



Economic Regulation Authority

Draft decision on revisions to the access arrangement for the Mid-West and South-West Gas Distribution Systems

Attachment 9: Service terms and conditions

24 April 2024

Economic Regulation Authority

Level 4, Albert Facey House

469 Wellington Street, Perth WA 6000

Telephone 08 6557 7900

Email info@erawa.com.au

Website www.erawa.com.au

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

National Relay Service TTY: 13 36 77

© 2024 Economic Regulation Authority. All rights reserved. This material may be reproduced in whole or in part provided the source is acknowledged

Contents

Attachment 9. Summary	iii
Regulatory requirements.....	5
ATCO proposal	6
Template Service Agreement (TSA).....	6
Permanent Disconnection Contract	7
Submissions	9
Draft decision	10
Template Service Agreement	10
New clause 5.8 (Receipt Points for Other Gases).....	10
New clause 7.8 (Cyber Security).....	11
Clause 6.9 (Odourisation).....	12
Clause 16 (Security and Insurance)	12
Other proposed amendments.....	16
Permanent Disconnection Contract	30
Use of service	33
Service tariff and charges	34
Administration, recovering costs and contracting.....	35
Gas safety.....	40
Service performance	41
Proposed permanent disconnection contract (terms and conditions)	42

List of appendices

Appendix 1 List of Tables.....	45
Appendix 2 List of Figures.....	46
Appendix 3 National Gas Rules	47

Note

This attachment forms part of the ERA's draft decision on proposed revisions to the access arrangement for the Mid-West South-West Gas Distribution Systems. It should be read in conjunction with all other parts of the draft decision, which is comprised of the following document and attachments:

Draft decision on revisions to the access arrangement for the Mid-West and South-West Gas Distribution Systems – Overview, 24 April 2024

- 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 (this document)

Attachment 9. Summary

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. This attachment sets out the ERA's consideration of ATCO's proposed terms and conditions for its reference services and includes consideration of the matters raised in submissions in response to ATCO's access arrangement proposal and the ERA's issues paper.

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).

The ERA has accepted most of ATCO's proposed amendments to the TSA on the basis that the amendments were necessary to reflect legislative requirements and/or operational needs, to correct errors, and/or to improve drafting. The amendments that were not approved cover provisions that deal with the definition of an Interconnection Arrangement, new delivery points and new receipt points, and default by a party.

While there were no submissions from interested parties that raised any concerns with the TSA, several interested parties provided feedback on ATCO's new Permanent Disconnection Contract. The feedback, among other things, raised concerns about:

- The circumstances where a permanent disconnection service would be required.
- The split administrative process for obtaining the permanent disconnection service.
- The ability for ATCO to contract directly with the end-use customer (property owner) for provision of the permanent disconnection service.

Given the matters raised by interested parties, the ERA has decided that further work on the terms and conditions that form the Permanent Disconnection Contract is required before the contract can be approved. As a minimum, ATCO must 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.

Summary of required amendments

- 9.1 ATCO must retain the words "arrangement or understanding" in the definition for the term Interconnection Arrangement in the Template Service Agreement. That is, the definition must mean: "*a written or unwritten contract, **arrangement or understanding** in respect of an interconnection at a Physical Gate Point between the ATCO GDS and an Interconnected Pipeline (and includes a written or unwritten contract, **arrangement or understanding** for the provision of an Interconnection Service)*". [emphasis added]

- 9.2 ATCO must amend proposed new clauses 5.5(d) and 5.9 of the Template Service Agreement to require the service provider to act reasonably in imposing conditions precedent and charges. The amended drafting is set out at paragraph 50 of this draft decision attachment.
- 9.3 ATCO must retain existing clause 15.1(g) (which relates to default provisions) in the Template Service Agreement.
- 9.4 As confirmed by ATCO the words “during a month” in clause 8 of Schedule 2 in the Template Service Agreement were inserted in error. These words should therefore be deleted.
- 9.5 ATCO must review the terms and conditions set out in the Permanent Disconnection Contract to identify any improvements that can clarify and/or resolve the matters raised in submissions to the ERA with respect to the permanent disconnection service. As a minimum, the terms and conditions for the permanent disconnection service must:
 - a. clarify the service options for disconnection (whether temporary or permanent) and clearly set out the circumstances where the permanent disconnection service is required; and
 - b. clarify the extent to which property will be repaired or reinstated with respect to disturbances to paving, concrete, bitumen and other things that form part of a property crossover/verge.

Regulatory requirements

1. The regulatory framework requires the access arrangement to specify, for each reference service, a reference tariff and the other terms and conditions on which each reference service will be provided.¹
2. There are no specific provisions in the National Gas Rules (NGR) that detail what the terms and conditions for reference services must cover. In general, reference service terms and conditions should be reasonable and cover both service specific provisions and general (or generic) contract provisions.

¹ NGR, rule 48(1)(d).

ATCO proposal

Template Service Agreement (TSA)

3. ATCO's TSA sets out the terms and conditions for haulage reference services (A1, A2, B1, B2 and B3 Services) and forms part of the access arrangement (Annexure F).² The TSA also applies to all ancillary reference services, except for the permanent disconnection service. The terms and conditions for this ancillary reference service are set out in the Permanent Disconnection Contract, which also forms part of the access arrangement (Annexure G).³
4. ATCO proposed to make several amendments to the TSA to reflect learnings from past negotiations undertaken during the current (AA5) access arrangement. Further amendments were also made to reflect new and revised legislation and regulations, including proposed amendments to extend the legislative framework to include renewable gases. ATCO submitted that it sought to achieve four main outcomes with the proposed changes:
 - 1) Update the template services agreement for hydrogen and renewable gases.
 - 2) Update the template services agreement for changing market conditions (for example, a cyber security clause has been added due to the increasing importance of cyber security issues).
 - 3) Update the template services agreement so it more accurately reflects actual operations – for example, the existing odourisation clause envisaged actions that were directly contrary to what happens in practice.
 - 4) Correct provisions that are ambiguous and tidy-up some of the drafting.⁴
5. ATCO's proposed amendments to the TSA are summarised in Table 9.1, with the corresponding drafting amendments shown in a marked-up copy of the TSA.⁵

² ATCO, *Access Arrangement for the Mid-West and South-West Gas Distribution Systems - Annexure F: Template Service Agreement*, 1 September 2023 ([online](#)) (accessed April 2024).

³ ATCO, *Access Arrangement for the Mid-West and South-West Gas Distribution Systems - Annexure G: Permanent Disconnection Contract*, 1 September 2023 ([online](#)) (accessed April 2024).

⁴ ATCO, *2025-29 Plan*, 1 September 2023, p. 251.

⁵ ATCO, *Access Arrangement for the Mid-West and South-West Gas Distribution Systems - Annexure F: Template Service Agreement (track change)*, 1 September 2023 ([online](#)) (accessed April 2024).

Table 9.1: ATCO proposed amendments to the Template Service Agreement

Amendment reason	Summary of amendment
Hydrogen and renewable gases updates	<p>Various amendments to facilitate the potential introduction of hydrogen and other gases, including changes to:</p> <ul style="list-style-type: none"> • Include a new clause 5.8 (Receipt Points for Other Gases) • Amend the defined term “Gas”. <p>While these proposed amendments envisage legislative reforms coming into effect in Western Australia, ATCO considers that the TSA remains fit for purpose in the event these reforms do not eventuate.</p>
Changing market conditions	<p>New clause 7.8 (Cyber Security) to impose obligations on each party to ensure information technology systems have protections, consistent with good industry practice, to guard against unauthorised access and malicious attacks.</p>
Updates to reflect actual operations	<p>Amendments to clause 6.9 (Odourisation) to reflect actual operations (ATCO does not odourise gas nor does it have the facilities to do so).</p>
Security	<p>Amendments to clause 16.2 (Security for performance) to clarify the intent of the provisions, including changes to:</p> <ul style="list-style-type: none"> • Insert a new clause 16.3 (Security Bond – Specific Provisions) to deal with cash deposits as a form of security. • Insert a new clause 16.4 (PPSA) to deal with obligations under the <i>Personal Properties Security Act</i>, which will apply where ATCO registers its interest in any cash deposits it holds on the Personal Properties Security register.
Other amendments	<p>Other miscellaneous amendments to the TSA include amendments to:</p> <ul style="list-style-type: none"> • Better define some terms used within the agreement. • Improve drafting and readability. • Explain and/or provide for existing policies and processes. • Address drafting errors (e.g. clause numbering and cross-referencing).

Source: ATCO, 2025-29 Plan, 1 September 2023, pp. 251-254.

Permanent Disconnection Contract

6. The permanent disconnection service is a new ancillary reference service for AA6. The terms and conditions for this service are set out in a new proposed standard agreement – the *Permanent Disconnection Contract*. The standard agreement seeks to establish the following key terms of service and will be made available on ATCO’s website, together with an application form, for prospective applicants (end-use customers) who want to permanently disconnect from ATCO’s network.

- An applicant may only seek the permanent disconnection service where it:
 - is the owner of the relevant property; or has the express written authorisation of the property owner; and
 - the retail account has been closed.
- Any meter located on the property will need to be removed by ATCO either prior to or at the time of ATCO performing the permanent disconnection. Where necessary,

ATCO will request authorisation from the retailer for this meter removal service and will charge the retailer for this service (Deregistering a Delivery Point Reference Service).⁶

7. ATCO has separately set out the proposed reference tariffs for both haulage and ancillary reference services, including the associated reference tariff variation mechanisms, in the access arrangement (Annexures A, B and C).

⁶ ATCO, *2025-29 Plan*, 1 September 2023, p. 251.

Submissions

8. While the ERA received no submissions addressing the terms and conditions set out in the TSA, it did receive several submissions addressing the proposed terms and conditions (including the proposed tariff) for the new permanent disconnection reference service.⁷ In summary, these submissions:
- Assumed that the permanent disconnection service would predominately be used by customers (property owners) engaging in demolition and property redevelopment activities. While customers who electrify their homes (through the switching of gas appliances with electric ones) may seek the service, it is anticipated that such “switching customers” will typically elect to close their gas retail accounts and leave their gas service in place.
 - Requested clarification to confirm the circumstances where a permanent disconnection service would be required. All service options for customers that no longer have a need for gas consumption should be presented (for example, whether a deregistration service be used instead of a permanent disconnection).
 - Generally supported a user-pay tariff for the permanent disconnection service but considered the proposed tariff of \$1,184.80 (excluding GST) to be high. The high cost of the service may impact a customer’s decision and/or ability to use the service.
 - Questioned the split administrative process for obtaining the permanent disconnection service; that is, the requirement to obtain a separate ancillary reference (disconnection) service to remove the gas meter (the “Deregistering a delivery point” service), with the cost for this service separately charged to the retailer for recovery from the customer.
 - Questioned whether it was appropriate for the end-use customer (property owner) to enter into a contract directly with ATCO for the permanent disconnection service when it is the retailer who has the access contract (TSA) with ATCO to supply gas to the customer.
 - Noted possible inefficiencies that may arise over the longer-term given the customer-based approach to permanent disconnections.
 - Noted that there were no key performance indicators and/or accountability related to ATCO’s delivery of disconnection services.
9. While some stakeholders raised concerns for safety risks where customers do not use the permanent disconnection service, others considered that there were sufficient strategies in place to mitigate safety risks.
10. Details of the matters raised in submissions are discussed as part of the ERA’s draft decision considerations.

⁷ Submissions from: AGL Energy; Alinta Energy; Building and Energy WA; Housing Industry Association; Origin Energy; Stewart Lee; Synergy; WA Council of Social Service; and WA Expert Consumer Panel. These submissions are available from the [ERA website](#).

Draft decision

11. The ERA's consideration of ATCO's proposed terms and conditions for its haulage and ancillary reference services is set out below. ATCO's proposed reference tariffs for both haulage and ancillary reference services, and the associated reference tariff variation mechanisms, are considered by the ERA in a Draft Decision Attachment 3.⁸

Template Service Agreement

12. In summary, ATCO's proposed changes to the TSA comprised:
- Amendments to facilitate the potential introduction of hydrogen and other renewable gases.
 - Updates to reflect changing market conditions and actual operations.
 - Administrative amendments to improve drafting and/or to correct errors or omissions.
13. ATCO's proposed changes that comprise drafting (typographical or grammatical) amendments and corrections to clause numbering and/or cross-referencing are administrative in nature and do not materially alter the agreement. For this reason, unless otherwise stated, the ERA accepts these administrative amendments. All other proposed changes to amend or update specific clauses of the TSA are considered in turn below (see paragraphs 14 to 70).

New clause 5.8 (Receipt Points for Other Gases)

14. ATCO proposed various amendments to the TSA to facilitate the introduction of hydrogen and other gases into the regulatory framework, including amendments to the term "Gas" (see 'Other proposed amendments' at paragraph 35) and the inclusion of a new clause 5.8 to set out provisions for receipt points that receive gas that is not natural gas.
15. The proposed drafting of new clause 5.8 is as follows:

5.8 Receipt Points for Other Gases

- (a) Where a Receipt Point is to be used by <Counterparty> for the delivery of an Other Gas or a Gas Blend into the ATCO GDS then <Counterparty> must comply with such requirements notified by <Service Provider> to <Counterparty> in writing prior to the commencement of supply of the Other Gas or Gas Blend to ensure that the supply of such Other Gas or Gas Blend does not adversely affect:
- (i) the ability of <Service Provider> to deliver to the System Delivery Points on the ATCO GDS (whether or not used by <Counterparty>) Gas which complies with the Gas Quality Specifications;
 - (ii) the pressure of the ATCO GDS (whether at Receipt Points or System Delivery Points); or
 - (iii) the safety or operational integrity of the ATCO GDS.

⁸ ERA, *Draft decision on revisions to the access arrangement for the Mid-West and South-West Gas Distribution Systems – Attachment 3: Revenue and tariffs*, 24 April 2024.

- (b) An Other Gas or Gas Blend may only be supplied to a Receipt Point if there is a legally enforceable Interconnection Arrangement in force between <Service Provider> and the party operating the facilities by which that Other Gas or Gas Blend is supplied and which regulates the terms of that supply.
- (c) The requirements notified by <Service Provider> under clause 5.8(a) must be (where relevant) consistent with the requirements of the Interconnection Arrangement referred to in clause 5.8(b).

[The proposed meanings of the new defined terms “Gas Blend” and “Other Gas” used in proposed new clause 5.8 (and appear in clause 23.1 (Dictionary) of the TSA) are considered at paragraph 35 below.]

16. ATCO noted that its proposed amendments anticipated legislative reforms (to extend the legislative framework to gases, other than natural gas) coming into effect in Western Australia, but in any case, the TSA remained fit for purpose if the reforms did not eventuate.⁹
17. At the time of making this draft decision, the legislative reforms to extend the regulatory framework to other gases have not come into effect within Western Australia. The ERA considers that, given the adoption of other legislative reforms (namely the amending of the national gas objective to include an emissions reduction target), it is likely that other gases will form part of the regulatory framework sometime in the future.¹⁰ ATCO’s proposed amendment prepares the TSA for this future. In the meantime, new clause 5.8 will remain inactive. ATCO’s proposal to include new clause 5.8 does not affect the remaining clauses of the TSA and the TSA remains fit for purpose. On this basis and noting that there were no submissions from interested parties on the proposed clause, the ERA approves the inclusion of new clause 5.8 in the TSA.

New clause 7.8 (Cyber Security)

18. ATCO proposed the inclusion of a new clause 7.8 to introduce provisions for cyber security in response to changing market conditions. ATCO submitted:

The [new] clause imposes obligations on each party to ensure its information technology systems have protection, consistent with good industry practice, to guard against unauthorised access and malicious attacks. The clause is not prescriptive and leaves it to each party to determine how it complies with these requirements (subject to the party complying with good industry practice).¹¹

19. The proposed drafting of new clause 7.8 is as follows:

7.8 Cyber Security

Each party must:

- (a) ensure its information technology systems and networks which hold any information relevant to this Service Agreement are maintained in a secure state consistent with good industry practice such that they will not be subject to unauthorised access;

⁹ ATCO, *2025-29 Plan*, 1 September 2023, p. 252.

¹⁰ Government of Western Australia, Energy Policy WA, ‘National Gas Law: Western Australian adoption of amended National Gas Objective to include emission reductions’ ([online](#)) (accessed April 2024).

¹¹ ATCO, *2025-29 Plan*, 1 September 2023, p. 252.

- (b) keep up to date any software and firmware used by it in connection with this Services Agreement and ensure all security-related updates and patches are installed;
 - (c) take all necessary steps, consistent with good industry practice, to ensure it does not introduce any virus, Trojan horse, worm, logic bomb or other malicious code into the other party's information technology systems and networks; and
 - (d) take all necessary steps, consistent with good industry practice, to protect its infrastructure and equipment against cyber security attacks.
20. Cyber security around critical infrastructure is of the highest order of importance, following high profile data breaches in Australia.¹² ATCO's proposed new clause makes explicit the cyber security obligations of the parties under the TSA, which are obligations that would be expected by a business operator, operating consistent with good industry practice, to guard against unauthorised data access and malicious attacks. As submitted by ATCO, the provisions of the proposed clause are not prescriptive – each party to the TSA can determine how it will comply with the clause. On this basis, noting that there were no submissions from interested parties on the proposed clause, the ERA approves the inclusion of new clause 7.8 in the TSA.¹³

Clause 6.9 (Odourisation)

21. ATCO proposed amendments to clause 6.9 to reflect actual operations. ATCO submitted that it does not odourise gas nor does it have the facilities to do so.¹⁴ The proposed amendments, as set out below, reflect actual operations where it is the contract holder (the “counterparty” to the TSA) who procures the odourisation:

6.9 Odourisation

~~<Service Provider> will~~ ~~<Counterparty>~~ must ensure that all Gas ~~in the ATCO GDS~~ it delivers to a Physical Gate Point is odourised in accordance with the Regulatory Instruments and any other applicable Laws.

22. ATCO has amended the TSA to reflect actual operations with respect to gas odourisation. In the absence of any submissions that dispute these operations, the ERA approves ATCO's proposed amendments to clause 6.9 of the TSA.

Clause 16 (Security and Insurance)

23. ATCO proposed numerous amendments to clause 16, which sets out provisions for security and insurance, including sub-clauses that cover:
- Compliance with obligations (existing clause 16.1)
 - Security for performance (existing clause 16.2)
 - Security Bond – Specific Provisions (proposed new clause 16.3)
 - Personal Properties Security Act (proposed new clause 16.4)

¹² For example, the Optus and Medibank data breaches in late 2022.

¹³ The ERA notes that the term “Services Agreement” used in clause 7.8(b) should be a reference to “Service Agreement”.

¹⁴ ATCO, *2025-29 Plan*, 1 September 2023, p. 252.

- Insurances (renumbered clause 16.5).
24. ATCO submitted that amendments to clause 16.2 were needed to clarify that reference tariffs can change from time to time for reasons other than Consumer Price Index (CPI) escalation (for example, reference tariffs may change due to cost pass through events), and that the quantum of security required may need to change whatever the cause of the tariff adjustment.¹⁵ The amendments made to clause 16.2(d) to reflect this are shown as follows:

16.2 Security for performance

...

- (d) The parties:
- (i) acknowledge that the Tariffs applicable to Reference Services ~~are increased based on a~~ will change from time to time (including due to CPI escalation formula determined in accordance with the Access Arrangement); and
 - (ii) agree that ~~other than for the first Variation Period, for each Variation Period~~ as those Tariffs change:
 - A. the total amount required to be ~~guaranteed~~ secured under this clause 16.2 ~~for the prior Variation Period~~ will be ~~increased for CPI in accordance with the same formula adjusted to reflect the change in those tariffs~~; and
 - B. accordingly, <Counterparty> must provide, in addition to the existing ~~guaranteed~~ secured amount or amounts, an additional or replacement Approved Security such that the amount of this ~~CPI increase adjustment~~ is guaranteed, at least secured, within 5 Business Days prior to the commencement of the Variation Period of being notified by <Service Provider> of the revised amount of Approved Security required.

25. ATCO further submitted that clause 16.2 did not adequately deal with specific issues that emerged when a counterparty provided a cash deposit (security bond) rather than a bank guarantee. Proposed new clause 16.3 aims to deal with these specific issues. Proposed new clause 16.4 is then required as it relates to the provisions of clause 16.3 with respect to the use of cash deposits and registering ATCO's interest in such deposits under the *Personal Property Securities Act 2009* (Cth).
26. Proposed new clauses 16.3 and 16.4 and associated new defined terms (which appear in clause 23.1 (Dictionary) of the TSA) are set out as follows:

16.3 Security Bond – Specific Provisions

- (a) <Service Provider> is only required to accept a Security Bond as Approved Security if <Service Provider> is able to register its interest in that Security Bond on the Personal Property Securities Register and if that interest will have priority over any other registered or unregistered interest in that Security Bond.
- (b) Where <Service Provider> accepts a Security Bond then it will hold the funds constituted by the Security Bond in such Australian bank account as determined by <Service Provider> in its absolute discretion. <Service

¹⁵ ATCO, *2025-29 Plan*, 1 September 2023, p. 252.

Provider> has no obligation to ensure that account pays interest or any given level of interest.

- (c) Any interest which does accrue on a Security Bond will be treated as income of <Counterparty>. When paid by the relevant bank such interest will be added to the amount of the Security Bond.
- (d) Any bank fees or other third party costs of maintaining the bank account may be met from the amount of the Security Bond (including interest added to that Security Bond). If as a result the amount of the Security Bond is reduced below the then current amount of Approved Security then <Counterparty> must, within 5 Business Days of request, provide to <Service Provider> such additional funds as required to ensure that the amount of the Security Bond is equal to the amount of Approved Security required to be provided under this Service Agreement.
- (e) At the end of each quarter of a calendar year <Service Provider> will determine if the amount of the Security Bond (including interest added to that Security Bond) exceeds the current amount of Approved Security <Counterparty> is required to provide to <Service Provider>. If so, <Service Provider> will, within 45 days of the end of the quarter, return to <Counterparty> an amount of cash equal to the amount by which the Security Bond exceeds the required amount of Approved Security.
- (f) Where <Service Provider> is entitled to call on an Approved Security which is a Security Bond pursuant to clause 16.2(e) this means that <Service Provider> may withdraw funds from the relevant bank account and apply them in accordance with clause 16.2(e).

16.4 PPSA

- (a) <Security Provider> may register a financing statement or financing change statement in relation to any Security Interest created by this Service Agreement under the PPSA.
- (b) <Counterparty> acknowledges and agrees that it is liable for all costs, charges and expenses incurred by <Service Provider>:
 - (i) in preparing and registering a financing statement or a financing change statement in relation to any Security Interest created by this Service Agreement, under the PPSA; and
 - (ii) in responding to requests for information about any Security Interest created by this Service Agreement, under Part 8.4 of the PPSA.
- (c) If Chapter 4 of the PPSA would otherwise apply to the enforcement of a Security Interest arising out of this Service Agreement, to the extent the law permits, <Counterparty> and <Service Provider> agree that:
 - (i) for the purposes of sections 115(1) and 115(7) of the PPSA;
 - A. <Service Provider> need not comply with sections 95, 121(4), 125, 130, 132(3)(d) or 132(4) of the PPSA; and
 - B. sections 142 and 143 of the PPSA are excluded; and
 - (ii) for the purposes of section 115(7) of the PPSA, <Service Provider> need not comply with sections 132 and 137(3) of the PPSA.
- (d) <Counterparty> waives the right to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.
- (e) If <Service Provider> exercises a right, power or remedy in connection with this Service Agreement, that exercise is taken not to be an exercise of a right, power or remedy under the PPSA unless <Service Provider> states otherwise at the time of exercise. However, this clause 16.3(e) does not

apply to a right, power or remedy which can only be exercised under the PPSA.

23.1 Dictionary

...

Personal Properties Securities Register means the register established under section 147 of the PPSA.

...

PPSA means the *Personal Property Securities Act 2009* (Cth.)

...

Security Bond means a cash deposit of funds with <Service Provider> by way of cash collateral.

Security Interest has the same meaning as in the PPSA.

27. As indicated by ATCO, reference tariffs under the access arrangement can change for reasons other than CPI escalation through the tariff variation mechanism. Changes in tariffs may affect the amount of security required by the counterparty given that approved security under clause 16.2(b)(i) of the TSA is the amount in dollars, which is the greater of:
- ATCO's reasonable estimate of all charges and other amounts payable that will be incurred by the counterparty.
 - An amount that is necessary, in ATCO's reasonable opinion, to protect ATCO's legitimate business interests.
28. ATCO's proposed amendments to clause 16.2(d) clarify that changes in reference tariffs, which are not limited to CPI escalation, can affect the amount of security required. In the absence of any submissions that raise concerns with ATCO's proposed amendments, the ERA approves the amendments to clause 16.2(d) of the TSA.
29. Proposed new clauses 16.3 and 16.4, and associated new defined terms, set out provisions relating to cash deposits (security bonds), which are an allowed form of approved security under the TSA.¹⁶ The new clauses and associated terms clarify the obligations of ATCO with respect to the use of cash deposits for security under the TSA. In the absence of any submissions that raise concerns with ATCO's proposed new clauses, the ERA approves new clauses 16.3 and 16.4, and associated defined terms, for inclusion in the TSA.
30. The ERA notes that, in addition to the amendments outlined above, ATCO has made several other amendments to clause 16 of the TSA (as shown in a marked-up copy of the TSA). The ERA considers that these other amendments either improve and/or clarify the drafting of clause 16. In the absence of any submissions that raise concerns with the other amendments made to clause 16 by ATCO, the ERA approves these other amendments for inclusion in the TSA.

¹⁶ See defined term "Approved Security" (clause 23.1 Dictionary).

Other proposed amendments

Dictionary

31. Clause 23.1 is a dictionary of defined terms used within the TSA. ATCO has proposed changes to numerous terms, including “User”, “Gas” and “Delivery Point”.

“User” and “<Counterparty>”

32. ATCO submitted that there was some confusion surrounding the term “User”, which is the term used in the current (AA5) TSA to refer to the counterparty of the agreement.

The counterparty to the template service agreement was described as [the] User. However, we realised this was confusing as the National Gas Law also uses the term “user” to refer to users generally. In places the template service agreement used “User” when it meant the counterparty but also “User” to represent all Users or other Users. Given this we have relabelled the counterparty as the “Counterparty”. In executed template service agreements, our intent is to replace the reference to Counterparty with the actual name of the Counterparty to the relevant template service agreement.¹⁷

33. ATCO has amended the term “User” and added a new term “Current User” in the TSA for AA6 as follows.

[Current User has the meaning given to that term in the Retail Market Procedures.](#)

...

~~User has the meaning given to it in the National Gas Access Law and, for the purposes of the Template Service Agreement [and this Service Agreement], “User” is a User~~ has the meaning given to it in the National Gas Access Law (and, to avoid doubt, <Counterparty> is a User).

34. ATCO’s proposal to replace the term “User” with “<Counterparty>” in the TSA where it is appropriate to do so; and in executed agreements to then replace “<Counterparty>” with the actual name of the party, is a pragmatic way to address any confusion surrounding the term “User”. Similarly, the ERA notes that ATCO has deleted the term “Service Provider” from the TSA (clause 23.1 Dictionary) and has instead used “<Service Provider>” throughout the TSA. It is assumed that in executed agreements, “<Service Provider>” will be replaced with ATCO (or the relevant service provider at the time of execution). In the absence of any submissions that raise concerns with ATCO’s proposal to amend the term “User” and use references to “<Counterparty>” and “<Service Provider>” (where relevant) throughout the TSA, the ERA approves these changes.

“Gas”

35. ATCO has included a new term “Gas” to mean “Natural Gas, Other Gas or a Gas Blend”, with the respective terms meaning:

Natural Gas means the form of gas generally known as “natural gas” being a substance that:

- (a) is in a gaseous state at standard temperature and pressure;

¹⁷ ATCO, 2025-29 Plan, 1 September 2023, p. 253.

- (b) consists of naturally occurring hydrocarbons, or a naturally occurring mixture of hydrocarbons and non-hydrocarbons, the principal constituent of which is methane; and
- (c) is suitable for consumption.

Other Gas means a substance that may be received into the ATCO GDS for transportation without breaching any Law, which substances may (without limitation) include (provided their receipt into the ATCO GDS is not prohibited by Law) hydrogen, biomethane, synthetic methane or any blend of these substances.

Gas Blend means a blend of Natural Gas and an Other Gas.

36. As noted at paragraph 14, ATCO proposed various amendments to the TSA to facilitate the introduction of hydrogen and other gases into the regulatory framework, including amendments to the term “Gas” and the inclusion of a new clause 5.8 to set out provisions for receipt points that receive gas that is not natural gas.
37. As set out at paragraph 17, the legislative reforms to extend the regulatory framework to other gases has not come into effect in Western Australia. ATCO’s proposal to include new defined terms for “Gas”, “Natural Gas”, “Other Gas” and “Gas Blends” does not affect the workability of the TSA. The TSA does remain fit for purpose. The ERA considers that given the adoption of other legislative reforms (namely the amending of the national gas objective to include an emissions reduction target), it is likely that other gases will form part of the regulatory framework sometime in the future.¹⁸ ATCO’s proposed new terms prepare the TSA for this future. On this basis and noting that there were no submissions that raised any concerns with the proposed new terms, the ERA approves the inclusion of these new terms in clause 23.1 of the TSA.

“Delivery Point” and “System Delivery Point”

38. ATCO amended the term “Delivery Point” and introduced a new term “System Delivery Point” to better distinguish between delivery points that the counterparty has a right to use and all other delivery points on the system. ATCO submitted that Delivery Point will mean a point the counterparty has a right to use, and System Delivery Point will mean all delivery points on the GDS.¹⁹ The proposed definitions for the respective terms are as follows:

Delivery Point means a point, including a flange or joint, specified in this Service Agreement (or any other agreement between <Counterparty> and <Service Provider> for the provision of References Services) and in the Delivery Point Register, as a point at which <Counterparty> is entitled to take delivery of Gas from <Service Provider> out of the ATCO GDS.

System Delivery Point means a point, including a flange or joint, at which Gas is capable of being delivered out of the ATCO GDS and includes each Delivery Point.

39. ATCO’s proposal to distinguish between delivery points that the counterparty has a right to use under an executed service agreement (a “Delivery Point”) and all other delivery points on the system (a “System Delivery Point”) clarifies the types of delivery points to which provisions of the TSA may apply. In the absence of any submissions that raise

¹⁸ Government of Western Australia, Energy Policy WA, ‘National Gas Law: Western Australian adoption of amended National Gas Objective to include emission reductions’ ([online](#)) (accessed April 2024).

¹⁹ ATCO, *2025-29 Plan*, 1 September 2023, p. 254.

concerns with ATCO's proposal to use the terms "Delivery Point" and "System Delivery Point", the ERA approves the inclusion of these terms in clause 23.1 of the TSA.

Other terms

40. Other amendments to defined terms are set out in Table 9.2, together with the ERA's considerations. Apart from ATCO's proposed changes to the term "Interconnection Arrangement", the ERA considers the other proposed changes to be reasonable and necessary because they relate to new/amended clauses of the TSA, or they correct an error/omission or are drafting improvements because they better clarify the terms used in the TSA.
41. For the term "Interconnection Arrangement", ATCO has proposed to delete the words "arrangement or understanding" from the applied definition as follows:

Interconnection Arrangement means a written or unwritten contract, ~~arrangement or understanding~~ in respect of an interconnection at a Physical Gate Point between the ATCO GDS and an Interconnected Pipeline (and includes a written or unwritten contract, ~~arrangement or understanding~~ for the provision of an Interconnection Service).

42. The ERA notes that, while not defined in the TSA, the word "contract" would retain a standard legal meaning that would apply. That is, for a contract to exist there would need to be an offer, acceptance, and consideration for the arrangement. The removal of the words "arrangement" or "understanding" is material in that it removes the ability under the TSA to consider any informal arrangements that are less binding than a contract, and/or general business practices between the parties from constituting an Interconnection Arrangement. The ERA further notes that informal arrangements or general business practices may not constitute an unwritten contract though they will generally require a meeting of minds under which one or both parties commit to a course of action. In the absence of information from ATCO to justify its proposal to delete the words "arrangement or understanding" from the definition of Interconnection Arrangement, the ERA requires these words to remain in the definition.

Required Amendment

- 9.1 ATCO must retain the words "arrangement or understanding" in the definition for the term Interconnection Arrangement in the Template Service Agreement. That is, the definition must mean: *"a written or unwritten contract, **arrangement or understanding** in respect of an interconnection at a Physical Gate Point between the ATCO GDS and an Interconnected Pipeline (and includes a written or unwritten contract, **arrangement or understanding** for the provision of an Interconnection Service)". [emphasis added]*

Table 9.2: Proposed amendments to defined terms in the Template Service Agreement (clause 23.1 Dictionary)

Defined term	ATCO proposed amendment	ERA considerations
Ancillary Services	Added 'Special Meter Reading' to the list of services.	Corrects error/omission – the special meter reading is an ancillary service.

Defined term	ATCO proposed amendment	ERA considerations
Application and Application Procedure	Amended drafting to replace the term 'Reference Service' with the term 'Pipeline Service'.	Corrects error/omission – the application and application procedure in Part 5 of the access arrangement covers access to pipeline services (which includes reference services).
Approved Security	Updated definition to include the term 'Security Bond'.	Related to clause 16.2 amendments (discussed at paragraph 23 of this document).
Current User	New term added to the TSA.	Clarifies difference between a current and prospective user (both of which are now defined terms in the TSA).
Distribution Licence	Amended drafting to reflect the licence renewed in June 2021.	Corrects error/omission – amendment required to reflect current distribution licence.
Downstream Person	Amended drafting to replace references to 'Service Provider' with references to 'User'.	Corrects error/omission – the definition is relevant to a user (not the service provider).
Gas Customer	New term added to the TSA.	Clarifies that a gas customer is any person who is party to a contract with the counterparty for the purchase of gas.
Gas Quality Data	Amended drafting to include, if considered appropriate, other types of data (not already specified).	Clarifies that the service provider may consider other types of data if considered appropriate.
Injection Facility	New term added to the TSA.	Related to amendments made to the terms 'Interconnected Pipeline' and 'Interconnection Distance' (see below).
Interconnected Pipeline	Amended drafting to include the term 'Injection Facility'.	Clarifies that an interconnected pipeline includes an injection facility.
Interconnection Arrangement	Amended drafting to delete the words 'arrangement or understanding'.	See paragraphs 41 and 42 (above) for ERA considerations.
Interconnection Distance	Amended drafting to include the term 'Injection Facility'.	Clarifies that the measured interconnection distance applies to an injection facility.
Law or Laws	Amended drafting to include the term 'ATCO GDS'.	Corrects error/omission – the Law/Laws are relevant to the ATCO GDS.
Regulatory Instruments	Amended drafting to reflect the current Gas Marketing Code of Conduct and to clarify the Gas Standards that apply.	Corrects error/omission – the amendments update drafting to reflect the relevant regulatory instruments.
Related Shipper	Amended term to delete the words 'in relation to a User for a Sub-network'.	Clarifies the term by removing unnecessary words.
Service Agreement	Amended drafting to mean the TSA.	Clarifies that the service agreement is the TSA between the service provider and counterparty.

Defined term	ATCO proposed amendment	ERA considerations
Standard Delivery Facilities	Amended drafting to be consistent across meanings for the B1, B2 and B3 services.	Corrects error/omission – the amendments update drafting relevant to the B1 service so as to be consistent with the drafting relevant to the B2 and B3 services.
Standard Pressure Regulator	New term added to the TSA.	Corrects error/omission – despite the term being used in the TSA, the meaning of the term was not specified in the TSA.
Start Date	Amended drafting to clarify that a start date may be recorded in the Delivery Point Register under 5.4(b)(iii).	Clarifies that the Delivery Point Register may be used to record start dates.
Surcharge	Deleted term from the TSA.	Corrects error/omission – the term 'Surcharge' is not used in the TSA.
System Pressure Protection Plan	Amended drafting to clarify that when referring to the counterparty, the System Pressure Protection Plan means the plan prepared by the counterparty.	Clarifies that the System Pressure Protection Plan applies to both a prospective user and the counterparty (and means the plan prepared by the counterparty).
User Specific Delivery Facilities	Amended drafting to clarify the user specific delivery facilities that apply to the A1 and A2 services.	Clarifies that for the A1 and A2 services user specific facilities also include telemetry as determined by the service provider as required.
Variation Period	Deleted term from the TSA.	Related to clause 16.2 amendments (discussed at paragraph 23 of this document).

Source: ATCO, *Access Arrangement for the Mid-West and South-West Gas Distribution Systems - Annexure F: Template Service Agreement, 1 September 2023 (marked-up version)*.

Conditions precedent (clause 1(f))

43. ATCO amended clause 1(f) based on its position that the condition precedent in clause 1(a)(i) (to have obtained all approvals) should apply for the benefit of both parties and should only be capable of waiver by agreement of both parties.²⁰ The proposed amendments are as follows:

1. Conditions Precedent

...

- (f) The Condition Precedent in clause 1(a)(i) is for the ~~sole~~ benefit of ~~<User>~~ both parties and may only ~~<User>, in its absolute discretion, may vary be varied~~ or ~~waive~~ waived by agreement between the ~~Condition Precedent, by written notice to <Service Provider>~~ parties.

44. The ERA considers the proposed amendments reflect ATCO's position, which is reasonable. The requirement for the counterparty to obtain all necessary approvals to

²⁰ ATCO, *2025-29 Plan*, 1 September 2023, p. 253.

ATCO incorrectly refers to clause 1(e) of the TSA instead of clause 1(f), where the amendments are made.

enter into the TSA, as set out in clause 1(a)(i), benefits both the counterparty and service provider (ATCO); and the ability to waive or vary the condition precedent should be by agreement between both parties. As suggested by ATCO, if the counterparty did not have all the necessary approvals to perform under the service agreement (because it sought to vary or waive the necessary approvals), ATCO would likely encounter difficulties when performing its duties under the service agreement. For these reasons and noting that there were no submissions on ATCO's proposed amendments, the ERA approves amended clause 1(f) of the TSA.

Receipt points (clause 5.7(a))

45. ATCO submitted that it amended the drafting of clause 5.7(a) for clarification.²¹ The proposed drafting amendments are as follows:

5.7 Receipt Points

- (a) ~~There is one Receipt Point for~~ For each Interconnected Pipeline for ~~each a~~ Sub-network there is one Receipt Point, regardless of the number of Physical Gate Points between that Interconnected Pipeline and the Sub-network.

46. The ERA notes ATCO's proposed redrafting of clause 5.7(a) for clarification. In the absence of any submissions that raise concerns with ATCO's proposed redrafting of clause 5.7(a), the ERA approves the redrafted clause for inclusion in the TSA.

New delivery points and new receipt points (clauses 5.5(d) and 5.9)

47. ATCO added new clauses 5.5(d) and 5.9 to the TSA to address the process for constructing new delivery and receipt points. The new clauses read as follows:

5.5 New Delivery Points and increasing Contracted Peak Rate

...

- (d) If <Counterparty> requests <Service Provider> to construct facilities to service a new Delivery Point, <Service Provider> will process that request in accordance with any applicable Laws. Depending on the nature and scale of facilities required, <Service Provider> may require entry into a specific agreement relating to the construction of those facilities (and that agreement may include conditions precedent, such as obtaining all relevant approvals). <Service Provider> will determine its charges for constructing such facilities in accordance with the requirements of any applicable Laws.

...

5.9 Establishment of New Receipt Points

A new Receipt Point (or Physical Gate Point) may only be added to the ATCO GDS if there is:

- (a) a legally enforceable Interconnection Arrangement in force between <Service Provider> and the party operating the facilities immediately upstream of that Receipt Point or Physical Gate Point; and
- (b) an agreement in place between <Service Provider> and <Counterparty> (and/or the operator referred to in clause 5.9(a)) relating to the construction of those facilities and any modifications required to the ATCO GDS to connect the new Receipt Point or Physical Gate Point (including the amounts <Service Provider> will charge for making the required modifications to the ATCO GDS and supervising the design, construction and commissioning

²¹ ATCO, *2025-29 Plan*, 1 September 2023, p. 253.

process). <Service Provider> will determine its charges relating to establishment of the new Receipt Point or Physical Gate Point in accordance with the requirements of any applicable Laws.

48. ATCO submitted:

Clause 5.9(a) has been added to make clear that new receipt points (whether for natural gas or otherwise) may only be added to the ATCO GDS if an interconnection arrangement is in force.

Clauses 5.5(d) and 5.9(b) have been added to briefly address the process for constructing new delivery points and receipt points. The clauses provide that requests for constructing new facilities will be processed in accordance with applicable laws and any charges determined in accordance with requirements of applicable law. As noted in clause 7.4 of the Access Arrangement, for many delivery point facilities there will be no additional charges. A separate agreement dealing with the construction process will be required for all new receipt points. For new delivery points, whether a separate agreement relating to the construction process is required will depend on the scale of the construction required. ATCO notes that, in the future, if the changes made to the National Gas Rules on the east coast are applied in Western Australia it will need to develop an interconnection policy.²²

49. The ERA notes that:

- New clause 5.9(a) makes it clear that an interconnection arrangement must be in force for the addition of a new receipt or physical gate point to the gas network. Having such an interconnection arrangement would offer benefits to both ATCO and users of the network. For example, the interconnection arrangement would help to ensure that the new receipt point is added in such a way so that it does not compromise the operation of the network for other users.
- New clauses 5.5(d) and 5.9(b) clarify the process and obligations for construction activities to facilitate new delivery and receipt points. For example, an agreement may be necessary for the construction of facilities to service a new delivery point, whereas an agreement must be place for the construction of facilities to connect a new receipt point.

50. In the absence of any submissions that raise concerns with ATCO's proposal to include the new clauses, the ERA approves new clauses 5.5(d) and 5.9 for inclusion in the TSA subject to the following amendments that require ATCO to act reasonably in imposing conditions precedent and charges.

5.5 New Delivery Points and increasing Contracted Peak Rate

...

- (d) If <Counterparty> requests <Service Provider> to construct facilities to service a new Delivery Point, <Service Provider> will process that request in accordance with any applicable Laws. Depending on the nature and scale of facilities required, <Service Provider> may require entry into a specific agreement relating to the construction of those facilities (and that agreement may include [reasonable](#) conditions precedent, such as obtaining all relevant approvals). <Service Provider> will determine its [reasonable](#) charges for constructing such facilities in accordance with the requirements of any applicable Laws.

²² ATCO, *2025-29 Plan*, 1 September 2023, p. 253.

...

5.9 Establishment of New Receipt Points

A new Receipt Point (or Physical Gate Point) may only be added to the ATCO GDS if there is:

- (a) ...
- (b) an agreement in place between <Service Provider> and <Counterparty> (and/or the operator referred to in clause 5.9(a)) relating to the construction of those facilities and any modifications required to the ATCO GDS to connect the new Receipt Point or Physical Gate Point (including the amounts <Service Provider> will **reasonably** charge for making the required modifications to the ATCO GDS and supervising the design, construction and commissioning process). <Service Provider> will determine its **reasonable** charges relating to establishment of the new Receipt Point or Physical Gate Point in accordance with the requirements of any applicable Laws.

Required Amendment

- 9.2 ATCO must amend proposed new clauses 5.5(d) and 5.9 of the Template Service Agreement to require the service provider to act reasonably in imposing conditions precedent and charges. The amended drafting is set out at paragraph 50 of this draft decision attachment.

Liability for off-specification gas (new clause 6.4(d))

51. ATCO inserted new clause 6.4(d) to “better understand the nature of losses which may be caused by off-specification gas”. ATCO further submitted that the proposed clause “does not change the existing liability regime but makes clearer the types of losses which may arise if off-specification gas is introduced into the ATCO GDS”.²³
52. The proposed clause reads as follows:
- (d) The losses, damages, costs and expenses <Service Provider> may suffer or incur as a result of any Gas delivered, or attempted to be delivered, by <Counterparty> or a Related Shipper of <Counterparty> into the ATCO GDS being Off-Specification Gas include, without limitation, costs arising due to the need to flare or vent Gas including:
 - (i) the costs of replacing any flared or vented Gas;
 - (ii) the costs of acquiring (or using up existing) carbon credits to offset emissions due to such flaring or venting;
 - (iii) any penalties or fines payable by <Service Provider> as a result of such venting or flaring.
53. ATCO’s proposed new clause 6.4(d) clarifies the nature of some of the losses which it may suffer due to gas that is off-specification. In the absence of any submissions that raise concerns with ATCO’s proposal to include the new clause, the ERA approves new clauses 6.4(d) for inclusion in the TSA.

²³ ATCO, *2025-29 Plan*, 1 September 2023, p. 253.

Receipt of gas (clause 7.4(b))

54. ATCO amended the drafting of clause 7.4(b) because it considered the current drafting was unclear and needed clarification.²⁴ The amended drafting is as follows:

7.4 Receipt of Gas

- (a) Only <Counterparty> may receive Gas delivered under this Service Agreement by <Service Provider> at a Delivery Point.
- (b) ~~<User>'s entitlement to receive Gas under this Service Agreement is a contractual entitlement and not a proprietary entitlement.~~ <Counterparty> has no proprietary interest in Gas after its delivery into the ATCO GDS at a Receipt Point and prior to its delivery at a Delivery Point. Its sole right is a contractual one to have Gas (including a commingled stream of Gas) delivered at a Delivery Point in accordance with this Agreement.

55. The ERA notes ATCO's proposed redrafting of clause 7.4(b), which makes clear that the Counterparty maintains no propriety interest in the gas after it goes into the pipeline and prior to its delivery. In the absence of any submissions that raise concerns with ATCO's proposed redrafting of clause 7.4(b), the ERA approves the redrafted clause for inclusion in the TSA.

Assignments, transfers and novations by the service provider (clause 14.8)

56. ATCO amended clause 14.8 to address the need to obtain consent from users in order to sell the GDS. ATCO submitted:

We did not consider it appropriate ATCO would need to obtain consent of each user to sell the ATCO GDS (given this would require regulatory approval anyway and all users would be protected by that process). Given this, we have streamlined the assignment/novation clause to allow the agreement to be transferred as part of any sale of the gas distribution system. Any other assignments will require ATCO to obtain the Counterparty's consent (not to be unreasonably withheld).²⁵

57. The amended clause reads as follows:

14.8 Assignments, transfers and novations by <Service Provider>

- (a) _____ <Service Provider> may assign its rights and/or novate its obligations under this Service Agreement:
- (i) to any person to whom <Service Provider> transfers ownership of the ATCO GDS; or
- (ii) otherwise with ~~the <User>'s~~ <Counterparty>'s prior written consent, and such consent must not be unreasonably withheld.
- (b) <Counterparty> must execute such documentation reasonably required by <Service Provider> to give effect to an assignment or novation under clause 14.8(a), provided <Service Provider> must pay any Duty on such documentation and must reimburse <Counterparty> its reasonable legal costs of reviewing that documentation.

58. As submitted by ATCO, there may be separate regulatory and/or legal processes in place for the sale of the GDS, such as the requirement to apply to the ERA for approval

²⁴ ATCO, 2025-29 Plan, 1 September 2023, p. 253.

²⁵ ATCO, 2025-29 Plan, 1 September 2023, p. 253.

to transfer the gas distribution licence related to the GDS. As part of the licence transfer approval process, the ERA must be satisfied that the transferee has, or will, acquire within a reasonable time after the transfer, the financial and technical resources to undertake the gas distribution licence activities.²⁶ ATCO would be required under the current TSA to obtain the consent of the Counterparty to novate (replace) its obligations if it transferred ownership of the GDS to another party. ATCO's proposed amendment will allow it to novate its obligations upon sale of the GDS. Given the regulatory framework relating to licence transfers, the ERA considers that there is little risk associated with allowing ATCO to engage in such assignment and/or novation where ownership of the GDS is transferred to another entity. In all other cases, ATCO may only assign its rights and/or novate its obligations under the service agreement by obtaining written consent from the affected counterparty, which must not be unreasonably withheld. In all circumstances the Counterparty must execute documents that are reasonably required by ATCO and ATCO must cover certain costs (duty and legal costs).

59. ATCO's amendments to clause 14.8 do assist in streamlining the provisions for assignments, transfers and novations. In the absence of any submissions that raise concerns with ATCO's proposed amendments to clause 14.8, the ERA approves the amended clause for inclusion in the TSA.²⁷

Default by a party (clause 15.1(g))

60. ATCO amended clause 15.1(g) to address drafting issues as it considered the clause difficult to read.²⁸ The amendments to the clause are set out as follows:

15.1 Default by a party

A party is in default under this Service Agreement in any one or more of the following circumstances:

...

- (g) if a party is in default ("defaulting party") under any other agreement with the other party ~~under which relating to~~ the ~~<Service Provider> provides provision of~~ Reference Services ~~to <Users>~~, and the ~~non-defaulting other~~ party reasonably considers that the default under the other agreement will materially ~~impact adversely affect~~ the ~~non-defaulting other~~ party's ~~ability rights and interests, and the benefit it otherwise reasonably expects to~~ ~~comply with its obligations~~ ~~receive~~, under this Service Agreement; or ...

61. The ERA notes ATCO's proposed redrafting of clause 15.1(g):
- Changes the way in which the other party must be impacted – the proposed amendment would require the impact to be adverse (that is, to have a negative impact) rather than just any material impact.
 - Broadens the scope of default – the proposed amendment allows for default in circumstances where a default under another agreement impacts the other party's rights and interests and any benefit it expects to receive under the TSA, whereas the current wording in the TSA requires that the default under the other

²⁶ *Energy Coordination Act 1994*, section 11S(1).

²⁷ The ERA recommends adding the word "that" after "provided" in clause 14.8(b) for added clarity. That is, "<Counterparty> must execute such documentation reasonably required by <Service Provider> to give effect to an assignment or novation under clause 14.8(a), provided **that** <Service Provider> ..." [emphasis added].

²⁸ ATCO, *2025-29 Plan*, 1 September 2023, p. 253.

agreement impacts the party's ability to comply with its obligations under the TSA.

62. ATCO's new proposed wording significantly broadens the circumstances in which a party may be in default under the TSA by virtue of its breach of a separate agreement relating to provision of reference services. In circumstances where the ERA does not have oversight of the reasonableness of the terms of the related agreement, the ERA cannot allow the expansion of the circumstances in which breach of another agreement can result in a default under the TSA. Further, the ERA does not consider that the existing clause is difficult to read or understand and is not satisfied that ATCO's proposed amendment to clause 15.1(g) is reasonably necessary. For these reasons, the ERA does not approve ATCO's redrafted clause for inclusion in the TSA and requires ATCO to retain the existing clause.

Required Amendment

- 9.3 ATCO must retain existing clause 15.1(g) (which relates to default provisions) in the Template Service Agreement.

Schedules 1, 2 and 3

63. Schedules 1, 2 and 3 of the TSA relate to specific terms and conditions for the A1, A2 and B1 Services, respectively. ATCO amended the drafting of provisions for the deregistration of a delivery point because "removal of a delivery point requires both deregistration of the delivery point (being a reference service at a fixed reference tariff) and removal of metering facilities (which for services A1, A2 and B1 is charged on a cost-pass through basis)".²⁹
64. The relevant clauses where these drafting changes are made are clause 9 of Schedules 1 (A1 Service) and 2 (A2 Service), and clause 8 of Schedule 3 (B1 Service). ATCO's amended drafting in each of the schedules is the same and reads as follows:

[x]. Deregistering and Permanent Removal of a Delivery Point

- (a) Subject to clause 5.6 of this Service Agreement <Service Provider> may permanently remove a Delivery Point. To effect this, <Counterparty> needs to engage <Service Provider> to provide the Reference Service of Deregistering a Delivery Point and the non-reference service of "Remove the meter set and make safe".
- (b) <Service Provider> will permanently Deregister the Delivery Point by:
- (i) permanently removing the Delivery Point in accordance with the Retail Market Procedures; and
 - (ii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.
- (c) <Service Provider> will notify <Counterparty> in writing once the Delivery Point has been Deregistered.
- (d) If <Service Provider> Deregisters the Delivery Point, then <Counterparty> must also contract the non-reference service "Remove the meter set and make safe" so as to obtain removal by Service Provider of the User Specific Delivery Facilities.

²⁹ ATCO, 2025-29 Plan, 1 September 2023, p. 254.

- (e) <Counterparty> must pay <Service Provider> the applicable Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism for the Deregistration of the Delivery Point and reimburse Service Provider all reasonable costs incurred by <Service Provider> in providing the "Remove the meter set and make safe" non-reference service (and with time of <Service Provider> personnel charged at <Service Provider>'s standard personnel rates for non-reference services).
- (f) If <Counterparty> cancels its request before <Service Provider> Deregisters, or attempts to Deregister, the Delivery Point, then <Counterparty> must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) <Service Provider> is not required to provide the Reference Service of Deregistering a Delivery Point and the non-reference service of "Remove the meter set and make safe" if <Service Provider> considers (acting reasonably) this would breach a Law.

65. ATCO's amended drafting of Schedules 1, 2 and 3 of the TSA (as shown above) makes clear that, in order to deregister a delivery point, for A1, A2 and B1 Services, the associated metering equipment for that delivery point must also be removed. The amended drafting benefits both parties to the service agreement as the obligations of each party are explicit. For this reason, noting that there were no submissions that raised any concerns with ATCO's proposed amendments, the ERA approves the amended drafting for inclusion in the TSA.

Annexure A

66. Annexure A of the TSA sets out information for gas quality specifications. ATCO amended the drafting of this information to improve clarity because it considered the current drafting to be confusing. ATCO submitted:

Essentially the gas specification is to reflect that required by law. The exception is CO₂ and oil where even if the law allows a broader specification, for system integrity issues ATCO requires the values for these parameters not to exceed the limits in Annexure A [of the TSA].³⁰

67. ATCO's amended drafting of Annexure A reads as follows:

Annexure A – Gas Quality Specifications

1. "Gas Quality Specifications" in this Service Agreement means both:
 - (a) where Gas is delivered to a Physical Gate Station from a gas transmission pipeline, the applicable standard in Schedule 1 of the Gas Supply (Gas Quality Specifications) Regulations 2010 for that gas transmission pipeline (and where gas transmission pipeline has the meaning given to it in the Gas Supply (Gas Quality Specifications) Act 2009); and
 - (b) for all Gas delivered by <Counterparty> to a Physical Gate Station, the gas quality specification referred to in Regulation 5(2)(a) of the Gas Standards (Gas Supply and System Safety) Regulations 2000.

If there is a conflict between the requirements of paragraph (a) and (b) above the more stringent specification, standard or requirements will apply. To avoid doubt clause 23.2(b)(i) applies to the references to the above regulations.

³⁰ ATCO, *2025-29 Plan*, 1 September 2023, p. 254.

2. If the maximum permitted values for carbon dioxide and oil in the regulations referred to in paragraph 1 above are greater than those specified below (or if there are no such values in the regulations), the values specified below will apply for the purposes of determining the Gas Quality Specification.

Component	Unit of Measurement	Specification Limit
Carbon Dioxide	mol%	4%
Oil	ml per TJ	20

68. The ERA notes ATCO's proposed redrafting of Annexure A of the TSA. In the absence of any submissions that raise concerns with ATCO's proposed redrafting of Annexure A, the ERA approves the redrafted wording for inclusion in the TSA.
69. Given the reasons for ATCO amending Annexure A, ATCO may wish to consider including the following words to the last sentence of paragraph 1 to make it explicit as to what clause applies (that is, clause 23.2(b)(i) of the TSA):

To avoid doubt clause 23.2(b)(i) [of this Service Agreement](#) applies to the references to the above regulations.

Other drafting amendments

70. Further to the proposed amendments detailed by ATCO in its 2025-29 Plan, the ERA notes numerous other drafting amendments that show in ATCO's marked-up copy of the TSA. While the ERA considers that these amendments are, as pointed out by ATCO, minor corrections and are self-explanatory as to why the amendment has been made, there are two proposed amendments that the ERA has given further consideration to:
- Addition of the words "during a month" to Schedule 1 (Service A1) clause 8(a) and Schedule 2 (Service A2) clause 8.
 - Changing "8m³/h" to "10m³/h" in Schedule 5 (service B3) clause 6.

Schedule 1 clause 8(a) and Schedule 2 clause 8

71. ATCO has amended the drafting of clause 8(a) in Schedule 1 (Service A1) and clause 8 in Schedule 2 (Service A2) to insert the words 'during a month' as follows.

[Schedule 1, clause 8(a)]

If [during a month](#) <Counterparty>'s Instantaneous Flow Rate exceeds its Contracted Peak Rate for a Delivery Point, then <Counterparty> has acquired "Overrun Service" and must pay <Service Provider> an Overrun Charge calculated as follows:

...

[Schedule 2, clause 8]

If [during a month](#) <Counterparty>'s Instantaneous Flow Rate exceeds its Contracted Peak Rate for a Delivery Point on:

- (a) 3 or more days during any 30 day period; or
- (b) 8 or more days during a Year, ...

72. The addition of the words “during a month” may change the application and scope of the clause as there is now a defined period (a month) to which the clause applies. The ERA asked ATCO to clarify the reason for the addition of the words.³¹ ATCO confirmed that the insertion of the words “during a month”:
- In clause 8(a) Schedule 1, was to clarify that the relevant period is one month, which is consistent with the rest of the clause (for example, reference to “for the month” within the formula).
 - In clause 8 Schedule 2, was made in error and should be deleted. The clause already refers to the relevant time period, being 30 days in subclause (a) and a year in subclause (b).
73. Considering the explanation provided by ATCO, and in the absence of any submissions that raise concerns with ATCO’s amendments, the ERA approves the addition of the words “during a month” in clause 8(a) of Schedule 1 in the TSA. As confirmed by ATCO, the proposed addition of these words in clause 8 of Schedule 2 is an error and should be deleted.

Required Amendment

- 9.4 As confirmed by ATCO the words “during a month” in clause 8 of Schedule 2 in the Template Service Agreement were inserted in error. These words should therefore be deleted.

Schedule 5 clause 6

74. ATCO has amended the drafting of clause 6 in Schedule 5 (Service B3) to change the way in which the contracted peak rate for a delivery point is determined as follows.

The Contracted Peak Rate for a Delivery Point is the lesser of:

- (a) the highest Instantaneous Flow Rate at which Gas can be delivered by <Service Provider> at the Delivery Point using the Standard Delivery Facilities at the Delivery Point; and
- (b) ~~8m³/h~~ 10m³/h.

75. The ERA asked ATCO to clarify the proposed amendment after noting that the definition of the B3 Service in the proposed access arrangement document (section 4.6) referred to a standard meter with a badged capacity of less than 12m³/h.³² ATCO provided the following additional information:

The referenced sections refer to different concept. The TSA allows [ATCO] to curtail a user if it exceeds its “contracted peak rate” and provides that the contracted peak rate for Service B3 is the lessor of:

- a) The highest flow rate that gas can be delivered using standard delivery facilities (defined as being a meter with a badged capacity of less than 12m³/h, including standard 8m³/h or 10m³/h meters); and
- b) 10m³/h.

³¹ ERA, ERA Information Request ERA04, 6 February 2024.

³² ERA, ERA Information Request ERA05, 6 February 2024.

Conversely, the Access Arrangement at [section] 4.6 simply refers to the meter badged capacity and provides that this is less than 12m³/h.

The reference to “the lessor of” 10m³/h (in the TSA) and “less than” 12m³/h (in the Access Arrangement) essentially result in the same meaning. In practice, they both mean less than or equal to 10m³/h which is the maximum badged capacity for meters available in the market (noting that, practically, a user may be able to obtain a higher flow rate than the meter badged capacity provides). This is because there are currently no meters with a badged capacity of more than 10m³/h but less than 12m³/h for Service B3.

Whilst both documents are correct, for additional consistency the Access Arrangement could be revised to state “less than or equal to 10m³/h”.

76. The ERA notes ATCO’s explanation for the proposed amendment to clause 6 in Schedule 5 (Service B3) of the TSA. Given that there were no submissions that raised any concerns with ATCO’s proposed amendment, the ERA approves the amendment and considers that no further amendments for additional consistency are necessary.

Permanent Disconnection Contract

77. For AA6, ATCO will offer a new permanent disconnection ancillary reference service. Details of this service are summarised in Table 9.3.

Table 9.3: Details of ATCO’s permanent disconnection ancillary reference service

Service characteristics	Details
Name of service	Permanent Disconnection Service
Description of service ³³	<p>This service is for the permanent disconnection of the property from the GDS, generally by cutting and capping the service pipe at the main, under standard site conditions. This service is only available where there is no meter at the property or for delivery points that previously received the B2 or B3 haulage service and have also sought the “Deregistering a delivery point” service.</p> <p>This service is available to end users, property owners and those authorised on behalf of property owners. Where there is a meter present, the “Deregistering a delivery point” service is also required.</p>
Type of service	Ancillary reference (disconnection) service
Tariff	<p>Tariff is a fixed price structure charged directly to the customer (or their authorised representative), with yearly price revisions in accordance with the tariff variation mechanism.</p> <p>The proposed tariff at 1 January 2025 is \$1,184.80 (ex-GST).³⁴</p> <p>Other charges that may be payable under the Permanent Disconnection Contract (clause 32) include:</p> <ul style="list-style-type: none"> – Cancellation Fee – Call-Out Fee – Fee for removal of metering equipment

³³ ATCO, *2025-29 Plan*, 1 September 2023, Table 6.2, p. 79.

³⁴ ATCO, *2025-29 Plan*, 1 September 2023, Table 16.7, p. 241.

Service characteristics	Details
Terms and conditions	Permanent Disconnection Contract (Annexure G of access arrangement).

78. With the introduction of the permanent disconnection service for AA6, there will be two ancillary reference disconnection services: 1) the “deregistering a delivery point” (or “deregistration”) service; and 2) the “permanent disconnection” service. ATCO provided reasons for these different disconnection services in its 2025-29 Plan. It submitted:

The Permanent Disconnection service can only be provided where there is no meter at the property. If there is a meter, the Deregistration service must also be obtained. This can either be sought by the applicant through the retailer, or if necessary, ATCO can contact the retailer for authorisation. Either way, ATCO will charge the retailer for the Deregistration service (it is up to the retailer whether they charge the customer). ATCO can perform the Permanent Disconnection at the same time as the Deregistration.

ATCO charges the Permanent Disconnection reference service tariff upfront to the applicant through the online portal and, if a meter exists, the Deregistration reference service tariff to the retailer.³⁵

79. ATCO set out further information relevant to B2 and B3 customers for closing gas (retail) accounts, permanent disconnections and demolitions in its 2025-29 Plan (access arrangement information). This information is set out below:

CLOSE GAS ACCOUNT

If a customer only wishes to stop receiving gas and does not wish to permanently remove the gas connection, the customer should discuss this with their retailer. The retailer may, either at its own discretion or if requested by the customer, also obtain the Deregistration reference service from ATCO to ensure no further charges are received in relation to the property.

PERMANENTLY DISCONNECT

If a gas customer wishes to permanently disconnect from the gas network, the following steps are required:

- 1) Contact the retailer to: a) close their retail account; and b) deregister the MIRN and remove the meter – the retailer obtains this from ATCO (“Deregistration” service).
- 2) Contact ATCO to permanently disconnect the property from the network (“Permanent Disconnection” service). The applicant will need to complete ATCO’s online application form and pay the upfront fee. The form is available on ATCO’s website. Where a meter is present, and the Deregistration service has not already been sought, ATCO will contact the retailer for authorisation to Deregister (and charge the retailer).

DEMOLITION

If a property is to be demolished, it must first be permanently disconnected from the gas network.

An applicant can contact ATCO to permanently disconnect the property from the network, (“Permanent Disconnection” service) provided they are the property owner or have the property owner’s written consent. The applicant will need to complete ATCO’s online application form and pay the upfront fee. The form is available on ATCO’s

³⁵ ATCO, *2025-29 Plan*, 1 September 2023, p. 82.

website. Where a meter is present, and the Deregistration service has not already been sought, ATCO will contact the retailer for authorisation to Deregister (and charge the retailer for this).³⁶

80. The Permanent Disconnection Contract (Annexure G of the proposed access arrangement) sets out ATCO's proposed terms and condition for the permanent disconnection service. Under the agreement, the following terms of service apply:
- The service can only be provided if the metering equipment at the property has been removed, or the retailer has authorised removal of the metering equipment at the property.
 - Applications for the service must be electronically lodged via ATCO's website, like how the existing (non-reference) demolition service is currently administered.³⁷ Applications can only be made by the customer who must be the owner of the property (or their authorised representative).
 - Subject to the application for service being accepted, ATCO will notify the customer of when the service will be performed. Safe and unhindered access to the property must be provided and the customer may need to be present on the service date.
 - ATCO will provide the service in accordance with the relevant standards applicable and may use ATCO employees or sub-contractors to do this. The service does not include the removal of any pipework or equipment downstream of the gas metering equipment at the property. Removal of this pipework or equipment is to be arranged by the customer through a licensed gas fitter.
 - To provide the service ATCO may be required to break, damage or disturb things at the property. While ATCO will act reasonably and seek to minimise any damage, ATCO will not repair or reinstate any damage caused. Any remediation work is to be arranged by the customer at their cost.
 - The service may not be provided if there are any safety issues that are identified and are not resolved. Non-attendance by the customer at the site, where attendance is required, may also affect the provision of the service.
 - In addition to the Standard Fee, which is payable at the time of application, there may be other charges payable if deemed applicable. Such other charges include a Cancellation Fee, Call-Out Fee and a fee for the removal of metering equipment at the property. The meter removal fee is charged by ATCO to the retailer and the retailer may seek to recover this cost from the customer.
81. The ERA received several submissions from interested parties addressing the proposed new permanent disconnection reference service. A summary of the matters raised in submissions is provided at paragraph 8. The ERA's detailed considerations to these matters are set out as part of its considerations below.

³⁶ ATCO, *2025-29 Plan*, 1 September 2023, p. 82.

³⁷ See: 'Disconnection and removal of gas service form' ([online](#)) (accessed April 2024).

ATCO advised that this current webpage and online form would be updated to reflect the reclassification of the demolition non-reference service to an ancillary reference service, and to incorporate the associated Permanent Disconnection Contract.

Use of service

82. Building and Energy WA considered that the permanent disconnection service would be somewhat limited in its use (that is, predominantly used in relation to demolition and redevelopment activities).³⁸ The WA Expert Consumer Panel and Origin Energy questioned whether there were other service options available to customers who no longer required reticulated gas – they considered it necessary for ATCO to clarify the options available and when the permanent disconnection service must be used.³⁹
83. The ERA considers that the views raised in submissions are reasonable. Customers who choose to fully electrify their homes are likely to close their gas retail accounts and leave their gas service in place, unless there is a requirement to permanently disconnect the gas service, like in the case of customers (property owners) looking to undertake demolition activities for property redevelopment. In these circumstances, property owners must disconnect and remove (abolish) all third-party services (gas, electricity, telecommunications) from their property as a requirement before demolition can take place.⁴⁰
84. The ERA notes ATCO's disconnection information for B2 and B3 customers (see paragraph 79). Based on this information, B2 and B3 customers (typically residential and small business customers) have the following disconnection options when they no longer need reticulated gas via the GDS:
- **Leave gas service in place:** The customer can elect to close their gas retail account (so no further charges are billed to them) and leave their gas service connection in place. As indicated by ATCO, the retailer may choose to deregister the gas connection (delivery point) so that, as the last retailer, it does not continue to receive a standing charge for the delivery point when it no longer has an active gas customer for that connection.
 - **Voluntarily remove gas service:** The customer can elect to close their gas retail account (so no further charges are billed to them) and choose to remove (abolish) their gas service connection. As indicated by ATCO, for this to occur the customer is required to request their gas retailer (when closing their gas retail account) to deregister the gas connection (delivery point) and remove the gas meter. Once this deregistration is completed, the customer can request ATCO undertakes the permanent disconnection service to abolish the gas service connection.⁴¹
 - **Remove gas service for demolition:** Where the customer is the property owner (or authorised representative) and is looking to undertake demolition activities for property redevelopment, the customer must remove (abolish) their gas service connection. As indicated by ATCO, the property owner (or authorised representative) must request ATCO undertakes the permanent disconnection

³⁸ Building and Energy WA, *Submission on ATCO proposal and ERA issues paper*, 21 November 2023.

³⁹ WA Expert Consumer Panel, *Submission on ATCO proposal and ERA issues paper*, November 2023, p. 29. Origin Energy, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023.

⁴⁰ The ERA understands that the abolishment of services forms part of the requirements for a demolition permit. A mains water service is required to be maintained for the demolition process as a health and safety requirement.

⁴¹ In circumstances where the customer does not request the 'deregistration' through their retailer at the time of closing their gas retail account, and instead requests to have their gas service connection removed directly with ATCO, ATCO will contact the retailer for authorisation to deregister and charge the retailer the relevant deregistration fee.

service to abolish the gas service connection.⁴²

85. The ERA has separately considered the deregistration service, which is a reference service available to retailers to deregister a delivery point, as part of its considerations related to operational processes and contracting below (at paragraph 90).
86. Given the various disconnection options, the ERA considers that customers would benefit if ATCO detailed the disconnection options within the terms and conditions for the permanent disconnection service (for example, in the Overview section of the Permanent Disconnection Contract). While this information does not form part of the terms and conditions for the permanent disconnection service, it provides critical overview information on options for the customer to determine whether the permanent disconnection service is the appropriate service and/or whether there is another service option that can meet their service needs.

Service tariff and charges

87. Submissions to the ERA generally supported a user-pay tariff for the permanent disconnection service but considered the proposed tariff to be high, which may affect a customer's decision to use the service. The comments made in submissions included:
- Another aspect of the service is the high price ... high costs for such services, often lead to illegal removal of meters or abandonment of gas usage, with no customer, but ongoing charges levied against the retailer, who is unable to recover those charges.⁴³
 - ... supports ATCO's proposal to require up-front payment directly from customers requesting the permanent disconnection ancillary reference service ... do not foresee a significant increase in the uptake of this service of the AA6 period and therefore do not consider it appropriate to socialise the costs of providing this service across the broader customer base at this time.⁴⁴
 - ... does not object to a user-pays model for those that choose to permanently disconnect from the network.⁴⁵
 - ... supports the application of a user-pay approach for directly attributed services. Where permanent disconnection is required, the proposed charge may act as a de facto exit fee and may discourage customers from exiting the gas market to electrification. Exit fees represent a barrier to switching and customers should be informed of cheaper options to electrify and avoid paying fixed service charges ... The cheapest switching options must be communicated to customers.⁴⁶
 - ... A \$1,184.80 fee would act as a significant barrier for low-income households who wish to electrify... when the gas appliances belonging to low-income households reach the end of their lives, it is likely to be in their interest to purchase an electric replacement. A significant disconnection fee, however, means that these households could be required to pay the fixed costs of two networks, no matter whether they use appliances reliant on that energy source or not.⁴⁷

⁴² In circumstances where the gas meter is still present, and a deregistration service has not been requested through the retailer at the time of closing the customer's gas retail account, ATCO will contact the retailer for authorisation to deregister and charge the retailer the relevant deregistration fee.

⁴³ AGL Energy, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023, p. 3.

⁴⁴ Alinta Energy, *Submission on ATCO proposal and ERA issues paper*, 30 November 2023, p. 9.

⁴⁵ Housing Industry Association, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023.

⁴⁶ Origin Energy, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023.

⁴⁷ WA Council of Social Service, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023, p. 2.

- The tariff for the permanent disconnection service does seem very high relative to the service option for disconnection that is not permanent.⁴⁸

88. Further to these comments, the submissions from Stewart Lee and the WA Expert Consumer Panel specifically noted the decisions of the Australian Energy Regulator (AER) with respect to capping permanent disconnection costs in Victoria.⁴⁹

89. The ERA has considered the proposed tariff for the permanent disconnection service, along with ATCO's other proposed tariffs for other reference services, in a separate document (Draft Decision Attachment 3). In summary, the ERA has approved the tariffs in Table 9.4 for the permanent disconnection service. These tariffs are indicative as these include forecast inflation and will vary based on the tariff variation mechanism which changes the prices due to actual inflation.

Table 9.4: ERA draft decision AA6 tariffs for the permanent disconnection service (\$ nominal, GST exclusive) – indicative only

2025	2026	2027	2028	2029
1,003.41	1,028.59	1,054.41	1,080.87	1,108.00

Source: ERA analysis, Draft Decision Attachment 3

Administration, recovering costs and contracting

Administrative processes and cost recovery

90. Some submissions to the ERA questioned the split administrative process for obtaining the permanent disconnection service:

- Stewart Lee submitted that establishing disconnections where a customer is required to separately request different parts of the disconnection service is confusing and unnecessary.⁵⁰
- AGL Energy submitted that it does not agree with ATCO splitting the service into two components and having some costs passed onto retailers to recover. It considered that, if ATCO is to offer the permanent disconnection service directly to customers, the service should be a complete service.⁵¹

91. AGL further highlighted the difficulties faced by retailers when trying to recover deregistration costs. It stated:

AGL has experienced a small number of [deregistrations] and because of the split costs the [customer] is frustrated that they have requested and paid for a service from ATCO but gets invoiced from the retailer for an associated service at a different time.

AGL considers that if ATCO is to offer the service directly, then it should be a complete service, and not a mixed service with a second party involved in the invoicing, particularly as the retailer will not have a customer by the time the service is completed.

⁴⁸ WA Expert Consumer Panel, *Submission on ATCO proposal and ERA issues paper*, November 2023, p. 29.

⁴⁹ AER, 'AER decision supports Victorian gas consumers in energy transition' ([online](#)) (accessed April 2024).

⁵⁰ Stewart Lee, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023.

⁵¹ AGL Energy, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023, p. 3.

If the meter has previously been plugged, and the customer has finalised their retail contract, regardless of whether the retailer is the [financially responsible organisation] for the site, a retailer faces substantial hurdles recovering any costs at this point, especially if the customer has handed the activities to a builder (which the retailer will not be aware of).⁵²

92. ATCO has stated that for AA6 it will provide two disconnection reference services for B2 and B3 customers: the “deregistering a delivery point” (or “deregistration”) service and the “permanent disconnection” service. The deregistration service is only available to gas retailers, while the permanent disconnection service is directly available to end use customers (property owners).⁵³ ATCO provided the following explanations for each service:

Deregistering a delivery point reference service

The Deregistration service involves ATCO deregistering the Meter Identification Reference Number (MIRN) and, for B2 and B3 customers, physically removing the meter (where it considers appropriate). This ensures no further charges are issued to the retailer for the gas connection. The Deregistration service is provided by ATCO on the request of a retailer. ATCO charges the Deregistration reference service tariff to the retailer (it is up to the retailer whether it charges its customer).

...

The Deregistration service is to ensure that the retailer no longer receives a standing charge when it no longer holds a customer account for the gas connection. Historically that has been when the property is vacant or not expected to use gas for an extended period. By only removing the meter, once a new retail account is opened for the gas connection it allows the efficient reconnection of gas in the future.⁵⁴

Permanent disconnection from the gas network

The Permanent Disconnection service involves ATCO permanently disconnecting the property from the gas network, which we generally do by cutting and capping the service pipe at the main and reinstating the footpath and verge. This ensures the gas connection is permanently removed from the property.

...

The Permanent Disconnection service can only be provided where there is no meter at the property. If there is a meter, the Deregistration service must also be obtained. This can either be sought by the applicant through the retailer, or if necessary, ATCO can contact the retailer for authorisation. Either way, ATCO will charge the retailer for the Deregistration service (it is up to the retailer whether they charge the customer). ATCO can perform the Permanent Disconnection at the same time as the Deregistration.

ATCO charges the Permanent Disconnection reference service tariff upfront to the applicant through the online portal and, if a meter exists, the Deregistration reference service tariff to the retailer.⁵⁵

93. The two disconnection services offered by ATCO are distinct services that provide different disconnection outcomes for a property that no longer requires reticulated gas via the GDS and, depending on the circumstances, one or both services may be required. While the ERA acknowledges that some customers may be confused by the different services, gas retailers should have sufficient knowledge to inform and guide

⁵² AGL Energy, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023, p. 3.

⁵³ ATCO, *2025-29 Plan*, 1 September 2023, p. 80.

⁵⁴ ATCO, *2025-29 Plan*, 1 September 2023, p. 80.

⁵⁵ ATCO, *2025-29 Plan*, 1 September 2023, pp. 81-82.

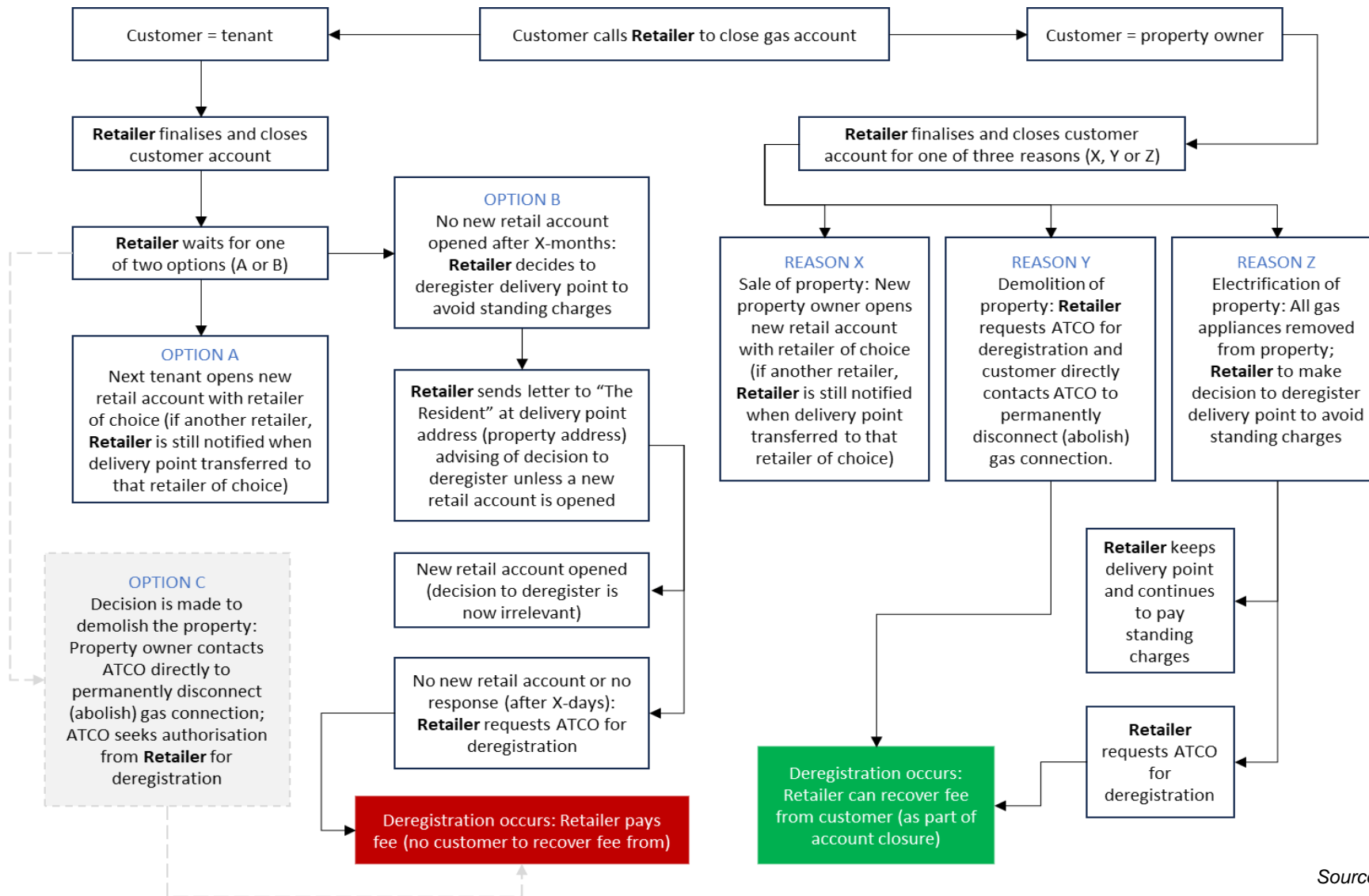
their customers through a disconnection process. That is, a customer (who is also the property owner) looking to disconnect from the gas network would first contact their gas retailer to finalise and close their account.⁵⁶ At this point, the retailer can confirm the reason for the account closure and, where it is determined that the closure is due to no future gas need, the retailer can consider whether a deregistration service is necessary.

94. The deregistration service ensures that the retailer no longer receives standing charges (from ATCO) for a gas service (delivery) point that has no gas usage and customer account. By determining whether a deregistration service is necessary at the point of account closure, the cost for the deregistration may be recovered from the customer as part of their final account.⁵⁷
95. Given the way in which gas retail accounts are established, the retailer remains responsible for the standing charges associated with a gas service (delivery) point when there is no gas usage and customer account. That is, a gas retail account is only required to be held by a person when they are using/consuming gas (unlike water accounts, whereby the property owner is always required to have an account to pay service charges regardless of water usage/consumption, which is generally billed to and recovered from the tenant in circumstances where the property is tenanted). For this reason, the ERA considers that if retailers want to stop receiving standing charges for gas service (delivery) points with no customer account and ensure the recovery of deregistration service charges from customers (property owners) it may be necessary to have administrative processes in place to identify the point at which a deregistration needs to occur. For example, the retailer may look to establish a flowchart, like that in Figure 9.1, if it doesn't already do so, to identify possible points at which it can and cannot recover deregistration costs from the customer.

⁵⁶ A customer who is not the property owner (i.e. a tenant) cannot request a disconnection service. In these instances, the tenant can only close the gas retail account that was established in their own name.

⁵⁷ The ERA accepts that it could be somewhat difficult for a retailer to determine whether a deregistration service is necessary in circumstances where the customer is a tenant and not the property owner. For example, consider this scenario. At the end of a tenancy, a tenant closes their gas retail account. The retailer determines that the customer was a tenant and assumes a future tenant will occupy the property and establish a gas retail account with their preferred retailer. However, in between tenancies, the property owner replaces all gas appliances with electric ones and chooses to leave the gas service in place. Subsequent tenants no longer need to establish a gas retail account, meaning the last retailer is now responsible for the standing charges until it deregisters the gas connection, but the retailer has limited information to make such decision (that is, the retailer is not aware that the property no longer has gas appliances).

Figure 9.1: Sample disconnection (deregistration) flowchart for retailers



Source: ERA

96. As indicated by ATCO, the deregistration service can only be requested by the retailer. The deregistration service must be performed prior to the permanent disconnection service, with the deregistration service charged by ATCO to the retailer and the permanent disconnection charge payable directly by the customer (property owner) to ATCO. As previously considered (at paragraph 83), the permanent disconnection service is likely to be used predominantly for property demolition and redevelopment activities. In these cases, the property owner has no other disconnection options – the permanent disconnection service must be undertaken and hence a deregistration service must also be undertaken. In some circumstances, the retailer will not be able to recover the deregistration cost because there is no customer account.⁵⁸ In such circumstances, it may be reasonable for ATCO to recover the cost of the deregistration service directly from the property owner as part of the permanent disconnection service by charging the property owner an equivalent fee to cover the cost of the deregistration (rather than charge the retailer for the deregistration).
97. ATCO has indicated that it will update the online form on its website for the current disconnection (demolition) non-reference service to reflect the reclassification of this service as a reference service (the permanent disconnection service) and to incorporate the approved permanent disconnection agreement.^{59 60} The ERA considers that it may be beneficial for ATCO to consult with retailers before updating this form to identify any improvements to the processes for requesting deregistrations and permanent disconnections and recovering the associated charges.

Contracting with an end user

98. In its submission to the ERA, Synergy noted that ATCO is making the permanent disconnection service available to end users (customers who are property owners and their authorised representatives) and questioned whether this was allowed, given it is the retailer who has entered into the access contract with ATCO to supply gas to end users. Synergy submitted:

Synergy notes the Gas Retail Market Procedure contains a regulated process for market participants to deregister and permanently remove a delivery point. Synergy considers it is not clear how the [permanent disconnection] reference service and proposed contracting arrangements align with or is consistent with the Gas Retail Market Procedures. ATCO appears to be contemplating that parties other than a market participant or a pipeline user [under an access contract] may permanently remove a delivery point. Such customer action will affect a pipeline user's access rights. Synergy considers the proposal lacks regulatory clarity or certainty.⁶¹

99. The Gas Retail Market Procedures (WA) govern the interactions between gas market participants, pipeline operators and the Australian Energy Market Operator in the Western Australian gas retail market.⁶²
100. Clause 125 of the Procedures deals with permanent removal of delivery points and provides that a network operator:
- (a) may permanently remove a delivery point when required to, or if not prevented, by law or a contract other than these procedures; and

⁵⁸ For example, in cases where the property was tenanted prior demolition. See Figure 9.1 (Option C).

⁵⁹ ATCO, 'Permanent Disconnection Requests' ([online](#)) (accessed April 2024).

⁶⁰ ATCO, *2025-29 Plan*, 1 September 2023, p. 81 (footnote 24).

⁶¹ Synergy, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023, p. 5.

⁶² *Retail Market Procedures (WA)*, version 8, 3 August 2020.

- (b) must (subject to law) permanently remove a delivery point if required to under this clause 125.

101. The phrase “permanently remove” is defined in clause 2 of the Procedures as: “*permanent removal* means to permanently preclude gas being supplied to a delivery point”. A note to the definition provides that:
- An action to permanently remove a delivery point can include the removal of the meter and the service pipe.
 - The user ceases to be responsible for the delivery point upon permanent removal.
102. Accordingly, the two limbs of clause 125 deal with two distinct scenarios which may lead to the permanent removal of a delivery point:
- Sub-clause 125(a) provides for circumstances in which a network operator has a discretion to permanently remove a delivery point.
 - Sub-clause 125(b) sets out the circumstances in which a network operator is compelled to permanently remove a delivery point.
103. Importantly, under sub-clause 125(a) the network operator’s discretion to permanently remove a delivery point may be triggered by a requirement in, if not prevented by, law or a contract other than the Procedures. The phrase “contract other than these procedures” suggests the Procedures, including clause 125, are not intended to constrain the creation of a contractual or legal obligation requiring the network operator to permanently remove a delivery point.
104. In the circumstances, the ERA considers that clauses 125 to 133 of the Procedures do not prevent the permanent disconnection service providing an end user with a contractual right to require the permanent removal of a delivery point provided the terms of the permanent disconnection service are not prohibited by any legal or contractual rights outside of the Procedures.

Gas safety

105. Some submissions addressed the matter of gas safety:
- Stewart Lee considered that serious safety concerns would arise because of the high charge for the permanent disconnection service:

[The service charge] is unaffordable to all but the most determined residents, who will likely pay the fee regardless of how much it is. This will create widespread removal of meters with active gas infrastructure remaining within property boundaries. This unused gas infrastructure will fall into disrepair with little oversight.⁶³
 - The WA Expert Consumer Panel noted the decisions of the AER for Victorian gas networks where it lowered the cost of permanent disconnections by allowing some costs to be recovered through network tariffs to encourage permanent disconnections (over temporary disconnections) due to safety risks associated with temporary disconnections.⁶⁴

⁶³ Stewart Lee, *Submission on ATCO proposal and ERA issues paper*, 27 November 2023.

⁶⁴ WA Expert Consumer Panel, *Submission on ATCO proposal and ERA issues paper*, November 2023, p. 29.

- Building and Energy WA considered that there were sufficient strategies, created by the Formal Safety Assessment, to mitigate safety risks associated with gas disconnections:

The Formal Safety Assessment (FSA), which is a crucial component of a network operator's safety case, should assist in mitigating safety risks associated with third-party strikes on gas services. The FSA framework deals with a range of risk mitigation measures including design considerations, meter-box positioning, construction practices, leak detection surveys, maintenance protocols, emergency response management, end-of-life replacement programs and guidelines for preventing third-party damage.⁶⁵

106. ATCO does not consider there to be any additional safety risk associated with disconnections where the metering equipment is removed but the service pipe is left *in situ*. It provided the following information in relation to disconnections and safety:

In relation to safety, we have had minimal strikes (~25 per annum) on services pipes that have had their meter removed. In Western Australia, the meter box location against the house and the visible riser helps to minimise accidental strikes on service pipes. Over the past five years, the rate of strikes on service pipes where the meter had been removed is comparable to strikes where the meter is present. We therefore propose there is no additional safety risk associated with live service pipes where meters have been removed.⁶⁶

107. The AER's Victorian gas access arrangement decisions, with respect to permanent disconnection costs, did acknowledge potential safety risks associated with disconnections in circumstances where customers opted for temporary disconnection measures over a permanent disconnection (gas abolishment). This was in the context of the Victorian specific safety framework. In Western Australia, due to local factors (such as differing building standards) abolishment is not required.⁶⁷ The ERA further notes the views of Building and Energy WA on potential safety risks, which it considers are adequately addressed by the Formal Safety Assessment framework that forms part of ATCO's safety case.

Service performance

108. Some submissions to the ERA noted matters associated with service inefficiencies and performance.

- The WA Expert Consumer Panel questioned whether ATCO's approach to permanent disconnections was the most efficient use of resources:

We also question if the piecemeal approach of permanently removing customers from a connection point on request is the most efficient use of resources, or if approaches such as permanently disconnecting households on a street-by-street (or other) basis as a section of the network is in need of replacement could greatly reduce permanent disconnection costs.⁶⁸

- Alinta Energy was concerned that there were no key performance indicators related to disconnections:

⁶⁵ Building and Energy WA, *Submission on ATCO proposal and ERA issues paper*, 21 November 2023.

⁶⁶ ATCO, *2025-29 Plan*, 1 September 2023, p. 81.

⁶⁷ In Western Australian, gas meters are fixed to the main dwelling and are often housed in a dedicated gas meter box adjacent to the electricity meter box, unlike Victoria where gas meters can be situated in the field (garden) and away from the main dwelling.

⁶⁸ WA Expert Consumer Panel, *Submission on ATCO proposal and ERA issues paper*, November 2023, p. 29.

Of greater concern is the absence of any key performance indicators and accountability related to disconnections, noting the \$27.1m contributed by ancillary reference services – including applying a meter lock and disconnecting a delivery point – to the proposed AA6 operating expenditure.

When a retailer requests ATCO to disconnect a delivery point under the Retail Market Procedures, then ATCO is obliged to complete that service order request. However, we have found all too frequently that, if ATCO is unable to perform a disconnection at the first attempt then the service order, having been paid for by the retailer, is simply closed out and no further action is taken.

When a retailer requests and pays for a disconnection, there is a reasonable expectation and a regulatory obligation that ATCO will complete that disconnection, even if it means finding an alternative solution. If disconnection is not practicable then, as a last resort, any on-going consumption costs incurred at the delivery point should be borne by ATCO or shared, as agreed, with the retailer.⁶⁹

109. Given the Western Australian Government has indicated no intention to introduce a ban on new gas connections or to phase out existing connections (unlike the Victorian Government), the volume of permanent disconnections is likely to remain relatively small.⁷⁰ ATCO reported that approximately 2,000 permanent disconnections per year are performed, with most of these disconnections being required for property demolition.⁷¹ During AA6, the number of permanent disconnections per year is expected to remain around this level.⁷² Until the volume of permanent disconnections significantly increases and/or there is a clear policy direction in Western Australia to phase out existing connections, it will be necessary for ATCO to perform permanent disconnections at the request of individual customers (property owners). That said, the ERA considers that there could be opportunities for ATCO to perform permanent disconnections at the time it undertakes other capital works programs, and by doing so some cost efficiencies may be achieved.⁷³
110. The ERA has considered the matter of key performance indicators (KPIs) in Draft Decision Attachment 8.⁷⁴ In summary, the ERA cannot require ATCO to include any additional KPIs in the access arrangement as there is no requirement under the regulatory framework to include such information.

Proposed permanent disconnection contract (terms and conditions)

111. While no submissions to the ERA directly addressed ATCO's proposed terms and conditions set out in the Permanent Disconnection Contract (Annexure G of the

⁶⁹ Alinta Energy, *Submission on ATCO proposal and ERA issues paper*, 30 November 2023, p. 9.

⁷⁰ Josh Zimmerman, 1 August 2023, 'Rodger Cook rules out WA following Victoria in banning reticulated gas connections to new homes from 2024', *The West Australian* ([online](#)) (accessed April 2024).

⁷¹ ATCO, *2025-29 Plan*, 1 September 2023, p. 81.

⁷² An average of 2047 permanent disconnections per year over the AA6 period (2025 to 2029). ATCO, *2025-29 Plan*, 1 September 2023, p. 93.

⁷³ For example, when ATCO undertakes scheduled mains replacement programs in nominated suburbs, it could look to identify properties for permanent disconnection and undertake the disconnection when undertaking the mains replacement. ATCO would however need to consider any additional administrative costs in trying to identify such properties (that is, liaison with gas retailers and property owners would be required).

⁷⁴ ERA, *Draft decision on revisions to the access arrangement for the Mid-West and South-West Gas Distribution Systems – Attachment 8: Other access arrangement provisions*, 24 April 2024.

proposed access arrangement⁷⁵), submissions did raise various matters related to the permanent disconnection service. Given this, and the ERA's draft decision considerations set out above (paragraphs 77 to 110), the ERA considers that ATCO should undertake a review of its Permanent Disconnection Contract to identify improvements that can be made. As a minimum, the ERA requires ATCO to clarify the service options for disconnections; and the payment of costs related to property repairs/reinstatements.

Clarifying service options for disconnections

112. As discussed at paragraph 86, the Permanent Disconnection Contract should clarify all the different service options for disconnections and clearly set out the circumstances where the permanent disconnection service is the only option.

Clarifying property repairs/reinstatements

113. Clauses 27 and 28 of the Permanent Disconnection Contract set out provisions related to property disturbance. The provisions provide that ATCO may (to perform the permanent disconnection service) break, damage or disturb things at the property, and that ATCO will not repair or reinstate any breakage, damage or disturbance. Any required repair or reinstatement is at the customer's own cost.
114. The ERA notes the submission provided by Building and Energy WA where it stated: "With regard to the physical point of disconnection ... this should be at or outside the boundary of a connected property. This should not be subject to variation where access for disconnection necessitates disturbance of or damage to a consumer property."⁷⁶ The views of Building and Energy WA are consistent with the decommissioning requirements set out in regulation 26B(2) of the *Gas Standards (Gas Supply and System Safety) Regulations 2000*.⁷⁷
115. The ERA further notes that clause 7.7 of the TSA contains provisions relating to delivery facilities installation, maintenance and operation. Clause 7.7(b) provides that if, in the course of undertaking specified works, ATCO causes damage to the land or premises of a gas customer by opening or breaking any sealed or paved surface or damaging/disturbing any lawn, landscaping or other improvement, ATCO will: (i) if necessary, fill in any ground to restore it to approximately its previous level; and (ii) be liable to reinstate or make good, or pay compensation in respect of, the damage, if and to the extent ATCO fails to act reasonably in the course of undertaking the specified works required.
116. Given the above considerations, the provisions in the Permanent Disconnection Contract should better clarify the extent to which property disturbances will be repaired or reinstated. For example, the provisions are not clear with respect to disturbances to paving, concrete and bitumen that forms part of a property crossover/verge. ATCO has stated elsewhere in its access arrangement information that a permanent disconnection involves permanently disconnecting the property from the gas network, which is

⁷⁵ ATCO, *Access Arrangement for the Mid-West and South-West Gas Distribution Systems - Annexure G: Permanent Disconnection Contract*, 1 September 2023 ([online](#)) (accessed April 2024).

⁷⁶ Building and Energy WA, *Submission on ATCO proposal and ERA issues paper*, 21 November 2023.

⁷⁷ Regulation 26B(2) states: Disconnecting a consumer's gas installation from the system or part includes disconnecting the installation —

(a) at the meter outlet; and

(b) if the main that supplied gas to the installation is not, or is not going to be, decommissioned — at the boundary of the property on which the installation is located.

generally done “by cutting and capping the service pipe at the main and *reinstating the footpath and verge*”.⁷⁸ [*emphasis added*]

Required Amendment

- 9.5 ATCO must review the terms and conditions set out in the Permanent Disconnection Contract to identify any improvements that can clarify and/or resolve the matters raised in submissions to the ERA with respect to the permanent disconnection service. As a minimum, the terms and conditions for the permanent disconnection service must:
- a. clarify the service options for disconnection (whether temporary or permanent) and clearly set out the circumstances where the permanent disconnection service is required; and
 - b. clarify the extent to which property will be repaired or reinstated with respect to disturbances to paving, concrete, bitumen and other things that form part of a property crossover/verge.

⁷⁸ ATCO, *2025-29 Plan*, 1 September 2023, p. 81.

Appendix 1 List of Tables

Table 9.1:	ATCO proposed amendments to the Template Service Agreement	7
Table 9.2:	Proposed amendments to defined terms in the Template Service Agreement (clause 23.1 Dictionary)	18
Table 9.3:	Details of ATCO's permanent disconnection ancillary reference service.....	30
Table 9.4:	ERA draft decision AA6 tariffs for the permanent disconnection service (\$ nominal, GST exclusive) – indicative only	35

Appendix 2 List of Figures

Figure 9.1: Sample disconnection (deregistration) flowchart for retailers 38

Appendix 3 National Gas Rules

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.

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.⁷⁹

The following extracts of the NGR, as they apply in Western Australia, are provided for information to assist readers.

48 Requirements for full access arrangement (and full access arrangement proposal).

- (1) A full access arrangement must:
 - (a) identify the pipeline to which the access arrangement relates and include a reference to a website at which a description of the pipeline can be inspected; and
 - (b) describe all of the pipeline services that the service provider can reasonably provide on the pipeline, which must be consistent with the [ERA’s] reference service proposal decision under rule 47A, unless there has been a material change in circumstances; and
 - (c) specify the reference services, which must be consistent with the [ERA’s] reference service proposal decision under rule 47A, unless there has been a material change in circumstances; and
 - (c1) if the information provided under subrules (1)(b) or (1)(c) is different to the [ERA’s] reference service proposal decision under rule 47A, describe the material change in circumstances that necessitated the change having regard to the reference service factors; and
 - (d) specify for each reference service:
 - (i) the reference tariff; and

⁷⁹ 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 April 2024).

- (ii) the other terms and conditions on which each reference service will be provided; and
- (e) if the access arrangement is to contain queuing requirements – set out the queuing requirements; and
- (f) set out the capacity trading requirements; and
- (g) set out the extension and expansion requirements; and
- (h) state the terms and conditions for changing receipt and delivery points; and
- (i) if there is to be a review submission date – state the review submission date and the revision commencement date; and
- (j) if there is to be an expiry date – state the expiry date.

Note:

A full access arrangement may contain an expiry date if it is a voluntary access arrangement (but not otherwise) – See rule 49.

- (2) This rule extends to an access arrangement proposal consisting of a proposed full access arrangement.