

Jemena Gas Networks (NSW) Ltd

2015-20 Access Arrangement Information

Appendix 1.1

Explanation of proposed revisions to the 2010 AA

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1. INTRODUCTION

1. In its Access Arrangement (**AA**) proposal for the 2015-20 access arrangement period (**2015 AA proposal**), JGN has proposed a number of changes to its current access arrangement (**2010 AA**). Those changes fall into the following categories:
 - changes which are consistent with, or replicate, principles or structures in the 2010 AA but with amendments to:
 - reflect JGN's revised approach to the reference service, reference tariffs and reference classes
 - clarify or simplify the particular process or mechanism to enhance the practical workability of the clause and/or
 - align JGN's approach with other network businesses' approved access arrangements
 - changes to more closely align the drafting of particular provisions with the National Gas Rules (**NGR**), particularly where NGR requirements have changed as a result of the introduction of the National Energy Customer Framework (**NECF**) in NSW, or which are responsive to other rule changes (e.g., return on debt and amendments to rule 87 of the NGR)
 - deletion of clauses that were in the 2010 AA which are redundant or duplicative, thereby, simplifying the access arrangement document. These clauses may be overly detailed, already found in the Reference Service Agreement (**RSA**), or simply duplicate a rule in the NGR that does not relate to the particular contents of JGN's AA.
2. The key changes are outlined in the table below. This table does not include mechanical drafting or other formatting changes (e.g. paragraph renumbering, new or amended subheadings) that are reflected in the mark-up provided with the 2015 AA proposal.

Table 1–1: Explanation of proposed revisions to the 2010 AA

Subcategory	2010 AA reference	2015 AA reference	Summary of proposed change
Introduction			
General – information about the Network and other introductory matters	Clause 1	Clause 1	<p>Clause 1 of the 2010 AA has been shortened and simplified, while retaining the elements required by rule 48 of the NGR. Key changes proposed include:</p> <ul style="list-style-type: none"> • an updated Review Submission Date (30 June 2019, or such later date as provided for by the AER pursuant to the NGR) and Revision Commencement Date (1 July 2020) are included. In relation to the Review Submission Date, JGN notes that it has removed the acceleration of the Review Submission Date clause in the 2010 AA (clause 11). That clause was inserted in the 2010 AA in anticipation of expected amendments to the National Gas Law (NGL) and the NGR or the commencement of the National Energy Retail Law and National Energy Retail Rules in New South Wales during the 2010-15 AA period. Given these changes have now been effected, it is therefore no longer relevant for the 2015 AA proposal • an interpretation clause has been inserted in clause 1 of the 2015 AA proposal, which essentially cross-refers to schedule 1 (which sets out the definitions) and incorporates a principle in schedule 1 of the 2010 AA that states that terms not defined in the AA are defined in the RSA. JGN is not proposing any revisions to the other interpretation principles in schedule 1 • The brief history of JGN in clause 1.1 of the 2010 AA has been deleted as it is not required under the NGR and the description of the Network is shorter– that information will be placed on JGN's website as required by clause 48(1)(a) of the NGR. Network maps and receipt points are still included in the 2015 AA proposal – that information is in schedules 8 and 9 (which have both been updated for the 2015 AA proposal).
Services Policy			
Reference Services	Clause 2.2	Clause 2.2	JGN is proposing to offer a single reference service in the 2015 AA proposal – the Haulage Reference Service. Further information about the proposed Reference Service is set out in section 3.2 of JGN's 2015-20 Access Arrangement Information (AAI).
Non-Reference Services	Clause 2.3	Clause 2.4	The non-reference services to be offered under the 2015 AA proposal are the same as under the 2010 AA.

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Reference Tariff Schedule and Variation Mechanisms			
Reference Tariffs – introductory provisions	Clause 3.1 and 3.2	Clauses 3.1, 3.9 and 3.10	<p>Some of the introductory provisions in clause 3 of the 2010 AA have been removed in the 2015 AA proposal as they were redundant and not required by the NGR. Most of the introductory provisions have, however, been retained with minimal amendment:</p> <ul style="list-style-type: none"> clause 3.1(b) of the 2015 AA proposal clarifies how JGN may vary Reference Tariffs during the 2015-20 AA period by effecting such variations through Reference Tariff components, introducing or withdrawing Reference Tariffs, or any combination of these. This clause is similar to a clause that was approved in Envestra's (Victoria) AA (see, clause 4.4.1 of the Envestra (Victoria) AA) the provision regarding publication of a revised Reference Tariff Schedule (RTS) has been shifted to clause 3.9 in the 2015 AA proposal with no substantive changes the principle in clause 3.1 of the 2010 AA regarding how JGN determines Reference Tariffs and the depreciation method used for establishing the opening Capital Base for the 2015-20 AA period and the subsequent access arrangement period are now in clause 3.10.
Initial Reference Tariff Schedule	Schedule 2	Schedule 2	<p>The Initial Reference Tariffs are set out in schedule 2 of the 2015 AA proposal. As well as simplifying its reference service offering, JGN is proposing to simplify its tariffs by consolidating fixed charges and removing redundant tariff classes. An explanation of these changes is set out in chapter 13 of the AAI. These changes include:</p> <ul style="list-style-type: none"> new tariff classes and consequential changes to tariff class assignment criteria (see description in sections 3.2 and 13.2 of the AAI) transitional arrangements between the 2010 AA and 2015 AA proposal for the assignment or re-assignment of certain tariff classes and reductions in chargeable demand have been set out in a new section in the RTS rather than the RSA.
Reference Tariff variation mechanism	Clauses 3.4(b) and 3.5	Clauses 3.2 and 3.3	<p>JGN proposes to broadly retain the current method for varying reference tariffs over the 2015-20 AA period, that is, it proposes to retain a tariff basket form of price control for varying reference tariffs. The changes that JGN is proposing to the price control formula are set out in chapter 14 of the AAI.</p> <p>The definition of q_{t-2}^{xy} in the formula differs slightly to the definition in the 2010 AA in that it refers simply to quantity rather than “actual quantity”—this is to reflect the fact that in some cases, JGN will be using reasonable estimates of quantity as actual quantity data will not be available. For example, in the year after a new tariff has been introduced, audited historical actual quantity will not be available. JGN notes that this change is consistent with the Jemena Electricity Network (JEN) definition of the equivalent of q_{t-2}^{xy} in its price control formula (see clause 2.1 in</p>

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			JEN's distribution determination amended in accordance with the orders of the Tribunal (28 September 2012)). JGN notes that any intra-year variations are to also comply with the price control formula for annual Reference Tariff variations. This is consistent with the approach in clause 3.4(b) of the 2010 AA but with the added clarification that JGN needs to make such adjustments as necessary given it is an intra-year rather than an annual variation. The AER will then have oversight of the variation as discussed below.
Procedures for notifying the AER of a Reference Tariff variation	Clause 3.4(b), (c) and (d)	Clauses 3.6 and 3.7	The variation notice process from the 2010 AA has been largely retained for both annual and intra-year variations. A key difference is that the intra-year variation notice process is now set out separately in the 2015 AA proposal. For annual reference tariff variations, JGN will submit a variation notice no later than 15 March or the next closest business day prior to the commencement of the relevant financial year to which the variation relates. This is earlier than the equivalent date under the 2010 AA (15 April or the next closest business day). For intra-year variations, JGN proposes that a variation notice must be submitted to the AER at least 50 business days prior to the date upon which it intends the varied tariffs to come into effect. The same period applies under the 2010 AA.
AER assessment of Reference Tariff variations	Clause 3.4(d)	Clause 3.8	JGN proposes to retain the timing in which the AER must inform JGN as to its decision on the reference tariff variation (30 business days). The 2015 AA proposal affords the AER an ability to extend the time for making its decision (for a maximum, additional 20 business days) where the AER needs to obtain further information from JGN, obtain expert evidence or consult about the variation notice. A maximum period of 50 business days for the AER to approve or reject any proposed variation affords the AER adequate oversight as required under rule 97(4) of the NGR. The time period for the AER's consideration of any variation notice is consistent with time periods in other recently approved AAs.
Cost Pass Through Events – list of events, materiality, AER notification and assessment, and cross-period events	Clauses 3.4, 3.5C and 3.5D	Clauses 3.4 and 3.5, and Schedule 3	The key changes in the 2015 AA proposal on Cost Pass Through Events are as follows: <i>Revised list of Cost Pass Through Events</i> JGN proposes to revise the list of Cost Pass Through Events for the 2015-20 AA period to align with events adopted by other network businesses in recently approved AAs where it is appropriate and practical to do so. Certain cost pass through events in the 2010 AA are now specified as automatic adjustment factors, which the AER will have oversight of pursuant to the variation notice process found in clause 3.6 of the 2015 AA proposal. Further information regarding JGN's proposed approach to cost pass through is set out in chapter 15 of the AAI.

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			<p><i>Materiality thresholds</i></p> <p>JGN is proposing to amend the materiality thresholds which apply to the proposed Cost Pass Through Events for the 2015-20 AA period essentially as follows:</p> <ul style="list-style-type: none"> automatic adjustment factors—no materiality threshold (in keeping with the approach taken in the 2010 AA for Change in Tax Events, Licence Fee Adjustment Events and UAG Adjustment Events) • Regulatory Change Event related to carbon (where not otherwise captured by carbon cost adjustment factor)—no materiality threshold • all other Cost Pass Through Events—1 per cent of the smoothed forecast revenue in the year in which the costs are incurred, or 0.5 per cent of the smoothed forecast revenue over the 2015-20 AA period. <p>The rationale for these amendments is set out in section 15.2 of the AAI.</p> <p><i>Notification of Cost Pass Through Events</i></p> <p>JGN's proposed approach to notification is essentially the same as that which applies under the 2010 AA. An initial notification is required to be lodged with the AER within 90 business days of becoming aware that the relevant event has occurred (clause 3.4(d)). Where details of costs incurred or likely to be incurred as a result of the event are not known at that time, clause 3.4(h) provides for JGN to submit a supplementary notice containing that additional cost information.</p> <p>Following JGN's notification, the AER is to make a decision on any notification of a Cost Pass Through Event within 40 business days, with the ability to extend that timeframe to an absolute time limit of 90 business days. This absolute 90 business day period is unchanged from the 2010 AA. The matters that the AER must take into account in making a determination on a Cost Pass Through Event are also largely unchanged.</p> <p><i>Definition of WACC</i></p> <p>Clause 3.4(j)(iv) provides that the AER is to take into account the time cost of money based on the WACC for JGN. JGN has amended the definition of WACC to clarify that the time value of money adjustment will use a pre-tax WACC. This avoids doubt that a vanilla or post-tax WACC could also be fit for this purpose. The pre-tax WACC is appropriate because the revenue allowance is before the payment of corporate tax. This approach is consistent with how the X factors are calculated in JGN's forecast revenue model.</p> <p><i>UAG costs notification</i></p> <ul style="list-style-type: none"> • UAG costs are now specified as an automatic adjustment factor and the method for calculating those costs is set out in schedule 3. As part of the streamlining and simplification process, JGN has deleted the process in

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			<p>clause 3.5D of the 2010 AA which involves JGN providing the AER with a statement containing UAG cost information. This information could still be provided to the AER on an annual basis as part of the RIN reporting process.</p> <ul style="list-style-type: none"> • <i>Cross-period cost pass through events</i> <p>JGN proposes to insert a provision to clarify the approach to cost pass through events occurring in an immediately prior access arrangement period, the costs of which are not passed through in Reference Tariffs in that period. JGN's proposal is that such costs are to be passed through in the subsequent regulatory period (2015 AA proposal, clause 3.5). JGN considers such a provision is necessary given there is typically a lag of at least 12 months between JGN's final opportunity to vary Reference Tariffs under a particular access arrangement and the commencement of a new access arrangement such that there is a need for a mechanism to pass through costs associated with an event that occurs in the final year of an access arrangement period in the next access arrangement period.</p> <p>The provision intends to capture circumstances arising under three different scenarios:</p> <ul style="list-style-type: none"> • where the AER has made a decision as to the amount that should be passed through as a result of the cost pass through event, but where it is impracticable for pass through to occur in that access arrangement period (such as where the AER's decision occurs in the final months of the access arrangement period) • where JGN has notified the AER of the cost pass through event in the immediately prior access arrangement period but the AER has not made its decision before the end of that period • where the timing of the event is such that although the event had occurred, it was not notified to the AER by JGN and the notification ultimately occurs in the subsequent access arrangement period. <p>This provision is expressed as a fixed principle.</p> <p>The cost pass through factor formulae in schedule 3 of the 2015 AA is intended to also deal with pass through amounts that arise as a result of cross-period cost pass through events.</p>

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Tariff Class assignment and re-assignment			
Tariff Class assignment	Clause 3.3	Clause 4.1	For clarity, the Tariff Class assignment provisions in the 2010 AA have been shifted to a separate section in the 2015 AA proposal but are largely unchanged. The only additional provision is a new clause that requires a User or Prospective User to provide, on request, information to enable JGN to assign a Delivery Point with a Tariff Class.
Tariff Class re-assignment	Clause 3.3	Clause 4.2	The Tariff Class re-assignment provisions in the 2010 AA have also been shifted, with three changes: <ul style="list-style-type: none"> • clarification that Tariff Class re-assignment may occur if a Tariff Class has been withdrawn • the provision dealing with User-requested re-assignment has been amended to align with rule 509 of the NGR which deals with tariff class re-assignment • a new provision on how JGN will determine a User's request and inform the User of its decision has been inserted, again to ensure alignment with rule 509.
Return on debt and averaging period nomination			
Updating the return on debt within the AA period	n/a	Clause 5	<p>This is a new clause designed to facilitate updating of the return on debt within the 2015-20 AA period. Updating of the return on debt within the 2015-20 AA period is now allowed for, following recent changes to rule 87 of the NGR. Clause 5.1 of the 2015 AA proposal allows for the return on debt for each year to be different (as is now provided for by rule 87(9)(b) of the NGR). This is done by annual updating of a trailing average return on debt formula. The trailing average formula that is used in clause 5.1 is as set out in the AER's Rate of Return Guideline.</p> <p>Clauses 5.2 and 5.3 set out the method for estimating the prevailing return on debt in later years of the 2015-20 AA period, for the purposes of updating the trailing average. This method has been specified in as much detail as possible, so that it can be applied automatically and within a relatively short timeframe.</p> <p>Clauses 5.4 to 5.7 set out processes for nomination of averaging periods and determination of the prevailing return on debt in these later years. This includes processes for the AER to review and approve averaging periods and to review JGN's calculations of the prevailing return on debt for each averaging period. These processes for AER oversight of averaging periods and return on debt calculations are very similar to other key processes under the AA, such as the process for review and approval of cost pass through events.</p> <p>Clauses 5.8 and 5.9 set out how the change in total revenue and tariffs will be effected. For most years, this involves updating the X factors in the PTRM. However for the last year of the 2015-20 AA period, a true up amount needs to be carried into the next AA period, because the update to the return on debt cannot be done in time to be reflected in tariffs for that last year.</p>

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Speculative capital expenditure and investment policy			
General	Clause 4	Clause 6	The 2015 AA proposal retains the expansion incentive mechanism. Amendments have been made to align the expression of the provision with rule 84.
Capital redundancy policy			
General	Clause 5	n/a	This clause has been deleted as it replicates the requirements in rule 85 of the NGR.
Queuing policy			
General – formation of queue and procedure for making capacity available	Clause 6	Clause 7	<p>The 2015 AA proposal retains most of the drafting in the 2010 AA but with changes to clarify that:</p> <ul style="list-style-type: none"> the general principle is that Requests will be treated in the queue on a first in, first served basis, similar to the queuing policies of other network businesses where an offer to provide a Service has been made in relation to a Request, that Request will take priority to a Request where no offer to provide a Service has been made (2015 AA proposal, clause 7.1(b)) where an offer of capacity is made to a Prospective User in the queue, which meets in part the requirements of the Request, the position in the queue remains until the Request can be fully satisfied (2015 AA proposal, clause 7.3(c)(ii)) the prudential requirements in relation to assignment or transfer of a Request in the queue are subject to the terms of the RSA (2015 AA proposal, clause 7.2(d) and (e)) when administering a queue, JGN may take into account a connection contract that it has entered into under Part 12A of the NGR, in determining that customer's priority in any queue (2015 AA proposal, clause 7.6(c)).
Extensions and expansions policy			
General – method for determining if extension or expansion forms part of the covered pipeline	Clause 7	Clause 8	<p>The 2015 AA proposal makes changes to:</p> <ul style="list-style-type: none"> more closely align the drafting of the clause with the terminology used in rule 104 (2015 AA proposal, clauses 8.1(a), 8.2(a) and (b)) remove the notification requirements for any proposed surcharge to be levied on users of incremental services (2010 AA, clause 7(d)). This is provided for in the clause on “Speculative capital expenditure and investment policy” (2010 AA, clause 4(a)(ii), and 2015 AA proposal, clause 6.1(a)(ii)).

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Capacity trading			
General	Clause 8	Clause 9	The 2015 AA proposal does not amend the 2010 AA.
Changing receipt and delivery points			
General	Clause 9	Clause 10	The 2015 AA largely retains the drafting of the 2010 AA. An additional clause provides that JGN cannot unreasonably withhold its consent to any request made under this provision (2015 AA proposal, clause 10.3). This is intended to reflect rule 106(2).
Consolidated Access Arrangement			
General	Clause 10 (titled, as “Fixed principles”)	Clause 11	The 2015 AA proposal does not amend the clause in the 2010 AA (including retaining its fixed principle character). The provision has been retitled by reference to its substantive, operative subject matter.
Operating expenditure efficiency benefit scheme			
General	n/a	Clause 12	JGN proposes the application of an efficiency benefit sharing scheme (EBSS) (proposed as a fixed principle), which has not been provided for in the 2010 AA. The EBSS is broadly consistent Envestra’s (Victoria) AA. Further information on the EBSS is set out in section 11.1 of the AAI.
Reference Service Agreement			
General	Schedule 3	Schedule 4	Appendix 1.2 of the AAI provides background information to the RSA, including changes proposed for the 2015-20 AA period.