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Jo Gall
General Manager, Compliance and Enforcement
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

Dear Ms Gall

Annual Compliance Order – Draft decision

Jemena welcomes the opportunity to make this submission in response to the Australian Energy Regulator's (**AER**) draft decision on the new Annual Compliance Order (**ACO**) for gas pipeline service providers. Jemena owns and operates a scheme distribution pipeline (the Jemena Gas Network in NSW) which was previously subject to the old ACO, as well as a number of non-scheme transmission pipelines throughout eastern and northern Australia which would be subject to the new ACO.

We thank the AER for its revised drafting and clarifications in a number of areas of the ACO reporting template, including those relating to obligations which have varied applicability to different service providers. We also support the inclusion of sensible measures to reduce the production of unnecessary information in response to the Order, such as through the provision of links to information that is already published on a service provider's website.

While we appreciate the willingness of the AER to engage with stakeholders during this process and its openness to feedback on the detail of the ACO's requirements, it is not clear why consultation is being conducted separately for the ACO and the Compliance Procedures and Guideline (and compliance audit program)—particularly given the AER's explanatory statement for the ACO draft decision has noted a number of interdependencies between the two. The lack of transparency for stakeholders over the AER's Compliance Procedures and Guideline may inhibit stakeholders from providing fully-informed feedback on the ACO itself.

Feedback on specific items of the draft ACO is outlined at **Attachment A**. We look forward to continuing to engage with the AER during the subsequent Compliance Procedures and Guideline consultation process.

Please contact James Harding, Gas Transmission & Processing Regulation Manager, at [REDACTED], or Ju-Ai Ng, Senior Regulatory & Compliance Analyst, at [REDACTED] if you have any questions regarding this submission.

Yours sincerely



Ana Dijanosic
General Manager Regulation

Attachment A – Feedback on proposed ACO

ACO template reference	Matter	Jemena feedback
n/a	Duration of period for maintaining information used to prepare ACO response (clause 2.2.1)	We support the adoption of a three or five year period for the maintenance of information used to prepare an ACO response, as opposed to seven years. The archiving of material relied on to support the preparation of ACO responses does represent an incremental cost for service providers—for example, maintaining website version history as evidence of the historical publication of Part 10 information continuously for a multi-year period—and these costs are ultimately borne by consumers. Given any non-compliance with an obligation during a compliance period would be immediately apparent upon the AER’s review of a service provider’s response (due within four months of the end of a compliance period), it is not clear why very lengthy record keeping periods are necessary.
n/a	Basis of preparation template	<p>The ACO (clause 4.2.3) states that Appendix A contains a template which must be used to meet the basis of preparation requirements, however the draft ACO Excel response template published by the AER does not appear to contain a basis of preparation template. Will the AER be providing this basis of preparation template separately, and will it be subject to consultation?</p> <p>We note that for items within the ACO template response which simply require that certain documents be produced (such as item 17.2), some specific requirements of the basis of preparation template (such as methodology and classification as actual or estimated) are not applicable. We understand that further guidance on the level of information to be included in the basis of preparation will be provided through the AER’s Compliance Procedures and Guideline process later this year. However, we would appreciate the clarification from the AER regarding the information required to be provided in such cases.</p>
Column I		It is not clear how service providers should respond to column I (‘Estimated conformance date’) for each row. We note that a response to the ACO is provided in respect of a 12 month ‘compliance period’ (as defined in clause 1.5.1 of the ACO), and that given the majority of the obligations covered in the ACO are continuously applicable to most service providers, the date a service provider first complied with an obligation is unlikely to fall within the compliance period and is therefore not relevant to a response. We would appreciate the opportunity to discuss this matter in more detail with the AER.
16.3	Access negotiations	<p>Avoiding unnecessary reporting of reference service information</p> <p>As noted in our previous submission on the consultation paper, the terms and conditions of access to reference services for a scheme pipeline can be found in the Reference Service Agreement (as approved by</p>

ACO template reference	Matter	Jemena feedback
		<p>the AER) as part of the Access Arrangement, with this information already published on the AER's and service provider's websites (with the obligation for a service provider to publish this information being the subject of items 14.1 and 14.2 of the ACO). To reduce the administrative burden of this requirement, we suggest that item 16.3 should not require the production of access contracts which relate to reference services and should instead adopt a similar approach to r 101E(3) of the National Gas Rules. In this case, we suggest a scheme pipeline service provider should not be required to provide access contracts for each reference service that a user has procured, and instead state the number of users using each reference service.</p> <p>Avoiding duplication with other regulatory information collection processes</p> <p>To the extent it is necessary for the AER to collect pipeline service access contracts, then it should outline the steps it is taking to avoid duplicate (or triplicate) reporting of this information by some service providers, consistent with the AER's approach in its current Enhanced Wholesale Market Monitoring and Reporting (EWMMR) Guideline process. In the EWMMR process, through which we understand the AER is considering collecting pipeline service access contracts,¹ the AER has set out guiding principles for information collection. These relevantly include 'We will seek to limit participant burden' and 'We will, where reasonably practicable and appropriate to do so, rely on public information and/or information collected by other agencies (including in our public reporting)'.²</p> <p>Should the AER deem it necessary and consistent with the long-term interest of gas consumers to collect all pipeline service access contracts for the purpose referred to in the ACO, it should further explore options for obtaining this information directly from the Australian Competition and Consumer Commission (ACCC) (where such information is collected under the Gas Inquiry) or should otherwise ensure that the information production requirements for access contracts under the ACO are identical (including with respect to timeframes covered) to those used by the ACCC in its s 95ZK Gas Inquiry Notices and also to any information sought by the AER through a Market Monitoring Information Notice/Order under the EWMMR framework.</p>

¹ AER, Wholesale Market Monitoring and Reporting Guideline – Issues paper, March 2024, pp. 42-43.

² AER, Wholesale Market Monitoring and Reporting Guideline – Issues paper, March 2024, p. 20.