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17 November 2015

Robert McMillan
General Manager Regulation
Jemena

Sent by email

Dear Mr McMillan

Jemena 2016 Electricity Distribution Price Review preliminary decision – request for clarification

Thank you for your letter dated 11 November 2015 in which you raise concerns that the Australian Energy Regulator's (AER's) consultation process—for the Victorian electricity distribution pricing review—does not provide stakeholders with a fair opportunity to properly understand the AER's decision and analysis, and to respond to it.

As set out in our October 2015 preliminary decision, and consistent with the provisions in the transitional rules, Jemena's revised proposal and submissions on our preliminary decisions are due by 6 January 2016. We will then give third party stakeholders an opportunity to comment on the revised proposals by 4 February 2016. By the same date, we will allow further submissions from all stakeholders, including the distribution businesses, on the submissions made by third party stakeholders to the preliminary decisions. Our final decision for Jemena is due to be released in late April 2016.

Jemena considers the National Electricity Objective is best achieved where all parties have an opportunity to express divergent opinions and where Jemena is given a reasonable opportunity to respond to issues, concerns or views raised by the AER or other stakeholders in submissions.

In this context, Jemena states it is concerned that the AER's timeline does not include an opportunity for it to respond to third party submissions made on Jemena's revised proposal (due by 4 February 2016). Jemena proposes for the AER to include an additional step in the consultation process to allow Jemena to respond to these submissions—in other words, to have the final say.

Further, Jemena highlights that the AER must under the National Electricity Rules use its best endeavours to publish, a reasonable time prior to making a new distribution determination, any analysis undertaken by or for it on which it proposes to rely, or to which it proposes to refer, for the purposes of that new distribution determination (see rule 11.60.4(k)).

Jemena states that this requirement is critical to ensuring that stakeholders have a fair opportunity to properly understand the analysis that underpins the final decision and, where relevant, respond to it. Jemena proposes for the AER to include additional steps, again, in the consultation process to provide this material to stakeholders, so that they can respond to it.

We will use our best endeavours to publish a reasonable time prior to making our final decisions any analysis we undertake and propose to rely on.

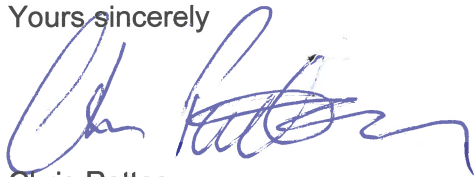
It is not possible to change our timetable for consultation as proposed by Jemena if we are to meet the requirements of the National Electricity Rules to make our decision in the allowed time. Under the transitional provisions that apply to this process under the National Electricity Rules, we must make our final decisions for the five Victorian electricity distributors by the end of April 2016. This limits our ability to undertake the kind of consultation as is proposed.

We seek to run an open and transparent process—providing all parties with a reasonable opportunity to understand and respond to the AER's decision and analysis. The AER's network revenue determination engagement protocol sets out our principles of engagement, and what they mean in practice for how we engage with regulated network businesses and all other stakeholders on these processes. This document is available on the AER's website at: <http://www.aer.gov.au/networks-pipelines/our-role-in-networks>

A key aspect of this is providing procedural fairness so that all of our stakeholders have an opportunity to be heard and have their views considered. Further, decision making is improved through timely consideration of the views presented to us by all stakeholders.

Please do not hesitate to contact me or Anthony Bell, AER director, if you would like to further discuss this matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Pattas', with a stylized flourish at the end.

Chris Pattas
General Manager
Networks