited access arrangement proposal, the ERA must itself propose a limited access arrangement for the pipeline and make a decision to give effect to this access arrangement.²⁵

3.3 Competitive tender access arrangements

In addition to full and limited access arrangements, the legislative framework provides for another type of access arrangement – a *competitive tender* access arrangement.

As outlined in Chapter 2 of this Guideline, competitive tender access arrangements apply to pipelines that are constructed and operated under a competitive tender process. The NGR provide for specific decision making processes for competitive tendering, including the submission and approval of a competitive tender access arrangement.²⁶ Notably, most of the rules covering the access arrangement framework (that is, Parts 8, 9 and 10 of the NGR) do not apply to a competitive tender pipeline access arrangement.

3.4 Regulator proposed access arrangements

Section 132 of the NGL requires a service provider to submit to the ERA, for approval under the NGR, a full access arrangement or revisions to an existing full access arrangement in the circumstances and within the timeframes specified by the NGR. Where the service provider fails to make a submission when it is required to so, rule 63(1) requires the ERA to make its own submission – that is, the ERA must propose a full access arrangement or revisions to an existing access arrangement. The circumstances in which this applies include when a service provider is required, but fails, to submit:

²⁵ An exception to this applies to international pipelines. The ERA may, but is not required to, propose a limited access arrangement proposal for an international pipeline to which a price regulation exemption applies (rule 64(1)).

²⁶ See NGR Part 5 (Competitive tendering), rules 21 to 29.

- An access arrangement proposal for a full access arrangement under section 132 of the NGL and rule 46 of the NGR.
- An access arrangement revision proposal under section 132 of the NGL and rule 52 of the NGR.

As discussed in Chapter 2 of this Guideline, the submission of an access arrangement proposal for a limited access arrangement is optional, other than for an international pipeline that has a 15-year price regulation exemption.²⁷ While the submission of a limited access arrangement is voluntary, once a limited access arrangement is approved, section 116(3) of the NGL requires the service provider to submit scheduled revisions to it in accordance with the NGR and within the timeframes that are specified.

The NGR sets out two decision making processes for the ERA to make and approve its own access arrangement proposal – the “standard consultative procedure” (rule 8) and the “expedited consultative procedure” (rule 9). The nature of the decision making process depends on the type of access arrangement being made and approved:

- For a full access arrangement proposal, or access arrangement revision proposal for a relevant full access arrangement, rule 63(3)(b) requires the ERA to use the standard consultative procedure.
- For a limited access arrangement proposal (if required to be submitted), or limited access arrangement revision proposal for a relevant limited access arrangement, rule 63(3)(a) requires the ERA to use the expedited consultative procedure.

Chapter 4 of this Guideline provides a detailed explanation of the standard and expedited consultative procedures.

3.5 Varying an access arrangement

The legislative framework allows a service provider to vary its access arrangement by submitting an access arrangement variation proposal to the ERA. A variation proposal can be submitted at any time, except between the review submission date of the access arrangement and the commencement of a new access arrangement (rule 65). The decision making process for an access arrangement variation proposal is subject to the nature of the variation that is sought by the service provider – that is, the process depends on whether the variation is material or non-material in nature.

Non-material variations can be assessed and approved by the ERA without consultation, whereas material variations must be assessed by the ERA following the decision making process for a full access arrangement as discussed previously in this chapter (see: “3.1 Full access arrangements”, page 11).

The assessment to determine whether a variation is non-material is done under rule 66 of the NGR. Under this rule, the ERA is required to undertake a preliminary assessment of the proposal to decide whether the variation sought by the service provider is non-material. In making this decision, the ERA must consider the service provider’s own statement and

²⁷ The NGL requires an international pipeline with a 15-year price regulation exemption to have a relevant limited access arrangement. Without an approved limited access arrangement for the international pipeline, the price regulation exemption becomes ineffective. See Chapter 2.1 of this Guideline for further information on international pipelines.

reasons, if provided, as to whether the variation is non-material.²⁸ The ERA must complete its preliminary assessment to confirm the nature of the variation within 20 business days after receiving the service provider's access arrangement variation proposal (rule 66(1)).

The ERA's decision on an access arrangement variation proposal (whether non-material or material) must set out the reasons for the decision, including the terms and commencement date of the approved variation, and be published on the ERA's website (rule 67).

3.6 Legislated timeframes

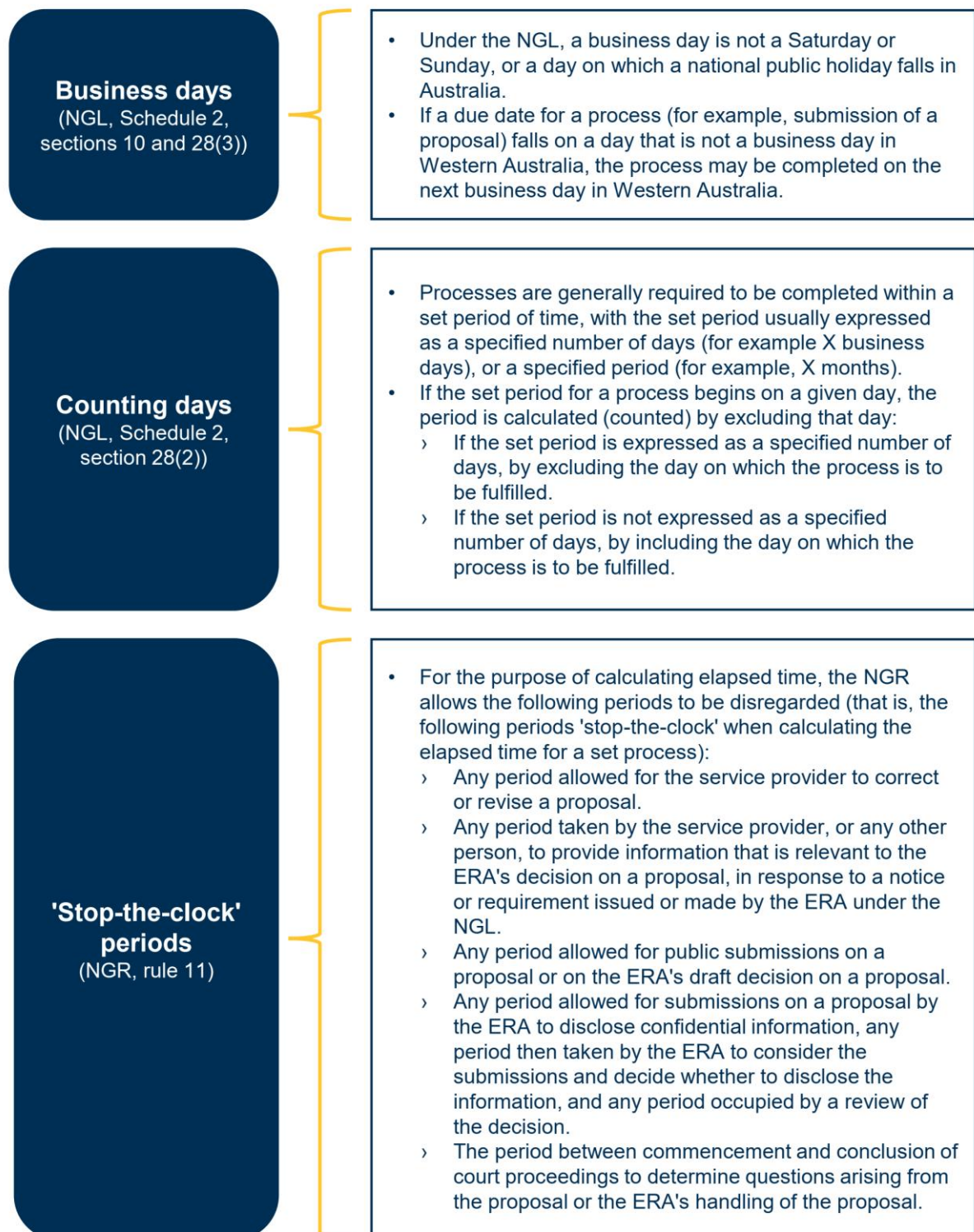
Certain stages of the decision making process for access arrangements must be completed within legislated timeframes.

The legislated timeframes for a full access arrangement proposal are set out in Chapters 5 and 6 of this Guideline for Stage A (reference service proposal) and Stage B (access arrangement proposal) of the process, respectively.²⁹

When calculating the total elapsed time for a required decision making process (for example, the requirement for the ERA to make a final decision on a full access arrangement within eight months of receiving the access arrangement proposal), the NGR provides that certain time periods can be disregarded (rule 11). Figure 6 explains these 'stop-the-clock' periods and how days are defined and counted.

²⁸ Rule 65(3) requires the service provider's access arrangement variation proposal to, if the service provider considers the variation to be non-material, state that opinion and the reasons for it.

²⁹ See Chapter 5.3 and Chapter 6.4 of this Guideline, respectively.

Figure 6 Calculation of time under the access arrangement framework

4. Consultation and information collection

The legislative framework for the regulation of gas pipelines, and in particular the framework for access arrangements, includes specific provisions for consultation and information collection. These provisions are essential for the ERA to identify matters for consideration, verify information and/or gather information when undertaking its decision making processes for access arrangements.

This chapter explains the types of consultative and information collection procedures established by the NGR. The use of issues papers and invitations for submissions is also discussed, along with the treatment of confidential information and the established processes the ERA undertakes when communicating with the service provider and other stakeholders.

4.1 Consultative procedures

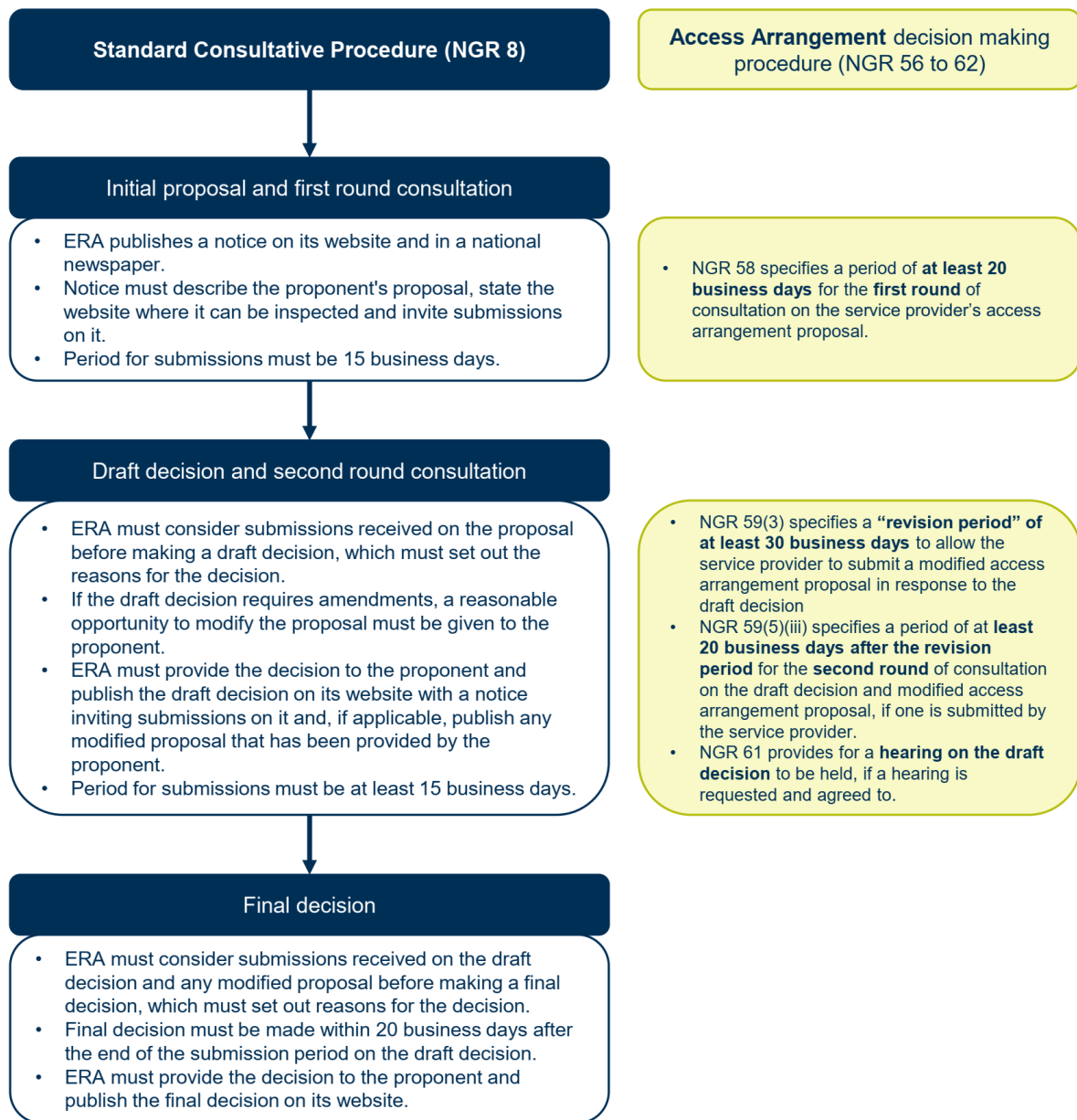
The NGR establishes two consultative procedures – the “standard” and “expedited” consultative procedures – that are to be used in certain decision making circumstances.³⁰

The *standard consultative procedure* is set out in rule 8 of the NGR and is the procedure that is broadly followed when the ERA makes a decision on a full access arrangement proposal. Figure 7 provides a comparison of the standard consultative procedure and access arrangement decision making procedure.

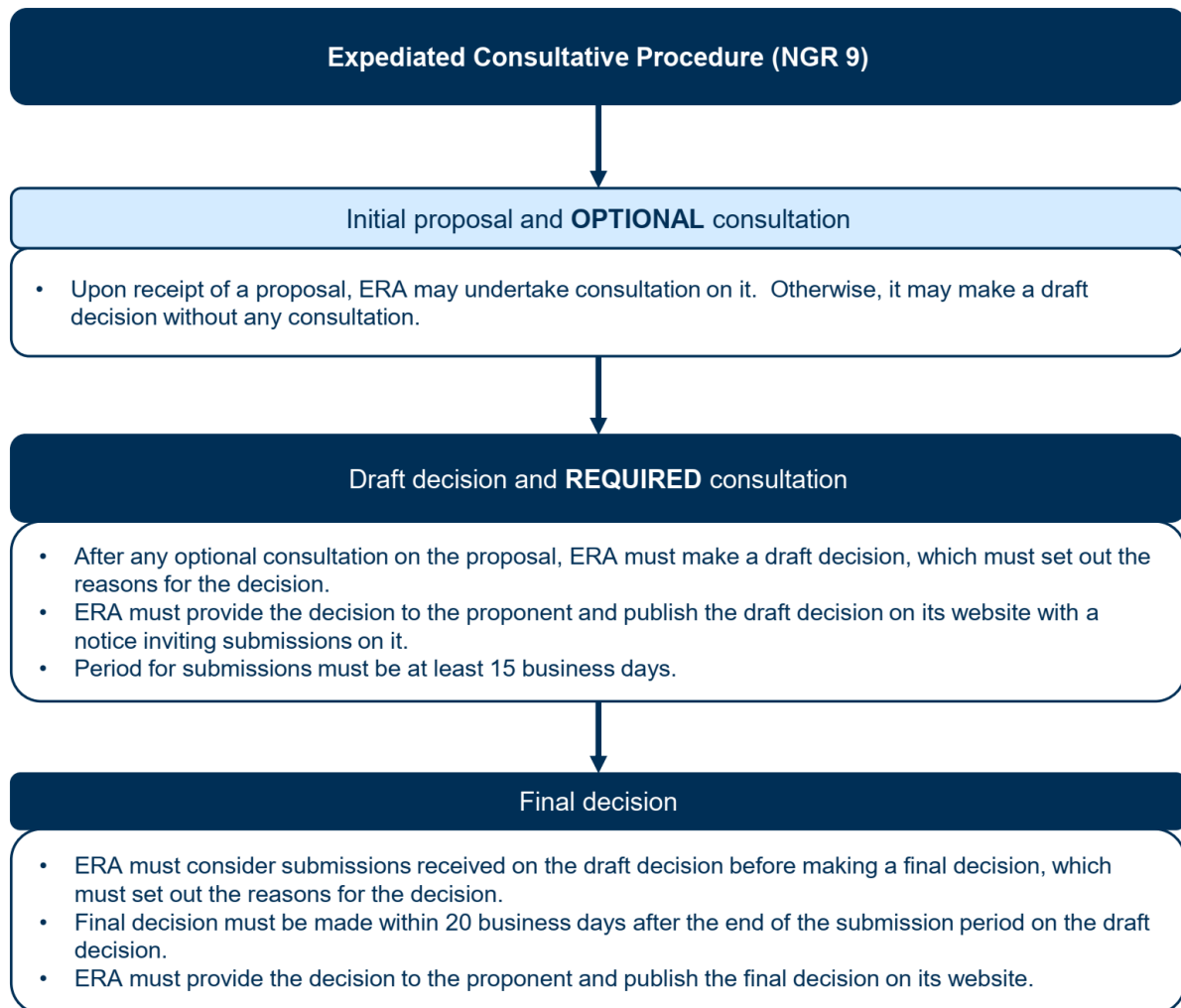
- The standard consultative procedure involves two rounds of public consultation – the first consultation being on the initial proposal prior to a draft decision being made, and the second consultation following the publication of a draft decision. Each consultation period is at least 15 business days.
- The actual procedure to be followed when making an access arrangement proposal decision is set out in Part 8 Division 8 of the NGR (rules 56 to 62) and differs from the standard consultative procedure by:
 - Specifying a period of at least 20 business days for the first round of consultation on the service provider’s proposal.
 - Specifying a period (the “revision period”) of at least 30 business days to allow the service provider to submit a modified proposal in response to the draft decision, and a period of at least 20 business days after the revision period for the second round of consultation on the draft decision and modified proposal, if one is submitted by the service provider.
 - Providing for a hearing on the draft decision to be held, if a hearing is requested and agreed to.

³⁰ The NGR as published by the Australian Energy Market Commission ([online](#)) includes an “extended consultative procedure” as set out in rule 9A. This rule does not apply in Western Australia.

Figure 7 Standard consultative procedure versus actual access arrangement decision making procedure under the National Gas Rules



The *expedited consultative procedure* is set out in rule 9 of the NGR and is the procedure that the ERA must follow when it makes a decision on a limited access arrangement proposal. Figure 8 provides an overview of this procedure, which only requires the ERA (as the decision maker) to conduct one round of public consultation following the publication of a draft decision. That is, consultation on the service provider's limited access arrangement proposal prior to a draft decision being made is optional.

Figure 8 Expedited consultative procedure under the National Gas Rules

ERA established consultative processes

Further to the prescribed consultative procedures in the NGR, the ERA has itself established a set of general, non-prescribed consultative processes that it undertakes to assist it in performing its regulatory functions that involve decision making. Such consultative processes include:

- Open and ongoing consultation opportunities for service providers and other stakeholders, at executive and officer levels, to discuss and understand applicable regulatory obligations, including the timings for these obligations.
- Where needed, opportunities (outside of prescribed processes) for service providers and other stakeholders, at an officer level, to clarify and/or correct information that is identified as ambiguous or incorrect.

- The development and publication of optional papers, such as issues and position papers, to highlight matters that the ERA needs to consider more closely and to generally assist service providers and other stakeholders in making submissions to inform the decision making process.

The above processes are a matter for the ERA's discretion and are only applied to the extent that doing so is consistent with the ERA's obligations for procedural fairness and transparency in decision making.

4.2 Collecting information

There are various ways for the ERA to collect information under the legislative framework to assist it with its decision making functions, including invitations for submissions, the use of regulatory information instruments and general information gathering powers.

Submissions

The consultative procedures established by the NGR require the ERA to invite submissions at certain stages of the decision making process for access arrangements (for example, after receipt of the service provider's proposal and after publication of a draft decision). Submissions can be made by any person or party, including the service provider, stakeholders and general interested parties.

Submissions are a valuable source of information for the ERA when making a decision on an access arrangement proposal. Submissions assist the ERA to validate information contained in the access arrangement proposal and investigate matters that need further consideration and/or amendment. Given the importance of submissions, the ERA will generally prepare and publish optional papers (for example, an issues paper) to assist interested parties in making their submissions and to highlight matters of particular interest to the ERA. Further information about the preparation and publication of optional papers, and the process for inviting and making submissions, are discussed elsewhere in this chapter (see: "4.3 Optional papers" and "4.4 Inviting and making submissions", pages 29 and 30, respectively).

Regulatory information instruments

The NGL gives the ERA powers to compel service providers (or related providers) to provide information via the ability to serve a regulatory information notice or make a regulatory information order.³¹

- Under section 46 of the NGL, a regulatory information notice (or 'RIN') is a notice that is prepared and served by the ERA in accordance with the NGL that requires the service provider, or a related provider, to do either or both of the following: provide the information specified in the notice; and/or prepare, maintain or keep the information specified in the notice in a manner and form as specified.
- Under section 45 of the NGL, a regulatory information order (or 'RIO') is an order made by the ERA in accordance with the NGL that requires each service provider of a specified class, or each related provider of a specified class, to do either or both of the following: provide the information specified in the order; and/or prepare, maintain or keep the information specified in the order in a manner and form as specified.

³¹ See Division 4 of the NGL (Regulatory information notices and general regulatory information orders), sections 43 to 59.

While both regulatory instruments – the RIN and RIO – can be used in the direct context of making a decision on an access arrangement proposal, the ERA is less likely to use a RIO for this purpose. Unlike a RIN, which is served on an individual service provider, a RIO is made to apply to a specified class of service provider. At the time of publishing this Guideline, there are only three service providers in Western Australia subject to a full access arrangement making the ability to use a RIO impracticable (that is, there is no class of service provider that encompasses all three regulated service providers).

The process for serving a RIN is detailed in Figure 9 and involves four main steps:

Step 1: Notification

Before the ERA can serve a RIN on a service provider it must first notify the service provider in writing of its intention to serve a RIN and provide a draft copy of the RIN to be served. In preparing the draft RIN, the ERA must address the matters that the NGL requires it to, including the likely costs that may be incurred by the service provider in complying with the RIN.

The RIN that is intended to be served may be classified as either urgent or non-urgent. If classified as urgent, the ERA must state this in the written notice and provide reasons as to why it is urgent.

Step 2: Representations

The ERA's written notification of its intent to serve a RIN must invite the service provider, on which the RIN is to be served, to make written representations as to whether the RIN should be served on it. The timeframe in which the service provider must make its written representations depends on whether the RIN is classified as urgent or non-urgent.

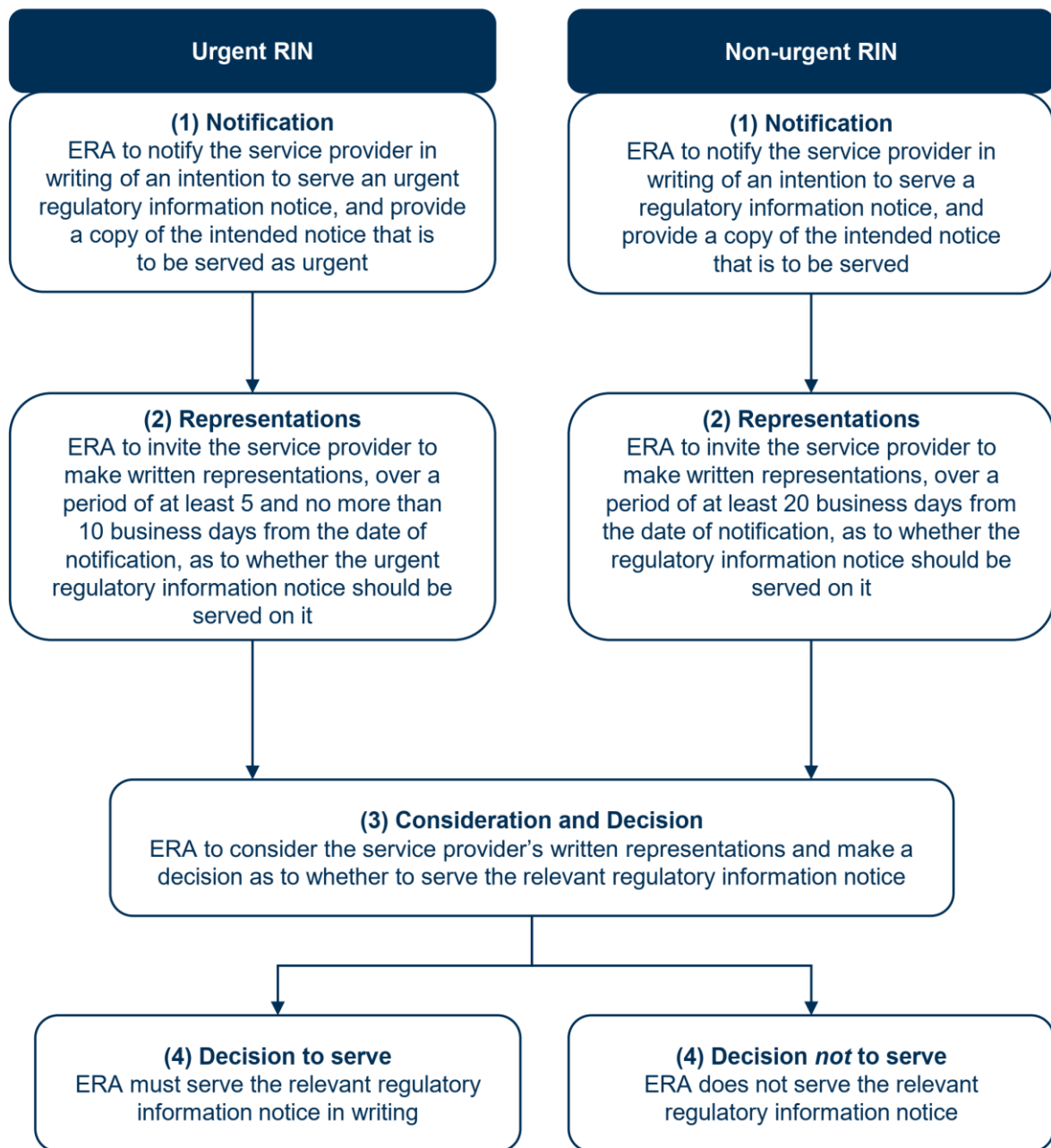
Step 3: Consideration and decision

The ERA must consider the service provider's written representations on the draft RIN before making a decision to serve the RIN.

Step 4: Decision to serve (or not to serve)

Where the decision of the ERA is to serve the RIN, the RIN must be served in writing as per the requirements of the NGL. Where the decision of the ERA is not to serve the RIN, the draft RIN that was prepared becomes redundant.

Once a RIN is served, the service provider (as named in the RIN) must comply with it. Penalties associated with noncompliance are discussed in Appendix 1 of this Guideline.

Figure 9 Process for serving a regulatory information notice³²

³² In preparing this figure and overview, the ERA acknowledges the access arrangement guideline published by the Australian Energy Regulator (AER, *Access arrangement guideline*, March 2009).

General information gathering powers

In addition to regulatory information instruments, the ERA also has general information gathering powers under section 42 of the NGL that can apply to anyone.³³ If the ERA has reason to believe that a person can provide information, or produce a document, that the ERA requires for it to perform a function or power conferred on to it under the NGL or NGR, the ERA may serve a relevant notice on that person to provide it.

The ERA may use its general information gathering powers to obtain information in the direct context of making a decision on an access arrangement proposal.

Other collection methods

Further to the above prescribed ways to collect information, the ERA also collects information through its general (non-prescribed) consultative activities with service providers and stakeholders. For example, it is a generally accepted practice for the service provider and the ERA to meet, at an officer level, during the service provider's pre-proposal development phase to discuss the impending access arrangement. Similarly, during submission periods it is not uncommon for a stakeholder and the ERA to meet, at an officer level, to discuss matters related to the access arrangement that the stakeholder proposes to raise in a submission to the ERA.

The ERA may also engage specialist consultants to provide independent technical advice on matters that require specialist consideration, such as proposed capital expenditure programs. Like submissions, independent consultant reports assist the ERA in validating an access arrangement proposal and, if required, to make decisions as to what amendments are necessary for the access arrangement proposal to be approved.

4.3 Optional papers

The ERA often prepares and publishes optional papers to facilitate the consultative procedures that are prescribed by the NGR. These papers aim to assist interested parties in making their submissions to the ERA and assist the ERA in making its required decision. There are generally two types of papers that the ERA may prepare – an *issues paper* or a *position paper*.

Issues papers are typically prepared when the ERA is required, by the NGR, to invite submissions from interested parties on an access arrangement proposal that has been submitted to the ERA for a decision. While the specific content of an issues paper is largely dependent on the access arrangement proposal under consideration, issues papers will generally aim to:

- Provide a high level overview of the service provider's access arrangement proposal and, where the proposal relates to revisions to an existing access arrangement, provide an overview of the key revisions that are proposed.
- Highlight any specific matters on which the ERA requires submissions to provide additional information to assist with its assessment of these matters. In these instances, the issues paper may include direct questions for interested parties to consider and provide responses.

³³ See NGL, section 42 (Power to obtain information and documents in relation to performance and exercise of functions and powers).

The use of position papers by the ERA is less common as these papers are only prepared to seek submissions on specific matters that have been raised unexpectedly during the decision making process and that may have a material effect on the ERA's draft or final decisions. Such matters are often new matters for consideration and may involve other independent regulatory or policy decisions that sit outside the access arrangement framework. In these circumstances, the ERA will prepare and publish a position paper to outline the ERA's preliminary position on the matter and seek submissions on it before making, as appropriate, either a draft or final decision.³⁴

4.4 Inviting and making submissions

Where the ERA is required by the NGR to invite submissions, the ERA must do so in accordance with the relevant provision, which generally requires the ERA to publish a notice on its website to:

- Notify interested parties of the relevant proposal and/or draft decision that is under consideration.
- Provide a description of the proposal and/or draft decision and provide information as to where it can be inspected on the ERA's website.
- Invite written submissions on the proposal and/or draft decision by the date specified in the notice.

In the case of a proposal relating to a full access arrangement, the notice notifying interested parties of its initial receipt is the "initiating notice" (rule 58). The initiating notice must be published by the ERA as soon as practicable after receiving the service provider's proposal but may also be delayed for up to 30 business days if the proposal is found to be deficient in some way to allow the service provider time to correct the deficiency and resubmit its proposal.

Extensions to the submission period

The NGR prescribe minimum consultation (submission) periods that the ERA must adhere to when setting the period of consultation when inviting submissions. For example, for a full access arrangement:

- The submission period for the service provider's access arrangement proposal must be at least 20 business days after the publication of the initiating notice (rule 58).
- The submission period for the ERA's draft decision must be at least 20 business days from the end of the set "revision period", which is the period allowed for the service provider to submit a revised proposal that addresses the matters in the draft decision (rule 59).³⁵

³⁴ For example, the ERA prepared a position paper on pipeline and reference services during the assessment of proposed revisions to the access arrangement for the Dampier to Bunbury Natural Gas Pipeline for the period 2021 to 2025. The position paper was published after the ERA's draft decision and sought to deal with matters relating to changes, as announced by the Western Australian Government, to the State's *Domestic Gas Policy* to prevent the export of local gas. This announcement required a reassessment of the pipeline and reference services to be provided under the access arrangement, with the preliminary position of the ERA being to allow the creation of a new pipeline service (the Ullage Service), and a revised treatment of additional non-reference services as rebateable non-reference services. Following the consideration of submissions received on the position paper, the ERA's final decision was able to confirm and approved the preliminary position as final.

ERA, 'Access Arrangement for period 2021-2025' ([online](#)) (accessed June 2022).

³⁵ Rule 59(3) requires the 'revision period' to be a fixed period that is at least 30 business days.

In most cases the ERA will consider allowing additional time for interested parties to make their submissions, with the length of the submission period reflective of the nature of the proposal or draft decision. That is, longer submission periods of up to 40 business days may be allowed for more complex proposals or draft decisions.

The NGR specifically allow for extensions to set time limits (rule 12). Under these provisions, the ERA can extend time limits on its own initiative, or if requested by a proponent (which can include the service provider, stakeholder or other interested party). In deciding whether to extend a time limit, including a submission period, the ERA must have valid reasons to do so. In considering whether to extend a time limit, the ERA will generally need to consider whether the overall benefits of a time extension outweigh the disadvantages of delaying the decision making process.

Making submissions

When inviting submissions, the NGR require the ERA to invite *written submissions*. While written submissions are the specified and preferred option, the ERA may consider other forms of submissions to ensure the opportunity to make submissions is accessible to all individuals (for example, an individual with a disability that prevents the preparation of a written submission may, after consulting with the ERA, be able to make a verbally recorded submission).

At the time of inviting submissions, instructions on how to lodge the submission for consideration are provided. In general, the ERA's preference is for submissions to be made electronically via the relevant online submission form.³⁶

To facilitate transparency throughout the decision making process, the ERA aims to publish all submissions that it receives on its website. Given this, submissions should be in a form that can be published. The ERA acknowledges that some parties may wish to make a submission that contains information of a confidential nature. In these instances, the submission must clearly identify the information that is claimed to be confidential, and a second non-confidential version of the submission must be provided. Further detail on the treatment of confidential information is discussed elsewhere in this chapter (see: "4.5 Confidential information", page 32).

Late submissions

To be considered by the ERA, submissions must be received by the relevant due date. The NGR require the ERA, in making a decision, to consider all submissions that are received within the period that was specified in the invitation for submissions.

There is no legislative requirement for the ERA to consider submissions that are received outside of the specified submission period (that is, late submissions). The ERA will decide whether to exercise its discretion to accept and consider a late submission on a case-by-case basis. The general matters that the ERA is likely to consider when deciding whether to accept a late submission include:

- The reasons for the lateness of the submission and whether the party making the submission had previously discussed any known reasons that would affect its ability to make a submission within the required submission period.

³⁶ ERA, 'Current consultations' ([online](#)) (accessed June 2022).

Any alternative ways to lodge a submission will be specified in the relevant notice and/or on the ERA's website.

- The materiality of the matters that are raised within the late submission and their likely impact, if any, on the ERA's decision making process.

4.5 Confidential information

During an access arrangement decision making process, the ERA is provided with and collects a lot of information. This information is used to inform and substantiate the ERA's draft and final access arrangement decisions.

The ERA acknowledges that parties, including service providers and stakeholders, may wish to submit information during the access arrangement review process that is identified as commercial-in-confidence to support their proposals or submissions. Where this is the case, it is extremely important that the information over which confidentiality is claimed is appropriately considered and protected.

The NGL contains specific provisions for the handling of confidential information.³⁷ Under these provisions, the ERA can assess claims of confidentiality to determine whether, notwithstanding the claim of confidentiality, there is public benefit in disclosing the confidential information. That is, under section 329, the NGL allows the ERA to disclose confidential information if the detriment to the party who provided the information does not outweigh the public benefit that would be achieved by disclosing the information.³⁸

In circumstances where a party wishes to submit confidential information to the ERA, the ERA encourages the party to discuss (at an officer level) the nature of the confidential information prior to submission. As outlined elsewhere in this Guideline, the ERA provides for numerous consultative activities and opportunities for engagement with service providers, stakeholders and other interested parties. A discussion about the submission of confidential information, prior to the submission being made, allows for:

- A better understanding of the nature of the information and why it is claimed to be confidential.
- A discussion of the options available to provide the confidential information and facilitate its disclosure in some form (for example, can the information be provided in a way to maintain confidentiality when published, such as aggregating customer data to avoid individual customer data being disclosed).

To assist the ERA in considering and assessing confidential information once submitted, the ERA has developed a *confidentiality template* (Appendix 1 of this Guideline) that should be used by parties who wish to submit confidential information. The template outlines the minimum information that is required by the ERA to effectively consider and assess claims of confidentiality.

In general, where confidential information is provided within a document that is submitted to the ERA, a *public version* of that document should always be provided for publication. The public document should be substantially the same as the confidential document in form and format, but have the confidential information removed (redacted).

³⁷ See NGL, Chapter 10 Part 2 (Handling of confidential information), sections 324 to 329.

³⁸ In this circumstance, the party that provided the ERA with the information will be given an opportunity to make representations to the ERA as to why any such information should not be disclosed. The ERA will also notify any third party, which it is aware of, which supplied the information that is claimed to be confidential by the party that provided it to the ERA. If the ERA elects to disclose the information, it will provide its reasons for disclosure to the party that made the request.

In instances where the ERA's reasoning for its decision relies on information that is claimed to be confidential, the ERA may make a decision, under section 329 of the NGL, to disclose that information to a disaffected party to ensure procedural fairness.

4.6 Communicating with specific parties

Communicating with the service provider

The ERA has established certain communication procedures with service providers to facilitate the access arrangement decision making process. These procedures aim to mitigate the need to correct and republish information relating to an access arrangement decision and include:

- Meeting with the service provider, at officer level, to discuss and understand aspects of the access arrangement that involve complex calculations and/or modelling (such as, for example, the formulas contained in the revenue model that is used to determine the reference tariffs for reference services).
- Providing the service provider with an opportunity to check the ERA's decisions for errors of fact and the redaction of confidential information prior to publication.

Communicating with other stakeholders and interested parties

In general, the ERA encourages stakeholders and interested parties to engage with the ERA during the access arrangement decision making process. The ERA may request meetings with stakeholders, at an officer level, to better understand matters raised in submissions or to seek specific industry knowledge to inform its decisions. Similarly, stakeholders and interested parties may request meetings with the ERA, at an officer level, to discuss matters related to their submissions or the access arrangement decision making process.

5. Reference service proposal

A reference service proposal outlines which of the service provider's pipeline services will be provided as a reference service with a relevant reference tariff.³⁹ The proposal must be submitted prior to the submission of an access arrangement proposal for an initial full access arrangement, a voluntary full access arrangement, or scheduled revisions to a full access arrangement.

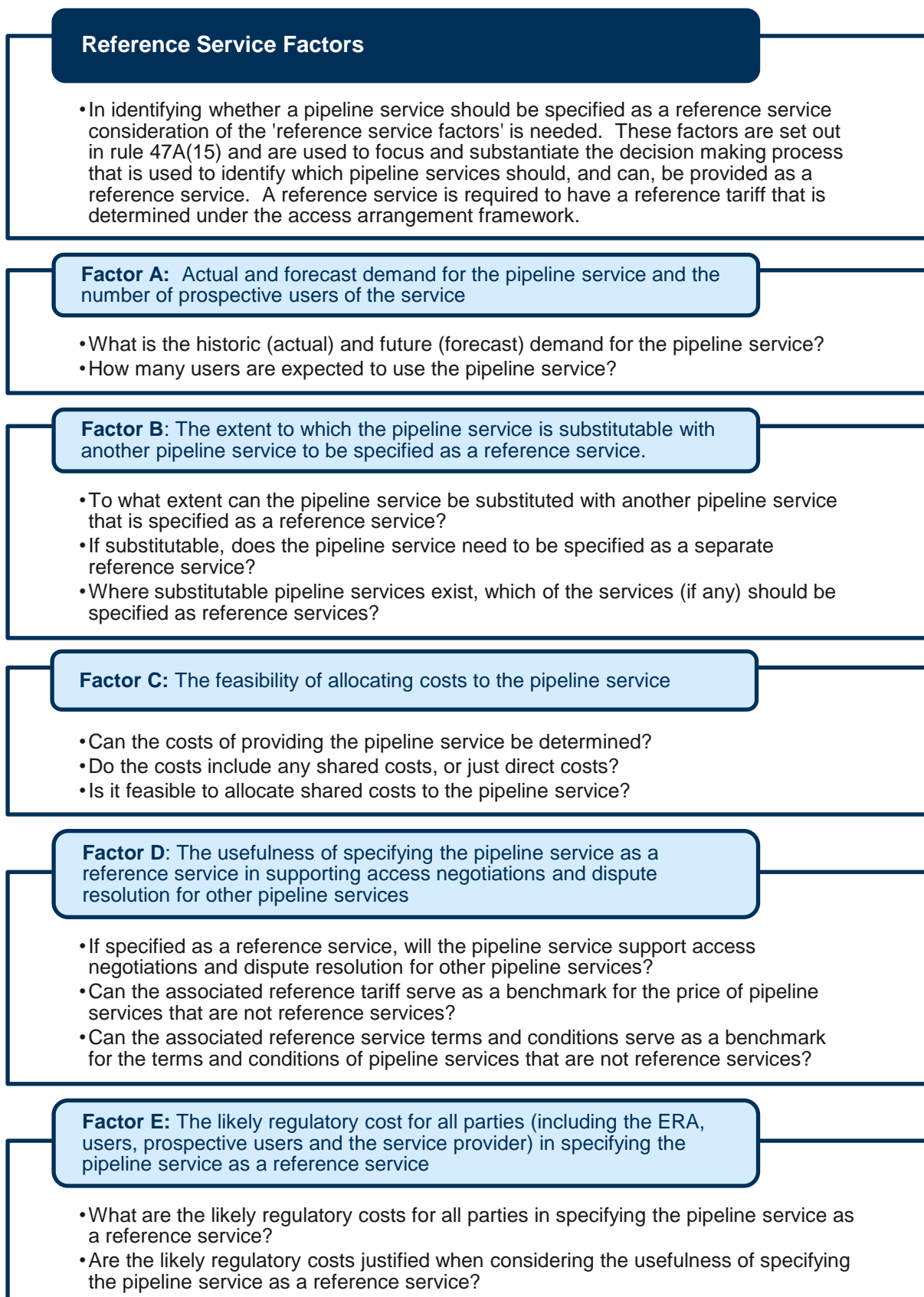
Chapter 3 of this Guideline provides information on the access arrangement framework, which covers the concept of a full access arrangement and the various circumstances where one is required. The details concerning an access arrangement proposal are covered in Chapter 6, whereas this chapter focuses on the details concerning the *reference service proposal*, which the service provider must submit to the ERA for a determination prior to submitting an access arrangement proposal.

5.1 Content of a reference service proposal

Rule 47A of the NGR sets out the required content of a reference service proposal. The proposal must:

- Identify the pipeline to which the proposal relates and include a reference to a website where a description of the pipeline can be reviewed.
- Set out all the pipeline services that the service provider can reasonably provide by means of the pipeline, and provide a description of those services with consideration given to the different characteristics of each service, such as:
 - The service type (for example, is the service a forward haul, backhaul, connection, or park and loan service).
 - The priority of the service relative to other pipeline services of the same type.
 - The receipt and delivery points.
- From the list of pipeline services that the service provider can reasonably provide, identify at least one of those services as a proposed reference service. In identifying the proposed reference service(s), consideration must be given to the “reference service factors”. Figure 10 sets out these factors, along with some general questions that would need to be considered when identifying which services to specify as a reference service.
- Where the service provider has engaged with pipeline users and/or other interested parties in developing the proposal, describe the feedback received from those users/parties about what pipeline services should be specified as a reference service.

³⁹ As discussed in Chapter 3, a reference service is a pipeline service that has a reference tariff that is set (approved) by the regulator under the access arrangement framework. A reference tariff is the price that a pipeline operator can charge its customers.

Figure 10 What are reference service factors?

5.2 Reference service proposal and approval process

Figure 3 in Chapter 3 (page 11) of this Guideline provides an overview of the decision making process for a full access arrangement, which involves two stages – Stage A: Reference Service Proposal and Stage B: Access Arrangement Proposal. Both stages comprise several key phases that include individual processes prescribed by the NGR. The individual processes concerning the reference service proposal (Stage A) are explained here in more detail. These processes include:

- The service provider's reference service **proposal** submission
- A preliminary **compliance** check
- Public **consultation**
- The ERA's reference service proposal **decision**



Reference service proposal submission

A reference service proposal must be submitted for a determination prior to submitting an access arrangement proposal for either:

- An initial full access arrangement (submitted under rule 46)
 - Once a pipeline becomes a covered pipeline, the service provider is required to submit a full access arrangement proposal for the covered pipeline. Prior to submitting this proposal, it must first submit a reference service proposal in accordance with rule 47A.
- A voluntary full access arrangement (submitted under rule 47)
 - A service provider for a pipeline that is not covered (that is, an uncovered pipeline) may voluntarily submit a proposed full access arrangement proposal for its pipeline. Prior to submitting this voluntary proposal, it must first submit a reference service proposal in accordance with rule 47A.
- Scheduled revisions to a full access arrangement (submitted under rule 52)
 - Where an applicable full access arrangement exists for a pipeline, a service provider must submit scheduled revisions for the access arrangement in the form of an access arrangement revision proposal. Prior to submitting this revisions proposal, it must first submit a reference service proposal in accordance with rule 47A.

The required content of a reference service proposal is set out in rule 47A and is discussed above (see: “5.1 Content of a reference service proposal”, page 34).

When developing a reference service proposal, it is expected that the service provider will consult with the parties that use its pipeline services. Rule 47A(1)(d) refers to pipeline and end users as the parties that would likely provide feedback if the service provider has engaged in consultation in developing its reference service proposal.

The ERA considers that consultation with users during the development of a reference service proposal is consistent with the intent of the process for determining reference services under

rule 47A. This rule is focused on providing users with greater opportunity to provide meaningful input during the reference service determination process. Such consultation will also directly benefit the service provider by substantiating its proposal, and in particular, the proposed pipeline services to be specified as reference services.⁴⁰

If a service provider fails to submit a reference service proposal when it is required to do so, the ERA must itself propose a reference service proposal for the pipeline (rule 47A(5)). In doing so, the ERA is likely to undertake preliminary consultation with the service provider and users of the pipeline.



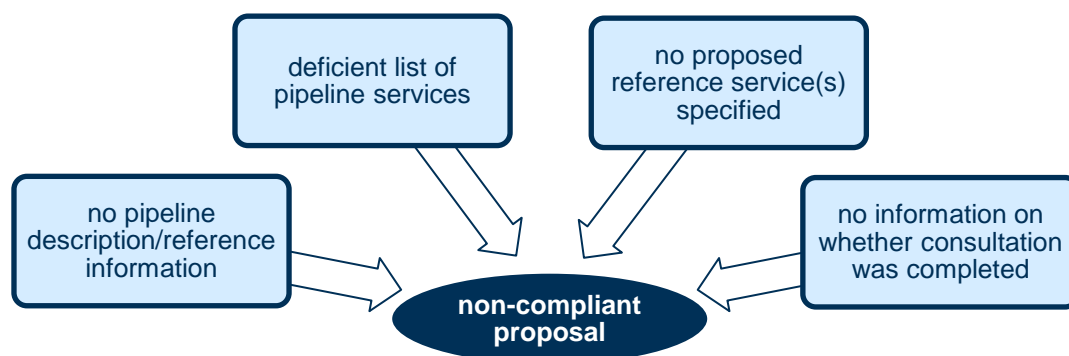
Preliminary compliance check

On receipt of the service provider's reference service proposal the ERA may undertake a preliminary check of the proposal to ensure that it complies with the NGR requirements (rule 47A(4)). If the ERA considers the proposal is non-compliant in some way, the ERA may notify the service provider of the need to resubmit the proposal. In notifying the service provider of this, the ERA must:

- Give reasons as to why it considers the reference service proposal to be non-compliant (rule 47A(4)(a)).
- State the date by which the service provider is required to resubmit an amended reference service proposal (rule 47A(4)(b)).

Figure 11 sets out the likely reasons as to why the ERA may find a reference service proposal non-compliant. To mitigate the occurrence of non-complaint proposals, the ERA has developed a *reference service proposal checklist* (Appendix 4 of the Guideline) that should be used by service providers when finalising their proposal for submission to the ERA.

Figure 11 What makes a non-compliant reference service proposal?



⁴⁰ In its March 2019 *Rule Determination*, the Australian Energy Market Commission stated that: "Pipeline users and prospective users are expected to be better informed about their preferences than the regulator. As such, constructive engagement between service providers, the regulator, users and consumers increase the likelihood that the reference services will align with the long term interests of the consumer. Further, improved user and consumer engagement with the regulatory process helps reduce the risk of regulators making sub-optimal decisions because of poor information on user and consumer preferences."

AEMC, *Regulation of covered pipelines, Rule determination*, 14 March 2019, p.48 ([online](#), accessed May 2022).



Public consultation

Once satisfied that the service provider's reference service proposal is compliant, the ERA must publish the proposal and invite written submissions from interested parties (rule 47A(6)).⁴¹

The length of a submission period is generally a legislated minimum timeframe. In this case, the ERA must allow submissions to be made over a minimum 15 business day period. This legislated timeframe, along with other timeframes concerning the reference service proposal and approval process, is discussed later in this chapter (see page 21).

Any person may make a written submission to the ERA on the published reference service proposal (rule 47A(7)). Submissions may cover general comments on the proposal or deal with specific issues, including whether the proposal should specify other services as reference services.

Rule 47A(8) allows the ERA to undertake further consultation on the reference service proposal after the submission period has closed. Further consultation is most likely to occur in circumstances where an issue has been raised in a submission from an interested party that the ERA requires additional information about. Such information may be needed to clarify and/or verify a position, or to seek further opinions to inform the decision making process.

Consultation with interested parties is a vital step in the decision making process. Chapter 4 of this Guideline provides more detailed information concerning the role and process of consultation and information gathering, and how these factors can affect the ERA's decision making.



Reference service proposal decision

The submissions received during the consultation period will inform the ERA's decision on the reference service proposal. The ERA's reference service proposal decision is a decision to approve, or refuse to approve, the reference service proposal (rule 47A(10)). The ERA must make its decision within the legislated timeframe and give a copy of the decision, which must include the reasons for the decision, to the service provider. The decision must also be published on the ERA's website for interested parties (rule 47A(9)).

Rule 47A(13) requires the ERA to consider certain factors when making its reference service proposal decision, including:

⁴¹ The requirement to publish the proposal and invite submissions is also applicable to an ERA proposed reference service proposal, which occurs when a service provider does not submit a reference service proposal.

- The “reference service factors”
 - Rule 47A(14) requires the ERA to consider the reference service factors when deciding whether or not a pipeline service should be specified as a reference service. The reference service factors are set out in Figure 10 of this Guideline.
 - The purpose of the reference service factors is to establish criteria that can be used to assess the characteristics of pipeline services and determine their suitability as reference services. The criteria aim to assist the ERA with its decision making process to approve an appropriate set of reference services by factoring in the trade-off between the benefits and costs of providing reference services. The Australian Energy Market Commission (AEMC) explained this trade-off in its rule change determination as follows:
 - ... determining an appropriate set of reference services is a trade-off between:
 - The benefits that reference services provide to prospective users. A reference service acts as an aid to the negotiation process, by narrowing the points of contention and providing greater predictability of the outcomes of arbitration. This should constrain the use of market power of a service provider in its negotiations, reduce the prospect of negotiation leading to arbitration, and reduce the cost of arbitration in the event that it is necessary.
 - The cost and regulatory burden of the ex ante determination of reference services and corresponding reference tariff and non-tariff terms and conditions (for the service provider, the regulator and other stakeholders through the access arrangement assessment process).⁴²
- Submissions made in response to the ERA’s invitation for submissions
 - Submissions from interested parties are valuable sources of information for the ERA. Submissions ensure that the ERA considers the matters that are important to stakeholders, which may be of a technical and/or operational nature. If not raised by a stakeholder in a submission, such technical and operational matters may be overlooked in the decision making process.
- If applicable, any feedback that the service provider received from users when it developed its reference service proposal
 - The consultation that the service provider undertakes when preparing its reference service proposal is also valuable to the ERA’s decision making process. The feedback received during the service provider’s consultation assists the ERA in substantiating the service provider’s proposal about which pipeline services should be specified as reference services.
- Any other matters that the ERA considers relevant
 - The ERA may consider any other matters that are relevant to its decision making process. For example, the energy sector is undergoing significant change with government and industry focused on addressing climate change with greener energy sources (renewables). The ERA may consider such changes as relevant when making its reference service proposal decision.

⁴² AEMC, *Regulation of covered pipelines, Rule determination*, 14 March 2019, p.35 ([online](#), accessed May 2022).

Where the ERA makes a decision to refuse to approve the service provider's reference service proposal (that is, the ERA makes a decision to not approve), the ERA must:

- Make its own revised reference service proposal (rule 47A(11)).
 - In making its own revised proposal, the ERA must consider the required content of a reference service proposal as set out in the NGR, the service provider's proposal and the ERA's reasons for not approving the service provider's proposal.
 - Give a copy of the revised reference service proposal to the service provider and published it on the ERA's website for interested parties.
- Make a decision to give effect to the revised reference service proposal (rule 47A(12)).
 - The decision to give effect to the ERA's own revised proposal may be made at the time of making the decision to not approve the service provider's reference service proposal (that is, the decision to give effect to a revised proposal may form part of the ERA's reference service proposal decision). Otherwise, if the decision to give effect to the ERA's own revised proposal is a separate decision, this decision must be made and published as soon as practicable after publishing the revised reference service proposal.

5.3 Legislated timeframes

Certain stages of the reference service proposal and approval process must be completed within legislated timeframes. Table 1 sets out these stages and the relevant timeframes.

Table 1 Reference service proposal and approval process legislated timeframes

Process	Timeframe
Submission of service provider's reference service proposal (NGR 47A(3)).	Where a relevant access arrangement exists for the pipeline, no later than 12 months prior to the review submission date for the access arrangement. Where no relevant access arrangement exists for the pipeline, within 20 business days after the pipeline becomes a covered pipeline (in accordance with NGR 46).
Development of ERA proposed reference service proposal (NGR 47A(5)). <i>*An ERA proposal is required if a service provider fails to submit a proposal where and when it is required to do so.</i>	11 months prior to the review submission date for the access arrangement.
Publication of reference service proposal and invitation for submissions (NGR 47A(6)).	As soon as practicable after receiving the proposal from the service provider (or in the case of no submission from the service provider, the ERA proposing its own).
Consultation period to provide submissions on the reference service proposal (NGR 47A(6)(e)).	A period of at least 15 business days after the publication of the proposal.

Process	Timeframe
<p>Publication of the ERA's reference service proposal decision (NGR 47A(9)).</p> <p><i>* Where the ERA's decision is to refuse to approve the reference service proposal, the ERA must revise the proposal itself and publish the revised proposal.</i></p>	<p>No later than 6 months prior to the review submission date for the access arrangement.</p>
<p>ERA decision to give effect to a revised reference service proposal (NGR 47A(12)).</p>	<p>As soon as practicable after publishing a revised reference service proposal.</p>

6. Access arrangement proposal

Following a reference service proposal decision made in relation to a covered pipeline, the service provider must submit a full access arrangement proposal.⁴³ A service provider's full access arrangement proposal must, amongst other things, include all the terms and conditions, including prices, for the regulated pipeline.⁴⁴ Access arrangement information (AAI) must accompany the access arrangement proposal, along with any other documentation that the service provider wishes to submit to support its proposal.⁴⁵

The NGR defines AAI as information that is reasonably necessary for users and prospective users to understand the background to an access arrangement or access arrangement proposal and the basis and derivation of its various elements (rule 42). AAI will typically include a spreadsheet model of the calculations underpinning the access arrangement proposal, including actual information for the current access arrangement period and forecast information for the next access arrangement period.

The details concerning a reference service proposal are covered in Chapter 5. This chapter covers the requirements for a *full access arrangement proposal*, including the provision of AAI. The access arrangement approval process is also covered, which includes two public submission periods, an opportunity for the service provider to submit a revised proposal and the publication of draft and final decisions by the ERA.

6.1 Content of an access arrangement proposal

Rule 48 of the NGR sets out the required content of a full access arrangement (and full access arrangement proposal). In addition, rules 90 and 92 set out further requirements for a full access arrangement relating to the calculation of depreciation and revenue equalisation. These requirements are summarised in Figure 12 and are explained below.

Pipeline identification and description

The access arrangement must identify the pipeline to which the access arrangement relates and include a reference to a website at which a description of the pipeline can be inspected (rule 48(1)(a)).

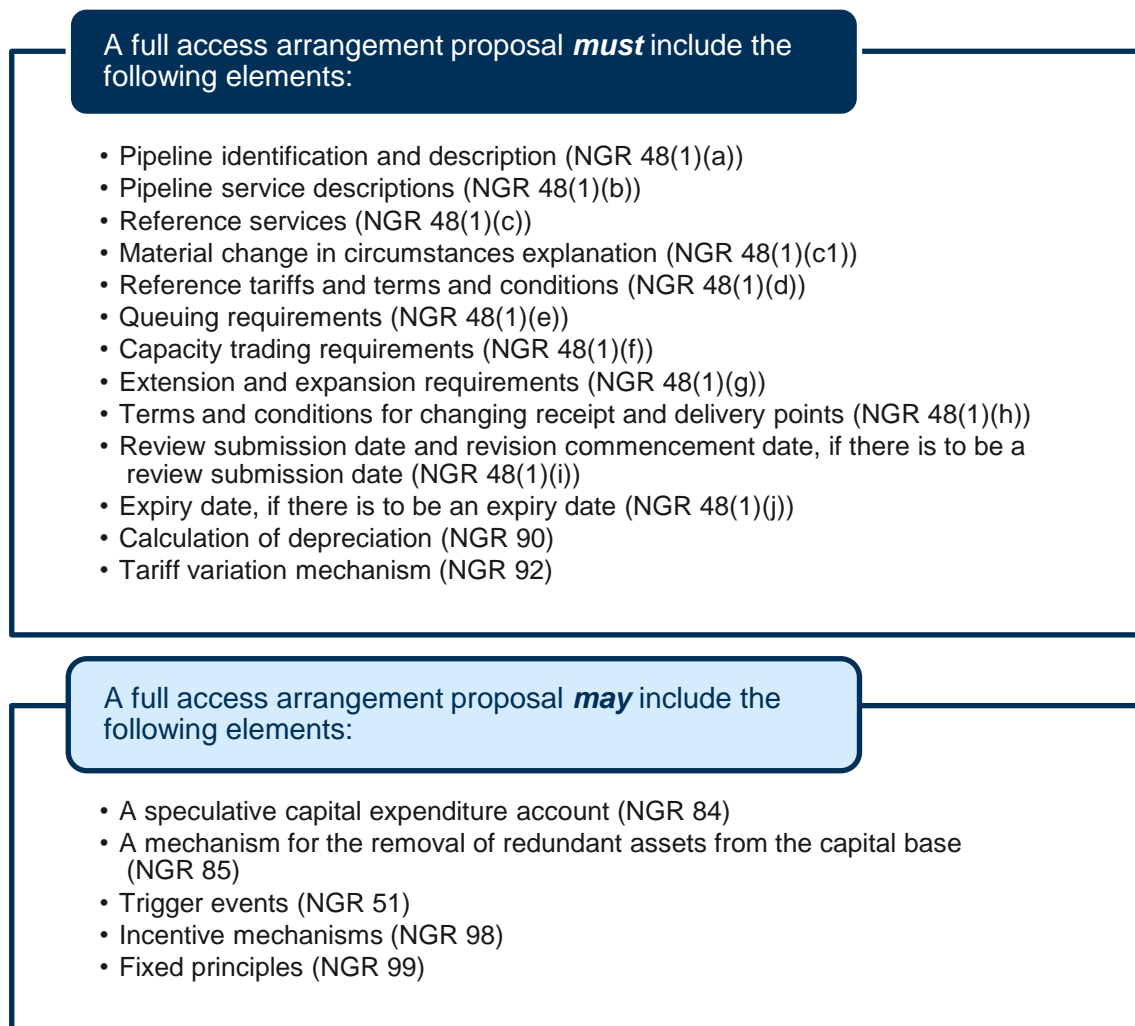
Pipeline service description

The access arrangement must describe all the pipeline services that the service provider can reasonably provide on the pipeline. These services must be consistent with the ERA's reference service proposal decision made under rule 47A, unless there has been a material change in circumstances (rule 48(1)(b)).

⁴³ NGR, rule 46(1A); see rule 46(1A)(a) and (b) for exceptions relating to light regulation pipelines and CTP access arrangements.

⁴⁴ NGR, rule 48.

⁴⁵ NGR, rule 43.

Figure 12 Content of a full access arrangement and full access arrangement proposal

Reference services

The access arrangement must specify the reference services, which must be consistent with the ERA's reference service proposal decision made under rule 47A, unless there has been a material change in circumstances (rule 48(1)(c)). The provision of each reference service must conform to rule 109, which prohibits the bundling of services unless it is reasonably necessary to do so.

Material change in circumstances explanation

Where pipeline services and/or reference services information, provided under rules 48(1)(b) and/or 48(1)(c), respectively, is different to the ERA's reference service proposal decision made under rule 47A, the access arrangement must include a description of the material change in circumstances that necessitated the change having regard to the reference service factors (rule 48(1)(c)(1)).⁴⁶

⁴⁶ The 'reference service factors' are explained in Figure 10 of this Guideline (page 35).

The ERA's reference service proposal decision is discussed in Chapter 5 of this Guideline (see: "5.2 Reference service proposal and approval process", page 36).

Reference tariffs and terms and conditions

For each reference service, the access arrangement must specify the reference tariff and the other terms and conditions on which each reference service will be provided (rule 48(1)(d)).

The reference tariffs must be derived as per the revenue and pricing principles set out in the NGL.⁴⁷ These principles set out a framework for the construction of the reference tariffs. In particular, the 'building block' approach is used to determine total revenue which is then allocated to calculate the reference tariffs.⁴⁸ The requirements to determine total revenue and the allocation of total revenue to calculate the reference tariffs is discussed further in this chapter.

The other terms and conditions on which each reference service will be provided may cover (but are not limited to) obligations for system use gas, line-pack requirements, overruns, gas quality and metering. The service provider is required to provide terms and conditions for reference services that are reasonable.

Queuing requirements

Queuing requirements are necessary if the access arrangement is for a transmission pipeline. Otherwise, for a distribution pipeline, queuing requirements are not necessary unless the ERA has given prior notification of the need to include queuing requirements (rule 48(1)(e)).

Rule 103 details specific provisions for queuing requirements, which must:

- Establish a process or mechanism (or both) for establishing an order or priority between prospective users of spare or developable capacity (or both) in which all prospective users are treated on a fair and equal basis. Prioritisation may be on a first-come-first-served basis, via public auction or via another means.
- Be sufficiently detailed to enable prospective users to understand the basis on which an order of priority is determined. If an order of priority has been determined, prospective users must be able to know their positions in the queue.

Capacity trading requirements

The access arrangement must set out the capacity trading requirements that will apply (rule 48(1)(f)). These requirements outline the basis for the transfer of contracted capacity across pipeline service users.

Rule 105 details specific provisions for capacity trading requirements, such as:

- If the service provider is registered as a participant in a gas market, a transfer of contracted capacity must be in accordance with the rules or procedures governing the relevant gas market. If a service provider is not registered, or the rules or procedures do not deal with capacity trading, then the capacity trading requirements must be in accordance with the provisions of rule 105.
- In accordance with the provisions of rule 105:

⁴⁷ NGL, section 24.

⁴⁸ NGR, rule 76.

- Capacity trading requirements must allow a user to transfer all or any of the user's contracted capacity to a third party. The consequences of undertaking this transfer will differ depending on whether the user seeks the service provider's consent for the transfer.
- Where consent to transfer capacity is sought from the service provider, the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so.

Extension and expansion requirements

The access arrangement must set out the extension and expansion requirements that will apply (rule 48(1)(g)). The extension and expansion requirements must comply with the provisions set out in rule 104, which include the following:

- Extension and expansion requirements may state whether the applicable access arrangement will apply to incremental services to be provided as a result of a particular extension to the pipeline made during the access arrangement period or may allow for later resolution of that question on a basis stated in the requirements.
- Extension and expansion requirements may, if the service provider agrees, state that the applicable access arrangement will apply to incremental services to be provided as a result of a particular extension to the pipeline made before the revision commencement date for the applicable access arrangement.
- Extension and expansion requirements must state that the applicable access arrangement will apply to incremental services to be provided as a result of any expansion to the capacity of the pipeline during the access arrangement period and deal with the effect of the expansion on tariffs.
- Extension and expansion requirements cannot require the service provider to provide funds for work involved in making an extension or expansion unless the service provider agrees.

Terms and conditions for changing receipt and delivery points

The access arrangement must state the terms and conditions for changing receipt and delivery points (rule 48(1)(h)). The NGR requires access arrangements to provide for the change of a receipt or delivery point in accordance with the following principles:⁴⁹

- A user may change its receipt or delivery point with the service provider's consent, and the service provider must not withhold consent unless it has reasonable technical or commercial grounds to do so.
- The access arrangement may specify in advance conditions under which consent will or will not be given, and the conditions to be complied with if consent is given.

Review submission date and revision commencement date

The access arrangement must contain a review submission date and revision commencement date unless it is a voluntary access arrangement (rule 48(1)(i)).

Under rule 50, the proposed revision commencement date must not be less than 12 months after the proposed review submission date. The ERA must approve the dates proposed by the service provider under rule 50(1) if the ERA is satisfied that the proposed dates are

⁴⁹ NGR, rule 106.

consistent with the national gas objective and the revenue and pricing principles. However, if the ERA does not approve the dates proposed by the service provider, the ERA must fix an alternative review submission date and/or revision commencement date.

Expiry date

The access arrangement may only contain an expiry date if it is a voluntary access arrangement, otherwise it must not contain an expiry date (rule 48(1)(j)).⁵⁰

Speculative capital expenditure account (optional)

An access arrangement may include a “speculative capital expenditure account” (rule 84). This account allows for the addition of non-conforming capital expenditure, which is not recovered through a surcharge on users or a capital contribution, to be added to a notional fund – that is, a speculative capital expenditure account. Under the rules, this account must be adjusted annually at the allowed rate of return.

If at any time the expenditure in the speculative capital expenditure account meets the conforming capital criteria, the relevant portion of the speculative capital expenditure account can be included in the capital base at the commencement of the next access arrangement period.

Mechanism for removal of redundant assets from the capital base (optional)

An access arrangement may include a mechanism to ensure that assets that cease to contribute in any way to the delivery of pipeline services are removed from the capital base (rule 85). A capital base reduction in accordance with such a mechanism may only take effect from the commencement of access arrangement periods following the access arrangement in which the mechanism was included.

Before requiring or approving a capital redundancy mechanism, the ERA must consider the uncertainty such a mechanism would cause and the effect the uncertainty would have on the service provider, users and prospective users.

Trigger events (optional)

An access arrangement may include trigger events, which provide a means to initiate a review of the access arrangement before the scheduled review submission date (rule 51). The proposal and approval process to assess revisions prompted by a trigger event is the same process that would be taken if the service provider was submitting revisions on the scheduled review submission date.

A trigger event may be any significant circumstance or a combination of circumstances. The ERA may insist that an access arrangement include a trigger event clause and may specify trigger events.

The NGR provides the following examples of trigger events:

- A re-direction of the flow of natural gas through the pipeline.
- A competing source of natural gas becomes available to customers served by the pipeline.
- A significant extension, expansion or interconnection occurs.

⁵⁰ NGR, rule 48(1)(i) and rule 49.

Incentive mechanism (optional)

An access arrangement may include (and the ERA may require it to include) one or more incentive mechanisms to encourage the service provider to provide services efficiently (rule 98). Any proposed or required incentive mechanism must be consistent with the revenue and pricing principles.

Rule 72(1)(i) provides for total revenue to include amounts (as an increment or decrement) resulting from the incentive mechanism's operation. The incentive mechanism may provide for the carryover of increments or decrements across access arrangement periods.

Fixed Principles (optional)

An access arrangement may include a principle that is declared in the access arrangement to be fixed for a stated period – that is, a 'fixed principle' (rule 99). The principle may be fixed for a period extending over two or more access arrangement periods.

Once approved, the fixed principle is binding on both the ERA and the service provider over the stated period. However, the ERA may revoke a fixed principle with the service provider's consent and if a rule is inconsistent with a fixed principle, the rule operates to the exclusion of the fixed principle.

6.2 Requirement for access arrangement information

AAI must be submitted with a full access arrangement proposal and must include any information that is specifically required by the NGL and NGR.

As noted in Chapter 1 of this Guideline, an access arrangement includes details of the terms and conditions, including prices, upon which a service provider may be required to provide access, to a third party, to pipeline services that are provided by means of the pipeline to transport and receive gas.

To determine prices, the total revenue for each regulatory year of the access arrangement period must be determined. Rule 76 provides that total revenue is to be determined for each regulatory year of the access arrangement period using the 'building block' approach. Once total revenue has been determined, the reference tariffs can be determined. Rules 92 to 96 cover the determination of reference tariffs. Details concerning the building block approach and the determination of total revenue and reference tariffs are discussed further in this chapter.

The service provider provides information used to determine total revenue, and consequently, the reference tariffs, in the AAI. Rule 72 sets out the specific requirements for the AAI relevant to price and revenue regulation. These requirements are summarised in Figure 13 and are explained below.

Figure 13 Requirements for access arrangement information relevant to price and revenue regulation

Access arrangement information must include the following information relevant to price and revenue regulation:

- Information relating to an earlier access arrangement (NGR 72(1)(a))
- Opening capital base (NGR 72(1)(b))
- Projected capital base (NGR 72(1)(c))
- Forecast pipeline capacity and utilisation of pipeline capacity (NGR 72(1)(d))
- Forecast of operating expenditure (NGR 72(1)(e))
- Allowed rate of return (NGR 72(1)(g))
- Estimated cost of corporate income tax (NGR 72(1)(h))
- Incentive mechanism for previous access arrangement period, if applicable (NGR 72(1)(i))
- Approach to setting tariffs (NGR 72(1)(j))
- Rationale for tariff variation mechanism, if applicable (NGR 72(1)(k))
- Rationale for proposed incentive mechanism, if applicable (NGR 72(1)(l))
- Total Revenue (NGR 72(1)(m))

Information relating to an earlier access arrangement

If the access arrangement commences at the end of an earlier access arrangement period, the AAI must include capital expenditure, operating expenditure, and usage information for the pipeline over the earlier access arrangement period (rule 72(1)(a)).

- Capital expenditure must be provided by asset class.
 - The asset classes for capital expenditure relating to the earlier access arrangement period need to be consistent with the asset classes for the opening capital base.
 - Where the asset classes are not consistent, the service provider will need to provide a reconciliation or explanation of any inconsistencies between asset classes for capital expenditure relating to the earlier access arrangement period and asset classes for the opening capital base.
 - Rule 82 deals with the addition to the capital base of capital expenditure in respect of which a user has paid a capital contribution to the service provider.
- Operating expenditure must be provided by category.
- Operating expenditure relating to the earlier access arrangement period should be presented in a form that is consistent with the categories of expenditure used for the forecast operating expenditure as required by rule 72(1)(a)(ii).
- Any changes in operating categories must be explained to meet the requirements of rule 73(3).
- Usage information for the pipeline over the earlier access arrangement period is dependent on the classification of the pipeline.
 - Pipeline usage information for a transmission pipeline must include: (a) minimum, maximum and average demand for each receipt or delivery point; and (b) user numbers for each receipt or delivery point.

- Pipeline usage information for a distribution pipeline must include: (a) minimum, maximum and average demand; and (b) customer numbers in total and by tariff class.

Opening capital base

The opening capital base is the capital base at the start of the access arrangement period. The AAI accompanying a full access arrangement proposal must explain how the capital base is arrived at (rule 72(1)(b)). In particular, if the access arrangement period commences at the end of an earlier access arrangement period, a demonstration of how the capital base increased or decreased over the previous access arrangement is needed.

Rule 77 sets out specific provisions for establishing the opening capital base for:

- An initial access arrangement, which is only applicable when the pipeline first becomes a covered pipeline.
- An existing access arrangement where the relevant access arrangement period follows the existing access arrangement period.
- A pipeline where there has been an intervening period during which the pipeline was not subject to a full access arrangement.

The specific requirements for establishing the opening capital base for an existing access arrangement, where the next access arrangement period follows immediately on from the conclusion of the previous access arrangement period, are detailed in rule 77(2). Figure 14 outlines the steps involved, which include the following:

- Adjusting the opening capital base at the commencement of the earlier access arrangement period for any difference between estimated (forecast) and actual capital expenditure included in that opening capital base.⁵¹
- Adding conforming capital expenditure made, or to be made, during the earlier access arrangement period.
- Adding any amounts to be added to the capital base for capital contributions (under rule 82), speculative capital expenditure (under rule 84), or the reuse of redundant assets (under rule 86).
- Adding the value calculated under rule 77(2)(c1) to determine the value of any extensions to the pipeline.⁵²
- Subtracting depreciation (which is calculated in accordance with any relevant provisions of the access arrangement governing the calculation of depreciation for the purpose of establishing the opening capital base) over the earlier access arrangement.⁵³
- Subtracting redundant assets identified during the course of the earlier access arrangement.

⁵¹ Under rule 77(2)(a), this adjustment must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure.

⁵² Under rule 104(4), if the extension and expansion requirements in the access arrangement apply to incremental services provided as a result of an extension to the pipeline, the access arrangement must, in the case of extensions made before the revisions commence date, deal with the effect of the extension on the opening capital base under rule 72(2)(c1).

⁵³ Under rule 90, a full access arrangement must contain provisions governing the calculation of depreciation for establishing the opening capital base for the next access arrangement period. The provisions must resolve whether depreciation of the capital base is to be based on forecast or actual capital expenditure.

- Subtracting the value of pipeline assets disposed of during the earlier access arrangement period.

Figure 14 Establishing the opening capital base for an existing access arrangement (NGR 77(2))



Projected capital base

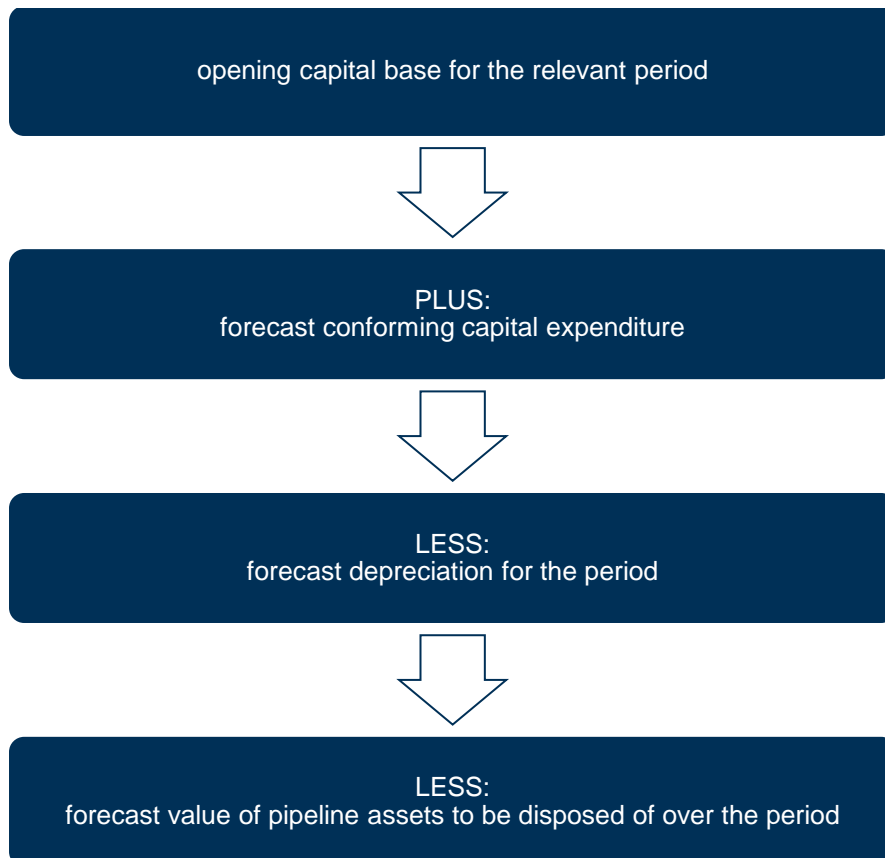
The AAI must include details of the projected capital base over the access arrangement, including:

- A forecast of conforming capital expenditure for the period and the basis for the forecast (rule 72(1)(c)(i)).

- A forecast of depreciation for the period including a demonstration of the how the forecast is derived based on the proposed depreciation method (rule 72(1)(c)(ii)).
- The forecast value of pipeline assets to be disposed of in the course of the period (rule 78(d)).

Figure 15 outlines how the projected capital base is to be calculated as per the requirements of rule 78.

Figure 15 Calculating the projected capital base for a relevant access arrangement period (NGR 78)



Conforming capital expenditure

Rule 79 details provisions for new capital expenditure criteria. Conforming capital expenditure is capital expenditure that conforms with the following criteria (rule 79(1)):

- The capital expenditure must be expenditure that would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of providing services.
- The capital expenditure must be justifiable on one of the grounds stated in rule 79(2).
- The capital expenditure must be for expenditure that is properly allocated in accordance with the requirements of rule 79(6).

Under rule 79(2) capital expenditure is justifiable if it meets one of the following:

- (a) the overall economic value of the expenditure is positive; or
- (b) the present value of the expected incremental revenue to be generated as a result of the expenditure exceeds the present value of the capital expenditure; or
- (c) the capital expenditure is necessary:
 - (i) to maintain and improve the safety of services; or
 - (ii) to maintain the integrity of services; or
 - (iii) to comply with a regulatory obligation or requirement; or
 - (iv) to maintain the service provider's capacity to meet levels of demand for services existing at the time the capital expenditure is incurred (as distinct from projected demand that is dependent on an expansion of pipeline capacity); or
- (d) the capital expenditure is an aggregate amount divisible into two parts, with one part referable to incremental services and the other part referable to a purpose outlined in paragraph (c) – the former being justifiable under paragraph (b) and the latter under paragraph (c).

Under rule 79(6) conforming capital expenditure that is included in an access arrangement proposal must be for expenditure that is allocated between: reference services; other services provided by means of the covered pipeline; and other services provided by means of uncovered parts (if any) of the pipeline, in accordance with rule 93.⁵⁴

Depreciation

The NGR requires the AAI to include a depreciation schedule that supports the value of depreciation included in the total revenue estimate.⁵⁵

To calculate the projected capital base for an access arrangement period, forecast depreciation for the period is deducted from the capital base (Figure 15). AAI must demonstrate how the forecast is derived based on the proposed depreciation method.

Rules 88, 89 and 90 detail specific provisions relating to the determination of depreciation.

- The depreciation schedule sets out the basis on which the pipeline assets constituting the capital base are to be depreciated for determining a reference tariff. The schedule may consist of a number of separate schedules, each relating to a particular asset or class of assets (rule 88).
- The depreciation schedule should be designed to meet the depreciation criteria set out in rule 89(1).
- The calculation of depreciation for rolling forward the capital base from one access arrangement to the next must include provisions that resolve whether depreciation of the capital base is based on forecast or actual capital expenditure (rule 90).

Disposed assets

The NGR requires the forecast value of pipeline assets to be disposed of in the course of the access arrangement period to be deducted from the opening capital base and forecast

⁵⁴ Rule 93 sets out the requirements for the allocation of total revenue and costs.

⁵⁵ NGR, rules 69, 72(1)(b), and 72(1)(c)(ii).

conforming capital expenditure for the period.⁵⁶ This information is required to determine the projected capital base and should therefore be provided in the AAI.

Forecast pipeline capacity and utilisation of pipeline capacity

To the extent that it is practical to forecast pipeline capacity and utilisation of pipeline capacity over the access arrangement period, AAI should provide these forecasts and explain the basis on which the forecasts were derived (rule 72(1)(d)).

Given the significance of demand as an input parameter to derive tariffs, adequate information to explain and support demand forecasts is extremely important. This information may also justify capital expenditure to maintain the service provider's capacity to meet levels of demand for services existing at the time the capital expenditure is incurred (as distinct from projected demand that is dependent on an expansion of pipeline capacity).⁵⁷

Operating expenditure

AAI must set out a forecast of operating expenditure over the access arrangement period and the basis on which the forecast has been derived (rule 72(1)(e)). Operating expenditure means operating, maintenance and other costs and expenditure of a non-capital nature incurred in providing pipeline services, including expenditure incurred in increasing long-term demand for pipeline services and developing the market for pipeline services (rule 69).

Rule 91 sets out the criteria governing operating expenditure:

- Operating expenditure must be expenditure that would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of delivering pipeline services.
- The forecast of required operating expenditure of a pipeline service provider that is included in the full access arrangement must be for expenditure that is allocated between: reference services; other services provided by means of the covered pipeline; and other services provided by means of uncovered parts (if any) of the pipeline, in accordance with rule 93.⁵⁸

Allowed rate of return

AAI must set out the allowed rate of return for each regulatory year of the access arrangement period (rule 72(1)(g)). The rate of return to be applied to the projected capital base is to be calculated in accordance with the provisions of rule 87. The allowed rate of return must be calculated in the way stated in the rate of return instrument that is approved by the ERA under a separate process.

Taxation

AAI must set out the estimated cost of corporate income tax calculated in accordance with rule 87A, including the allowed imputation credits referred to in that rule (rule 72(1)(h)).

Rule 87A(1) stipulates the formula to be used to estimate the cost of corporate income tax. Under rule 76, an estimate of the income tax payable will be calculated as a separate expense to be recovered as a building block component of revenue when setting tariffs.

⁵⁶ NGR, rule 78(d).

⁵⁷ NGR, rule 79(2)(c)(iv).

⁵⁸ Rule 93 sets out the requirements for the allocation of total revenue and costs.

Incentive mechanism

If an incentive mechanism operated for the previous access arrangement period, AAI must provide details of the proposed carryover of increments for efficiency gains or decrements for efficiency losses in the previous access arrangement period (rule 72(1)(i)). A demonstration of how an allowance is to be made for any such increments and decrements must also be included in the AAI.

If a service provider proposes to include a new incentive mechanism in the access arrangement, AAI must include the service provider's rationale for wanting to include the proposed incentive mechanism (rule 72(1)(l)).

Approach to setting tariffs

AAI must detail the proposed approach to the setting of tariffs (rule 72(1)(j)), including:

- The suggested basis of reference tariffs, including the method used to allocate costs and a demonstration of the relationship between costs and tariffs.
- A description of any pricing principles employed but not otherwise disclosed under rule 72.

Rules 94 and 95 specify how reference tariffs for a distribution pipeline and transmission pipeline, respectively, must be determined. Under rule 96, a service provider may apply to the ERA to approve prudent discounts for a particular user or prospective user, or a particular class of users or prospective users.

The revenue and pricing principles (as set out in section 24 of the NGL) provide a framework for the construction of reference tariffs, which provides for the efficient investment in gas pipelines. These principles state that:

- A service provider should be provided with a reasonable opportunity to recover at least the efficient costs incurred in providing reference services and complying with a regulatory obligation or requirement or making a regulatory payment.
- A service provider should be provided with effective incentives to promote economic efficiency with respect to reference services. The economic efficiency that should be promoted includes efficient investment in a pipeline, the efficient provision of pipeline services and efficient use of the pipeline.
- Regard should be had to any previously established capital base valuation.
- A reference tariff should allow for a return commensurate with the regulatory and commercial risks involved in providing the reference service to which that tariff relates.
- Regard should be had to the economic costs and risks associated with a service provider's potential under and over investment and under and over utilisation of the pipeline.

Once total revenue (total costs) of the pipeline has been determined, reference tariffs can be determined. Rule 93 requires total revenue to be allocated between reference services and other services on the basis of an allocation of costs. Once costs are allocated, reference tariffs can be calculated using the demand information that is included in the AAI.

Tariff variation mechanism

The AAI must include details of the service provider's rationale for any proposed reference tariff variation mechanism (rule 72(1)(k)). A reference tariff variation mechanism allows the service provider to vary reference tariffs over the course of an access arrangement period.⁵⁹

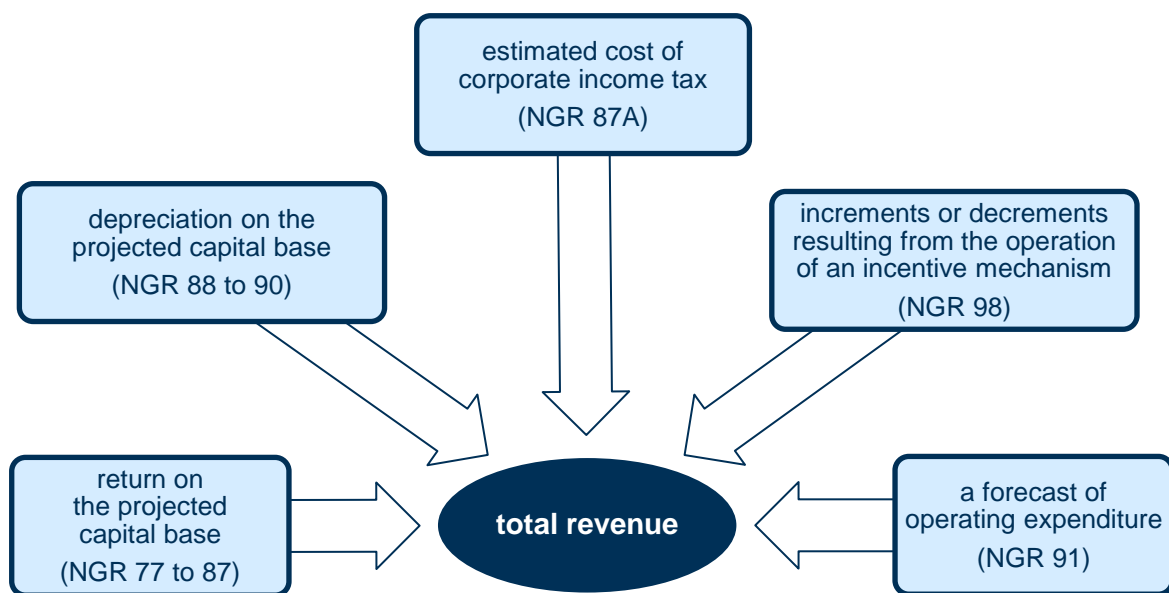
Chapter 7 of this Guideline discusses the mechanisms for reference tariff variations in more detail.

Total revenue

The AAI must explain how total revenue is to be derived from pipeline services for each regulatory year of the access arrangement period (rule 72(1)(m)).

Rule 76 sets out how total revenue is to be determined for each regulatory year of the access arrangement period using the 'building block' approach (Figure 16). The individual building blocks comprise the individual elements discussed above, which form the requirements for AAI.

Figure 16 Derivation of total revenue using the 'building block' approach (NGR 76)



Other access arrangement supporting information

Other access arrangement supporting information includes information that the service provider chooses to add to its access arrangement submission. Such supporting information may include, for example:

- Information on the market context for a pipeline, including information about the demand and support conditions along the supply chain for the pipeline.

⁵⁹ NGR, rules 92 and 97.

- An overview of the pipeline and service provider operations, including relevant corporate structure information.
- Technical consultant reports that support a service provider's access arrangement proposal.

General requirements for financial information

Under rule 73, the service provider must provide all financial information on a nominal basis, a real basis, or some other recognised basis for dealing with the effects of inflation. AAI must state the basis on which the financial information is provided. Additionally, all financial information must be provided, and all calculations made, on the same basis.

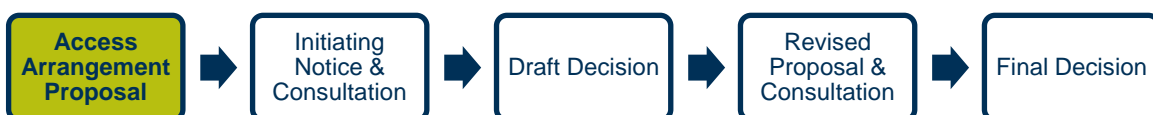
Under rule 74, the service provider must support all information in the nature of a forecast or estimate with a statement of the basis of the forecast or estimate. A forecast or estimate must be arrived at on a reasonable basis and must represent the best forecast or estimate possible in the circumstances.

Under rule 75, where information is of the nature of an extrapolation or inference, it must be supported by the primary information on which the extrapolation or inference is based.

6.3 Access arrangement proposal and approval process

Figure 3 in Chapter 3 (page 11) of this Guideline provides an overview of the decision making process for a full access arrangement. The decision making process comprises two stages with several key phases that include individual processes as prescribed by the NGR. The individual processes concerning the access arrangement proposal (Stage B) are explained here in more detail. These processes include:

- The service provider's **access arrangement proposal**, which must be submitted with AAI and may include other supporting documents (collectively these documents make up the service provider's *access arrangement submission*).
- A preliminary compliance check and publication of an **initiating notice** to commence a **first round of consultation**.
- The ERA's **draft decision** on the service provider's access arrangement submission.
- A revision period for the service provider to submit a **revised access arrangement proposal** and a **second round of consultation**.
- The ERA's **final decision** on the service provider's revised access arrangement submission, if one is submitted (otherwise, a final decision on the service provider's original access arrangement submission).



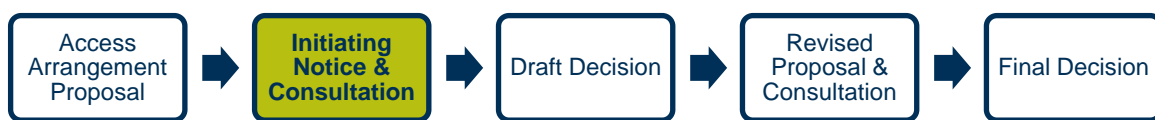
Access arrangement proposal submission

A service provider must submit an access arrangement proposal for: an initial full access arrangement (under rule 46); a voluntary full access arrangement (under rule 47); or scheduled revisions to an existing full access arrangement (under rule 52). However, prior to submitting its access arrangement proposal, the service provider (or the ERA, in some

circumstances⁶⁰) must first submit a reference service proposal and have a reference service proposal decision made by the ERA (see: Chapter 5 “Reference service proposal”, page 34).

An access arrangement proposal submission must comprise of the access arrangement proposal itself and AAI. Other supporting information may also be provided by the service provider to support elements of its proposal. The required content for an access arrangement proposal and AAI is specified in the NGR and is discussed in Chapters 6.1 and 6.2 (pages 42 and 47) of this Guideline, respectively.

In instances where the service provider fails to submit an access arrangement proposal when it is required to do so, the NGR may, in some circumstances, require the ERA to itself propose an access arrangement proposal for the pipeline.⁶¹ If so, the access arrangement proposal and approval process is the same process that would be followed if the proposal was made by a service provider, apart from the need to undertake a preliminary examination of the service provider’s proposal prior to publishing an initiating notice (as discussed below).



Initiating notice and consultation

As soon as practicable after receiving a service provider’s full access arrangement proposal the ERA must publish a notice (an “initiating notice”) to advise of the proposal and invite submissions on it (rule 58).

The NGR allows the ERA to defer the publication of an initiating notice, for up to 30 business days, to undertake a preliminary examination of the service provider’s proposal (rule 58(2)). The purpose of this preliminary check is to ensure that the proposal does not contain any deficiencies. A proposal would be deficient if it did not contain the content that is required by the NGR. To reduce the occurrence of deficient proposals, the ERA has developed an *access arrangement proposal checklist* (Appendix 5 of the Guideline) that service providers should use when finalising their proposal for submission to the ERA.

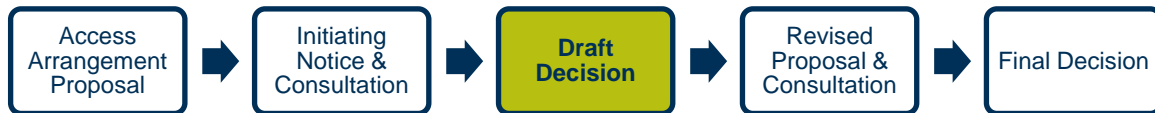
The NGR specify the minimum period over which submissions can be made as a period being at least 20 business days after publication of the initiating notice.⁶² The ERA may consider additional time for this consultation subject to the areas and/or matters in the service provider’s proposal that need to be assessed.

To assist interested parties in preparing their submissions on the service provider’s proposal, the ERA may publish an issues paper. An issues paper aims to identify areas or matters that the ERA considers to be significant and invites direct submissions on. However, an issues paper is not an exhaustive review of the service provider’s proposal and interested parties should consider all aspects of the service provider’s proposal whether highlighted in the issues paper or not. Additional information concerning the preparation and publication of issues papers is provided in Chapter 4.3 (page 29) of this Guideline.

⁶⁰ NGR, rule 47A(5).

⁶¹ NGR, rule 63(1).

⁶² NGR, rule 58(2).



Draft decision

After considering the service provider’s access arrangement proposal and any submissions made during the (first) consultation period, the ERA must make an access arrangement draft decision (rule 59). Under the NGR, the ERA’s draft decision must indicate whether the ERA is prepared to approve the service provider’s access arrangement proposal as submitted and, if not, the nature of the amendments that are required to make the proposal acceptable to the ERA. In either case, the ERA must include in its draft decision a statement of the reasons for its draft decision.

As part of the assessment process, the ERA may engage independent consultants to provide advice on some aspects of the service provider’s proposal. For example, the ERA may engage a consultant with pipeline operations experience to provide advice on the service provider’s proposed capital and/or operating expenditure. Subject to confidentiality provisions, the ERA will generally publish any independent consultant reports that it commissions with its draft decision.⁶³

Where the ERA’s draft decision indicates that revision of the service provider’s access arrangement proposal is necessary for it to be approved, the service provider must be given an opportunity to provide a revised access arrangement proposal. The NGR require the ERA to fix the “revision period”, in which the service provider can provide its revised proposal, to be at least 30 business days (rule 59(3)).

When the ERA makes its access arrangement draft decision, the ERA must (rule 59(5)):

- Provide a copy of the draft decision to the service provider.
- Publish the decision on the ERA’s website, together with a notice that:
 - states that an access arrangement draft decision has been made and gives a reference to the website at which the relevant access arrangement proposal and relevant draft decision may be inspected;
 - specifies the revision period (in which the service provider can submit a revised proposal); and
 - invites written submissions within the time allowed in the notice, which must be at least 20 business days from the end of the revision period.

Following publication of the ERA’s draft decision, a hearing relating to the draft decision may be held in accordance with the provisions set out in the rule 61. Under these provisions:

- A hearing may be held by the ERA on its own initiative or on request from any person.
- A request for hearing must: be made within 10 business after publication of the draft decision; state the applicant’s name and contact details; and state the applicant’s reasons for requesting a hearing.
- The ERA may refuse a request for a hearing, but must give the applicant written reasons for the refusal.

⁶³ See Chapter 4.5 of this Guideline for information about confidentiality.

- If the ERA decides to hold a hearing (whether on request or its own initiative), it must appoint a time and place for it and give notice of these details on the ERA's website.



Revised proposal submission and consultation

As indicated above, where the draft decision does not approve the service provider's access arrangement proposal, the service provider may, within the revision period that is specified by the ERA (which must be at least 30 business days), submit a revised access arrangement proposal.⁶⁴

The NGR sets out specific provisions for a revised access arrangement proposal (rule 60). These provisions provide that:

- The service provider's revised access arrangement proposal must only include revisions (amendments) that are necessary to address the matters raised in the draft decision unless the ERA approves further amendments. For example, the ERA might approve amendments to the access arrangement proposal to deal with a material change in circumstances of the service provider's business since submission of the access arrangement proposal.
- If the service provider submits amendments to the access arrangement proposal, the service provider must also provide the ERA, together with the amendments, a revised proposal incorporating the amendments.
- As soon as practicable after receiving the revised access arrangement proposal, the ERA must publish it on the ERA's website.

The time period allowed for interested parties to make submissions on the ERA's draft decision takes into account the submission of a revised access arrangement proposal. That is, the NGR require the consultation period on the ERA's draft decision to be at least 20 business days from the end of the revision period that is set for the service provider to submit a revised access arrangement proposal (rule 59(5)(c)(iii)).

Given the required minimum consultation periods set by the NGR for the service provider to respond to the ERA's draft decision (a period of at least 30 business days), and for interested parties to make submissions on the ERA's draft decision (a period of at least 20 business days from the set revision period for the service provider), interested parties have a total period of at least 50 business days to make a submission. The ERA may consider providing additional time for this consultation subject to the areas and/or matters that are addressed in the draft decision. In providing for a longer consultation period, the ERA must be cognisant of the overall delay to the decision making process and how this will affect the commencement date of the relevant access arrangement period. Additional information concerning consultation periods is provided in Chapter 4.4 (page 30) of this Guideline.

⁶⁴ NGR, rule 60(1).



Final decision

After considering the service provider's revised access arrangement proposal (if submitted) and any submissions made during the (second) consultation period in response to the draft decision, the ERA must make an access arrangement final decision (rule 62). Under the NGR, the ERA's final decision is a decision to approve, or refuse to approve, the access arrangement proposal. In either case, the ERA must include the reasons for its final decision.

Like the draft decision assessment process, the ERA may engage independent consultants to provide advice during the final decision assessment process. Subject to confidentiality provisions, the ERA will generally publish any independent consultant reports that it commissions with its final decision.⁶⁵

Once the ERA makes its final decision, the ERA must provide a copy of the final decision to the service provider and publish the final decision on the ERA's website (rule 62(5)).

Decision to approve

Under rule 62(6), where the ERA's final decision approves the service provider's access arrangement proposal (or, if submitted, revised proposal), the relevant access arrangement or relevant revisions, to which the decision relates, takes effect on the date that is fixed in the decision. If there is no fixed date, the relevant access arrangement or relevant revisions will take effect 10 business days after the date of the final decision. In the case of an access arrangement revision proposal, this date may, but will not necessarily, be the revision commencement date fixed in the access arrangement.

Decision to refuse to approve

Where the ERA's final decision refuses to approve the service provider's access arrangement proposal (or, if submitted, revised proposal), the ERA must itself propose an access arrangement for the relevant pipeline. Rule 64 sets out specific provisions for this, which provide that:

- The ERA's proposal must be formulated with regard to the legislative requirements for an access arrangement, the service provider's access arrangement proposal and the ERA's reasons for refusing to approve that proposal.
- The ERA may (but is not obliged to) consult on its own proposal.
- The ERA must, within two months after making its final decision, make a decision to give effect to its own proposal.

To ensure timely outcomes, the ERA's decision to give effect to its own proposal may form part of the final decision. That is, the ERA's final decision to refuse to approve the service provider's proposal can also serve as the decision to give effect to the ERA's own proposal. Like an approved service provider proposal, the ERA's relevant proposed access arrangement or relevant revisions, to which the decision relates, takes effect on the date that is fixed in the

⁶⁵ See Chapter 4.5 of this Guideline for information about confidentiality.

decision. If there is no fixed date, the ERA's relevant access arrangement or relevant revisions will take effect 10 business days after the date of the final decision.

6.4 Legislated timeframes

Certain stages of the access arrangement proposal and approval process must be completed within legislated timeframes. Table 2 sets out these stages and the relevant timeframes.

Table 2 Access arrangement proposal and approval process legislated timeframes

Process	Timeframe
Submission of service provider's full access arrangement proposal (NGR 46(1A)).	Within three months after the ERA makes a reference service proposal decision. <i>*Under NGR 46(3), the ERA may extend this period by no more than 2 months.</i>
Notification of the ERA's receipt of a full access proposal – that is, publication of an "initiating notice" (NGR 58(1)).	As soon as practicable after receiving a full access arrangement proposal. <i>*Under NGR 58(2), the ERA may defer publication of an initiating notice for up to 30 business days after the submission of the proposal if the ERA considers the proposal is deficient in some respect and allows the service provider an opportunity to correct the deficiency.</i>
Consultation period on the service provider's full access arrangement proposal (NGR 58(1)(c)).	At least 20 business days after the publication of the first initiating notice. <i>*Under rule 58(3) a service provider may, with the ERA's consent, revise its full access arrangement proposal even after an initiating notice has been published.</i>
A request for a hearing about the ERA's access arrangement draft decision (NGR 61(2)). <i>*Under rule 61 the ERA may, on its own initiative or on request by any person, hold a hearing about the access arrangement draft decision.</i>	Within 10 business days after publication of the draft decision.
"Revision period" for a service provider to submit a revised access arrangement proposal in response to the ERA's access arrangement draft decision that indicates revision of the proposal is necessary to make it acceptable (NGR 59(3)).	A period of at least 30 business days.
Consultation period on the ERA draft access arrangement decision and, if submitted, the service provider's revised access arrangement proposal (NGR 59(5)(c)(iii)).	At least 20 business days from the end of the revision period.
Total time for the ERA to make an access arrangement final decision (NGR 62(7)).	Eight months from the date of receipt of the service provider's access arrangement proposal. <i>*Under rule 62(8), this time limit cannot be extended by more than a further 2 months.</i>

Process	Timeframe
Start date for the access arrangement, where the ERA's final access arrangement decision is to approve the service provider's proposal, or revised proposal if one is submitted (NGR 62(6)).	The date fixed in the ERA's final decision, or if no date is fixed, 10 business days after the date of the final decision.
Time for the ERA to propose its own full access arrangement proposal and make a decision to give effect to its proposal, where the ERA's final access arrangement decision is to refuse to approve the service provider's proposal, or revised proposal where one is submitted (NGR 64(1)).	Within two months after the ERA's access arrangement final decision although the ERA may include, in its final decision, its decision to give effect to its own access arrangement proposal.
Time for ERA to make a decision to give effect to its own full access arrangement proposal, where the service provider fails to submit an access arrangement proposal when it is required to do so (NGR 63(2)).	Within six months after the end of the period allowed for submission of an access arrangement proposal by the service provider. As noted above, the ERA may include this decision in its final decision.
Start date for the access arrangement, where the ERA is required to propose an access arrangement after making a final access arrangement decision to refuse to approve the service provider's proposal, or revised proposal where one is submitted (NGR 64(6)).	The date fixed in the ERA's decision giving effect to its access arrangement or revised access arrangement (which may be included in the ERA's final decision or may be a separate determination), or if no date is fixed, 10 business days after the date of the decision that gives effect to the ERA's proposal.

7. Reference tariff variations

During an access arrangement period, reference tariffs are generally varied as provided by the process set out in the relevant access arrangement. A full access arrangement must include a mechanism (a “reference tariff variation mechanism”) for variation of a reference tariff over the course of an access arrangement period. Except where provided by a reference tariff variation mechanism, a reference tariff must not vary during the course of an access arrangement period (rule 97(5)).

As explained in Chapter 6 of this Guideline, the service provider’s rationale for any proposed reference tariff variation mechanism must be included in the access arrangement information that accompanies the service provider’s access arrangement proposal.

Rule 97 sets out the provisions for dealing with the mechanics of reference tariff variation. Under rule 97(1), the tariff variation mechanism may provide for reference tariffs to vary by any of the following methods (including a combination of two or more of the methods):

- In accordance with a schedule of fixed tariffs.
- In accordance with a formula set out in the access arrangement.
- As a result of a cost pass through for a defined event (such as, for example, a cost pass through for a particular tax).
- As a rebate of a portion of revenue generated from the sale of rebateable services (if any) to reduce the reference tariff as contemplated under rule 93(3).

A reference tariff variation mechanism must give the ERA adequate oversight or powers of approval over the variation of the reference tariffs (rule 97(4)).

Generally, tariff variations are on an annual basis and the service provider’s reference tariff variation proposal should be submitted to the ERA 40 business days before the commencement of the relevant tariff variation. The ERA uses its reasonable endeavours to assess and approve a reference tariff variation proposal approximately 20 business days before the commencement of the relevant tariff variation, subject to the proposal complying with the service provider’s tariff variation mechanism as set out in the access arrangement. The 20 business day window before the commencement of the variation is to allow adequate time to communicate the new reference tariffs to gas retailers and users ahead of the new reference tariffs taking effect. Not all customers will be affected by reference tariff changes unless stipulated by their gas transportation agreements (contracts), but in any case, the varied reference tariffs will inform any new contract negotiations for access to services provided by means of the pipeline.

If the ERA does not approve the service provider’s proposed reference tariff variations, variation of the reference tariffs will not take effect. The ERA will provide written reasons to the service provider explaining why the variation proposal was not approved and the service provider can then submit a complying reference tariff variation proposal for approval.

To ensure the timely approval of a reference tariff variation proposal, it is essential for the service provider to provide information to explain and demonstrate compliance of the proposal with the reference tariff variation mechanism in the access arrangement. Such information must substantiate the values used in calculating the varied tariffs. The ERA’s published tariff models for the relevant access arrangement include a worksheet that allows any approved formula to be calculated. However, any supporting calculations for the formula inputs should be provided in separate excel workbooks.

8. Reviewing decisions

The NGL does not explicitly provide for the judicial review of decisions, except for decisions made by the Australian Energy Market Commission or Bulletin Board Operator.⁶⁶

Access arrangement decisions made by the ERA under the NGL are reviewable decisions that are subject to judicial review by the Supreme Court of Western Australia under the *Supreme Court Act 1935 (WA)*.⁶⁷

The purpose of a judicial review is to ensure the decision was made according to law.

Under the Supreme Court Act, a person (including a company) may apply for judicial review of an access arrangement decision to the Supreme Court seeking relief, which can include a writ (court order) or an equitable remedy.

⁶⁶ See NGL, sections 242 and 243.

The note to section 242 (which reads: “The Commonwealth Minister, NCC and AER are subject to judicial review under the Administrative Decisions (Judicial Review) Act 1977 of the Commonwealth”) does not apply to the ERA. The Judicial Review Act applies only to the judicial review of decisions that are proposed or required to be made by either a Commonwealth authority or an officer of the Commonwealth. The ERA is not a Commonwealth authority and ERA officers are not officers of the Commonwealth.

⁶⁷ *Supreme Court Act 1935 (WA)* ([online](#)) (accessed July 2022).

Appendix 1 List of Tables

Table 1	Reference service proposal and approval process legislated timeframes	40
Table 2	Access arrangement proposal and approval process legislated timeframes	61
Table 3:	Reference service proposal compliance checklist.....	68
Table 4:	Full access arrangement proposal compliance checklist	70
Table 5	Confidentiality template for claims of confidentiality over certain information	75
Table 6	Civil penalty provisions in the NGL and NGR relevant to the access arrangement framework and gas access arrangement guideline	76
Table 7	Conduct provisions in the NGL and NGR relevant to the access arrangement framework and gas access arrangement guideline	79

Appendix 2 List of Figures

Figure 1	Fully regulated gas pipelines in Western Australia.....	5
Figure 2	Classification of pipelines under the National Gas Law	7
Figure 3	Stages to the decision making process for a full access arrangement	11
Figure 4	Decision making process for a full access arrangement – Stage A (Reference Service Proposal)	14
Figure 5	Decision making process for a full access arrangement – Stage B (Access Arrangement Proposal)	15
Figure 6	Calculation of time under the access arrangement framework	22
Figure 7	Standard consultative procedure versus actual access arrangement decision making procedure under the National Gas Rules	24
Figure 8	Expedited consultative procedure under the National Gas Rules.....	25
Figure 9	Process for serving a regulatory information notice	28
Figure 10	What are reference service factors?.....	35
Figure 11	What makes a non-compliant reference service proposal?	37
Figure 12	Content of a full access arrangement and full access arrangement proposal	43
Figure 13	Requirements for access arrangement information relevant to price and revenue regulation	48
Figure 14	Establishing the opening capital base for an existing access arrangement (NGR 77(2)).....	50
Figure 15	Calculating the projected capital base for a relevant access arrangement period (NGR 78)	51
Figure 16	Derivation of total revenue using the ‘building block’ approach (NGR 76).....	55

Appendix 3 Abbreviations

AAI	access arrangement information
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
ERA	Economic Regulation Authority
NCC	National Competition Council
NGL	National Gas Law
NGR	National Gas Rules
RIN	regulatory information notice
RIO	regulatory information order

Appendix 4 Reference service proposal checklist

On receipt of a service provider's reference service proposal, the NGR allow the ERA to undertake a preliminary compliance check of it. Under rule 47A(4), if the service provider's proposal is found to be non-compliant in some way, the ERA may notify the service provider and require the proposal to be resubmitted.

Service providers should use this checklist (Table 3) to ensure their reference service proposal complies with the requirements of the NGR. The checklist sets out the legislative requirements for a reference service proposal and enables the service provider to confirm and reference sections within the proposal or another document where the requirement is satisfied.

Table 3: Reference service proposal compliance checklist

Legislative requirement	Legislative reference	Checklist n/a = not applicable	Service provider proposal and/or other document reference
Reference service proposal content			
Proposal identifies the pipeline to which it relates, including a reference to a website where a description of the pipeline can be reviewed.	NGR 47A(1)(a)	<input type="checkbox"/>	
Proposal sets out all the pipeline services that the service provider can reasonably provide by means of the pipeline, including a description of each of the services. <i>Note: The description of each of the services should consider the different characteristics of pipeline services, including those listed in rule 47A(2).</i>	NGR 47A(1)(b)	<input type="checkbox"/>	
Proposal identifies, from the list of pipeline services that the service provider can reasonably provide, at least one service to be specified as a reference service. <i>Note: In identifying which pipeline services to specify as a reference service, regard must be had to the reference service factors in rule 47A(15) including any supporting information required by the ERA.</i>	NGR 47A(1)(c)	<input type="checkbox"/>	

Legislative requirement	Legislative reference	Checklist n/a = not applicable	Service provider proposal and/or other document reference
Where the service provider has engaged with pipeline users in developing its proposal, proposal describes any feedback from those users about which pipeline services should be specified as a reference service.	NGR 47A(1)(d)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
Reference service proposal submission			
For a full regulation pipeline where an existing access arrangement applies, proposal submitted no later than 12 months prior to the review submission date for the access arrangement.	NGR 47A(3)(a)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
For a full regulation pipeline where no existing access arrangement applies, proposal submitted in accordance with rule 46. <i>Note: Rule 46(1) requires a reference service proposal to be submitted within 20 business days after a pipeline becomes a covered pipeline.</i>	NGR 47A(3)(b)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	

Appendix 5 Access arrangement proposal checklist

Rule 48 of the NGR sets out the requirements for a *full arrangement* and *full access arrangement proposal*. Access arrangement information (AAI) must also be submitted with a service provider's access arrangement proposal (rule 43). AAI is information that is reasonably necessary for users to understand the background to an access arrangement and the basis and derivation of its various elements. Rule 72 sets out specific requirements for AAI relevant to price and revenue regulation.

On receipt of a service provider's access arrangement proposal, the NGR allows the ERA to undertake a preliminary compliance check before notifying interested parties of the proposal via the publication of an 'initiating notice' (rule 58). Under rule 58(2), the ERA may defer the publication of an initiating notice if it considers the service provider's proposal to be deficient in some way and require the service provider to correct the deficiency.

Service providers should use this checklist (Table 4) to ensure its access arrangement proposal and AAI complies with the requirements of the NGR. The checklist sets out the legislative requirements for an access arrangement proposal and AAI and provides for the service provider to confirm and reference sections within the proposal or another document where the requirement is satisfied.

Table 4: Full access arrangement proposal compliance checklist

Legislative requirement	Legislative reference	Checklist n/a = not applicable	Service provider proposal and/or other document reference
Full access arrangement proposal content			
Proposal identifies the pipeline to which the access arrangement relates and includes a reference to a website where a description of the pipeline can be inspected.	NGR 48(1)(a)	<input type="checkbox"/>	
Proposal describes all the pipeline services that the service provider can reasonably provide. <i>Note: This description must be consistent with the ERA's reference service proposal decision (made under rule 47A), unless there has been a material change in circumstances.</i>	NGR 48(1)(b)	<input type="checkbox"/>	

Legislative requirement	Legislative reference	Checklist n/a = not applicable	Service provider proposal and/or other document reference
<p>Proposal specifies the reference services.</p> <p><i>Note: The reference services must be consistent with the ERA's reference service proposal decision (made under rule 47A), unless there has been a material change in circumstances.</i></p>	NGR 48(1)(c)	<input type="checkbox"/>	
<p>If the pipeline services and reference services information is different to the ERA's reference service proposal decision (made under rule 47A), proposal describes the material change in circumstances that necessitated the change having regard to the reference service factors.</p>	NGR 48(1)(c1)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
<p>For each reference service, proposal specifies the reference tariff and the other terms and conditions on which each reference service will be provided.</p>	NGR 48(1)(d)	<input type="checkbox"/>	
<p>If the access arrangement is to contain queuing requirements, proposal sets out the queuing requirements.</p> <p><i>Note: Queuing requirements are necessary for a transmission pipeline. Queuing requirements are not necessary for a distribution pipeline unless the ERA has given prior notification of the need to include them (see rule 103).</i></p>	NGR 48(1)(e)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
<p>Proposal sets out the capacity trading requirements.</p>	NGR 48(1)(f)	<input type="checkbox"/>	
<p>Proposal sets out the extension and expansion requirements.</p>	NGR 48(1)(g)	<input type="checkbox"/>	
<p>Proposal states the terms and conditions for changing receipt and delivery points.</p>	NGR 48(1)(h)	<input type="checkbox"/>	

Legislative requirement	Legislative reference	Checklist n/a = not applicable	Service provider proposal and/or other document reference
<p>If there is to be a review submission date, proposal states the review submission date and the revision commencement date.</p> <p><i>Note: A full access arrangement must contain a review submission date and a revision commencement date unless it is a voluntary full access arrangement.</i></p>	NGR 48(1)(i)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
<p>If there is to be an expiry date, proposal states the expiry date.</p> <p><i>Note: Only a voluntary full access arrangement may contain an expiry date.</i></p>	NGR 48(1)(j)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
AAI (access arrangement information) content related to price and revenue regulation			
<p>If the access arrangement period commences at the end of an earlier access arrangement period, AAI includes:</p> <ul style="list-style-type: none"> • Capital expenditure (by asset class) over the earlier access arrangement period. • Operating expenditure (by category) over the earlier access arrangement period. • Pipeline use over the earlier access arrangement period showing: <ul style="list-style-type: none"> – for a distribution pipeline: minimum, maximum and average demand. – for a transmission pipeline: minimum, maximum and average demand for each receipt or delivery point. – for a distribution pipeline: customer numbers in total and by tariff class. – for a transmission pipeline: user numbers for each receipt or delivery point. 	NGR 72(1)(a)(i)	<input type="checkbox"/>	
	NGR 72(1)(a)(ii)	<input type="checkbox"/>	
	NGR 72(1)(a)(iii)(A)	<input type="checkbox"/>	
	NGR 72(1)(a)(iii)(B)	<input type="checkbox"/>	

Legislative requirement	Legislative reference	Checklist n/a = not applicable	Service provider proposal and/or other document reference
AAI includes information on how the capital base is arrived at and, if the access arrangement period commences at the end of an earlier access arrangement period, a demonstration of how the capital base increased or diminished over the previous access arrangement period.	NGR 72(1)(b)	<input type="checkbox"/>	
<p>AAI includes the projected capital base over the access arrangement period, including:</p> <ul style="list-style-type: none"> • A forecast of conforming capital expenditure for the period and the basis for the forecast. • A forecast of depreciation for the period including a demonstration of how the forecast is derived on the basis of the proposed depreciation method. 	NGR 72(1)(c)(i)	<input type="checkbox"/>	
AAI includes, to the extent it is practicable to forecast pipeline capacity and utilisation of pipeline capacity over the access arrangement period, a forecast of pipeline and utilisation of pipeline capacity over that period and the basis on which the forecast has been derived.	NGR 72(1)(d)	<input type="checkbox"/>	
AAI includes a forecast of operating expenditure over the access arrangement period and the basis on which the forecast has been derived.	NGR 72(1)(e)	<input type="checkbox"/>	
AAI includes the allowed rate of return for each regulatory year of the access arrangement period.	NGR 72(1)(g)	<input type="checkbox"/>	
AAI includes the estimated cost of corporate income tax calculated in accordance with rule 87A, including the allowed imputation credits referred to in that rule.	NGR 72(1)(h)	<input type="checkbox"/>	

Legislative requirement	Legislative reference	Checklist n/a = not applicable	Service provider proposal and/or other document reference
If an incentive mechanism operated for the previous access arrangement period, AAI includes the proposed carry-over of increments for efficiency gains or decrements for efficiency losses in the previous access arrangement period and a demonstration of how allowance is to be made for any such increments/decrements.	NGR 72(1)(i)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
AAI includes the proposed approach to the setting of tariffs, including the suggested basis of reference tariffs including the method used to allocate costs and a description of any pricing principles employed.	NGR 72(1)(j)	<input type="checkbox"/>	
AAI includes the service provider's rationale for any proposed reference tariff variation mechanism.	NGR 72(1)(k)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
AAI includes the service provider's rationale for any proposed incentive mechanism.	NGR 72(1)(l)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
AAI includes the total revenue to be derived from pipeline services for each regulatory year of the access arrangement period.	NGR 72(1)(m)	<input type="checkbox"/>	
Full access arrangement proposal submission			
For an initial access arrangement proposal submission, proposal submitted within three months after the ERA makes a reference service proposal decision.	NGR 46(1A)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	
For an access arrangement revision proposal (that is, where a relevant access arrangement already exists), proposal submitted on or before the review submission date of the applicable access arrangement.	NGR 52(1)	<input type="checkbox"/> (or n/a <input type="checkbox"/>)	

Appendix 6 Confidentiality template

Interested parties wishing to submit confidential information to the ERA should use this confidentiality template (Table 5) to identify the information over which a confidentiality claim is being made. The information provided in the confidentiality template will assist the ERA in assessing the confidentiality claim being made.

Note: The completed confidentiality table must not contain any confidential information.

Table 5 Confidentiality template for claims of confidentiality over certain information

Required Information	
Document title	<i>Provide the document title containing the confidential information.</i>
Page and/or paragraph number(s)	<i>Provide the page and/or paragraph number(s) of the document where the confidential information is located.</i>
Topic	<i>Identify the topic to which the confidential information relates. For an access arrangement, topics may include, for example: demand; operating expenditure; capital expenditure; rate of return, tariffs, terms and conditions etc.</i>
Description of confidential information	<i>Provide a description of the confidential information, which must include enough detail for other parties to understand the nature of the confidential information without disclosing the confidential information.</i>
Category of confidential information and reason for category	<i>Identify which category applies to the confidential information:</i> <ul style="list-style-type: none"> • <i><u>Information affecting the security of the pipeline</u> – information which, if made public, may jeopardise pipeline security or a service provider's ability to effectively plan and operate the pipeline.</i> • <i><u>Market sensitive cost inputs</u> – information such as supplier prices, internal labour costs and other information that would affect the service provider's ability to obtain competitive prices in future infrastructure transactions, such as tender processes.</i> • <i><u>Market intelligence</u> – information that may provide an advantage to a service provider's competitors for non-regulated or contestable activities.</i> • <i><u>Strategic information</u> – information such as the acquisition of land and easements, where the release of this information might adversely impact the service provider's ability to negotiate a fair market price for these items.</i> • <i><u>Personal information</u> – information about an individual or customer whose identity is apparent or can reasonably be ascertained.</i> • <i><u>Other</u> – information that is claimed to be confidential but does not fit into one of the above categories. Further explanation must be provided to substantiate the use of the 'other' category.</i>
Reason(s) for detriment if disclosed	<i>Provide reasons as to how and why disclosure of the confidential information causes detriment.</i>
Reason(s) why detriment is not outweighed by public benefit	<i>Provide reasons as to why the detriment is not outweighed by the public benefit of disclosing the confidential information (that is, why wont the public benefit from the disclosure of the information).</i>

Appendix 7 Penalties

Service providers are required to comply with certain provisions under the NGL and non-compliance with these provisions can result in civil or conduct penalties.

Sections 3 and 4 of the NGL set out which provisions of the Law are civil penalty provisions and/or conduct provisions, respectively. The rules that are classified as civil penalty and/or conduct provisions in the NGR are detailed in Schedules 3 and 4 of the national gas regulations, respectively.⁶⁸

The civil penalty and conduct provisions relevant to the access arrangement framework and this Guideline are reproduced in Table 6 and Table 7 for information.⁶⁹

Table 6 Civil penalty provisions in the NGL and NGR relevant to the access arrangement framework and gas access arrangement guideline

Civil Penalty Provision	Heading [and description]
NGL, section 56	Compliance with regulatory information notice that is served [On being served a notice, a person named in the notice must comply with the notice]
NGL, section 57	Compliance with general regulatory information order [On publication of an order, a person who is a member of the class of person to which the order applies must comply with the order]
NGL, section 131	Service provider must be legal entity of a specified kind to provide pipeline services by covered pipeline [A covered pipeline service provider must not provide a pipeline service unless it is a legal entity of a specified kind]
NGL, section 133	Preventing or hindering access [Specified persons, including a covered pipeline service provider, must not prevent or hinder the access of another person to a pipeline service provided by means of the covered pipeline]
NGL, section 135	Covered pipeline service provider must comply with queuing requirements [A service provider must comply with the queuing requirements of an applicable access arrangement]
NGL, section 136	Covered pipeline service provider providing light regulation services must not price discriminate [A service provider providing pipeline services by means of a light regulation pipeline must not price discriminate]
NGL, section 147	Service provider must not enter into or give effect to associate contracts that have anti-competitive effect [A service provider providing pipeline services by means of a covered pipeline must not enter into or give effect to associate contracts that have an anti-competitive effect]

⁶⁸ The national gas regulations applying in Western Australia are made under the *National Gas Access (WA) Act 2009* and are the *National Gas Access (WA) (Part 3) Regulations 2009* ([online](#)) (accessed June 2022).

⁶⁹ Note the list of civil penalty and conduct provisions in these tables relate to the service provider undertaking an access arrangement and not for other provisions, such as ring-fencing, bulletin boards and non-scheme gas pipelines.

Civil Penalty Provision	Heading [and description]
NGL, section 148	<p>Service provider must not enter into or give effect to associate contracts inconsistent with competitive parity rule</p> <p>[A service provider providing pipeline services by means of a covered pipeline must not enter into or give effect to associate contracts that are inconsistent with the competitive parity rule]</p>
NGL, section 168	<p>Limited access arrangements for pipeline services provided by international pipeline to which a price regulation exemption applies</p> <p>[A service provider of an international pipeline with a price regulation exemption must submit a limited access arrangement]</p>
NGL, section 169(3)	<p>Other obligations to which service provider is subject</p> <p>[A service provider for a pipeline to which a price regulation exemption applies must ensure compliance with conditions to which the price regulation exemption is subject to]</p>
NGL, section 170	<p>Service provider must not price discriminate in providing international pipeline services</p> <p>[A service provider providing international pipeline services must not price discriminate]</p>
NGL, section 195	<p>Compliance with access determination</p> <p>[A party to an access dispute in respect of which an access determination is made must comply with the access determination]</p>
NGR, rule 27(4)	<p>CTP access arrangement</p> <p>[A service provider must publish the approved CTP access arrangement on its website]</p>
NGR, rule 33(1)	<p>Notification of associate contracts</p> <p>[A service provider must, within 5 business days after entering into or varying an associate contract, give the ERA written notice together with a copy of the contract]</p>
NGR, rule 36	<p>Service provider must publish terms and conditions of access to light regulation services</p> <p>[A service provider providing services by means of a light regulation pipeline must publish terms and conditions of access]</p>
NGR, rule 37	<p>Service provider must provide information about access negotiations for light regulation services</p> <p>[A service provider providing services by means of a light regulation pipeline must report on access negotiations]</p>
NGR, rule 43(1)	<p>Requirement to provide access arrangement information</p> <p>[A service provider must submit access arrangement information with an access arrangement proposal]</p>
NGR, rule 46	<p>Submission of full access arrangement proposal (Section 132 of the NGL)</p> <p>[A service provider must submit a full access arrangement when required]</p>

Civil Penalty Provision	Heading [and description]
NGR, rule 52(1)	<p>Access arrangement revision proposal [A service provider must submit an access arrangement revision proposal when required]</p>
NGR, rule 53(6)	<p>Access arrangement proposal for division or consolidation of access arrangements [A service provider must comply with a direction by the regulator to submit separate access arrangement proposals for different parts of the covered pipeline]</p>
NGR, rule 107	<p>Availability of applicable access arrangement and other information [A service provider must make applicable access arrangement and other information available on its website]</p>
NGR, rule 108	<p>Information about tariffs [A service provider must make information about tariffs available to a prospective user who requires a pipeline service when there is no published tariff]</p>
NGR, rule 109	<p>Prohibition of bundling of services [A service provider cannot make the bundling of services a condition for the provision of a pipeline service]</p>
NGR, rule 110	<p>Information to be provided by users about unutilised contracted capacity [Information about a user's unutilised contracted capacity must be provided to the service provider]</p>
NGR, rule 112	<p>Requests for access [Prospective users and service providers must comply with requests for access]</p>
NGR, rule 137	<p>Maintenance of confidentiality [A service provider must not disclose confidential information or use this information for unintended purposes]</p>
NGR, rule 138	<p>Obligation to disclose gas supply information in certain circumstances [A service provider must disclose gas supply information when requested by a person to whom the information relates]</p>

Table 7 Conduct provisions in the NGL and NGR relevant to the access arrangement framework and gas access arrangement guideline

Conduct Provision	Heading [and description]
NGL, section 133	Preventing or hindering access [Specified persons, including a covered pipeline service provider, must not prevent or hinder the access of another person to a covered pipeline service]
NGL, section 135	Covered pipeline service provider must comply with queuing requirements [A service provider must comply with the queuing requirements of an applicable access arrangement]
NGL, section 136	Covered pipeline service provider providing light regulation services must not price discriminate [A service provider providing pipeline services by means of a light regulation pipeline must not price discriminate]
NGL, section 147	Service provider must not enter into or give effect to associate contracts that have anti-competitive effect [A service provider providing pipeline services by means of a covered pipeline must not enter into or give effect to associate contracts that have an anti-competitive effect]
NGL, section 148	Service provider must not enter into or give effect to associate contracts inconsistent with competitive parity rule [A service provider providing pipeline services by means of a covered pipeline must not enter into or give effect to associate contracts that are inconsistent with the competitive parity rule]
NGL, section 170	Service provider must not price discriminate in providing international pipeline services [A service provider providing international pipeline services must not price discriminate]
NGR, rule 33(1)	Notification of associate contracts [A service provider must, within 5 business days after entering into or varying an associate contract, give the ERA written notice together with a copy of the contract]
NGR, rule 36	Service provider must publish terms and conditions of access to light regulation services [A service provider providing services by means of a light regulation pipeline must publish terms and conditions of access]
NGR, rule 107	Availability of applicable access arrangement and other information [A service provider must make applicable access arrangement available on its website]
NGR, rule 108	Information about tariffs [A service provider must make information about tariffs available to a prospective user who requires a pipeline service that can be provided when there is no published tariff]

Conduct Provision	Heading [and description]
NGR, rule 109	<p>Prohibition of bundling of services [A service provider cannot make the bundling of services a condition for the provision of a pipeline service]</p>
NGR, rule 110	<p>Information to be provided by users about unutilised contracted capacity [Information about a user's unutilised contracted capacity must be provided to the service provider]</p>
NGR, rule 112	<p>Requests for access [Prospective users and service providers must comply with requests for access]</p>
NGR, rule 137	<p>Maintenance of confidentiality [A service provider must not disclose confidential information or use this information for unintended purposes]</p>
NGR, rule 138	<p>Obligation to disclose gas supply information in certain circumstances [A service provider must disclose gas supply information when requested by a person to whom the information relates]</p>