Decision on Mid-West and South-West Gas Distribution System Reference Tariff Variation Report Beginning 1 January 2014

Submitted by ATCO Gas Australia Pty Ltd

6 December 2013

Economic Regulation Authority

WESTERN AUSTRALIA

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DECISION

1. On 23 August 2013, ATCO Gas Australia Pty Ltd (**ATCO**) submitted a confidential variation report for cost pass through events, to the Economic Regulation Authority (**Authority**), to vary reference tariffs on 1 January 2014.

2. On 11 November 2013, ATCO provided a confidential submission with additional cost pass through events and updated its August submission with new information.

3. On 29 November 2013, ATCO provided a public submission and a letter with additional supporting information.

4. ATCO submitted its proposed variation report in accordance with Annexure B of the approved access arrangement for the Mid-West and South-West Gas Distribution System (**GDS**).

5. The variation report was given to the Authority for approval under the current access arrangement in accordance with Rule 97 of the *National Gas Rules* (**NGR**) for the period 1 January 2014 to 30 June 2014.

6. In accordance with the requirements of Annexure B of the approved access arrangement, the Authority has assessed the proposed variations to tariff components that it sought to take effect from 1 January 2014 to 30 June 2014.

7. The Authority does not approve ATCO's proposed reference tariff variation, as the Authority considers that it is inconsistent with the approved reference tariff variation mechanism in Annexure B of the approved access arrangement.

8. The reasons for this decision are set out in this document and the Authority has also indicated the tariff variation that would be considered to be consistent with the approved reference tariff variation mechanism based on the information submitted by ATCO.

9. The Authority notes that Rule 97(4) of the NGR and the approved reference tariff variation mechanism only allows the Authority to approve or not approve the reference tariff variation proposal.

10. However, ATCO could make further representations to the Authority either by submitting a variation report in line with this decision, or by providing further information in support of its proposal.

11. The Authority has re-calculated ATCO's reference tariffs that could be approved following its assessment, which include the following revision:

    - remove ATCO's proposed cost pass through event 'Economic Regulation Authority Licensing Costs.' This leads to a reduction in cost pass through events of $186,783, from $1,260,140 to $1,073,357.

12. Accordingly, the Authority has determined that the reference tariffs (excluding GST) should be varied as follows:

Table 1 Authority's variation to ATCO's proposed reference tariffs beginning 1 January 2014

Tariff Category	Tariff Component	P2013/14ij (1 July 2013) $	Cost Pass Through Adjustment $	P2013/14ij Plus Cost Pass Through (1 January 2014) $
Tariff A1	Fixed Charge	46,739.06	3.48	46,742.54
Tariff A1	Demand <10km's	197.00	0.00	197.00
Tariff A1	Demand >10km's	103.69	0.00	103.69
Tariff A1	Usage First 10 km's	0.04180	0.00	0.04180
Tariff A1	Usage >10 km's	0.02088	0.00	0.02088
Tariff A1	Usage - Carbon tax	0.02252	-0.00154	0.02098
Tariff A2	Fixed Charge	25,875.70	3.48	25,879.18
Tariff A2	First 10 TJ	2.52	0.00	2.52
Tariff A2	> 10 TJ's	1.36	0.00	1.36
Tariff B1	Fixed Charge	1,300.24	3.48	1,303.72
Tariff B1	First 5 TJ	5.11	-0.01	5.10
Tariff B1	> 5 TJ's	4.40	-0.01	4.39
Tariff B2	Fixed Charge	323.26	3.48	326.74
Tariff B2	First 100 GJ's	8.43	-0.01	8.42
Tariff B2	> 100 GJ's	5.07	-0.01	5.06
Tariff B3	Fixed Charge	67.57	3.48	71.05
Tariff B3	First 10 GJ's	14.17	-0.02	14.15
Tariff B3	>10 GJ's	6.24	-0.02	6.22

BACKGROUND

Requirements of the National Gas Rules

13. Rule 92 of the NGR requires that a full access arrangement is required to include a reference tariff variation mechanism. The specific requirements for a reference tariff variation mechanism are set out in Rule 97. These requirements include providing the ERA with adequate oversight or powers of approval over the variation of the reference tariff. **Attachment 1** provides a copy of the relevant rules.

Reference Tariff Variation Mechanism in the Approved Access Arrangement

14. Annexure B of the approved access arrangement for the GDS provides the reference tariff variation mechanism. In summary, it provides for a variation in accordance with:

- CPI All Groups, Weighted Average of Eight Capital Cities increases (approved access arrangement Annexure B, clause 2);
- a formula measuring the variation in actual regulatory costs with forecast regulatory costs (approved access arrangement Annexure B, clause 2); and

- a cost pass through event (approved access arrangement Annexure B, clause 3).

15. Annexure B also requires ATCO to provide two variation reports that provide for each of the reference tariff variation formula and the cost pass through event (approved access arrangement Annexure B, clause 4).

16. **Attachment 2** contains the detailed specific reporting requirements of Annexure B.

Proposed Reference Tariff Variation

17. On 7 June 2013, the Authority approved ATCO's proposed annual reference tariff variation for the GDS to apply from 1 July 2013. ATCO's proposal noted that further adjustments would be necessary to make an adjustment for over or under recovery of carbon tax in the 2012/13 year and to recover new cost pass through events.

18. ATCO submitted a variation proposal for cost pass through events on 23 August 2013, to vary tariffs on 1 January 2014.

19. Subsequently, the Secretariat met with ATCO representatives to discuss its proposal. Following these discussions, ATCO revised its submission on 11 November 2013 with additional information and adjustments to the cost pass through events along with new cost pass through events.

20. On 29 November 2013, ATCO provided a public submission and a letter with additional supporting information.

Proposed Variations for Cost Pass Through Events and Proposed Effective Date for Variations

21. ATCO has set out its proposed variations for cost pass through events and its proposed effective date for variations in its 29 November 2013 variation report, a public version of which is provided in **Attachment 3**.

22. ATCO proposes to pass through (under clause 3) of Annexure B of the access arrangement, the following costs for the period from 1 January 2014 to 30 June 2014:

Table 2: ATCO's proposed cost pass through events

Cost Pass Through events to be recovered by way of standing charge	$ Nominal
Event 1: Carbon tax non volume related emissions liability	10,650
Event 2: Safety Awareness Campaign	552,500
Event 3: Field Inspections - Safety, Competency and Network Integrity Performance Monitoring	208,015
Event 4: Economic Regulation Authority Licensing Costs	186,783
Event 5: Department of Mines and Petroleum - Environmental Management Plan for the Class 600 Section of the Mandurah Gas Lateral	5,500
Event 6: AEMC Rule Change	385,000
Cost Pass Through events to be recovered by way of standing charge	1,348,448
Cost Pass Through events to be recovered by way of volume charge	**$ Nominal**
Event 1: Volume related emissions liability	(82,749)
Event 1: Carbon tax impost added to UAFG price $/GJ	(5,559)
Cost Pass Through events to be recovered by way of volume charge	(88,308)
Total Cost Pass Through events to be recovered	1,260,140

23. ATCO has proposed that the reference tariffs (excluding GST) are varied as follows from 1 January 2014:

Table 3: ATCO's proposed reference tariffs beginning 1 January 2014

Tariff Category	Tariff Component	P2013/14ij (1 July 2013) $	Cost Pass Through Adjustment $	P2013/14ij Plus Cost Pass Through (1 January 2014) $
Tariff A1	Fixed Charge	46,739.06	4.04	46,743.10
Tariff A1	Demand <10kms	197.00	0.00	197.00
Tariff A1	Demand >10km	103.69	0.00	103.69
Tariff A1	Usage First 10 km's	0.04180	0.00	0.04180
Tariff A1	Usage >10 km's	0.02088	0.00	0.02088
Tariff A1	Usage - Carbon tax	0.02252	-0.00154	0.02098
Tariff A2	Fixed Charge	25,875.70	4.04	25,879.74
Tariff A2	First 10 TJ	2.52	0.00	2.52
Tariff A2	> 10 TJ's	1.36	0.00	1.36
Tariff B1	Fixed Charge	1,300.24	4.04	1,304.28
Tariff B1	First 5 TJ	5.11	-0.01	5.10
Tariff B1	> 5 TJ's	4.40	-0.01	4.39
Tariff B2	Fixed Charge	323.26	4.04	327.30
Tariff B2	First 100 GJ's	8.43	-0.01	8.42
Tariff B2	> 100 GJ's	5.07	-0.01	5.06
Tariff B3	Fixed Charge	67.57	4.04	71.61
Tariff B3	First 10 GJ's	14.17	-0.02	14.15
Tariff B3	>10 GJ's	6.24	-0.02	6.22

REASONS

Considerations of the Authority

24. The Authority has assessed ATCO's specific cost pass through events for the period 1 January 2014 to 30 June 2014. In doing this, the Authority has had particular regard to the defined cost pass through events in clause 3.1 of Annexure B of the approved access arrangement (**Attachment 2**).

25. In terms of cost pass through **events 2, 3, 5 and 6,** ATCO has advised the Authority that these are new requirements and that the cost was not reasonably foreseen at the time of submitting the current access arrangement. The Authority accepts that these cost pass through events meet the requirements in Annexure B of the approved access arrangement, having considered ATCO's variation report.

26. In terms of cost pass through **event 4,** ATCO has advised that the Western Australian Government is moving to full industry funding of the Economic Regulation Authority's licensing functions. ATCO has provided supporting information from the Department of Treasury, which states that the funding scheme will come into effect on 1 January 2014.

27. The Authority accepts that the Department of Treasury is coordinating the development of regulations under industry specific licensing acts to allow the Authority to fully recover the actual costs incurred from licensees.

28. However, the Authority does not approve this cost pass through event at this time, as the regulatory change has yet to come into force. Clause 3.1 of Annexure B allows ATCO to apply for operating expenditure relating to a regulatory change. However, a 'regulatory change' is defined in Annexure B as 'a change in, the removal of, or the imposition of, a Regulatory Obligation or Requirement … imposed on WAGN [ATCO] …'. The Authority considers that this does not allow for prospective changes to regulation and only includes changes that are already imposed on ATCO.

29. The Authority notes that it is also not certain whether this funding scheme will come into effect on 1 January 2014.

30. In terms of cost pass through **event 1**, ATCO has advised the Authority that it is required to vary the reference tariffs relating to any over or under recovery of carbon tax in the 2012/13 year.

31. The Authority accepts ATCO's proposal and supporting information that shows that ATCO has in total over recovered $77,658 for the carbon tax in 2012/13 period. The Authority also accepts that ATCO's proposed adjustment to the tariffs correctly compensates for the over recovery of revenue.

32. The Authority allowed ATCO to recover $2,720,853 for the carbon tax in 2012/13 under the *Clean Energy Act 2011 (Cth)*. ATCO estimated this amount on forecast fugitive emissions and forecast haulage sales for 2012/13.

33. The Authority recognised at the time that ATCO would need to vary tariffs as part of the tariff variation mechanism if there was an over or under recovery of carbon costs for the 2012/13 period.

34. ATCO has reported its actual figures to the Clean Energy Regulator and provided the actual amount it collected in revenue in 2012/13 for the carbon tax. The Authority is satisfied with the evidence ATCO has provided and the methodology that ATCO has used to calculate the actual carbon tax liability.

Overall Adjustments

35. As noted above, the Authority does not approve cost pass through **event 4** proposed by ATCO. As a result, the Authority considers that the reasonable total cost pass through amount that ATCO can recover, for the period 1 January 2014 to 30 June 2014 is $1,073,357.

36. The Authority's variation to ATCO's proposed cost pass through events are as follows:

Table 4: Authority's variation to ATCO's proposed cost pass through events

Cost Pass Through Events to be recovered by way of standing charge	$ Nominal
Event 1: Carbon tax non volume related emissions liability	10,650
Event 2: Safety Awareness Campaign	552,500
Event 3: Field Inspections - Safety, Competency and Network Integrity Performance Monitoring	208,015
Event 4: Economic Regulation Authority Licensing Costs	0
Event 5: Department of Mines and Petroleum - Environmental Management Plan for the Class 600 Section of the Mandurah Gas Lateral	5,500
Event 6: AEMC Rule Change	385,000
Cost Pass Through Events to be recovered by way of standing charge	1,161,665
Cost Pass Through Events to be recovered by way of volume charge	**$ Nominal**
Event 1: Volume related emissions liability	(82,749)
Event 1: Carbon tax impost added to UAFG price $/GJ	(5,559)
Cost Pass Through Events to be recovered by way of volume charge	(88,308)
Total Cost Pass Through Events to be recovered	1,073,357

37. The Authority has re-calculated ATCO's reference tariffs following its assessment. The Authority's variations to ATCO's tariffs are in Table 1.

38. The Authority notes that Rule 97(4) of the NGR and the approved reference tariff variation mechanism only allows the Authority to approve or not approve the reference tariff variation proposal.

39. ATCO could make further representations to the Authority either by submitting a variation report in line with this decision, or by providing further information in support of its proposal.

Attachment 1 Relevant National Gas Rules

92 Revenue equalisation

(1) 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.

(2) The reference tariff variation mechanism must be designed to equalise (in terms of present values):

(a) forecast revenue from reference services over the access arrangement period; and

(b) the portion of total revenue allocated to reference services for the access arrangement period.

(3) However, if there is an interval (the ***interval of delay***) between a revision commencement date stated in a full access arrangement and the date on which revisions to the access arrangement actually commence:

(a) reference tariffs, as in force at the end of the previous access arrangement period, continue without variation for the interval of delay; but

(b) the operation of this subrule may be taken into account in fixing reference tariffs for the new access arrangement period.

...

97 Mechanics of reference tariff variation

(1) A reference tariff variation mechanism may provide for variation of a reference tariff:

(a) in accordance with a schedule of fixed tariffs; or

(b) in accordance with a formula set out in the access arrangement; or

(c) as a result of a cost pass through for a defined event (such as a cost pass through for a particular tax); or

(d) by the combined operation of 2 or more or the above.

(2) A formula for variation of a reference tariff may (for example) provide for:

(a) variable caps on the revenue to be derived from a particular combination of reference services; or

(b) tariff basket price control; or

(c) revenue yield control; or

(d) a combination of all or any of the above.

(3) In deciding whether a particular reference tariff variation mechanism is appropriate to a particular access arrangement, the AER [ERA] must have regard to:

(a) the need for efficient tariff structures; and

(b) the possible effects of the reference tariff variation mechanism on administrative costs of the AER[ERA], the service provider, and users or potential users; and

(c) the regulatory arrangements (if any) applicable to the relevant reference services before the commencement of the proposed reference tariff variation mechanism; and

(d) the desirability of consistency between regulatory arrangements for similar services (both within and beyond the relevant jurisdiction); and

(e) any other relevant factor.

(4) A reference tariff variation mechanism must give the AER [ERA] adequate oversight or powers of approval over variation of the reference tariff.

(5) Except as provided by a reference tariff variation mechanism, a reference tariff is not to vary during the course of an access arrangement.

Both of these rules are full discretion. Full discretion is defined under rule 40 of the NGR.

40 ERA's discretion in decision making process regarding access arrangement proposal

Full discretion

(3) In all other cases, the AER [ERA] has a discretion to withhold its approval to an element of an access arrangement proposal if, in the AER's [ERA's] opinion, a preferable alternative exists that:

(a) complies with applicable requirements of the Law; and

(b) is consistent with applicable criteria (if any) prescribed by the Law.

Example:

In dealing with a full access arrangement submitted for its approval, the AER [ERA] could, in its draft decision, insist on changes to queuing requirements if of the opinion that the changes could improve competition in upstream or downstream markets for natural gas.

Attachment 2 GDS Access Arrangement, Annexure B

3 REFERENCE TARIFF VARIATION MECHANISM – COST PASS THROUGH EVENTS

3.1 Cost Pass Through Events

For the purpose of this clause 0 of Annexure B, each of the following is a "Cost Pass Through Event":

(a) WAGN incurs HHV Costs that constitute Conforming Operating Expenditure;

(b) WAGN incurs Physical Gate Point Costs that constitute Conforming Operating Expenditure;

(c) WAGN incurs Conforming Operating Expenditure as a direct result of a Change in Law, Tax Change or Regulatory Change;

(d) WAGN incurs Conforming Capital Expenditure or Conforming Operating Expenditure as a direct result of any Law that:

(i) establishes, changes or regulates the operation of, an emissions trading scheme or mechanism that has as one of its objectives the management or reduction of greenhouse gas emissions or concentrations and which includes the scheme set out in, or a scheme similar to, the scheme contemplated in the *Carbon Pollution Reduction Scheme Bill 2009* (Cth) and its associated legislation and regulations, as promulgated, supplemented or amended from time to time (**Emissions Trading Scheme**);

(ii) imposes a fee, penalty or Tax on greenhouse gas emissions or concentrations; or

(iii) establishes, changes or regulates the operation of, any renewable energy scheme, including the scheme under the *Renewable Energy (Electricity) Act 2000* (Cth) and its associated legislation and regulations, as promulgated, supplemented or amended from time to time,

and, for the avoidance of doubt, this expenditure includes:

(iv) only direct operating costs associated with preparation for, compliance with the Laws which implement, and the participation in, an Emissions Trading Scheme; and

(v) only liability for direct operating costs transferred to WAGN from another entity as a direct result of accordance with an Emissions Trading Scheme; or

(e) WAGN incurs Conforming Operating Expenditure additional to the amount forecast for the purpose of determining Total Revenue for Haulage Tariffs of the Current Access Arrangement Period because there has been a change in the price of Gas purchased by WAGN to replace Unaccounted for Gas, and this change exceeds the change due to inflation, as measured by the change in All Groups, Weighted Average of Eight Capital Cities.

3.2 Variation of Haulage Tariffs

If a Cost Pass Through Event occurs, WAGN:

(a) must notify the ERA of the relevant event; and

(b) may vary one or more Haulage Tariffs to recover only direct operating costs incurred or forecast to be incurred by WAGN (or on WAGN's behalf) as a direct result of the relevant event, provided that those costs have not already been recovered by WAGN.

4 VARIATION REPORT TO BE GIVEN TO THE ERA

4.1 Variation report – reference tariff variation formula

WAGN will use its reasonable endeavours to give the ERA a variation report at least 90 Business Days before the date on which the Haulage Tariff is to be varied in accordance with the reference tariff variation formula, and that report shall contain the following information:

(a) the proposed varied Haulage Tariff and varied Tariff Components;

(b) the date or dates on which the varied Haulage Tariff is to come into effect;

(c) calculations showing the derivation of the varied Haulage Contract using the formula in clause 2 of Annexure B; and

(d) a statement of reasons for the variation of the Haulage Tariff.

4.2 Variation report – cost pass through event

WAGN will use its reasonable endeavours to give the ERA a variation report at least 90 Business Days before the date on which the Haulage Tariff is to be varied as a result of a cost pass through, and that report shall contain the following information:

(a) a statement of reasons for the variation of the Haulage Tariff as a result of the cost pass through;

(b) supporting calculations demonstrating consistency with the requirements of clause 3 of Annexure B;

(c) supporting information substantiating the amount and nature of the costs proposed to be passed through by the varied Haulage Tariff; and

(d) the date or dates on which it is proposed by WAGN that the varied Haulage Tariff shall come into effect.

4.3 ERA response to a variation report

(a) The ERA will use its reasonable endeavours to give written notice to WAGN within 45 Business Days of the receipt of a variation report advising whether the ERA approves or does not approve the varied Haulage Tariff detailed in that variation report and providing reasons for its decision.

(b) If WAGN gives the ERA a variation report under clause 4.2, anytime before the ERA gives notice pursuant to clause 4.3(a) of Annexure B the ERA may require WAGN to provide further substantiation of the amounts and the nature of the costs that WAGN proposes to be passed through by the varied Haulage Tariff and requiring WAGN to provide that further substantiation by a date specified in the ERA’s request.

(c) If the ERA does not approve the varied Haulage Tariff, it will not come into effect.

(d) If the ERA approves the varied Haulage Tariff, it will come into effect on the date or dates specified in the variation report or, if the date or dates specified in the variation report have passed, then on the date or dates specified in the ERA’s notice under clause 4.3(a) of Annexure B.

5 DICTIONARY FOR ANNEXURE B

Unless the contrary intention appears, in this Annexure B:

Change in Law means:

(a) the introduction of a new Law;

(b) an amendment to, or repeal of, an existing Law; or

(c) a new or changed interpretation of an existing Law resulting from a decision of:

(i) a court;

(ii) a tribunal;

(iii) an arbitrator;

(iv) a Government or regulatory department, body, instrumentality, minister, commissioner, officer, agency or other authority; or

(v) a person or body which is the successor to the administrative responsibilities of any person or body described in paragraph (iv) of this definition;

CPI All Groups, Weighted Average of Eight Capital Cities means the Consumer Price Index All Groups Index Number for the Weighted Average of Eight Capital Cities published by the Australian Bureau of Statistics or, if applicable, an alternative index determined under clause 2.6 of this Annexure B;

Gate station means the metering equipment site associated with a Physical Gate Point (whether it comprises part of an Interconnected Pipeline or the WAGN GDS); and includes all facilities installed at the site to perform over pressure protection, reverse flow protection, excessive flow protection, gas metering and measurement and telemetry, and odorization, and all standby, emergency and safety facilities and all ancillary equipment and services;

HHV Costs means direct operating costs incurred as a result of, the management of heating value blending; including expenditure incurred in connection with the measurement, recording, auditing, facilitation or management of heating value blending for the WAGN GDS to the extent that such costs were not included in formulating Conforming Operating Expenditure for the Access Arrangement Period and it is demonstrated that the costs could not reasonably have been forecast;

Law or **Laws** means all:

(a) written and unwritten laws of the Commonwealth, of Western Australia and of any other State, Territory or foreign country having jurisdiction over the subject matter of this Access Arrangement; and

(b) judgments, determinations, decisions, rulings, directions, notices, regulations, bylaws, statutory instruments, Codes of Practice, Australian Standards or orders given or made under any of those laws or by any government agency or authority;

New Relevant Tax means any Tax affecting an amount which WAGN is or will be required to pay in relation to its supply of one or more Haulage Services;

Physical Gate Point means the flange, joint or other point which marks a physical boundary between the WAGN GDS and an Interconnected Pipeline;

Physical Gate Point Costs means all direct operating costs incurred as a direct result of operating a Physical Gate Point and associated Gate Station to the extent that such costs were not included in formulating Conforming Operating Expenditure for the Access Arrangement Period and it is demonstrated that the costs could not reasonably have been forecast;

Previous Access Arrangement Period means the Access Arrangement Period immediately preceding the Current Access Arrangement Period;

Regulatory Change means a change in, the removal of, or the imposition of, a Regulatory Obligation or Requirement (as defined in section 6 of the National Gas Access Law) imposed on WAGN and, without limiting section 6 of the National Gas Access Law, includes:

(a) a community service obligation;

(b) a changed, additional, or new environmental, safety, technical, accounting, operating or administrative standard or requirement;

(c) a uniform Tariff obligation or any other restriction on the level of Tariffs;

(d) a licensing requirement; or

(e) a required fee or required charge paid or payable, or a change to the amount of the required fee or charge paid or payable, to the ERA for a licence or any other membership, required contribution or other direct charge required by a regulatory body or agency;

to the extent that such changes were not included in formulating Conforming Operating Expenditure for the Access Arrangement Period and it is demonstrated that the changes could not reasonably have been forecast;

Regulatory Costs means direct costs as a result of:

(a) a Regulatory Obligation or Requirement (as defined in section 6 of the National Gas Access Law) that are demonstrated to have reasonably been excluded from forecast Conforming Operating Expenditure for the Access Arrangement Period;

(b) WAGN's compliance with the National Gas Access (Western Australia) Legislation, its Distribution Licence, the *Energy Coordination Act 1994* (WA), the *Gas Standards Act 1972* (WA), the *Energy Operators (Powers) Act 1979* (WA), the *Environmental Protection Act 1986* (WA), and its compliance with all other applicable Laws and with the requirements of any government department, agency or authority operating in accordance with those Laws to the extent such cost can be demonstrated to have been reasonably excluded from the forecast Conforming Operating Expenditure;

Regulatory Operating Expenditure means Regulatory Costs which are Conforming Operating Expenditure incurred in relation to the WAGN GDS;

Relevant Tax means any Tax the effect of which was properly taken into account (directly or indirectly) when setting Haulage Tariffs, as affecting an amount which WAGN is or will be required to pay in relation to its supply of one or more Haulage Services;

Tariff Component means a component of a Haulage Tariff which is an amount, or the rate by, which a User is charged for a single element or attribute of a Haulage Service;

Tax includes any tax, rate, impost, levy, duty, fee, compulsory loan, tax-equivalent payment or surcharge withheld, deducted, charged, levied or imposed under any Law;

Tax Change means:

(a) a change in the way, or the rate at which, a Relevant Tax is calculated;

(b) the removal of a Relevant Tax; or

(c) the imposition of a New Relevant Tax, which results from a Change in Law or a Regulatory Change;

Unaccounted for Gas means the difference between measured inflows of Gas into the WAGN GDS and measured outflows of Gas from the WAGN GDS; and

Variation Period refers to one of the following periods (as the case may be):

(a) the year commencing 1 July 2011;

(b) the Year commencing 1 July 2012; or

(c) the Year commencing 1 July 2013.

Attachment 3 ATCO's Proposed Variations for Cost Pass Through Events and Proposed Effective Date for Variations

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29 November 2013

Rob Pullella
Executive Director Access
Economic Regulation Authority
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469 Wellington Street
PERTH WA 6000

Dear Rob,

**ATCO Gas Australia Pty Ltd: Access Arrangement – Cost Pass Through Events for Period Beginning 1 January 2014
Public Submission**

In relation to the Economic Regulation Authority's (ERA) Revised Access Arrangement for the ATCO Gas Australia Mid-West and South-West Gas Distribution Systems as released on 25 June 2012 (Access Arrangement), a number of cost pass through events have arisen including an adjustment for carbon tax recovery during the 2012/13 year.

In accordance with the Access Arrangement, ATCO Gas Australia has used its reasonable endeavours to provide to the ERA a Variation report - cost pass through event at least 90 Business Days before the date on which the Haulage Tariff is to be varied due to a cost pass through event (**Clause 4.2 Variation**).

ATCO Gas Australia submitted the above Variation report - cost pass through letter dated 23 August 2013, as it proposed to amend tariffs on 1 January 2014 to recover new cost pass through items as well as make an adjustment for over recovery of carbon tax in the 2012/13 year. ATCO Gas Australia has now amended that Variation report to incorporate the most up to date information as previously arranged with the ERA.

In accordance with the requirements of clause 4.2 of Annexure B of the Access Arrangement (Annexure B), the variation report is contained in attachment A – Variation report – cost pass through event.

The anticipated cost pass through amount is $1,260,140.

With regard to cost pass through items, it is proposed that items which are a fixed cost be recovered via a variation to standing charges while items that vary significantly with volume be recovered by way of a variation to volume related tariffs.

Table 1

Cost Pass Through	$ Nominal
Cost Pass Through items to be recovered by way of standing charge	1,348,448
Cost Pass Through items to be recovered by way of volume charge	(88,308)
Total Cost Pass Through items to be recovered	1,260,140

Table 2 shows the impact of the cost pass through events on tariffs.

Table 2

Tariff Class	Forecast number of delivery points - including customers receiving prudent discounts			Percentage of UAFG Allocated to Tariff Class in Access Arrangement Submission	Cost Pass Through cost per delivery point	Volume including prudent discounted (non reference tariff) volume	Carbon tax costs related to volume allocated to tariff class	Cost Pass Through per GJ $/GJ
	1-Jan-14	30-Jun-14	Average	Percentage of UAFG	$/Delivery point	Jan 2013 to June 2013		$/GJ
A1	70	70	70	9.30%	$ 4.03943	5,315,662	(8,208)	-$ 0.00154
A2	108	108	108	1.58%	$ 4.03943	946,320	(1,393)	-$ 0.00147
B1	1,370	1,395	1,383	7.18%	$ 4.03943	749,886	(6,339)	-$ 0.00845
B2	9,758	10,008	9,883	5.29%	$ 4.03943	577,970	(4,672)	-$ 0.00808
B3	657,291	666,175	661,733	76.66%	$ 4.03943	4,369,263	(67,696)	-$ 0.01549
	668,597	677,756	673,176	100.00%		11,959,100	(88,308)	

With regard to implementation on the A1 reference tariff the volume related charge for each end user is expressed as GJ kilometres. The published usage tariff is multiplied by the distance in kilometres from the transmission pipeline to the delivery point to arrive at a rate per GJ kilometre for each individual delivery point. The $.02088 per GJ carbon tax tariff variation should be added to that resultant individual delivery point tariff rate not the published usage tariff rate in GJ kilometres. By adding the tariff variation to the final individual rate, the variation amount is not distorted by the kilometre amount applied to the published usage tariff. In effect the less than 10Km usage charge per GJ becomes;

Usage charge per GJ for an A1 delivery point =

(Km from transmission pipeline to delivery point X Published tariff $/GJ Kilometre) + $.02088/GJ

The carbon tax tariff variation should not be applied to the A1 tariff usage rate greater than 10 kilometres because it would double count the tariff adjustment. For all other tariff classes however, the carbon tax tariff variation should be applied to all tariff bands to ensure it is applied to the total volume for each delivery point.

The total impact on reference tariffs of the reference tariff variation mechanism and the cost pass through is shown in table 3.

Table 3

Tariff Category	Tariff Component	Current Reference Tariff Beginning 1 July 2013	Proposed Cost Pass Through Tariff Component	Proposed Revised Reference Tariff Beginning 1 January 2014
Tariff A1	Fixed Charge	$46,739.06	$4.04	$46,743.10
Tariff A1	Demand <10kms	$197.00	$0.00	$197.00
Tariff A1	Demand >10km	$103.69	$0.00	$103.69
Tariff A1	Usage First 10 km's	$0.04180	$0.00000	$0.04180
Tariff A1	Usage >10 km's	$0.02088	$0.00000	$0.02088
Tariff A1	Usage - Carbon tax	$0.02252	-$0.00154	$0.02098
Tariff A2	Fixed Charge	$25,875.70	$4.04	$25,879.74
Tariff A2	First 10 TJ	$2.52	$0.00	$2.52
Tariff A2	> 10 TJ's	$1.36	$0.00	$1.36
Tariff B1	Fixed Charge	$1,300.24	$4.04	$1,304.28
Tariff B1	First 5 TJ	$5.11	-$0.01	$5.10
Tariff B1	> 5 TJ's	$4.40	-$0.01	$4.39
Tariff B2	Fixed Charge	$323.26	$4.04	$327.30
Tariff B2	First 100 GJ's	$8.43	-$0.01	$8.42
Tariff B2	> 100 GJ's	$5.07	-$0.01	$5.06
Tariff B3	Fixed Charge	$67.57	$4.04	$71.61
Tariff B3	First 10 GJ's	$14.17	-$0.02	$14.15
Tariff B3	>10 GJ's	$6.24	-$0.02	$6.22

Should you have any queries or require further information, please do not hesitate to contact me on 6218 1722.

Yours sincerely,

Sally McMahon

General Manager Regulatory and Risk

Att.

Attachment A: Cost Pass Through Events

Table A1 – Cost pass Through

Cost Pass Through items to be recovered by way of standing charge	$ Nominal	Cost Pass Through Event
Carbon tax non volume related emissions liability	10,650	1
Safety Awareness Campaign	552,500	2
Field Inspections - Safety, Competency and Network Integrity Performance Monitoring	208,015	3
Economic Regulation Authority Licensing Costs	186,783	4
Petroleum and Geothermal Energy Regulations 2011 effective 1 January 2012 Administered by Department of Mines and Petroleum - Environmental Management Plan for the Class 600 Section of the Mandurah Gas Lateral	5,500	5
AEMC Rule Change	385,000	6
Cost Pass Through items to be recovered by way of standing charge	1,348,448	
Cost Pass Through items to be recovered by way of volume charge	**$ Nominal**	
Volume related emissions liability	(82,749)	1
Forecast cost due to carbon tax impost added to UAFG price $/GJ	(5,559)	1
Cost Pass Through items to be recovered by way of volume charge	(88,308)	
Total Cost Pass Through items to be recovered	1,260,140	

Cost Pass Through Event 1 - *Clean Energy Act 2011 (Cth)*

Statement of reasons for variation of the Haulage Tariffs (sub clause 4.2(a))

ATCO Gas Australia submitted in 2012 that the enactment of the *Clean Energy Act 2011* (Cth) (the Act) would constitute a *"Costs Pass Through Event"* pursuant to the Reference Tariff Variation Mechanism for Haulage Tariffs of the Access Arrangement.

The Act received assent in November 2011 and the Australian Federal Government introduced the carbon pricing mechanism on 1 July 2012.

Pursuant to section 20 of the Act, an entity will be considered as a *"liable entity"* if it has *"operational control"* of a facility and that facility is responsible for covered emissions of greenhouse gases with a carbon dioxide equivalence of 25,000 tonnes or more in a financial year.

ATCO Gas Australia would, prima facie be considered a liable entity for the purposes of the Act on the basis that ATCO Gas Australia has operational control over the Mid-West and South-West Gas Distribution Systems (GDS) (as defined by the Act) and the GDS constitutes a single undertaking that involves the production of covered emissions of greenhouse gases with a carbon dioxide equivalence in excess of 25,000 tonnes per financial year.

Based on this assessment, a cost pass through amount of $2,720,853 was approved for the 2012/13 year in relation to carbon tax (Approved Amount). It was recognised that ATCO Gas Australia's actual carbon tax liability may vary from the Approved Amount. Consequently, ATCO Gas Australia confirms that it intends to vary reference tariffs to ensure that ATCO Gas Australia does not receive a benefit from any over recovery or loss from under recovery of carbon tax due to the potential for variance.

Supporting Calculations (sub-clause 4.2(b))

Based on the gas haulage for the 2012/13 year, as submitted for National Gas Emissions Reporting, ATCO Gas Australia's liability is $2,587,158. The cost associated with carbon tax imposed added to UAFG price $/GJ is $66,886 and other non-gas sales related emissions is $44,291. The cost pass through adjustment for the difference between the actual carbon tax liability and the carbon tax recovered via tariffs is as follows:

Carbon Tax Related Cost Pass Through Items	Actual Carbon Tax Liability	Actual Carbon Tax Collected	Variance
	$ Nominal	$ Nominal	$ Nominal
Fugitive emissions gas haulage related liability	$ 2,587,158	$ 2,669,907	(82,749)
Forecast cost due to carbon tax imposed added to UAFG price $/GJ	$ 66,886	$ 72,445	(5,559)
Carbon tax non volume related emissions liability	$ 44,291	$ 33,641	10,650
	2,698,335	2,775,993	(77,658)

Supporting information (sub-clause 4.2(c))

The calculation of the number of carbon units which need to be purchased in relation to the 2012/13 year is based on the greenhouse gas emissions reported by ATCO Gas Australia in compliance with National Gas Emissions Reporting (NGER) guidelines multiplied by $23.00 per tonne. ATCO Gas Australia creates greenhouse gas emissions as a result of the fugitive emissions component of unaccounted for gas, transportation fuel and electricity use.

As the principal source of greenhouse gas emissions results from the fugitive emissions component of unaccounted for gas, the allocation of the cost of permits between the five reference tariff services is based on the UAFG cost allocations used for the Access Arrangement.

Cost Pass Through Event 2 – Safety Awareness Campaign

Statement of reasons for variation of the Haulage Tariffs (sub clause 4.2(a))

In August 2013, Energy*Safety* instructed ATCO Gas Australia to undertake an ongoing, public awareness campaign through the *AS 4645.1-2008 Appendix F* mechanism. The campaign is aimed at the general public and is not limited to Western Australian gas consumers. As ATCO Gas Australia is the entity which is contacted to respond to gas faults, it was identified by Energy*Safety* as the most appropriate entity to manage the public awareness campaign.

ATCO Gas Australia will work in conjunction with Energy*Safety* to determine the penetration effectiveness of the Safety Awareness Campaign and any additional information that can be posted on the ATCO Gas Australia public website to further assist the Safety Awareness Campaign.

Supporting Calculations (sub-clause 4.2(b))

The estimated Conforming Operating Expenditure associated with the cost of implementing the Safety Awareness Campaign is estimated to be $552,500 in 2013/14.

100% of these costs relate to the Mid-West and South West Gas Distribution Systems. An advertising campaign plan has been devised to implement the Safety Awareness Campaign. The campaign will be implemented as soon as possible. All costs will be incurred prior to 30 June 2014.

Cost Pass Through Event 3: Field Inspections – Safety, Competency and Network Integrity Performance Monitoring

Statement of reasons for variation of the Haulage Tariffs (sub clause 4.2(a))

The *Gas Standards Act 1972* and the *Gas Standards (Gas Supply and System Safety) Regulations 2000* prescribe the requirements for conducting field inspections of the Gas Distribution Network.

The 9 January 2010 revision of the *Gas Standards (Gas Supply and System Safety) Regulations 2000* (GSSSR) included a requirement to prepare a Safety Case for submission for approval and subsequent acceptance by 9 January 2011 (which was subsequently changed 3 August 2012 by a later revision of the GSSR).

ATCO Gas Australia was required to submit a Safety Case for approval in accordance with the Gas Standards (Gas Supply and System Safety) Regulations 2000 (GSSSR). The Director of EnergySafety accepted the ATCO Gas Australia's GDS Safety Case on 28 July 2011 and the Safety Case was implemented 28 January 2013. Once implemented, ATCO Gas Australia is required to ensure that a prescribed activity is carried out in such a way as to comply with the safety case (see GSSSR Regulation 37 and s14 Gas Standards Act 1972).

The preparation and acceptance of the GDS Safety Case through regulation 27(2)(a) of 2010 Revision introduced the requirement to comply with AS/NZS 4645.1-2008, Gas distribution networks, Part 1: Network management. Section 2.3 *Formal Safety Assessment* AS/NZS 4645.1 prescribed a new requirement for network operators to conduct a wide range of formal safety assessments (FSAs) "... at all stages throughout the life-cycle of a gas distribution network." The following sections of AS/NZS 4645.1 outline the obligations documented in AS/NZS 4645.1 where the development of controls is determined through FSA:

- Section 3.2 *General:* defines that "planning processes based on systematic analysis of functional requirements shall be established and these shall include changes in gas demand and safety aspects of the network. The functional requirements shall be documented and shall be kept up-to-date and reviewed when significant changes occur".

- Section 3.3 *Functional Requirements*: "In setting integrity criteria, at least the following matters shall be considered: "...(a) planned operational life...(i) competency of personnel..."

- Section 10 *Performance Monitoring:* describe the requirement to monitor key aspects of the gas distribution system and have an approved performance monitoring plan.

ATCO Gas Australia conducted a Field Inspections FSA that assessed the following:
(1) the requirements for performance monitoring of the competence and safety of employees and direct employed contractors; and
(2) the integrity of the gas distribution system through focused inspection and audit of field personnel undertaking prescribed activities.

The Field Inspections FSA encompassing the review of the current field inspection programme was completed in May 2013. The Field Inspections FSA:
- Identified the need for dedicated resources to conduct Field Inspections to monitor employee competence and safety and the integrity of the network.
- Identified 3 new network prescribed activities in addition to the 58 already identified.
- Determined the annual frequency (derived from 2012 data) with which each of the 61 activities is conducted.
- Assessed the risk of each activity.

The Field Inspection FSA determined that ATCO Gas Australia currently conducts 567 inspections using non-dedicated personnel conducting field inspections, to monitor employee and contractor safety and the integrity of the network compared to 1,226 Field Inspections (covering the Albany and Kalgoorlie sub-networks as well as coastal area) that will be required in 2013/2014.

The regulatory change through implementing the safety case has resulted in a requirement for 1,123 Field Inspections to be conducted for the coastal area in 2013/2014. 103 annual Field Inspections will be conducted in the Albany and Kalgoorlie sub-networks. In order to implement the assessed requirement for 1,123 Coastal Area Field Inspections using dedicated Inspectors, ATCO Gas Australia will need to engage 4 additional dedicated Field Inspectors to undertake these tasks full-time.

The FSA identified accountability, continuity and capacity constraints within the current process. It was determined that:
(1) Accountability: ownership of the process and task needs to reside within the Safety Case work stream of Technical Compliance.
(2) Continuity: the independence of the dedicated Field Inspectors was a critical success factor to meet the FSA requirements. Full time permanent roles were identified as required to meet this need.
(3) Capacity: the current personnel completing the tasks were doing so in addition to their core duties. The targeted inspections for 2013 have thus far been completed by 65 different people across the Business. This has been due to the capacity constraints among the core supervisory personnel tasked with completing the Inspections. Employees are being required to do additional hours to meet the monthly inspection targets resulting in core task of their principal roles being negatively impacted. Furthermore, inspection tasks are being delegated to field operatives resulting in optimal inspection performance.

The outcome of the Field Inspections FSA and therefore the extent of changes to the Field Inspections and resource requirements could not be known until the completion of that assessment. The timeframe from initiating preparation of the GDS Safety Case to completion of the GDS Safety Case implementation is over two years, which meant that estimating costs at the time of preparation for the Access Arrangement review was impractical.

The regulatory change, in particular the requirement for additional inspections, has resulted in a requirement for additional resources with consequent additional costs of $208,015 to 30 June 2014. 100% of these costs relate to the Mid-West and South West Gas Distribution Systems. Costs relating to Albany and Kalgoorlie have been specifically excluded from the calculations.

Cost Pass Through Event 4: Economic Regulation Authority Licensing Costs

Statement of reasons for variation of the Haulage Tariffs (sub clause 4.2(a))

The Western Australian Government is moving to full industry funding of the ERA's licensing, monitoring and customer protection (licensing) functions.

The changes will affect new and existing licence holders under three industry-specific licensing acts: the *Energy Coordination Act 1994*, the *Electricity Industry Act 2004* and the *Water Services Act 2012*.

A letter dated 11 July 2013 from Department of Treasury was received indicating the allocation of the ERA's licensing function costs to be charged to ATCO Gas Australia. This increase in costs could not be foreseen at the time submissions were made for review of the access arrangement for access arrangement period 3.

Supporting Calculations (sub-clause 4.2(b))

The regulatory change, in particular the requirement for additional inspections, has resulted in a requirement for additional resources with consequent additional costs of $186,783 to 30 June 2014.

Cost Pass Through Event 5: *Petroleum Pipelines (Environment) Regulations 2012*- Environmental Management Plan

Statement of reasons for variation of the Haulage Tariffs (sub clause 4.2(a))

The *Petroleum Pipelines (Environment) Regulations 2012* (Regulations) came into operation on 29 August 2012 on which these regulations are published in the *Gazette*. The objective of these regulations is to ensure that any pipeline activity is carried out in a manner consistent with the principles of ecologically sustainable development and carried out in accordance with an environment plan.

In accordance with Part 6 –Transitional Provisions of the Regulations, the environmental management plan is required to be submitted on or before the 28 of August 2013.

The Environmental management plan must demonstrate that the environmental impacts and environmental risks of the pipeline activity:

(1) will be reduced to as low as is reasonable practicable:
(2) has appropriate environmental performance objectives and environmental performance standards: and
(3) has an appropriate measurement criterion for determining whether those objective and standards have been met.

To comply with the Regulations, the environmental management plan for the Class 600 section of the Mandurah Gas Lateral must be updated and then approved by the Minister for Mines and Petroleum. 100% of the updated environmental management plan relates to the Mid-West and South-West Gas Distribution systems.

Estimating costs at the time of preparation for the 17 May 2013 submission was impractical as the formal gap analysis audit findings conducted for the Mandurah Gas Lateral are still being conducted, and the environmental management plan is due to be updated based on the gap analysis audit findings conducted for the Mandurah Gas Lateral in accordance with the Regulations.

Supporting Calculations (sub-clause 4.2(b))

The estimated Conforming Operating Expenditure associated with the cost of the updated environmental management plan is $5,500. 100% of these costs relate to the Mid-West and South West Gas Distribution Systems as the cost relates to the Mandurah gas lateral.

Cost Pass Through Event 6: AEMC Rule Changes

Statement of reasons for variation of the Haulage Tariffs (sub clause 4.2(a))

In October 2011, the Australian Energy Regulator (AER) and the Energy Users Rule Change Committee (EURCC) submitted to the Australian Energy Market Commission (AEMC) two rule change proposals regarding, amongst other things, the rate of return provisions under the National Gas Rules (NGR) and the National Electricity Rules (NER).

In March 2012, the AEMC delivered its initial directions paper on the proposed rule change, followed by a draft rule determination in mid-2012. On 29 November 2012, the AEMC released its final determination on the rule change process.

As a result of the AEMC's final determination on 29 November 2012, amendments were made to the rate of return provisions in the NGR. Those amendments required the Economic Regulation Authority (ERA) to develop rate of return guidelines before 29 November 2013. The transitional arrangements for implementing the rule change have also resulted in the lodgement date for AGA's proposed revisions to its access arrangement being deferred from July 2013 to early 2014.

On 21 December 2012, the ERA issued its initial consultation paper on the rate of return guidelines in accordance with rule changes made by the AEMC in November 2012. ATCO Gas Australia has now engaged external economic and legal consultants to assist prepare a response submission to the ERA'S consultation process. As a result, ATCO Gas Australia is incurring additional legal costs over and above what could have reasonably been foreseen at the time of preparing access arrangement forecasts.

Total AEMC Rule Change costs related to the change in legislation are $385,000.

Attachment B: Varied tariffs to apply from 1 January 2014

This variation report details the varied tariff components of the reference tariffs for application during variation year 2013/14.

The determination of the varied tariff components has been undertaken in accordance with Annexure B of the Access Arrangement for the Mid-West and South-West Gas Distribution Systems.

The varied reference tariffs, excluding GST, are listed below and will be applicable from 1 January 2014. Details of the individual calculations are provided in the attached spreadsheet.

Varied Reference Tariff A1:

(i) the standing charge is $46,743.10 (ex GST) per year;

(ii) the demand charge rate is:

A. $197.00 (ex GST) per gigajoule per kilometre per year for the first 10 kilometres of the interconnection distance; and

B. $103.69 (ex GST) per gigajoule per kilometre per year for any part of the interconnection distance in excess of 10 kilometres;

(iii) the usage charge rate is:

A. $0.04180 (ex GST) per gigajoule per kilometre for the first 10 kilometres of the interconnection distance;

B. $0.02088 (ex GST) per gigajoule per kilometre for any part of the interconnection distance in excess of 10 kilometres;

C. $0.02098 (ex GST) per gigajoule

Varied Reference Tariff A2:

(i) the standing charge is $25,879.74 (ex GST) per year;

(ii) the usage charge rate is:

A. $2.52 (ex GST) per gigajoule for the first 10 terajoules of gas delivered to the user per year; and

B. $1.36 (ex GST) per gigajoule for gas delivered to the user in excess of 10 terajoules per year and up to 10 terajoules per year;

Varied Reference Tariff B1:

(iii) the standing charge is $1,304.28 (ex GST) per year;

(iv) the usage charge rate is:

A. $5.10 (ex GST) per gigajoule for the first 5 terajoules of gas delivered to the user per year;

B. $4.39 (ex GST) per gigajoule for gas delivered to the user in excess of 5 terajoules per year; and

Varied Reference Tariff B2:

(i) the standing charge is $327.30 (ex GST) per year; and

(ii) the usage charge rate is:

A. $8.42 (ex GST) per gigajoule for the first 100 gigajoules of gas delivered to the user per year; and

B. $5.06 (ex GST) per gigajoule for gas delivered to the user in excess of 100 gigajoules per year;

Varied Reference Tariff B3:

(i) the standing charge is $71.61 (ex GST) per year; and

(ii) the usage charge rate is:

A. $14.15 (ex GST) per gigajoule for the first 10 gigajoules of gas delivered to the user per year; and

B. $6.22 (ex GST) per gigajoule for gas delivered to the user in excess of 10 gigajoules per year.