

9 February 2017



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### **Contestability of energy services consultation paper, 15 December 2017**

Jemena Electricity Networks Vic Ltd (**JEN**) welcomes the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) contestability of energy services consultation paper.

JEN considers the consultation paper provides a clear overview of existing regulatory framework. It explains the significance of service classification and clarifies the important distinction between distribution services provided to consumers and the inputs to the provision of service.

JEN understands the broad intent of the contestability of energy services proposed changes to National Electricity Rules (**NER**) is to promote greater competition in energy markets. However, we consider most of the rule change requests to go to a level of management of electricity Distribution Network Service Providers (**DNSPs**) that could result in economically inefficient outcomes and contradict the regulatory incentive framework that underpins the National Electricity Law.

In addition, JEN notes that the proposed rule change is not founded on any long-term regulatory transition to competitive markets. Without a clear road-map that underpins the basis for change towards a longer-term goal, standalone rule changes that focus on one element of competition could have unintended economic consequences.

JEN supports the submission made by the Energy Networks Australia (**ENA**) in response to the AEMC's consultation paper. Our submission compliments the matters identified in the ENA's submission.

JEN highlights a number of key concerns with the proposed rule change below.

#### **Current distribution service classification framework is appropriate**

The consultation paper notes that the COAG Energy Council considers the framework and approach (**F&A**) process is conducted far in advance of the distribution determination and often attracts little engagement from stakeholders because stakeholders have little time to prepare submissions and there is a lack of understanding of the significance of service classification decisions<sup>1</sup>. JEN agrees that there is little involvement of stakeholders in the service classification in the F&A

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<sup>1</sup> AEMC, Contestability of energy services, consultation paper, 15 December 2016, p 19.

stage, however considers the reasons may instead be driven by the fact that the F&A decision is non-binding. We note that the service classification can change in both the draft and final decisions and stakeholders typically engage on service classification during these stages of the decision process.

We consider the issue of insufficient time to prepare submissions can be addressed by providing more time for stakeholders to prepare a submission. To improve the clarity of service classification to stakeholders, the F&A paper could better explain the purpose and scope of the classification process and clarify the distinction between a distribution service (*output*) and procured materials and labour (*input*) to a distribution service.

We do not believe the timing of the F&A process in advance of each distribution determination inhibits stakeholder engagement on service classification decisions as the Australian Energy Regulator (**AER**) can alter the classification from F&A in the determination.

### **Reclassification of services within a regulatory control period**

JEN does not support the reclassification of services within a regulatory control period. Reclassification may have a material impact requiring adjustments to regulatory asset base, adjustments to total revenue requirement for standard control services and changes to EBSS and CESS targets. With such large impacts, a DNSP would be prevented a reasonable opportunity to recover its efficient cost or have to reopen a determination which may be complicated and administratively burdensome.

### **Current form of regulation factors in the NER is appropriate**

COAG Energy Council considers that the requirement to not change service classification unless a new classification is clearly more appropriate should be removed.<sup>2</sup>

JEN believes the current form of regulation factors in the NER provide clear and appropriate guidance to the AER. In particular, factor (d) of NER clause 6.1.2, requires the AER to not change the classification of a service unless a new classification is clearly more appropriate. This remains an important safeguard that ensures service classification decisions best promote customers' interests *over the long-term*.

Service classification decisions must assess and balance the likely short and long-term outcomes for consumers of a distribution service under both regulation and competitive markets. Given the potentially significant impacts of these decisions on customers of that service, JEN considers that this safeguard which limits AER discretion over service classification decisions should remain in place.

### **Current incentive framework require DNSPs to provide distribution services efficiently**

The Australian Energy Council (**AEC**) considers that DNSPs should be required to procure network support, demand management and inputs provided by assets located 'behind the meter' from contestable markets. Equivalently, DNSPs would be prevented from investing in assets that provide such inputs.<sup>3</sup>

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<sup>2</sup> AEMC, Contestability of energy services, consultation paper, 15 December 2016, p 24.

<sup>3</sup> Ibid, p 33.

Under the current incentive regulation framework, DNSPs are incentivised to provide distribution services efficiently. Consistent with the current incentive regulation framework, JEN believes it is important for DNSPs to be allowed delivery discretion in relation to demand response, network support and other inputs to deliver lowest cost distribution service outcomes—regardless of whether the assets are behind or in front of the meter. The proposed rule change request which prevents DNSPs from investing in assets that provide such inputs amounts to a framework that picks ‘winners and losers’. Such decisions have proven in the past to result in sub-optimal outcomes for customers.

We believe the current regulatory framework provide DNSPs with balanced incentives (EBSS, CESS) to use the most efficient mix of capital and operating expenditure, network and non-network options, "in-house" and third party services—regardless of whether the assets are behind or in front of the meter—to deliver the most economically efficient outcome.

### **Network planning framework**

JEN does not support the proposed rule change request seeking to introduce a truncated RIT-D where the test threshold is reduced from \$5 million to \$50,000. The fact that there is a threshold under the test recognises that a balance must be struck between allowing DNSPs to make decisions in a timely manner and the application of a transparent RIT-D process. The benefits and costs of different test thresholds must therefore be considered.

Even under the proposed truncated process, a \$50,000 RIT-D threshold would result in a significant increase in the number of projects requiring a RIT-D, adding substantial administrative costs and delays to business decisions. This would potentially place safety and reliability of networks at risk. The additional cost burden passed on to consumers and network risks associated with such a low RIT-D threshold would, in JEN’s view, be unlikely to be offset by any consumer benefits that would arise from applying a truncated RIT-D process to such a large number of projects.

We acknowledge the potential benefits for customers associated with the efficient deployment of non-network options as alternatives to traditional network investment. To this end, a final rule change for the local generation network credits rule was made on 8 December 2016. This rule change requires DNSPs to publish system limitation information that is complementary to the Distribution Annual Planning Report (**DAPR**) using a template prepared by the AER. Additionally, system limitations are already published in JEN’s DAPR. These changes will better facilitate the providers of non-network alternatives to engage with DNSPs. We believe this rule change should be given a chance to work before such a drastic rule change proposal is introduced that increases the cost burden on networks.

Additionally, the AEMC is consulting on a rule change request that extends the application of RIT-D process to asset replacement projects.<sup>4</sup>

The outcomes of these rule changes may produce outcomes that are complementary to those sought by AEC’s rule change request.

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<sup>4</sup> The AEMC published a consultation paper on this rule change request on 27 October 2016.

If you have questions in relation to the submission, please contact Siva Moorthy on (03) 9173 8774 or at [siva.moorthy@jemen.com.au](mailto:siva.moorthy@jemen.com.au).

Yours sincerely

*[signed]*

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