Economic Regulation Authority

# Final decision on access arrangement for the Mid-West and South-West Gas Distribution Systems (2025 to 2029)

Overview

8 November 2024

D283299

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At the ERA we value our cultural diversity and respect the traditional custodians of the land and waters on which we live and work.

We acknowledge their continuing connection to culture and community, their traditions and stories. We commit to listening, continuously improving our performance and building a brighter future together.


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# 1. Overview

This final decision is the Economic Regulation Authority's response to ATCO Gas Australia's proposed five-year plan for its gas network (referred to as an access arrangement). It covers the period from 1 January 2025 to 31 December 2029 (AA6).

The tariffs ATCO charges its customers, which are informed by its access arrangement, make up approximately 30 per cent of the average residential gas bill.

To make its decision, the ERA has undertaken a detailed scrutiny of ATCO's proposal to ensure that all intended expenditure is efficient and prudent. Through this process, the ERA has endeavoured to ensure the ongoing safe and reliable operation of the gas network at least cost.

This AA6 review has taken place during a period of debate about the future of gas use in Australia, with an escalating community and government focus on reducing carbon emissions.

Also while ATCO's proposal for investment across the next five years is largely in line with the previous access arrangement period, the broader economy is now experiencing higher inflation and interest rate costs.

In the long-term, it is likely that gas use will decline from current levels as the economy transitions to net zero emissions by 2050. This presents risks to companies like ATCO that own large-scale infrastructure as a long-term investment. However, in the shorter term of this five-year access arrangement period, the data analysed by the ERA shows that gas use for ATCO's gas network is likely to continue at current levels.

The ERA has sought to balance the need to limit price increases for consumers, who are under considerable financial pressure, against allowing ATCO to prepare for a prospective future where, as pipeline use declines, its costs will be recovered from a smaller, and possibly more vulnerable, group of gas users. One way the ERA has approached this in the final decision is to accept ATCO's proposal to allow for an amount of accelerated depreciation, so that ATCO can recover some of its investment more quickly while there is a larger customer base.

In this final decision, the ERA has increased the amount of ATCO's revenue it considers efficient and prudent from the draft decision, which increases tariffs. If passed on in full by retailers, this decision would add around $19 to the annual average residential gas bill on 1 January 2025. The reasons for that increase are explained further below.

The ERA acknowledges the feedback from many stakeholders throughout this review that all efforts should be made to keep tariff increases to a minimum. Considering the high-cost environment affecting both households and businesses, the ERA has elected to implement this tariff increase in five equal, smaller steps over the five years of the access arrangement, rather than in a single, large increase on 1 January 2025.

To reach its final decision the ERA has considered expert opinions and analysis from external independent consultants, stakeholder submissions and other customer consultation. The ERA has also taken account of the revised national gas objective, which now requires the ERA to consider expenditure to reduce carbon emissions in line with government targets.

Further explanation of the matters informing the final decision can be found in this overview document and the attachments that together comprise the final decision.

## Final decision

The ERA has approved total revenue of $1,374.63 million in this final decision, $112.47 million lower than ATCO's revised proposal ($1,487.1 million), but $157.03 million higher than the ERA's draft decision ($1,217.6 million).

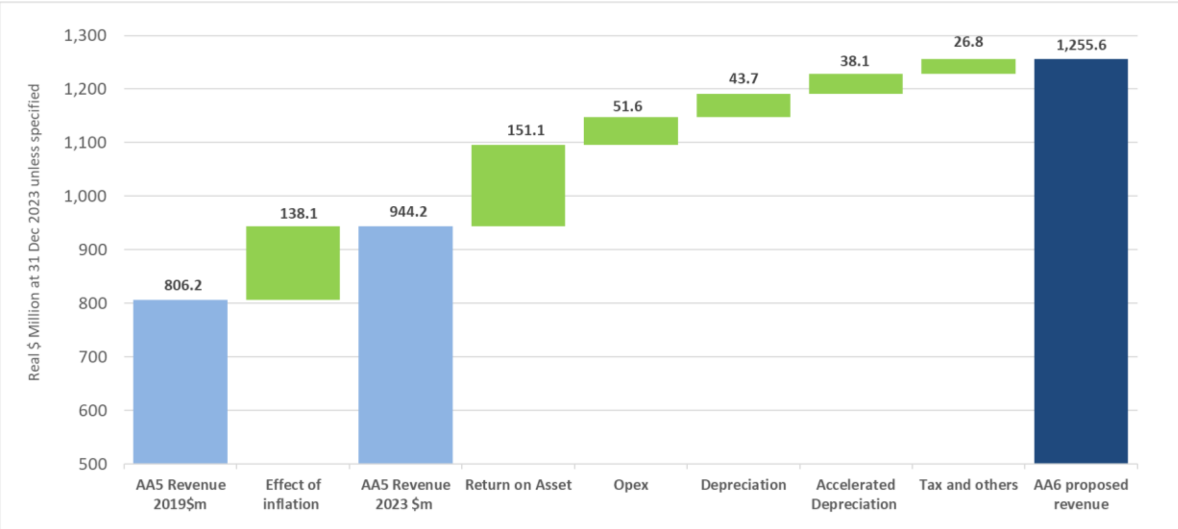
The ERA's final decision differs from the draft decision published in April 2024 in the following key ways:

- $23.5 million more due to using 2023 actual costs to inform forecast operating expenditure instead of 2022 actual costs.
- $32.4 million more for Information Technology (IT) AA6 capital expenditure, and $10.7 million more for IT operating expenditure, following ATCO conducting a more thorough review of its IT requirements.
- $37.2 million to account for mislabelled information provided by ATCO, which the ERA relied upon when making AA6 expenditure adjustments in its draft decision.
- $12.9 million for short-term employee incentive program payments based on further justification for these payments by ATCO.

As discussed below, the ERA has also allowed an amount for accelerated depreciation and emissions reduction activities, both of which were not previously included in the draft decision.

However, the largest driver of increasing network tariffs remains the rate of return that affects the return on asset, which is driven by conditions in the financial markets like higher interest rates and inflation. The chart below shows the change in total revenue (in real dollar terms) from the previous (AA5) access arrangement period.

**Change in total revenue (unsmoothed) from AA5 to AA6 by building block ($ million real at 31 December 2023)**




The forecast increase in network tariffs on 1 January 2025 is about 8 per cent per year above inflation for non-residential customers. For residential customers, the forecast increase in the gas network bill for the average residential customer is 7 per cent above inflation.

For subsequent years, tariff increases are the same for both residential and non-residential customers at 7.8 per cent per year above inflation.

The Western Australian Government sets the maximum retail gas price for small use customers (residential and small businesses). Gas retailers will decide if or when they pass on these network tariff increases to those customers on competitive contracts.

ATCO proposed a step change in tariffs on 1 January 2025, which would have been an increase of 32.4 per cent for B3 (residential) customers, and 42.4 per cent for other (non-residential) customers. ATCO also proposed a 3 per cent annual increase for subsequent years. As discussed above, the ERA has chosen to smooth the effect of the tariff increase over the next five years, with tariffs to increase by 7.8 per cent per year above inflation.

### Accelerated depreciation

Accelerated depreciation enables the recovery of more depreciation in the earlier years of an asset's life and less depreciation in the later years of the asset's life (compared to a constant depreciation method).

ATCO proposed to use accelerated depreciation during AA6, to account for the growing uncertainty around the long-term use of natural gas and the associated risk to the value of its assets.

The ERA did not allow any accelerated depreciation in the draft decision, as ATCO's proposal was not supported by a robust justification and data. Following the draft decision, ATCO has greatly improved the quality of its modelling and analysis, so that the ERA is now satisfied that some amount of accelerated depreciation is reasonable.

The ERA has allowed an amount of accelerated depreciation, that is around 56 per cent lower than ATCO's revised proposal, which mitigates the risk of ATCO's network becoming a stranded asset without unduly raising costs for current customers.

### Emissions reduction

The ERA recognises the importance of carbon emissions reduction strategies across the economy to reduce Australia's carbon emissions and meet legislated government targets.

ATCO is responsible for the carbon emissions that leak from its pipelines in the transportation of gas to its customers.

The ERA has provided ATCO with $4.1 million in operating expenditure to spend on the purchase of carbon offsets.

### Ongoing monitoring

The ERA intends to use the annual Regulatory Information Notice process, where regulated networks are required to submit data to show how they are progressing against the targets and requirements of their access arrangement to monitor how ATCO is implementing this decision.

This will include reporting on its progress on emissions reduction and the associated operating expenditure.

# 2. Final decision

The ERA's final decision is to not approve ATCO's revised access arrangement proposal submitted to the ERA on 10 June 2024. A summary of the final decision is contained in Section 3 of this document, with detailed reasoning set out in attachments. This Overview, together with the following (separate) attachments, form the ERA's final decision:

- Attachment 1: Access arrangement and services
- Attachment 2: Demand
- Attachment 3: Revenue and tariffs
- Attachment 4: Regulatory capital base
- Attachment 5: Operating expenditure
- Attachment 6: Depreciation
- Attachment 7: Return on capital, taxation, incentives
- Attachment 8: Other access arrangement provisions
- Attachment 9: Service terms and conditions

The amendments the ERA requires to the revised access arrangement submitted by ATCO in its response to the ERA's draft decision are set out in the final decision attachments. A summary of these required amendments is included in Appendix 2.

Pursuant to the regulatory framework, the ERA must now itself propose revisions to the access arrangement for the Mid-West and South-West Gas Distribution Systems and make a decision to give effect to its proposal, within two months of this final decision.[1]

The ERA considers that this final decision constitutes the decision that gives effect to the ERA's proposed access arrangement revisions.

As required, the ERA has formed its proposed revisions to the access arrangement having regard to the regulatory requirements, ATCO's revised proposal and the ERA's reasons for not approving it. The ERA has made the necessary revisions to ATCO's revised access arrangement proposal, consistent with the required amendments in this final decision.[2] The ERA has also drafted its own access arrangement information that contains the information required to understand the basis and derivation of the various elements of the approved access arrangement.

The ERA has published its final decision and approved access arrangement and access arrangement information.[3, 4]

The ERA's approved access arrangement will take effect on 1 January 2025.[5]

1 NGR, rules 64(1) and 64(4).

2 NGR, rule 64(2).

3 ERA, 'GDS: Access Arrangement for Period commencing 2025' (online) (accessed November 2024).

4 NGR, rule 64(5).

5 NGR, rule 64(6).

# 3. Summary of final decision

## 3.1 Regulatory framework in Western Australia

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 a modified version of the NGL and NGR in Western Australia.[6]

ATCO's access arrangement proposal assumed that various amendments to the regulatory framework would be implemented in Western Australia before the ERA's review process was completed.

At the time of making this final decision, the only amendment to be implemented in Western Australia (in January 2024) is the incorporation of an emissions reduction objective into the national gas objective.[7] The other legislative amendments assumed by ATCO, to deliver a simpler regulatory framework and extend the regulatory framework to incorporate other gases, are yet to be implemented.

## 3.2 Access arrangement and services

In its access arrangement proposal, ATCO:

- Identified the pipeline to which the access arrangement relates as the "Mid-West and South-West Gas Distribution Systems", with a detailed description of the pipeline available on ATCO's website.
- Specified the access arrangement review submission date and revision commencement date as 1 September 2028 and 1 January 2030, respectively.
- Specified a total of 12 reference services to be offered under the access arrangement (five haulage reference services and seven ancillary reference services), which are consistent with the reference services approved in ATCO's reference service proposal (Table 1).

The ERA approved these elements of ATCO's access arrangement proposal in the draft decision. ATCO did not make any changes to these elements in its revised proposal in response to the draft decision.

6 The NGL as implemented in Western Australia is set out as a note in the *National Gas Access (WA) Act 2009*. See: Western Australian Legislation (online) (accessed November 2024).
At the time of this decision, *National Gas Access (WA) Act 2009, 25 January 2024 was in effect.*
The current rules that apply in Western Australia are available from the Australian Energy Market Commission: AEMC, 'National Gas Rules (Western Australia)' (online) (accessed November 2024).
At the time of this decision, *National Gas Rules – Western Australia version 12 (1 February 2024)* was in effect.

7 *Western Australian Government Gazette 24 January 2024 No.8* (online) (accessed November 2024).

**Table 1: Reference services offered under the access arrangement for AA6**

| Reference service | Description |
|---|---|
| **Haulage reference services** | |
| A1 service | A service for major industrial customers using > 35 TJ of gas per year, at high or medium pressures. |
| A2 service | A service for large customers using between 10 and 35 TJ of gas per year, at high or medium pressures. |
| B1 service | A service for medium sized customers using < 10 TJ of gas per year, at high or medium pressures. |
| B2 service | A service for small-use customers with a standard meter with capacity from 12 $m^3/h$ to less than 18 $m^3/h$, typically commercial or large residential, supplied at medium or low pressures. |
| B3 service | A service for small-use customers with a standard meter capacity less than 12 $m^3/h$, typically residential or small business customers, supplied at medium or low pressures. |
| **Ancillary reference services** | |
| Deregistering a delivery point | A service to permanently deregister a delivery point.<br>Relevant to A1, A2, B1, B2 and B3 services. |
| Applying a meter lock | A service to apply a lock to prevent gas from being received at a delivery point.<br>Relevant to B2 and B3 services. |
| Removing a meter lock | A service to remove a lock that prevented gas from being received at a delivery point.<br>Relevant to B2 and B3 services. |
| Disconnecting a delivery point | A service to temporarily physically disconnect the delivery point to prevent gas from being delivered to a delivery point.<br>Relevant to B2 and B3 services. |
| Reconnecting a delivery point | A service to physically reconnect the delivery point that was temporality disconnected to prevent gas from being delivered to a delivery point.<br>Relevant to B2 and B3 services. |
| Special metering reading | A service to perform an out-of-cycle meter reading.<br>Relevant to B1, B2 and B3 services. |
| Permanent disconnection | A service to permanently disconnect a property from the gas distribution system.<br>Relevant to B2 and B3 services. |

There were no submissions from interested parties on the ERA's draft decision or ATCO's revised proposal that addressed the requirements to identify the pipeline, specify access arrangement dates and/or specify reference services. Given this, the ERA maintains its draft decision position and approves these access arrangement elements for AA6 in this final decision.

## 3.3 Demand

Demand forecasts are critical in determining the necessary levels of capital and operating expenditure for an access arrangement period, and in setting the reference tariffs. Demand forecasts include projections for haulage reference services (the transportation of gas to homes and businesses) and ancillary reference services (which include the disconnection and reconnection of services, special meter reads and applying or removing meter locks).

The ERA has evaluated ATCO's revised demand forecast for both haulage and ancillary reference services for the sixth access arrangement period (AA6), and has considered the economic outlook for the relevant industries, historic trends for gas usage, and the broader policy environment. Additionally, the ERA considered feedback from stakeholders and commissioned a survey of residential builders on future demand for new dwellings and gas connections.

Long-term, demand for gas is likely to fall to meet net-zero emissions targets. The ERA has considered this in Final Decision Attachment 6 as part of ATCO's proposal for accelerated depreciation proposal. However, for this coming AA6 period, the impact of electrification on demand for ATCO's network will continue to decline slowly which has been observed over recent years. For residential customers, the ERA expects that customers will continue to connect to the gas network, albeit at a slower rate, and will consume less gas as they purchase and use fewer and more efficient gas appliances.

**Haulage service demand**

ATCO proposed a revised haulage reference service demand forecast of 141,822TJ for the AA6 period. This is 5,231TJ (3.6 per cent) lower than ATCO's initial proposal, due to lower forecast demand in the A1 (large industrial and commercial) tariff class. ATCO projected an average customer base of 842,186 by 2029, which is 2,726 customers (0.3 per cent) higher than its initial proposal, due to a slight increase in forecast B3 residential customers.

In its revised proposal, ATCO adjusted the demand forecast by updating it with actual connection and consumption figures for 2023 and known changes for all tariff classes. It also used survey results for some customers in the A1 and A2 tariff classes.[8]

The ERA was concerned that ATCO's demand forecasts overly relied on historical trends, without taking into account the econometric impacts on demand for non-surveyed customers in the A1 and A2 tariff classes, as well as all customers in the B1, B2 and B3 tariff classes.

The ERA engaged Oxford Economics to obtain actual dwelling completion data to inform the demand forecast for the B3 (residential customers) tariff class. The ERA also engaged Patterson Research Group to survey major residential builders on the take-up of electrification in new housing. Patterson's survey results indicated that an acceleration in residential electrification among new builds is unlikely during AA6.

ATCO's survey of customers in the A1 and A2 tariff classes shows there is an expected increase in gas consumption over the AA6 period. The ERA has accepted ATCO's 2022 survey results for surveyed customers in the A1 and A2 tariff classes, with adjustments for known changes that occurred after the draft decision. For non-surveyed customers in the A1 and A2 tariff classes and all customers in the B1 and B2 tariff classes, the ERA considers that

8 Customers in the A1 and A2 tariff classes who provided demand forecasts for AA6 in response to ATCO's 2022 demand survey are referred to as surveyed customers. Remaining customers in the A1 and A2 tariff classes are referred to as non-surveyed customers.

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economic growth has an important influence on industrial and commercial activities, and therefore on gas demand. For these customers, the ERA has used econometric analysis as a basis to forecast demand. The ERA forecasts an increase in gas consumption for non-surveyed customers in the A1 and A2 tariff classes, as well as in the B1 and B2 tariff classes over the AA6 period.

The ERA projects an increase in gas consumption for B3 residential customers over the AA6 period due to an increase in net connections. This increase more than offsets a decline in consumption per connection, due to factors including the use of more efficient gas appliances or electrifying some appliances in the home.

### ERA revised forecast

The ERA forecasts an average customer base of 866,699 in 2029, at the end of the AA6 period, which is 24,513 (2.9 per cent) higher than ATCO's forecast. The ERA's demand forecast for haulage reference services is 148,521TJ for the AA6 period, which is 6,699TJ (4.7 per cent) higher than ATCO's forecast. The differences in the average customer base and demand forecasts are primarily in the B3 tariff classes influenced by a higher dwelling completion and connection in the ERA's analysis. Table 2 compares the ERA's and ATCO's demand forecasts for haulage reference services.

**Table 2: Haulage reference services demand forecast comparison between ATCO revised proposal and ERA final decision**

| Tariff class | ATCO revised proposal | ERA final decision | Variance | Variance (%) |
|---|---|---|---|---|
| **A1 – Major industrial > 35 TJ** | | | | |
| Average customer base (2029) | 63 | 68 | 5 | 7.94 |
| Demand (AA6 total TJ) | 68,110 | 69,041 | 931 | 1.37 |
| **A2 – Large customers 10 to 35 TJ** | | | | |
| Average customer base (2029) | 104 | 104 | 0 | 0.00 |
| Demand (AA6 total TJ) | 9,418 | 9,942 | 524 | 5.56 |
| **B1 – Medium customers < 10 TJ** | | | | |
| Average customer base (2029) | 2,303 | 2,311 | 8 | 0.35 |
| Demand (AA6 total TJ) | 10,662 | 11,407 | 745 | 6.99 |
| **B2 – Small-use commercial or large residential** | | | | |
| Average customer base (2029) | 13,903 | 13,862 | (41) | (0.29) |
| Demand (AA6 total TJ) | 6,425 | 6,839 | 414 | 6.44 |
| **B3 – Small use customers** | | | | |
| Average customer base (2029) | 825,813 | 850,354 | 24,541 | 2.97 |
| Demand (AA6 total TJ) | 47,207 | 51,292 | 4,085 | 8.65 |

| Tariff class | ATCO revised proposal | ERA final decision | Variance | Variance (%) |
|---|---|---|---|---|
| **Total** | | | | |
| Average customer base (2029) | 842,186 | 866,699 | 24,513 | 2.91 |
| Demand (AA6 total TJ) | 141,822 | 148,521 | 6,699 | 4.72 |

### Ancillary services demand

The ERA's forecast for ancillary reference services is based on the ERA's average customer connection forecast for the B3 tariff class, given that these ancillary services are predominantly only provided to users of the B3 tariff class. Table 3 compares the ERA's and ATCO's demand forecasts for ancillary reference services.

**Table 3: Ancillary reference services demand forecast comparison between ATCO revised proposal and ERA final decision**

| Ancillary reference service | ATCO revised proposal | ERA final decision | Variance | Variance (%) |
|---|---|---|---|---|
| Applying a Meter Lock | 48,116 | 50,737 | 2,621 | 5.45 |
| Removing a Meter Lock | 43,387 | 41,738 | (1,649) | (3.80) |
| Deregistering a delivery point | 10,483 | 16,452 | 5,969 | 56.94 |
| Disconnecting a delivery point | 16,127 | 17,610 | 1,483 | 9.20 |
| Reconnection a delivery point | 15,724 | 13,940 | (1,784) | (11.35) |
| Permanent disconnection | 6,767 | 9,549 | 2,782 | 41.11 |
| Special meter reads | 524,124 | 552,738 | 28,614 | 5.46 |

## 3.4 Revenue and tariffs

ATCO's revised proposal included a total revenue requirement for AA6 of $1,487.1 million (nominal), which was 22 per cent higher than the ERA's draft decision requirement of $1,217.6 million (nominal). The main reasons for the $269.5 million increase in ATCO's revised total revenue include a $121.6 million increase in operating expenditure and a $97 million increase for accelerated depreciation.

The ERA has approved a total revenue requirement of $1,374.6 million (nominal) for this final decision, driven largely by accepting a higher 2023 base operating expenditure value (including correction of an error in corporate operating expenditure), accepting some short term employee incentive payments, approving some step changes in operating costs, approving additional information technology investment and allowing $41.7 million for accelerated depreciation.

### Tariff structures

The haulage reference tariff classes remain the same as the current (AA5) access arrangement, with amendments to the reference tariff structure for the B3 Service.

In its draft decision, the ERA required ATCO to demonstrate why a declining block tariff structure remained appropriate for B3 reference tariff customers. A block tariff structure charges more for an initial amount – or block – of gas, and then less for further consumption – effectively incentivising the consumption of more gas. ATCO's revised proposal was to retain a block tariff structure for B3 customers.

The ERA considers that ATCO did not sufficiently demonstrate that the benefits of retaining a declining block tariff structure substantially outweighed the detriments of moving to a flat tariff structure. The ERA considers that a flat tariff structure, where all gas consumed is charged at the same price, sends a neutral price signal to customers, encouraging them to maintain or perhaps even reduce their gas use. This would better meet the revised national gas objective, which now includes a direct consideration of emissions reduction and energy efficiency.

For the other (non-B3) reference services, the ERA has accepted ATCO's revised proposal to maintain a declining block tariff structure, noting ATCO's reasoning of specific commercial considerations for non-B3 customers and the need for further stakeholder engagement. The ERA expects ATCO to undertake further consultation on efficient tariff structures with retailers and other non-B3 customers during AA6. ATCO's proposal for the next (AA7) access arrangement should be informed by this stakeholder consultation and must demonstrate that the proposed tariff structure for AA7 best achieves the amended national gas objective.

### Tariff path

In the draft decision, the ERA noted that it would consider using a smoothed tariff path if price increases were to be materially higher in the final decision.

Given the increase in revenue since the draft decision, adopting a one-off step increase in 2025 would result in price increases of 25.3 per cent for all customers, which is much higher than the 12.5 per cent step increase set out in the draft decision. For this reason, the ERA has decided to apply a smoothed real price tariff path option.

The ERA's final decision is to set (real) tariff increases at 7.8 per cent per year for AA6. Due to rebalancing the usage charges for B3 customers, the average B3 network bill increases by 7 per cent in 2025, with tariffs increasing by 7.8 per cent thereafter.

The ERA considers that its decision to smooth the tariff path satisfies the requirements for tariffs under the regulatory framework, including the *National Gas Access (WA) (Local Provisions) Regulations 2009*, which requires the access arrangement to deliver uniform tariffs for small use customers; and consideration of the impact of reference tariffs, including the method to determine and vary them, on small use customers and retailers.

### Tariff variation

Reference service tariffs are varied during the access arrangement period in accordance with the tariff variation mechanism. For ancillary reference services, tariffs are updated for actual inflation. For haulage reference services, tariffs are updated for inflation, the debt risk premium (that varies annually) and cost pass through events.

Cost pass through events are defined events that incur costs that cannot be (and have not been) reasonably forecast; are beyond the control of the service provider; and relate to the provision of reference services. The tariff variation (cost pass through event) mechanism allows these costs to be recovered through an adjustment to the reference tariffs during the access arrangement period.

For AA6, ATCO included a fifth, and new, cost pass through event for regulatory changes to address emissions reductions and incorporate other gases; and retained the existing four cost pass through events from the current (AA5) access arrangement with some proposed drafting amendments.

The ERA has not approved ATCO's new cost pass through event; and has maintained its draft decision position to delete the cost pass through event for emissions control laws (cost pass through event four) from the access arrangement on the basis that:

- The changes to the regulatory framework to include other gases (once effective in Western Australia) is not a change in law that requires ATCO to include other gases; rather it will allow ATCO the discretion to transport other gases through its distribution system if it chooses to do so. The cost pass through event (tariff variation) mechanism is not designed for complex cost assessments of discretionary expenditure.
- ATCO's proposed amendments add unnecessary complexity to the access arrangement. The intent of this cost pass through event is to recover any conforming capital expenditure related to laws covering greenhouse gas emissions that was not (or could not have been) reasonably forecast; is beyond ATCO's control; and is related to the provision of reference services. The existing cost pass through event for a change in law or tax change provides for this, making the emissions control laws pass through event unnecessary.

## 3.5 Regulatory capital base

**Opening capital base**

The opening capital base for the start of the AA6 period (1 January 2025) is $1,582.5 million (real 2023 dollars). This reflects the ERA's final decision on the amount of conforming capital expenditure for AA5 and the inclusion of the approved AA5 depreciation.

The ERA's final decision for AA5 capital expenditure is $398.8 million. This is $0.7 million higher than the draft decision and $1.4 million less than ATCO's revised proposal.

The reductions from ATCO's revised proposal relate to the removal of project contingencies in 2024 costs estimates from a number of network sustaining projects ($1.1 million) and from some IT projects ($0.3 million). The ERA notes that these cost estimates for 2024 were provided by ATCO in June 2024 and by that time ATCO should have had a good understanding of the expenditure for 2024. In any event, the ERA considers that project contingencies are not warranted as the ERA is approving capital expenditure in aggregate and the inclusion of contingencies for individual projects will over-inflate the aggregate forecast.

**Projected capital base**

The projected capital base for the end of the AA6 period (31 December 2029) is $1,681.1 million. This reflects the ERA's final decision on the amount of conforming forecast capital expenditure and depreciation for AA6.

The ERA's final decision AA6 capital expenditure is $504.5 million. This is $61.4 million (13.9 per cent) higher than the draft decision and $13.8 million (2.8 per cent) higher than ATCO's revised proposal.

The increase in the ERA's approved final decision capital expenditure from the draft decision is mainly driven by:

- **Information technology (IT) expenditure ($32.4 million higher):**
  - ATCO proposed a significant increase in its IT capital expenditure from the original proposal to its revised proposal. While ATCO removed some original programs, it proposed IT programs that were more costly and as a result led to an increase in overall IT expenditure.
  - The ERA and its technical consultant, EMCa reviewed ATCO's revised proposal in detail and followed up on a number of queries. EMCa noted that the cost estimate provided as part of the initial proposal was not likely to reflect the total cost of successfully implementing projects of the complexity and scale required. This reflected a poorly developed initial estimate that omitted or under-estimated significant aspects of scope. Nevertheless, in general, EMCa found that most items in the revised proposal are warranted and other than contingency, the ERA finds most of the cost conforms with the NGR.
  - The change in IT expenditure between the draft and the final decisions was driven by the large increase between ATCO's initial and revised proposals. ATCO's revised proposal highlighted the current IT deficiencies and requirements and provided substantial information to back up the proposal. This was missing in the initial proposal.
- **Network growth expenditure ($12 million higher)**: The ERA's demand and growth connections forecast is higher than ATCO's revised proposal numbers. The reasons for the ERA's final decision demand forecasts are set out in the demand attachment 2 accompanying the final decision. The higher demand forecast led to a higher network growth expenditure of $190 million.
- **Asset replacement expenditure (11.7 million higher)**: The ERA accepted the unit rate increases as they were based on up-to-date tender information from vendors. Additionally, three new programs proposed by ATCO were accepted.
- **Renewable gases expenditure (no change)**: ATCO proposed a lower number of renewable gas injection points and lower capital expenditure in the revised proposal. However, the ERA does not approve any renewable gas expenditure as these gases are not permitted under the relevant regulatory framework.
- **Other changes ($5.4 million higher)**: Approval of new programs and approval of other items not approved in the draft decision given updated information contributed to the remaining difference.

## 3.6 Operating expenditure

The ERA's final decision for AA6 operating expenditure is $428.6 million (real 2023 dollars). This is $91.2 million higher than the draft decision and $13.0 million less than ATCO's revised proposal.

The main reasons for the increase in forecast operating expenditure for the final decision compared to the draft decision are:

- The ERA accepted the use of 2023 calendar year information to determine the base year instead of 2022 calendar year information. Actual expenditure during 2023 was $4.3 million higher than in 2022, which when applied for every year of the AA6 period, the difference is $21.5 million.

- ATCO had provided mislabelled information prior to the draft decision which the ERA relied upon when making AA6 expenditure adjustments in its draft decision. This incorrect information resulted in $34 million not being included in the draft decision that should have been approved as conforming expenditure.
- The ERA included $11.8 million over AA6 for short-term employee incentive program payments based on further justification for these payments by ATCO. These payments are for staff based on meeting financial and non-financial targets and to attract/retain qualified staff.
- ATCO proposed additional step changes as well as providing additional information on a number of step changes which were rejected in the draft decision that have now been approved resulting in an increase of $12.0 million.

## 3.7 Depreciation

Depreciation of the capital base is one revenue component of the total revenue ATCO has proposed for the AA6 regulatory period and allows for the recovery of approved capital expenditure over time.

ATCO's AA6 revised proposed approach to calculating depreciation includes two parts:

- *Base depreciation allowance*: ATCO proposed maintaining the current depreciation approach used in AA5 and calculated a base level of depreciation. This approach continued the straight-line depreciation of assets and used the same economic lives of assets. This proposed base level of depreciation was a total of $371.2 million (real 2023) over the AA6 period.
- *Accelerated depreciation allowance*: ATCO included an additional $87 million (real 2023) allowance for accelerated depreciation. Accelerated depreciation provides for more depreciation in the earlier years of an asset's life and less depreciation in the later years of the asset's life (compared to a constant real depreciation method). The same amount of depreciation is recovered over the life of the asset. ATCO submitted that accelerated depreciation is needed to manage increasing levels of revenue uncertainty for the gas distribution network and to stabilise future price variability.

The ERA has considered and accepted ATCO's depreciation approach to calculate base depreciation. The ERA has allowed for a total of $367.8 million (real 2023) for base level depreciation over the AA6 period, which varies from ATCO's proposed amount due to the ERA's approved capital expenditure levels in this final decision.

As set out in Attachment 2 of the decision, customer numbers and gas volumes are expected to continue to increase for the next five years.

However, customer demand in the long-term (that is, beyond the period of AA6) is uncertain. Since the AA5 final decision there have been policy and technological changes regarding the role of fossil fuels in the Australian economy, including policies to target net zero emissions by 2050. The changes have increased the level of uncertainty for the future of gas and the role of gas networks.

ATCO has proposed to use accelerated depreciation to manage that increasing uncertainty.

Consistent with the National Gas Law and National Gas Rules, the use of accelerated depreciation can support the recovery of efficient costs, support the use of the network over its life, support efficient investment in the network and reduce potential price shocks for future customers. However, in the short-term prices will increase.

While accelerated depreciation would result in ATCO recovering its capital sooner, ATCO would not recover more than its approved capital expenditure. That is, over the life of the asset the same amount of depreciation is recovered and there is no double counting. Accelerated depreciation is flexible and will be re-assessed such that increases or reductions to depreciation can be made at each regulatory reset.

In its revised proposal, ATCO incorporated feedback from the ERA's draft decision and improved its approach to modelling the future of its gas network.

Guided by the National Gas Objective and the revenue and pricing principles, the ERA has assessed ATCO's accelerated depreciation revised proposal against five considerations:

- Managing the risk of stranding assets
- Reasonable opportunity to recover efficient costs
- Intergenerational equity and efficient pricing over time
- Financeability of investments for gas network services
- Supporting gas network utilisation and emissions reduction.

ATCO's updated modelling considers stranding risk across multiple scenarios and quantified this risk through ATCO's ability to recover both its assets and efficient cost of service. ATCO's updated modelling for the revised proposal has found that asset stranding is possible over multiple plausible scenarios.

The ERA accepts that there is a stranding risk and finds that it is appropriate to provide some accelerated depreciation to mitigate this risk for ATCO's network and its customers. However, given the level of future uncertainty regarding customer demand, customers should not take on all the exposure to stranding risk.

The ERA has not approved the accelerated depreciation proposed by ATCO of $87 million (real 2023). Instead, the ERA has considered the application of its accelerated depreciation factors, which has included the effect on consumers (both current and future). After balancing these considerations, the ERA has approved accelerated depreciation of $38.1 million (real 2023) over the AA6 period to be evenly allocated across each regulatory year.

The ERA's accelerated depreciation considerations have been developed in the course of determining an access arrangement for the gas distribution system (GDS). As such, they reflect the information, consultation and analysis available to the ERA throughout the course of the AA6 assessment process.

Further details of ATCO's proposed depreciation, views from stakeholders and the considerations of the ERA are discussed in Final Decision Attachment 6.

## 3.8 Return on capital, taxation and incentives

### *3.8.1 Return on the regulatory capital base*

The rate of return provides service providers with the funding to pay interest on loans and give a return on equity to investors. The rate of return is expressed as a weighted average cost of capital (WACC).

A gas rate of return instrument is required under the NGL.[9] The gas instrument sets out the methods the ERA and service providers will use to estimate the allowed rate of return and the value of imputation credits for gas transmission and distribution service providers. ATCO's proposed rate of return was consistent with the gas rate of return instrument.

Changing economic and financial conditions are important factors in determining ATCO's cost of capital. The rate of return in this final decision was updated for current market conditions, with a 20-trading day averaging period to 27 September 2024. Higher rates of inflation have increased the value of the AA5 asset base, which has led to a total revenue requirement that is 16 per cent above the approved AA5 requirement. Updated rates of return account for 34 per cent of the total increase between AA5 approved revenue and AA6 revenue. For the final decision the ERA determines the nominal after tax rate of return as 6.99 per cent.

### *3.8.2 Taxation*

A tax building block is included in the annual revenue requirement estimate.

The taxation cost is calculated by multiplying the estimated taxable income by the statutory income tax rate of 30 per cent. The estimated taxation payable is calculated by deducting the value of imputation credits.

ATCO's method to calculate AA6 taxation was consistent with its approach in AA5.

## 3.9 Other access arrangement provisions

Provisions that ATCO must include in the access arrangement include extension and expansion requirements, capacity trading requirements, and principles for changing delivery and receipt points. In lieu of queuing requirements, which are required for transmission pipelines to establish a process and/or mechanism to determine an order of priority between prospective users for pipeline capacity, ATCO has included application procedures for prospective users seeking access to pipeline services.

ATCO's extension and expansion requirements, capacity trading requirements, principles for changing delivery and receipt points, and application procedures remain materially unchanged from the current (AA5) access arrangement. As there were no submissions from interested parties that raised any concerns about these access arrangement provisions, and no other compelling reason to make amendments to these provisions, the ERA has maintained its draft decision position to approve these provisions in this final decision.

ATCO has elected to include optional fixed principles in the access arrangement. Fixed principles provide certainty that specific elements of an access arrangement will remain

[9] NGL, section 30D, 30E.

unchanged for a set period, which may extend across more than one access arrangement period.

For AA6, ATCO proposed a new fixed principle to cover other gases and gas blends, in anticipation of legislative changes to extend the regulatory framework to incorporate other gases. The ERA has not approved this fixed principle on the basis that it would be unnecessary once the amendments to the regulatory framework to include other gases comes into effect. In any case, the inclusion of fixed principles for discretionary expenditure is problematic. Discretionary expenditure should be suitably assessed against applicable criteria with no predetermination that such expenditure will be recoverable under any fixed principle.

ATCO has also included several optional key performance indicators in its access arrangement information, which were used by ATCO to support elements of its proposal. As there is no requirement to include such indicators in an access arrangement proposal, the performance indicators included by ATCO serve as a general reporting tool. The ERA has noted ATCO's key performance indicators for AA6, and consistent with the ERA's other final decision considerations (for example, demand and expenditure considerations), the ERA has recalculated the affordability key performance indicators: operating expenditure per kilometre of main; and operating expenditure per customer connection.

## 3.10 Service terms and conditions

The regulatory framework requires the access arrangement to specify, for each reference service, a reference tariff and the other terms and conditions on which the service will be provided.

The terms and conditions approved under an access arrangement establish standard terms and conditions that users can either accept or use as a point of reference to negotiate their own terms and conditions to meet specific operational needs. In the event the parties are unable to agree on terms and conditions, the access arrangement can also be used to guide an arbitrator in an access dispute.

ATCO has set out its terms and conditions for its haulage reference services in a single service agreement: the Template Service Agreement (TSA). This agreement is also applicable to all ancillary reference services, except the permanent disconnection service. The terms and conditions for the permanent disconnection service are set out in a separate service agreement: the Permanent Disconnection Contract. Both agreements form part of the access arrangement (Annexures F and G, respectively).

**Template Service Agreement**

The ERA's draft decision required ATCO to make some changes to its proposed terms and conditions within the TSA that covered provisions relating to the definition of an Interconnection Arrangement, new delivery points and new receipt points, and default by a party.

Apart from one required amendment, ATCO accepted all the ERA's required amendments without further modification and proposed revised drafting to address the other required amendment that was not accepted.

The ERA is satisfied that ATCO's revised drafting, to clauses 5.5(d) and 5.9(b) of the TSA, addresses the reason for the required amendment, which was to ensure that ATCO acted reasonably when imposing conditions precedent and charges.

**Permanent Disconnection Contract**

The draft decision required ATCO to review the terms and conditions of the Permanent Disconnection Contract to identify provisions that could be better clarified. As a minimum, the ERA required ATCO to clarify the service options for disconnection and clearly set out the circumstances where the permanent disconnection service is required; and clarify the extent to which property will be repaired or reinstated when there are disturbances to a property crossover/verge when undertaking a permanent disconnection.

ATCO made various amendments to the Permanent Disconnection Contract. The ERA is satisfied that ATCO's revised contract addresses the minimum required amendments needed for approval:

- Revised clause 2(a) of the Contract makes clear that the only circumstance where the permanent disconnection service is required is for property demolitions – the service must be completed before a property can be demolished.
- Revised clauses 30, 31 and 32 of the Contract make clear the extent to which a customer's property will be repaired or reinstated, and the circumstances in which this will occur.

The ERA considered the submissions made by AGL Energy concerning unrecoverable charges.

AGL submitted that ATCO should charge the customer (property owner) requesting the permanent disconnection service all related charges. That is, the customer should be charged the service fee for the permanent disconnection and the deregistration fee to deregister the meter (which must occur so the meter can be removed before the permanent disconnection takes place). Otherwise, if the deregistration fee is separately charged to the retailer, the retailer may be exposed to unrecoverable deregistration charges because it has no customer to recover the cost from.

The ERA sought additional information from both AGL and ATCO, and noted that:

- The contractual arrangements for ATCO's deregistration service and permanent disconnection service require the services to be undertaken and charged for separately.
- The decision to deregister a meter (gas delivery point) is a business decision for the retailer. A retailer must consider and determine the circumstances in which it will (and will not) seek to deregister a meter. This may require retailers to implement specific operational processes to determine the best course of action when a customer requests to close their gas retail account.
- ATCO's Permanent Disconnection Contract makes clear that the meter must be removed (or authorisation to remove the meter must be given by the retailer) prior to the permanent disconnection taking place; and that the retailer may charge a fee for this removal (the deregistration fee).
- Given the retailer must authorise the removal of the meter, the retailer may withhold such authorisation until it makes arrangements to recover the associated deregistration cost from the property owner.

Based on the above considerations the ERA concluded that the deregistration cost was not an unrecoverable cost for retailers. If and how a retailer chooses to recover the deregistration cost is a business decision for the individual retailer.

# 4. Review process

## 4.1 Regulatory framework

The NGL and 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 a modified version of the NGL and NGR in Western Australia.[10]

The legislative framework for the regulation of gas pipelines includes a central objective, being the national gas objective, which is:

> 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—
>
> (a) price, quality, safety, reliability and security of supply of natural gas; and
>
> (b) the achievement of targets set by a participating jurisdiction—
>
> (i) for reducing Australia's greenhouse gas emissions; or
>
> (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.
>
> **Note—**
>
> The AEMC must publish targets in a targets statement: see section 72A.[11]

Under the legislative framework, the ERA is responsible for regulating third-party access to gas pipelines in Western Australia. ATCO's gas distribution pipeline is one of three regulated pipelines that require an access arrangement to be approved by the ERA under the legislative framework.[12]

An access arrangement provides details of the terms and conditions, including prices, for the provision of pipeline services to a third party to transport and/or receive gas. Once approved, the access arrangement may serve as a benchmark for negotiating access to pipeline services that are offered by means of the regulated pipeline.

As the service provider, ATCO is responsible for developing and proposing a relevant access arrangement for its distribution pipeline. As the regulator, 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.

In addition to the NGL and NGR, the ERA must also consider the legislative requirements set out in the *National Gas Access (WA) (Local Provisions) Regulations 2009* that apply to distribution pipelines in Western Australia. Under these Regulations the ERA must consider

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[10] Government of Western Australia, 'Western Australian Legislation: National Gas Access (WA) Act 2009' (online) (accessed November 2024).

AEMC, 'National Gas Rules (Western Australia)' (online) (accessed November 2024).

[11] NGL, section 23.

The national gas objective has changed since the last review of ATCO's access arrangement. The amended objective came into effect in Western Australia on 25 January 2024. See: *Western Australian Government Gazette 24 January 2024 No.8* (online) (accessed November 2024).

[12] The other pipelines which require an approved access arrangement in Western Australia are the Dampier to Bunbury Natural Gas Pipeline and the Goldfields Gas Pipeline, which are both transmission pipelines.

the impact of tariffs on small use customers and retailers when assessing ATCO's proposed access arrangement.[13]

## 4.2 Access arrangement requirements

Rule 48 of the NGR sets out the required content of an access arrangement. These requirements are summarised in Table 4. In addition, rules 90 and 92 set out further requirements relating to the calculation of depreciation and revenue equalisation.

**Table 4: Required content of an access arrangement proposal**

| Legislative requirement | Legislative reference |
|---|---|
| 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) |
| Proposal describes all the pipeline services that the service provider can reasonably provide (and is consistent with the ERA's reference service proposal decision, unless there has been a material change in circumstances). | NGR 48(1)(b) |
| Proposal specifies the reference services (and is consistent with the ERA's reference service proposal decision, unless there has been a material change in circumstances). | NGR 48(1)(c) |
| If the pipeline services and reference services information is different to the ERA's reference service proposal decision, proposal describes the material change in circumstances that necessitated the change having regard to the reference service factors. | NGR 48(1)(c1) |
| For each reference service, proposal specifies the reference tariff and the other terms and conditions on which each reference service will be provided. | NGR 48(1)(d) |
| If the access arrangement is to contain queuing requirements, proposal sets out the queuing requirements. | NGR 48(1)(e) |
| Proposal sets out the capacity trading requirements. | NGR 48(1)(f) |
| Proposal sets out the extension and expansion requirements. | NGR 48(1)(g) |
| Proposal states the terms and conditions for changing receipt and delivery points | NGR 48(1)(h) |
| If there is to be a review submission date, proposal states the review submission date and the revision commencement date. | NGR 48(1)(i) |
| If there is to be an expiry date, proposal states the expiry date. | NGR 48(1)(j) |

In addition to its access arrangement proposal, the service provider must submit Access Arrangement Information (AAI).[14] AAI is information that is reasonably necessary for users (including prospective users) to understand the background to the access arrangement; and the basis and derivation of the various elements of the access arrangement.[15]

13 *National Gas Access (WA) (Local Provisions) Regulations 2009*, regulation 7.

14 NGR, rule 43.

15 NGR, rule 42.

AAI must include any information that is specifically required by the NGL and NGR. For example, rule 72 sets out requirements for AAI relevant to price and revenue regulation. These requirements are summarised in Table 5.

The NGR also provide for the following general requirements for all financial information:

- All financial information must be provided on a nominal or real basis, or some other recognised basis for dealing with the effects of inflation (rule 73).
- All information in the nature of a forecast or estimate must be supported with a statement explaining it. A forecast or estimate must be arrived at on a reasonable basis and must represent the best forecast or estimate possible (rule 74).
- Information that is of the nature of an extrapolation or inference must be supported by the primary information on which the extrapolation or inference is based (rule 75).

**Table 5: Requirements for Access Arrangement Information relevant to price and revenue regulation**

| Legislative requirement | Legislative reference |
|---|---|
| If the access arrangement period commences at the end of an earlier access arrangement period, AAI includes:<br>• Capital expenditure (by asset class) over the earlier access arrangement period.<br>• Operating expenditure (by category) over the earlier access arrangement period.<br>• Pipeline use over the earlier access arrangement period showing:<br>– for a distribution pipeline: minimum, maximum and average demand; and for a transmission pipeline: minimum, maximum and average demand for each receipt or delivery point.<br>– for a distribution pipeline: customer numbers in total and by tariff class; and for a transmission pipeline: user numbers for each receipt or delivery point. | NGR 72(1)(a) |
| 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) |
| AAI includes the projected capital base over the access arrangement period, including:<br>• A forecast of conforming capital expenditure for the period and the basis for the forecast.<br>• 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) |
| 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 capacity and utilisation of pipeline capacity over that period and the basis on which the forecast has been derived. | NGR 72(1)(d) |
| 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) |

| Legislative requirement | Legislative reference |
|---|---|
| AAI includes the allowed rate of return for each regulatory year of the access arrangement period. | NGR 72(1)(g) |
| 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) |
| 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 increment or decrements. | NGR 72(1)(i) |
| 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) |
| AAI includes the service provider's rationale for any proposed reference tariff variation mechanism. | NGR 72(1)(k) |
| AAI includes the service provider's rationale for any proposed incentive mechanism. | NGR 72(1)(l) |
| AAI includes the total revenue to be derived from pipeline services for each regulatory year of the access arrangement period | NGR 72(1)(m) |

## 4.3 Process and timeframes

The process for gas access arrangement reviews has changed since the ERA's last review of ATCO's access arrangement for its distribution network in 2019. There are now two key stages involved in the assessment process for an access arrangement:

- Stage A: Reference service proposal submission and assessment.
- Stage B: Access arrangement proposal submission and assessment.

### *4.3.1 Reference service proposal*

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.[16] The proposal must be submitted 12 months prior to the access arrangement proposal.

ATCO submitted its reference service proposal on 1 September 2022. After a period of consultation, the ERA made a decision to approve the reference services set out in ATCO's reference service proposal on 14 November 2022.[17] The decision and all related documents are published on the ERA website.

16 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.

17 ERA, *Reference service proposal decision – Proposed reference services for the Mid-West and South-West Gas Distribution Systems submitted by ATCO Gas Australia*, 14 November 2022 (online) (accessed November 2024).

The approved reference service proposal determined which pipeline services are to be specified as reference services in the access arrangement for ATCO's distribution network.[18] ATCO must set out its proposed terms, conditions and prices for the approved reference services, along with proposed revisions to other access arrangement provisions, in its access arrangement proposal.

### 4.3.2 Access arrangement proposal

Scheduled revisions to ATCO's access arrangement for its distribution network were last approved in November 2019 for the period 1 January 2020 to 31 December 2024, being the fifth access arrangement period (AA5).[19] The review submission date in the AA5 access arrangement is 1 September 2023.

ATCO submitted its access arrangement proposal for the next (AA6) access arrangement period, 1 January 2025 to 31 December 2029, on 1 September 2023.

The ERA must assess ATCO's access arrangement proposal in accordance with the provisions of the regulatory framework. The procedure for dealing with an access arrangement proposal is set out in rules 58 to 62 of the NGR.

### 4.3.3 Timeframes

In most cases, individual review processes are subject to legislated timeframes. These timeframes may change over the course of the review, to extent the legislation allows, depending on the circumstances at the time.[20]

The timeframe for the review of ATCO's access arrangement proposal for AA6 is set out in Table 6.

**Table 6: Timeframe for the review of ATCO's access arrangement proposal**

| Review process stage | Legislated timeframe | Actual date |
|---|---|---|
| **Stage A: Reference service proposal (completed)** | | |
| ATCO reference service proposal submitted to ERA | 12 months prior to the review submission date for the access arrangement | 1 September 2022 |
| Public consultation on ATCO's proposal | A period of at least 15 business days | 15 September to 10 October 2022 |
| ERA reference service proposal decision published | No later than 6 months prior to the review submission date for the access arrangement | 14 November 2022 |

18 Rules 48(1)(c) and (c1) of the NGR allow ATCO to specify different reference services in its access arrangement proposal if there has been a material change in circumstances since the ERA's reference service proposal decision.

19 ERA, *Final decision on proposed revisions to the Mid-West and South-West Gas Distribution Systems access arrangement for 2020 to 2024*, 15 November 2019 (online) (accessed November 2024).

20 Further to setting timeframes for specific processes, the NGR allows certain time periods ('stop-the-clock' periods) to be disregarded when calculating the time elapsed for a process. For example, under rule 11(1)(c), any period allowed for public submissions on an access arrangement proposal or on the ERA's draft decision can be disregarded when calculating the time elapsed for the publication of the ERA's final decision.

| Review process stage | Legislated timeframe | Actual date |
|---|---|---|
| **Stage B: Access arrangement proposal (in progress)** | | |
| ATCO access arrangement proposal submitted to ERA | By the review submission date in the current access arrangement | 1 September 2023 |
| Initiating notice published by ERA to notify of ATCO's proposal | As soon as practicable after receipt of proposal (a delay of up to 30 business days is allowed if the ERA finds the proposal to be deficient and requires ATCO to correct the deficiency) | 18 September 2023 |
| Public consultation (1st round) on ATCO's proposal | A period of least 20 business days after publication of initiating notice | 18 September 2023 to 27 November 2023 |
| ERA issues paper published | [not applicable] | 24 October 2023 |
| ERA draft decision published | No legislated timeframe | 24 April 2024 |
| Hearing about the ERA draft decision (if, requested by a person and/or provided by ERA) | If a hearing is to be requested by a person, the request must be made within 10 business days after the publication of the draft decision | n/a |
| Revision period for ATCO to submit a revised proposal in response to the ERA draft decision | A period of at least 30 business days after publication of the draft decision | 24 April 2024 to 10 June 2024 |
| Public consultation (2nd round) on ERA draft decision and ATCO's revised proposal | A period of at least 20 business days from the end of ATCO's revision period | 11 June 2024 to 9 July 2024 |
| ERA final decision published | Within 8 months from the receipt of ATCO's access arrangement proposal, with an extension of up to an additional 2 months (i.e. 10 months in total) | 8 November 2024 |
| Access arrangement start date | Date specified in the final decision (or otherwise 10 business days after the date of the final decision) | 1 January 2025 |

# Appendix 1 List of Tables

# Appendix 2 List of Required Amendments

In making its final decision, to not approve ATCO's revised access arrangement proposal, the ERA identified various required amendments. These required amendments appear in the attachments to the final decision which set out the ERA's considerations and reasoning for its decision. A summary of these required amendments is provided here.

**Attachment 1: Access arrangement and services**

No required amendments.

**Attachment 2: Demand**

2.1 The demand must be amended to ERA's final decision in Table 2.21 and Table 2.22 of this Final Decision Attachment 2.

**Attachment 3: Revenue and tariffs**

3.1 The values for total revenue (nominal) must reflect the values as set out in Table 3.11 of this Final Decision Attachment 3.

3.2 Annexure A of the proposed revised access arrangement, which details the haulage reference service tariffs, must be amended to reflect the tariffs set out in Table 3.16 of this Final Decision Attachment 3.

3.3 Annexure C of the proposed revised access arrangement, which details the ancillary reference service tariffs, must be amended to reflect the tariffs set out in Table 3.18 of this Final Decision Attachment 3.

3.4 Cost pass through event four (iv), as set out in Annexure B (clause 2.1(a)(iv)) of the proposed revised access arrangement, must be deleted.

3.5 Cost pass through event five (v), as set out in Annexure B (clause 2.1(a)(v)) of the proposed revised access arrangement, must be deleted.

**Attachment 4: Regulatory capital base**

4.1 The opening capital base must be amended in the access arrangement information to reflect the values in Table 4.8 of this Final Decision Attachment 4.

4.2 The projected capital base must be amended in the access arrangement information to reflect the values in Table 4.14 of this Final Decision Attachment 4.

**Attachment 5: Operating expenditure**

5.1 The access arrangement information must be amended to reflect a forecast operating expenditure for AA6 of $428.6 million ($ million real at 31 December 2023).

5.2 The access arrangement information must be amended to reflect a return of working capital for AA6 of $11.0 million ($ million real at 31 December 2023).

**Attachment 6: Depreciation**

6.1 ATCO must amend the forecast depreciation of the capital base for AA6 to $405.9 million (real as at 31 December 2023). The yearly values for each year of the access arrangement period are set out in Table 6.8 of this final decision.

**Attachment 7: Return on capital, taxation and incentives**

7.1 The return on capital base must reflect the weighted average cost of capital parameters in Table 7.8 of this Final Decision Attachment 7.

7.2 The estimated cost of corporate income tax must be amended in accordance with Table 7.11 of this Final Decision Attachment 7.

**Attachment 8: Other access arrangement provisions**

8.1 Fixed principle 11.5, as set out in Part 11 of the proposed revised access arrangement, must be deleted.

**Attachment 9: Service terms and conditions**

No required amendments.

# Appendix 3 Abbreviations

| | |
|---|---|
| AA5 | 1 January 2020 to 31 December 2024 (fifth access arrangement period) |
| AA6 | 1 January 2025 to 31 December 2029 (sixth access arrangement period) |
| AAI | Access Arrangement Information |
| CPI | Consumer Price Index |
| NGL | National Gas Law |
| NGR | National Gas Rules |
| TSA | Template Service Agreement |
| WACC | weighted average cost of capital |

# Appendix 4 Submissions

Submissions from interested parties are listed below:

| Submissions on ATCO’s proposal and/or ERA’s issues paper |
| --- |
| AGL Energy |
| Alinta Energy |
| Chamber of Minerals and Energy |
| Department of Energy, Mines, Industry Regulation and Safety – Building and Energy |
| Expert Consumer Panel |
| Housing Industry Association |
| Kleenheat |
| Origin Energy |
| Stewart Lee (individual) |
| Synergy |
| Urban Development Institute of Australia |
| WA Council of Social Service |

| Submissions on ATCO’s revised proposal and/or ERA’s draft decision |
| --- |
| AGL Energy |
| Alinta Energy |
| Chamber of Minerals and Energy |
| Expert Consumer Panel |
| Kleenheat |
| Synergy |
| WA Council of Social Service |