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Via online submission

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Submission: GRC0048
Draft Rule Determination – National Gas Amendment (Regulation of Covered Pipelines) Rule 2019

Jemena Gas Networks (NSW) Ltd (**JGN**) welcomes the opportunity to comment on the AEMC's Draft Rule Determination in relation to amending the NGR to amend the economic regulatory framework that applies to covered transmission and distribution pipelines.

JGN considers that Parts 8-12 of the NGR as currently drafted broadly promote the National Gas Objective. This framework has been effective in promoting efficient investment in, and utilisation of, gas distribution pipelines and we do not believe that significant changes are warranted. As we noted in our submission dated 27 March 2018, we maintain that the Commission should consider alternatives to the automatic application of all recommendations identified in the Commission's report dated 3 July 2018 to gas distribution pipelines. These alternatives could better promote the long term interests of consumers and ensure that the potential benefits outweigh the costs of implementing such changes.

We would like to take the opportunity to respond to a number of the proposed rule changes as they relate to full regulation distribution pipelines. Our comments are included in the attachments as follows:

- *Attachment A: proposed changes to Part 11 (Facilitation of, and request for, access).* JGN does not object to the Rules providing a more detailed timetable for service providers to respond to requests for access, but is concerned that the proposed changes are overly prescriptive and apply timeframes which cannot be met except for routine requests for access. This issue and a possible alternative approach are set out in Attachment A.
- *Attachment B: proposed new Division 2 to Part 11 (Provision of information by full regulation distribution pipelines).* JGN believes that some of the proposed changes create an additional level of regulatory obligation with no clear benefit to users and potential users. We have set out in Attachment B details of areas where we think the proposed new rules could be refined to create a better balance of useful information that can be provided without significant additional cost.

- *Attachment C: proposed changes to Part 8 (access arrangements)*, includes our observations on the proposed new *reference service proposal* mechanism.

Please feel free to contact Ana Dijanosic on 02 9867 7103 if you have any questions in relation to our submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Usman', with a horizontal line underneath it.

Usman Saadat
General Manager Regulation

Submission to AEMC on proposed changes to NGR Parts 8-12

Attachment A: Proposed changes to Part 11 Division 1 (Facilitation of, and requests for, access)

Item	Description of rule change/issue	JGN Comment Note: these comments are limited to full regulation distribution pipelines
Facilitation of, and requests for, access		
1.	The timeframe for responding to requests for access are too short: general	<p>The proposed regime needs to be considered in the context that there is no constraint on the sort of services a prospective user may request – for example, a prospective user may request a service of a sort which the service provider has not previously provided as a possible pipeline service, or may seek a highly individualised service which differs substantially from the service provider’s usual suite of services. JGN considers that the proposed timeframes are too short for both service providers and prospective users, particularly for requests for services which differ from reference services under the Access Arrangement or which require detailed technical assessment.</p> <p>The draft Rules would establish an overall access negotiation timeframe of 55 business days. The intent of the timeframe is to address a concern that there may be ambiguity as to whether the parties have been unable to agree, and therefore whether an access dispute under NGR Chapter 6 can be triggered. The proposed solution is to lay out a clear access negotiation process with binding timeframes on both parties (Draft Rule Determination, page 83).</p> <p>In our view, in seeking to create clarity as to when parties have been unable to agree, the proposed Rules could establish an unworkable timeframe which may be contrary to the objective of facilitating efficient negotiation.</p> <p>Key elements (discussed in items 3-5 below):</p> <ol style="list-style-type: none"> 1. inability of both service providers and prospective users to meet timeframes, and 2. potential exposure of service providers to significant costs in preparing a detailed offer for the prospective user. <p>In item 2 below, we have provided an outline of an alternative approach which we believe would better achieve the objective discussed in the Draft Rule Determination, and which is also consistent with similar regimes applying to access requests for non-scheme pipelines and the interconnection of embedded generation into electricity networks.</p> <p>We have also included some general comments in items 6-9.</p>

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2.	Proposed approach to responding to requests for access to pipeline services	<p>Comparison can be made with NGR Part 23 and NER Part 5.3A which establish regimes which provide for key elements which are not addressed in the proposed amendments:</p> <ul style="list-style-type: none"> • flexibility in times being agreed/extended, • the ability for the service provider to recover its costs of undertaking investigations required to be able to respond to a request for a service, and • a clear mechanism for the service provider to notify the prospective user of deficiencies in information provided by the prospective user. <p>We suggest a similar regime to that in NGR Part 23 should apply to access requests under Part 11.</p> <p>To address the specific issue of removing any ambiguity as to whether a dispute exists, a mechanism such as that in draft Rule 112(1) could be applied – that is; specify</p> <ul style="list-style-type: none"> • a timeframe for the service provider to respond to the prospective user’s requested amendments, and • deem a dispute to exist if the parties have not agreed on the access proposal or a negotiated modification of it within a further period. <p>We also suggest that the Rule should explicitly provide that either party can request an extension of applicable time limits, which the other party must not unreasonably refuse (for example, NER Part 5.3A(7)(c) and 5.3A(8)(e)).</p> <p>This approach also has the advantage for prospective users and service providers that consistent processes apply whether they are seeking access to services provided by a scheme or a non-scheme pipeline. Other than where a requested service is described in an approved Access Arrangement, where shorter timeframes may be appropriate, there is no reason for establishing different regimes (both as to steps and timing) for requests for access to scheme and non-scheme pipelines.</p>
3.	Timeframe: inability to meet timeframes: service provider	<p>Depending on the service requested, even where the prospective user provides all details to enable the service provider to understand the requested service, the service provider may be required to undertake extensive technical/operational assessment to:</p> <ul style="list-style-type: none"> • understand the feasibility of providing the service, • identify the impact of providing the service on network operations and nearby customers, • design and cost network extensions or augmentations required to provide the service,

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		<ul style="list-style-type: none"> • determine an appropriate tariff, having regard to capital and operating impacts of the service, and the risk sharing between the service provider and the prospective user, • develop detailed terms, and • obtain internal approvals to the offer to be made to the prospective user (particularly where the service is novel and/or will require capital investment, for many service providers this will require approval at Managing Director or Board level). <p>Even with a reference service under an Access Arrangement where the terms and charges are known, a request for a service may require substantial technical/design investigation as outlined above – for example, a request for a reference service to a significantly upgraded or changed facility.</p> <p>Failure to comply with the timetable in Rule 112 is both a civil penalty provision and a conduct provision.</p> <p>JGN considers that requiring a binding proposal to be provided within 40 business days of the access request will not contribute to efficient negotiations for provision of pipeline services. For example, to comply with the obligation to provide an access proposal within 40 business days, service providers will have no option but to provide heavily qualified and conditional offers; under which the prospective user bears all risk of matters which have not been able to be fully assessed and costed. In all but the most straightforward service, this could mean that the access proposals will be conditional as to the time for commencement of the service and the final tariff payable.</p>

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4.	Timeframe: inability to meet timeframes: prospective users	<p>Draft Rule 112(9) requires the prospective user to respond within 15 business days of receiving the access proposal, either notifying that it wishes to seek access based on the access proposal, or notifying requested amendments.</p> <p>JGN notes that this period may not provide prospective users time to assess whether to accept the access proposal. For example, the prospective user will have to:</p> <ul style="list-style-type: none"> • understand the nature and detail of the service offered under the access proposal, • assess the potential impact of any conditions or risk sharing arrangements, • assess the impact of the proposed service and tariff on the user’s underlying project/business case, • identify and draft detailed amendments to the access proposal, and • obtain internal approval to the response to the service provider (as noted above, this may require approval at Managing Director or Board level). <p>Unless the access proposal relates to a reference service under the Access Arrangement, or a service on similar terms and conditions, JGN considers that 15 business days may not a sufficient to enable prospective users to fully understand and respond to the access proposal.</p>
5.	Service provider should be able to recover costs of investigating and responding to an access request	<p>As outlined in item 2 above, a service provider may be required to undertake extensive investigations to identify if it can provide a service and to respond to an access request.</p> <p>NGR Part 23 provides for the service provider and prospective user to agree in relation to the costs payable to the service provider for carrying out investigations (NGR Rule 559(7)). NER has a similar concept 5.3A(7)(b)). Similarly, in relation to requests for negotiated connection offers, NGR Rule 119L provides that a distributor may charge the applicant a reasonable fee to cover the expenses of assessing the application and making an offer.</p>
6.	Rule 107(2) and 107(2a)(d) are inconsistent	<p>Rule 107(2) provides that the AER may require a service provider to provide information the prospective user reasonably requires to decide whether to seek access to a pipeline service provided by the service provider and, if so, how to go about applying for access”.</p> <p>Rule 107(2a) sets out the circumstances in which the AER may refuse to issue a notice at the request of the prospective user. However, paragraph 107(2a)(d) uses slightly different language from the threshold test in paragraph 107(2) – the consideration in (a) is about how to apply for access, whereas in (2a)(d) the consideration</p>

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		<p>is whether to seek access (ie. process to substantive decision). JGN submits that for consistency, paragraph 107(2a)(d) should be amended as shown:</p> <p>107(2a)(d) ... “the information is not reasonably required by the prospective user in order to decide whether to seek access, or to apply for access, to a <u>pipeline</u> service provided by the service provider <u>and, if so, how to go about applying for access</u>”.</p>
7.	Rule 107(4): timing for provision of information by service provider	<p>JGN recognises that no amendment is proposed to existing Rule 107(4). In the context of improving the regime for provisions of information regarding pipeline services, JGN suggests that existing Rule 107(4) should be amended to the following effect.</p> <p>Rule 107(4)(b) provides that if the AER does not specify a period for provision of information, the default timeframe is 5 Business Days after the prospective user requests the information. JGN submits this provision should be amended so that the period for response commences from the time the service provider receives the AER’s notice, not from the time the user requests the AER to issue the notice:</p> <ol style="list-style-type: none"> 1. the AER will need time to assess whether it should issue the notice, 2. it is appropriate that the time limit imposed on the service provider is calculated by reference to the date on which the service provider was notified of the requirement.
8.	Rule 112(1)(a) Requests for access – definition of access request date	<p>In Rule 112(1), the <i>access request date</i> is defined as <i>the date of the prospective user’s request</i>. While it may be implicit that this is the date the request is received by the service provider, JGN suggests that the <i>access request date</i> should be defined as the date on which the <i>access request</i> is <u>received by the service provider</u>.</p> <p>This approach would be consistent with Rule 112(9) which specifies that the relevant period of time for the user to respond commences from the time the prospective user <u>receives</u> the service provider’s access proposal.</p>
9.	An access request should be formally identified as made under Rule 112(1)	<p>Prospective users will frequently approach the service provider to discuss possible services, including to enable the prospective user to better understand the sorts of services offered by the service provider and the information they will be required to provide. This is often an iterative process.</p> <p>To ensure it is clear to service providers and prospective users when the timing requirements commence, JGN considers that the Rules should require the prospective user to formally identify that its request is made under</p>

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		Rule 112. This will ensure both the service provider and prospective user understand when the formal process has commenced, as opposed to preliminary discussions.

Submission to AEMC on proposed changes to NGR Parts 8-12

Attachment B: Proposed new Part 11 Division 2: provision of information by full regulation distribution pipelines

Item	Description of rule change/issue	JGN Comment Note: these comments are limited to full regulation distribution pipelines
Provision of information by full regulation distribution pipelines		
1.	Division 2 (Rules 112A- 112D) creates a regime which is inconsistent with, or fails to recognise the role of, Access Arrangements	<p>The new proposed Division 2 generally applies to full regulation pipelines the same information requirements as apply to light regulation pipelines (Part 7) and non-scheme pipelines (Part 23).</p> <p>In considering the proposed obligations to publish information, it is important to recognise the role of an Access Arrangement – which by definition is <i>an arrangement setting out terms and conditions about access to pipeline services provided or to be provided by means of a pipeline</i>” (NGL section 2).</p> <p>As Access Arrangements are not required for light regulation and non-scheme pipelines, JGN acknowledges the benefits of relevant information being published for these pipelines. In contrast, Access Arrangements and associated information are published for full regulation distribution pipelines and the proposed new Part 11 Division 2 creates a parallel, but slightly inconsistent information regime from that applying to full regulation distribution pipelines under Part 8 Division 4 (full access arrangements).</p> <p>Additionally, in considering the need for publication of detailed information, JGN notes that the AER has broad discretion under Rule 107 to require a scheme pipeline service provider to provide information which a prospective user requires to decide whether to seek access to pipeline services.</p> <p>JGN considers that the draft Rules proposed for Part 11 Division 2 should be amended to require information to be published only where it is not included in an Access Arrangement and/or there is a particular benefit identified from the publication of that additional information.</p>

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Provision of information by full regulation distribution pipelines		
		<p data-bbox="616 331 1032 357"><u>Rule 112D(2): pipeline information</u></p> <p data-bbox="616 403 2029 539">In relation to Rule 112D(2), JGN recognises that the Access Arrangement and Access Arrangement Information reflect the network as at a particular point in time, and that it may be helpful for the description of the pipeline and pipeline schematics to be updated during the term of an Access Arrangement. For these reasons, JGN sees the benefit of providing the information required under paragraphs 112D(2)(b) and (c).</p> <p data-bbox="616 585 2018 791">However, JGN notes that the matters in paragraph 112D(2)(d) and (e) are covered or reflected in an Access Arrangement (for example, see NGR Rule 48(1)), and suggests that this information should only be required as part of <i>pipeline information</i> where they are not covered or reflected in an Access Arrangement. Alternatively, the Rule could provide that if the policies are reflected in an Access Arrangement, then the service provider has complied with the obligation to publish the information. (Note: If the service provider wishes to adopt different policies to those contained in the Access Arrangement, then the Access Arrangement would require amendment.)</p> <p data-bbox="616 837 1122 863"><u>Rule 112D(3): pipeline service information</u></p> <p data-bbox="616 909 2002 1115">The new Rule 112D(3) requires publication of information which will already be explicitly included in the Access Arrangement – particularly in light of the proposed amendments to Part 8. For example, amended Rule 48(1)(b) will require the Access Arrangement to “describe all of the pipeline services that the service provider can reasonably provide on the pipeline, which must be consistent with the AER’s <i>reference service proposal decision</i> under rule 47A, unless there has been a material change in circumstances”. Where services have different priorities, this would be reflected in the relevant description of pipeline services in the Access Arrangement.</p> <p data-bbox="616 1161 2029 1259">On this basis, JGN suggests that new Rule 112D(3) is <u>not</u> required in relation to full regulation distribution pipelines. Alternatively, the Rule should provide that the information is only required to be published if there have been material changes in the services offered since the establishment of the Access Arrangement.</p>

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Provision of information by full regulation distribution pipelines		
2.	The information requirements in Division 2 should recognise that the service provider may not own the relevant facilities	<p>The draft Rules appear to assume that the service provider will own the relevant facilities. Where this is not the case, the service provider may not have access to the information which it is required to publish and may therefore not be able to comply with the publication requirements.</p> <p>For example, <i>pipeline information</i> under draft Rule 112D(2)(a) includes “the quantity of natural gas that can be transported through each gate station on the distribution pipeline in any 24 hour period”. As this information requires knowledge of the design and operation of the gate station, it will typically be known by the owner of that facility, which may not be the distribution pipeline service provider. For example, in the STTM section of the JGN network, the off-takes from the EGP and MSP are owned by the transmission pipeline owners, not JGN.</p> <p>JGN suggests that the Rules should make it clear that the service provider’s obligations under Part 11 Division 2 to publish information should apply to facilities owned by the service provider. Alternatively, the Rules should provide that where the facility is not owned by the service provider, the service provider should use reasonable endeavours to obtain that information and is obliged to publish the information where it is provided to the service provider.</p> <p>We appreciate that this approach may mean that information is not published where the relevant facility is owned by a party which is not a service provider under the NGR, and that party refuses to provide the information. JGN considers that it is inappropriate to address this risk by imposing obligations on service providers which they may not be able to comply with.</p> <p>The comments in this item 2 relate to the following draft Rules: 112D(2)(a) 112D(5)(d)</p>

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3.	Information required under Rule 112D(5)(d)(ii)-(iv): AER should have discretion to require publication of this information	<p>The definition of <i>service availability information</i> includes detailed information under Rule 112D(5)(d)(ii)-(iv), with this information to be updated on a monthly basis.</p> <p>The Draft Rule Determination states that these requirements are proposed in order to enable prospective users to infer spare capacity on a large distribution pipeline (Draft Rule Determination, page 77). Given the explicit obligation under Rule 112D(5)(d)(i) to publish an outlook of firm capacity for each month of the next 36 months, it is not apparent that publishing information at this level of granularity will assist prospective users of large distribution pipelines.</p> <p>Accordingly, JGN suggests that draft Rule 112D(5)(d) be amended to provide that the information described in paragraphs (ii)-(iv) is to be published by the service provider if the AER decides that the information is to be published in respect of a particular large full regulation distribution pipeline. The AER's discretion could be guided by the concepts in existing Rule 111(2) where a register of spare capacity is required to be published if the AER determined that it was technically feasible and commercially reasonable for the service provider to maintain the register of spare capacity, and receipt the points and delivery points to be included in the register were likely to be commercially significant for a significant number of prospective users and as numerous as is commercially and technically reasonable.</p> <p>Additionally, JGN suggests that an exemption from reporting be available in instances where publishing information could result in a detrimental commercial impact. For example, where an exit point is a single large industrial customer, provision of daily flow data would effectively make that customer's consumption publicly available.</p>

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	<p>Information required under Rule 112D(5)(d)(ii)-(iv): Specific comments</p>	<p>Rule 112D(5)(d)(ii): JGN presumes that this requirement is to provide a historical profile of the ‘peak’ flow in the large distribution pipeline over the previous month. As the requirement is for large distribution pipelines, it would be reasonable to use the hourly flow as proxy for the peak flows. The requirement could then be stated as:</p> <p style="text-align: center;"><i>“peak flow data or where not available hourly flow data or equivalent”</i></p> <p>112D(5)(d)(iii): JGN understands that the intent is to provide users or potential users with a means for determining / estimating what capacity may be available in a large distribution pipeline (and the related infrastructure for that pipeline). If the hourly flow data is provided, the minimum inlet and outlet pressures of the entry and exit points will enable users to make an estimate of the available capacity. The requirement could then be stated as:</p> <p style="text-align: center;"><i>“minimum inlet and minimum outlet pressures over each hour”</i></p> <p>112D(5)(d)(iv): JGN presumes that the ‘static table’ is a pressure : flow plot, which would allow a prospective user to make an estimation of the remaining capacity. The requirement could then be stated as:</p> <p style="text-align: center;"><i>“pressure : flow capacity charts for each entry and exit point”.</i></p>
4.	<p>Timing for provision of service availability information (Rule 112C(2))</p>	<p>Under Rule 112C(2), <i>service availability information</i> is required to be published each month after the application date for the full regulation distribution pipeline, by the last business day of the month for the next 36 or 12 months as applicable.</p> <p>This timing is appropriate for information which is forward looking such as the outlook of capacity for the next 36 months, or information expected to affect capacity in the following 12 months (Rule 112D(5)(a) & (b)).</p> <p>Rule 112D(5)(c) (other limitations on the availability of pipeline services) can also be understood to be forward looking, although this is not clearly stated, and there is no guidance as to the applicable timeframe. JGN suggests that Rule 112D(5)(c) should be amended to refer to refer to a specified period, such as the following 12 or 36 months. In this case, the timing set out in Rule 112C(2) would be applicable.</p>

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		However, the information described in paragraph 112D(5)(d) is not expressed to be forward looking and could be understood to be referring to actual data (consistent with page 77 of the Draft Rule Determination: "...real time data is collected from these metering points and that data could be exported to an accessible file."). JGN suggests that the timing for publication of information under Rule 112D(5)(d) be the same as that for publishing <i>service usage information</i> .
5.	<p>Defined terms</p> <p>Definition: <i>business day</i></p> <p>Definition: <i>information: Information includes data</i></p> <p>Definition: <i>service usage information: Rule 112D(4) – allow for estimation</i></p>	<p>Unless there is a specific reason for difference, defined terms should be consistent across the NGL and NGR generally.</p> <p>Additionally, defined terms in relation to information provision should be consistent across Parts 11, 18 and 23 unless there is a specific reason for difference – for example: <i>access information standard, service and access information, daily flow, pipeline information, service usage information, service availability information</i>.</p> <p><i>Business day</i> is defined in the NGL. JGN suggests that including a specific definition in Rule 112A means the same term will have a different meaning in Part 11 Division 2 from its meaning in the NGL and other parts of the Rules.</p> <p>This definition is not included in other parts of the NGR – eg. Part 23, Part 18. The inclusion of the definition in Part 11 may imply that in other parts other Rules, "information" does <u>not</u> include data. JGN suggests either deleting the definition, or including it in the general definitions section in the NGL or NGR.</p> <p>In Rule 112D(4), <i>service usage information</i> is defined as "the total quantity of gas metered as having been injected into the pipeline during the month".</p> <p>In Rule 112A, <i>daily flow data</i> is defined to mean the quantity of gas that is metered as having been, <u>or estimated in good faith by the pipeline operator,</u> to have been, injected at each receipt point on the pipeline on a gas day (emphasis added). JGN recommends that the same concept should apply to <i>service usage information</i> – that is, Rule 112D(4) should define <i>service usage information</i> as "the total quantity of gas metered as having been, <u>or estimated in good faith by the pipeline operator, to be have been,</u> injected into the pipeline during the month".</p>

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	Definition – large full regulation distribution pipeline: AER should have discretion to waive requirements for publication	<p>NGR Part 23 provides that a service provider can seek an exemption from certain information requirements if the average daily injections are less than 10TJ/day. In Part 11, the threshold for publication is the capacity/pressure of the distribution pipeline under normal operating conditions – that is, regardless of actual flows.</p> <p>JGN suggests that it would be appropriate for this Part 23 concept to be reflected in the Rules in relation to large full regulation distribution pipelines, including to increase consistency between the information regimes applying to different categories of distribution pipelines.</p>
	Definition service availability information - paragraph 112D(5)(d).	<p>In the proposed equivalent provision in Part 8 (Rule 36C(5)), paragraph (d)(ii) is as follows (difference highlighted) and JGN suggests the same terms should apply in Rule 112D(5)(d):</p> <p style="padding-left: 40px;"><u>where a meter is installed at the relevant entry or exit point, the gas flow rate averaged etc .</u></p> <p>This would be consistent with the Draft Rule Determination (page 78) that the daily flow profile should be published “[for] metered entry and exit points”</p>

Submission to AEMC on proposed changes to NGR Parts 8-12

Attachment C: Amendments to Part 8 (Access Arrangements)

Issue	Description of rule change/issue	JGN Comment Note: these comments are limited to full regulation distribution pipelines
Access Arrangements - Reference service proposals		
1.	Timing for approving a <i>reference service proposal</i> should be clarified	<p>Rule 47A(9) provides that the AER must make a <i>reference service proposal decision</i> at least 6 months prior to the review submission date for the Access Arrangement. However, as there are two possible <i>reference service proposal decisions</i> which could be made under the Rules, it is not clear how this time limit is intended to apply.</p> <p>As drafted, the Rule could apply to both the decision in relation to the <i>reference service proposal</i> lodged by the service provider and also to the decision to be made by the AER under Rule 47A(12) in approving its own <i>revised reference service proposal</i>. If the 6 month requirement is to apply to <i>decisions</i> under both Rule 47A(9) and Rule 47A(12), this could require that on the same day, the AER would</p> <ul style="list-style-type: none"> • made a <i>decision</i> under Rule 47A(9) refusing to approve the service provider's <i>reference service proposal</i> • publish its <i>revised reference service proposal</i> under Rule 47A(11), and • make a <i>decision</i> under Rule 47A(12) approving its own <i>revised reference service proposal</i>. <p>JGN suggests that the Rules should specify separate time limits for the making of the two decisions.</p> <p>The draft Rule could be amended as follows:</p> <ol style="list-style-type: none"> (1) Rule 47A(9) amended to explicitly refer to the AER's decision in relation to the <i>reference service proposal</i> submitted by the service provider under Rule 47A(1), and (2) Rule 47A(12) amended to provide that where the AER's <i>reference service proposal decision</i> under Rule 47A(9) was to not approve the service providers <i>reference service proposal</i>, the AER must make the <i>reference service proposal decision</i> in respect of its own <i>revised reference service proposal</i> no less than 5 months before the revisions commencement date.

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Access Arrangements - Reference service proposals		
2.	Process where AER refuses to approve <i>reference service proposal</i> proposed by service provider (Rules 47A(11) and (12)).	<p>The proposed rules establish a regime under which the AER must publish its own <i>revised reference service proposal</i> if it refuses to approve the service provider's <i>proposal</i> (Rule 47A(11)). The AER must then make a separate decision approving its <i>revised reference service proposal</i> (Rule JGN 47A(12)).</p> <p>JGN suggests that either:</p> <ol style="list-style-type: none"> (1) the Rules should provide an opportunity for the AER to seek submissions on the AER's <i>revised reference service proposal</i>, and for AER to take those submissions into account in making the final decision to approve a <i>reference service proposal</i>, or (2) if there is to be no mechanism for submissions, the process should be streamlined by providing that the AER must make the decision to approve its own <i>revised reference service proposal</i> at the time it publishes that revised <i>proposal</i>. (3) the Rules should provide that any revised <i>reference service proposal</i> published and approved by the AER should be consistent with the AER's decision under Rule 47A(10) to refuse to approve the <i>reference service proposal</i> submitted by the service provider. <p>The approach in points (1) and (3) above are consistent with Rule 64(3) and 64(2) respectively (process where AER approves its own Access Arrangement).</p>
3.	Matters the AER is to have regard to In making a <i>reference service proposal decision</i> (Rule 47A(13)) should be aligned with the regime under Rule 64	<p>Rule 47A(13)(d) provides that the AER can take into account "any other matters the AER considers relevant".</p> <p>JGN considers that if the <i>reference service proposal</i> complies with the requirements of the Rules and the Law, including the National Gas Objective, then it should be approved. This would be consistent with the regime under Rule 64 where the AER proposes and approves its own Access Arrangement if it refuses to approve an Access Arrangement submitted by the service provider.</p> <p>Paragraph 47A(13)(d) could be amended to refer to "the matters that these rules require a <i>reference service proposal</i> to include (as per 47A(11)(a)).</p>

Issue	Description of rule change/issue	JGN Comment Note: these comments are limited to full regulation distribution pipelines
Access Arrangements - Reference service proposals		
4.	reference service factors should include the revenue and pricing principles (Rule 47A(15))	Previously, Rule 101(2) required the AER to take into account the <i>revenue and pricing principles</i> in deciding whether a service should be specified as a reference service. In JGN's view, this concept should be included in the <i>reference service factors</i> specified in Rule 47A(15).
5.	Reference service proposal decision should be binding on the service provider and the AER	<p>The Draft Rule Determination (page 38) states that "The regulator would not change the approach set out in this [<i>reference service proposal decision</i>], unless there is a material change in circumstances that warrants a departure.</p> <p>As drafted, Rule 48(1)(b) effectively applies this requirement to the service provider, by requiring that the access arrangement submitted by the service provider "must be consistent with the AER's <i>reference service proposal decision</i> under rule 47A, unless there has been a material change in circumstances".</p> <p>To implement the intent of the Draft Rule Determination, JGN suggests that the Rules should also provide that the <i>reference service proposal decision</i> is binding on the regulator.</p>
6.	Connection services are not pipeline services (Rule 47A(2)(a))	<p>Rule 47A(2)(a) refers to "the service type (for example, forward haul, backhaul, connection, park and loan)".</p> <p>Connection services are regulated under NECF, not NGR Parts 8-11. JGN suggests that the reference to "connection" should be deleted as it implies that a <i>pipeline service</i> could include a NECF connection service.</p>
7.	Minimum period for responding to draft decision is extended from 15 to 30 business days (Rule 59(3))	JGN supports this proposal as it will provide an improved opportunity for service providers and other interested parties to make informed submissions.
8.	Minimum rate of return to be applied to speculative capital expenditure is the rate of return implicit in reference tariffs (Rule 84(2))	JGN supports this proposal as it recognises that speculative capital investment may carry a higher risk than the capital expenditure involved in provision of reference services.
9.	Transitional provisions (Part 12)	JGN supports the transitional provisions contained in Part 12.