



30 October 2015

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Dear Roger

**RE: Wholesale market distribution UAFG procedures (Vic)**

Multinet (MG) welcomes the opportunity to respond to the AEMO Impact and Implementation Report – Wholesale Market Distribution Unaccounted for Gas Procedures (UAFG Procedures).

In summary, Multinet recommend:

- No change to the definition or calculation of the gas price as defined in the Gas Distribution System Code (Code) and replicated in Appendix C of the current UAFG Procedures during the current access period; and
- Renaming of the Wholesale Market Distribution UAFG procedures to be consistent with its reference head of power and the naming in NGR Part 19 and the retail Market Procedures Victoria, Section 7.

The DUAFG benchmark is established as a regulatory incentive arrangement for the gas distributor to manage the network to minimise gas losses through pipe leakage, network valves left open, inaccurate distributor and custody transfer meters (CTM), inaccurate heating values – state-wide and CTM/hourly meters, theft of gas etc. Only some of these aspects are within the control or are managed by Multinet, other aspects are not within Multinet's control.

**Consistency of proposed changes with jurisdictional instruments and access setting**

The ESC established a distribution unaccounted for gas framework in the Code. The calculation requirements, including the basis for the gas price used is in the Code in Schedule 1 of Part C, and is currently replicated in the UAFG Procedures and has been for well over 7 years. Multinet is obliged to comply with the Code under clause 4 of its ESC distribution licence. A breach of that licence can lead to significant financial penalties and even licence revocation.

Multinet's view is that it is unlawful for AEMO to make a UAFG Procedure that is inconsistent with the framework in the Code established by the ESC. Multinet considers it is unreasonable, in a legal sense, and contrary to law, for AEMO to make a Procedure that will make Multinet non-compliant with the Code and so its licence. AEMO's decisions in making Procedures can be the subject of applications for judicial review under section 243 of the National Gas Law.



The Code obliges Multinet to make Reconciliation Payments, being amounts calculated in accordance with Schedule 1 of Part C of the Code. That amount depends upon a number of terms, including “X” which is defined as:

‘X=the quantity annual price of Gas, using spot and contract prices and quantities, as determined by AEMO for the previous calendar year expressed in \$ per gigajoule;’

AEMO cannot redefine “X” to use a 100% average volume weighted market price (AVWMP) in the UAFG Procedures that will make Multinet, if it makes a payment under Rule 317, non-complaint with the Code. Multinet does not support the use of the AVWMP as it does not use spot and contract prices. The AVWMP introduces more price volatility; Multinet has no control of the price and based on our analysis the regulatory incentive is no longer symmetrical.

AEMO asserts that the amended UAFG Procedure aligns with the Code, however, no explanation is given. Insofar as these assertions are unsupported, AEMO has failed to comply with rule 135EC(1)(b)(i) and (ii) of the NGR in that there is inadequate critical examination of the proposal nor an adequate assessment of the likely effect of the proposed Procedure.

The benchmark and reconciliation process is part of an incentive framework. AEMO say that retailers forecast volume including the expected UAFG amounts and that retailers pay for any variation between the actual and benchmark UAFG at the deviation price. Retailers forecast accuracy, the weather, the state of the systems and line pack and a range of other factors can influence whether any variation in the UAFG forecast vs actual is to the benefit or the detriment of the retailer. Multinet has no control over the forecasting accuracy which influences the deviation price.

The access arrangement establishes the economic agreement between the distributor and retailer. This framework assumes that the UAFG is settled using the Distribution UAFG Procedures under NGR 317 in accordance with any relevant Regulatory instruments, of which the Code is recognised and referenced in the UAFG Procedure itself. In other words, the access arrangement assumes conformity between the UAFG procedure and the Code.

Clause 4.10(b) of Part C of Multinet’s access arrangement provides:

The parties acknowledge that, in accordance with Rule 317 of the National Gas Rules and the Distribution UAFG Procedures made pursuant to that rule (and in accordance with any other relevant Regulatory Instruments from time to time) AEMO will from time to time calculate the amounts (if any) payable by the User to the Service Provider or by the Service Provider to the User on account of Unaccounted for Gas (Reconciliation Amounts).

AEMO asserts that as the UAFG Procedure is not a Retail Market Procedure, it need not have regard to the access arrangement. This takes a narrow view of the law as comprising only the express provisions of the NGR. In exercising a statutory function, AEMO is limited by the principles of administrative law. Multinet’s view is that it is unreasonable, in a legal sense, and contrary to law, for AEMO to make a Procedure that is inconsistent with the access arrangement.

### **Procedure Naming - Distribution UAFG procedure**

NGR Rule 317 requires AEMO to make a Distribution UAFG Procedure, not a Wholesale Market Distribution UAFG Procedure. The Retail Market Procedures (Victoria) (RMP) also reference the use of the Distribution UAFG Procedure in Part 7 for use in calculating the non DTS UAFG.



The Wholesale Market Distribution UAFG Procedure itself links back to NGR 317, not NGR 135EA (2) (k).

Multinet recommends that the UAFG Procedure name be amended and the words 'Wholesale Market' be removed to make it consistent with its head of power in NGR 317 and the naming used in the Retail Market Procedure.

AEMO need to confirm that any proposed changes to the UAFG Procedure are also appropriate for the non-declared transmission areas such as South Gippsland. Any revised UAFG Procedure needs to be workable under the Retail Market Procedure; AVWMP is even less applicable in South Gippsland.

If you have any questions in relation to this response, please feel free to contact me on 8846 9856.

Yours sincerely

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