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By email: confidentiality@aer.gov.au

Chris Pattas
General Manager-Network Operations and Development
Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Jemena Limited
ABN 95 052 167 405

321 Ferntree Gully Road
Mount Waverley VIC 3149
Locked Bag 7000
Mount Waverley VIC 3149
T +61 3 8544 9000
F +61 3 8544 9888
www.jemena.com.au

Dear Mr Pattas

Draft distribution and transmission confidentiality guidelines – Jemena submission

Jemena Limited (**Jemena**) welcomes the opportunity to respond to the Australian Energy Regulator's (**AER**) consultation on the draft distribution and transmission confidentiality guidelines (**Guidelines**).

Jemena owns two regulated network businesses: Jemena Gas Networks (NSW) Limited and Jemena Electricity Networks (Vic) Limited. Jemena also has ownership interests in the United Energy electricity distribution business in Victoria (34%) and the ActewAGL electricity distribution partnership in the ACT (50%). Accordingly, Jemena has a significant interest in the content of these Guidelines.

Jemena supports enhanced transparency and for the AER to provide stakeholders with information so they can understand confidentiality claims. Jemena welcomes the clear and concise nature of the Guidelines and the degree that the AER has taken on board stakeholder feedback to the issues paper.

Jemena has also contributed to and supports the submission of the Energy Network Association. This submission therefore focuses on enhancements to the process described within the Guidelines and the explanatory statement. It also provides a comment on the list of documents for public disclosure.

Enhancement to Guidelines

Jemena considers the AER could make two enhancements to the process set out in the Guidelines.

Jemena notes that the Guideline and explanatory statement process appears to rely exclusively on pre-lodgement discussions to achieve agreement on confidentiality. This outcome may be difficult to reach because regulatory proposal information is often being finalised up until the lodgement date. Jemena believes that the Guidelines or explanatory statement could include a flexible and efficient post-lodgement process for addressing confidentiality claims unresolved prior to submission lodgement and prior to the AER's instigation of formal disclosure powers.

The Guidelines also propose publication of Network Service Providers' (**NSP**) completed confidentiality templates, which will include the NSP's confidentiality claim substantiations. There may be limited instances where a confidentiality claim will need to rely upon the

provision of confidential information as part of the substantiation. The Guidelines could set out a means to communicate such information. This would be particularly important if the post-lodgement process was limited.

List of documents for public disclosure

The list of documents for public disclosure contained in attachment 3 of the explanatory statement includes asset management plans and business cases. The AER notes that it considers these would only require 'limited redactions'.

Jemena notes that Independent Pricing and Regulation Tribunal NSW (**IPART**) chose not to require publication of Infrastructure Operating Plans and Water Quality Plans under the Water Industry Competition Act when considering doing so in 2011. IPART considered that enforcing such a requirement may result in the disclosure of information that is confidential and in some circumstances may also present a security concern if publicly disclosed. IPART also noted that the requirement to place management plans on licensees' websites could lead to an outcome where licensees are reluctant to include sufficient information within their plans.

The AER should closely consider such unintended consequences of disclosing asset management plans and business cases when considering the scope of redactions requested by the NSP.

Reporting

Jemena notes the AER's consideration of the suggestion to report unauthorised disclosures of confidential information as part of its Annual Report. Jemena looks forward to further developments in this area.

If you wish to discuss the submission please contact me on (03) 8544 9053 or at robert.mcmillan@jemena.com.au

Yours sincerely



Robert McMillan
General Manager Regulation
Jemena Limited