



FINAL DECISION
Jemena Gas Networks (NSW)
Ltd
Gas Distribution Determination

2025 to 2030

Reference Services

November 2023

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Note

This AER final decision applies to Jemena Gas Networks (NSW) Ltd's reference services for the 2025–30 gas access arrangement period commencing 1 July 2025 to 30 June 2030.

Under the National Gas Rules (NGR), gas network service providers are required to submit their reference service proposals to the AER twelve (12) months in advance of the submission date for their access arrangement revisions proposal.

The NGR require us to complete our assessment of a reference service proposal no later than six (6) months in advance of the due date for submission of the relevant access arrangement revisions proposal. We are required to conclude our assessment no later than 31 December 2023.

Jemena Gas Networks (NSW) Ltd's access arrangement revisions submission date is 30 June 2024.

Contents

Note	2
Contents	3
Shortened forms	4
1 Overview	5
2 Background	7
2.1 JGN’s gas distribution network	7
2.2 Background	7
2.2.1 Reference service proposal process	7
2.2.2 Criteria	8
3 JGN's reference service proposal	9
3.1 JGN’s stakeholder consultation	9
3.2 JGN’s reference service proposal	10
4 AER assessment	13
4.1 AER stakeholder consultation	13
4.2 Overarching views on JGN’s reference service proposal	13
4.3 JGN resubmitted its reference service proposal	14
4.4 The policy context for our decision is dynamic	14
4.5 Detailed assessment of NGR compliance	15

Shortened forms

Shortened form	Extended form
ACCC	Australian Competition & Consumer Commission
AER	Australian Energy Regulator
Cl.	clause
JGN	Jemena Gas Networks (NSW) Ltd
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
NSP	Network Service Provider

1 Overview

The Australian Energy Regulator (AER) works to make all Australian energy consumers better off, now and in the future. We regulate energy networks in all jurisdictions except Western Australia. We set the amount of revenue that network businesses can recover from customers for using these networks.

The National Gas Law and Rules (NGL and NGR) provide the regulatory framework governing gas transmission and distribution networks. Our work under this framework is guided by the National Gas Objective which, while not in effect at the time the AER made this decision, is being updated with the inclusion of an emissions reduction objective:¹

The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to—

- (a) price, quality, safety, reliability and security of supply of natural gas; and
- (b) the achievement of targets set by a participating jurisdiction—
 - (i) for reducing Australia's greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

Jemena Gas Networks (NSW) Ltd (JGN) builds and maintains the pipes (mostly underground) and other equipment that deliver natural gas safely and reliably to residential, business and industrial customers in Sydney, Illawarra, Hunter Valley and nearby country areas.

On 28 June 2023, JGN submitted to the AER a reference service proposal for its gas distribution network.

We published JGN's proposal on the AER website and called for submissions. In response, we received two submissions, from Origin Energy and Red-Lumo Energy.

On 6 September 2023, JGN resubmitted an updated iteration to the AER. It was amended to include further information on definitions, actual and forecast demand and its ability to allocate costs for the services. We have assessed the proposal against the requirements set out in the NGR.

Our final decision, made on 17 November 2023, is to approve JGN's reference service proposal. We consider the proposal is consistent with the NGR requirements.

However, stakeholders should note that the policy context for this AER reference service decision is dynamic. Changes to reference services or their definitions may be warranted as policy settings become clearer. We note also that the updated National

¹ *National Gas (South Australia) Act 2008*, s. 23. This includes the latest amendment to the NGO which received royal assent on 21 September 2023. The amended NGO comes into effect on 21 November 2023.

Gas Objective will take effect from 21 November 2023. This may also warrant further consideration of reference services through the access arrangement reset process.

2 Background

This section discusses the new reference service requirements in the NGR and describes JGN's gas distribution network.

2.1 JGN's gas distribution network

JGN's gas distribution network services residential, business and industrial sites in Sydney, Newcastle, the Central Coast and Wollongong, as well as to customers in more than 20 regional centres, including the Central West, Central Tablelands, South Western, Southern Tablelands, Riverina and Southern Highlands region. JGN's network is over 25,000km in length and distributes natural gas to almost 1.5 million residential, business and industrial sites.²

2.2 Background

In deciding whether a pipeline service should be specified as a reference service, the AER must have regard to the reference service factors.³ These factors are summarised in section 2.2.2 of this paper.

Services which we determine meet the reference service factors will be determined to be reference services. Services which we determine do not meet the reference service factors will be treated as non-reference services.

Determining a service to be a reference service, as compared to it being a non-reference service, makes a significant difference to how the service is regulated. Reference services are subject to AER price regulation. That is, we set maximum prices, or price caps, which gas networks may charge network users for reference services. Gas networks may choose to charge network users less than the price caps we determine but they may not charge more. Services we determine to be non-reference services are not subject to price regulation. This means gas networks set their own charges for non-reference services.

2.2.1 Reference service proposal process

In terms of process, gas network service providers (NSPs) are required to submit a separate reference service proposal to the AER for assessment. Previously, a reference service proposal was an element of a NSP's broader access arrangement revisions proposal.

Further, NSPs must submit their reference service proposals to the AER twelve (12) months in advance of the submission date for their access arrangement revisions proposal.

² Jemena Gas Networks (NSW) Ltd, *Reference Service Proposal for the July 2025 - June 2030 Regulatory Period*, June 2023, p. 3.

³ NGR, cl. 47A(14).

The NGR require us to complete our assessment of a reference service proposal no later than six (6) months in advance of the due date for submission of the relevant access arrangement revisions proposal.

JGN's access arrangement revisions submission date is 30 June 2024. This means JGN was required to submit its reference service proposal to the AER by no later than 1 July 2023, which it did. We are required to conclude our assessment no later than 31 December 2023.

2.2.2 Criteria

In preparing its reference service proposal and in undertaking our assessment, the NGR require JGN and ourselves to have regard to the reference service factors specified in the NGR.⁴ The factors include:⁵

- the actual and likely demand for the pipeline's services and the number of prospective users
- the extent to which the pipeline service is substitutable with another service
- the feasibility of allocating costs to the pipeline service
- the usefulness of specifying the pipeline service as a reference service in supporting negotiations and dispute resolution
- likely regulatory costs for all parties in specifying the pipeline service as a reference service.

Relevant elements of cl. 47A are listed in our detailed compliance assessment in section 4 of this decision paper.

⁴ NGR, cl. 47A(1)(c); 47A(13)(a); 47A(14).

⁵ NGR, cl. 47A(15).

3 JGN's reference service proposal

This section outlines JGN's reference service proposal including the stakeholder consultation it undertook in developing its proposal.

3.1 JGN's stakeholder consultation

JGN submitted that it undertook an engagement program with retailers, self-contracting users and large customers to focus on the services it offers. This was the first stage to its customer engagement program that will inform its decision making for its 2025–30 access arrangement proposal.

An outline of the consultation process run by JGN on the draft reference service proposal is provided in Table 3-1.

Table 3-1 Consultation on draft reference service proposal

When	How	Who	What
1 March 2023	Online	29 retailer representatives 12 JGN presenters and observers 2 AER observers	Principles of engagement, provided the context and background including some detail about the reference service proposal, and question and answer segment
30 March 2023	Online	11 self-contracting users and large customer representatives attending 7 JGN presenters and observers	Mirrored the retailer session in terms of program, information presented and engagement activities for consistency
24 March 2023 & 20 April 2023	One on one online meetings	4 retailers - AGL, Origin Energy, Red Energy / Lumo, Energy Australia 1 self-contracting user	A closer look at opportunities and concerns of retailers and provided a deeper insight into the proposed reference service proposal
28 April 2023	Online		Provided an update, played back what was heard from the engagements, and JGN shared preliminary thinking on proposed reference services for the 2025–30 access arrangement

3.2 JGN's reference service proposal

In its reference service proposal, JGN proposed to:

- split the current single Reference Service into two separate reference services
- make minor changes to the Interconnection Service
- leave negotiated services as is.

Below, we discuss each of the above changes proposed by JGN.

Reference service

JGN currently offers a single reference service, which makes up over 99% of JGN's pipeline service revenue.

The reference service is a service for:

- the transportation of gas
- meter reading and associated data activities, and the provision and maintenance of a standard metering installation
- ancillary activities.

JGN's ancillary activities are:

- Hourly charge – non-standard User initiated requests and queries
- Disconnection – Volume Customer Delivery Points
- Reconnection – Volume Customer Delivery Points
- Disconnection & reconnection – Demand Customer Delivery Points
- Abolishment
- Special meter reads
- Expedited reconnection

In its reference service proposal, JGN proposed to split the current single reference service into two separate reference services:

- **Transportation Reference Service** – includes standard meter installation and meter reading services, receipt of gas, transportation of gas and delivery to customer premises.
- **Ancillary Reference Service** – includes special meter reads, disconnection (volume customers), reconnection (volume customers), disconnection and reconnection (demand customers), abolishment, hourly charge – non-standard requests and expedited reconnection.

JGN submitted that this proposed change demonstrates consistency with the reference service factors set out in rule 47A(15) of the NGR.

Reasons for the change include:

- alignment with other gas distribution businesses
- providing a more accurate, transparent description for each activity
- ensuring that the transportation of gas to all delivery points will be treated as a reference service regardless of the use of the gas at the delivery point
- allowing a better response to the evolving energy market
- providing greater flexibility to the user or prospective user.

JGN considers that there will be little to no impact to customers from these proposed changes as its service of receiving, transporting and delivering gas and associated activities will largely remain unchanged.

Non-reference services

The two non-reference services JGN currently offers, Interconnection Service and Negotiated Service, make up less than 1% of JGN's revenue. The costs associated with them are highly variable and dependent on a customer's specific needs.

Interconnection Service

An Interconnection Service is a service with agreed upon on the terms and conditions to establish:

- a Delivery Point to enable delivery of Gas from the Network into a Downstream Network; or
- a Receipt Point to enable delivery of Gas into the Network from an Upstream Facility.

JGN proposed minor changes to the definition of the Interconnection Service in response to recent changes to the NGR, which gave effect to Energy Ministers' reforms on improving gas pipeline regulation. JGN must now publish an Interconnection Policy which will include the parameters for establishing new interconnection facilities (such as receipt points and downstream connection assets). This includes setting out information about how interconnection fees will be calculated and recovered (taking into account the requirements under rule 38(3)).

JGN's proposed minor changes to the interconnection service are intended to ensure consistency with the new requirements and make it clearer in terms of when the interconnection service applies.

JGN also amended its service definitions by removing references to "Gas" and replacing them with references to "Covered Gas". This reflects changes to be made to the National Gas Law and NGR. "Covered Gas" is defined to mean any or all of biomethane, natural gas, synthetic methane and hydrogen as well as blends of those gases.

JGN identified the above amendments in section 4.3 of its reference service proposal.

Negotiated Service

This service is where a Prospective User has specific needs which differ from those of a Reference Service or the Interconnection Service. A Service Agreement with the Prospective User would be entered on negotiated terms and conditions. JGN proposed to leave this service unchanged.

4 AER assessment

Our final decision is to approve JGN's reference service proposal. We consider the proposal is consistent with NGR cl. 47A. The approved amendments were proposed to improve alignment with other gas businesses or respond to recent changes to the NGR. The amendments will have no impact on stakeholders.

This section sets out the AER's assessment of JGN's reference service proposal, including the stakeholder consultation we undertook.

4.1 AER stakeholder consultation

We published JGN's reference service proposal on the AER's website on 4 July 2023. We called for written submissions by no later than 1 August 2023.

To alert stakeholders to this process, we issued an email alert to all AER website subscribers on 5 July 2023.

In response, we received two submissions: one from Origin Energy and the other from Red Energy-Lumo Energy.

Origin Energy's submission pointed out that the disconnection and reconnection services were not included in the Ancillary Reference Service Schedule (the Schedule) at Appendix A of the proposal. It requested that JGN clarify that these services will be provided as ancillary reference services along with a description of the proposed disconnection and reconnection services.

We clarified this point separately with JGN and it resubmitted its reference service proposal with updated definitions. We are now satisfied that the schedule to JGN's reference service proposal appropriately describes each of the 7 proposed ancillary reference services.

Red-Lumo Energy's submission was targeted to JGN's access arrangement revision which is due in June 2024. It raised issues not addressed in the reference service proposal and which are not relevant to the AER's assessment. Red-Lumo provided commentary on the level of abolishment tariffs, the merits of distributors supporting vulnerable customers and whether JGN should rollout digital meters.

We encourage JGN to engage with Red-Lumo Energy on these issues and to attempt to resolve them prior to the submission of its access arrangement revisions proposal in June 2024. To the extent that any of the issues remain live, we will consider them as part of our draft access arrangement decision.

4.2 Overarching views on JGN's reference service proposal

Initially, we were not satisfied that JGN's reference service proposal complied with the NGR requirements because:

- the services were not clearly described and defined (NGR cl. 47A 1(b))

- there was insufficient information on actual and forecast demand for the services (NGR cl. 47A 15(a))
- there was insufficient information on their ability to allocate costs to the services (NGR cl. 47A 15(c)).

We requested JGN resubmit its reference service proposal to address these issues.

4.3 JGN resubmitted its reference service proposal

On 6 September 2023 JGN resubmitted its reference service proposal. We have assessed JGN's amended proposal and we consider JGN has responded to our feedback. We now consider JGN's reference service proposal is compliant.

This decision would see minor amendments to the current approach with no impact on customers.

4.4 The policy context for our decision is dynamic

Stakeholders should note that while our decision is to approve JGN's reference service proposal, the policy context for our decision is dynamic with possible implications for our reference service determination through the access arrangement reset process. We will take careful note of policy positions of national, state and local governments as they relate to the gas pipeline sector in NSW. As policy settings become clearer we may form a view that alternative reference services, or service definitions, may be warranted.

We note too that, effective 21 November 2023, the National Gas Objective will include a new objective relating to reducing emissions. We will also take this into account as we consider reference services and related regulatory settings through the access arrangement reset process.

Finally, stakeholders should note that in our recent Victorian access arrangement decisions we determined to socialise through haulage/transport tariffs a portion of the cost of undertaking small customer abolishments. While it is premature at this stage of the statutory access arrangement revisions process to anticipate the AER's revenue and tariff determinations, we will consider whether circumstances in NSW warrant a similar approach in NSW as in Victoria.

4.5 Detailed assessment of NGR compliance

To assess JGN's reference service proposal we considered the extent to which it conforms to each regulatory requirement set out in NGR cl. 47A. Our detailed assessment is set out in Table 4-1.

Table 4-1 Summary of NGR cl. 47A reference service requirements

NGR cl. 47A requirement	Compliance assessment
<p>(1) A service provider in respect of a full regulation pipeline must, whenever required to do so under subrule (3), submit to the AER a reference service proposal in respect of a forthcoming full access arrangement proposal that:</p>	
<p>(a) identifies the pipeline and includes a reference to a website at which a description of the pipeline can be inspected;</p>	<p>Compliant. See section 1.3 of JGN's reference service proposal.</p>
<p>(b) sets out a list of all the pipeline services that the service provider can reasonably provide on the pipeline and a description of those pipeline services having regard to the characteristics in subrule (2);</p>	<p>Compliant. See section 2 and 4 of JGN's reference service proposal.</p>
<p>(c) from the list referred to in subrule (1)(b), identifies at least one of those pipeline services that the service provider proposes to specify as reference services having regard to the reference service factors including any supporting information required by the AER; and</p>	<p>Compliant. See section 4 of JGN's reference service proposal.</p>
<p>(d) if the service provider has engaged with pipeline users and end users in developing its reference service proposal, describes any feedback received from those users about which pipeline services should be specified as reference services.</p>	<p>Compliant. See section 3 of JGN's reference service proposal.</p>
<p>(2) A pipeline service is to be treated as distinct from another pipeline service having regard to the characteristics of different pipeline services, including:</p>	<p>JGN's reference service proposal appropriately defines pipeline services in regard to their characteristics, priority and receipt points.</p>
<p>(a) the service type (for example, forward haul, backhaul, connection, park and loan);</p>	

(b) the priority of the service relative to other pipeline services of the same type; and	
(c) the receipt and delivery points.	
(14) In deciding whether or not a pipeline service should be specified as a reference service, the AER must have regard to the reference service factors.	We have had regard to the reference service factors in assessing JGN's reference service proposal.
(15) The reference service factors are:	
(a) actual and forecast demand for the pipeline service and the number of prospective users of the service;	We accept that there will be ongoing demand for JGN's proposed reference services.
(b) the extent to which the pipeline service is substitutable with another pipeline service to be specified as a reference service;	The haulage reference service and proposed ancillary reference services are not substitutable with other services. The proposed non-reference services tend to be substitutable with other services or have little demand from retailers or customers (as discussed above).
(c) the feasibility of allocating costs to the pipeline service;	Costs may be allocated to the proposed reference services, including the proposed reference haulage service.
(d) the usefulness of specifying the pipeline service as a reference service in supporting access negotiations and dispute resolution for other pipeline services, such that:	
(i) reference services serve as a point of reference from which pipeline services that are not reference services can be assessed by a user or prospective user for the purpose of negotiating access to those other pipeline services;	Compliant.
(ii) a reference tariff serves as a benchmark for the price of pipeline services that are not reference services; and	As above.
(iii) reference service terms and conditions serve as a benchmark for the terms and conditions of pipeline services that are not reference services;	As above.
(e) the likely regulatory cost for all parties (including the AER, users, prospective users	By specifying the current reference services, including the haulage service, as reference

and the service provider) in specifying the pipeline service as a reference service.

services the current arrangements will be continued. As a result, regulatory costs for all parties will be minimised. While JGN is separating the existing reference services into transportation reference services and ancillary reference services, this will have no impact on customers.