6 October 2004

Mr J Cox
Acting Chairman
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB POST OFFICE NSW 1230

AGLGN – Revised Access Arrangement

Following the Public Forum held on 15 September 2004, please find attached submissions relating to:

- Operating and Capital Costs
- Terms and Conditions
- Trunk Zonal Pricing

These submissions are not of a confidential or commercially sensitive nature.

Yours faithfully

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For and on behalf of AGL Gas Networks Limited

AGLGN Submission on ECG's Review of AGLGN Total Cost

1. Overview

This Submission is in response to the report prepared by the Energy Consulting Group (ECG) entitled "Review of AGLGN Gas Access Arrangement For the Independent Pricing and Regulatory Tribunal" and to issues relating to costs raised at the public forum held on September 15, 2004.

In discussing ECG's recommendations in this Submission AGLGN has divided those recommendations into:

- Recommendations that AGLGN believe are based on a lack of appreciation of the cost structures and operating conditions relating to the AGLGN network (see section 2 of this submission)
- Recommendations that concern the reasonableness of forecast data, where AGLGN maintain that no case has been presented by ECG to lead the Tribunal to conclude that AGLGN's forecasts are not "best estimates arrived at on a reasonable basis" (section 3)
- Recommendations that AGLGN does not dispute (section 4)

AGLGN disagrees with many of the recommendations made by ECG and believes that on most issues grounds have not been established that could lead the Tribunal not to accept the expenditure proposed in the Revised Access Arrangement Information.

AGLGN believes that this position is further supported by the overall findings in the study and report by ECG which follow a similar study and report by Parsons Brinckerhoff. Both consulting groups have now found that AGLGN develop and maintain its networks at a high standard and that AGLGN is at the lower end of comparable Australian gas distributors in terms of key cost performance measures and at the higher end of comparable Australian gas distributors in relation to key reliability indicators.

Both consulting groups also noted AGLGN's improvement over the period 2000 to 2004, with Parsons Brinckerhoff stating:

"A comparison of AGLGN performance over the period shows that it has improved its relative performance on most measures. In particular, total operating cost per customer has reduced by 15% over the 4-year period in nominal dollars (24% in real terms)."[1]

This improvement has occurred during a period when for the Electricity, Gas and Water sectors, as noted by ECG[2]:

"In the three years following 1998/99 it (ie Multi-factor Productivity) has averaged minus 2.7% per annum"

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[1] Review of AGL Gas Networks capital and Operating Expenditure: section 2.3
[2] ECG Report section 10.1.1

With the above as background, AGLGN is concerned that ECG have recommended to IPART that key elements of AGLGN's past and proposed capital and non-capital expenditure should not be considered prudent and/or efficient.

Of special concern to AGLGN is that ECG have recommended that a small, but significant amount of actual capital expenditure already incurred by AGLGN should not be considered prudent and efficient. ECG made this finding despite its commendation of AGLGN's planning and approval processes and the findings of both ECG and Parsons Brinckerhoff that the average capital cost per customer connected compares very favourably with other Australian gas distributors.

Also in this submission, AGLGN highlights the importance of maintaining the consistency of forecast information (section 5) and notes that ECG have identified two items that were omitted from AGLGN's December 2003 AA and AAI Submissions (section 6).

2. Recommendations that AGLGN believe are based on a lack of appreciation of the cost structures and operating conditions relating to the AGLGN network.

There are a small number of significant recommendations included in the ECG report that AGLGN believe are based on a lack of appreciation of the cost structures and operating conditions relating to the AGLGN network. These recommendations are:

2.1 Unit cost of Mains

ECG have recommended that the Tribunal find that $3.7m of capital expenditure for the period 2000 to 2004 and $5.5m of capital expenditure for the period 2005 to 2010 not be considered prudent and efficient on the basis that the unit cost of laying mains in built-up areas should not be more than double the unit cost of laying mains in new estates. AGLGN maintain that there are a number of grounds on which this recommendation, apparently based on ECG's Victorian experience, should be rejected.

Firstly, it has been demonstrated that AGLGN's average cost of connecting new customers is at the lower end of comparable Australian gas distributors, particularly those in Victoria.

Secondly, it has been demonstrated that AGLGN source virtually all its capital requirements thorough external contractors in a competitive commercial environment. AGLGN dispute that any unit rates determined in this manner should be considered inefficient.

Thirdly, the application of this this rule-of-thumb ignores the fact that the weighted average cost of laying mains in built-up-areas comprises mains of varying diameters, pressures and regional locations, whereas mains laid in new estates largely comprise small diameter, relatively low pressure mains in Western Sydney and the Central Coast. Even if the rule-of-thumb is valid for a given pipe size in a given locality, it is not valid for the purpose of this review.

Finally, this recommendation ignores the particular conditions that apply to New South Wales. The area of the footpath in which AGLGN is required to lay its gas mains coincides with the area of the footpath under which concrete footpaths are typically constructed by local government authorities. This does not affect the cost of laying mains in new estates, but has a significant bearing on the cost of laying mains in built-up areas. This condition does not apply in Victoria. AGLGN also believes that this recommendation ignores the more congested traffic conditions and resulting higher traffic control costs that are experienced when laying mains in built-up areas of metropolitan Sydney

2.2 The unit cost of installing meters in medium/high density developments

ECG have recommended that the Tribunal should not allow $8.5m of the forecast capital expenditure for the installation of metering facilities in medium and high density residential properties. ECG make this recommendation as they believe that the average cost of installing metering facilities in medium and high rise developments should not exceed $600 per customer site connection.

AGLGN maintain that the unit costs submitted represent the best estimate of prudent efficient purchase and installation costs for medium/high density metering facilities.

AGLGN's average costing of $699 per customer for medium/high density metering facility includes:

- $629 for metering equipment (which includes gas meters, water meters, master meters and remote devices together with an allowance of 12.5% for overheads), and
- $70 per customer for contracted hydraulic design works undertaken.

The provision of metering facilities to medium/high density developments includes not only the individual physical water and gas meter sets, but the cost of meter data loggers and master meter devices. For the majority of medium/high density sites there is a requirement for a master meter to be installed (at a significant capital cost) to enable effective reconciliation of gas consumption.

Hydraulic design is another significant capital cost which AGLGN suspect has been overlooked by ECG. The hydraulic design ensures effective internal system pipe work design. By ensuring effective pipe work design, AGLGN are able to continually provide superior service and provision of high meter billing standards to customers, to ensure that customers are not cross-subsidised by other customers within the same unit block and are only billed for their actual gas consumption.

AGLGN believe that ECG have not considered all associated metering costs such as the master meters or hydraulic design in their average cost calculations. AGLGN firmly believe the costs submitted are both prudent and efficient and welcome the opportunity to present detailed costing information to IPART.

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2.3 Forecast Programmed Rehabilitation

ECG have recommended that the Tribunal should not allow $22.2m of the $39.4m programmed rehabilitation expenditure forecast for the period 2005 to 2010.

While ECG point out that *on average* AGLGN's reliability indicators are better than comparable Australian service providers, there is a relatively small group of AGLGN customers who experience considerably worse than average reliability. Due to pressure constraints these same customers are unable to economically take advantage of newer energy efficient gas appliances such as instantaneous hot water heaters.

These customers are located on relatively small sections of the AGLGN Network that have not yet been rehabilitated. The ECG recommendation would see 12,000 customers located the Hunter and in the south eastern suburbs of Sydney remaining on unrehabilitated low pressure systems at least until 2011.

AGLGN believe that from a social equity position this outcome is not acceptable. This is particularly significant as AGLGN has shown that when the remaining programmed rehabilitation is considered as one project, then that project has an IRR that is comparable with the Regulatory Rate of Return and is therefore self-funding.

2.4 Unaccounted for Gas (UAG)

ECG has recommended that the Tribunal reduce the allowable level of UAG from 2.2% to 2.1% despite also reducing the proposed level of rehabilitation expenditure by $22m. This recommendation ignores the impact that the relative growth of the tariff market will have on the factors that are the major drivers of UAG.

The vast majority of UAG is driven by the Tariff Market segment. UAG comprises leakage and errors in the metering process. The Tariff Market segment is the (almost) exclusive user of the less secure medium and low pressure networks where the vast majority of leakage occurs. The Tariff Market is also serviced by less accurate meters than the Contract Market and therefore the source of the vast majority of metering errors.

In NSW the Tariff Market segment is growing significantly as a portion of the total market. As a result of this Tariff Market growth, UAG as a percentage of total throughput will increase progressively throughout the upcoming regulatory period unless AGLGN completes its planned programmed rehabilitation project.

The effect on UAG, resulting from the increase in the relative size of Tariff Market segment, can be demonstrated by the following analysis. This analysis takes the simplifying position that UAG is derived solely from the Tariff Market segment and will increase in proportion to the increase in the size of the Tariff Market Segment.

		2004	2005	2006	2007	2008	2009	2010
		(actual)	(f'cast)	(f'cast)	(f'cast)	(f'cast)	(f'cast)	(f'cast)
Volume (TJ)								
Tariff Billings		31,942	32,970	34,014	35,062	36,080	37,155	38,246
Total Throughput		98,580	98,726	99,111	101,402	102,367	103,594	104,941
UAG		2,101	2,169	2,237	2,306	2,373	2,444	2,516
UAG %								
Tariff Billings		6.58%	6.58%	6.58%	6.58%	6.58%	6.58%	6.58%
Total Throughput		2.13%	2.20%	2.26%	2.27%	2.32%	2.36%	2.40%

The above table (based on the demand forecast assumed in the December 2003 AAI) shows that with the simplifying assumptions, AGLGN's UAG could be expected to increase from 2.13% in 2004 to 2.40% in 2010.

AGLGN does not contend that UAG is 100% derived from the Tariff Market segment or that UAG will increase directly proportional to growth in the tariff market segment. AGLGN does however contend that it is undeniable that, due to the relationship illustrated above and unless significant steps are taken to offset this relationship then UAG as a percentage of total throughput will increase progressively throughout the upcoming regulatory period.

AGLGN based its UAG forecast of 2.2% on the belief that it would complete its planned programmed rehabilitation project. If this does not go ahead this forecast level of UAG will not be achievable.

2.5 Market Operations Costs

ECG confirmed that AGLGN performs several activities that are provided in Victoria by VENCorp and the Office of Gas Safety. It is AGLGN's contention that this cost was overlooked when IPART determined what it considered an efficient level of non-capital costs in its 2000 Final Decision.

In determining an efficient level of cost for the provision of these services, AGLGN estimated the cost it is currently incurring to provide those services by questioning operating managers involved in the provision of the service. AGLGN understand that an alternate approach to compare the costs actually incurred in Victoria would have resulted in a much greater value.

The costs of the AGLGN control centre are largely fixed as it fills basically a monitoring role until such time that there is an incident requiring intervention. It is estimated by AGLGN that 70% of the cost of the Control Centre are required to provide the facilities necessary for Emergency Load Shedding, Gas Quality Management and Gas Balancing. These are all services provided by VENCorp in Victoria.

ECG considers that only 50% of the cost of the Control Centre should be considered a "Market Operations" cost and has recommended that IPART therefore reduce AGLGN's allowable cost by $4.8m over the period 2005 to 2010. AGLGN however maintain that 70% remains the most reliable estimate of the portion of the cost of the Control Centre that is required to provide “Market Operations” services.

2.6 Working Capital

During the review process AGLGN analysed its working capital requirements much more thoroughly than had previously been attempted for regulatory purposes and discussed that analysis with ECG. In its draft report ECG confirmed that it agreed with all of AGLGN’s analysis on working capital with the exception of the assumption that all capital creditors will be paid on seven day trading terms.

AGLGN used the simplifying assumption that 100% of capital creditors are paid on seven days terms to correspond with the similar simplifying assumption that 100% of non-capital creditors are paid on thirty day terms. While AGLGN accepts that not all capital creditors and paid within seven days, it must also be recognised that a similar small, but significant portion of non-capital creditors require payment on seven day terms.

Within the analysis of capital creditors, both AGLGN and ECG agree that it is appropriate that contractors are paid on a weekly basis and that purchases of capital machinery and equipment will normally be paid on 30 day trading terms. The difference between the positions put by AGLGN and ECG is the level of purchases of capital machinery. ECG assumes that this will comprise 50% of total capital expenditure.

Major construction projects and motor vehicles are the only significant areas of capital expenditure which are acquired under thirty day trading terms. The vast majority of AGLGN’s capital expenditure comprises small-scale construction projects in which contractors provide both labour and material and are paid on seven day trading terms. This type of expenditure has comprised over 95% of AGLGN’s capital expenditure in recent years, but is forecast to reduce to approximately 90% in the forecast period due to the increasing value of major projects.

AGLGN can not accept ECG’s recommendation that it be assumed that 50% of capital expenditure should be assumed to be paid on seven day trading terms.

3. Recommendations that concern the reasonableness of forecast data, where AGLGN maintain that no case has been presented by ECG to lead the Tribunal to conclude that AGLGN’s forecasts are not “best estimates arrived at on a reasonable basis”

Section 8.2 (e) of the Gas Code states that in determining to approve a Reference Tariff the Relevant Regulator must be satisfied that “any forecasts required in setting the Reference Tariff represent the best estimates arrived at on a reasonable basis”. Both ECG and Parsons Brinckerhoff have examined the basis used by AGLGN to prepare its forecast level of both capital and non-capital costs. Neither group has been able to conclude that any of the forecasts were not prepared on a reasonable basis. The question then is whether they represent “best estimates”. With the exception of those items discussed later in the submission, AGLGN maintains that the forecasts included in Revisions to AGLGN’s Access Arrangement and Access Arrangement Information submitted in December 2003 represent “best estimates arrived at on a reasonable basis” and that no case has been presented by ECG to lead the Tribunal to conclude otherwise. Specific cost items that ECG propose in their draft report should not be considered “best estimates” are discussed below:

3.1 Single Dwelling Metering Cost

In section 8.3.3 of the draft report ECG recommend that the forecast average cost of installing new residential meters in single dwellings be reduced from $195 per installation to $180 per installation. This recommendation, which would reduce the forecast capital cost for the period 2005 to 2010 by $1.5m is based on the assumption that AGLGN should be able to utilise a cheaper alternative meter for those residential installations having a larger than average load. AGLGN has tested a number of alternate meter types in recent years but to date has been unable to identify a meter that meets the required service and reliability standards. AGLGN maintain that until it is able to identify a suitable alternate meter it has no alternative but to forecast based on its existing cost structure.

3.2 System Reinforcement Projects

In section 4.3 ECG conclude that AGLGN’s “network planning process to be what would be expected from a prudent service provider acting efficiently, consistent with good industry practice in accordance with section 8.16 of the Code.” These processes were used by AGLGN to identify 70 system reinforcement projects that, based on AGLGN’s best estimates, will be required during the period 2005 to 2010. While AGLGN concede not all of these projects will be carried out in the period, there is also no doubt that other projects will arise during the period that are not included in the forecast. The situation remains that these projects represent AGLGN’s best forecast.

ECG have recommended forecast expenditure on two projects be reduced by a total of $4.4m and the remaining balance should be reduced by a further arbitrary $3.2m on the basis that “below forecast expenditure is typical and is primarily due to forecasting uncertainties”

AGLGN maintain that no case has been presented by ECG to lead the Tribunal to conclude that AGLGN’s forecasts of system reinforcement expenditure is not the “best estimate arrived at on a reasonable basis”.

3.3 Government Authority Work

AGLGN is required to incur capital costs on a regular but sporadic basis to relocate or alter assets that are located on land owned by third parties such as various government authorities. AGLGN’s forecast expenditure on this “government authority work” for the period 2005 to 2010 is based upon its experience from dealing with the relevant government authorities, the recent increases in this category of expenditure, and the expectation that this trend will continue.

ECG have recommended that forecast expenditure on government authority work be reduced by $3.8m, but AGLGN maintains that no case has been presented by ECG to lead the Tribunal to conclude that AGLGN's forecast expenditure on government authority work is not the "best estimate arrived at on a reasonable basis."

3.4 Information Technology (IT) Expenditure

AGLGN forecasts capital expenditure on Information Technology (IT) projects for the period 2005 to 2010 by means of a project by project analysis of the expected requirements. The respective business cases for these projects are at various stages of development depending upon the size, nature and timing of each project. Even though AGLGN has forecast ongoing cumulative efficiency savings of 1.5% per annum, ECG could identify no clear offset in operating and maintenance expenditure and therefore recommended to the Tribunal that $6.8m of forecast expenditure should not be considered prudent and efficient.

With the exception of the duplication of one project valued at $2.3m, AGLGN maintains that no case has been presented by ECG to lead the Tribunal to conclude that AGLGN's forecast expenditure on IT is not the "best estimate arrived at on a reasonable basis." or that the forecast expenditure is not "prudent and efficient"

3.5 Motor Vehicle Replacement

AGLGN forecasts capital expenditure on motor vehicles for the period 2005 to 2010 by analysing the age, driving history and current mileage of each vehicle in its fleet and assuming each vehicle is replaced based on predetermined economic criteria. ECG have recommended that the Tribunal reduce this forecast by $3.0m based on the notion that forecast costs should not exceed the annual average experienced over the past eight years.

AGLGN maintains that no case has been presented by ECG to lead the Tribunal to conclude that AGLGN's forecast expenditure on motor vehicles is not the "best estimate arrived at on a reasonable basis" or that the forecast expenditure is not "prudent and efficient"

4. Recommendations that AGLGN does not dispute

There are a number of recommendations in the draft ECG report that AGLGN does not dispute. These recommendations are discussed below.

4.1 AGLGN do not dispute that $2m of capital expenditure proposed for 2004 will be delayed until 2005 due to the deferral of the Roberts Road and Glenmore Park Secondary Main Project.

4.2 AGLGN concur that capital expenditure for the period 2005 to 2010 could reasonably be reduced by $4.8m due to reductions in both the Residential and I&C Regulator Replacement Programs.

4.3 In preparing its forecast level of capital expenditure on IT projects for the period 2005 to 2010 AGLGN agrees that it duplicated expenditure of $2.3m as FRC expenditure was included in two separate areas.

4.4 AGLGN concur that forecast Administration & Overhead Costs for the period 2005 to 2010 could reasonably be reduced by $3.6m due to reductions in the forecast level of insurance premiums after AGLGN prepared its forecast for the December 2003 Submission

4.5 AGLGN concur that forecast Government Levies for the period 2005 to 2010 could reasonably be reduced by $4.2m due to reductions in the forecast level of Authorisation Fees after AGLGN prepared its forecast for the December 2003 Submission

5. The importance of maintaining the consistency of forecast information

Whatever decisions the Tribunal may make following consideration of ECG's recommendations, it is essential that the consistency of forecast information is maintained. Two significant examples of the interrelation of the various forecasts are discussed below.

5.1 The Capital and Non-Capital cost forecasts are only valid for a given set of demand forecasts. MMA have recommended a number of changes to the demand forecast submitted by AGLGN in December and AGLGN have agreed with many of those changes. Notably the use of the latest BIS Shrapnel forecasts for NSW dwelling construction will significantly increase the number of new residential sites forecast to be connected to the network.

This increase in customer site numbers will directly affect the amount of capital required to connect those customers and forecast sales volumes, but will also have significant, but less obvious effects on operating and maintenance costs and system enhancement capital expenditure. It is essential that this interrelationship is not overlooked.

5.2 AGLGN based its forecast levels of operating and maintenance cost, and UAG on the expectation that it would complete the total outstanding Programmed Rehabilitation project during the period. If the level of Programmed Rehabilitation is significantly reduced it must be recognised that the forecast levels of operating and maintenance cost, and UAG will not be achievable.

6. Cost items that were omitted from AGLGN's December 2003 AA and AAI Submission.

In their draft report ECG noted two significant items of expenditure that were omitted from the Revisions to AGLGN's Access Arrangement and Access Arrangement Information submitted in December 2003. These items were:

- Information Technology capital expenditure incurred on behalf of AGLGN by AGL Corporate Services Pty Ltd. during the period 2000 to 2004.
- Capital expenditure forecast for the period 2005 to 2010 to protect the regulated assets against Mines Subsidence.

AGLGN would like to work with the Tribunal to determine appropriate methodologies for incorporating these costs in the cost of service and reference tariff analysis.

AGLGN Submission on ACG's Review of Terms and Conditions

This Submission is in response to the draft report prepared by the Allen Consulting Group (ACG) entitled Revisions to AGLGN's Access Arrangement – Assessment of Terms and Conditions. This submission follows an earlier submission by AGLGN dated 10 September and addresses issues raised at the Public Forum held on 15 September and the cover note subsequently issued by the Tribunal.

In its cover note the Tribunal identified four key issues.

1. Whether an Access Arrangement should include a complete specification of terms and conditions dealing with matters typically included in a service (or transportation) agreement between AGLGN and user? What are the likely impacts in either case?

AGLGN believes that it clearly established in its earlier submission that the notion that an Access Arrangement should include a complete specification of terms and conditions dealing with matters typically included in a service (or transportation) agreement:

- Is inconsistent with the intent of the National Gas Code (the Code)
- Is contrary to the position taken by key Australian regulators including the ACCC and IPART.
- Would severely limit the ability for Users and Service Providers to negotiate mutually agreeable terms and conditions, a key aim of the Code.
- Would result in detailed terms and conditions being "locked-in" for the period of the Access Arrangement, despite developing market and commercial conditions.
- Would result in the Regulator removing from the Service Provider, the Service Provider's responsibility and ability for the management of key aspects of commercial risk management. This should not be removed without the Regulator also removing the commercial consequences of those actions.

Having considered AGLGN's submission, ACG has changed its original recommendation that AGLGN's approach was inconsistent with the Code to a position that "it may be open for IPART to take either position" over consistency with the Code. This position is apparently taken on the basis that various Access Arrangements around the country have terms and conditions of varying levels of detail and therefore regulators had taken different positions on the interpretation of the Code.

Having had discussions with a variety of Service Providers AGLGN believes that the varying level of detail that exist in Access Arrangements is a natural consequence of the propose/response model of the Code. Various Service Providers have chosen to present Access Arrangements in varying levels of detail, this has not been imposed on Service Providers due to varying interpretations of the Code by Regulators. A perfect example of this is the ACCC that has approved a variety Access Arrangements types, but did not include detailed terms and conditions when it drafted it own Access Arrangement for the Moomba Sydney Pipeline.

2. What are the implications for users and AGLGN resulting from an overlap and interaction between the terms and conditions and the Gas Retail Market Business Rules (GRMBRs) ?

AGLGN agree to the inclusion of a provision for a change in the treatment of unaccounted for gas as a result of new GRMBRs during the access arrangement period. This is in response to a submission by the Gas Market Company that was lodged subsequent to the submission of the Revisions to AGLGN's Access Arrangement.

Apart from the above issue, AGLGN maintain the position set out in submissions by both AGLGN and the Gas Market Company that the GRMBRs were originally and still are consistent with and complimentary to the Access Arrangement.

AGLGN note that no market participant has raised any issue of inconsistency between the Access Arrangement and the GRMBRs and those specific concerns identified by ACG have been addressed.

3. Whether terms and conditions on specific matters (such as liability and indemnity, security payments, load shedding) fail to reflect common commercial practice in the industry and/or are unreasonably contrary to the interests of users?

AGLGN does not believe that any terms and conditions on specific matters fail to reflect common commercial practice in the industry and/or are unreasonably contrary to the interests of users. Specific issues raised by ACG are discussed below

- Dispute Resolution

ACG are concerned that on a range of matters, including security payments, the requirement for AGLGN to behave reasonably should be accompanied by a dispute resolution mechanism incorporated in the terms and conditions. AGLGN highlighted in its earlier submission that clear dispute resolution mechanisms are incorporated in both the Code and the Transportation Agreements. AGLGN maintain that these provisions make the need for any further dispute resolution mechanism redundant.

- Overrun Charges

ACG initially raised the question of whether the overrun charges proposed by AGLGN are by nature a penalty, and if is so whether it is permissible under the code for charges that are in nature a penalty to be charged. AGLGN maintains its position that the proposed overrun charges are not a penalty but an essential mechanism for ensuring that users pay for an appropriate portion of the total cost of providing the service. It is AGLGN's understanding that having considered the submissions by AGLGN, the only aspect of the proposed overrun charges that ACG still consider may be a penalty is the loading that is added to an unauthorised daily overrun.

- Expiration of Service Agreements

ACG consider that it is unclear why any provision for extension of the term of a service agreement should bear any relativity to the Revisions Commencement Date. Clause 4 of Schedule 2B provides that if the term of a service expires after the Revisions Commencement Date, a User is not entitled to continue to receive services after the expiry of the term, unless the User enters into a Service Agreement with AGLGN effective from the date the term of the service expires under the preceding agreement.

The purpose of this provision is to ensure that where changes are made to the Access Arrangement, the parties have the benefit of those changes. Changes to the terms and conditions during an Access Arrangement review may be to the benefit or disadvantage of Users depending on the substance and effect of those changes. Without conditions as set out in clause 4 of Schedule 2B, a User would be entitled to seek Services under a Service Agreement beyond the Revisions Commencement Date, indefinitely, on terms and conditions which existed at the time the Service Agreement was entered into, notwithstanding that a Revised Access Arrangement has since been determined.

ACG have suggested that as an alternative to clause 4 of schedule 2B, Service Agreements could have an indefinite term but the terms and conditions of those agreements could be generally subject to terms and conditions of the Access Arrangement in force from time to time. Past advice given to AGLGN is that:

- a Service Agreement is a contract between the User and AGLGN that stands on its own terms. Except to the extent expressly stated in the Service Agreement, its terms and conditions are not subject to the terms and conditions of an Access Arrangement.
- the Access Arrangement is not a legally binding agreement between the User and AGLGN. As such, a future Access Arrangement cannot unilaterally import terms on AGLGN or the User, nor can it unilaterally vary the terms of the Service Agreement.
- variations made through a provision in a contract (service agreement) which attempts to incorporate the capacity for unspecified and unlimited unilateral variations at some future time (ie: without requiring the further express agreement of the parties at that time) could be readily challenged at law. In contrast, the provisions of clause 4 of Schedule 2B proposed by AGLGN foreshadow AGLGN and the User effecting a new, or explicitly varied, service agreement to clearly document the new terms and conditions at the time of the change.

4. Whether there are inconsistencies and ambiguities in the terms and conditions, and what actual; and potential impact they have on AGLGN and/or users.

AGLGN has agreed to alter many sections of the proposed Access Arrangement to address twelve of the nineteen recommendations made by AGC concerning perceived inconsistencies and ambiguities.

AGLGN Submission on Proposed Trunk Zone Merger and Gas Swap Service

AGLGN's position in relation to the proposed trunk zone merger and the introduction of a gas swap service was detailed in its submission dated 27 August, 2004 and further discussed at the public forum held on 15 September, 2004. The key points presented by AGLGN in relation to these proposals are:

- The proposed Zone A will contain network receipt points sourcing gas from Victoria , South Australia and NSW coal seam methane. With suitable network arrangements surrounding alternate short term gas supply arrangements, this physical hub will provide users with the opportunity to engage in spot purchases of gas from sources across South East Australia.

- A five zone structure will enable gas swap services to be accessed with significantly greater flexibility and simplicity than under a seven zone structure. AGLGN believe that the full potential benefit to the market of receipt point swaps can not be achieved under a seven zone structure.

- The views expressed by some users that the current price differential for trunk transportation between the Wilton and Horsley Park receipt points is material to competition should be balanced against the potential benefits which will arise from providing necessary flexibility for a more dynamic wholesale market to develop. Users have almost unanimously expressed support and interest in the concept of a highly flexible gas swap service.

- The current differential in trunk price between Wilton and Horsley Park receipt points represents a very small fraction of the total delivered cost of gas for end customers. Recognising that the access arrangement will set the network conditions applying to gas swaps until 2010, AGLGN believes that the long term benefits from providing the structure for fully flexible gas swaps will readily outweigh the short term impacts of a relatively insignificant change in differential trunk pricing.