



4 July 2013

Via online submission

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Jemena Limited
ABN 95 052 167 405

321 Ferntree Gully Road
Mount Waverley VIC 3149
Locked Bag 7000
Mount Waverley VIC 3149
T +61 3 8544 9000
F +61 3 8544 9888
www.jemena.com.au

Annual Network Pricing Arrangements – Jemena submission on the consultation paper

Jemena Limited (**Jemena**) welcomes the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) consultation paper on the Annual Network Pricing Arrangements.

Jemena owns two regulated network businesses: Jemena Gas Networks (NSW) Limited (**JGN**) and Jemena Electricity Networks (Vic) Limited (**JEN**). Jemena also has ownership interests in the United Energy electricity distribution business in Victoria (34%) and the ActewAGL electricity distribution partnership in the ACT (50%). Accordingly, Jemena has a strong interest in this rule change.

The Independent Pricing and Regulatory Tribunal (**IPART**) have proposed changes to three areas:

- bringing forward the notification of annual network price changes
- consultation on the development of annual network prices
- requiring that annual pricing proposals are consistent with the statement of expected price trends.

The AEMC is also consulting on issues related to notification of network prices in the first year of the regulatory control period.

We comment on each area below and address relevant AEMC questions in **Annexure 1**.

Bringing forward the notification of annual network price changes

Jemena recognises the value for its customers of earlier notification of network prices and therefore supports bringing forward its pricing proposals a month earlier. Jemena notes that such a requirement should be implemented in a manner to ensure consistency with the requirements in Distribution Network Service Provider's (**DNSP's**) revenue determinations.¹ This could be achieved by implementing the rule change from the start of the next regulatory period of each DNSP (provided that the decision was made in time to incorporate this into the determination).

¹ For example, so that the appropriate quarter CPI data to be used in annual pricing proposals is included in the determination.

To ensure benefit to stakeholders is realised, the earlier provision of pricing proposals by DNSP's would need to be accompanied by a requirement for the Australian Energy Regulator (**AER**) to approve the network prices earlier.

Consultation on the development of annual network prices

Jemena notes that IPART's proposed solution is for the AER to develop guidelines on the development of the statement of expected price trends. These guidelines would establish how a DNSP would consult when developing and changing the statement. The AEMC's consultation paper goes further to explore potential consultation on the annual network pricing proposals.

Jemena considers that the final consultation requirements should not be mandated and should instead allow DNSPs flexibility to respond to customer and stakeholder needs. Consultation requirements should be driven by the degree that stakeholders want to be informed, their capacity to engage and be proportional to the value derived. Jemena notes that different jurisdictions currently have different practices and varying degrees of customer expectations. It would be appropriate to allow consultation that is fit for purpose for each DNSP's customer base.

In particular, the AEMC should be mindful of the time and administrative burden on all stakeholders should significant and prescriptive consultation be introduced into the annual pricing proposal process. Incorporating formal written consultation periods is unlikely to be in stakeholders' best interests. It would necessitate bringing forward the timetable and result in the need for more forecasts and estimates, rather than actuals, to be used in the prices initially consulted on.

Jemena considers the use of specific stakeholder consultative committees (or equivalent) run by the DNSP to be the most effective means of consultation. JEN used such a forum during the setting of 2013 network prices. The use of such a forum is able to extract the benefits sought at a lower administrative burden than a formal and time-consuming published consultation seeking written responses.

Jemena has provided the membership of its stakeholder consultative committee in **Annexure 2**.

Consistency between the statement of expected price trends and annual proposals

Jemena considers there may be some benefit from the AER providing guidance on key elements to be included in a statement of expected price trends. This could improve consistency across DNSPs and assist stakeholder engagement.

However, it would not be appropriate to make approval of a DNSP's pricing proposal contingent on how accurately it tracks the statement. A workable solution would be for DNSPs to explain within their annual pricing proposals any differences between the statement and that proposal.

The trends in the statement are for periods up to five years in advance, and no DNSP has perfect foresight of the events that will transpire over that time horizon. A DNSP will base the statement on the best information it has available to it at the time. Pricing proposals must also comply with the allowed price path established under the AER's five year price determination, as well as the NER. Complying with these may in of themselves be a reason for divergence from the statement.

There are benefits to retaining flexibility to vary from the statement. For example, there could be policy, law or rule changes within a determination period which would result in

divergence between the statement and annual pricing proposals. In Victoria for example, DNSPs would not have had foresight of the policy intricacies and timing of the Victorian government policy decision to implement a prescribed model for flexible pricing.

An approach where DNSPs explain any variance between the statement and annual pricing proposal would be analogous to the approach that the AEMC adopted for the guidelines now being implemented by the Australian Energy Regulator's (**AER's**) better regulation program; the AER is not bound by the guidelines but, if the AER makes a distribution determination that is not in accordance with the guideline, the AER must state the reasons for departing from it.²

Notification of network prices in the first year of the regulatory control period

Jemena supports starting the determination process earlier to enable stakeholders to obtain earlier visibility of prices in the first year of a regulatory period. This would maximise the benefits of the rule change. Jemena considers that it would not be appropriate to shorten the timing of the determination process given this was only recently extended by the Economic Regulation of Network Service Providers rule change and was done so to incorporate the myriad of changes within it.

If you wish to discuss the submission please contact me on (03) 8544 9053 or at robert.mcmillan@jemena.com.au

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Robert McMillan', written over a faint horizontal line.

Robert McMillan
General Manager Regulation
Jemena Limited

² National Electricity Rules section 6.2.8(c).

Annexure 1. Jemena response to AEMC questions.

AEMC question	Jemena response
Assessment Framework	
1. Is the assessment framework presented in this consultation paper appropriate for assessing this rule change request?	Jemena broadly supports the assessment framework.
Impact on NSPs	
2. Are there any other key dates or inputs in the pricing process for TNSPs and DNSPs?	<p>The AEMC should also bear in mind that in Victoria:</p> <ul style="list-style-type: none"> • Notification of licence fees which are a pass through amount are received from the Essential Services Commission in October of each year. • JEN's regulatory determination requires use of September CPI data which becomes available in October of each year. The implementation of any rule change would therefore need to ensure there is no conflict between the rule requirements and the applicable determination.
3. Other than the question of timing, are there any other differences in the regulatory arrangements in Victoria which are relevant for the purposes of this rule change request?	<p>JEN complies with its use of system agreement (UoSA). This includes obligations to notify the retailer of:</p> <ul style="list-style-type: none"> • any new tariff structures to retailers by 30 September each year – this is a requirement from our UoSA that any new tariff or tariff structure is notified to retailers three months prior to its implementation (UoSA Clause 9.8 (i)) • the proposed new prices within two business days of submitting the proposal to the AER (UoSA Clause 9.8 (c)) • the prices approved by the AER within two business days of this being approved (UoSA Clause 9.8 (c))
4. What are the risks in requiring TNSPs and in particular, DNSPs to publish their annual prices earlier than currently required? What are the consequences of these risks and can these risks be adequately managed if the proposed rule is made?	Earlier publication of the pricing proposal would potentially require the use of more estimates and forecasts. This has the effect of potentially reducing the accuracy of the prices and the need for over and under recovery true-ups in subsequent periods.

AEMC question	Jemena response
Role of and impact of the AER	
5. Should the AER have a set timeframe in which to assess all DNSP annual pricing proposals?	Having a set timeframe for the AER to assess DNSPs' annual pricing proposals would ensure the AER focuses on the key areas of importance. It would also be necessary to ensure the benefits of the proposed rule change can be realised.
6. Is anything else involved in the AER approving a DNSP's annual pricing proposal? How much time should be allocated to the AER for this assessment/approval?	-
Impact on jurisdictional regulators and retailers	
7. How much time do retailers and jurisdictional regulators require for notification of network prices before finalising retail tariffs and notifying customers?	-
8. Is the proposed notification of two months sufficient?	-
Consultation on development of network prices	
9. What type of consultation on level and structure of network prices would be useful to consumers/consumer groups and what benefit would there be?	-

AEMC question	Jemena response
<p>10. How much scope would there be for consultation on proposed annual network prices?</p>	<p>Jemena considers that consultation requirements should not be mandated. This would enable flexibility to ensure that consultation requirements that meet stakeholders' needs can be developed. For example, consulting on annual price changes within a DNSP's stakeholder consultative committee (or equivalent) might provide the right balance between providing stakeholders the information and input they want and value without creating an overwhelming administrative burden.</p> <p>Any introduction of a formal written consultation would significantly increase administrative burden for all stakeholders. This is especially the case in Victoria, where there are five electricity DNSPs for which consumers would have to respond to. It would also substantially increase the time before the start of the regulatory period in which the annual pricing process would begin. Assuming a reasonable consultation period and opportunity to take respondent views into account (and demonstrate how this has been done), this would necessitate bringing forward the beginning of the process by at least two months. This would increase the amount of forecasts required and change the applicable CPI data to be used.</p>
Statement of expected price trends	
<p>11. How useful is the current statement of expected price trends to retailers and consumers?</p>	<p>-</p>
<p>12. What influences the statement of expected price trends?</p>	<p>-</p>

AEMC question	Jemena response
<p>13. Should a DNSP's approval of its annual prices be linked to how accurately it can track the statement?</p>	<p>As noted above, Jemena does not support making approval of a DNSP's pricing proposal contingent on how accurately it tracks the statement of expected price trends. It would instead be appropriate for DNSPs to explain within its annual pricing proposal any differences between the statement and that proposal.</p> <p>A DNSP will base the statement on the best information it has available to it at the time, but does not have perfect foresight. Pricing proposals must also comply with price controls or revenue allowance established under the AER's five year determination as well as the NER. Complying with these may in of themselves be a reason for divergence from the statement.</p> <p>There could be policy, law or rule changes within a determination period which would result in divergence between the statement and annual pricing proposals. In Victoria for example, DNSP's would not have had foresight of the policy intricacies and timing of the Victorian government policy decision to implement flexible pricing.</p> <p>Additionally, were approval to be linked to how accurately the annual prices tracked the statement, there would be an undesirable incentive on DNSP's to produce vague statements to minimise the potential for inconsistencies. Such incentives would be counter to the aim of the proposal to provide stakeholders with clear, useful and timely information.</p> <p>There is also an interaction with the proposed AER guidelines on what DNSPs should include in the statement of expected price trends. Should the AER include specific details of what is to be included in the statement, and were a DNSP's approval of annual prices to be linked to the accuracy of that statement, then this would effectively enable the AER to micromanage the pricing proposals. This is despite DNSPs having the deeper understanding of its business and customers.</p> <p>Jemena considers that DNSPs should, as best practice, explain any differences between the statement and annual pricing proposals. This would facilitate transparency and understanding of network prices and be consistent with the AEMC's approach that requires the AER to explain variances between its determinations and the relevant guidelines.</p>
Initial year network pricing	
<p>14. What are the key dates in the initial year pricing process of TNSPs and DNSPs?</p>	<p>-</p>
<p>15. What is the best option to manage the first year pricing issue? Is it necessary to keep timings for the first year and subsequent years the same?</p>	<p>Jemena would support bringing forward the determination process to begin earlier so as to accommodate the provision of network price information to customers/stakeholders earlier. Jemena does not consider that shortening the determination process would be a proportionate response to the issue identified given the total length of the determination process was subject to significant consultation to accommodate the new network regulation rules.</p>

Annexure 2. Jemena Electricity Network's Stakeholder Consultative Committee

JEN's Stakeholder Consultative Committee include members from:

- AMCOR/Energy Users Association of Australia
- St Vincent de Paul
- Kildonan Uniting Care
- Consumer Action Law Centre
- Consumer Utilities Advocacy Centre
- Moonee Valley City Council