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Via online submission

Dear Mr Pierce,

**ERC0169: Expanding competition in metering and related services -
Consultation on implementation timetable**

We welcome the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) information note on the proposed implementation timetable for the metering and related services rule change.

Jemena is an \$8.5 billion company that owns and manages some of Australia's most significant gas and electricity assets, including the Jemena electricity network (**JEN**) which delivers power to over 330,000 homes and businesses in north-west Melbourne.

We have recently completed the Victorian Government's mandated smart meter or advanced metering infrastructure (**AMI**) rollout across the JEN with over 98% of customer premises having smart meters. We are committed to ensuring customers can benefit from our investment in AMI and in the efficiencies that result from us supplying a range of network services facilitated by this technology.

For these reasons, we have a strong interest in the review. The policy, regulatory and technical settings being considered by the AEMC, the Australian Energy Market Operator (**AEMO**) and the Australian Energy Regulator (**AER**) will play a critical role in ensuring:

- customers can benefit from our investment in AMI
- network businesses have certainty of cost recovery of expenditure related to implementation and to securing necessary network data
- the market design encourages network businesses to participate and innovate in these newly contestable markets for the long term benefit of customers.

This submission addresses these points, and we would welcome the AEMC's continued engagement with stakeholders to ensure the policy, regulatory and technical settings continue to promote the long-term interests of our customers.

We have contributed to the Energy Network Association's (**ENA**) submission and support their detailed comments on the implementation issues and timelines.

Draft implementation plan

We recognise the need for and are supportive of the AEMC's proposed sequencing of the implementation plan.

However, we believe work on *updates to the procedures and systems* should not begin (other than setting up working groups and planning of deliverables) until the final determinations on metering competition and Shared Market Protocol (**SMP**) rule change are completed. Moreover, we believe some elements of the work would take longer than that proposed in the implementation plan. We note the AER ring-fencing guidelines are scheduled for completion at the end of May 2016. The AER's consideration of the regulatory settings applying to the newly contestable market will have a significant influence on the incentives for network businesses to participate in these markets. For this reason, the guidelines would need to be completed as we need to understand the cost ramifications of these guidelines before we commit investment to IT system modification, testing and revamp of business processes.

We propose the review and consultation process be extended given the complexity of the issues and the practical implications for customers. The transition to a contestable metering market requires a coordinated approach to ensure readiness of all existing and new market participants. For this reason we intend to engage with our customers and stakeholders through our JEN Customer Council early in 2015 on issues of metering competition and how it may impact customers, particularly as we have recently completed the mandated smart meter rollout and our customers have told us they value the improved information relating to their electricity usage that comes from this investment.

Minimum functionality of advanced meters

AEMO has provided advice to COAG Energy Council on the minimum set of services and requirements for advanced meters for a market-led rollout. In our view, this advice was provided after limited consultation involving the reference group – i.e. not *all* stakeholders were afforded an opportunity to respond to the advice AEMO provided through a public consultation process. COAG's Terms of Reference (**TOR**) asked AEMO to prepare advice on:

- *“A proposed smart meter minimum functionality specification (and related service levels and performance levels), developed **in consultation with stakeholders**, that could be adopted in the NEM that is likely to deliver the greatest benefit to consumers. When preparing this specification AEMO should consider the services a smart meter should provide to:*
 - *Enable the efficient, reliable and safe operation of the national grid.*
[emphasis added]

The TOR also requires AEMO to take into consideration the *substantial work done previously on a national minimum functionality for small customer smart meter* and the functionality and services delivered by the Victorian Advanced Metering Infrastructure specification. The TOR specifically states on page 5:

In preparing this advice AEMO:

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- *will take into account the national minimum smart meter functionality previously developed by the NSSC; and*
- *will consider the ongoing functionality provided by **smart meters which are now standard meters in Victoria.** [emphasis added]*

AEMO instead has taken a ‘top-down’ approach to assess the requirements for a NEM advanced metering minimum functionality specification. Other than noting *AEMO has drawn from the work undertaken by the industry during the National Smart Metering Program...*, AEMO’s advice does not provide details on what aspects of the previously developed minimum smart meter functionality specification was accepted/rejected by AEMO and the reasons why.

Minimum services specification is central to realising the benefits of AMI already implemented in Victoria. Anything less than current specification in Victoria would diminish realisation of AMI benefits customers have already paid for through the smart meter roll out program.

While AEMO’s advice on primary services¹ includes non-metrology data from advanced meters, (e.g. energisation status, power quality data, alarms) under a single “meter installation enquiry” service, it lacks detail. It leaves considerable scope for interpretation and risks the maintenance of advanced meter services already available to customers in Victoria and future AMI benefits that underpinned the business case of the Victorian AMI rollout.

Cost recovery of implementing metering competition

A well-functioning regulatory framework encourages network businesses to invest efficiently by providing reasonable opportunity to recover the costs associated with providing network services.

However the timetable and Rule change creates risk that we may not be able to recover the costs related to IT investment that is necessary to implement these market changes. This in part relates to the process required to seek approval of cost recovery through the current pass through provisions.

We encourage the AEMC to give consideration to how network businesses can recover the costs of implementation in the draft determination scheduled for release on 26 March 2015.

¹ Services that can be enabled and provided across all advanced metering installations

Material transaction costs and cost recovery uncertainty

The AEMC workshop² discussed the proposition that network businesses would be in a position to negotiate with metering coordinators and procure the necessary network data to realise network benefits under the meter competition framework.

While economic theory suggests that firms with counter-veiling market power have the ability to negotiate these outcomes, regulatory settings relating to market design typically consider the transaction costs associated with negotiations related to the terms and conditions of access and/or pricing and the impacts these costs have on expected outcomes in the market.

We encourage the AEMC to consider:

- The transaction costs of negotiating with multiple metering coordinators and the impact this would have on network business incentives to seek network alternatives such as installing on power poles their own network monitoring devices, which are already built into the AMI smart meters at most customer premises.
- The potential price volatility for network data within the regulatory control period and how network businesses should manage this volatility.
- Whether in Victoria, it could lead to customers paying for services twice where smart meters are prematurely replaced by metering coordinators, given smart meters have recently been rolled out to more 98% of the customers.
- The benefits of ensuring the cost of providing primary network data to market participants being priced into the metering services offered by all metering coordinators. This would avoid network businesses having to negotiate with multiple metering coordinators for network data and reduce the transaction costs for the benefit of customers.

The regulatory settings to create a 'level playing field' should be focused on the long term interest of customers

The AEMC has sought to consider the spectrum of regulatory settings that might be applied to competitors in the newly contestable metering market.

For network businesses with regulated costs and revenues, the NER recognises the need for consideration of the appropriate regulatory settings to ensure that competition and the interests of customers are not damaged by network business' participation in the regulated sector. The NER empowers the AER to develop distribution ring-fencing guidelines.³

We consider it important that the application of the regulatory settings is guided by the long term interests of customers and looks to balance:

- The protection of competitive process (e.g. preventing anti-competitive cross-subsidies through cost/financial allocation)

² Stakeholder Workshop 4 – Proposed core model arrangements, 24 September 2014

³ NER, cl. 6.17.2(a).

- Encouraging network business to meaningfully compete in new markets with new business models in a way that benefits customers (incorporating network synergies, scope and scale).

In our view, regulatory settings that unnecessarily diminish incentives for network businesses to participate in the newly contestable markets through more heavy-handed regulatory settings – such as operational ring-fencing – are unlikely to be in the long term interests of customers. Network businesses have a range of scale and scope efficiencies through which their customers currently benefit. Onerous ring-fencing requirements that seek to remove these benefits will diminish the incentives for network businesses to participate in the newly contestable markets and would likely place upward pressure on prices in the newly contestable markets.

We are concerned that the AER perceives the need for ring-fencing to remove the advantages that network businesses have, in terms of scale and scope efficiencies, to promote competition:

Ring-fencing therefore protects the long term interests of consumers more broadly by promoting competition in contestable markets. For example, a DNSP may be able to provide non-regulated services, and possibly gain an advantage over other service providers through its provision of regulated services. Ring-fencing aims to prevent this. Ring-fencing levels the playing field in markets for contestable services, by eliminating the advantage that a DNSP may otherwise have in providing that service, and facilitating competition in the provision of contestable services.⁴

However, creating a ‘level playing field’ does not necessarily mean removing the natural advantages that firms may have. Firms in any market may have a range of advantages over their competitors and broader competition policy does not seek to remove these advantages without an understanding of their impact on the *competitive process* or the long term interest of customers. As noted by the ACCC recently:

“They [competition policy] must also, of course, allow firms with market power to compete on their merits, including using the advantages that come with their scale and experience.”⁵

We would encourage the AEMC to:

- engage with the AER and stakeholders on the relevant advantages that network businesses currently have and which (if any) require a regulatory or policy response to ensure the settings promote the long term interests of customers
- identify the ‘problem’ with the current regulatory settings—including the ring-fencing guidelines and framework for approving the cost allocation methodology (CAM)—using a clear evidence-base and following extensive consultation with stakeholders consistent with the principles of best practice regulation.⁶

⁴ AER, Position Paper - Electricity Distribution Ring-fencing Guidelines, September 2012, p2.

⁵ ACCC, Bringing more economic perspectives to competition policy & law – Rod Sims speech, 7 November 2014.

⁶ COAG, Best practice regulation: Guide for Ministerial Councils and National Standard Setting Bodies, 2007.

https://www.dpmc.gov.au/deregulation/obpr/proposal/coag_requirements/docs/COAG_best_practice_guide_2007.pdf#page=6

If you have questions in relation to this report, please contact me on (03) 8544 9053 or by email robert.mcmillan@jemena.com.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'R. McMillian', with a long horizontal flourish extending to the right.

Robert McMillian
General Manager Regulation