

Our reference: 60550  
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Dear stakeholder

### **Gas distribution reference tariffs in NSW for Jemena Gas Networks from 1 July 2017**

This letter explains the interim arrangements that we are in the process of formalising to govern the setting of gas distribution reference tariffs (and non-price terms and conditions) for Jemena Gas Networks (JGN) for the 12 month period commencing on 1 July 2017.

After the level of allowed revenue is determined through the appeals process, an adjustment to JGN's future gas distribution reference tariffs will be needed if there is any difference between the final level of revenues allowed under JGN's weighted average price cap and the level of revenue already recovered under these interim arrangements. The appeals process will determine the revenue that JGN is allowed to earn from customers for the provision of gas pipeline services over the 2015-2020 period.

#### Background

On 26 February 2016, the Australian Competition Tribunal (the Tribunal) handed down its decisions on the limited merits review of the AER's NSW and ACT electricity determinations and JGN's gas access arrangement decision issued in April and June 2015 respectively. The Tribunal set aside and remitted to the AER for further consideration the AER's determinations for the NSW and ACT service providers:

- The ACT electricity distributor (ActewAGL)
- The NSW electricity distributors (Ausgrid, Endeavour Energy and Essential Energy)
- The NSW gas distributor (Jemena Gas Networks)

On 24 March 2016, the AER applied to the Full Federal Court for judicial review of the Tribunal's decisions. The Full Federal Court heard the matter in October 2016, and has reserved its judgement.

Resolution of the judicial review and potential remittal process is likely to take some time. In the interim, it is not clear what network charges should apply. Neither the Tribunal's decision nor the National Gas or Electricity Rules provided an unambiguous way forward.

#### Current 2016-17 interim arrangements

In May 2016, we entered into an enforceable undertaking with JGN to establish gas distribution reference tariffs for the 12 month period commencing 1 July 2016.

This undertaking sought to provide predictability and transparency, while minimising price volatility, for all stakeholders through establishing interim arrangements through which:

- JGN's reference tariffs were kept constant in nominal terms

- All non-price components of JGN's access arrangement (e.g. the reference service agreement) were maintained.

JGN's current enforceable undertaking does not set out arrangements for tariff setting beyond 30 June 2017. As the appeals process is on-going, we are in the process of establishing new interim arrangements through entering into a new enforceable undertaking with JGN to govern the setting of reference tariffs to be applied from 1 July 2017.

#### 2017-18 interim arrangements

We consider the objectives of minimising price volatility, and providing for predictability and transparency remain relevant to the establishment of a new undertaking for JGN.

Overall our approach for the new enforceable undertaking for 2017–18 is to:

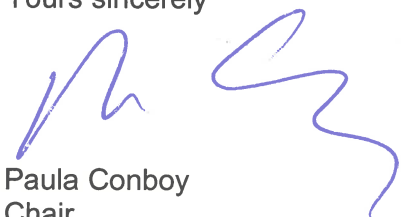
- Establish a framework in the undertaking that minimises price volatility for consumers and protects against significant under or over recoveries of revenue by JGN.
- Provide for real price reductions of 7 per cent, on average, to JGN's gas reference tariffs. And provide for the submission of an annual pricing proposal for the 12 month period from 1 July 2017 to give effect to this outcome. A 7 per cent average real price reduction is consistent with the weighted average price cap form of control and the X factor for 2017–18 from our June 2015 final decision.
- Provide for all non-price components of the access arrangement (e.g. the reference service agreement) to be maintained.

The approach of reflecting average price reductions in 2017–18 tariffs, rather than keeping tariffs constant at current levels, is because we expect this approach will more effectively reduce price volatility over the medium term, irrespective of the appeal outcome.

We are in discussions with JGN regarding the terms of the undertaking that will give effect to the above. We expect JGN to offer an undertaking which will last for one year. Once we accept the new undertaking we will make it publicly available on our website. We expect the undertaking to be finalised during May.

If you have any questions about this letter, please contact Scott Sandles on 03 9290 1487.

Yours sincerely



Paula Conboy  
Chair  
Australian Energy Regulator