

# Utilities (Gas Network Capital Contribution Code) Determination 2012

Disallowable instrument DI2012–169

made under the

**Utilities Act 2000, s 59 (Determined codes) and s 63 (Public access)**

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**1 Name of instrument**

This instrument is the *Utilities (Gas Network Capital Contribution Code) Determination 2012*.

**2 Commencement**

This instrument commences at the same time as section 6 of the *National Energy Retail Law (ACT) Act 2012*, A2012-31.

**3 Revocation of code**

The Commission revokes the *Utilities (Gas Network Capital Contributions Code) Approval 2007*, DI2007-203.

**4 Determination of code**

The Commission determines the attached Gas Network Capital Contributions Code.

**5 Public access to documents**

Copies of the Gas Network Capital Contribution Code are available for inspection by members of the public between 9:00 am and 5:00 pm, Monday to Friday, at the Commission's offices at Level 8, 221 London Circuit, Canberra City ACT and on the Commission's website ([www.icrc.act.gov.au](http://www.icrc.act.gov.au)). Copies of these documents can be made at the Commission's offices. Electronic copies are available on request. No charge will apply.

Malcolm R Gray  
Senior Commissioner  
Independent Competition and Regulatory Commission  
28 June 2012



Australian Capital Territory



**ICRC**

Independent Competition and Regulatory Commission

# Gas Network Capital Contribution Code

**JULY 2012**



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## PART 1 APPLICATION, PURPOSE AND EFFECT OF THIS CODE

### 1.1 Application

This Code applies to **Gas Distributors**.

### 1.2 Purpose

The purpose of this Code is to outline the principles and procedures by which a **Gas Distributor** may impose a **Capital Contribution Charge** payable by a **Customer** in relation to the **Costs** incurred by the **Gas Distributor** in developing or augmenting its **Gas Network**.

### 1.3 Ownership of Infrastructure

The payment of a **Capital Contribution Charge** does not confer on the person paying that charge any ownership in, or other legal or equitable right in respect of, any **Infrastructure** to which that charge may relate.

## PART 2 DICTIONARY

### 2.1 Dictionary Attached

The dictionary at the end of this Capital Contribution Code is part of this Code.

## PART 3 GENERAL PRINCIPLE FOR CALCULATION OF CAPITAL CONTRIBUTION CHARGES

A **Gas Distributor** may charge, and a **Customer** must pay, a **Capital Contribution Charge** for the development or augmentation of its **Gas Network** undertaken to provide Utility Services to a **Customer**.

The amount of the applicable **Capital Contribution Charge** may not exceed the amount calculated in accordance with the principles outlined in the following clauses 4, 5, 6 and 7.

## PART 4 EXTENSION OF GAS DISTRIBUTION NETWORK TO ALLOW LATER CUSTOMER CONNECTION

### 4.1 General

This clause 4 applies to the extension of the boundaries of a **Gas Distribution Network** for the purposes allowing later connection to that network of **Premises** on parcels of land being or to be developed and not already connected to a **Gas Network**.

### 4.2 Standard extension of a Gas Distribution Network

A **Gas Distributor** will, at no charge to a **Customer** who is a land developer, install **Infrastructure** to extend the **Gas Distribution Network** from its existing

**Network Boundary** to and through land being or to be developed on condition that:

- (a) there are no unusual site conditions; and
- (b) the network revenue from the load likely to arise from that distribution infrastructure is not likely to be uneconomic.

#### 4.3 Capacity of Gas Distribution Network Infrastructure

**Infrastructure** installed in accordance with clause 4.2 will be of a capacity assessed by the **Gas Distributor** as reasonable to meet requirements which the **Gas Distributor** considers likely to arise from later connection of detached or semi-detached **Premises** on, or to be constructed on, the land and used for residential purposes.

This clause applies unless the **Gas Distributor** is specifically required by law to construct **Infrastructure** of a particular type or capacity on that parcel of land.

#### 4.4 Determination in relation to extension of a Gas Distribution Network

On request by a **Customer** who is a land developer for extension to a **Gas Distribution Network**, a **Gas Distributor** may determine:

- (a) whether there are unusual site conditions;
- (b) that the network revenue from the load likely to arise from that distribution infrastructure is likely to be uneconomic; and
- (c) that the **Premises** on or likely to be constructed on the land being or to be developed require the installation of **Infrastructure** of a capacity greater than that reasonably required to allow the later connection of detached or semi-detached residential **Premises**.

In making such determinations, a **Gas Distributor** must relevantly:

- (d) consider site conditions including (but not limited to) natural or man-made obstacles, terrain, vegetation and location;
- (e) conduct an economic evaluation using a discounted cash flow model having regard to the network revenue from the load likely to arise from connections likely to be made to that part of the network comprising the requested extension;
- (f) consider planning and land management applications made, or approvals given, in respect of the land.



## 4.5 Non-standard extension of a Gas Distribution Network

### *Unusual site conditions*

If a **Gas Distributor** determines that there are unusual site conditions and a **Customer** who is a land developer still requires an extension to the **Gas Distribution Network**, the **Capital Contribution Charge** may be an amount up to the difference between the **Costs** which the **Gas Distributor** would otherwise have incurred but not charged to a **Customer** under clause 4.2 and the actual **Costs** of the work.

### *Uneconomic extension*

If a **Gas Distributor** determines that likely network revenue would render an extension to the **Gas Distribution Network** uneconomic and a **Customer** who is a land developer still requires the extension, the **Capital Contribution Charge** may be an amount up to the shortfall between the extent to which the connection is uneconomic compared to the required rate of return based upon the economic evaluation contemplated by clause 4.3.

### *Non standard capacity*

If:

- (a) a **Gas Distributor** determines that Premises likely to be constructed on land being or to be developed require the installation of **Infrastructure** of a greater capacity than that assessed as reasonable under clause 4.3; or
- (b) a **Customer** requires the installation of **Infrastructure** of a greater capacity than that assessed as reasonable under clause 4.3,

the **Capital Contribution Charge** may be an amount up to the difference between the **Costs** which the **Gas Distributor** would otherwise have incurred but not charged to a **Customer** under clause 4.2 and the actual **Costs** of the work.

## PART 5 CONNECTION OF PREMISES TO EXISTING GAS NETWORK

### 5.1 General

This clause 5 applies to the development or augmentation of a **Gas Network** to:

- (a) connect **Premises** to already installed **Infrastructure**; or
- (b) vary the capacity of the connection between those **Premises** and the **Gas Network**

regardless of whether:

- (c) the connection or variation of capacity service is requested by a **NERL retailer** or another **Person**; or
- (d) the **NERL retailer** or another **Person** pays the **Capital Contribution Charge**.

## 5.2 Standard connection to a Gas Network

A **Gas Distributor** will, at no charge to a **Customer**:

- (a) connect a **Premises** to already installed **Infrastructure**; or
- (b) vary the capacity of the connection between those **Premises** and the **Gas Network**

if the **Gas Distributor** determines that:

- (a) the connection would be located adjacent to existing suitable **Infrastructure**; and
- (b) there are no unusual site conditions.

## 5.3 Capacity of connection to Gas Network

The connection referred to in clause 5.2 will be of a capacity assessed by the **Gas Distributor** as reasonable for detached or semi-detached **Premises** used for residential purposes.

This clause applies unless the **Gas Distributor** is specifically required by law to construct **Infrastructure** of a particular type or capacity on that parcel of land.

## 5.4 Determination in relation to conditions for connection to a Gas Network

On receipt of a request to connect a **Premises** to its **Gas Network**, a **Gas Distributor** may determine whether:

- (a) the connection would be located adjacent to existing suitable **Infrastructure**;
- (b) there are unusual site conditions; and
- (c) the **Premises** require a gas connection of a greater capacity than that referred to in clause 5.3.

In making such determinations:

- (d) a connection requiring pipelines of up to a maximum of 25 metres from the existing suitable **Infrastructure** to a meter on the **Premises** may be considered adjacent;
- (e) unusual site conditions may include natural or man-made barriers (such as rock, driveways and retaining walls) which may reasonably be considered to impede excavation for the purpose of laying pipelines; and
- (f) the **Gas Distributor** must have regard to the permissible purposes for which **Premises** may be used.

## 5.5 Non-standard connection to a Gas Network

Where

- (a) a **Customer** requires a connection of a greater capacity than that assessed as reasonable under clause 5.3; or
- (b) a **Gas Distributor** determines that:
  - i. the connection would not be located adjacent to existing suitable **Gas Network Infrastructure**; or
  - ii. there are unusual site conditions; or
  - iii. the Premises to be connected require a gas connection of a greater capacity than that referred to in clause 5.3,

and the **Customer** still requires the connection,

the **Capital Contribution Charge** may be an amount up to the difference between the **Costs** which the **Gas Distributor** would otherwise have incurred but not charged to a **Customer** under clause 5.2 and the actual **Costs** of the work.

## PART 6 REDEVELOPMENT OF LAND

If re-development of a parcel of land already connected to a **Gas Network** necessitates re-development or augmentation of gas distribution or service connection **Infrastructure** in order to vary the capacity or connection, the **Capital Contribution Charge** may be equal to the full **Costs** of that re-development or augmentation plus a reasonable profit margin.

## PART 7 REMOVALS AND RELOCATIONS

If a **Customer** requests a **Gas Distributor** to remove or relocate **Infrastructure**, the **Gas Distributor** may charge, and the **Customer** must pay, the full **Costs** plus a reasonable profit margin incurred in removing or relocating such **Infrastructure**.

This clause applies regardless of:

- (a) the age or utilisation of the **Infrastructure**; or
- (b) any previous contribution towards the cost of installing that **Infrastructure**.

No payment, credit or other allowance will be provided for **Infrastructure** removed or relocated.

## PART 8 DICTIONARY

**“Act”** means the *Utilities Act 2000*.

**“Capital Contribution Charge”** means the amount payable in accordance with this Code towards the **Costs** of making **Utility Services** available to parcels of land not already connected to a **Gas Network** or varying the capacity of a connection to a **Gas Network**.

**“Costs”** means the amount incurred by a **Gas Distributor** in making **Utility Services** available to parcels of land not already connected to a **Gas Network** or varying the capacity of a connection to a **Gas Network** and all necessary ancillary work to adequately protect and operate the resultant **Gas Network**, including design, labour, materials, plant, transport, overhead and administration costs but not including any profit margin.

**“Customer”** means any **Person** who acquires services from a **Gas Distributor** in relation to that **Gas Distributor’s Gas Network**, and includes, but is not limited to:

- i. a developer of residential, commercial or industrial land;
- ii. a residential, commercial or industrial customer; and
- iii. a **NERL retailer**.

**“Gas Distribution Network”** has the same meaning as in section 10 of the **Act**.

**“Gas Distributor”** has the same meaning as in the **Act**.

**“Gas Network”** has the same meaning as in the **Act**.

**“NERL retailer”** means a person who holds a retailer authorisation under the *National Energy Retail Law (ACT)*.

**“Infrastructure”** means any infrastructure or other equipment forming part of a **Gas Distribution Network** within the meaning of section 10 of the **Act**.

**“Network Boundary”** has the meaning set out in *Gas Network Boundary Code*

**“Person”** includes a natural person, a firm, an unincorporated association or a body corporate.

**“Premises”** has the same meaning as in the **Act**.

**“Utility Service”** has the same meaning as in the **Act**.