

12 December 2008



By email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

Jemena Limited  
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Attention: Mr Mike Buckley  
General Manager  
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Australian Energy Regulator

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**Jemena submission to Australian Energy Regulator:  
Access arrangement draft guideline**

Dear Mr Buckley

Jemena Limited appreciates the opportunity to make this submission to the AER's consultation on the gas access arrangement draft guideline.

We see the draft guideline as beneficial in providing useful information and guidance to parties preparing to submit access arrangements. It outlines the AER's expectations and likely processes in relation to regulatory proposals under the National Gas Law (NGL) and National Gas Rules (NGR).

Jemena is particularly interested in these matters, given that we are currently preparing to produce a revised access arrangement for Jemena Gas Networks (NSW) Ltd (JGN) to be submitted to the AER by 1 July 2009.

We attach some detailed comments on particular aspects of the draft guideline. Jemena would first like to offer some general views on the draft guideline and how it may interact with the revised access arrangement being prepared for JGN.

**(a) General nature of the draft guideline**

The NGR do not specify that the AER may or must produce any guidelines for gas distribution. This is unlike the National Electricity Rules (NER), which specify a mixture of non-mandatory guidelines and mandatory models and schemes for electricity distribution. Moreover, many of the NGR are considerably less detailed and prescriptive than the equivalent NER.

In turn, this less prescriptive approach for gas should provide an opportunity for service providers like JGN to put forward their own approaches to a wide range of matters in an access arrangement, consistent with the NGL and NGR. In doing so, service providers will be able to tap into potential dynamic efficiencies which might otherwise be unavailable.

**(b) Potential approaches for JGN**

Some areas where JGN may wish to develop its own approaches are in:

- cost pass-through;
- choice of either a pre- or post-tax revenue model; and
- the return on capital.

The draft guideline's treatment of these matters is discussed in the attachment.

In addition, the draft guideline puts forward several proposals for the manner in which the AER may treat confidential information. Jemena wishes to point out that there is a legitimate need to preserve the confidentiality of commercially sensitive information submitted by service providers. In due course, we would wish to establish sound processes with the AER to ensure protection of confidential information, and to ensure that full consideration is given to this material.

Information confidentiality is also discussed in the attachment.

**(c) Conclusion**

The draft guideline presents a useful summary of important provisions of the NGL and NGR, and how the AER intends to work within them. Nevertheless, wherever the legal framework offers a service provider the discretion to propose various alternative approaches, Jemena urges the AER to recognise this flexibility in its final guideline.

Jemena looks forward to further development of the guideline.

If required, I can be contacted on (02) 9270 4512 or email: [sandra.gamble@jemena.com.au](mailto:sandra.gamble@jemena.com.au).

Yours sincerely,

Sandra Gamble  
**Group Manager Regulatory**