

National Gas Law

Undertaking to the Australian Energy Regulator given for the purpose of section 230A of the National Gas Law

By

Jemena Northern Gas Pipeline Pty Ltd (ABN 12 607 928 790)

Persons giving Undertaking

- 1 This Undertaking is given to the Australian Energy Regulator (**AER**) by Jemena Northern Gas Pipeline Pty Ltd (**JNGP**) of Level 16, 567 Collins Street, Melbourne, VIC 3000, pursuant to section 230A of the *National Gas (South Australia) Act 2008*.

Background

- 2 JNGP is registered as a *BB reporting entity* under Part 18 of the National Gas Rules (**NGR**) in respect of its Northern Gas Pipeline (**NGP**). As a *BB reporting entity*, JNGP has certain obligations in relation to reporting its capacity outlooks to the Australian Energy Markets Operator (**AEMO**) *Bulletin Board*, as set out in the National Gas Rules (**NGR**).
- 3 Most relevantly, these obligations impose the following requirements on a *BB reporting entity*:
 - (a) provide to AEMO a *short term capacity outlook* for each of its BB facilities, as prescribed by rule 178 of the NGR;
 - (b) provide *medium term capacity outlooks* to AEMO for each of its Bulletin Board facilities, as prescribed by rule 181 of the NGR;
 - (c) prepare and submit information or data in accordance with the Bulletin Board information standard, as prescribed by rule 165(1) of the NGR;
 - (d) provide information to AEMO in accordance with the Bulletin Board procedures, as prescribed by rule 166(2) of the NGR; and
 - (e) where it has possession or control of information in relation to the natural gas industry, to give the information to AEMO for the Bulletin Board if it is required to do so under the NGR, and to give the information to AEMO in accordance with the NGR, pursuant to section 223 of the National Gas Law (**NGL**).

(Capacity Reporting Obligations)

Conduct of concern

- 4 JNGP admits that it has breached its obligations under rules 165(1), 166(2) and 181 of the NGR and section 223 of the NGL. Specifically:
 - (a) rule 166(2) of the NGR and section 223 of the NGL on 16 occasions in respect of its failure to provide a *short term capacity outlook* to AEMO that reflect planned maintenance in accordance with the *BB Procedures*;
 - (b) rule 181(1) of the NGR and section 223 of the NGL on nine occasions

by failing to provide to AEMO *medium term capacity outlook* on the day that it provided to *BB shippers* information about matters expected to affect the daily capacity of the Northern Gas Pipeline; and

- (c) rule 165(1)(a) of the NGR on 25 occasions by failing to provide the short and medium term capacity outlook information referred to in paragraphs 4(a) and (b) above to AEMO in accordance with the BB information standard.

- 5 JNGP acknowledges that the above incidents resulted from IT system issues and inadvertent human error. JNGP offers this Undertaking to address the AER's concerns and to minimise the likelihood of future contraventions of the NGR and NGL.

Commencement of Undertaking

- 6 This Undertaking comes into effect when:
 - (a) the Undertaking is executed by JNGP; and
 - (b) the AER accepts the Undertaking so executed (**Commencement Date**).
- 7 From the Commencement Date, JNGP undertakes to assume the obligations set out in this Undertaking.

Expiry

- 8 This Undertaking will expire once JNGP has completed the obligations set out in paragraph 11 below.
- 9 JNGP may apply to withdraw or vary the Undertaking at any time, but this Undertaking will only be taken to be withdrawn or varied on the date on which the AER consents to such withdrawal or variation.
- 10 The AER may, if requested by JNGP, expressly waive in writing any of the obligations contained in this Undertaking or extend the date by which any such obligation is to be satisfied.

Undertaking

- 11 JNGP undertakes that:
 - (a) By 31 January 2024, JNGP will propose to the AER an Independent Expert to complete a risk based compliance review of JNGP's systems, controls, processes and training for compliance with the Capacity Reporting Obligations set out in the NGR and NGL. If the AER does not approve the Independent Expert nominated by JNGP, then JNGP will liaise with the AER to identify a candidate acceptable to the AER within 5 Business Days.
 - (b) Within 10 Business Days of receiving notice of the AER's approval of the Independent Expert, JNGP will engage the Independent Expert to complete the review and prepare a report which addresses the following matters:
 - (1) whether the systems, controls, processes and training that JNGP has in place are sufficient to ensure that JNGP achieves compliance with the Capacity Reporting Obligations under the NGR and NGL from the Commencement Date; and
 - (2) where it is identified that the relevant systems, controls, processes and training are not adequate to ensure JNGP achieves the compliance set out in paragraph 11(b)(1) above, provide

recommendations for implementation by JNGP to ensure its systems, controls, processes and training are sufficient to ensure such compliance.

(Independent Review)

- (c) Within 10 Business Days of engaging the Independent Expert, JNGP will submit to the AER for approval, an Independent Review proposal developed jointly with the Independent Expert which addresses the matters in paragraph 11(b) above (**Independent Review Proposal**). The Independent Review Proposal must include details of how the Independent Expert will conduct the Independent Review and the matters to be addressed by the Independent Expert in its final report. If the AER has concerns about the Independent Review Proposal, JNGP will make revisions to the Independent Review Proposal in conjunction with the Independent Expert and submit the revised Independent Review Proposal to the AER for approval within 5 Business Days of the AER notifying JNGP of its concerns.
- (d) JNGP will use its best endeavours to ensure that the Independent Expert will:
 - (1) commence the Independent Review within 15 Business Days of JNGP receiving notice of the AER's approval of the Independent Review Proposal;
 - (2) complete the Independent Review within 40 Business Days of the Independent Review commencing;
 - (3) provide JNGP with a final Independent Review report within 20 Business Days of completion of the Independent Review; and
 - (4) have full, free and unrestricted access to all functions, staff, records, documentation and information necessary to develop the Independent Review Proposal and conduct the Independent Review, subject to the Independent Expert agreeing to keep this information confidential and not use it for any other purpose.
- (e) Within 2 Business Days of receiving the final Independent Review report, JNGP will provide the report to the AER.
- (f) Within 20 Business Days of receipt of the final Independent Review report,
 - (1) subject to paragraph (2) below, JNGP will provide the AER with a response to each recommendation of the Independent Expert, including steps and timing for implementation of recommendations. This response will be from the Chief Executive Officer of JNGP unless that person is on leave at the required time, in which case, it will be from his or her delegate; and
 - (2) if JNGP is unable to implement any of the Independent Expert's recommendations, JNGP will provide the AER with the reasons for its inability to do so and an alternative to the recommendation (including steps and timing for implementation of the alternative) and the Independent Expert's response to those reasons and alternatives.
- (g) JNGP will implement the recommendations or alternatives referred to in

paragraphs 11(f)(1) and (2) and will use its best endeavours to do so in accordance with the steps and timing stated in the response provided to the AER.

- (h) JNGP must:
- (1) provide the AER with regular progress reports on the implementation of the recommendations of the Independent Expert, at intervals of no more than 40 Business Days from the date JNGP receive the Independent Review report, until all steps referred to in paragraph 11 have been completed; and
 - (2) notify the AER in writing within 5 Business Days of any failure to comply with the dates identified within this Undertaking.

Costs

- 12 JNGP must pay all of its own costs in relation to the Undertaking.

Notification

- 13 Any notice or communication to the AER pursuant to this Undertaking must be sent to:

Name	GM AER C&E
Address	GPO Box 520 Melbourne VIC 3001
Email:	Attn: General Manager AER Compliance and Enforcement - AERCompliance@aer.gov.au

- 14 Any notice or communication to JNGP pursuant to this Undertaking must be sent to:

Name	[REDACTED]
Address	[REDACTED]
Email:	[REDACTED]

- 15 JNGP must notify the AER of a change to the above contact details within 5 Business Days.

Acknowledgements

- 16 JNGP consents and acknowledges that:
- (a) the AER may authorise a member of the AER or a member of the AER staff, to exercise a decision making function under the undertaking on its behalf and that authorisation may be subject to any conditions the AER may impose;

- (b) the AER may make the Undertaking publicly available including by publishing it on the AER's website;
- (c) the AER may, from time to time, make public reference to the Undertaking, including in news media statements and in AER publications;
- (d) the AER reserves its rights and remedies (including to institute legal proceedings against JNGP seeking penalties and other relief) in relation to any breaches of the NGL or NGR; and
- (e) this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

Definitions

17. Terms used in this Undertaking are set out below. Italicised terms used in this Undertaking have the meaning given to those terms in the NGL or NGR, as the case requires.

Term	Meaning
AEMO	has the meaning of the Australian Energy Market Operator.
AER	has the meaning of the Australian Energy Regulator.
Business Day	has the meaning given to that term under the National Gas Law set out in the Schedule to the <i>National Gas (South Australia) Act 2008</i> .
Capacity Reporting Obligations	has the meaning given to the term in paragraph 3 of this Undertaking.
Commencement Date	is the date the Undertaking comes into effect under paragraph 6 of this Undertaking.
Independent Expert	<p>means a third party who is not a Related Body Corporate of JNGP.</p> <p>The third party carrying out the Independent Review must:</p> <ul style="list-style-type: none"> • be able to act without bias and without any actual or potential conflicts of interest with reference to the following criteria: <ul style="list-style-type: none"> – is not a present or past staff member or director of JNGP; – has not acted and does not act for, and does not consult and has not consulted to, JNGP or Related Body Corporate in any matters relating to compliance with Part 18 of the NGR or relating to systems controls, processes or training for the

	<p>estimating or submission to AEMO of <i>medium term capacity outlook</i> or <i>short term capacity outlook</i>; and</p> <ul style="list-style-type: none"> – has no shareholding or other interests in JNGP or any of its Related Body Corporates, • have professional competence to apply established standards and techniques to carry out the Independent Review to a high standard; and • have a system of quality controls to ensure the Independent Expert's report is of a professional standard.
Independent Review	has the meaning given to the term in paragraph 11(b) of this Undertaking.
Independent Review Proposal	has the meaning given to the term in paragraph 11(c) of this Undertaking.
JNGP	has the meaning Jemena Northern Gas Pipeline Pty Ltd (ABN 12 607 928 790).
NGL	means the National Gas Law set out in the <i>National Gas (South Australia) Act 2008</i> .
NGR	means the National Gas Rules made under the NGL.
Northern Gas Pipeline	means the gas transmission pipeline between Tennant Creek (Northern Territory) and Mount Isa (Queensland), owned and operated by JNGP.
Related Body Corporate	has the meaning given in section 50 of the <i>Corporations Act 2001</i> (Cth)
Undertaking	means this document (including any schedules or annexures to this document) as varied from time to time under section 230A of the NGL.

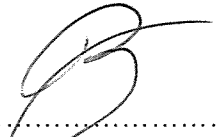
Interpretation

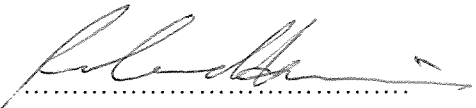
- 18 In the interpretation of this Undertaking, the following provisions apply unless the context otherwise requires:
- (a) a reference to this Undertaking includes all of the provisions of this document including its annexures;
 - (b) headings are inserted for convenience only and do not affect the interpretation of this Undertaking;
 - (c) if the day on which any act, matter or thing is to be under this

Undertaking is not a Business Day, the act, matter or thing must be done on the next Business Day;

- (d) a reference in this Undertaking to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment; and any subordinate legislation or regulations issued under that legislation or legislative provision;
- (e) a reference in this Undertaking to any company includes a company over which that company is in a position to exercise control within the meaning of section 50AA of the *Corporations Act 2001*;
- (f) a reference in this Undertaking to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced;
- (g) a reference to a paragraph, clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Undertaking;
- (h) an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or government agency;
- (i) where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (j) a word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes other genders;
- (k) a reference to the words 'such as', 'including', 'particularly' and similar expressions can be construed without limitation;
- (l) a construction that would promote the purpose or object of this Undertaking (whether expressly stated or not) will be preferred to a construction that does not promote that purpose or object;
- (m) a reference to:
 - (1) a thing (including but not limited to, a chose in action or other right) includes part of that thing; and
 - (2) a party includes its successors and permitted assigns.

Executed by Jemena Northern Gas Pipeline Pty Ltd (ABN 12 607 928 790)
pursuant to section 127(1) of the *Corporations Act 2001* (Cth).


.....
David Gillespie
Director


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Richard Harris
Company Secretary

ACCEPTED BY THE AUSTRALIAN ENERGY REGULATOR PURSUANT TO SECTION
230A OF THE *NATIONAL GAS LAW*.



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Justin Oliver

AER Board member

Date 15 December 2023