

11 November 2005

Chief Executive
Queensland Competition Authority
GPO Box 2257
Brisbane QLD 4001

Email: gas.submissions@qca.org.au

Attention Mr John Hall

Dear Mr Hall

Subject: Queensland Envestra Gas Access Arrangement Review

Origin Energy (Origin) welcomes this opportunity to comment on Envestra's proposed Access Arrangement for the Envestra Queensland network to take effect from 1 July 2006.

This submission does not contain confidential information and may be published on the Authority's website.

Origin has over 2 Million gas and electricity customers in Queensland, New South Wales, Victoria and South Australia and has several years of experience in the gas industry. In particular, Origin has had significantly more experience with Envestra's Queensland Access Arrangement than any other retailer has.

Origin is therefore well placed to comment on the Envestra's draft Access Arrangement.

Origin's Specific comments are set out below.

1. Advance Payment of Network Charges

In both its current and proposed Access Arrangement, Envestra requires users to make advance payment of two months of estimated network charges. In each subsequent month, Envestra retrospectively adjusts the advance payment of charges in line with the charges actually incurred by each user.

Origin believes that this advance payment arrangement and subsequent adjustment is inefficient and peculiar to the Envestra Queensland and South Australian Access Arrangements. We do not believe that any other gas or electricity Use of System Agreement anywhere in Australia contemplates advance payment of charges, except in the case of a particular user having an unsatisfactory credit profile.

Normally network charges are invoiced monthly in arrears. Allgas in Queensland being a notable example.

With increased gas contestability currently underway, leading up to full retail contestability in July 2007, more users will be required to pay network charges in advance. This will lead to further duplication of effort associated with Envestra's monthly estimate and retrospective adjustment mechanism. This undoubtedly, will add further inefficiencies and costs to Envestra's billing operations.

Furthermore, advance payment of charges shifts the cost of working capital from Envestra to retailers. We don't believe that Envestra's reduced risk and lower cost of capital has been factored into its WACC calculations despite Envestra making comparisons with other network owners for the purpose of its WACC assessment.

Origin contends that the practice of seeking advance payment from users with a strong credit standing is inefficient and unnecessarily costly to consumers. In the interests of market efficiency, we recommend that this practice be discontinued.

2. Envestra's Proposed Real Increase of Network Charges

Clause 2.2 of Envestra's draft Access Arrangement Information Document and Annexure E of Envestra's draft Access Arrangement indicates that Envestra is seeking annual tariff increases of CPI+2%. Origin urges the Authority to clarify this with Envestra and resist distribution tariff increases that exceed CPI.

Origin also seeks the ability to pass-through Envestra's increases in network charges.

3. Performance Incentives

Origin's experience in other states suggests that there is a need for performance incentives to be imposed on the network operators in preparation for Gas FRC.

Origin would like to see incentives in the form of rewards and penalties imposed on networks to ensure that accurate and timely network data is provided to retailers and that work carried out on behalf of customers is done in a timely manner.

Other States of Australia employ Guaranteed Service Level (GSL) payments from the network to customers in the event of reduced service standards to customers. Origin would commend such an arrangement to the Authority. Furthermore, reduced network charges could be contemplated where network services to users do not meet minimum standards.

It may not be appropriate to set the minimum standards of service for networks in the Access Arrangement. However, Origin would encourage the Authority to embody service levels in a Queensland gas Distribution Code.

4. Cost of Residential Connections

Envestra appears to have been spending around \$4,300 per incremental customer just for inlets and meters. This figure ignores any capex in mains associated with a new customer.

Origin would prefer to see incentives associated with capital spending. An expansion of network infrastructure that does not lead to an associated increase in consumption would be futile. The result would be to increase the network's capital base and revenue, which would in turn, drive up the average cost per unit of gas sold.

Ideally, to maximise benefits to the market, the expansion of network infrastructure should be coordinated with retailers who have the relationship with existing and potential customers.

5. Forecast Demand Growth

Envestra's forecast demand growth appears to be excessive despite Envestra's concessions that growth should be slowed by conservation initiatives introduced by the Queensland Government.

Origin recommends further investigation of Envestra's growth forecasts by the Authority.

6. Delayed Depreciation Schedule

Envestra's delayed depreciation schedule would suggest that its capital base would become artificially high in later years and cause Envestra to over-recover revenue in later years.

7. Automatic Reduction of MDQ

While under Clause 6 of the draft terms and conditions delivery point MDQ can be automatically increased if the customer overruns, there is no provision to automatically reduce a Delivery Point MDQ or for a customer to seek a reduction in MDQ.

This provision is included in the Envestra SA Access Arrangement. Origin believes it should be included in the Queensland AA.

8. Miscellaneous terms and Conditions

Attachment A to this letter sets out various terms and conditions proposed by Envestra that Origin believes need to be addressed.

Origin Energy would be pleased to expand upon any of the points made in this submission. Please contact David Grove on (02) 8345 5481.

Yours sincerely

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Attachment A

Origin Energy’s Comments On Envestra’s Proposed Qld Access Arrangement General Terms And Conditions

| No. | Clause | Issue Description | OE Comments Access Arrangement |
|-----|--------------------------------------|--|--|
| 1. | Clause 2- Haulage Reference Services | Gas Balancing Clause has potential to relieve Envestra of obligations to deliver the full quantity of the User’s gas received into the network for the User in the event of Envestra not building, operating or maintaining the Network consistent with a prudent operator | <p>Insert a new clause 2.1(a) to read: <i>“Operate and manage the Network in a manner consistent with a prudent network operator”</i></p> <p>Existing clauses 2.1(a) & (b) would become clauses 2.1(b) & (c) respectively</p> |
| 2. | Clause 5.6 - Overselling Capacity | Envestra need not add new Delivery Points is to oversell capacity. Envestra may simply undertake to deliver more additional gas from existing Delivery Points than the network can deliver. | <p>Amend clause 5.6 to read: <i>“Envestra must not undertake to delivery a quantity of Gas from the Network if it is apparent that, under ‘normal conditions’ and as a consequence of delivering that quantity of gas, there will be insufficient capacity in the Network to meet the anticipated demand for Gas at any User DP. ‘Normal conditions’ here means those conditions which normally occur in the Network when taking into account daily, weekly and seasonal influences.”</i></p> |
| 3. | Clause 6 | Although the mechanism automatically increases MDQ if overruns occur, there is no corresponding mechanism to reduce MDQ if usage is consistently below the current MDQ. | <p>Insert clause 7A to allow automatic reduction of customer MDQ. This clause is taken from Envestra’s current and proposed SA Access Arrangement.</p> <p><i>“7A LIMITATION PERIOD - MDQ INCREASE</i> <i>7A.1 Interpretation.</i> <i>For the purposes of this section 7A, the following terms will have the following meanings:</i> <i>(a) “the previous MDQ”, in relation to the revised MDQ for a DP, means the MDQ applicable to that DP immediately before it was increased, pursuant to section 6, to produce that revised MDQ.</i> <i>(b) “the relevant two-year period”, in relation to the revised MDQ for a DP, means the period of two years that begins on the day on which the MDQ for that DP was increased, pursuant to section 6, to produce that revised MDQ.</i> <i>(c) “the revised MDQ”, in relation to a DP, means the MDQ for that DP as increased from time to time pursuant to section 6.</i> <i>7A.2 Application of Revised MDQ</i> <i>Whenever the MDQ for a DP is increased pursuant to section 6, the revised MDQ will apply until it is again increased pursuant to those sections or it is decreased pursuant to clause 7A.3.</i></p> |

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| No. | Clause | Issue Description | OE Comments Access Arrangement |
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| | | | <p>7A.3 Cessation of Revised MDQ <i>The revised MDQ for a DP will be decreased to the previous MDQ for that DP, with effect from the end of the relevant two-year period, unless the Quantity of Gas delivered through that DP, on any Network Day during that relevant two-year period, exceeded the previous MDQ for that DP.</i></p> |
| 4. | Clause 9 - Metering Equipment | Given that either party could be responsible for the Metering Equipment, it is appropriate to have reciprocal wording for Metering request procedures | <p>Amend clause 9.4 to read: <i>“Whenever the Requesting Party wishes to request the Responsible Party to test the Metering Equipment for which the Responsible Party is responsible, The Requesting Party must give the Responsible Party whatever forms, documents and information the Responsible Party reasonably requires”</i></p> |
| 5. | Clause 13 - Receipt Pressures | This clause has the effect of negating Envestra’s responsibility to maintain network as a prudent operator | <p>Delete the following from clause 13.2: <i>“... whether or not Envestra knew, or ought to have known, of those facts or matters at any time before, on or after the Start Date.”</i></p> |
| 6. | Clause 13.3 - No Implied Obligation | Envestra is best placed to determine the best operating configuration of its network. Therefore, it is reasonable for Envestra to reconfigure its network to meet customer demand and maintain system pressure and integrity. | Delete clause 13.3 |
| 7. | Clause 16 - Supply Curtailment | Risk of Envestra inappropriately categorising customer for the purpose of curtailment prioritization | <p>Amend clause 16.4 to read: <i>“For the purposes of clause 16.3, Envestra will determine, on a reasonable basis, into which category any particular DP falls, based on its actual knowledge of the DP and information regarding the DP provided by the Network User. Envestra’s determination will bind the Network User. Envestra will provide, upon the Network User’s reasonable request, details of Envestra’s determination under this clause.”</i></p> |

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| No. | Clause | Issue Description | OE Comments Access Arrangement |
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| 8. | Clause 19 - Invoicing and Payment of Charges | OE maintains that reasonable payment method is in arrears, rather than 2 months in advance. This represents a significant duplicated cost, both for users and Envestra. | Amend and simplify clause 19 to provide for payment in arrears. |
| 9. | Clause 19.4 - Payment of Invoices | GST Law requires a valid tax invoice to be provided in order for an entity to claim input tax. | Amend clause 19.5 to read: <i>“The Network User must pay the amount shown in any tax invoice (issued pursuant to clause 19) to Envestra within 14 days after receipt of a valid tax invoice by the Network User.”</i> |
| 10. | Clause 22.2 | Set off clause is inconsistent with the withholding of payment of disputed amounts under clause 20A(a) | Delete clause 22.2 |
| 11. | Clause 23.1 | This clause represents a penalty rather than a reasonable estimate of loss, both in choice of interest rate and use of capitalization of past interest rates. As at 8 Nov 05, Corporate Overdraft Reference Rate for Cth Bank (the “Interest Rate”) is 9.10%p.a on a monthly charging cycle. The more commonly used interest rate in Gas Industry contracts, the 30 Day Bank Bill Rate, is 5.95% on this day. It is not common practice in the Gas Supply Industry to capitalise interest. | Amend interest rate definition to refer to 30 Day Bank Bill rate. Delete following from clause 23.1: <i>“... Interest not paid in the month in which it accrues will be capitalised and will itself bear interest in accordance with this clause. ...”</i> |
| 12. | Clause 23.2 | This clause gives the appearance that set off could occur with reference to amounts owing on other agreements. This is not appropriate commercial practice. | Amend clause 23.2 to read: <i>“If the Network User does not pay any amount due to Envestra under the Agreement, then Envestra may withhold and set off payment of any amounts due or owing by Envestra under the Agreement to the Network User against any and all amounts due or owing by the Network User to Envestra under the Agreement. This clause will survive the termination of the Agreement.”</i> |

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| No. | Clause | Issue Description | OE Comments Access Arrangement |
|-----|---------------------------|--|--|
| 13. | Clause 23.3 | This clause gives Envestra the right to suspend this agreement for events which occur that are unrelated to this agreement, and relevant only to other agreements between the Network User and Envestra. This is not normal commercial practice. | Delete from clause 23.3 the words: <i>“any Related Haulage Agreement”</i> |
| 14. | Clause 24 - Termination | This clause gives Envestra the right to terminate this agreement for events which occur that are unrelated to this agreement, and relevant only to other agreements between the Network User and Envestra. This is not normal commercial practice. Further, this term provides a shorter notice period of time for remedy by Network User than by Envestra, which is inequitable. | Delete from clause 24.2 (a), (b) and (e) the words: <i>“any Related Haulage Agreement”</i> Amend clause 24.2 (a) to end: <i>“...written notice requiring payment of that amount within 14 days”</i> |
| 15. | Clause 27 - Force Majeure | Force Majeure provisions only applicable to Envestra, not to Network User. | In clause 27.1 and 27.2: Replace <i>“Envestra”</i> with <i>“a party”</i> In clause 27.2: Replace <i>“Network user”</i> with <i>“other party”</i> |