



Draft economic benchmarking regulatory information notice (RIN)

**Submission from
Jemena Electricity Networks to the
Australian Energy Regulator**

18 October 2013



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1 Executive summary

Jemena Electricity Networks (**JEN**) welcomes the opportunity to respond to the Australian Energy Regulator's (**AER's**) email of 18 September 2013, requesting comment on the draft economic benchmarking regulatory information notice (**RIN**).

JEN endorses the ENA's submission

JEN contributed to and supports the submission on this topic from the Energy Networks Association (**ENA**). Rather than re-state the points made in the ENA's submission, JEN's submission only provides incremental information and views from JEN on specific issues or where we wish to elaborate on matters covered in the ENA submission.

JEN specifically supports the following key ENA submission recommendations:

- **10 years' back cast data** – the AER should recognise that there may be circumstances when a network service provider (**NSP**) may reasonably and legitimately not be able to provide data that the AER is seeking. In light of this, the AER should amend the RIN to require NSPs to provide no more than five years of back cast data because it is more likely to be reasonable to expect that meaningful data could be obtained for a shorter period;
- **Audit requirements** – the proposed audit and assurance requirements are not sufficiently clear and raise the strong possibility of an auditor, or assurance practitioner, being engaged and completing work that does not meet the AER's expectations. The AER should provide significantly greater clarity and certainty by publishing general guidance about these requirements in a Regulatory Accounting and Assurance Guideline. The AER's requirements should be consistent with Auditing and Assurance Standards;
- **Statutory declaration** – the proposed form and content of the statutory is not appropriate. The statutory declaration should be replaced by a responsibility statement that asserts whether the historical information in the RIN is true and fairly stated, the estimated information has been arrived at on a reasonable basis and the basis of estimate has been stated and fulfils the requirements on which the auditor will be required to sign off. For instances where JEN has adopted the AER's guidance on estimation methods, the officer should assert this due to the absence of better quantitative or qualitative information; and
- **Timing** – the AER should recognise that there is a strong possibility that no officer of JEN would agree to sign a statutory declaration on unaudited data. As a consequence, the AER should request that the statutory declaration and audit will need to be signed off contemporaneously and require NSPs to provide a final set of data in May 2014.

JEN's further recommendations to the AER

- **Recommendation 1, 4 and 5 – Back casting period should be shortened** – the AER should have regard to JEN's historical circumstances by limiting the time period for back casting to no more than five years (2008 onwards), for which JEN is likely to have more robust and meaningful data;
- **Recommendation 2 – The AER should provide guidance on how to deal with the CAM misalignment** – the AER should develop RIN instructions and audit requirements that acknowledge that the currently approved JEN cost allocation method (**CAM**) reflects a different service classification to that which the AER ultimately approved in its 2011-15 price determination;

- **Recommendation 3 – The AER should provide guidance on how to re-categorise the JEN’s RAB values** – the AER should (a) consult with NSPs to develop an appropriate estimation method for the re-categorisation of the RAB values and (b) recognise the limitations of using back-cast RAB estimates when applying economic benchmarking.
- **Recommendation 6 – The statutory declaration should simply attest that the information has been prepared in accordance with the requirements of the RIN** – the AER should adopt a form of the statutory declaration that allows an authorised representative of the NSP to attest that the data has been prepared in accordance with the requirements of the notice, particularly given the fact that an external audit to the same tests is also being required. Should the AER insist on a longer-form statutory declaration, then the declaration should include levels of attestation that have been tailored to the colour coded data robustness proposed by JEN (and the ENA). JEN has provided mark-up drafts of both these forms of statutory declaration;
- **Recommendation 7 – The statutory declarations should be from an authorised employee of JEN rather than a company director** – the AER should amend its statutory declaration to require an ‘authorised representative’ of JEN rather than an officer for the purposes of the National Electricity Law (NEL), as this will expedite data provision by avoiding the need to obtain board approval of the data;
- **Recommendation 8 – Provision for non-financial data to be audited by a suitably qualified non-financial auditor** – the AER should retain its current annual RIN practice of permitting NSPs to employ suitably qualified engineering experts to perform nonfinancial audits instead of requiring these to be performed by a Chartered Accountant (CA) or Certified Practising Accountant (CPA);
- **Recommendation 9 – The AER should amend the process for JEN submitting their completed RINS to the AER** – JEN specifically supports the ENA’s argument in that the AER should only require a final set of data in May 2014 (subject to audit and statutory declaration);
- **Recommendation 10 – The AER should clarify the basis on which it may amend JEN’s final audited data** – JEN recommends that such a process of data amendment should align to the AER’s current practice for amending JEN’s submitted forecast data during the course of a price determination;
- **Recommendation 11 – Resourcing and associated costs** – the AER should recognise that JEN is committed to providing the AER with robust and accurate information that it requires to carry out its duties, but this exercise involves a significant amount of resourcing and associated costs. The AER should explain more fully how it has considered each NSP’s likely costs (and the resultant benefits) of alternative information requests so that it is clear why the information it has requested provides an optimal net benefit outcome, having regard for the NEL and the National Electricity Rules (NER); and
- **Recommendation 12 – Confidentiality** – the AER should align the confidentiality requirements with the relevant guideline, rather than establishing obligations in excess of the applicable guideline requirements.

2 Time horizon of back cast data

2.1 Significant events over time make it harder for JEN to capture and validate data

Key points:

- **Fact:** The time period over which AER intends to request back casting of information spans ten years, namely from 2003 to 2012
- **Issue:** During this time period, JEN has experienced significant events, which will directly impact its capacity to provide historical or estimated data.
- **Recommendation:** The AER should amend the RIN to require JEN to provide no more than five years of back cast data, i.e. not earlier than 2008.

2.1.1 *Historical merger activities*

Over the past ten years, JEN has been subject to substantial historical merger activities. Alinta Ltd (**Alinta**) acquired AGL Electricity (**AGLE**) in 2006 and subsequently, Singapore Power International (**SPI**) acquired Alinta in 2007.

These changes in ownership and management would have resulted in changes to internal reporting requirements and the way JEN captures its data. Further JEN did not retain full access to the former AGLE SAP financial system through the data migration process following the transaction, making historical data access prior to 2006 limited to data provided in statutory or regulatory reports.

The above activities make the availability of staff who administers relevant data recording or who would have had applicable knowledge for the purpose of deriving reasonable back-cast estimates a key challenge for JEN. JEN has experienced extensive staff departures through successive rounds of savings initiatives following the asset acquisitions and ensuing business restructuring. After the Alinta merger some 150 staff were made redundant, and in 2013, our finance department has been restructured, leading to further 10% reduction in finance staff.

2.1.2 *Variation in regulatory reporting years*

AGL Electricity, Alinta AE or JEN has traditionally prepared their regulatory accounting statements (**RAS**) on a calendar year end basis to 31 December. For the years 2005, 2006 and 2007, the RAS were prepared for a June year end for 2005 and 2006, and over an 18-month period for 2007.

As a result of Alinta AE not having audited statutory accounts at June 2007, and from a desire of the Essential Services Commission (**ESC**) to move reporting to a calendar year, the ESC approved the lodgement of the RAS for an 18-month period ending December 2007.

In the event that the AER does not relax its request for ten years of back casting of information to five years, JEN would have to re-construct the 2005, 2006 and 2007 RAS, which inherently involves additional costs and efforts.

2.1.3 Interval metering store (IMS) and SCADA server

The two main sources of information that JEN uses to capture the energy delivered and load data into its network assets are:

Wholesale energy metering

This exists at the boundary of the JEN network, where JEN currently takes supply from seven transmission terminal stations in Victoria, and each sub-transmission line that exits a terminal station has an associated wholesale energy meter.

JEN's Incident Management System (**IMS**) is the name of the system that captures the data from wholesale meters and aggregates the information into termination station and JEN totals.

JEN's access to wholesale energy meter data from IMS was facilitated by the development of an Access database in 2008.

Operational SCADA data

There are a significant number of measurements, in voltage or current, throughout the JEN network, predominantly at the zone-substation levels which are being provided to the Real Time Systems used in the control room.

In 2008, JEN also implemented a new SCADA server, using PI, which is a user interface software developed by OSIsoft, which stores load demand data of its various assets.

In light of the above system enhancements, prior to 2008, JEN has limited capacity to provide data or estimate relating to energy or load variables in the tab "5. Operational Data" within the RIN templates.

2.1.4 Auditors – financial information

KPMG has been the external auditor for JEN since 2007, with Deloitte Touche Tohmatsu (**Deloitte**) being the prior external auditor. Should the AER relax its time period of back casting of data to five years, KPMG would be in a better position to provide an opinion on the audit and assurance engagement. The reason is that they would engage their own staff, who worked on the previous engagements rather than needing to interrogate Deloitte and review any associated working papers that Deloitte relied upon for its historical audits (to the extent that such working papers are still available given these are only required to be held for seven years under applicable Corporations Law).

2.1.5 Auditors – non-financial information

JEN's non-financial information was not subject to any external audit until the first annual RIN process in 2011 where JEN engaged Parsons Brinckerhoff Australia Pty Limited (**PB**) to undertake this audit engagement. This means that all non-financial information and processes, procedures or systems for the period 2003 to 2010 would not have been audited and this will expand the scope of the audit work on the non-financial information.

The AER's draft RIN requirement that the auditor be a Chartered Accountant (**CA**) or Certified Practising Agent (**CPA**), will require that auditor to subcontract an engineering expert and also reassess the years for which PB has already audited the data in order to be able to provide their audit assessment. JEN does not consider there to be any gain to the additional cost associated with this,

and has received no feedback from the AER to date that the PB audits have been in any way deficient for its purposes.

2.1.6 Enterprise resource planning (ERP) system

On 4 April 2012, JEN implemented a new ERP system, replacing two out-dated legacy systems, namely the ex-Agility and ex-Alinta systems with a single business-wide platform with enhanced capabilities.

The amount of data that is available from the legacy systems may not be consistent with the new ERP system, due to the inherent risk that JEN faces with the data migration process.

2.1.7 Summary of events affecting JEN's ability to obtain required data and audit validation

Table 2-1 below outlines the direct impacts that the key events will have on JEN's capacity to provide data or estimates to the AER.

Table 2-1. JEN's significant events over the past ten years. Jan to Dec years.

Time horizon (years)		10	9	8	7	6	5	4	3	2	1
ID	Event Name	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12
1	Historical merger activity										
2	Regulatory reporting anomalies										
3	Interval metering store (IMS) and SCADA server										
4	Auditors - financial information										
5	Auditors - non-financial information										
6	Enterprise resource planning (ERP)										



Event will have a direct impact on JEN's capacity to provide data or estimate.

In light of the above milestones, the level of assurance that JEN can provide for the requested information is compromised, the longer in time back cast data, and especially where an estimate is required.

JEN maintains that a back cast term of five years is appropriate as it represents a timeframe that grants JEN confidence that the data provided is robust, meaningful and can be relied upon for benchmarking purposes. JEN recommends that the AER should amend the RIN to require no more than five years of back cast data.

It is notable that the level of assurance that can be provided is not a function of effort or time expended – it is simply the result of underlying data not being collected for the retrospective time period for which the AER intends to request the information. The AER's draft decision creates a situation where JEN will be unable to comply, to a certain extent, with the RIN served to JEN.

Recommendation 1 – The AER should amend the RIN to require NSPs to provide no more than five years of back cast data on the basis that it is more likely to be reasonable to expect that meaningful data could be obtained for a shorter period.

2.1.8 Cost allocation methodology (CAM) misalignment

JEN submitted its CAM as part of its 2010 price review submission in 2010, which was approved by the AER on 18 February 2010. The AER's final 2011-15 pricing determination determined a different set of service classifications than approved in JEN's CAM.

For this reason, there is some misalignment between JEN's AER approved CAM of 2010 and the service classification outlined in JEN's final determination. As part of the current annual RIN process, JEN has been reporting its allocation of shared service costs in line with the AER approved CAM.

The AER needs to develop RIN instructions and audit requirements that recognise this inconsistency and do not codify an enduring non-compliance in the RIN reporting.

Recommendation 2 – the AER should develop RIN instructions and audit requirements that acknowledge that the currently approved JEN cost allocation method (CAM) reflects a different service classification to that which the AER ultimately approved in its 2011-15 price determination.

2.1.9 Regulated Asset Base (RAB) values

The AER intends to request information on JEN's RAB over the period 2003 to 2012. JEN's RAB data from 2003 to 2005 (under the regulation of the ESC) was not separated by asset class, but at an aggregate level. The AER has indicated that they may be able to source this data from the ESC.

The draft RIN requests RAB data covering the period 2003 to 2012. Although JEN has aggregate RAB data cover the entire period, this data is inadequate:

- First, JEN only has total RAB values for 2003 to 2005 (i.e. the period when JEN was regulated by the Essential Services Commission); and
- Second, JEN's asset class breakdown for 2006 to 2012 is at a much higher level than that required by the draft RIN.

JEN, therefore, would need to estimate RAB values for these two periods—and, although there are a variety of estimation methods that JEN could use, each has limitations. This is particularly so for the 2003 to 2005 period where no asset class data is available and so high-level assumptions are needed to split the total RAB.

JEN would appreciate further guidance from the AER on how to split RAB values into the categories identified in this RIN. This would ensure that, where an estimate is needed, the method (or methods) used are consistent between NSPs. If all NSPs and the AER agreed, then the AER should consider prescribing a single method for this purpose. But this would require further consultation.

Finally, the AER should note the trade-off between simplicity and accuracy when considering different estimation methods. At one extreme, a method might lead to misleading (and uninformative) results.



At another extreme, a method might require extensive effort and data creation based on a range of unrealistic assumptions. The AER should recognise the limitations of using any given estimation method when relying on estimates for benchmarking purposes.

Recommendation 3 – the AER should (a) consult with NSPs to develop an appropriate estimation method for the re-categorisation of the RAB values and (b) recognise the limitations of using back-cast RAB estimates when applying economic benchmarking.

2.2 JEN has undertaken a colour coding exercise on the RIN templates

Section 28(1) of the NEL enables the AER to serve a RIN if it “has the reason to believe that a person is capable of providing information or producing a document that the AER requires for the performance or exercise of a function or power conferred on it under this Law or the Rules.”

Merely stating that the AER has been consulting on these potential RIN data requirements for the past few months, is inadequate reason to believe that such recent consultation could cause a business to have historical information from up to 10 years ago that it did not collect at that time.

JEN is committed to providing the AER with robust and accurate information that it requires to carry out its duties. JEN is currently working on ensuring that as much as possible of the information requested in the economic benchmarking RIN can be provided for future reporting years.

However, having reviewed the proposed benchmarking data requirements, JEN notes that these are extensive. JEN is also concerned that back casting of some data for 10 years may not be possible, given the information that JEN has stored for this period.

To provide the AER with feedback that is specific and can be addressed in changes to the draft RIN, attached to this submission is a colour-coded version of the AER’s draft economic benchmarking RIN templates. Each cell has been colour-coded to indicate whether historical data or estimates can be provided, and the level of assurance that can be attached to those data or estimates.

Appendix 1A describes the colour coding that JEN (and the ENA) has used to assess the draft economic benchmarking templates.

Appendix 1B outlines the specific reasons for each relevant line item of each sheet of the template, why JEN is unable to provide historical information, or provide an estimate that is fit to be used for benchmarking or assessing forecast expenditures or capable of management attestation.

It is important to remember that this colour-coding exercise has been undertaken within a short time-frame, using staff expertise, but without attempting to actually populate the cells in the templates. Further data issues could arise when attempting to actually populate the data in the template. JEN will continue to keep the AER informed of these issues as these are identified.

Under the classification from Appendix 1A, and given the draft wording of the sections of the economic benchmarking RIN that deal with assurance, only data that is coded “green” would be compliant with the RIN requirements. Should the AER relax its audit requirements, and allow for data to be provided subject to management sign-off only, data and retrospective estimates coded as “yellow” would also be compliant. Retrospective estimates coded as “orange” and “red” would be arbitrary, unreliable and not fit to be used for the purposes of benchmarking or assessing forecast expenditures.

Recommendation 4 – The AER should recognise that there may be circumstances when a NSP may reasonably and legitimately not be able to provide data that the AER is seeking. A NSP should not be required to provide information that could be materially misleading or unreliable. An alternative is that the NSPs leave the relevant cells in the templates blank, and submit the information as an addendum to the RIN including the relevant basis of preparation. The addendum document will not be subject to statutory declaration or audit opinion.



Recommendation 5 – The AER should explain how it has the reason to believe that each NSP is capable of providing each component of information that it is requesting in the RIN template, especially for the 10 years of back cast information.

3 Statutory declaration

Key points:

- **Fact:** The AER has issued a pro-forma statutory declaration in the RIN served to JEN as well as requesting a staged provision of information (statutory declaration in Feb 2014 and audit sign off in May 2014).
- **Issue:** There is a strong possibility that no authorised employee of JEN would sign the current statutory declaration and may seek to alter the form tailored to the attestation that the appropriate officer is able to give, and until audit sign off has been provided.
- **Recommendation:** The AER should give further consideration to the appropriate form of the statutory declaration and should not seek statutory declaration before audit sign-off.

3.1 What is an appropriate statutory declaration?

3.1.1 *The AER should give further consideration to the appropriate form of the statutory declaration*

JEN strongly supports the ENA's arguments in that:

The AER should recognise that the proposed form of verification it requires to be given by statutory declaration in respect of the information provided pursuant to a regulatory information instrument will directly affect the ability of the person served with the RIN or RIO to comply with the Notice.

Where a service provider forms a view that it is unable to comply with the particular form of statutory declaration specified by the AER – there are two potential consequences that follow from this:

- First, the service provider may simply be unable to provide particular information requested by the AER because it cannot give the declaration in respect of that information.
- Second, the service provider may seek to alter the form of the statutory declaration so that it is appropriately tailored to the attestation that the appropriate officer is able to give with respect to each category of information provided pursuant to the RIN.

JEN is concerned that the form of statutory declaration that the AER proposes be provided in respect of the information JEN is required to give the AER pursuant to the RIN is not appropriate, particularly in light of the information that is being sought in this RIN.

JEN has identified that the information sought is likely to fall into one of five categories:

- information that can be extracted from the systems available to JEN and which is verifiable;

- information that can be extracted from the systems available to JEN but where there may be some gaps in the data, in which case estimates can be based on statically significant sample sizes;
- information where there is little or no data available to be extracted from the systems available to JEN, potentially some techniques are available to “have a go” at estimating the required data but no verification can be given as to whether those estimates are accurate or reliable;
- information where there is little or no data available to be extracted from the systems available to JEN and, given the lack of data, JEN has not identified a sensible way of developing an estimate; and
- information sought which is simply inapplicable to JEN.

For easy reference, JEN has labelled these categories as: green; yellow; orange; red; and black respectively. A summary table of the above categories and examples of each category is set out below.

Category	Description	Example
Green	Actual data, capable of verification	Tab 3 of data template, columns L-M, rows 24 to 29, “Current opex categories and cost allocation”: Actual data is recorded in respect of 2011-2012 as this information was required to be maintained and kept by a RIN. This information has been previously subject to audit.
Yellow	Some actual data, some gaps, but reasonable basis for estimation exists	Tab 6 of data template, columns D-M, row 43, “Overhead low voltage distribution”: Whilst some actual data is available, a reasonable basis of estimate can be provided, with reliance on accurate installation and removal dates of substations.
Orange	Little or no actual data, can be estimated but quality of estimate questionable	Tab 7 of data template, Columns F-H, Row 21, “Energy Not Supplied (planned)”: Actual data is recorded in respect of 2008-2012 as this information was required to be maintained, information for the years 2005-2007 can be estimated.
Red	Little or no actual data, no reasonable basis for estimation identified	Tab 5 of data template, columns D-G, row 24, “Energy into DNSP network at on-peak times”: JEN is unable to provide data or reliable estimate as JEN’s access to wholesale energy meter data from the IMS was recently facilitated by the development of an access database in 2008. For the years 2008 onwards, JEN can provide estimates based on engineering judgement. For the period prior to 2008, JEN is not in a position to provide any data or estimate. In addition, energy from embedded generation less than 1MVA is not available. In the event that JEN has to provide an estimate, this may result in misleading observations.
Black	Not applicable	Tab 6 of data template, Columns D-M, Row 56, “Underground 33kV”: This data is not applicable to the JEN network as there is currently no underground circuit with 33 kV voltages on the JEN network. Consequently, JEN is unable to provide data or estimate to this variable.



If the AER is to insist upon the information provided pursuant to the RIN being verified by statutory declaration, JEN submits that the AER should keep the above categories of information in mind in tailoring the form of the statutory declaration to the form of verification that can be given in respect of that information. The alternative is to appropriately tailor the RIN itself to each category of information and then require a simple statutory declaration that provides that the response to the RIN is in accordance with the requirements of the RIN.

For example, the statutory declaration could provide that the officer signing the declaration solemnly and sincerely declares that, to the best of their information knowledge and belief:

- where the information provided in response to the RIN has been sourced from actual data, the information is true and fairly stated (category green information);
- where the information provided in response to the RIN is an estimate that has been able to be reasonably made based on information sourced from actual data, the estimate has, insofar as has been possible, derived from actual data and the estimate has been arrived at on a reasonable basis (category yellow and orange information); and
- where the information required to be provided by the RIN is not applicable to JEN, JEN has not provided any information in respect of that information save to indicate that the information is not applicable to the JEN network (category black information).

JEN would propose that category red information would not be the subject of verification by way of statutory declaration. As this information cannot be sourced from actual data and cannot be derived from other information in JEN's possession or control, JEN does not consider it would be appropriate to put forward any kind of estimate in respect of that category. As JEN could not be confident as to the quality of any such estimate, there is a risk that the information could be misleading, and as such could breach section 28R of the National Electricity Law. Further, JEN notes that there is a real question as to whether information other than actual data that can be collected from business records, or which can be derived from business records can legitimately be the subject of a RIN and / or provided pursuant to a RIN.

JEN recognises that the AER is seeking to put together as complete a picture as possible as to expenditures of regulated business over the past 10 years. To this end, JEN is happy to work with the AER to provide estimates in respect of category red information but will only be comfortable to do so if JEN and the AER have agreed the basis on which the estimate is to be made, or the AER has directed the basis upon which the estimate is to be made.

JEN has prepared two alternative forms of the statutory declaration that the AER may consider.

The first follows the example set out above, in respect of which a declaration that is appropriate in respect of each category of information (save for category red information) is given.

The second is a short form statutory declaration which attests that the response to the RIN is in accordance with the requirements of the RIN. Including because much of the information is to be subject to rigorous audit requirements, if any form of declaration is required to be given, it would be the short form that would be most appropriate.

JEN does not consider that it is appropriate to require an authorised employee to give a declaration that the information provided pursuant to the RIN can be relied upon by the AER in respect of the

performance and exercise of its functions and powers. Ultimately only the AER can form a view as to the appropriateness of otherwise of such information. This is particularly the case where:

- the AER has not yet made available the benchmarking models that it proposes to use and how the AER will use the information generated by those models; and
- in respect of many categories of information, JEN has not kept (and has not been required to keep) the information in the form requested by the AER, and as such JEN itself has concerns as to whether all of the information provided pursuant to the RIN will be fit for the purposes listed in the statutory declaration.

If the AER insists upon a form of statutory declaration like the one in the draft RIN, the AER should understand the consequences of this. If JEN cannot be comfortable that it can give the declaration with respect to the information sought, JEN may not be able to provide the information at all, or at least not within the RIN framework. An appropriately modified RIN will materially increase the amount of information that JEN is able to provide the AER in response to the RIN.

Appendix 1C outlines two amended forms of the statutory declaration that JEN's authorised employees would consider appropriate to sign in respect of all information provided in a response to this RIN.

Recommendation 6 – JEN submits that the AER should keep the above categories of information in mind in tailoring the form of the statutory declaration to the form of verification that can be given in respect of that information.

An appropriately modified RIN will materially increase the amount of information that JEN is able to provide the AER in response to the RIN.

3.1.2 The statutory declarations should be from an authorised employee of JEN rather than a company director

The statutory declarations should be from an authorised representative of JEN, not a company director. The AER should amend its statutory declaration to require an 'authorised representative' of JEN rather than an officer for the purposes of the NEL.

JEN understands that an officer under the NEL would require a board director to sign-off the statutory declaration, and thereby initiate the NSP's usual board briefing requirements associated with director authorisation to sign. Such processes have long lead times, so this modification would help expedite JEN's data provision.

Recommendation 7 – The AER should amend its statutory declaration to require an authorised employee of JEN rather than an officer for the purposes of the NEL.

This submission is complementary to and should be read in conjunction with section 4.3 of the ENA submission – which JEN endorses, and which accords with feedback JEN has obtained from its auditors.

4 Audit and assurance requirements

Key points:

- **Fact:** The RIN served to JEN requires that the information provided in the RIN should be subject to independent audit, and details the specifications on the different levels of assurance and scope of work for historical financial, estimated financial, historical or estimated non-financial information and processes, procedures or systems.
- **Issue:** The RIN refers to specific Auditing and Assurance Standard for audit and assurance reporting. However, the AER has not envisaged situations such as the auditor not meeting its expectations or adverse or qualified opinions.
- **Recommendation:** The AER should provide greater guidance and clarity on the specific audit and assurance requirements in a guideline, rather than a specific RIN.

4.1 Is there enough clarity and guidance on the draft audit and assurance requirements?

4.1.1 *No, the AER should provide greater guidance on audit and assurance requirements*

JEN strongly supports the ENA's response in that:

- The AER should redraft the audit requirements section of Appendix C to be consistent with Auditing and Assurance Standards and to complement the proposed Regulatory Accounting and Assurance Guidelines. This should provide a single source of guidance on the AER's accounting and assurance requirements and on protocols that can be applied consistently by all NSPs for all of the AER's regulatory information instruments.
- The AER should provide guidance on how the draft auditing / assurance framework fits together and is intended to work in the context of ASA 805, ASAE 3000 and, indeed, the Auditing and Assurance Standards as a whole. An efficient risk based framework is required whereby the scope of audit work (and in some cases the requirement for any audit or assurance report at all) is attuned to the materiality of the risk being addressed by the audit or assurance report. This may include choices of audit, reviews / negative assurance and assurance reports other than audits and reviews, including agreed upon procedures / factual findings.
- The AER should redraft the Audit Requirements section of Appendix C in accordance with the ENA's response in order to ensure that they are consistent with Auditing and Assurance Standards and to complement the proposed Regulatory Accounting and Assurance Guidelines.

- The AER should make clear in the audit requirements section of Appendix C and in the proposed Regulatory Accounting and Assurance Guidelines the implications of the auditor not providing an opinion or of providing an adverse opinion.
- The AER should remove the requirement in paragraph 3.4 of the RIN, as this review report is not necessary if there is a review conclusion provided on the non-financial information under paragraph 3.3. It is not clear how an additional report would add to the substance of what is provided under that review. In any event, the NSPs is concerned that the auditor would not be able to obtain sufficient appropriate audit evidence over ten years to form a view over the historical periods.

This submission is complementary to and should be read in conjunction with that of the ENA – which JEN endorses.

4.1.2 The AER should allow the NSPs to employ suitably qualified engineering experts to perform non-financial audits

The AER's current practice for the annual RIN process permits JEN to employ suitably qualified engineering experts to perform non-financial audits. JEN has engaged PB to undertake an audit on its non-financial information since 2011.

The AER's draft RIN requirement that the auditor by a CA or CPA, will require that auditor to subcontract an engineering expert and also reassess the years for which PB has already audited the data in order to be able to provide their audit assessment. JEN does not consider there to be any gain to the additional cost associated with this, and has received no feedback from the AER to date that the PB audits have been in any way deficient for its purposes.

Recommendation 8 – The AER should retain its current annual RIN practice of permitting JEN to employ suitably qualified engineering experts to perform non-financial audits instead of requiring these to be performed by a CA or CPA.

5 Timing

Key points:

- **Fact:** The AER is intending to request the datasets and audit report by Friday, 14 February 2014 and Friday, 16 May 2014 respectively. It is not realistic to expect officers of a NSP to complete a statutory declaration in February 2014 on information that are still subject to audit.
- **Issue:** This would be inconsistent with good governance as for example, no officer would be keen to sign a statutory declaration, until the information has been subject to audit.
- **Recommendation:** The AER should grant an extension to the NSPs to provide more robust, substantiative and meaningful information and only require them to provide a final set of data in May 2014 (both audited and subject to statutory declaration).

5.1 The staged provision of formal information is ineffective

5.1.1 *The AER should amend the process for NSPs submitting their completed RINS to the AER*

The draft RIN appears to require the provision of information on 14 February 2014, with the audited information to be provided on 16 May 2014. There should be no requirement to provide a statutory declaration in respect of the information provided on 14 February 2014 as the information cannot be audited in this time period, and the statutory declaration cannot feasibly be given without the audit process being completed.

It is important to note that amount of time and effort required to populate the templates is not a function of additional resources – it is the result of acquired intellectual property from JEN's staff over the years, with this level of knowledge reduced as some staff start transitioning out of the business.

Recommendation 9 – The AER should amend the process for NSPs submitting their completed RINS to the AER by:

- Requiring the NSPs to provide a final set of data in May 14 that has both been audited and accompanied by a (revised) statutory declaration;
- Maintain an “open register” during which NSPs should be able to ask questions of the AER about the completion of the RIN – the answers to these questions could be share with other NSPs.
- Allowing NSPs to consult with their auditors about the timing of the completion of their work. While the NSPs and their auditors should use their best endeavours to meet the May 2014 timeframe, if this is not practical, NSPs should agree with the AER now on a realistic alternative that meet the AER's needs; and

- Agreeing a recurring timetable for 2015 onwards, once the lessons from data collection from this year have been understood.

5.1.2 The AER should clarify the basis on which it may amend the NSP's final audited data

It is not clear from the draft RIN on what basis the AER may amend final audited information that has been submitted by NSPs in their completed RINs.

The AER intends to undertake a data validation process between February 2014 and April 2014, where they will perform sensitivity analysis to assess the relevance of the data provided by all NSPs as well as the different estimation methods.

In the event that the AER amends JEN's information, then necessarily, the amended information will:

- Be the AER's information, not JEN's;
- Not be subject to statutory declaration or audit engagement; and
- Be published on the AER website, with associated explanatory notes on the adjustments made and reasons.

Such a process of data amendment would align to the AER's current practice for amending a NSP's submitted forecast data during the course of a price determination. JEN considers this amendment process to be appropriate because it is not feasible to ask an NSP to re-audit and re-submit data to accommodate AER amendments after management has attested to that dataset.

Having received Standing Council Energy Resources (**SCER**) funding to do so, it is essential that the AER make available publicly a complete database on non-confidential economic benchmarking data inputs that it intends to rely upon for this analysis. This will allow all stakeholders to test and replicate the AER's analysis, conduct their own, and generally better support the perceived robustness of the AER's intended economic benchmarking analysis.

Recommendation 10 – The AER should clarify on what basis, if any, the AER may revise a NSP's final audited information and what would the process be, if the information needs to be adjusted.

The AER should publish a final data base of all NSP's data taking into account any such amendment and explaining its basis.

6 Resources and associated costs

Key points:

- **Fact:** JEN is committed to providing the AER with robust and accurate information that it requires to carry out its duties.
- **Issue:** There is a risk that the additional time, effort and cost on JEN and our auditor will outweigh the net benefits to our customers.
- **Recommendation:** The AER should explain more fully how it has considered each NSP's likely costs (and the resultant benefits) of alternative information requests and time horizons for data provision.

6.1 JEN will incur material additional resourcing and associated costs

Section 28F(2)(b) of the NEL requires the AER, in issuing a RIN, to consider the likely costs that may be incurred by an efficient NSP to comply with the RIN.

The AER has not adequately considered NSPs' likely costs for the purpose of this section, nor has it demonstrated the net benefits of NSPs complying with the draft RIN.

JEN notes that the AER is requesting information that will impose significant, unnecessary time, effort and cost on JEN and its auditor and that these costs will outweigh the benefits of the information being sought.

JEN has undertaken a preliminary assessment of the resourcing and effort required to populate the templates. The initial findings indicate that approximately 1,500 full-time equivalent (**FTE**) hours will be required, costing around \$90,000 (assuming an hourly rate of \$60). This estimate is indicative in nature and subject to change as we further engage in attempting to populate the draft RIN with the required data. This estimate does not capture the opportunity cost to the JEN business of having key staff diverted from their business-as-usual roles for the duration of the RIN population and back casting exercise.

JEN's auditors are still working through the scale and scope of work involved in the economic benchmarking audit requirements and is yet to be able to provide a quote for these works.

The audit estimate is on the premise that KPMG will need to liaise with JEN's previous and current auditors, namely Deloitte and PB for both financial and non-financial audit opinions. KPMG may also require the assistance of an expert engineer to opine on the non-financial information due to lack of in-house expertise or no non-financial audits undertaken prior to 2011, which would inherently increase both the FTE hours and associated costs above the initial estimate provided above.

Recommendation 11 – The AER should explain more fully how it has considered each NSP's likely costs (and the resultant benefits) of alternative information requests so that it is clear why the information it has requested provides an optimal net benefit outcome, having regard for the NEL and the NER.

7 Confidentiality requirements

7.1.1 *The AER should align the confidentiality requirements with the relevant guideline*

Schedule 1, clause 1.3 requires that in making a claim for confidentiality, JEN must set out why the identified detriment associated with any disclosure of information is not outweighed by the public benefit. The AER accepted in the explanatory statement accompanying its draft confidentiality guidelines that, in light of concerns raised by service providers about addressing public benefits, the AER would not require service providers to address this issue. However the AER stated that it would be interested to know if a service provider has a view about potential public benefits and encouraged service providers to address these types of benefits in their reasons for confidentiality claims.¹ In a similar way, JEN considers the draft RIN should be amended to provide that JEN may provide any information it may wish to on why any detriment is not outweighed by the public benefit, as opposed to the current drafting which arguably compels this information to be provided.

Ideally an amendment would also be made to the template (Sheet 10) to indicate that JEN may provide information on public benefits, but is not required to do so.

Recommendation 10 – The AER should align the confidentiality requirements with the relevant guideline, rather than establishing obligations in excess of the applicable guideline requirements.

¹ AER, *Draft Confidentiality Guideline: Explanatory Statement*, August 2013, p 23.

Glossary

AER	Australian Energy Regulator
AGLE	AGL Electricity Limited
Alinta	Alinta Limited
CA	Chartered Accountant
CPA	Certified Practicing Accountant
ENA	Energy Networks Association
ERP	Enterprise resource planning
ESC	Essential Services Commission
IMS	Interval meter store
JEN	Jemena Electricity Networks (Vic) Ltd
JGN	Jemena Gas Networks (NSW) Limited
NEL	National Electricity Law
NER	National Electricity Rules
NSP	Network service provider
RIN	Regulatory information notice
SPI	Singapore Power International

Appendix A JEN's colour coding template

Colour Code	Availability of data from NSP's primary system	Additional work around/estimation techniques	Likelihood to pass an audit (subject to observations on the audit and assurance processes)	Is management comfortable that information is true and fair?
Green	Available and verifiable	Simple – no additional work or minor work around (e.g. source data from a secondary system)	Likely	Yes
Yellow	Available but with some gaps	Moderate – estimate based on statistically significant sample size	Possible but uncertain	Yes
Orange	Little or no data available	Complex – estimate based on formula, standard parameters or other source	Not likely	No
Red	Little or no data available	Impossible – rough estimate (e.g. rule of thumb from experience) or not possible	No	No
Black	Not applicable to relevant NSP	Not applicable to relevant NSP	Not applicable to relevant NSP	Not applicable to relevant NSP

Appendix B JEN's inability to provide historical or estimated information on specific variables

Key points:

- JEN has undertaken a colour coding exercise on the economic benchmarking RIN templates (consistent with the template in Appendix A).
- For the specific variables which have been colour coded "red" or "black", JEN has provided specific comments to why the staff is unable to provide historical or estimated information.

Sheet	Variable code	Colour code	JEN's comments
2. Revenue	DREV0101 to DREV0108	Red	<p>JEN is unable to provide data or a reliable estimate – JEN reports its alternative control service revenue at the aggregate level, as per its current RAS and RIN, and is therefore unable to provide a reliable estimate of these variables.</p> <p><i>JEN advises that it intends to report alternative control revenue at the aggregate level.</i></p>
3. Opex	Please refer to attached colour coded templates for specific comments.		
4. Assets (RAB)	Various— please refer to attached	Red	<p>JEN is unable to provide data or a reliable estimate – JEN's RAB data from 2003-2005 is not separated by asset class. JEN's data from 2006-2012 is separated under asset classes which differ to those identified in this RIN. JEN is able to apply a number</p>

	colour coded templates		of different methods to estimate the re-categorised RAB values. <i>JEN recommends that the AER should provide guidance as to how RAB values should be re-categorised, to ensure data consistency across NSPs.</i>
5. Operational data	DOPED0401	Red	<p>JEN is unable to provide data or a reliable estimate – JEN’s access to wholesale energy meter data from the IMS was facilitated by the development of an access database in 2008. For the years 2008 onwards, JEN can provide estimates based on engineering judgement. For the period prior to 2008, JEN is not in a position to provide any data or estimate. In addition, energy from embedded generation less than 1MVA is not available. In the event that JEN has to provide an estimate, this may result in misleading observations.</p> <p><i>JEN recommends that the AER should amend the RIN to require NSPs to provide no more than five years of back cast data on the premise that it is more likely to be reasonable to expect that meaningful data could be obtained for a shorter period.</i></p> <p><i>Alternatively, JEN can leave these sections blank, in response to the RINs and provide estimates and the basis on which the estimates have been stated as an addendum to the AER, with no statutory declaration or audit opinion.</i></p>
	DOPED0402	Red	
	DOPED0403	Red	
	DOPCN0106	Black	
	DOPCN0201	Black	
			<p>This data is not applicable to the JEN network – JEN intends to report customer numbers under the relevant headings (variable code DOPCN0101 to DOPCN0105).</p> <p><i>JEN advises that these sections will be populated with zero in its response to the RINs.</i></p>
			<p>This data is not applicable to the JEN network – there are currently no customers on CBD network. Consequently, JEN is unable to provide data or estimate to this variable.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs.</i></p>

	DOPCN0204	Black	<p>This data is not applicable to the JEN network – there are currently no customers on the long rural network. Consequently, JEN is unable to provide data or estimate to this variable.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs</i></p>
	DOPSD04	Red	<p>JEN is unable to provide data or a reliable estimate – Operational SCADA data is required to calculate these variables, however this data is only available from 2008 onwards, due to the implementation of a new SCADA server. Weather adjusted system annual peak demand is estimated based on good engineering judgement, however an estimate of the historical data can only be made for 2008 onwards, following the implementation of a new SCADA server.</p> <p><i>JEN recommends that the AER should amend the RIN to require NSPs to provide no more than five years of back cast data on the premise that it is more likely to be reasonable to expect that meaningful data could be obtained for a shorter period.</i></p> <p><i>Alternatively, JEN can leave these sections blank in its response to the RINs and provide estimates and the basis on which the estimates have been stated as an addendum to the AER, with no statutory declaration or audit opinion.</i></p>
	DOPSD05	Red	
	DOPSD06	Red	
	DOPSD16	Red	
	DOPSD17	Red	
	DOPSD18	Red	
6. Physical data	DPA0105	Black	<p>This data is not applicable to the JEN network – there is currently no overhead circuit with 33 kV voltages on the JEN network. Consequently, JEN is unable to provide data or estimate to this variable.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs</i></p>
	DPA0107	Black	<p>This data is not applicable to the JEN network – there is currently no overhead circuit with 132 kV voltages on the JEN network. Consequently, JEN is unable to provide data or estimate to this variable.</p>

			<i>JEN advises that it will leave these sections blank in its response to the RINs</i>
	DPA0204	Black	<p>This data is not applicable to the JEN network – there is currently no underground circuit with 33 kV voltages on the JEN network. Consequently, JEN is unable to provide data or estimate to this variable.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs</i></p>
	DPA0206	Black	<p>This data is not applicable to the JEN network – there is currently no underground circuit with 132 kV voltages on the JEN network. Consequently, JEN is unable to provide data or estimate to this variable.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs</i></p>
	DPA0305	Black	<p>This data is not applicable to the JEN network – there is currently no overhead circuit with 33 kV voltages on the JEN network. Consequently, JEN is unable to provide data or estimate to this variable.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs</i></p>
	DPA0307	Black	<p>This data is not applicable to the JEN network – there is currently no overhead circuit with 132 kV voltages on the JEN network. Consequently, JEN is unable to provide data or estimate to this variable.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs</i></p>
	DPA0402	Black	<p>This data is not applicable to the JEN network – The distribution feeders within JEN are partially undergrounded along their routes but there are no fully underground circuits from zone substations to the end of the feeder.</p>

			<i>JEN advises that it will leave these sections blank in its response to the RINs, as JEN will report this data under the overhead section (variable code DPA0302).</i>
	DPA0403	Black	<p>This data is not applicable to the JEN network – The distribution feeders within JEN are partially undergrounded along their routes but there are no fully underground circuits from zone substations to the end of the feeder.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs, as JEN will report this data under the overhead section (variable code DPA0303).</i></p>
	DPA0404	Black	<p>This data is not applicable to the JEN network – there is currently no underground circuit with 33 kV voltages on the JEN network. Consequently, JEN is unable to provide data or estimate to this variable.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs.</i></p>
	DPA0405	Black	<p>This data is not applicable to the JEN network – JEN does not have fully underground 66 kV network feeders.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs, as JEN will report this data under the overhead section (variable code DPA0306).</i></p>
	DPA0406	Black	<p>This data is not applicable to the JEN network – there is currently no underground circuit with 132 kV voltages on the JEN network. Consequently, JEN is unable to provide data or estimate to this variable.</p> <p><i>JEN advises that it will leave these sections blank in its response to the RINs</i></p>
	DPA0407	Black	This data is not applicable to the JEN network – The distribution feeders within JEN are partially undergrounded along their routes but there are no fully underground circuits

			from zone substations to the end of the feeder. <i>JEN advises that it will leave these sections blank in its response to the RINs, as JEN will report this data under the overhead section (variable code DPA0306).</i>
	DPA0601	Black	This data is not applicable to the JEN network – JEN does not have any first level transformation converting 132 kV to 66kV or 33kV.
	DPA0602	Black	<i>JEN advises that it will leave these sections blank in its response to the RINs</i>
7. Quality of services	Please refer to attached colour coded templates for specific comments.		
8. Operating environment			

Appendix C JEN's amended statutory declaration

C.1 Long-form statutory declaration

State of Victoria

Statutory Declaration

I, _____

[full name]

of _____

[address]

_____, do solemnly and sincerely declare that:

1. I am an employee officer, ~~for the purposes of the National Electricity (Victoria) Law (NEL)~~, of Jemena Electricity Networks (Vic) Ltd (ACN 064 651 083) (JEN), a regulated network service provider for the purposes of section 28D of the *National Electricity (Victoria) Law (NEL)*. My position title at JEN is [X].

2. I am authorised to make this statutory declaration in respect of JEN's response to the Regulatory Information Notice (Notice) issued by the Australian Energy Regulator (AER) and dated 15 November 2013.

3. The response of JEN regarding the information required to be provided and to be prepared and maintained as specified by the ~~Australian Energy Regulator's (AER) Regulatory Information Notice (Notice) dated 15 November 2013~~, is, to the best of my information, knowledge and belief:

(a) where the information provided in response to the Notice has been sourced from actual data, the information is true and fairly stated ~~in accordance with the requirements of the Notice~~; and

~~(b) where is true and accurate, and in all material respects can be relied upon by the AER to:~~

~~(i) prepare and publish a network service provider performance report (an annual benchmarking report) the purpose of which is to describe, in reasonably plain language, the relative efficiency of each Distribution Network Service Provider in providing direct control services over a 12 month period; and~~

~~(iii) to assess benchmark operating expenditure and benchmark capital expenditure that would be incurred by an efficient Distribution Network Service Provider relevant to building block determinations; and~~

(b) where JEN has not been able to provide the information using only actual data but has been able to provide the information as an estimate, the estimate is, to the extent possible, derived from actual data and the estimate has been arrived at on a reasonable basis ~~where it is not possible to provide the information required by the Notice I have provided an estimate. Where the information provided is an estimate, I have used my best endeavours to generate the most appropriate estimate, and have provided the AER with the basis for this estimate and reasons why it is the most appropriate estimate;~~

(c) where the information required to be provided by the Notice is not applicable to JEN, JEN has not provided any information in respect of that required information save to indicate that the information is not applicable to the network

in respect of the distribution services provided by way of the electricity distribution network JEN operates in Victoria.

I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.

Declared at _____

this _____ day of _____ 20_____

Signature of person making this declaration

[to be signed in front of an authorised witness]

Before me,

.....

Signature of Authorised Witness

The authorised witness must print or stamp his or her name, address and title under section 107A of the *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*), (eg. Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist)

C.2 Short-form statutory declaration

State of Victoria

Statutory Declaration

I, _____

[full name]

of _____

[address]

_____, do solemnly and sincerely
declare that:

1. I am an employee officer, for the purposes of the ~~National Electricity (Victoria) Law (NEL)~~, of Jemena Electricity Networks (Vic) Ltd (ACN 064 651 083) (**JEN**), a regulated network service provider for the purposes of section 28D of the ~~National Electricity (Victoria) Law (NEL)~~. My position title at JEN is [X].

2. I am authorised to make this statutory declaration in respect of JEN's response to the Regulatory Information Notice (Notice) issued by the Australian Energy Regulator (AER) and dated 15 November 2013.

3. The response of JEN regarding the information required to be provided and to be prepared and maintained as specified by the ~~Australian Energy Regulator's (AER) Regulatory Information Notice (Notice) dated 15 November 2013~~, is, to the best of my information, knowledge and belief:

~~(a) in accordance with the requirements of the Notice save for where the information is not applicable to JEN, which has been indicated in the response; and~~

~~(b) is true and accurate, and in all material respects can be relied upon by the AER to:~~

~~(i) prepare and publish a network service provider performance report (an annual benchmarking report) the purpose of which is to describe, in reasonably plain language, the relative efficiency of each Distribution Network Service Provider in providing direct control services over a 12 month period; and~~

~~(ii) to assess benchmark operating expenditure and benchmark capital expenditure that would be incurred by an efficient~~

~~Distribution Network Service Provider relevant to building block determinations; and~~

~~(c) where it is not possible to provide the information required by the Notice I have provided an estimate. Where the information provided is an estimate, I have used my best endeavours to generate the most appropriate estimate, and have provided the AER with the basis for this estimate and reasons why it is the most appropriate estimate~~

in respect of the distribution services provided by way of the electricity distribution network JEN operates in Victoria.

I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.

Declared at _____

this _____ day of _____ 20_____

Signature of person making this declaration

[to be signed in front of an authorised witness]

Before me,

.....

Signature of Authorised Witness

The authorised witness must print or stamp his or her name, address and title under section 107A of the *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*), (eg. Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist)