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28 April 2010

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Mr Mike Buckley
General Manager, Network North Branch
Australian Energy Regulator
23 Marcus Clarke Street
CANBERRA ACT 2601

**JGN access arrangement revision proposal: Legacy services update
PUBLIC**

Dear Mike

The purpose of this letter is to update the Australian Energy Regulator (**AER**) on the progress of the commercial negotiations with users in relation to the cessation of legacy services, with reference to Jemena Gas Networks (NSW) Ltd's (**JGN's**) initial response to the AER draft decision¹.

In its initial response, JGN foreshadowed a phasing out of certain "legacy" services ahead of the commencement of the short term trading market for gas in NSW (**STTM**), scheduled for commencement in June 2010. JGN indicated that, as the legacy services could no longer be provided in an STTM environment, JGN will be phasing out the provision of these services through commercially negotiated agreements with users.²

JGN's approach to users

During March, JGN contacted each of its users outlining the likely impact of the STTM on the supply and acquisition of certain legacy services. In particular, JGN indicated that, following the introduction of the STTM, JGN will no longer be capable of providing a point-to-point gas transportation service as that service is currently defined in existing arrangements. This letter also noted that some of the obligations on users under the existing arrangements may also be inconsistent with the arrangements that will apply following the commencement of the STTM.

¹ JGN, *Initial response to the draft decision*, 19 March 2010 (**initial response**).

² *Initial response*, pp. 24-25.

Adopting a pragmatic approach, in light of the likely timing of the STTM and the finalisation of the revisions to JGN's access arrangements, JGN sought agreement from each of its users that:

where users are intending to adopt a new contract for the new Haulage Reference Service from the start of the AA (the new AA terms and conditions will be suitable and consistent with operation of the STTM), then to the extent that the rights and obligations created by the existing reference service agreements are inconsistent with the STTM, neither party will seek to enforce the provisions containing those rights and obligations against each other between the time that the STTM commences and the start of the new AA.

As part of this approach, JGN also sought an acknowledgement from each of its users that the existing reference service agreements contain rights and obligations that are inconsistent with the procedures that will be implemented under the STTM. These include obligations on JGN to provide point-to-point services and obligations on users to specify receipt points through which gas will enter the JGN network.

Responses of users

So far, out of the ten users that JGN contacted have agreed not to enforce existing contracts to the extent of any inconsistency between these existing contracts and the operation of the STTM and have acknowledged the inconsistency between existing service agreements and the STTM.

A user acknowledged that some provisions of the existing agreements may be unable to operate during the period from the commencement of the STTM until the commencement date of access arrangement approved by the AER. This user agreed that it will negotiate with JGN as to how provisions of the agreement that are inconsistent with the STTM will operate during the period from the commencement of the STTM to the commencement of the approved access arrangement.

JGN is awaiting a response from the remaining users.

Implications for JGN's revised AA revision

The user responses received to date are sufficient to confirm users' acknowledgement that:

- JGN will not be able to supply, and
- a significant part of the user market cannot and will not seek

point-to-point gas transportation (legacy) services as they are defined in the current access arrangement and reference services agreements following the introduction of the STTM.

To date, half of JGN's users have indicated that they will each use best or reasonable endeavors to enter into a new reference services agreement that is consistent, or generally consistent, with the STTM and the access arrangement that is likely to apply from 1 July 2010.

If you wish to discuss this matter further, please contact me on (02) 9270 4512 or by email at sandra.gamble@jemena.com.au.

Yours sincerely

A handwritten signature in black ink that reads "Sandra Gamble". The signature is written in a cursive, flowing style.

Sandra Gamble
Group Manager Regulatory
Jemena Limited