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Attachment 3: Depreciation

Revised access arrangement information

ACT and Queanbeyan-Palerang gas network access arrangement 2026–31

Submission to the Australian Energy Regulator

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1. Overview of our initial depreciation proposal

Our initial depreciation proposal of $212 million[1] ($2025–26) reflects the policy context faced by Evoenergy and our customers. As well as ensuring compliance with the relevant requirements of the NGL and NGR in this operating context, our initial proposal laid the foundations for an equitable transition to net zero emissions by 2045, by sharing more of the investment costs among customers early in the transition. Our proposal avoided leaving a disproportionate share of past investment costs to those least able to electrify early in the transition.

We proposed adapting the current depreciation approach to reflect the National Gas Law (NGL) and National Gas Rules (NGR) to:

- reflect the economic life of our assets, based on the policy intent, disclosed by the ACT Government's published Integrated Energy Plan (IEP), to phase out gas and complete network decommissioning by 2045, and the achievement of emissions reductions required by the legislated target of net zero by 2045 for the ACT.[2] This is a conservative approach given the IEP discloses an intention to effect a staged decommissioning of the gas network in the 2035–40 period, meaning some assets are expected to have an even shorter remaining life.
- promote the efficient investment in, and operation and use of, our gas network including by providing Evoenergy a reasonable opportunity to recover our efficient past and future costs of investing in the gas network. Our approach did not, however, guarantee full cost recovery, given the uncertainty of gas demand over the next 19 years and the potential risk of the network becoming economically unviable before 2045.
- in so doing, promote the long-term interests of consumers with respect to price, quality, safety, reliability and security of supply for as long as customers remain connected to the gas network. By reprofiling depreciation using the sum-of-years'-digits depreciation method, our proposal reduced the risk, and extent, of unsustainable gas price escalation in future years.

At the same time as ensuring compliance with the relevant requirements of the NGL and NGR, the sum-of-years'-digits depreciation method enables an equitable transition path by sharing more of the past investment costs among more customers early in the transition, so as to minimise price impacts on those least able to transition early.

2. The AER's draft decision on our depreciation proposal

The AER's draft decision did not accept Evoenergy's proposed depreciation approach. Instead, the draft decision:

- applied the Weighted Average Remaining Life (WARL) depreciation calculation method to calculate straight-line depreciation, in place of the proposed use of the year-by-year depreciation tracking method,

[1] All values in this attachment are real June 2026 dollars, unless otherwise stated.

[2] *Climate Change and Greenhouse Gas Reduction Act 2010*, 6(1)

- reduced the standard and remaining asset lives for new and existing assets to a maximum of 25 years for medium-pressure mains and 30 years for high-pressure mains, rather than to 19 years aligned with the ACT's legislated net zero emissions target and announced date for phasing out gas and completing the gas network decommissioning of 2045, as proposed by Evo energy, and
- allowed an additional amount of accelerated depreciation calculated by back-solving to a 4 per cent real annual network price increase based on regulatory judgement and using the AER's substitute demand forecast, before adjusting for incentive scheme carryovers, rather than using the proposed sum-of-years'-digit method.

The AER's draft decision approach reduced the total depreciation allowance by $71 million (34 per cent), as shown in Table 1 below.

In setting asset lives beyond the ACT Government's IEP and legislated net zero emissions by 2045 target, the AER states 'while we consider the likelihood that Evoenergy's network will be decommissioned by 2045 to be high, we do not consider there is sufficient evidence to suggest a 100% likelihood of this outcome…'.[3] The AER further states 'we consider a smaller reduction to the expected economic life relative to Evoenergy's proposed 19 years will provide a more measured approach that better reflects current policy settings and demand uncertainty, while balancing short-term price impacts'.[4]

In setting a 4 per cent base real price increase limit (before incentive scheme carryovers) to back-solve the additional amount of depreciation, the AER states that it has balanced accelerated depreciation against price impacts and affordability, and the need to avoid the risk of a decline in network use faster than anticipated.[5]

The AER draft decision further states that 'so long as demand continues to decline, no affordable amount of accelerated depreciation will achieve long-term price stability. We continue to encourage an open discussion between consumers, network businesses and governments regarding who should pay for the costs of stranded assets associated with past and future capital investments, and when and how these costs are shared'.[6]

Table 1 below compares Evoenergy's initial depreciation proposal with the AER's draft decision.

Table 1 Evoenergy initial depreciation proposal and AER draft decision

million, $2025–26	Evoenergy's initial proposal	AER's draft decision	Difference
Straight-line depreciation with GN21 asset lives	$107	$94	-$13
Asset life adjustment	$30	$12	-$18
Accelerated depreciation	$75	$35	-$41
Total depreciation	**$212**	**$141**	**-$71**

[3] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p.17.
[4] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 18.
[5] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 20.
[6] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 15.

3. Our response to the AER's draft decision

3.1 Summary

Evoenergy accepts the AER's draft decision to apply the WARL depreciation calculation method to calculate straight-line depreciation, in place of the proposed use of the year-by-year depreciation tracking method, and not to use the proposed sum-of-years'-digit method to determine accelerated depreciation. However, Evoenergy does not accept the AER's draft decisions on the economic lives of our pipeline assets or to allow additional depreciation determined by reference to a 4 per cent limit (before incentive scheme carryovers) on real annual network price increases.

Our revised proposal instead proposes:

- A maximum economic life for Evoenergy's existing and new pipeline assets (both medium-pressure and high-pressure) of 19 years, consistent with the ACT's legislated date for achieving net zero emissions of, and announced policy to phase out gas and cease operation of the gas network by, 2045, and
- Accelerated depreciation in the amount determined by the AER's draft decision, being $35 million, in addition to the depreciation resulting from the application of Evoenergy's revised proposed economic lives.

Notwithstanding the AER's NGL and administrative law obligations to provide Evoenergy and other stakeholders a meaningful opportunity to scrutinise and comment on its draft decision, the AER's written reasons for its decisions on the economic lives of our network assets and accelerated depreciation do not fully expose the basis for its decisions or how the AER considers its decisions comply with the applicable NGL and NGR requirements. Evoenergy is deeply concerned by this lack of transparency, given the significance of the AER's decision on depreciation to its continued financial viability, and ability to operate the gas network safely, reliability and securely in the interests of its customers, during the transition process.

Nonetheless, it is apparent that the AER's draft decisions do not comply with the relevant NGL and NGR requirements and, for this and other reasons, are not made in accordance with law.

We attach to our revised proposal a legal opinion from the Hon John Middleton AM KC, DLA Piper Senior Advisor and former Judge of the Federal Court of Australia and President of the Australian Competition Tribunal. In this legal opinion, the Hon John Middleton AM KC concludes that the AER's draft decisions on the economic lives of our pipeline assets and accelerated depreciation are affected by a number of legal errors.[7]

The NGR require the AER to make a factual finding on the economic lives of our assets, on the available evidence, and make a decision on depreciation that generates expected revenues over the economic lives of our assets so determined that are sufficient to fully recover our investment costs. However, the AER's draft decision to adopt economic lives for our pipeline assets that extend beyond 2045 is without any evidentiary basis and made in reliance on irrelevant considerations. As a result, it fails to ensure our depreciation allowance generates an expected revenue stream over the remaining economic life of the gas network that provides for the full return of Evoenergy's investment costs, as required by rule 89(1)(b) of the NGR.

[7] Appendix 3.2: DLA Piper, Legal Opinion, January 2026.

The AER's draft decision to allow $35 million of accelerated depreciation (in addition to the depreciation resulting from the application of shorter economic lives) is based on a limit on real network price increases of 4 per cent per annum (before incentive scheme carryovers).

While the AER states that its 4 per cent real annual network price increase limit will deliver short-term price stability and affordability, and, in turn, promote the efficient use of our network and efficient negative growth for our reference services in accordance with rule 89(1)(a) of the NGR, the basis for this view is unclear. It appears that the AER may consider the efficient use of our network, and efficient negative growth in demand for our reference services, will be promoted by setting any additional depreciation such that, to the extent it would result in average revenue in excess of long run marginal cost, any distortions to demand are minimised. However, the AER provides no evidence that a real annual increase in network prices in excess of 4 per cent will exceed long run marginal cost and distort demand for gas and network services.

To the contrary, the real annual increase in network prices associated with our initial and revised proposals would **not** result in materially greater reduction in demand for gas and network services than the AER's 4 per cent real annual network price increase limit, given the proportion of the retail gas price comprised by network prices and the relatively inelastic price elasticity of demand for gas. There is, therefore, no evidentiary or economic basis for the AER's application of a 4 per cent real annual network price increase limit in determining our depreciation allowance. It follows that the application of such a limit promotes neither efficient negative growth in demand for our reference services nor efficient use of our network relative to our initial and revised proposals for accelerated depreciation, and is not required for compliance with rule 89(1)(a) of the NGR.

In addition to being made in reliance on a number of irrelevant considerations, the AER's draft decision to apply a 4 per cent limit on real annual network price increases operates to impose a cap on its decision on total revenues and, thus, Evoenergy's recovery of its efficient costs, by reference to what the AER considers an appropriate and affordable short-term price impact. Such a decision:

- is not authorised by section 68B(1)(b) and Part 9 of the NGR,
- denies Evoenergy the reasonable opportunity to recover its efficient costs incurred that is the statutory premise of the National Gas Objective (NGO), and economic regulation by the NGL and NGR, contrary to the AER's obligations under section 28(1)(a) of the NGL and rule 68B(1)(a) of the NGR,
- in so doing, distorts incentives for economic efficiency, including in particular for efficient investment, and has a detrimental impact on service outcomes,
- fails to generate expected revenues over the economic life of our network that are sufficient to fully recover our investment costs, as required by rule 89(1)(b) of the NGR, and
- does not allow for our reasonable cash flow needs, as required by rule 89(1)(e) of the NGR.

Instead, the draft decision materially increases the risk of the gas network becoming economically unviable well before 2045, creates a strong disincentive for Evoenergy to make any further investment in the gas network, as these costs will not be fully recoverable, and limits increases in gas prices to below the recent price path trend for electricity, so reducing financial incentives for customers to electrify their appliances and hindering the achievement of the ACT's legislated zero emissions target.

Finally, the AER's draft decision to arbitrarily prioritise short-term gas prices at the expense of long-term price stability is in direct contrast to the strong feedback from Evoenergy's community across the ACT and NSW regions to promote an equitable transition path, which avoids leaving significantly higher prices for those least able to transition.

By contrast, our revised proposal is compliant with the relevant NGL and NGR requirements, consistent with long term price stability and our community feedback, and does not result in a materially greater reduction in demand for gas and our network services than the AER's draft decision to cap our depreciation allowance by applying a 4 per cent limit on real annual network price increases.

Evoenergy has sought to respond, in detail, to the AER's draft decision on depreciation notwithstanding the deficiencies in the written reasons for decision provided by the AER referred to above and discussed further below. To the extent that Evoenergy has not fully understood the rationale and reasoning for the AER's draft decisions on the economic lives of its pipeline assets or accelerated depreciation, or the AER's rationale and reasoning evolves in response to our revised proposal or stakeholder submissions, Evoenergy's expectation is that the AER will bring this to our attention and provide us with a genuine and meaningful opportunity to comment on the basis for the AER's decision, before it is made. This is critically important given the (already noted) significance of this decision to Evoenergy's continued financial viability and ability to safely, reliably and securely operate its gas network during the transition, for the benefit of our customers.

3.2 NGL and NGR and other legal requirements for AER's decision on depreciation

The AER's draft decision on depreciation does not accord with law. This would appear to be attributable to a misunderstanding by the AER of the statutory and other legal requirements that govern that decision. Accordingly, it is desirable, at the outset, to revisit the applicable legal requirements in some detail.

3.2.1 NGL and NGR requirements imposed by reference to the NGO

Section 28(1)(a) of the NGL requires that, in making its decision, the AER must do so in a manner that will or is likely to contribute to the achievement of the NGO. In addition, rule 68B(1)(a) of the NGR requires the provisions of our access arrangement for 2026-31 to be consistent with the NGO.

The NGO is set out in section 23 of the NGL, as follows:

> The objective of this Law is to promote efficient investment in, and efficient operation and use of, covered gas services for the long term interests of consumers of covered gas with respect to-
>
> (a) price, quality, safety, reliability and security of supply of covered 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.

Section 28(2)(a) of the NGL, in turn, requires the AER to take into account the revenue and pricing principles in making its decision. The revenue and pricing principles are set out in section 24 of the NGL and relevantly include:

> (2) A scheme pipeline service provider should be provided with a reasonable opportunity to recover at least the efficient costs the service provider incurs in-
>
> (a) providing reference services; and
>
> (b) complying with a regulatory obligation or requirement or making a regulatory payment.
>
> (3) A scheme pipeline service provider should be provided with effective incentives in order to promote economic efficiency with respect to reference services the service provider provides. The economic efficiency that should be promoted includes-
>
> (a) efficient investment in, or in connection with, a pipeline with which the service provider provides reference services; and
>
> (b) the efficient provision of pipeline services; and
>
> (c) the efficient use of the pipeline.
>
> …
>
> (5) A reference tariff should allow for a return commensurate with the regulatory and commercial risks involved in providing the reference service to which that tariff relates.
>
> (6) Regard should be had to the economic costs and risks of the potential for under and over investment by a scheme pipeline service provider in a pipeline with which the service provider provides pipeline services.
>
> (7) Regard should be had to the economic costs and risks of the potential for under and over utilisation of a pipeline with which a scheme pipeline service provider provides pipeline services.

The legislative premise disclosed by the NGO is that the long term interests of consumers will be served by regulation that advances economic efficiency. There is no balance to be struck between the efficient investment in, operation and use of, gas services on the one hand and the long term interests of consumers on the other. This has been recognised by the Australian Competition Tribunal on more than one occasion, including in *Applications by Public Interest Advocacy Centre Ltd and Ausgrid* [2016] ACompT 1 at [77], as follows:

> 'The ultimate objective in the NEO and NGO is to direct the manner in which the national electricity market and the national natural gas market are regulated, that is, in the long term interests of consumers of electricity and natural gas respectively with respect to the matters specified. The provisions proceed on the legislative premise that their long term interests are served through the promotion of efficient investment in, and efficient operation and use of, electricity and natural gas services. This promotion is to be done "for" the long term interests of consumers. It does not involve a balance between efficient investment, operation and use on the one hand and the long term interests of consumers on the other. Rather, the necessary legislative premise is that the long term interests of consumers will be served by regulation that advances economic efficiency.'

As reflected in the revenue and pricing principles, economic efficiency and, thus, the long term interests of consumers are served by the provision to service providers of a reasonable opportunity to recover at least their efficient costs. The NGO and the revenue and pricing principles are complementary and operate together. A decision which is inconsistent with the revenue and pricing principles cannot be a decision that will, or is likely to, contribute to the achievement of the NGO.

This has been recognised by the Australian Competition Tribunal on numerous occasions, one example being in *Re Application by ElectraNet Pty Limited (No 3)* [2008] ACompT 3 at [15], which observed as follows in respect of the analogous national electricity objective (NEO) and revenue and pricing principles for electricity under the NEL:

> 'The national electricity objective provides the overarching economic objective for regulation under the Law: the promotion of efficient investment in the long term interests of consumers. Consumers will benefit in the long run if resources are used efficiently, i.e. resources are allocated to the delivery of goods and services in accordance with consumer preferences at least cost. As reflected in the revenue and pricing principles, this in turn requires prices to reflect the long run cost of supply and to support efficient investment, providing investors with a return which covers the opportunity cost of capital required to deliver the services.'

Another example is provided by *Application by EnergyAustralia and Others* [2009] ACompT 8, in which the Tribunal concluded (at [77] and [78]) in respect of the NEO and revenue and pricing principles for electricity under the NEL:

> 'It might be asked why the NEL principles require that the regulated NSP be provided with the opportunity to recover at least its efficient costs. Why 'at least'? The issue of opportunity is critical to the answer. The regulatory framework does not guarantee recovery of costs, efficient or otherwise. Many events and circumstances, all characterised by various uncertainties, intervene between the ex ante regulatory setting of prices and the ex post assessment of whether costs were recovered. But if, as it were, the dice are loaded against the NSP at the outset by the regulator not providing the opportunity for it to recover its efficient costs (e.g., by making insufficient provision for its operating costs or its cost of capital), then the NSP will not have the incentives to achieve the efficiency objectives, the achievement of which is the purpose of the regulatory regime.
>
> Thus, given that the regulatory setting of prices is determined prior to ascertaining the actual operating environment that will prevail during the regulatory control period, the regulatory framework may be said to err on the side of allowing at least the recovery of efficient costs.'

The Australian Competition Tribunal expressly recognised, in *Applications by Public Interest Advocacy Centre Ltd and Ausgrid* [2016] ACompT 1 at [1181], that the NEO, and thus the NGO, does not encompass 'broader social … objectives'. In subsequently agreeing reforms to the NEO and NGO to incorporate an emissions reduction objective, the Energy Ministers expressly agreed that, while social equity and affordability issues are important matters for future consideration, they were outside the scope of the reforms made to date to the NEO and NGO.[8]

The AER would appear to construe the NGO as necessitating a consideration of consumers' interests in short term price impacts and affordability, the amelioration of declines in demand that

[8] Incorporating an emissions reduction objective into the national energy objectives Information paper, May 2023.

would result in costs being borne by a smaller group of consumers, and the avoidance of price shocks particularly for vulnerable consumers and those facing challenges during the energy transition.[9] It concludes that the provision to Evoenergy of a reasonable opportunity to recover its efficient costs, as contemplated by the revenue and pricing principles must be balanced against short-term price impacts and affordability; gas consumers are not required to compensate Evoenergy for its efficient investment costs where this is inconsistent with considerations of price affordability and stability, as the revenue and pricing principles are only mandatory considerations and are not binding.[10]

As discussed further below, in construing and applying the NGO and the revenue and pricing principles in this manner, the AER makes an error of law.

3.2.2 NGR requirements for access arrangement decision

Rule 68B(1)(b) of the NGR requires the provisions of our access arrangement for 2026–31 to be consistent with the rules as in force when the terms and conditions of the access arrangement are determined or revised. The decision made by the AER on depreciation must, therefore, comply with, or meet, the requirements of the NGR.

The AER cannot ignore the relevant NGR requirements or the revenue and pricing principles that inform proper application of those rules. Nor can it make a decision that is premised on:

- future reforms to the NGL and NGR that may take effect after its decision on the access arrangement for 2026–31, or
- the AER's views on the appropriate policy response to declining gas demand or who should pay for undepreciated investment costs and how they should be shared.[11]

Part 9 of the NGR specifies requirements for our access arrangement for 2026–31. Rule 76 requires the application of a building block methodology to determine total revenue for each regulatory year of the access arrangement period, specifying the building blocks for this purpose including, relevantly, depreciation on the projected capital base determined in accordance with Division 6 of Part 9. Rule 92, in turn, requires that an access arrangement include a reference tariff variation mechanism for the access arrangement period designed to equalise (in net present value terms) forecast revenue from reference services for the period and the portion of total revenue allocated to reference services for the period.

As discussed further below, insofar as the AER's draft decision to confine our depreciation allowance by applying a limit of 4 per cent on real annual price increases, which operates to limit its decision on total revenue and denies Evoenergy a reasonable opportunity to recover at least its efficient costs, this is not authorised by Part 9 of the NGR (as well as being contrary to the requirements for its decision established by reference to the NGO and the revenue and pricing principles).

Division 6 of Part 9 provides that the depreciation schedule(s) are to set out the basis on which the pipeline assets constituting the capital base are to be depreciated for the purpose of determining a reference tariff (rule 88(1)). Rule 89(1) specifies a series of mandatory objectives with which the design of the depreciation schedule(s) must conform. These relevantly include:

[9] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, pp. 19, 20, 26, 27.
[10] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, pp. 25-26.
[11] Cf. AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 15.

'(a) so that reference tariffs will vary, over time, in a way that promotes efficient growth in the market for reference services; and

(b) so that each asset or group of assets is depreciated over the economic life of that asset or group of assets; and

(c) so as to allow, as fair as reasonably practicable, for adjustment reflecting changes in the expected economic life of a particular asset, or a particular group of assets; and

…

(e) so as to allow for the service provider's reasonable needs for cash flow to meet financing, non-capital and other costs.'

The depreciation schedule(s) must comply with each and every one of these criteria.

3.2.3 Construction and application of the NGR's depreciation criteria

In its draft decision, the AER construes rule 89(1)(a) as applying to 'negative growth', such that it requires the depreciation schedule(s) to generate reference tariffs that vary over time so as to promote efficient 'negative growth' in the market for reference services.[12]

Evoenergy observes that it is at least arguable that rule 89(1)(a) has no applicability where, as here, the market for reference services is contracting. Put another way, it is at least arguable that rule 89(1)(a) does not operate to require the depreciation schedule(s) to generate reference tariffs that promote an efficient rate of decline in demand for reference services. We note, in this regard, that the ordinary and natural meaning of the word 'growth' does not encompass reductions or contractions, and that rule 89(2) confirms that rule 89(1)(a) is intended to apply in circumstances where the market and demand for reference services is increasing, not declining.

For completeness, to the extent that the AER suggests that rule 89(1)(a) is the source of its power to allow accelerated depreciation,[13] this is incorrect. The NGR do not prescribe the profile of depreciation; any shaped depreciation schedule is permissible, so long as it provides for the full return of the invested amount (in conjunction with an appropriate rate of return).[14] The AER's discretion as to the depreciation profile must, however, be exercised in a manner consistent with the NGO and the revenue and pricing principles, and the rule 89(1) depreciation criteria (including, to the extent applicable, rule 89(1)(a) of the NGR).

To the extent it applies in the context of a contracting market for reference services, the Australian Competition Tribunal has observed that it is uncontroversial that, as a matter of economic principle, the objective set out in rule 89(1)(a) is best met by a depreciation methodology that:[15]

- matches average revenue with long run marginal cost associated with an incremental increase in services, and

[12] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 12.

[13] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 12.

[14] Application by ATCO Gas Australia Pty Ltd [2016] ACompT 10 at [342].

[15] The Australian Competition Tribunal recognises this in Application by ATCO Gas Australia Pty Ltd [2016] ACompT 10 at [329] and Application by APA GasNet Australia (Operations) Pty Limited (No 2) [2013] ACompT 8 at [217]-[218].

- subject to tariffs reflecting long run marginal cost, ensures the recovery of any remaining costs is so as to minimise any distortion of demand.

Rule 89(1)(b) 'is quite specific in stating that the depreciation schedule should be designed "so that each asset … is depreciated over the economic life of the asset"'.[16] Rule 89(1)(b) has been described as a requirement that the depreciation schedule 'will generate an expected revenue stream over the life of the asset which reflects the required aggregate of the capital cash flows with present value equal to the asset cost'.[17] As already noted, the NGR permit any shaped depreciation schedule which provides for the full return of the invested amount (in conjunction with an appropriate rate of return).[18]

As discussed further below, insofar as the AER's draft decision on depreciation determines economic lives for our assets that are arbitrary and without any evidentiary basis and/or in reliance on irrelevant considerations, its decision is non-compliant with rule 89(1)(b) (as well as the AER's administrative law obligations noted below). Insofar as the decision's depreciation allowance is insufficient to generate expected revenues over the life of our assets that fully recover our investment costs, again, this is non-compliant with rule 89(1)(b) (as well as with the requirements for the AER's decision specified by reference to the NGO and revenue and pricing principles).

Rule 89(1)(c), in turn, requires the depreciation schedule(s) to allow, so far as reasonably practicable, for potential future changes in the economic life of an asset including, in the context of declining demand, a future reduction in that economic life.

The AER states, in its draft decision, that rule 89(1)(c) is (in addition to rule 89(1)(b)) applicable to its decision on the economic lives of our assets and, thus, that it is only required to shorten those lives 'as far as reasonably practicable'.[19] This is incorrect and constitutes an error of law.

Paragraphs (b) and (c) of rule 89(1) do different work. Rule 89(1)(b) requires the AER to make a factual finding on the economic lives of our assets, for the purpose of ensuring, as required by that rule, that the depreciation allowed generates an expected revenue stream over the life of our assets that fully returns our investment costs. Rule 89(1)(c) requires that the AER also ensure that, 'as far as reasonably practicable', the depreciation schedule(s) allow for potential future changes in the economic lives of our assets. It is in this context that the AER may have regard to relevant practical considerations, which (Evoenergy concedes) may include pricing impacts.

Evoenergy observes that, insofar as the AER's draft decision defers the recovery of investment costs, which, in the context of declining demand, operates to reduce the flexibility to allow for future reductions in the economic lives of our assets, this is inconsistent with rule 89(1)(c).

Rule 89(1)(e) requires the depreciation schedule(s) to 'allow for the service provider's reasonable needs for cash flow to meet financing, non-capital and other costs'. Insofar as the depreciation decision is consistent with the NGO, as required by rule 68B(1)(a), it will allow Evoenergy a reasonable opportunity to recover at least its efficient costs and, accordingly, should comply with rule 89(1)(e). However, insofar as the AER's draft decision on depreciation fails to accord Evoenergy a reasonable opportunity to recover its efficient investment costs over the period remaining until its network ceases to operate, the decision does not comply with rule 89(1)(e).

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[16] Application by DBNGP (WA) Transmission Pty Ltd (No 3) [2012] ACompT 14 at [454].

[17] Application by ATCO Gas Australia Pty Ltd [2016] ACompT 10 at [335].

[18] Application by ATCO Gas Australia Pty Ltd [2016] ACompT 10 at [342].

[19] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 12. See also the reference to rule 89(1)(c) in respect of the AER's decision on economic lives at p.12.

3.2.4 Other legal requirements for AER's depreciation decision

The AER's decision on depreciation must also comply with its administrative law obligations. In particular, the AER must (among other things):

- make no error of law in making its decision (whether or not that error is manifest on the record of decision),
- ensure that there is evidence or other material to justify the making of its decision,
- take into account all relevant considerations, and not take into account any irrelevant considerations, in making its decision,
- not exercise its power for a purpose other than that for which it is conferred, and
- ensure its decision is reasonable – that is, that its decision is not so unreasonable that no reasonable person would have made such a decision.

3.2.5 Additional observations

The AER's draft decision emphasises that it must balance the provision to Evoenergy of a reasonable opportunity to recover its efficient costs with short-term price stability and affordability and that there is no amount of accelerated depreciation that can achieve long term price stability. The AER encourages collaboration among customers, networks and governments to consider cost sharing arrangements and, in doing so, has openly expressed its view that it is not willing to provide for a reasonable opportunity for recovery of the past investment costs through gas customers only.[20]

In making its draft decision for Evoenergy, the AER has disregarded its statutory duty under the NGL and NGR to provide gas networks with a reasonable opportunity to recover their costs and make a decision on depreciation that generates expected revenues over the life of our assets that provide for the full return of the invested amount. The AER has no authority to do so.

As far as Evoenergy is aware, no government has made any commitment to provide an alternative to provide gas network investors with a reasonable opportunity to recover their costs. While Evoenergy's community forum supported consideration of alternative approaches to recover the past investment costs for the gas network, including through the electricity network or the broader tax base, at this time the ACT Government has expressed no intention to consider such alternatives.

Until such time as the regulatory framework is amended to relieve the AER of its statutory duty and/or government/s commit to alternative approaches to enable investors a reasonable opportunity to recover their investment costs, the AER is bound to discharge its duties under the NGL and NGR as currently in force and without regard to the potential for statutory reforms to establish such arrangements.

Further, by failing to discharge its obligations to provide gas networks with a reasonable opportunity to recover efficient investment costs, the AER is effectively stepping into the role of policy-maker, which is the purview of democratically elected Parliaments and governments. For example, if governments do choose to provide direct funding (or undertake an investment write-down where a network is part owned by government) to enable recovery of gas network costs, then they will need to consider the trade-offs required to balance the relevant government

[20] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, pp. 19-24, and AER (2025) Final decision JGN access arrangement 2025-30 - Attachment 4, p.23.

budget, such as the need to reduce funding for health care, education or other public infrastructure. The AER has no power to set the agenda of the relevant government in relation to its funding priorities by failing to discharge its statutory obligations under the NGL and NGR.

3.3 Draft decision to extend the economic lives of our pipeline assets beyond 2045

3.3.1 Overview

The draft decision rejects Evoenergy's proposed economic lives of 19 years for both medium-pressure and high-pressure pipeline assets and, instead, sets the maximum economic lives for Evoenergy's medium-pressure assets to 25 years and high-pressure assets to 30 years.

This results in the economic lives for our pipeline assets (and therefore the projected timeframe over which the recovery of our investment costs would be achieved) extending well beyond 2045, being the legislated date for achieving net zero emissions in the ACT, and the resultant date for phasing out gas in the ACT and ceasing the operation, and completing the decommissioning, of Evoenergy's gas network specified in the ACT Government's IEP.

The written reasons provided by the AER for its decision on the economic lives of our network assets expose the considerations to which it had regard in making that decision but do not fully expose how those considerations were relied on by the AER to decide on an economic life for our medium-pressure assets of 25 years and an economic life for our high-pressure assets of 30 years. This is notwithstanding the AER's obligations under administrative law and section 28(1)(b)(i) of the NGL to give stakeholders a reasonable opportunity to be heard on its draft decision.

In any event, rule 89(1)(b) of the NGR requires the AER to make a factual finding on the economic lives of our assets, on the available evidence, and to make a decision on depreciation that generates expected revenues over the economic lives of our assets so determined that is sufficient to fully recover our investment costs. However, the AER's draft decision to adopt economic lives for our pipeline assets that extend beyond 2045 is without any evidentiary basis and made in reliance on irrelevant considerations. As a result, it fails to ensure our depreciation allowance generates an expected revenue stream over the remaining economic life of the gas network that provides for the full return of Evoenergy's investment costs, as required by rule 89(1)(b) of the NGR.

As a result, the draft decision also fails to:

- provide a reasonable opportunity for Evoenergy to recover (at least) its efficient costs,
- promote efficient investment in, and operation of our gas network, so as to maintain the safety, quality, reliability and security of gas service,

as required by the AER's obligations under section 28(1)(a) of the NGL and section 68B(1)(a) of the NGR, imposed by reference to the NGO.

To discharge its obligations under the NGL and NGR, the AER must set the economic lives of Evoenergy's new and existing assets to align to 2045, so as to provide depreciation that is sufficient to generate expected revenue over those economic lives that will fully recover Evoenergy's investment costs.

In the event that, during the 2026–31 access arrangement period, government policy changes or new technology advancements occur, the AER may extend the economic lives of our assets at the next regulatory determination, for 2031–36, or any subsequent periods, based on the information and evidence available at that time.

3.3.2 AER's draft decision on the economic lives of our network assets

The draft decision rejects Evoenergy's proposed asset lives of 19 years for both medium-pressure and high-pressure pipeline assets, aligned to the ACT's legislated net zero emissions target of 2045, and announced cessation of the operation of its gas network by that same date. Instead, it sets the maximum asset lives for Evoenergy's medium-pressure assets to 25 years and high-pressure assets to 30 years.

The primary reason advanced by the AER for its decision on economic asset lives is its factual finding that, while the likelihood that the gas network will be decommissioned by 2045 is 'high', there is not sufficient evidence to suggest a 100 per cent likelihood of this outcome.[21] The AER draft decision advances the following evidence of uncertainty as to the date by which our gas network will be decommissioned: [22]

- While the ACT Government has announced that gas supply will cease in the ACT and our gas network will be fully decommissioned by 2045, consistent with the legislated target date for the achievement of net zero emissions:
    - the safe decommissioning of the gas network is a complex task,
    - there is uncertainty as to what decommissioning will involve and how long it will take,
    - the ACT Government is yet to develop a regulatory framework for decommissioning the network.
- While demand for natural gas will continue to decline in line with the ACT's Government's legislated target date for achieving net zero emissions of 2045, the actual rate of decline in demand is uncertain, and will depend on future developments in Government policy, and evolving consumer sentiment and behaviour, noting that announced ACT Government policy measures to accelerate the decline in the use of natural gas, such as a ban on new gas appliance post 2030, are yet to be implemented, and the extent of their impact over time is therefore unknown.

The AER also reasons that any reduction in the economic lives of our assets must be balanced against the short-term price impacts of the resultant incremental depreciation, and observes that reducing the economic lives of Evoenergy's assets to align with 2045 would result in a material real increase in network prices over 2026–31 of over 6 per cent.[23] It concludes that a smaller reduction to the economic lives of Evoenergy's assets relative to those that reflect the cessation of gas supply, and full decommissioning of the network, by 2045 'will provide a more measured approach that better reflects current policy settings and demand uncertainty, while balancing short-term price impacts'.[24]

[21] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, p. 17.
[22] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, pp. 17-18.
[23] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, pp. 17-18.
[24] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, p. 18.

The AER also conceded the likelihood of the decommissioning of high-pressure pipelines is 'high', noting that, given their limited significance to gas user numbers and consumption, it is unlikely to be economically viable to maintain any portion of its gas network to supply industrial customers.[25] However, the AER further concluded that a still smaller reduction to the expected economic life for high-pressure pipelines was appropriate, on the basis that:

- There is greater uncertainty regarding the future role of the high-pressure assets, as these predominantly service industrial customers and the ACT Government's IEP acknowledges the potential use of renewable gas for hard to abate industrial customers.
- The ACT's legislated ban on new gas connections does not currently apply to industrial zones.
- In the long term modelling in its original proposal, Evoenergy did not forecast zero demand at 2045 for industrial customers.

We note, for completeness, that the AER accepted (correctly, in our view) that, as it will be uneconomic to maintain any portion of our gas network to service NSW gas customers, the economic lives for the NSW portion of our network will be the same as for the balance of our network.[26]

3.3.3 NGR requires the AER to make a factual finding on the economic lives of our assets, on the available evidence

Rule 89(1) specifies a series of mandatory objectives with which the design of the depreciation schedule(s) must conform. These relevantly include that specified in rule 89(1)(b), being 'so that each asset or group of assets is depreciated over the economic life of that asset or group of assets'.

As explained above, rule 89(1)(b) 'is quite specific in stating that the depreciation schedule should be designed ‘so that each asset … is depreciated over the economic life of the asset’.[27] For this purpose, the AER must make a factual finding on the economic lives of our assets on the available evidence. This is a necessary precondition to compliance with the rule 89(1)(b) requirement that the depreciation schedule(s) be determined so as to generate expected revenues over the economic life so determined that provide for a full return of Evoenergy's investment.

3.3.4 AER's decision on economic lives is not open on the available evidence

AER's decision on economic lives cannot be reconciled with its factual findings on the timing of decommissioning

As noted above, the primary reason advanced by the AER for its decision on economic asset lives is its factual finding that, while the likelihood that the gas network will be decommissioned by 2045 is 'high', there is not sufficient evidence to suggest a 100 per cent likelihood of this outcome. Despite this, the economic lives decided by the AER are *significantly* longer than those

[25] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, p. 18.
[26] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, pp. 18-19.
[27] Application by DBNGP (WA) Transmission Pty Ltd (No 3) [2012] ACompT 14 at [454].

implied by the ACT's legislated date for achieving net zero of 2045, and the announced phase out of gas supply and completion of the decommissioning of our gas network by 2045.

The AER's written reasons for decision make no attempt to explain how its decision to adopt economic lives for our assets that extend beyond 2045 can be reconciled with its factual findings on the timing of decommissioning of the gas network. In any event, its decision to adopt an economic life of 25 years for our medium-pressure pipelines and 30 years for our high-pressure pipelines is inconsistent with its finding that, while not 100 per cent guaranteed, there is a 'high' likelihood that Evoenergy's gas network will be decommissioned by 2045.

In circumstances where the AER finds that there is a 'high' likelihood of the full decommissioning of our gas network by 2045, the most likely economic life for all of our network assets is 19 years. As the HoustonKemp report provided as an attachment to this response demonstrates,[28] even if the AER has adopted a probability weighted average value for the economic life of our network assets (which the AER's draft decision does not state it has, as the decision does not explain how it arrived at the economic lives adopted on the basis of the evidence before it), such an approach could not result in the economic lives of 25 years and 30 years, respectively, decided by the AER, given its factual findings on the timing of decommissioning.

No evidence to justify AER's draft decision to extend economic lives beyond 2045

There is no evidence to justify the AER's draft decision on the economic lives of our assets – that is, a maximum economic life of 25 years for our medium-pressure assets and 30 years for our high-pressure assets – or, indeed, the adoption of any economic life beyond 2045.

In making its draft decision, the AER has, without any evidence, disregarded and set aside the ACT Government's IEP which sets out the intention for ACT gas supply to cease, and the gas network to be fully decommissioned, by 2045, which is essential if, as legislated, the ACT is to achieve net zero emissions by 2045, including the legislated interim targets.[29]

The ACT has legislated a date for the achievement of net zero gas emissions in the ACT of 2045. In giving effect to this legislated net zero target, the ACT Government has published the IEP, which provides for:

- the ACT to reach net zero emissions by 2045 *'at the latest'*;[30]
- Evoenergy to provide visibility and early signals to the community of the expected timing and phasing of gas network decommissioning by 2030;[31]
- the commencement of the staged decommissioning of our gas network in the period 2035-2040;[32] and
- the cessation of gas supply in the ACT, and completion of the decommissioning of our gas network, by 2045.[33]

The ACT Government's commitment to decommissioning the gas network was re-emphasised by the Minister for Energy on 17 November 2025 under oath.[34] Further, during 2025, the ACT

[28] Appendix 3.3: Houston Kemp, Assessment of AER's draft decision on depreciation, January 2026, pp. 22-23.
[29] Climate Change and Greenhouse Gas Reduction (Interim Targets) Determination 2018
[30] ACT Government (2024). The Integrated Energy Plan 2024–2030: Our pathway to electrification, June. p. 19.
[31] ACT Government (2024). The Integrated Energy Plan 2024–2030: Our pathway to electrification, June. p. 17.
[32] ACT Government (2024). The Integrated Energy Plan 2024–2030: Our pathway to electrification, June. p. 19.
[33] ACT Government (2024). The Integrated Energy Plan 2024–2030: Our pathway to electrification, June. p. 10.
[34] Legislative Assembly for the ACT, Standing Committee on Environment and Planning, p. 93.

Government engaged Proximity consultancy to assess the regulatory arrangements required to implement gas network decommissioning.[35]

The IEP states the ACT Government's expectation that Evoenergy will commence work now on the achievement of full decommissioning of the gas network by 2045. Consistent with the stated expectation that Evoenergy will have provided the community with details of the expected timing and phasing for the staged decommissioning of the gas network by 2030 – that is, *during* the 2026–31 access arrangement period - Evoenergy has already commenced scoping studies to understand technical and economic scenarios for network decommissioning, in preparation for the future decommissioning of the network.[36]

There is no evidence to indicate the ACT Government policy position under the IEP to transition off gas and decommission the gas network by 2045 has changed. In her submission to the AER dated 9 August 2025, Suzanne Orr MLA, ACT Minister for Climate Change, Environment, Energy and Water attributes declining demand for gas in the ACT to consumer preferences and behaviour, rather than ACT Government policy, observing that the ACT Government has sought 'to provide both regulatory certainty for Evoenergy and a clear pathway for the community to support an efficient and equitable transition' as 'this long-term view supports long-term planning and decision-making in relation to network investment, capital cost recovery, and customer impacts throughout the ACT's energy transition'. However, in observing that the IEP published in June 2024 'outlines the vision for the ACT's transition away from fossil fuel gas use, and signals a progressive phase out of the gas network by 2045', the Minister does not resile from this timing or express any reasons why it may not be achieved.

The IEP clearly sets out three phases for the transition off gas with the customer-led phase occurring over 2025–30, an acceleration phase over 2030–35, which involves consideration of additional regulatory measures and planning for network decommissioning, and a network decommissioning phase to commence during the 2035–40 period.[37]

Additionally, notwithstanding the ACT Government's legislated 2045 date for achieving net zero and associated policy to phase out gas, and cease the operation of, and fully decommission, our gas network by this date:

- the economic lives of at least some of our assets will likely be shorter than 2045, as the ACT Government's IEP provides for network decommissioning to commence, on a staged basis, during the 2035 to 2040 period;[38] and
- this does not rule out the potential for a faster transition away from gas, with the result that the network becomes economically unviable before 2045. Indeed, as signalled in the IEP, future government policies may introduce additional measures to accelerate the pace of the transition,[39] and all customer research undertaken by Energy Consumer Australia, Sagacity and the Centre for International Economics demonstrates the intention of ACT residents to transition off gas prior to 2045.[40]

[35] Report prepared by Proximity on behalf of the ACT Government is pending public release, expected Q1 2026.

[36] A summary of the findings of this study are provided in Appendix 3.1: GPA (2025) Feasibility of Evoenergy Gas Network beyond 2045.

[37] ACT Government (2024), The Integrated Energy Plan 2024–2030: Our pathway to electrification, pp.13, 19.

[38] ACT Government (2024), The Integrated Energy Plan 2024–2030: Our pathway to electrification, p. 19.

[39] ACT Government (2024), The Integrated Energy Plan 2024–2030: Our pathway to electrification p. 9.

[40] Energy Consumers Australia (2025). Consumer Energy Report Card, February; Sagacity Research (2024), Appendix 3.3: Future demand for natural gas in the ACT; CIE (2025) Appendix 2.1: Gas demand forecast report.

The AER has provided no evidence to justify its view that the economic lives of Evoenergy's network assets extend beyond 2045. To support its finding that the gas network may still be in use beyond 2045 notwithstanding the ACT Government announcement that gas supply will cease in the ACT and our gas network will no longer operate, and be fully decommissioned, by 2045, consistent with the legislated target date for the achievement of net zero emissions, the AER points only to:

- the safe decommissioning of the gas network being a complex task,
- the uncertainty as to what decommissioning will involve and how long it will take,
- the ACT Government being yet to develop a regulatory framework for decommissioning the network.

These matters do not evidence that the decommissioning of the gas network will not occur by 2045. In any event, they all concern challenges with the decommissioning of the gas network, rather than the cessation of gas supply and operation of the gas network by 2045 required to achieve the ACT's legislated zero emissions target. Gas supply and the operation of our gas network may cease by 2045, bringing the network's economic life to an end, even if decommissioning of the network remains to be completed after that time.

While the AER also points to uncertainty as to the actual rate of decline in demand for gas, Evoenergy observes that it is reasonable to expect that the phase out of gas and cessation of operation of the gas network by 2045 will be mandated with legal force and effect, if this is required for its achievement. In these circumstances, the precise rate at which demand for gas declines in response to consumer sentiment and behaviour, including as a consequence of anticipated further ACT Government policy measures to accelerate the decline, does not provide any evidence that the gas network will remain in use beyond 2045.

The evidence relied on by the AER does not justify its draft decision to adopt asset lives that extend beyond 2045, and that decision is arbitrary and unreasonable, and an improper exercise of power.

This is equally true in respect of those parts of our network that predominantly supply industrial customers.

3.3.5 No evidence to justify AER's draft decision to set a longer asset life for our high-pressure pipelines

While the AER expressly concedes that 'it will likely not be economical for Evoenergy to maintain a portion of its network solely to continue supplying industrial users' and, therefore, 'the likelihood of the decommissioning of HP pipelines [is also likely] to be high',[41] it nonetheless adopts a maximum economic life for our medium pressure pipelines 6 years beyond 2045 and a further 5 years beyond that for our high-pressure pipelines. As noted above, the AER adopts a longer life for our high-pressure pipelines on the basis that: [42]

- There is greater uncertainty regarding the future role of the high-pressure assets, as these predominantly service industrial customers and the ACT Government's IEP acknowledges the potential use of renewable gas for hard to abate industrial customers.

[41] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 18.
[42] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 18.

- The ACT's legislated ban on new gas connections does not currently apply to industrial zones.
- In the long term modelling in its original proposal, Evoenergy did not forecast zero demand at 2045 for industrial customers.

In circumstances where the AER concedes it will be uneconomical to continue to operate only a portion of our network to supply industrial customers after the balance of our network ceases to operate, these matters are incapable of evidencing that our high-pressure pipelines have a longer economic life than the balance of our network assets.

Further and in any event, even if it were economical to continue to operate *only* our high-pressure pipelines in order to continue to supply industrial customers (which it is not), these matters provide no evidence that this will occur.

In stating that Evoenergy has not forecast zero demand for industrial customers at 2045 in its long-term modelling, the AER misrepresents Evoenergy's long-term demand forecast to 2045. Evoenergy's demand forecast is nil by end of financial year 2045.

Further, while the IEP acknowledges that renewable gas may be used for some 'niche applications'[43] and the existing gas network is one of a number of technically feasible pathways for the delivery of green gas (other than 100 per cent hydrogen) to hard to abate industrial customers identified by GPA Engineering (GPA),[44] this does not evidence that our high-pressure pipelines will continue to operate beyond 2045. To the contrary, the advice provided by GPA to the ACT Government and to Evoenergy discloses that it considers any renewable gas required by hard to abate industrial customers would be more efficiently delivered through bottled gas, rather than the existing gas network.

In 2023, the ACT Government engaged GPA Engineering (GPA) to prepare the report *Green Gas Alternatives for the ACT's Commercial and Industrial Sector*[45], which evaluated the technical feasibility of electrification and green gas solutions for users in the ACT. In 2025, Evoenergy and its part owner, Jemena, engaged GPA to support the development of a strategic plan for decommissioning the gas network.

In GPA's report titled 'Feasibility of Evoenergy Gas Network beyond 2045' attached to this response, GPA observes that Evoenergy's gas network services very few industrial customers.[46] GPA notes that its classification of an industrial customer is solely based on annual gas consumption exceeding 10 TJ, rather than the nature of their operations.[47]

Consistent with this, customers on Evoenergy's demand tariff are those expected to annually consumer 10TJ or above. There are 44 customers currently on Evoenergy's demand tariff, including only 3 industrial customers. The other 41 customers on Evoenergy's demand tariff are large commercial customers. The combination of industrial and large commercial customers on our demand tariff contributed only 1 per cent of customers and 17 per cent of gas consumption

[43] ACT Government (2024), The Integrated Energy Plan 2024–2030: Our pathway to electrification, pp. 7, 10, 36-39.

[44] ACT Government (2024), The Integrated Energy Plan 2024–2030: Our pathway to electrification, p. 37.

[45] GPA (2024) Study Report - Green Gas Alternatives for the ACT's Commercial and Industrial Sector.

[46] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, pp. 1-2.

[47] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, footnote 3.

on Evoenergy's network in FY25.[48] We collectively refer to this set of industrial and large commercial customers on our demand tariff as 'demand customers'.

Table 2 below, sets out the type of demand customers on Evoenergy's gas network. As shown in the table, most demand customers are committed to electrification well before 2045 and have a feasible electrification pathway or an alternative energy source, which is not reliant on the gas network, and some of our demand customers have recently ceased using the gas network. GPA identifies only 0.046 Peta Joules (PJ) of the 1PJ annual demand is 'significantly difficult or impossible to electrify'.[49]

Table 2 Evoenergy's demand (industrial and large commercial) customers

User	Types of Businesses/ organisation	Commitment
Demand customers who have already ceased using gas ***(Approximately 3.5% of annual demand customer consumption)***	Large bakery **Federal Government Laboratory**	**Change in business plans has already led to shut down.**
ACT Government (Approximately 35% of annual demand customer consumption)	Hospitals Laundry Vehicle Refuelling (Buses) Swimming Pools Water Treatment Schools/Training/Education (Buildings)	ACT Government have committed to full electrification by 2040, including zero-emission public transport, all-electric new schools and hospital expansion, renewable-powered light rail, and transition of public assets away from gas (pg. 56 IEP). The vehicle refuelling station is expected to close within the 2026-31 period.
Federal Government (excluding defence) (Approximately 20% of annual demand customer consumption)	Offices (Buildings) Swimming Pools Art Gallery War Memorial Scientific Research	Australian Government have committed to net zero operations by 2030 (excluding Defence and security agencies), including transitioning all Commonwealth entities to 100% renewable electricity by 2030 and electrifying buildings (by 2040).
Federal Government (Defence) (Approximately 10% of annual demand customer consumption)	Training (Buildings) Accommodation (Buildings) Office (Buildings)	Defence will start its net zero transition by targeting its Estate, electrifying buildings, phasing out gas, and sourcing 100% renewable electricity by 2030, before moving to more complex areas like fleet and operational fuels.

[48] Evoenergy acknowledges that Figure 10 in the Overview for our initial proposal was unclear that the label for 'industrial' customers included all customers on Evoenergy's demand tariff including large commercial customers.

[49] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, Table 2.

Universities (Approximately 20% of annual demand customer consumption)	Training (Buildings) Accommodation (Buildings) Offices (Buildings) Laboratories (Buildings)	Australian National University has a target to achieve below zero emissions by 2040 and has committed to phasing out gas as part of its transition plan. The university has already begun electrifying its buildings. The University of Canberra has aligned its sustainability goals with the ACT Government's 2045 targets, which include significant emissions reductions.
Private (Approximately 15% of annual demand customer consumption)	Hotel (Buildings) Swimming Pools Shopping Centres (Buildings) Cogen Asphalt Plant Plastic Manufacturing	These businesses have varying degrees of decarbonisation objectives, influenced by corporate sustainability commitments and regulatory pressures.

Source: Appendix 3.1 GPA Engineering (2025) Feasibility of Evoenergy Gas Network beyond 2045, Table 1. Evoenergy data on demand customers that recently ceased using Evoenergy's network.

In its attached report, GPA further concludes that:

- 'With no significant industrial load and most industrial customers already committed to electrification, long-term gas demand will decline significantly', with the result that '[m]aintaining high-pressure assets beyond 2045 would result in underutilised infrastructure which would undermine network efficiency'.[50]
- 'While a residual network configuration may be technically feasible, it would likely be economically unsustainable under current market conditions and likely require significant external support to remain viable.'[51] In particular, the dispersed nature of hard to abate industrial loads would mean any reduced network would require extensive infrastructure to operate and would be inefficient.[52]
- Electrification is 'the most practical pathway to decarbonisation in the ACT, with green gas limited to niche applications', and '[a]ny niche application demand is expected to be minimal and could be met through bottled green gas rather than maintaining pipeline infrastructure'.[53]
- Even if green gas were to be delivered via existing pipeline infrastructure (which GPA concludes would be comparatively less efficient than the use of bottled green gas), the greater majority of the existing gas network would be decommissioned by 2045; only a limited portion of the existing network could technically be considered for extension beyond 2045,[54] especially given (as the AER agrees) it would be uneconomic to continue to service NSW customers.

[50] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, p. 1.
[51] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, p. 6.
[52] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, p. 5.
[53] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, pp. 2, 6.
[54] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, p. 6.

Our own analysis confirms GPA's conclusion that the continued operation of segments of our high-pressure network to supply hard to abate demand customers would not be economically viable.

Our analysis is based on extremely conservative assumptions including the following:

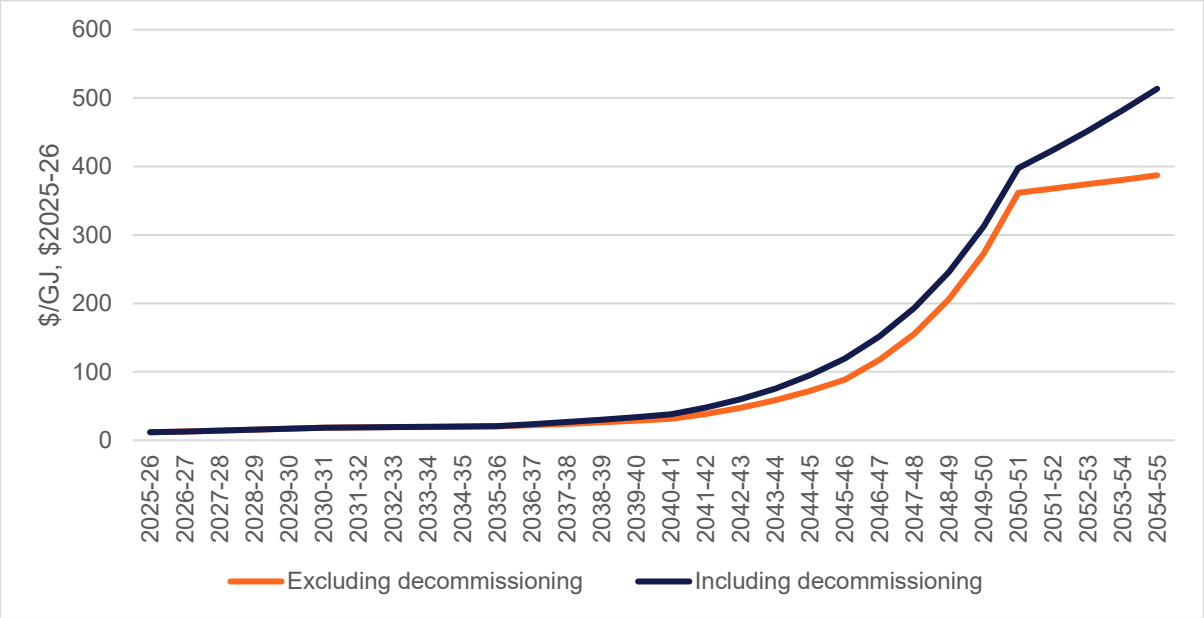
- 50 per cent of our demand customers would remain on the network to 2044–45 and then decline on a linear basis to reach zero by 2056 to align with the AER's asset life assumption for high-pressure mains. This assumption results in remaining throughput on the network of 500 TJ by 2045, over ten times the level that GPA identifies as significantly difficult or impossible to electrify[55]
- all remaining demand customers connected to the network beyond 2045 are connected to the high-pressure network
- we could still decommission 100 per cent of the medium pressure pipelines and 77 per cent of the high-pressure pipelines by 2045. The remaining high-pressure mains and stations are assumed to be fully decommissioned by 2055.
- no further capital expenditure or step change in operating costs would be required in the last 15 years of the network's operation.

Even if in the very unlikely event all the above conservative assumptions held, Evoenergy's gas network would still be economically unviable, as shown in Figure 1. Figure 1 demonstrates that under this scenario network gas prices would quickly escalate to unviable levels, regardless of whether or not decommissioning costs are included in the analysis. Network prices would increase to 6 to 8 times the current levels by the end of 2045. Network prices would then escalate to between 23- and 27-times current levels by 2050 and to between 33- and 44-times current levels by 2055.

In addition to higher gas prices any customer remaining connected to the gas network post 2045 in the ACT would need to incur carbon offsets to enable the ACT to meet its net zero emissions targets. It is without doubt expected to be materially more economic for those customers to electrify and/or relocate and/or consider alternative such as LPG.

[55] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, Table 2.

Figure 1 Network price path associated with extending asset lives to supply demand customers



Notes: Analysis based on the AER's draft decision asset lives for medium-pressure and high-pressure assets and additional accelerated depreciation in 2026-31 period and straight-line depreciation method. Network prices are based on Evoenergy's indicative expenditure forecasts and are solved for each five year regulatory period.

This analysis demonstrates the gas network will be either uneconomic and/or decommissioned by, or before, 2045 in line with the ACT Government's published IEP. However, and by its own admission, the AER's draft decision has set the asset lives beyond 2045 based on the least likely and unevidenced future state.

Nor does the absence, to date, of the implementation of any policy measures to accelerate the transition of industrial customers away from gas assist to evidence an economic life for our high-pressure pipelines beyond 2045. This is particularly so in circumstances where the IEP expressly:

- contemplates that '[b]y 2030, no new connections to the fossil gas network are occurring in most areas, unless approved by the Minister';[56]
- commits to the electrification of all ACT Government owned and operated buildings by 2040 (where possible) and of all ACT Government fleet vehicles;[57]
- commits to continuing to work with businesses and industry on the best way to transition away from fossil fuel gas use and the appropriate role for green gas for those applications where it is required;[58] and
- confirms the ACT Government's intention to explore further potential regulatory interventions to support electrification.[59]

To comply with the NGR depreciation criterion set out in rule 89(1)(a), the AER must make a factual finding on the economic life of our assets, including our high-pressure pipeline assets, on

[56] ACT Government (2024), The Integrated Energy Plan 2024–2030: Our pathway to electrification, p. 17.
[57] ACT Government (2024), The Integrated Energy Plan 2024–2030: Our pathway to electrification, p. 9.
[58] ACT Government (2024), The Integrated Energy Plan 2024–2030: Our pathway to electrification, p. 39.
[59] ACT Government (2024), The Integrated Energy Plan 2024–2030: Our pathway to electrification, p. 9.

the basis of the evidence before it. This evidence establishes that the gas network assets, including the high-pressure pipeline assets, will cease to operate by 2045.

There is no evidence before the AER that justifies its draft decision to adopt an economic life for our high-pressure pipeline assets that is either longer than that for the balance of our network or of 30 years. The AER's draft decision on the economic life of our high-pressure pipeline assets is, therefore, affected by legal error.

3.3.6 Draft decision on asset lives does not reflect asymmetric risk

Notwithstanding there being no evidentiary basis for the AER's perceived uncertainty as to the economic life of Evoenergy's gas network, in the context of any perceived uncertainty, a prudent regulator should assess the relative risk to the achievement of the NGO, NGL and NGR of deferring alignment of asset lives to 2045 reflecting available evidence at the time of making the decision.

Figure 2 demonstrates that there is a material asymmetric risk to the achievement of the NGO, NGL and NGR of deferring the alignment of Evoenergy's asset lives to 2045. Figure 2 shows:

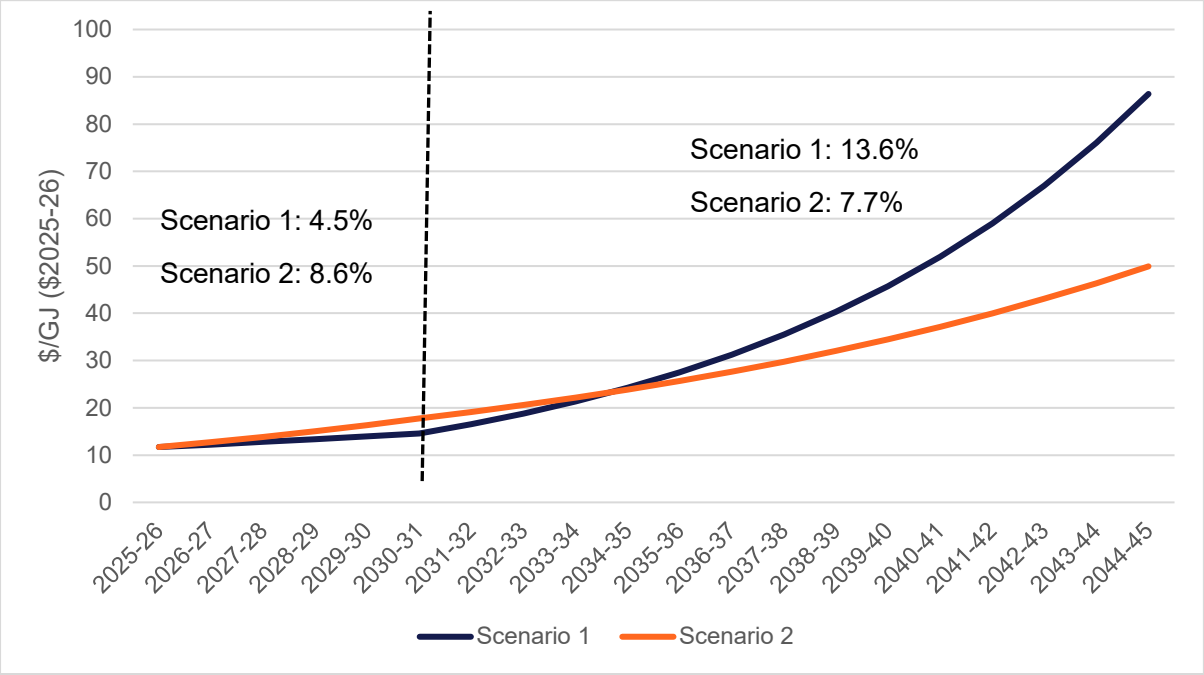
- In scenario 1 - the expected economic life of the gas network asset is 2045, but the regulator delays aligning the asset life, such that:
    - for the 2026–31 period asset lives are set to end in 2050–51 and 2055–56 for medium and high pressure mains respectively (i.e. reflecting the AER draft decision)
    - for subsequent periods from 2031–45 asset lives are set to end in 2044–45.

  The consequence of delaying the alignment of asset lives to 2045 under scenario 1 is that gas network prices will need to materially increase over the 2031–45 period, at a rate of 13.6 per cent per annum, to enable recovery of efficient investment costs.
- In (hypothetical) scenario 2:
    - for the 2026–31 period, the regulator aligns the expected economic life of these gas network assets to 2045 based on the available evidence at the time, reflecting Evoenergy's revised proposal
    - for subsequent periods, asset lives are reset to end in 2050–51 and 2055–56 for medium and high pressure assets respectively, based on available information at the time of making those decisions.

  The consequence of aligning asset lives to 2045 in the 2026–31 period, under scenario 2, is that gas network prices will more gradually increase over the 2031–45 period, at a rate of 7.7 per cent per annum to enable recovery of efficient investment costs.

The outcome under scenario 1, deferring alignment of asset lives to 2045 on the basis of perceived uncertainty (as per the AER draft decision) is a higher risk to long term price stability, inefficient use of the gas network as customers are less price inelastic over the longer term, and an inability for Evoenergy to reasonably recover its efficient investments costs, all of which fails to meet the criteria under the NGL and NGR, and NGO to promote long term customer interest with respect to price and service outcomes.

Figure 2 Assymetric risk of deferring decisions on aligning asset lives to 2045



Notes: The long-term network price path reflects Evoenergy's expenditure forecast for the AA period 2026–31 and Evoenergy's indicative expenditure forecasts for the following periods. The expenditure forecast includes $100 million of decommissioning costs spread over the period 2031 to 2045.[60] *The forecast network charges for 2026–31 are based on the revised proposal demand forecast. The forecast network charges for 2031–32 onward are based on an average of the CIE demand forecast and an extrapolation of the Frontier Economics demand forecast. Network charges are solved as a single period from 2031–32 to 2044–45.*

3.3.7 Short-term price impacts are irrelevant to AER's decision on economic lives and compliance with rule 89(1)(b)

It would, therefore, appear that the AER placed significant weight, in determining the economic lives for our assets, on its view that short-term price impacts are relevant to its decision on the economic lives of our assets for the purpose of complying with rule 89(1)(b) of the NGR.

The AER states that any reduction to the economic lives of our assets must be balanced against the short-term price impacts of the resultant incremental depreciation, and its draft decision to make a smaller reduction to the economic lives of our assets than is required to align the end of those to 2045, is 'a more measured approach that better reflects current policy settings and demand uncertainty, while balancing short-term price impacts'.[61]

The AER proceeds on the basis that it may permissibly adopt economic lives that are longer than justified by the evidence before it, on the basis of a consideration of short-term price impacts.

[60] The AER draft decision considered Evoenergy should include decommissioning costs in its long-term modelling. Given that most decommissioning costs will be incurred once very few or no customers are left on the network to share these costs, decommissioning costs will only be practically recoverable under the regulatory framework if they are able to be provisioned for in opex allowances well before the costs are incurred. Therefore, all analysis in our revised proposal reflects an estimated $100m in decommissioning costs spread over 2031 to 2045. The $100m estimate reflects initial analysis on expected decommissioning costs under a range of future decommissioning scenarios prepared by GPA.

[61] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, pp. 17-18.

The basis on which the AER considers this to be legally permissible is not explained in its draft decision.

It is possible that the AER's view that short-term price impacts are relevant to its decision on economic lives is informed by its view that rule 89(1)(c) is (in addition to rule 89(1)(b)) applicable to its decision on the economic lives of our assets and, thus, that it is only required to shorten those lives 'as far as reasonably practicable'.[62] To the extent that this is the basis for the AER's extension to the economic lives of our assets based on short-term price impacts, the AER makes a legal error.

As noted above, rule 89(1)(c) requires that the AER also ensure that, 'as far as reasonably practicable', the depreciation schedule(s) allow for potential future changes in the economic lives of our assets. It is in this context that the AER may have regard to relevant practical considerations, which may include pricing impacts.

In any event, whatever the basis for the AER's view that it may permissibly have regard to short-term price impacts in making its decision on the economic lives of our assets, the AER's view is incorrect and, in proceeding on this basis, it makes an error of law.

Rule 89(1)(b) requires that the depreciation schedule(s) be determined so as to generate expected revenues that provide for a full return of Evoenergy's investment over the economic life so determined. As also noted above, rule 89(1)(b) has been described as a requirement that the depreciation schedule 'will generate an expected revenue stream over the life of the asset which reflects the required aggregate of the capital cash flows with present value equal to the asset cost'.[63] The NGR permit any shaped depreciation schedule which provides for the full return of the invested amount (in conjunction with an appropriate rate of return).[64]

Rule 89(1)(b) requires the AER to make a factual finding on the economic lives of our assets on the available evidence, for the purpose of ensuring, as required by that rule, that the depreciation allowed by its decision on our access arrangement for 2026-31 fully returns our investment costs over those economic lives. There is no provision by the NGR for the AER to determine to disallow this depreciation on the basis of a consideration of short-term price impacts.

Further and in any event, as explained in the HoustonKemp report attached to this response:[65]

- the adoption of the 19 year economic live for all of our network assets would (in combination with our revised proposal for additional depreciation of $35 million) result in only a 2.8 per cent increase in retail gas prices (all else being equal); and
- as retail demand for gas is inelastic, such a price increase would not result in materially greater reduction in gas consumption or the use of our gas network than the AER's draft decision.

3.3.8 Draft decision does not provide reasonable opportunity to recover efficient costs incurred

Figure 3 demonstrates that based on the ACT Government's legislated emission reduction target of net zero by 2045,[66] including interim targets of 65-75 per cent less than 1990 emissions by 30

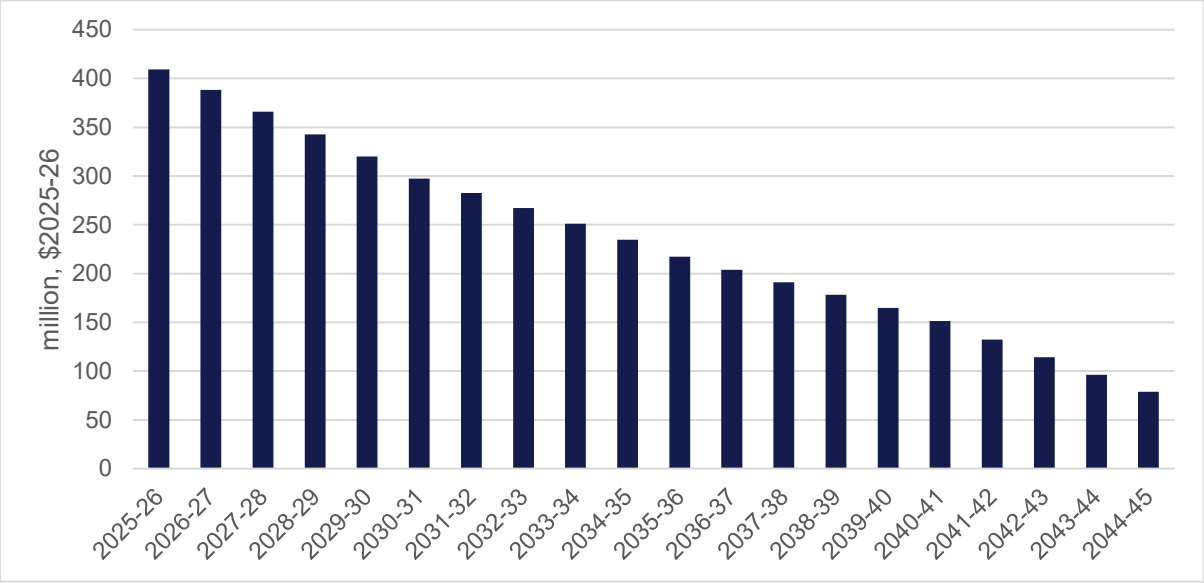
[62] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 12.
[63] Application by ATCO Gas Australia Pty Ltd [2016] ACompT 10 at [335].
[64] Application by ATCO Gas Australia Pty Ltd [2016] ACompT 10 at [342].
[65] Appendix 3.3: Houston Kemp-Assessment of AER's draft decision on depreciation, January 2026, p. 17.
[66] Climate Change and Greenhouse Gas Reduction Act 2010 | HTML view

June 2030,[67] through the announced policy to phase out of gas by 2045, the AER's draft decision to set asset lives of 25 years for medium-pressure and 30 years for high-pressure gas assets will intentionally leave a proportion of the opening capital asset base unrecovered by 2045, at which time the gas network will be uneconomic to operate, and will be fully decommissioned. In addition, the AER's Post tax revenue model does not accommodate end-dating depreciation, which means the same standard asset lives are applied to all new capital expenditure, regardless of when this expenditure occurs, leading to further under-recovery.

As shown in Figure 3, the resulting unrecovered capital asset base is $79 million, including:

- $55 million (13 per cent) of the 1 July 2026 opening capital asset base; and
- $24 million (28 per cent) of new capital expenditure.

Figure 3 Closing asset base using AER draft decsion economic lives



Notes: The closing asset base is calculated using Evoenergy's expenditure forecast and the AER's draft decision on economic asset lives and accelerated depreciation for the 2026–31 period. From 2031–32 onward, straight-line depreciation has been applied with the AER draft decision asset lives and no additional accelerated depreciation. For comparison, Evoenergy's initial and revised proposals, which adopt maximum asset lives of 19 years, result in a zero closing asset base by 2045.

3.3.9 Draft decision to adopt economic lives ending beyond 2045 materially undermines incentives for efficient investment

The NGL and NGR require that the AER's decision on depreciation promote efficient investment incentives for long term customer interests with respect to the quality, safety, reliability and security of gas network services.

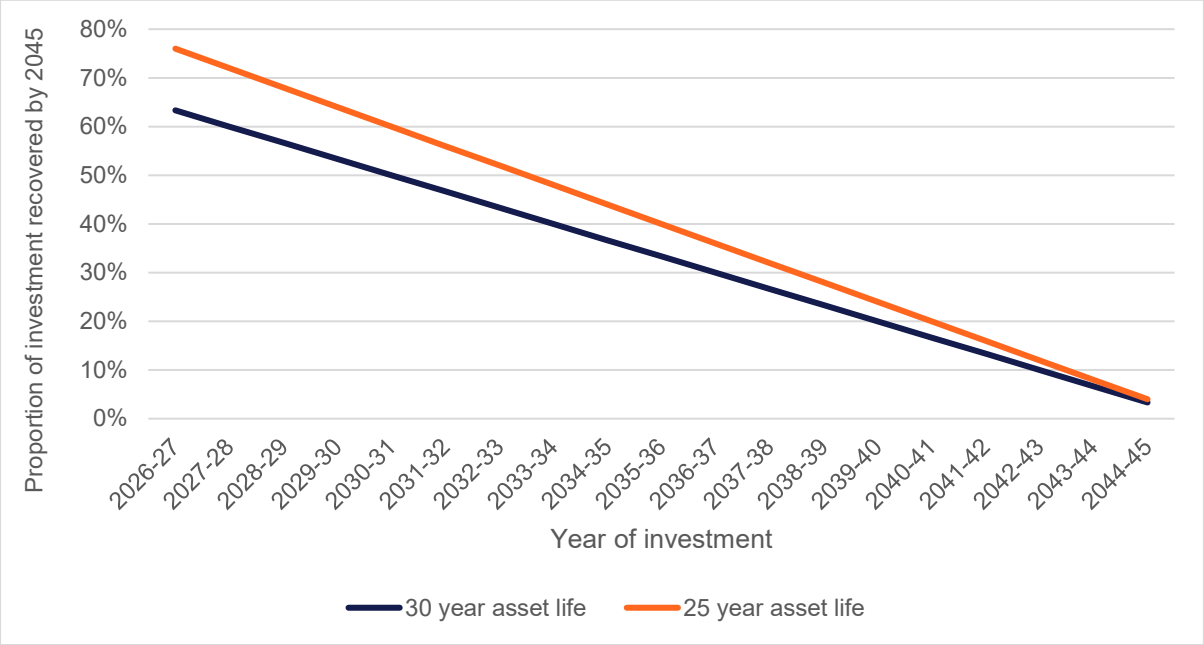
The AER's draft decision, however, sets economic lives of 25 years for our medium pressure pipeline assets and 30 years for our high pressure pipeline assets. These economic lives mean that Evoenergy will recover progressively less of any investment made.

[67] Climate Change and Greenhouse Gas Reduction (Interim Targets) Determination 2018 | HTML view

The below chart shows the proportion of the initial investment Evoenergy could reasonably expect to recover under the AER's draft decision approach in each of the next 19 years (by which time it will be uneconomic to operate the gas network and/or decommissioning will have been completed).

Figure 4 demonstrates that, not only is Evoenergy unable to fully recover any investment costs incurred from 1 July 2026, the share of the investment which is recoverable reduces with each passing year. For example, if Evoenergy invested in high pressure pipeline assets at the beginning of the regulatory period (i.e. in 2026–27), we would only be permitted to recover 63 per cent of this expenditure by 2045. For any high-pressure investment undertaken at the end of the regulatory period (i.e. in 2030–31), Evoenergy would be permitted to recover just 50 per cent of this expenditure.

Figure 4 Propotion of new investment recovered under AER draft decision's economic lives



The outcome of the AER's draft decision to set economic lives for our assets beyond their remaining economic life is certainty that any future investment costs are not fully recoverable, which will have significant adverse impacts on Evoenergy's willingness to incur, and ability to secure debt and equity funding for, any capital expenditure required to maintain quality, safe, reliable and secure gas network services, and hinder the achievement of the NGO contrary to the AER's obligations under section 28(1)(a) of the NGL and section 68B(1)(a) of the NGR.

3.4 Draft decision to cap accelerated depreciation based on a 4 per cent annual real network price increase limit

3.4.1 Overview

Evoenergy does not accept the AER's draft decision to cap its depreciation allowance by applying a 4 per cent limit on real annual network price increases. Our revised proposal is

instead to allow accelerated depreciation (additional to that resulting from the revised proposed economic lives for our assets) in the amount determined by the AER in its draft decision – that is, in the amount of $35 million.

The AER's draft decision to determine our depreciation allowance by reference a 4 per cent cap on real annual network price increases (before incentive scheme carryover) contravenes the NGL and NGR requirements applicable to the AER's decision.

The AER's draft decision is based on an arbitrary approach of capping real network price increases at 4 per cent per annum (before incentive scheme carryovers), and back-solving the accelerated depreciation amount as the residual value after the other building block costs are taken into account, before incentive scheme carryovers.

Notwithstanding the AER's NGL and administrative law obligations to provide us and other stakeholders with a meaningful opportunity to scrutinise and comment on its draft decision, the basis for the AER's conclusion that the application of a 4 per cent real annual network price increase limit is unclear. While it states that this will deliver short-term price stability and affordability, and, in turn, promote the efficient use of our network and efficient negative growth for our reference services, the basis for this view is unclear.

It appears that the AER may consider the efficient use of our network, and efficient negative growth in demand for our reference services, will be promoted by setting any additional depreciation such that, to the extent it would result in average revenue in excess of long run marginal cost, distortions to demand are minimised. However, the AER provides no evidence that a real annual increase in network prices in excess of 4 per cent will exceed long run marginal cost and distort demand for gas and network services.

To the contrary, the real annual increase in network prices associated with our initial and revised proposals would not result in any materially different impact on demand for gas and network services than the AER's 4 per cent real annual network price increase limit, given the proportion of the retail gas price comprised by network prices and the relatively inelastic price elasticity of demand for gas. There is, therefore, no evidentiary basis for the AER's application of a 4 per cent real annual network price increase limit. It follows that the application of such a limit promotes neither efficient negative growth in demand for our reference services nor efficient use of our network relative to our initial and revised proposals for accelerated depreciation, and is not authorised by the NGL or NGR.

The AER's draft decision is made in reliance on a number of irrelevant considerations.

It operates to impose a cap on the AER's decision on total revenues and, thus, Evoenergy's recovery of its efficient costs, by reference to what the AER considers an appropriate and affordable short-term price impact, that is not authorised by section 68B(1)(b) and Part 9 of the NGR. It denies Evoenergy the reasonable opportunity to recover its efficient costs incurred that is the statutory premise of the NGO, and economic regulation by the NGL and NGR, contrary to the AER's obligations under section 28(1)(a) of the NGL and rule 68B(1)(a) of the NGR, and, in so doing, it distorts incentives for economic efficiency and has a detrimental impact on services . It fails to generate expected revenues over the economic life of our network that are sufficient to fully recover our investment costs or allow for our reasonable cash flow needs, as required by rule 89(1)(b) and (e) of the NGR.

In addition to being non-compliant with the NGL and NGR requirements for the AER's decision on depreciation, the draft decision to set our depreciation allowance by applying a 4 per cent cap on real annual network price increases (before incentive scheme carryover amounts) does not provide our customers with long term price stability or reflect our community feedback.

By contrast, our revised proposal is compliant with the relevant NGL and NGR requirements, consistent with long term price stability and our community feedback, and does not have a materially different effect on demand for gas and our network services to the AER's draft decision to apply a 4 per cent cap on real annual network price increases.

3.4.2 AER's draft decision on accelerated depreciation

The AER's draft decision rejected Evoenergy's proposal of $75 million of accelerated depreciation calculated using the 'sum-of-the-years' digits depreciation method (in addition to the $30 million of depreciation that results from the application of the straight-line depreciation method to its proposed economic lives for its pipeline assets ending in 2045).

The AER instead allows accelerated depreciation of $35 million in its draft decision (in addition to the $12 million of depreciation that results from the application of the straight-line depreciation method to the economic lives for medium-pressure and high-pressure pipeline assets decided by the AER).[68] The AER calculates this amount by reducing the opening capital base for our pipeline assets so as to deliver an overall real annual network price increase capped at 4 per cent.

The AER states that this approach complies with rule 89(1)(a) of the NGR, as it promotes efficient negative growth in the market for reference services.[69] It concludes that the $12 million of depreciation that results from the application of the straight-line depreciation method to the economic lives for medium-pressure and high-pressure pipeline assets decided by the AER 'is too low to allow reference tariffs to vary over time in a way that promotes efficient growth (including negative growth) in the market for reference services.[70]

Accordingly, the AER concludes that 'it [is] appropriate to provide an additional accelerated depreciation amount while maintaining price stability and affordability'.[71] The AER maintains that:[72]

> 'This will provide a more meaningful level of accelerated depreciation so that Evoenergy is not deterred from making efficient investments required to maintain safe and reliable services for an ageing network in the long-term interests of consumers.
>
> However, we consider the amount of accelerated depreciation must be balanced against price impacts and affordability. There is a real risk that adopting a policy of accelerating depreciation, without clearly defined limits, would be likely to result in large and repeated increases in future gas prices. This would not align with the long-term interests of customers, as it risks the use of the network (including the number of customers) declining faster than anticipated, which further increases the risk of asset stranding and of costs being borne by an even smaller number of customers in the future. As such, we consider the straight-line method combined with a 'base' price increase limit better meets the NGR criteria for depreciation schedules and promoting the NGO compared to Evoenergy's proposed 'sum-of-the-years' digits method'.

The AER states that the setting of a 4 per cent annual real network price increase limit is based on its judgment on the limit that 'best ensures the depreciation schedule will be adjusted

[68] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, p. 14.
[69] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, p. 14.
[70] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, p. 19.
[71] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, p. 19.
[72] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, pp. 14 and 20.

consistent with the requirements of rule 89 of the NGR, in particular rule 89(1)(a)'.[73] It considers 'a price increase limit of 4.0% to be reasonable as it provides a meaningful level of accelerated depreciation as a proportion of Evoenergy's opening capital base (11%), while maintaining price stability and affordability for customers'. It observes that short-term price stability promotes the efficient use of reference services, and accords with the interests of vulnerable customers and those facing challenges during the energy transition.[74]

The AER's draft decision does not, however, explain how the application of a 4 per cent real annual network price limit in making its decision on allowed depreciation is consistent with the NGO and revenue and pricing principles, or the rule 89(1) depreciation criteria. In particular, while it asserts that the application of this price limit better satisfies the depreciation criteria and promotes the NGO, the AER does not explain how it considers:

- short-term price stability will promote the efficient use of reference services,
- any increase in the rate of decline in demand for reference services, or reduction in the demand otherwise anticipated, to be inefficient, or
- the impacts of prices, and affordability, for vulnerable customers and those facing challenges during the energy transition to be relevant to the depreciation criteria, and the NGO and revenue and pricing principles.

This is notwithstanding the AER's obligations under administrative law and section 28(1)(b)(i) of the NGL to give stakeholders a reasonable opportunity to be heard on its draft decision.

The AER dismisses Evoenergy's concern to ensure it has a reasonable opportunity to recover its efficient investment costs on the basis that:

- the revenue and pricing principle in section 24(2) of the NGL (which provides that service providers should be provided a reasonable opportunity to recover at least their efficient costs incurred) 'does not mean gas consumers must guarantee that the regulated businesses recover these costs without considering price affordability and stability', and
- the revenue and pricing principles are only 'matters we are required to take into account', in contrast to the NGO the achievement of which it must promote.[75]

The AER concludes that its overall decision to allow additional depreciation 'strikes a balance between the need for a meaningful level of accelerated depreciation to promote efficient investment, and the need to limit the price impact of accelerated depreciation on consumers, particularly for vulnerable customers and those facing challenges during the energy transition' and 'shares some of the stranding risk between Evoenergy and a larger customer base while there is still an opportunity to do so'.[76]

The AER expresses the view that a holistic policy response to declining demand for gas and gas network services is required, including to determine who should pay for undepreciated past and future investment costs, and when and how these should be shared, and expressly encourages

[73] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, p. 27.
[74] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, pp. 26-27.
[75] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, pp. 25-26.
[76] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, pp. 14, 15, 28.

discussions by governments to engage in open discussions with gas networks and consumers on these matters.[77]

AER reliance on applicability of rule 89(1)(a)

Evoenergy responds below to the AER's draft decision on accelerated depreciation on the presumption that rule 89(1)(a) applies in circumstances of a contracting market for reference services. It reiterates, however, that it is at least arguable that it does not, and refers to and repeats its observations on this matter in section 1.3.2 above.

It suffices here to observe that, as the AER purports to justify its decision to apply a 4 per cent real annual network price limit in determining our depreciation allowance primarily by reference to rule 89(1)(a) of the NGR, if this rule does not apply in the present circumstances, this would operate to vitiate the AER's depreciation decision.

3.4.3 Draft decision to apply 4 per cent real annual network price increase limit is inconsistent with the NGO and non-compliant with NGL and NGR

The AER's draft decision to apply a 4 per cent (before incentive scheme carryovers) real annual network price increase limit is inconsistent with the NGO and non-compliant with the NGL and NRG for the reasons set out in sections 3.4.3 to 3.4.11 below.

3.4.4 No evidentiary basis for draft decision that 4 per cent real network price increase limit is consistent with NGO and depreciation criteria

While not expressly articulated by the AER, we understand the AER to consider the 4 per cent real annual network price limit to be required to promote the efficient use of reference services in accordance with the NGO and comply with the rule 89(1)(a) requirement for the depreciation schedule to allow reference tariffs to vary, over time, in a way that promotes efficient growth in the market for reference services. However, the basis on which the AER maintains that short-term price stability and affordability will promote efficient use of our network and efficient negative growth in demand for our reference services, or that any reduction in demand for reference services as a result of accelerated depreciation will, necessarily, be inefficient is unclear.

While unstated, it is possible that the AER's position is informed by the economic principles, recognised in previous Australian Competition Tribunal decisions, as discussed in Appendix 3.2, that the efficient use of reference services is best promoted by a depreciation methodology that:

- matches average revenue with long run marginal cost associated with an incremental increase in services, and
- subject to tariffs reflecting long run marginal cost, ensures the recovery of any remaining costs is so as to minimise distortion of demand.

Evoenergy has grave concerns about the lack of transparency afforded by the AER, in its draft decision, as to its reasons for a decision that goes to the heart of our economic viability and ability to continue to safely, reliably and securely operate our gas network for the benefit of customers during the ACT's transition to net zero by 2045.

[77] AER (2025) Draft decision – Evoenergy (ACT) access arrangement 2026-31 - Attachment 1, p. 15.

This aside, Evoenergy observes that the AER has provided no qualitative or quantitative evidence to demonstrate that a 4 per cent real annual network price increase limit (before incentive scheme carryovers) is required to ensure average revenue approximates long run margin cost (or, indeed, made any suggestion as to what the long run marginal cost may be) or to minimise demand distortions. The AER offers no evidentiary basis for its conclusion that an increase in the gas distribution network component of a customer gas retail bill in excess of its 4 per cent limit will result in a significantly greater reduction in demand for gas services.

Importantly customer electrification and gas consumption decisions, to the extent informed by gas prices (including how those prices compare to electricity prices) rather than other contributing factors, will be made with regard to retail gas prices rather than network prices. As HoustonKemp observes, in its report attached to this response, 'the effect on demand of changes in network prices is muted by network prices comprising only around 29 per cent of retail prices, which implies that a one per cent change in network price translates to an approximate 0.29 per cent change in retail price'.[78]

As shown in Table 3, the AER's draft decision 4.5 per cent network real price path (including incentive scheme carryovers) is equivalent to an approximately only 1.4 per cent retail real price path, based on the current share of the gas distribution network component of the retail bill, which equates to approximately $22 per year on average over the 2026-31 period for an average residential customer. For comparison, Evoenergy's initial and revised proposals reflect $92 and $46 per year respectively.

The per annum increase in average residential customer gas retail bills under any of the AER draft decision, Evoenergy's initial and revised proposals are immaterial relative to the cost of electrifying appliances. The estimated cost of electrifying appliances ranges from $2,000 for a reverse cycle air conditioning unit to $30,000 for an electric ducted heating system.[79] The costs of electrifying remains materially higher even when taking into account the potential for some customers to access ACT government rebates and subsides. For example, a customer accessing a $15,000 loan to electrify their appliances under the Sustainable Household Scheme would be required to pay back a minimum of $1,500 per year on the principal loan value plus 3 per cent interest (an approximate $450 in the first year, declining thereafter with principal repayments).

Table 3 Average annual residential customer retail bill impact

Bill component (average annual change)	Evoenergy Initial proposal	AER Draft decision	Evoenergy Revised proposal
Network change, %	15.2%	4.5%	8.6%
Retail change, %	5.4%	1.4%	2.8%
Retail change, $2025–26	92	22	46

[78] Appendix 3.3: Houston Kemp-Assessment of AER's draft decision on depreciation, January 2026, p. 15.

[79] ACIL Allen Consulting (2020), Household Energy Choice in the ACT Modelling and Analysis; Sagacity Research (2024), Demand for natural gas – understanding future demand; Frontier Economics (2023), Victorian & NSW residential case studies; Frontier Economics (2022), Cost of switching from gas to electric appliances in the home, A report for the Gas Appliance Manufacturers Association of Australia.

Notes: The network price path for Evoenergy's initial proposal has been adjusted to include jurisdictional charges for comparison and the illustrative retail price path has been updated for 2025–26 retail price information. Bill impacts are calculated for an average residential customer consuming 27GJ per year. The figures reported for the AER's draft decision are presented in real $2025–26 terms. The AER reports the corresponding retail changes in nominal terms as 2.3% and $37 (see AER Attachment 1 Draft Decision, p. 27).

This analysis is supported by HoustonKemp's review of international economic literature relating to the price elasticity of demand for gas. HoustonKemp found:[80]

> 'Existing studies commonly report that demand for gas is price inelastic in both the short and long run. Another commonality across these studies is that demand for gas is slightly less inelastic in the long run, as compared with the short run. This is likely to reflect the challenges associated with changing appliances and home infrastructure in the short run in response to changes in price, and the greater flexibility to do so in the long run.'

HoustonKemp also found that 'a persistent theme across these studies is that the price elasticity of demand for gas consumption is relatively inelastic for residential customers. When assessed by reference to retail price, the price elasticity of demand for gas consumption is relatively inelastic for residential customers typically fall between -0.44 and 0.03, with the mid-point of this range being -0.235.' [81]

Additionally, the customer research study commissioned by Evoenergy specific to our network and undertaken in 2025 demonstrates that our ACT and NSW customers are relatively insensitive to gas prices. This study concluded that the price elasticity of demand for connections to the gas network for residential customers in the ACT is relatively inelastic, with price elasticities that fall within a range of -0.022 to -0.061.[82] HoustonKemp observes, in its report, that the slightly more elastic estimates from this study correspond to longer timeframes, which is also consistent with the literature.[83]

HoustonKemp notes also that:[84]

- 'the forecast of demand for gas in the AER's draft decision is based on an assumption that the price elasticity of demand for gas heating is equal to -0.05',
- this is, in turn, based on 'the assumption adopted by the Australian Energy Market Operator (AEMO) in its gas demand forecasting methodology that the price elasticity of demand for gas heating was equal to -0.05'.

That is, the AER's own demand forecasts applied in its draft decision are premised on the price elasticity of demand for gas being highly inelastic.

HoustonKemp estimates the change in demand over the 2026-31 period based on the range of price elasticity of demand findings and the price path under the AER's draft decision, Evoenergy's initial proposal and Evoenergy's revised proposal. HoustonKemp finds the impact on demand ranges from 0.07 per cent per annum to 1.28 per cent per annum.[85] Full details of this analysis are providing in section 3.1.3 of Appendix 3.3.

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[80] Appendix 3.3: HoustonKemp-Assessment of AER's draft decision on depreciation, January 2026, p.13.

[81] Appendix 3.3: HoustonKemp-Assessment of AER's draft decision on depreciation, January 2026, p. 140.

[82] Centre for International Economics, Price elasticity of demand for natural gas – Stated preference research, 23 June 2025, p. 52.

[83] Appendix 3.3: Houston Kemp-Assessment of AER's draft decision on depreciation, January 2026, p.15.

[84] Appendix 3.3: Houston Kemp-Assessment of AER's draft decision on depreciation, January 2026, p.15.

[85] Appendix 3.3: Houston Kemp-Assessment of AER's draft decision on depreciation, January 2026, p.17.

HoustonKemp concludes that no material effect on demand, or the efficient use of the network, is expected to arise from the price implications of either the AER's draft decision or Evoenergy's initial or revised proposals. HoustonKempo consider this important when considered in the context of the other adverse consequences of the AER's draft decision for the ongoing efficient investment in the safe, secure and reliable operation of the gas network.[86]

Further, the estimated demand reductions due to the price path are immaterial relative to the overall reduction in gas consumption forecast over the period 2024–25 to 2030–31 by both Frontier Economic (for the AER) and CIE (for Evoenergy) of 17 per cent and 20 per cent respectively (both of which are already calculated inclusive of the relevant price-elasticity assumption).

There is therefore no evidentiary basis for the AER's rationale for its real annual network price increase limit of 4 per cent (4.5 per cent inclusive of incentive scheme carryovers), as an increase in excess of this would not have any material effect on the demand for gas or network services. As HoustonKemp also concludes,[87] there is no sound economic basis for the AER's views that:

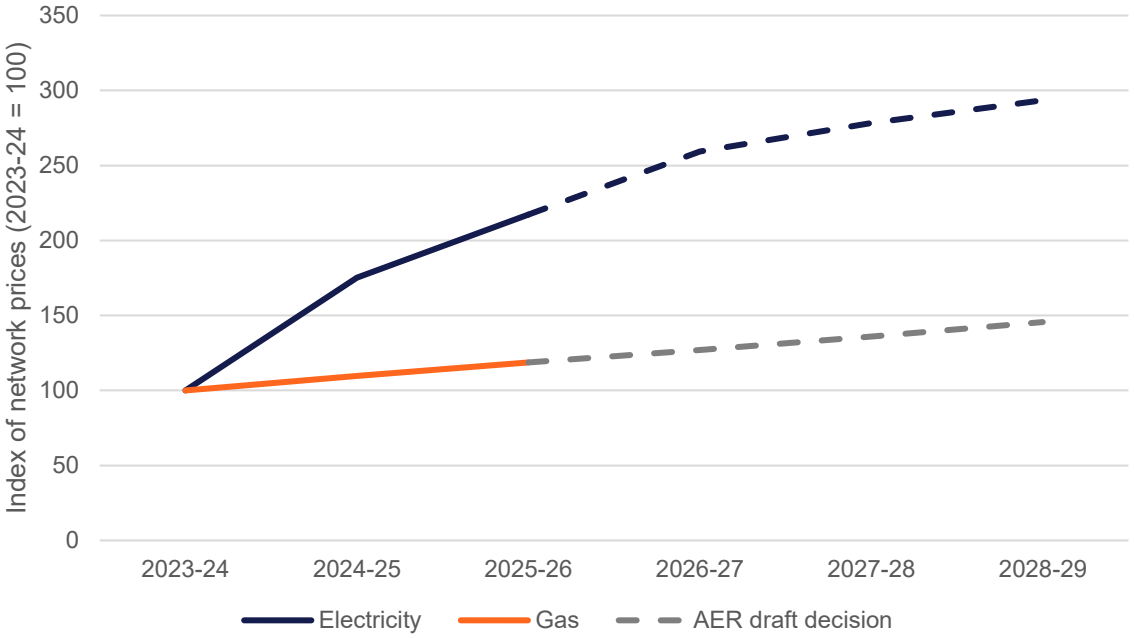
- its approach promotes efficient negative growth in accordance with rule 89(1)(a), given empirical evidence that demand is relatively unresponsive to changes in price; and
- deferral of the recovery of efficient costs will increase the likelihood of cost recovery in circumstances of declining demand, and
- interest rates are relevant to its decision on depreciation, along with an absence of any explanation of how it assessed interest rates now (or over 2026-31) and how it did (or would in the future) determine whether they are 'high' or 'low'.

Finally, to the extent customer electrification decisions are informed by the financial benefits, the AER's draft decision limits the real annual increase in gas network prices to well below the recent electricity network real price increases (which also contribute to approximately 30 per cent of a retail electricity bill). The AER's draft decision will, therefore, actually contribute to a further widening of the relative retail prices of gas and electricity, and would discourage customers from electrifying, and is inconsistent with the principle of allocative efficiency between energy substitutes. Indeed, a much larger real price increase in gas network prices would be required to maintain the current balance of gas to electricity pricing, as shown in Figure 5.

[86] Appendix 3.3: HoustonKemp-Assessment of AER's draft decision on depreciation, January 2026, p.17.

[87] Appendix 3.3: HoustonKemp-Assessment of AER's draft decision on depreciation, January 2026, p.19.

Figure 5 Relative change in gas and electricity network prices



Note: The electricity network charge includes the costs of the Large-scale Feed-In Tariff Scheme which are passed onto energy retailers through the network charge.

The 4 per cent real annual network price increase limit is not, therefore, required to avoid an acceleration in the rate of electrification.

3.4.5 Draft decision to apply 4 per cent real annual network price increase limit is made in reliance on irrelevant considerations

The AER's draft decision to apply a 4 per cent real network price increase limit to cap the depreciation allowance is made in reliance on a number of irrelevant considerations and, to that extent, involves legal error and results in a decision on depreciation that is not authorised by the NGL and NGR.

Neither the NGO and the revenue and pricing principles nor the depreciation criteria in rule 89(1) are concerned with social equity considerations. Affordability, and the impact of price outcomes for vulnerable customers, or those facing challenges during the energy transition, while important policy considerations and matters of concern to Evoenergy, do not provide the AER with any statutory basis to limit Evoenergy's depreciation allowance. Nor is the NGO concerned with the long term interests of consumers with respect to price, divorced from considerations of economic efficiency.

The NGO and the revenue and pricing principles are concerned with the promotion of economic efficiency, with the legislative presumption being that the long term interests of consumers are best served by regulation that advances economic efficiency. There is no balance to be struck between the efficient investment in, operation and use of, our gas services on the one hand and the long term interests of consumers on the other.

Similarly, the AER's views on the appropriate policy response to declining gas demand or who should pay for undepreciated investment costs and how they should be shared are irrelevant to the making of its decision on depreciation.

3.4.6 Draft decision imposes an unauthorised cap on total revenue and the overall price outcome

As noted above, there is no evidence to justify that the AER's draft decision that the application of a 4 per cent real annual network price increase limit is required to avoid distortions to demand or, thus, promote the efficient use of our network, and efficient negative growth in demand for our network services. Accordingly, the 4 per cent limit operates only to limit the AER's decision on total revenue, and, thus, Evoenergy's recovery of its efficient costs, by reference to what the AER considers an appropriate and affordable short-term price impact.

As HoustonKemp observes, in its report attached to this response, 'the economic role of depreciation in the AER's decision is that of a 'balancing item' that ensures that its draft decision, in totality, produces the price outcome that it selected based on its own judgment'.[88] As it explains, the AER determines the depreciation building block to be the difference between the level of revenue implied by the price outcome sought by the AER and the sum of the other cost building blocks specified in rule 76 of the NGR.[89] Regardless of the value of these other cost building blocks determined by the AER in its draft decision, the determinant of total revenue is the overall real price increase sought by the AER.

Such a decision is not authorised by the NGL and NGR, pursuant to which the AER purports to make it.

Part 9 of the NGR specifies requirements for our access arrangement for 2026-31. Rule 76 requires the application of a building block methodology to determine total revenue for each regulatory year of the access arrangement period, specifying the building blocks for this purpose including, relevantly, depreciation on the projected capital base determined in accordance with Division 6 of Part 9. Rule 92, in turn, requires that an access arrangement include a reference tariff variation mechanism for the access arrangement period designed to equalise (in net present value terms) forecast revenue from reference services for the period and the portion of total revenue allocated to reference services for the period.

Insofar as the AER's draft decision applies a 4 per cent real annual price increase limit in making its decision on depreciation, which operates to limit its decision on total revenue and denies Evoenergy a reasonable opportunity to recover at least its efficient costs, this is not authorised by Part 9 of the NGR.

3.4.7 Draft decision does not provide a reasonable opportunity to recover costs incurred, generate expected revenues over network's economic life that fully recover investment costs or allow for Evoenergy's reasonable cash flow needs

The AER falls into error in concluding that its draft decision on depreciation need not provide Evoenergy with a reasonable opportunity to recover (at least) its efficient costs incurred, as the

[88] Appendix 3.3: Houston Kemp-Assessment of AER's draft decision on depreciation, January 2026, p.20.

[89] Appendix 3.3: Houston Kemp-Assessment of AER's draft decision on depreciation, January 2026, p.20.

revenue and pricing principles are only 'matters we are required to take into account', in contrast to the NGO the achievement of which it must promote.

Again, the statutory premise is that economic efficiency and, thus, the long term interests of consumers are served by the provision to service providers of a reasonable opportunity to recover at least their efficient costs incurred. The NGO and the revenue and pricing principles are complementary and operate together. A decision which is inconsistent with the revenue and pricing principles cannot be a decision that will, or is likely to, contribute to the achievement of the NGO.

It is well accepted that, consistent with the revenue and pricing principles, the promotion of economic efficiency, with which the NGO is concerned, requires the provision to service providers of a reasonable opportunity to recover their efficient costs incurred.

The depreciation criteria are consistent with this, including in particular rule 89(1)(b), which requires the AER's depreciation decision to generate expected revenues over the economic life of a provider's assets sufficient to allow it to fully recover its investment costs, and rule 89(1)(e), which requires that decision to allow for the provider's reasonable cash flow needs.

The AER's draft decision to set the depreciation allowance by imposing a real annual network price increase limit of 4 per cent per annum (before incentive scheme carryover amounts) will not provide Evoenergy with a reasonable opportunity to recover its past and future efficient investment costs to operate the gas network, nor will it generate expected revenues over the economic life of our assets that are sufficient to fully recover our investment costs or allow for Evoenergy's reasonable needs for cash flow to meet financing, non-capital and other costs.

In its report attached to this response, HoustonKemp concludes that the AER's draft decision on depreciation does not afford Evoenergy a reasonable opportunity to recover its efficient costs.[90] HoustonKemp concludes, in particular, that adopting a 4 per cent annual real network price increase limit acts to defer recovery of a material proportion of Evoenergy's efficient investment costs beyond 2031, at which point the AER forecasts connections and total usage for Evoenergy's VI tariff, as an example, will be 14 per cent and 18 per cent lower respectively. It further concludes that, in turn, the AER's draft decision will distort the incentives for economic efficiency by creating perverse incentives:

- not to undertake efficient investment in the network, owing to the likelihood it will not recover those efficient costs,
- to favour investment in assets with relatively shorter economic lives, since the recovery of the costs of those assets is subject to relatively less risk, and
- to favour operating expenditure over capital expenditure, since operating expenditure is recovered in the year it is incurred.

The AER's draft decision on depreciation will have direct adverse impacts on Evoenergy's ability to finance its continued provision of reference services during to the transition in the ACT to net zero and the associated phase out of gas supply in the ACT. It will also have direct adverse impact on Evoenergy's cost to finance the investments in the electricity network necessary to achieve the ACT Government electrification policy and net zero emission target.[91]

[90] Appendix 3.3: HoustonKemp-Assessment of AER's draft decision on depreciation, January 2026, p.25.

[91] As under Evoenergy's corporate structure, electricity network revenues are not protected from its gas network liabilities, therefore debt and equity providers will price in the impact of potential losses on the gas network as well as the risk of asset stranding.

Table 4 below demonstrates that maintaining a 4 per cent real annual network price increase limit, as per the AER's draft decision, would result in Evoenergy being unable to recover more and more of its efficient costs in each successive five-year access arrangement period, inclusive of operating costs, depreciation, return on capital and decommissioning costs (smoothed across 2031–2045). By 2035–36 (2033–34 including decommissioning), Evoenergy is unable to recover both depreciation and the return on capital. By 2042–43 (2039–40 including decommissioning), Evoenergy is also unable to recover its ongoing operating expenditure.

Table 4 Unrecovered gas network costs resulting from draft decision real annual network price increase to 2045

($millions, 2025–26)	2026-31	2031-36	2036-41	2041-45	Total
Revenue with 4% real annual network price increase	374	297	206	67	944
Total building blocks excluding decommissioning	421	341	300	190	1252
Unrecovered costs excluding decommissioning	**46**	**44**	**95**	**123**	**308**
Decommissioning	0	36	36	29	100
Unrecovered costs including decommissioning	**46**	**80**	**130**	**152**	**408**

Note: Analysis is based on Evoenergy's revised proposal building blocks and demand forecast. It uses an estimate of $100 million for decommissioning costs.

Conversely, for the AER to provide a reasonable opportunity for Evoenergy to recover its efficient costs incurred where it applies a 4 per cent limit on real annual network price increases for 2026–31, it would need to significantly increase the size of the real annual network price increases, to 12 per cent per annum (excluding decommissioning costs) or 14 per cent per annum (with decommissioning costs) from 2031 to 2045 as per Figure 6 below. This degree of cumulative price escalation risks reaching an unsustainable point, where customers will need to disconnect from the gas network, or Evoenergy is not permitted to continue recovering its costs incurred (past or present) on social welfare grounds. To illustrate this point, if there was a hypothetical policy-based price cap imposed at a level of a 50 per cent increase in retail gas prices, Evoenergy would under-recover between $99 million (with a remaining asset base of $87 million) and $171 million (with a remaining asset base of $124 million) in efficient network costs, with decommissioning costs excluded and included respectively.

The draft decision is, therefore, inconsistent with the NGO and revenue and pricing principles, contrary to the requirements of section 28(1)(a) of the NGL and rule 68B(1) of the NGR, and with the depreciation criteria set out in rule 89(1)(b) and (e) of the NGR. In addition, we observe, for completeness, that, insofar as the draft decision will hinder the making of adjustments to reflect any future reduction in the expected economic life of our assets (for example, to reflect the staged decommissioning of our network commencing in 2035 or a faster than anticipated rate of decline in demand ahead of 2045), by rendering such adjustments less practicable due to price impacts, it is also non-compliant with the depreciation criterion specified by rule 89(1)(c).

3.4.8 Draft decision materially increases risk without providing any compensation for that incremental risk

In the context of the ACT's policy to phase out gas and decommission the network by 2045, the AER's draft decision on depreciation materially increases Evoenergy's risk of under-recovering gas network costs, including the capital asset base as well as ongoing costs, but provides no compensation for this incremental risk. The AER's draft decisions in relation to demand, tariff variation mechanisms, the capital expenditure incentive scheme and the treatment of government taxes and levies further compound Evoenergy's revenue under-recovery risk over and above the incremental risk arising from its draft decision on depreciation.

Consistent with the accepted principle that the economic efficiency with which the NGO is concerned is promoted by the provision to a service provider of a reasonable opportunity to recover its economic costs, the revenue and pricing principles provide that "[a] reference tariff should allow for a return commensurate with the regulatory and commercial risks involved in providing the reference service to which that tariff relates".[92] The AER's draft decision does not provide any compensation for the incremental regulatory and commercial risks for Evoenergy, in providing reference services in our operating context, that arise from the AER's draft decision to purposefully leave a material proportion of the capital base unrecovered by the 2045 legislated target for emissions reduction. In this respect also, the AER's draft decision is inconsistent with the NGO. That is, the AER's draft decision does not discharge its obligations under section 28(1)(a) of the NGL and rule 68B(1)(a) of the NGR.

Further, the AER's draft decision materially increases the regulatory risk of investing in Australian infrastructure. The precedent set by the AER through this landmark decision for Evoenergy will adversely impact the future financeability of investments in essential services that are subject to economic regulation by the NGL and NGR, and the NEL and NER. Ultimately, the AER's draft decision for Evoenergy risks increasing long term costs to consumers of all essential services infrastructure in Australia.

3.4.9 Draft decision is detrimental to service outcomes

As demonstrated in the section above, the AER draft decision results in a significant risk that Evoenergy will never recover its past and future efficient costs to operate the network. This creates strong disincentives for Evoenergy to further invest as required to maintain the quality, safety, reliability and security of gas supply, and gives rise to a real possibility the gas network could become uneconomic to operate before 2045.

As shown in Table 4 above, if the AER's 4 per cent real annual network price increase limit is consistently applied, by the second half of the period remaining until 2045, Evoenergy will be unable to recover its depreciation costs and some of its other costs. The likelihood of an inability to recover network costs, including future capital and ongoing operating costs, is detrimental to the quality, safety, security and reliability of the supply of gas services to our customers either during 2026-31 period or for as long as they remain connected to the network through to 2045, contrary to the NGO and the AER's obligations under section 28(1)(a) of the NGL and rule 68B(1)(a) of the NGR stated by reference to it.

3.4.10 Draft decision hinders achievement of ACT's emissions targets

As shown in Figure 5 above, the AER draft decision to constrain gas prices to a level below that at which electricity prices are increasing will actually risk deterring customer electrification

[92] NGL, section 24(5).

decisions. This issue is exacerbated by the AER's draft decision to require a hybrid TVM, which hinders the achievement of allocative efficiency between gas and electricity substitutes. By constraining real annual network price increases to a level that precludes us from recovering our efficient costs incurred, the draft decision, therefore, sends a price signal to customers to remain on the gas network rather than electrify relatively longer. The AER's decision is, therefore, inconsistent with the NGO to promote economic efficiency for the long term interests of consumers with respect to the achievement of jurisdictional emissions reduction targets, which, in the ACT, is to achieve net zero emissions by 2045.

3.4.11 Draft decision does not deliver long-term price stability for customers and creates risk of faster decline in demand for gas and network services

The AER's draft decision requires significant gas network price increases in future regulatory periods if, as contemplated by the NGL and NGR, Evoenergy is to be provided with a reasonable opportunity to recover its efficient costs incurred and expected revenues over the remaining economic life of its network sufficient to fully recover its investment costs.

As shown in Figure 6 below, if the AER is to meet the relevant NGL and NGR requirements, the AER will need to significantly increase gas network prices over 2031–45, by 12 per cent per annum (excluding decommissioning costs) or 14 per cent per annum (including decommission costs[93]), in order to make up for the 4 per cent real annual network price increase limit (before incentive scheme carryover amounts) applied during the 2026–31 period.

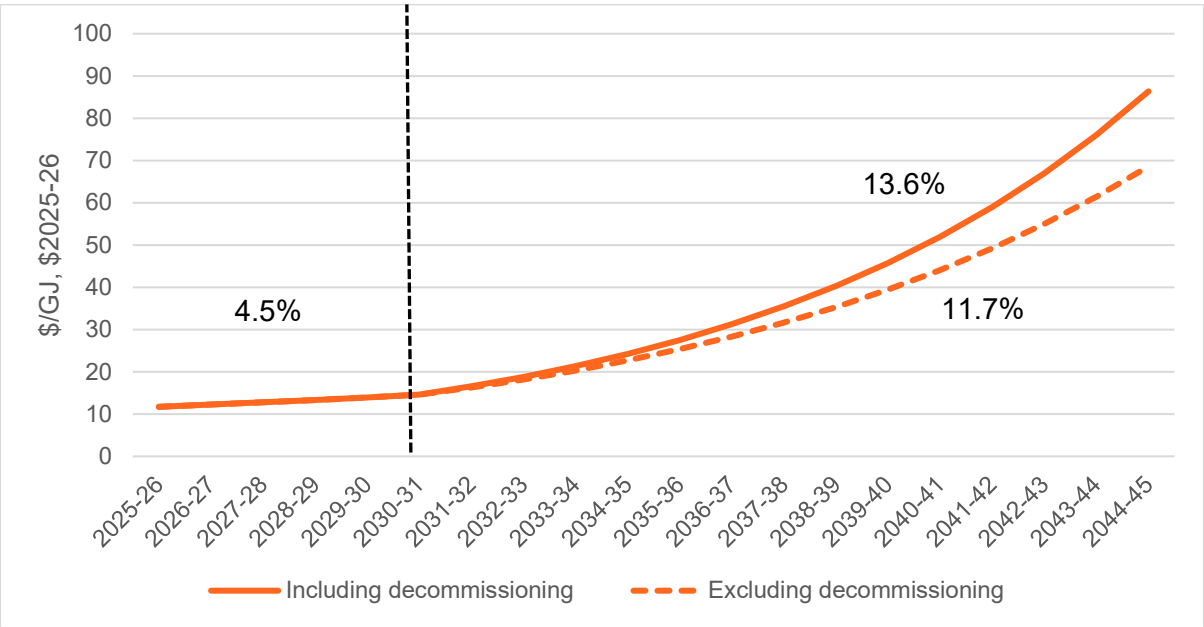
The AER's own argument therefore that a 4.5 per cent real annual network price increase limit (inclusive of incentive scheme carryover amounts) in the 2026–31 period is necessary to avoid accelerating the decline in demand for gas and reference services, and customer exit from the gas network, is internally inconsistent with the outcome of supplying such a limit, being that a 12-14 per cent price path is required in future years to enable a reasonable opportunity to recover efficient investment costs over the economic lives of our assets. Indeed a 12-14 per cent real annual network price increase would lead to a doubling of network charges by 2036, tripling of network charges by 2039, a quadrupling by 2041, 5 times multiple by 2043 and 6 times multiple by 2045. It is clear, therefore, that the AER's draft decision does not deliver long term price stability for customers, and is more likely to lead to an unstable acceleration of the decline in demand for gas and reference services from 2036, recognising that as identified by HoustonKemp customers are less price inelastic over the longer term[94] and most likely to electrify appliances at the point of failure as identified by CIE.[95]

[93] Decommissioning costs would only be recoverable under the regulatory framework if able to be provisioned for over time while sufficient customers remain on the network. For this analysis, Evoenergy has estimated $100m in decommissioning costs and smoothed these over 2031–45.

[94] Appendix 3.3: HoustonKemp-Assessment of AER's draft decision on depreciation, January 2026, p.15.

[95] Evoenergy (2025). ACT and Queanbeyan-Palerang gas network access arrangement 2026–31 - Appendix 2.2: CIE Price Elasticity of demand for natural gas, June, p.29.

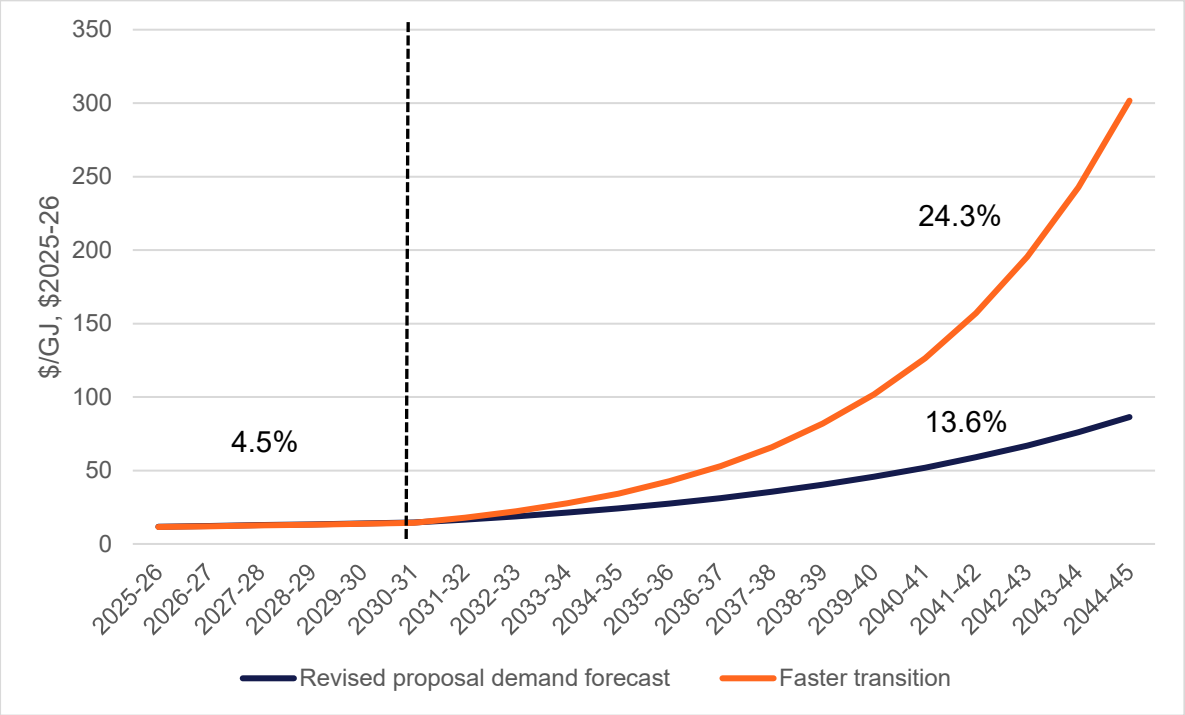
Figure 6 Long term real annual network price path due to AER 4 per cent annual real network price increase limit in 2026-31



Notes: The long-term network price path reflects Evoenergy's expenditure forecast for the AA period 2026-31 and Evoenergy's indicative expenditure forecasts for the following periods. The including decommissioning costs scenario includes $100 million of decommissioning costs spread over the period 2031 to 2045. The forecast network charges for 2026–31 are set equal to the AER's draft decision. The demand forecast is based on the revised proposal demand forecast for 2026–31 and an average of the CIE demand forecast and an extrapolation of the Frontier demand forecast for 2031–32 onward. Network charges are solved as a single period from 2031–32 to 2044–45 to achieve full cost recovery. Economic lives are set to a maximum of 19 years from 2026–27.

As Figure 7 below demonstrates, the adverse impact on long-term customer prices arising under the AER's draft decision approach would be even worse if gas demand declines faster than anticipated. Under a faster transition scenario, real gas network price increases over the 2031–45 period would need to increase by 24 per cent per annum. This degree of price increase would be unsustainable (noting customers are less price elastic in the long-term and most likely to electrify as appliances fail), leading to a rapid exit by customers from the gas network before 2045 and a significant under-recovery of Evoenergy's investment costs. Conversely, should demand fall slower than anticipated, the AER can apply less accelerated depreciation in the subsequent regulatory period to stabilise prices. Importantly, as there will be less and less customers each year between 2026 and 2045, prices will continue to escalate, and there will never again be another opportunity to share investment costs across more customers than there is in the 2026–31 period.

Figure 7 Long term real annual network price path required due to draft decision real annual network price increase limit in 2026–31 with faster transition scenario



Notes: See notes to figure 6. The faster transition scenario is based on the demand forecast required to meet the ACT Government's interim emissions reduction targets. This analysis includes $100m in decommissioning costs. The resulting real annual price paths excluding decommissioning are 22.5 per cent for the faster transition scenario and 11.7 per cent for the revised proposal forecast.

That is, to the extent that the application of the AER's 4 per cent real annual network price increase limit will have any impact on demand for gas and network services, it will operate to accelerate (rather than ameliorate) the long term rate of demand decline that would otherwise occur.

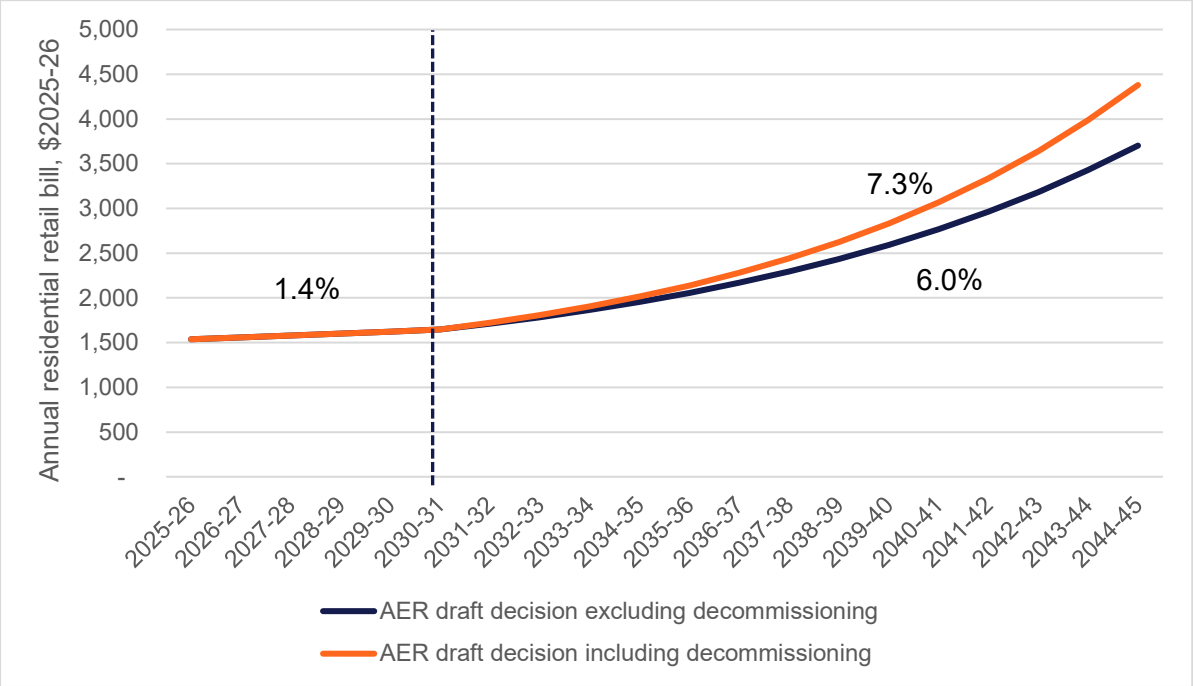
3.4.12 Draft decision does not reflect community preferences

The AER's draft decision approach, being to constrain gas prices in the short term at the expense of longer-term price impacts, is in direct contrast to our community's consistent feedback to promote an equitable transition. Throughout all of Evoenergy's engagement over the past 24 months with ACT and NSW community members, there has been strong consensus that accelerating depreciation now to avoid long-term price escalation was the fairest and most equitable approach available under the regulatory framework.[96]

Figure 8 demonstrates that, under the AER's draft decision approach, for the AER to meet the NGL and NGR requirements to provide Evoenergy with a reasonable opportunity to recover its investment costs over the remaining economic life of its assets, those customers that transition off the gas network more slowly will pay a disproportionate share of the past investment costs which served all gas users over the previous 42 years, resulting in significantly higher retail bill impacts.

[96] Appendix 1.1: Communication Link-Report of feedback from community and customer forum sessions-January 2026.

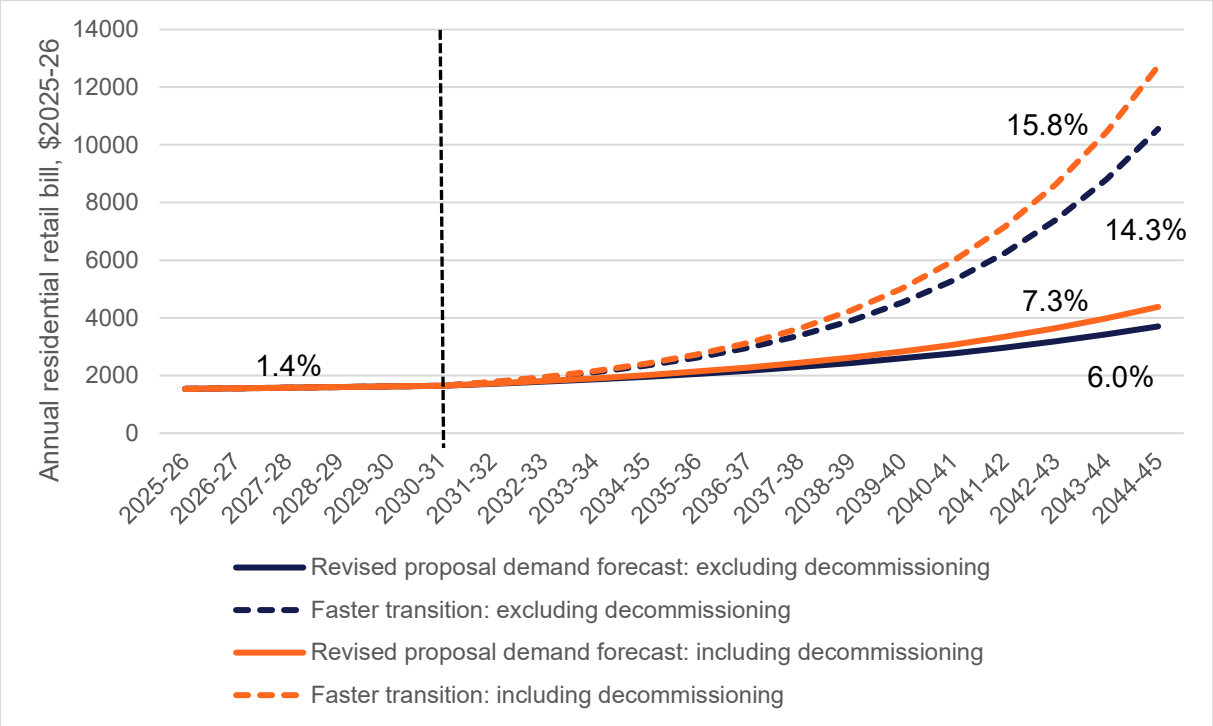
Figure 8 Indicative residential retail gas bill under AER draft decision



Notes: The long-term retail price path reflects changes in distribution network charges (see figure 6). All other components of the retail bill are held constant. Retail bill impacts are calculated for an average residential customer using 27 GJ of gas per year.

The adverse impact on harder to transition customers will be even more magnified if the phase out of gas occurs faster than forecast, as shown in Figure 9. Conversely, the AER can reduce the amount of accelerated depreciation in the 2031–36 period to maintain price stability, if the electrification transition is slower than forecast.

Figure 9 Indicative residential retail gas bill under AER draft decision with faster transition



Note The long-term retail price path reflects changes in distribution network charges (see figure 7). All other components of the retail bill are held constant. Retail bill impacts are calculated for an average residential customer using 27 GJ of gas per year.

The AER therefore appears to have had no regard to our community feedback in arriving at its draft decision, and indeed has chosen an approach that directly contradicts the community's preference for an equitable transition, which leaves no customer behind in recognition not everyone can transition at the same pace.

3.5 Our engagement following submission of our initial proposal

We continued to engage with our community following submission of our initial regulatory proposal to the AER in June 2025. We continued discussions with our consumers and key stakeholders including our community forum, Energy Consumer Reference Council (ECRC), large customers, retailers, ACT and NSW Governments (Queanbeyan-Palerang Regional Council (QPRC)) and a newly established NSW customer forum.

We established the NSW customer forum specifically to better understand the preferences and priorities of NSW customers on our gas network. Over two sessions held in November 2025, we focused discussions with NSW customers on depreciation options, including the relative merits of:

- aligning asset lives to 2045 and retaining the straight-line depreciation method
- aligning asset lives to 2045 and applying the sum of years' digits method.

We provided the long term price impacts of these two approaches overlaying both a faster and slower transition scenario.

Our NSW customer forum considered the sum-of-years'-digits approach to be more equitable for those customers least able to transition early by distributing costs more evenly across customers.[97] Our NSW customer forum members considered it was more likely that NSW customers would take longer to transition than ACT customers due to fewer government supports, incentives and rebates being available to them. They raised concerns that NSW customers could end up paying a greater share of the costs to achieve an ACT Government policy.[98] Consistent with our earlier engagement feedback, NSW customer forum members questioned and challenged the role for ACT Government to contribute to the gas network cost recovery.[99]

Following the AER's draft decision we engaged with our community forum (including both our ACT and NSW customers), our ECRC, large customer forum (Energy Matters) and retailers. Our community forum and ECRC were disappointed the AER's draft decision had not reflected their feedback to ensure an equitable sharing of network costs through the transition. Some raised concern the AER's approach would increase the risk to vulnerable customers left to bear more of the cost.[100] Our community were concerned the draft decision did not reflect the unique circumstances of the ACT/Queanbeyan-Palerang region and the communities' goal for achieving emissions reduction in a fair and equitable way. Our community forums considered the draft decision had a short-term focus on low prices without considering the longer-term consequence, expressing concern regarding the assumption that gas assets will continue to be used well beyond 2045. Several ECRC members voiced that this did not reflect ACT policy settings or the pace of change occurring in the energy system. Members also raised questions about post-2045 uncertainty, including whether assets should be recovered earlier rather than deferring costs. At the same time, ECRC members highlighted concerns raised by the ACT Council of Social Service regarding full asset cost recovery through gas customers only and noted that feedback from our community forum indicated mixed views, with some participants encouraging us to consider alternative cost recovery options. The community forum felt aggrieved by the AER's draft decision wording which implied they did not understand the challenges.[101]

Given the AER's draft decision, we engaged with these stakeholders on the long-term price impacts associated with the AER's draft decision (based on a 4 per cent per annum network price path during 2026–31 period) and a potential alternative approach which was based on an 8 per cent per annum[102] network price path through to 2045. We asked participants to consider the impacts of the different depreciation approaches across different customer types i.e., 'early adopters', 'gradual switchers' and the 'stayers' over the early and later periods of the transition. We demonstrated stakeholders the impact on the long-term price path under both approaches if there is a faster or slower energy transition.

In relation to the potential alternative approach presented, our community forum provided some support noting it was a fair compromise, while still considering there is a role for options outside

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[97] Appendix 1.1: Communication Link-Report of feedback from community and customer forum sessions-January 2026, p. 21.

[98] Appendix 1.1: Communication Link-Report of feedback from community and customer forum sessions-January 2026, pp. 22–23.

[99] Appendix 1.1: Communication Link-Report of feedback from community and customer forum sessions-January 2026, p. 22–23.

[100] Attachment 1: Revised plan engagement report-January 2026, pp17–18.

[101] Appendix 1.1: Communication Link-Report of feedback from community and customer forum sessions-January 2026, pp. 26, 35.

[102] 8% per annum over 2026–31 and then over 2031–2045 either 7% per annum when network decommissioning costs are excluded or 9% per annum when network decommissioning costs are included.

the regulatory framework such as Government funding, Evoenergy shareholders bearing the costs or sharing costs with the electricity network.[103] Overall the community forum encouraged an approach fit for the ACT unique context, which maintain the forums values of fairness, adaptability, equity and integrity and to demonstrate foresight in taking a long term view.[104] Our community forum members stated:

> *'While it is necessary to be practical it is important for Evoenergy to continue to advocate for the values as outlined for community forum: adaptable, fairness and equity, integrity and to demonstrate foresight or a longer term view regardless of AER short term.'*
>
> *'It needs to focus on what is best for the community. If that involves bringing forward some depreciation to assist those later on it should be done.'*
>
> *'It's time to do something new. Let's be the first jurisdiction to do something different in terms of pricing (revenue cap) and accelerated depreciation.'*
>
> *'Customers should be heard and AER needs to apply a forward thinking approach. This is the approach taken in these customer feedback sessions. I am alarmed, deeply disappointed by the AER draft response.'*

4. Our revised depreciation proposal

4.1 Summary of revised proposal

Evoenergy maintains the view that materially more depreciation than allowed for in the AER's draft decision is required during the 2026–31 period. This is required in order for our access arrangement for 2026–31 to be consistent with the NGO and comply with NGL and NGR requirements applicable to the AER's decision, which require that our depreciation allowance:

- generates expected revenues over the economic lives of our assets sufficient to fully recover our investment costs and allows for our reasonable cash flow needs; and
- provides Evoenergy with a reasonable opportunity to recover its efficient costs so as to promote efficient investment in, and operation and use of, our reference services for the long term interests of consumers with respect to:
  - price, reliability, quality and security of supply, and
  - the achievement of the ACT's legislated emissions reduction targets of net zero emissions by 2045, including legislated interim targets.

At the same time as ensuring compliance with the requirements of the NGL and NGR, the allowance of additional depreciation will enable an equitable transition path for our customers over the long term, in accordance with our community feedback.

Accordingly, Evoenergy's revised proposal is to:

- Repropose asset lives aligned to the ACT Government's published IEP to phase out gas and decommission the gas network by 2045 to achieve the legislated net zero emissions

[103] Appendix 1.1: Communication Link-Report of feedback from community and customer forum sessions-January 2026, p. 27.

[104] Appendix 1.1: Communication Link-Report of feedback from community and customer forum sessions-January 2026, pp. 29-30.

target, which is a conservative approach given that the IEP expressly contemplates decommissioning will commence on a staged basis in 2035–40.

- Apply the AER's draft decision accelerated depreciation allowance, but without the 4 per cent real annual network price increase limit (before incentive scheme carryovers).

As shown in Table 5, our revised proposal results in an 8.6 per cent per annum real network price increase over 2026–31. Unlike the AER's draft decision, our revised proposal sets the pathway for a reasonable opportunity to recover our efficient costs incurred by 2045, generates expected revenues over the remaining economic life of our gas network that are sufficient to fully recover our investment costs and allows for our reasonable cash flow needs, and does so in a more equitable manner, consistent with our community feedback.

Table 5 Depreciation allowance and effective price path

($m 2025–26)	Evoenergy Initial proposal	AER draft decision	Evoenergy revised proposal
BAU	107	94	95
Asset life	30	12	30
Additional	75	35	35
Total	212	141	160
Effective network price path, % p.a.	15.2%	4.5%	8.6%
Illustrative retail price path, % p.a.	5.4%	1.4%	2.8%

Notes: The network price path proposed in Evoenergy's initial proposal has been adjusted to include jurisdictional charges for comparison and the illustrative retail price path has been updated for 2025–26 retail price information. Bill impacts are calculated for an average residential customer consuming 27GJ per year.

4.2 Economic lives for our assets aligned to 2045

Evoenergy maintains its position that the economic life of the gas network assets should be set to end by 2045.

To accommodate the AER's preferred modelling approach for economic lives, our revised proposal:

- For new assets – applies a maximum fixed 19-year asset life
- For existing assets – applies a maximum asset life of 19 years to align to the 2045 end date.

The AER is required by the NGR's depreciation criteria to make a factual finding on the economic lives of our assets, on the available evidence.

As demonstrated in section 3.3, and admitted by the AER itself,[105] there is a high likelihood that the gas network will cease to operate, and be fully decommissioned, by 2045 in accordance with the published ACT Government policy, the IEP, and recently confirmed by the Minister for Energy under oath. The ACT Government's submission to the AER dated 9 August 2025 does not resile from this.

As demonstrated in section 3.3, it will not be economically viable for Evoenergy to continue to operate the gas network, or any portion of it, beyond 2045 for supplying demand customers. Even if the group of customers remaining beyond 2045 were extended to include hard to transition NSW customers and multi-dwelling units, the network would still be economically unviable (see section 3.7). There is, however, a real possibility the gas network will become economically unviable before 2045, particularly if insufficient depreciation is provided in the 2026–31 period (as shown in Table 4) or a faster transition occurs than forecast (shown in Figure 7). Consequently, there is a significant likelihood of the gas network ceasing to operate before 2045.

While there remains some uncertainty regarding the exact rate of change in the future demand for gas and non-viability of the network, there is no evidentiary basis for concluding that the network (or any part of it) will continue to operate beyond 2045. To the contrary, the ACT has legislated a target of net zero emissions by 2045, the achievement of which is critically dependent on the phasing out of gas and the cessation of operation of the gas network by 2045.

Importantly, conservatively setting asset lives to end at 2045 in the 2026–31 period retains the option to adjust the asset lives in the future if ACT Government policy changes or demand change is slower than anticipated. Conversely, applying assets lives beyond 2045 will, by default, foreclose Evoenergy’s reasonable opportunity to recover costs, by deferring cost recovery until there are too few customers left on the network to share these costs without causing unsustainable gas price escalation (reflected in Figure 2 above).

Applying asset lives which end by 2045 for the 2026–31 regulatory period is therefore necessary, but not sufficient, to meet the requirements of the NGL and NGR to generate expected revenues over the economic life of our assets that are sufficient to fully recover our investment costs, allow for Evoenergy's reasonable needs for cash flow (including to meet financing, non-capital and other costs) and provide Evoenergy with a reasonable opportunity to recover its efficient costs incurred, so as to maintain incentives for efficient investment, and operation and use of the gas network, for the long-term customer interest with respect to:

- price, quality, reliability, safety and security of supply, and
- the achievement of the ACT's legislated target of net zero emissions by 2045.

4.3 Accelerated depreciation

Evoenergy does not accept the AER’s draft decision rationale for limiting the additional depreciation by reference to a 4 per cent per annum real annual network price increase limit (excluding incentive scheme carryovers).

Evoenergy’s revised proposal therefore applies the AER’s draft decision accelerated depreciation allowance of $35 million, [106] alongside our revised proposal to reduce the economic lives of our

[105] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31, Attachment 1, pp. 16, 17, 18.

[106] To achieve accelerated depreciation of $35 million consistent with the AER’s draft decision, we have adjusted the opening asset base for HP Mains and MP services downward by a total of $47.5 million and moved this

assets to 19 years. This leads to an overall real increase in network prices of 8.6 per cent per annum (including incentive scheme carryovers) during the 2026–31 period (assuming all other components of Evoenergy's revised proposal are accepted). The network price path included in our revised proposal does not have a material impact on expected demand over the 2026–31 period because our customers are price inelastic (as demonstrated by Houston Kemp).[107]

As demonstrated in section 3.4, the AER's draft decision to limit depreciation by reference to a 4 per cent annual real network price increase limit (before incentive scheme carryovers) is not required to promote the efficient use of our network, and efficient negative growth in the demand for our reference services, and, contrary to the NGL and NGR requirements for the AER's depreciation decision, it:

- denies us a reasonable opportunity to recover our efficient costs incurred,
- generates expected revenues over the economic life of our network that are insufficient to fully recover our investment costs, and
- fails to allow for our reasonable cash flow needs.

Given the impact on Evoenergy's investment incentives and the risk to our economic viability under the AER's draft decision approach, discussed in sections 3.3. and 3.4, the draft decision will erode gas service quality, reliability, safety and security.

Further, the AER's draft decision to limit depreciation by reference to a 4 per cent annual real network price increase limit (before incentive scheme carryovers) would require significant and unsustainable price escalation in future years if Evoenergy is to have any opportunity to recover its efficient investment costs (as required by the NGL and NGR). The draft decision approach to limit network prices in the short term does not deliver long term price stability or affordability for our customers and, to the extent it will have any impact on demand for gas and network services, it will operate to accelerate (rather than ameliorate) the long term rate of demand decline that would otherwise occur.

Evoenergy's revised proposal approach, to apply the AER's additional depreciation adjustment alongside asset lives aligned to 2045, results in an 8.6 per cent per annum real network price increase. In so doing, where the AER's draft decision fails to do so, our revised proposal:

- promotes economic efficiency by providing us with a reasonable opportunity to recover our efficient costs and, thus, materially improves gas service outcomes,
- generates expected revenues over the economic life of our gas network sufficient to fully recover our investment costs, and
- allows for our reasonable cash flow needs.

As shown in Figure 10, the 8.6 per cent per annum real network price increase delivered by our revised proposal, if sustained through to 2045 (6.8 per cent without decommissioning costs and 8.9 per cent with decommissioning costs smoothed over 2031–45), would provide a reasonable opportunity for Evoenergy to recover its efficient investment costs incurred and maintain incentives to efficiently invest so as to maintain quality, reliability, safety and security. Our revised proposal approach materially improves the likelihood for Evoenergy to remain economically

amount to an accelerated depreciation asset category with a remaining life of 5 years. The RFM adjustment method we have used is consistent with the AER's draft decision.

[107] Appendix 3.3: Houston Kemp-Assessment of AER's draft decision on depreciation, January 2026, pp.15-17.

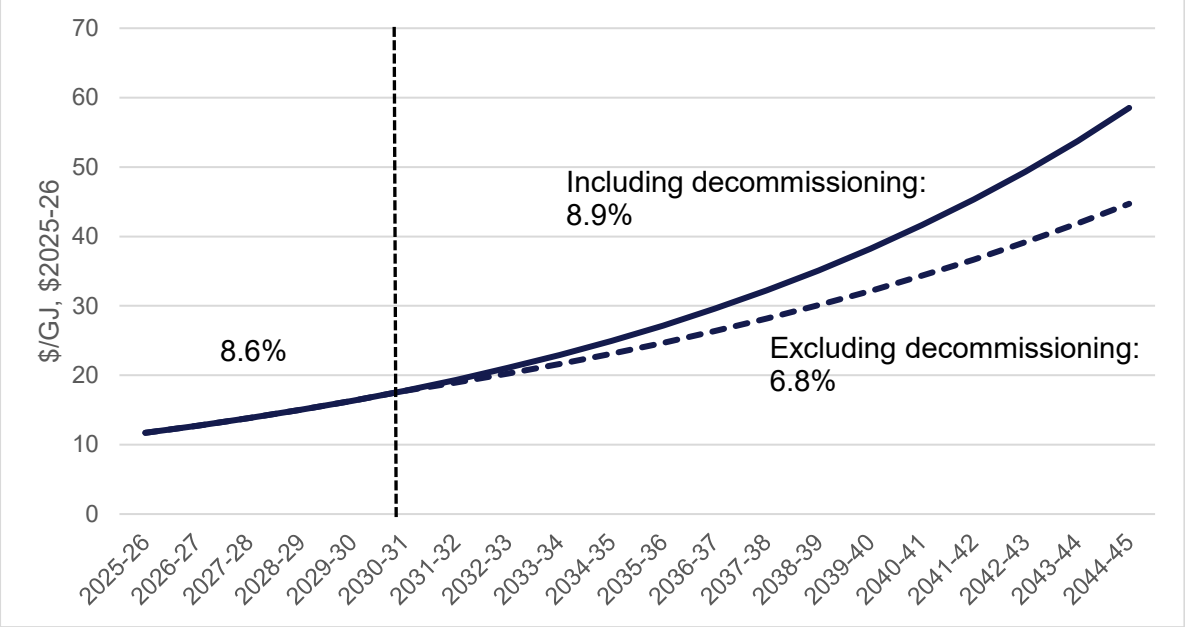
viable and continue efficiently servicing our customers, for as long as they remain connected, through to 2045, compared to the AER's draft decision.

As demonstrated by HoustonKemp, our revised proposal does not result in a materially greater reduction in demand for gas and network services than the AER's draft decision, with the result that rule 89(1)(a) does not provide a basis for rejecting our revised proposal. A network price path of 8.6 per cent per annum over 2026–31 would not risk accelerating customer choices to exit the network or otherwise reduce their demand for gas or network services, particularly in light of the recent price path for the electricity network. Importantly, our revised proposal approach reflects an average annual increase of just 2.8 per cent in real retail gas prices for an average residential customer over the access arrangement period.

Our revised proposal also materially improves longer term price stability and affordability relative to the draft decision. If anything, our revised proposal operates to ameliorate (rather than accelerate) the long term rate of demand decline relative to the draft decision.

As well as delivering compliance with the relevant NGL and NGR requirements where the AER's draft decision fails to do so, our revised proposal approach also achieves more equitable outcomes for our community compared with the AER's draft decision and, therefore, better reflects our customer engagement outcomes.

Figure 10 Long-term network price path based on revised proposal

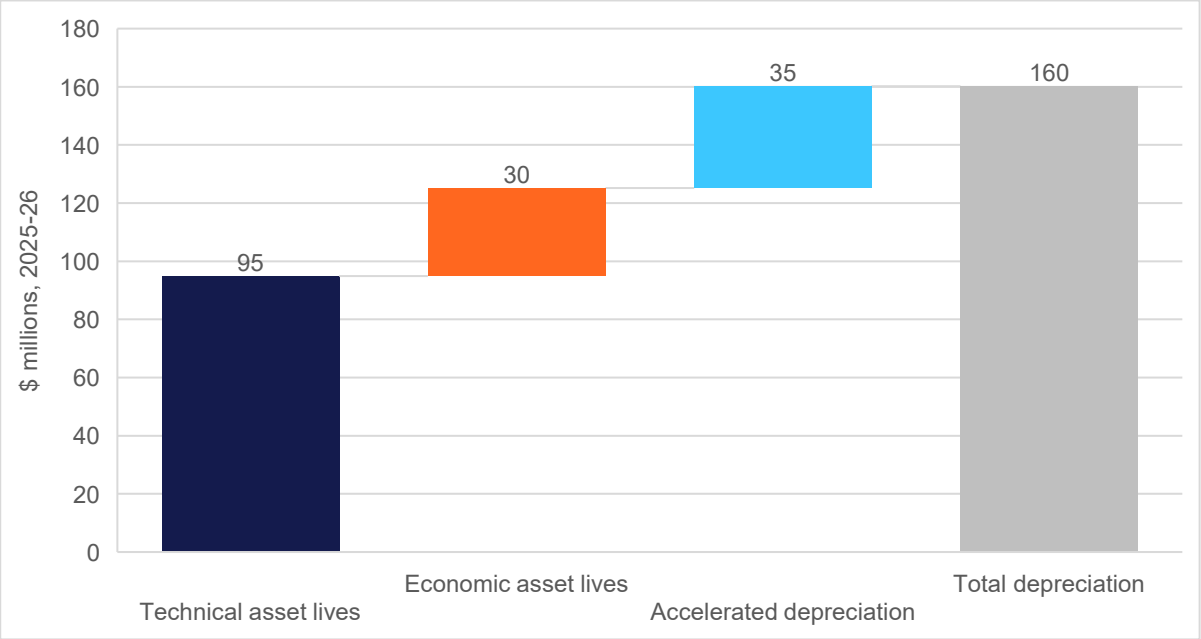


Notes: The long-term network price path reflects Evoenergy's revised expenditure forecast for the AA period 2026-31 and Evoenergy's indicative expenditure forecasts for the following periods. The expenditure forecast includes $100 million of decommissioning costs spread over the period 2031 to 2045. The forecast network charges for 2026-31 are based on the revised proposal demand forecast. The forecast network charges for 2031-32 onward are based on an average of the CIE demand forecast and an extrapolation of the Frontier demand forecast. Network charges are solved as a single period from 2031-32 to 2044-45. Economic lives are set to a maximum of 19 years.

4.4 Impact of revised proposal approach

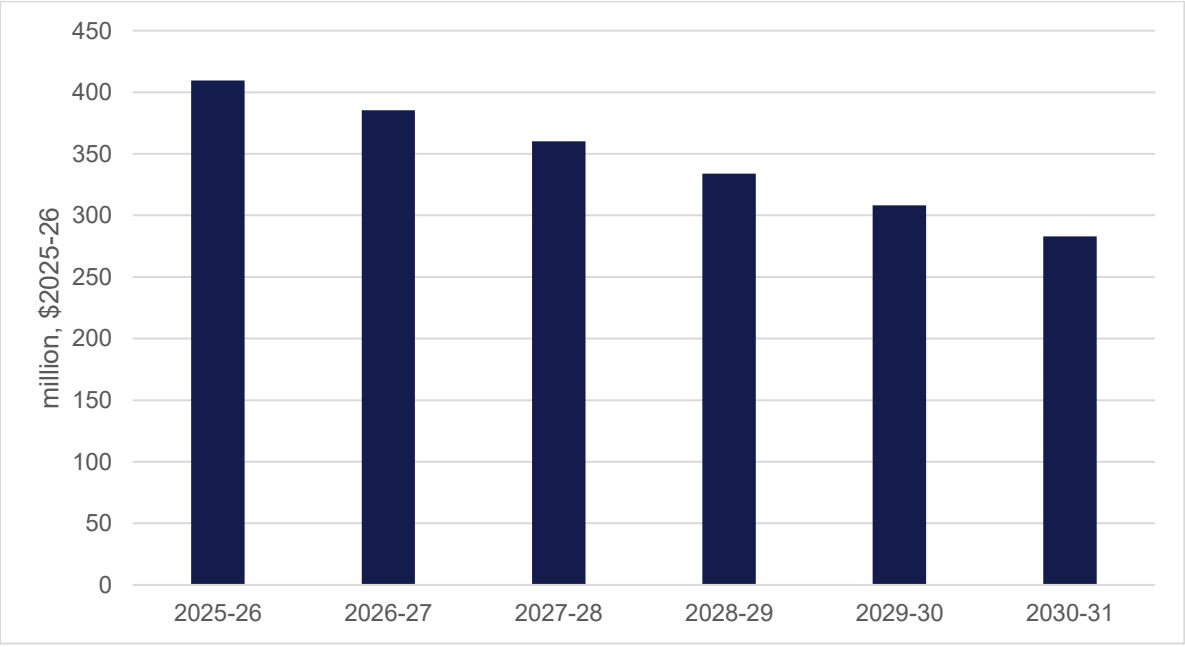
The elements of our revised proposal approach to depreciation are shown in the Figure 11 below.

Figure 11 Elements of revised proposal depreciation



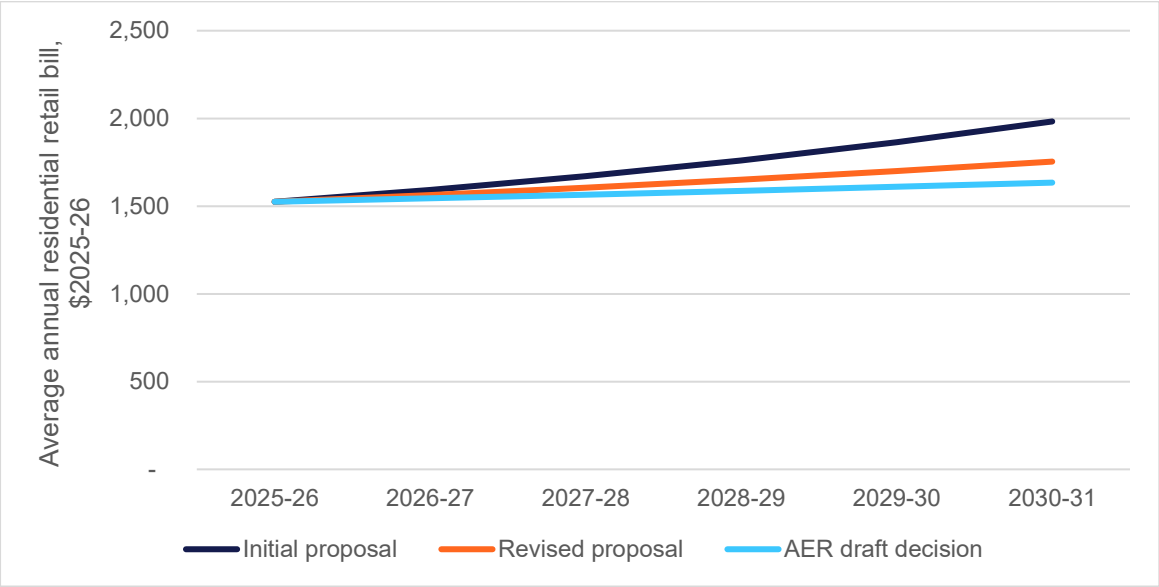
The impact of our revised proposal on the closing capital asset base is shown in Figure 12. The capital asset base is forecast to decline from $409 million at the start of 2026–27 to $283 million by the end of 2031–31, a decline of 31 per cent.

Figure 12 Closing capital asset base



The indicative impact of our revised proposal on the average residential gas retail bill for the 2026–31 period is shown in Figure 13 and reflects an approximate 2.8 per cent per annum real increase. This figure demonstrates the impact on an average residential customer gas retail bill of our revised proposal is less than our initial proposal, approximately 5 per cent per annum, but more than the AER draft decision, approximately 1.4 per cent per annum.

Figure 13 Indicative average residential retail gas bill



Notes: The average residential retail bill reflects changes in distribution network charges. All other components of the retail bill are held constant. Retail bill impacts are calculated for an average residential customer using 27 GJ of gas per year.

5. Further analysis

5.1 Scenarios for economic viability of gas network beyond 2045

The AER's draft decision reasoning to extend our asset lives beyond 2045 referred to the potential for the gas network to continuing servicing industrial customers beyond 2045 (noting the AER itself acknowledged this to be highly unlikely). Figure 1 above demonstrates that not to be economically viable.

The AER draft decision does not raise the potential for the gas network to continue beyond 2045 for the purposes of servicing hard to transition multi-dwelling apartments and/or the NSW residential community.

We have already presented evidence to the AER to demonstrate Evoenergy's gas network would not be economically viable to continue to service only NSW customers beyond 2045.[108] The AER draft decision appears to accept this finding:[109]

[108] Presentation to AER staff on 22 October 2025 (also provided as email on 22 October 2025).

[109] AER (2025) Draft decision – Evoenergy (ACT) Access Arrangement 2026-31 - Attachment 1, p. 19.

> '…we consider the reduction to asset lives should apply for the whole gas network irrespective of the geographical location of the assets. While Evoenergy is still obligated to connect customers in NSW, the NSW portion of its network will have the same expected economic life as the rest of the network. Without the larger customer base in the ACT, it will not be commercially viable for Evoenergy to continue providing network services to only the NSW region due to a significant loss in economies of scale. This approach is consistent with our decision for the 2021–26 access arrangement.'

However for the avoidance of any doubt, Evoenergy confirms it would not be economically viable to service any of the following groups of hard-to-transition customers either individually or collectively:

- Demand (industrial and large commercial) customers
- Multi-dwelling apartments
- NSW customers.

Evoenergy has assessed the extent of network required to continue servicing the above hard to transition customers, individually and collectively, and found that in all cases the price to remaining customers escalates significantly from 2045 as there are simply too few customers remaining on the network to economically operate the required infrastructure.

Specifically, our analysis includes the following conservative assumptions.

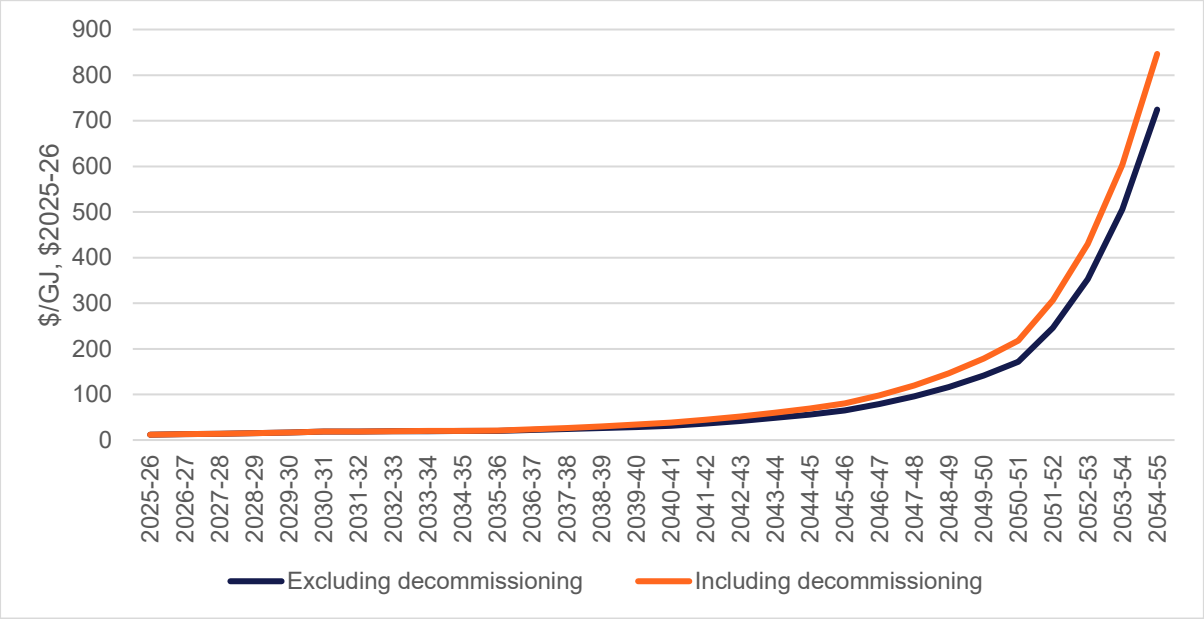
- Maintaining 50 per cent of our 2024-25 demand customers and throughput to 2045 (i.e.500 TJ) and then applying a linear decline to reach zero by 2056 to align with the AER's asset life assumption for high-pressure assets. This is despite only 46 TJ of demand customer load being identified as significantly difficult or impossible to electrify by GPA. [110]
- Maintaining 25 per cent of our current multi-dwelling apartments to 2040 and then applying a linear decline to reach zero by 2051 to align with the AER's asset life assumption for medium pressure assets. This is despite electrification being feasible for most of these sites. For example, the ACT Government's Sustainable Apartment Pilot involved detailed feasibility studies for the electrification of 7 apartment complexes in the ACT. The findings demonstrated 6 of the 7 apartment complexes could be electrified at an economic cost.[111]
- Extending the transition profile for NSW residential customers out to 2051 to align with the AER's asset life assumption for medium pressure assets. This is despite our previous analysis, accepted by the AER, demonstrating that it would be economically unviable to continue serving NSW customers beyond 2045.

With the inclusion of all the above customer groups, network prices would still escalate rapidly after 2045 to between 12 and 15 times the current level by 2050 and to between 62 and 72 times the current level by 2055 (see Figure 14).

[110] Appendix 3.1: GPA Engineering-Feasibility of Evoenergy Gas Network beyond 2045-January 2026, Table 2.

[111] ACT Government Sustainable Apartment Pilot findings expected to be published Q1 2026. Website available here: Sustainable Apartments Pilot - Climate Choices

Figure 14 Network price path associated with supplying customers beyond 2045



To the extent that the AER contemplates the economic viability of servicing any alternative combination of hard-to-transition customers beyond 2045 in its final decision, Evoenergy's expectation is that the AER will bring this to our attention and provide us with a genuine and meaningful opportunity to comment on the basis for the AER's decision, before it is made.

5.2 Stranded asset risk

The AER's 'Regulating gas networks under uncertainty' information paper sets out an expectation for gas networks to provide analysis on stranded asset risk under different scenarios.[112] We addressed this expectation in our initial proposal and have updated the analysis for our revised proposal.

Evoenergy continues to face significant asset stranding risk under our revised proposal approach. Compared with our initial proposal to use the sum-of-year's-digits method, we will recover $56 million less depreciation over the next five years and, consequently, gas prices will need to reach much higher levels in the following regulatory period, as relatively more depreciation needs to be recovered from fewer gas customers.

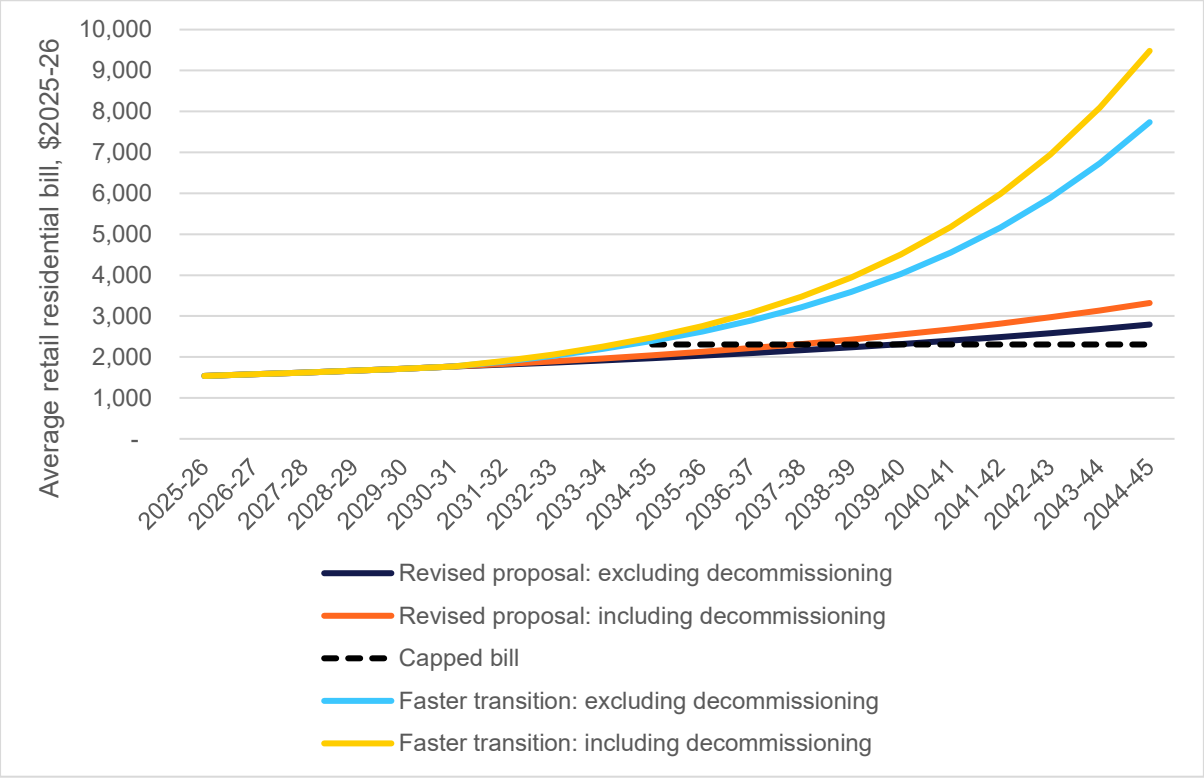
To illustrate this stranding risk, we have imposed a hypothetical policy-based price cap on retail gas price increases. The hypothetical cap is set to a 50 per cent real increase in the retail bill for an average residential customer relative to the 2025–26 retail bill. We allow network charges to increase to a level that results in a retail bill increase of 50 per cent in real terms, assuming no change to other components of the retail bill. After that, network charges are capped. This hypothetical policy-based price cap is not based on any expectation of future policy and is simply hypothetical for illustrative purposes only.

Figure 15 shows the capped versus uncapped retail bills for our revised proposal demand forecast and a faster transition, both with and without decommissioning costs. The faster transition scenario reflects the demand reduction required for the transition away from gas to

[112] AER (2021). Regulating gas pipelines under uncertainty, November, p. 45.

progress in line with the ACT Government's interim emissions reduction targets. Figure 15 also shows results excluding and including decommissioning costs.

Figure 15 Illustrative annual retail bill with and without capped network charges



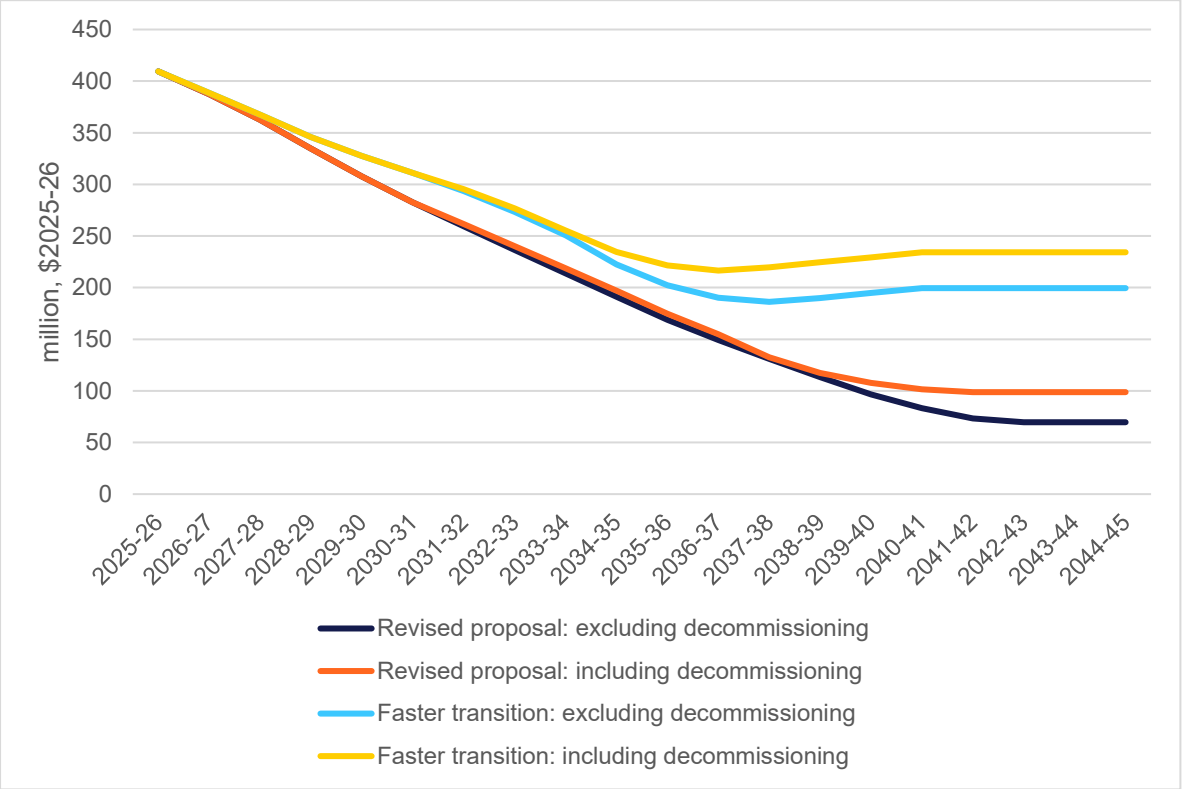
Notes: Retail bill impacts reflect changes in distribution network charges. All other components of the retail bill (gas transmission, wholesale gas and retail) are held constant. Retail bill impacts are calculated for an average residential customer using 27 GJ of gas per year. Changes in network charges are based on Evoenergy's expenditure forecasts to 2045.

As shown in Figure 14, even with Evoenergy's revised proposal demand forecast, the hypothetical policy-based price cap would constrain cost recovery from 2037–38. Under a faster transition, cost recovery would be constrained from 2034-35. Under a slower transition, the AER could adjust the depreciation in subsequent regulatory periods to ensure price stability.

Figure 16 below shows the corresponding asset stranding risk associated with our revised proposal approach if a hypothetical policy-based price cap was set at a 50 per cent increase in the retail gas bill from 2025-26 levels. Under this scenario, Evoenergy would under-recover approximately $70 million to $99 million in efficient investment costs, excluding and including decommissioning costs respectively.

Similarly, if the demand for gas declines quicker than forecast, Evoenergy is at risk of under-recovering approximately $200 million to $234 million under the hypothetical policy-based price cap (excluding and including decommissioning costs).

Figure 16 Closing asset base with capped network charges



Glossary

Term or acronym	Definition
AA	Evoenergy's access arrangement
ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
ACTCOSS	ACT Council of Social Services
ACTG	ACT Government
AD	Accelerated Depreciation
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
CAB	Capital asset base
Capex	Capital expenditure
CESS	Capital Expenditure Sharing Scheme
CIE	Centre for International Economics
CPI	Consumer price index
Decommissioning	Decommissioning refers to the complete or partial shutting down and removal of the infrastructure of the gas network that is no longer in use.
EBSS	Efficiency Benefit Sharing Scheme