

17 February 2020

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EnergyAustralia
LIGHT THE WAY

Lodged electronically: JNGAAR2020-25@aer.gov.au

Dear Mr Jovanoski

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Jemena Gas Networks (NSW) – Access Arrangement 2020-25

EnergyAustralia is one of Australia's largest energy companies with over 2.5 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own and operate a multi-billion dollar energy generation portfolio across Australia, including coal, gas, and wind assets with control of over 4,500MW of generation in the National Electricity Market (NEM).

EnergyAustralia welcomes the opportunity to respond to Jemena Gas Networks (NSW) – Access Arrangement 2020-25. We appreciate the consideration the AER has expressed to retailer's feedback, and we will aim to highlight below the changes to the Reference Service Agreement (RSA) we accept, and changes we believe should still be considered.

Accepted Amendments

EnergyAustralia are grateful for Jemena Gas Networks (JGN) continued consideration of retailer's concerns and the resulting changes it has already made to their initial RSA. We are particularly appreciative of the amendment to *Clause 12(b)(i)* which has confirmed that charges to retailers will not be applied after the date of disconnection. It is a significant improvement for retailers to no longer receive charges after a site is disconnected; as these will generally have no customer to pass the charges on to, impacting us financially, which ultimately results in increased costs that all customers incur.

This is an initiative that JGN have led and something that has not yet been formalised by other distribution businesses. We commend this decision and implore the AER to consider this an appropriate decision for all distribution businesses to consider.

EnergyAustralia held productive discussions with JGN in late December 2019, which highlighted a disconnect in interpretation by EnergyAustralia and JGN. The discussion outlined areas of concern that both parties would need to investigate and consider further. During the conversation there were concerns of EnergyAustralia that JGN acknowledged and the following amendments were made:

- *Clause 19.5(a)(iii)* – JGN included '*provided it has taken all reasonable and prudent steps to mitigate such a theft*'.
- *Clause 12(a)(iv)* – JGN replaced '*necessary endeavours*' with '*reasonable endeavours*'.

- *Clause 16.5(f)* – JGN included 'JGN cannot recover its costs from the User under clause 16.5(c) where the area surrounding the Measuring Equipment has become unsuitable due to JGN's wilful or negligent acts or omissions'.
- *Clause 16.7(e)* – JGN included 'JGN cannot recover its costs of replicating the Measuring Equipment from the User under clauses 16.7(c) or 16.7(d) where JGN is unable to safely access the Delivery Point due to JGN's wilful or negligent acts or omissions'.

The concerns held by retailers throughout the RSA review process have predominantly focused on the implication of specific wording that would move liability between the parties. The additions above highlights that JGN have considered retailers' concerns and appreciate the RSA should limit liability where JGN has not acted in accordance with best practise or used its best endeavours to limit loss.

Preferable Amendments

EnergyAustralia has concerns that remain with the RSA, which continue to highlight our interpretation that liability is unfairly being imposed on retailers:

Definitions (Loss)

In our view, the Definitions of 'Loss' and 'Consequential Loss' should be amended to reflect a more tangible expression; therefore, we prefer JGN's 2015-2020 RSA definitions 'Damage', 'Consequential Damage' and 'Direct Damage'.

JGN maintain that the definition is similar to the previous RSA. EnergyAustralia believe that further consideration is required to improve a retailer's position in this space, as this predominantly refers to incidents outside the reasonable control of a retailer; such as, Gas Specification/Source and retailers have limited recourse with gas suppliers (BOC, etc.).

Clause 10.1(a) and Clause 27.4 (a)(ii)(B)

In the current Short Term Trading Market (STTM) EnergyAustralia can 'procure' gas from a supplier, we are unable to ensure the gas delivered meets the required Gas Specifications. EnergyAustralia appreciate that JGN is also limited in its capacity to ensure the gas supplied meets the required Gas Specifications, and we do not suggest that any requirement is moved from a retailer to JGN.

EnergyAustralia understand the AER will consider the reality of retailer involvement in gas specification as part of a broader review. We therefore request that the AER require the removal of any liability on retailers for the actual 'delivery' of gas that fails to meet the required Gas Specifications, while broader review is being considered.

Clause 26.3

This clause outlines the indemnity in favour of JGN and its associates for any loss, following a range of actions by the User. As outlined above, the indemnity in favour of JGN is ultimately too broad and does not consider the inherent risks that are more suited to JGN as the distribution business instead of the retailer; which has limited capacity within this space. As such, EnergyAustralia suggest that *Clause 26.3 'Loss'* is amended to read 'Loss (other than Consequential Loss)'.

Clause 16.2(b)

EnergyAustralia accepts that meter upgrades required for an increase in customer's Maximum Daily Quantity (MDQ) or Maximum Hourly Quantity (MHQ) is the responsibility of the customer and something that a retailer would pass through. EnergyAustralia's concerns relate to the scope that this may be used:

- A customer vacates the property, resulting in a reduction in MDQ/MHQ. We have no customer to pass any meter upgrade costs to and will therefore incur the charge, or
- Customer's consumption is reduced unexpectedly (period of downturn), which could trigger a meter exchange that the customer does not request and will dispute incurring charges for.

Successful Service Order Completion

JGN's RSA outlines the liability for a range of scenarios, unfortunately it does not provide any requirement for JGN in the realm of successful service order completion. There are significant issues impacting JGN's capacity to complete service orders to a reasonable industry standard, most notably those relating to disconnection.

EnergyAustralia is aware that all retailers operating in NSW experience a service standard significantly below other gas distribution businesses, in the disconnection space. The core reason for this low level of completion relates to the meters that historically JGN either installed or allowed to be installed in inaccessible locations (against their own meter installation guidelines).

Disconnection is an avenue that retailers take as a last resort, it is something that we employ when we have failed to either establish an account with a customer (unknown customer) or an existing customer has reached a disconnection trigger for unpaid debt. Ultimately the decision to disconnect a service is to limit loss that a customer is experiencing, where it is not successful the customer debt and retailer loss will increase.

Increased debt to a customer limits the customer's capacity to resolve the outstanding balance and is likely to prolong the period they are unable to achieve affordability of their energy consumption. The increase in exposure to loss by a retailer puts strain on a retailer's capacity to offer lower retail offers, and in extreme cases can present a situation in which a retailer is financially unable to participate in the market.

EnergyAustralia request the AER to consider that JGN's (or any distribution business) failure to achieve a reasonable service standard for successful service order completion – in particular, disconnection – should move liability for charges after the 'reasonable' period (number of failed disconnection attempts over a minimum period) to JGN. As such, EnergyAustralia request the RSA is expanded to include a minimum standard that JGN should achieve in respect to service order completion.

If you would like to discuss this submission, please contact me on 03 8628 1704 or Travis.Worsteling@energyaustralia.com.au.

Regards

Sarah Ogilvie

Industry Regulation Leader