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By email: [AERGasNetworksCompliance@aer.gov.au](mailto:AERGasNetworksCompliance@aer.gov.au)

Rowena Park  
General Manager, Compliance and Enforcement  
Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601

Jemena Limited  
ABN 95 052 167 405

Level 16, 567 Collins Street  
Melbourne, VIC 3000  
PO Box 16182  
Melbourne, VIC 3000  
T +61 3 9173 7000  
F +61 3 9173 7516  
[www.jemena.com.au](http://www.jemena.com.au)

Dear Rowena,

**AER Compliance Procedures and Guidelines for gas pipeline service providers – Draft decision**

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

We appreciate the opportunity to engage constructively with the AER's team throughout this consultation to date. Jemena's comments in relation to the Procedures and Guidelines are set out below.

*Basis of preparation examples*

As noted in section 4.2.4 of the Procedures and Guidelines, sections 4.1 and 4.2 of the Annual Compliance Order (**ACO**) instrument set out the requirements for a basis of preparation. Broadly, these sections require the service provider to explain how it has prepared its responses in the ACO template. Table 1 of the draft Procedures and Guidelines primarily provides examples of documentary evidence that may be relied on by service providers when preparing their ACO responses. Jemena considers that there can be multiple possible sources of information that a service provider may draw on to prepare its responses, including reliance on relevant staff's first-hand knowledge, as well as the company's compliance management process.

We note that responses to the ACO must be verified by way of a statutory declaration provided by an officer of the service provider that the response (in respect of actual information) is in accordance with the requirements of the ACO and is true and accurate. Given the nature of this verification requirement, it is clearly incumbent on service providers to ensure that they are relying on the best possible sources and methodologies to prepare their responses. It is therefore appropriate that service providers be afforded sufficient flexibility to rely on the sources and methodologies they see fit and to explain these in the basis of preparation. In many cases for the types of responses sought by the ACO, Jemena considers that the knowledge and attestation of relevant staff are equally valid sources of information to serve as the basis of a service provider's responses. In these cases, it is overly burdensome for service providers to also provide

documentary proof to substantiate their responses where such documentation has not been directly relied upon in preparing their responses.

To this end, and notwithstanding the commentary in section 4.2.7 of the Procedures and Guidelines about the content of Table 1 being indicative examples only, we consider that some of these examples may cause confusion as they do not appear to be a relevant basis that a service provider is likely to rely on to prepare its responses to the questions in the ACO response template.

For instance, it is unclear how 'records of associate contracts' would inform a service provider of the identities of its associates that take part in a related business or in the sale, marketing or advertising of pipeline services (pursuant to items 8.1 and 9.1 of the ACO response template), as a service provider may have associates that fall within the scope of items 8.1 and 9.1 of the ACO response template, regardless of any associate contracts.

Similarly, with respect to item 1.2 of the ACO response template, a service provider is unlikely to rely on 'the date the business name was registered' or 'the date the ABN was registered' to determine its registered business name or ABN.

Lastly, with respect to item 4, the AER states that 'if no interconnection request is received during the period to which the response applies, a service provider may provide a NULL response and explain that this item is not applicable for that reason (for items 4.1-4.3 of the ACO template)'. However, even in the absence of an interconnection request, a service provider is required to develop and maintain an interconnection policy pursuant to rule 39 of the National Gas Rules. Therefore, a NULL response would not be appropriate for item 4.3.

#### *Interpretation of item 9.1 of the ACO response template*

Jemena has previously raised that item 9.1 is open to interpretation and asked for a clarification. The AER clarified that the intent of the question is to capture the identity of associates that take part in a related business and are involved in the sale, marketing or advertising of the relevant service provider's pipeline services.

It is apparent that the wording of item 9.1 does not align with the AER's stated intention. Jemena considers that the clarification provided by the AER would be inconsistent with the ordinary meaning of item 9.1 of the ACO, and as such the ACO would prevail. Jemena considers that there is a material risk of a service provider's response being non-compliant with the requirements of the ACO if the service provider answers item 9.1 with reference to the new interpretation in the Procedures and Guidelines rather than the actual question stipulated in item 9.1 of the ACO response template.

To avoid confusion, Jemena submits that it would be most appropriate for the AER to remove the new clarification in the draft Procedures and Guidelines and consider amending item 9.1 in the next iteration of the ACO.

Should you have any questions regarding this submission, please contact Catherine Chen, Regulatory Compliance Manager, at [REDACTED].

Yours Sincerely

[REDACTED]  
**Ana Dijanosic**  
General Manager Regulation