

[REDACTED]

9<sup>th</sup> August 2019

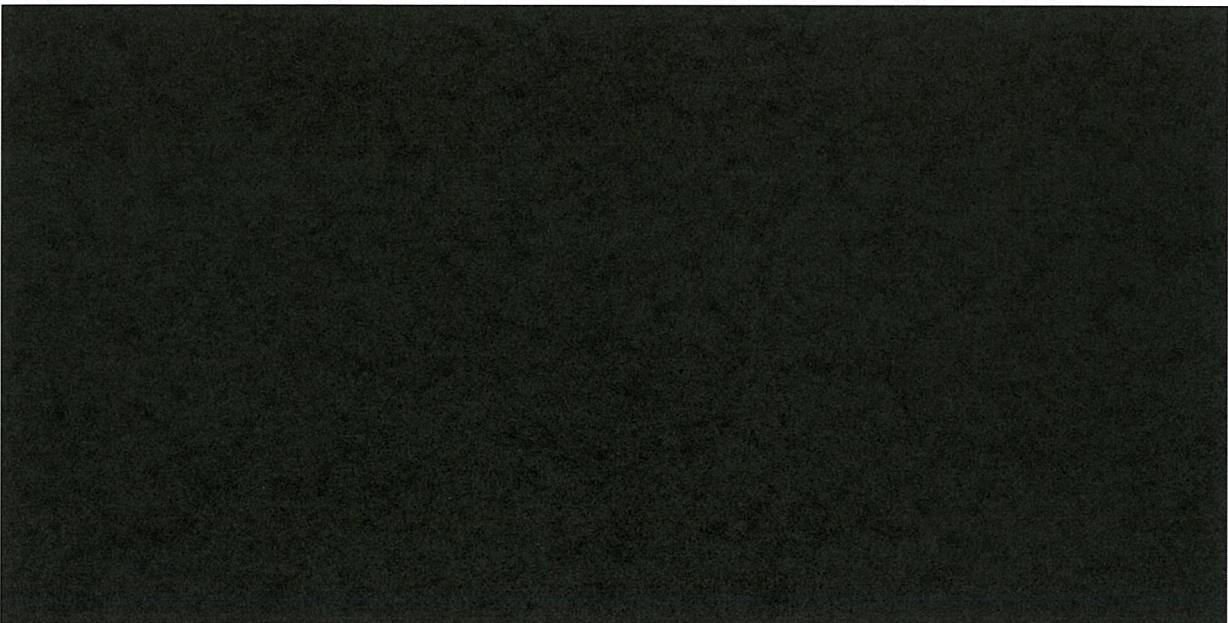
Mr Sebastian Roberts  
General Manager, Transmission and Gas  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001  
Via email: [JGNGAAR2020-25@aer.gov.au](mailto:JGNGAAR2020-25@aer.gov.au).

Dear Mr Roberts,

**Re: Jemena Gas Networks (NSW) – Access Arrangement 2020-2025 Consultation**

Brickworks Building Products Pty Ltd (“Brickworks”) welcomes the opportunity to comment on the Jemena Gas Networks (NSW) (“Jemena”) draft Access Arrangement 2020-2025.

Brickworks is a domestic manufacturer of building products and a large natural gas consumer in all states across Australia. From 1<sup>st</sup> January 2020, Brickworks will become a wholesale gas participant in each of the Short-Term Trading Markets and the Victorian Declared Wholesale Gas Market. Brickworks consumes up to 2 PJ per annum within the Jemena gas distribution network. Brickworks has Austral Bricks plants located in Bowral and Punchbowl and has three plants, which have been operating for over 50 years, located close to each other at Horsley Park.



**Brickworks Building Products Pty Ltd**  
ABN 63 119 059 513

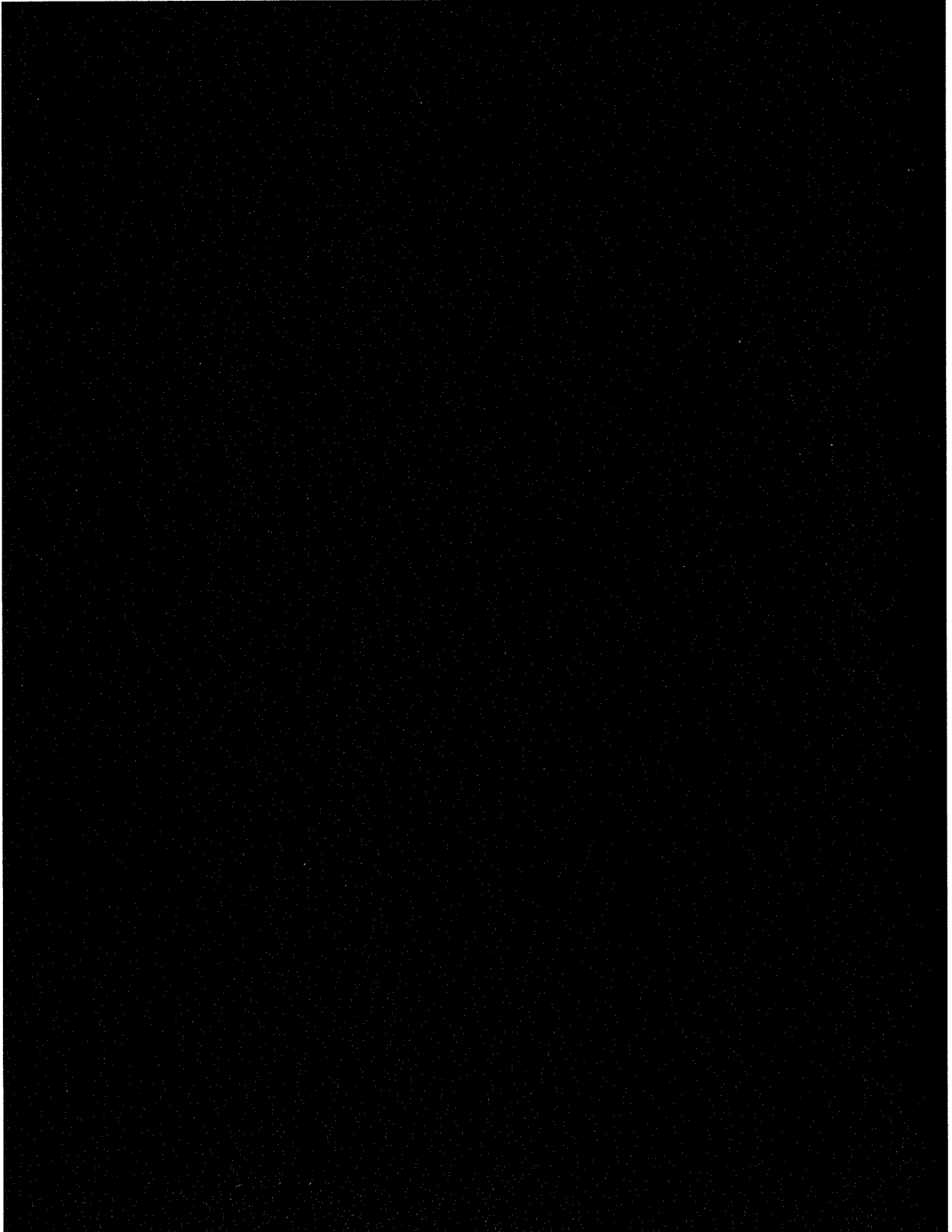
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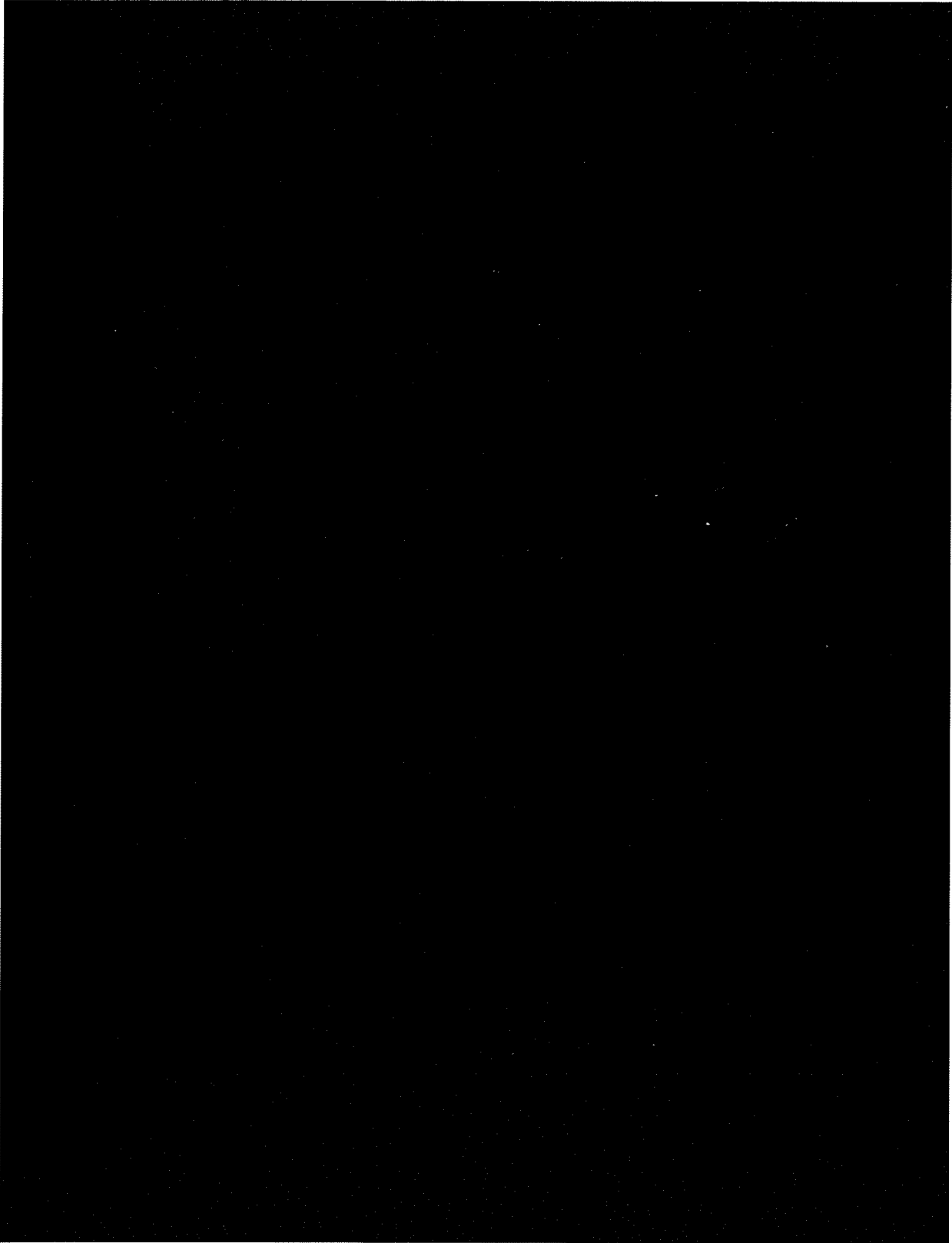
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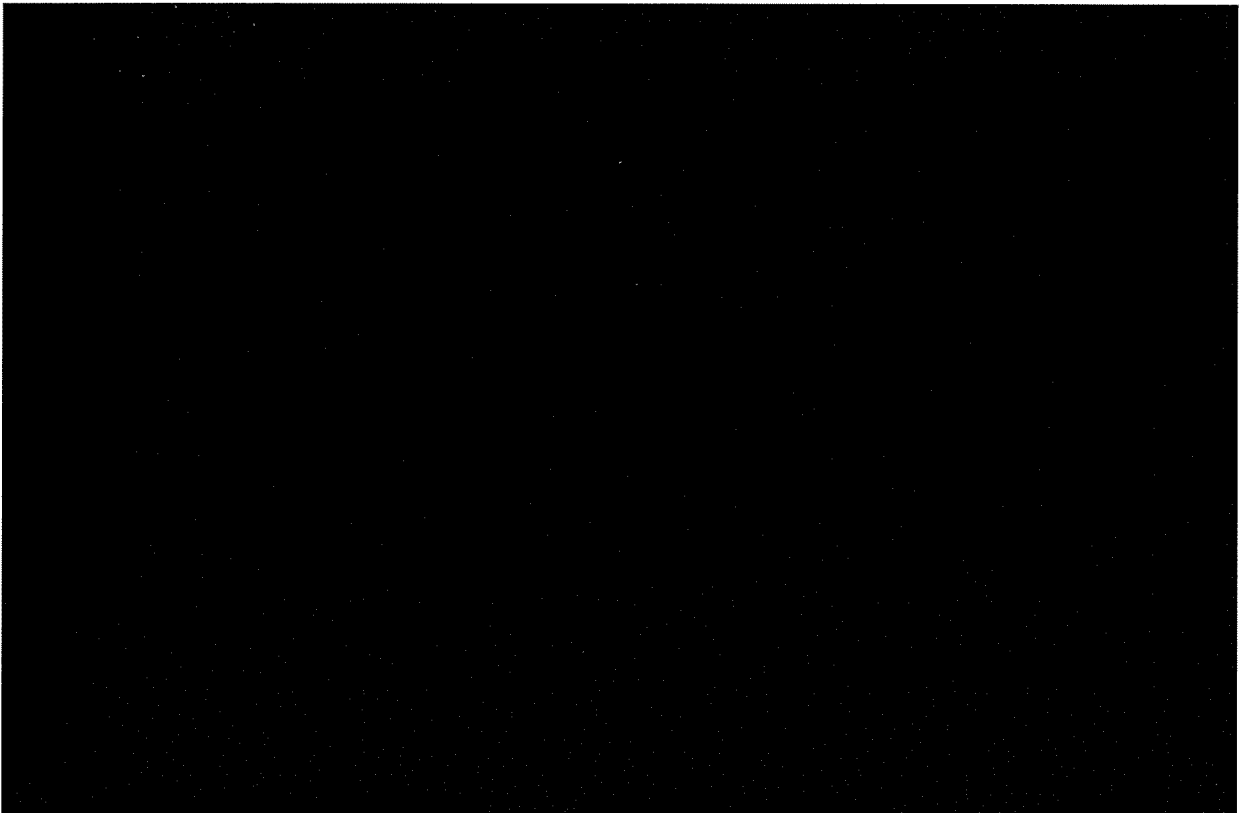
As a large gas consumer who is transitioning from retail to wholesale gas arrangements from 1 January 2020, Brickworks is required to enter into five distribution agreements to allow gas to be shipped through wholesale gas markets to our plants. In general, we note that the response by distributors to provide an executable copy of a standard agreement is extremely slow across the board and there are further delays up to months to execute the agreement by the distributor. As an executed distribution agreement is required to gain registration by AEMO as a wholesale market participant, distributors delaying the execution of agreements delays the AEMO registration process for self-contracting users. Yet more delays are expected (in the order of months as cited by one Victorian distributor who is required to set up systems to manage a single MIRN) to amend systems and processes for Brickworks to be recognised as a self-contracting user in wholesale gas markets following confirmation of registration by AEMO. We believe the time required to execute distribution agreements is unreasonably long and leads to significant delays to a large user registering to become a wholesale gas market participant. Brickworks posted a signed Jemena's Reference Service Agreement to Jemena in late June 2019 and is still waiting for Jemena to execute the agreement. Brickworks also notes that it is waiting on a number of other distributors to execute distribution agreements and one distributor is yet to finalise an executable version of their distribution agreement. Distributors delaying executing, largely standard or regulated, distribution agreements prevents a large user from being able to lodge a registration request with AEMO to become a wholesale participant in the STTMs and Victorian DWGM.

In addition to our general concerns on the time taken to execute distribution agreements, Jemena additionally requests side letters from a prospective network user which sit outside of the AER regulated Reference Service Agreement. These side letters are called "Shipper's Title to Gas Warranties" ("Shipper Letter") and "User's Title to Gas Warranties" and are required to be signed by not just the large user but also Jemena's main competitor APA. No other distributor requires letters to be signed outside of their AER regulated agreement. Currently APA disagrees with Jemena's drafting of the Shipper Letter in relation to pipeline capacity trading which Jemena has not catered for. Brickworks has no ability to force a third party to agree to anything and it is unacceptable that Jemena would demand side letters from a self-contracting user in order to simply allow the user to transport gas through a Short-Term Trading Market via their network to their sites. There are two major transmission pipelines that connect into Jemena's distribution network; being Jemena owned Eastern Gas Pipeline and APA owned Moomba to Sydney Pipeline. Both transmission pipelines have been connected to the Jemena gas distribution network for many years, so we assume that Jemena and APA have in place connection agreements, if not standard operating practices, which govern how gas physically flows between the transmission pipelines and into their network. If this is the case, why is Jemena demanding a side letter to be signed by APA when a self-contracting user has no ability to influence what is agreed between two competing monopolies? We also note that Jemena's entire process does not appear to cater for the possibility that a self-contracting user could be exclusively buying gas from the Short-Term Trading Market and that Jemena was also the only distributor that requested commercially sensitive gas supply agreement and transmission pipeline agreement details in order to become a network user. If Jemena legitimately has issues that need to be addressed, why are they not covered under the AER approved Reference Service Agreement? We believe that both the side letters and the request for confidential supplier information further demonstrates Jemena's lack of customer focus and unreasonable conduct in relation to large gas users and we wonder whether their conduct is possibly in

breach of, or is intentionally bypassing, regulatory processes by demanding information outside of the Reference Service Agreement.

Brickworks does not agree with the proposed change to clause 30 of the Reference Service Agreement to increase the security requirements for non-retailer users. We would like to know who specifically Jemena is offering extended payment terms and on what basis those non-retailers have been selected. Having recently signed a Reference Service Agreement as a self-contracting user, Brickworks has not been advised that extended payment terms will be offered by Jemena. In any event, Brickworks values minimising security requirements over a small potential extension to payment terms. Jemena's total non-retailer user credit risk is non-material given that non-retailer users have very small distribution costs being invoiced each month relative to magnitude of costs being invoiced to retailers. As many large users are becoming self-contracting users registered in wholesale gas markets directly as a consequence of the current East Coast gas crisis, which has created extreme gas pricing and a lack of gas supply available for large consumers, any request by a distributor to increase the credit support requirements on non-retailers should be considered by the AER relative to the marginal financial risk (if any) that it creates on the distributor. The issue should also be considered by the AER within the context that large users generally provide no credit support to gas retailers who incur a significantly large credit exposure, yet the same large gas consumer is required to provide a significant amount of credit support in total to not just gas distributors but also gas producers, gas transmission pipeline operators and AEMO despite the total credit exposure the large gas user creates across the gas supply chain remaining unchanged.

In summary, Brickworks recommends the following:



- The AER should undertake a general review of distributors processes and timeframes for entering into distribution agreements with self-contracting users to streamline processes and reduce timeframes where possible;
- The AER should undertake a review of whether Jemena is in breach of, or is intentionally bypassing, regulations in relation to requiring commercially sensitive information on gas supply arrangements and transmission pipeline agreements from network users;
- The AER should undertake a review to determine whether Jemena is in breach, or is intentionally bypassing, regulations in relation to requiring side letters in addition to a Reference Service Agreement from self-contracting network users; particularly a side letter that requires signing by Jemena's major competitor APA;
- Jemena should immediately execute Brickworks Reference Service Agreement to allow Brickworks to register with AEMO to be a Short-Term Trading Market participant which is required to be completed prior to wholesale gas supply arrangements commencing on 1 January 2020;
- The AER reject Jemena's proposed change to clause 30 of the Reference Service Agreement on the basis that the current security requirements for non-retailer users is sufficient given the small financial risk created by users with relatively small distribution costs compared to retailers;

Please don't hesitate to contact myself if you require any further information.

Yours sincerely,



Melissa Perrow  
General Manager Energy  
Brickworks Building Products Pty Ltd