

Attachment B – EA detailed response to JGN proposed reference services agreement

Detailed responses to proposed Reference Services Agreement submitted by Jemena Gas Networks (JGN) as part of its 2020 access arrangement proposal.

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
1.	Definitions (see also clauses 27 and 28).	<p>Loss</p> <p>Loss includes any costs (including any charge, deductible or premium payable in in respect of any insurance and any costs of any adviser on a full indemnity basis), liabilities (including any charge, compensation, debt or fine), losses, penalties, expenses or damage, present or future, ascertained or unascertained, actual, contingent or prospective, or (to the extent not against public policy or prohibited by Law) any fine or penalty of whatsoever nature or description suffered or incurred by a person and including Consequential Loss;</p>	<p>The term 'Loss' is very specifically and comprehensively defined. It includes items such as insurance and adviser costs, fines, third party compensation and contingent losses, which would ordinarily be within the definition of 'Consequential Loss' and therefore be excluded from a general liability regime.</p> <p>In our view, the wording in JGN's 2015-2020 RSA is simpler as it clearly separates what are and are not consequential losses.</p> <p>Liability (even for negligence) is limited to the 'insured sum'¹ and for \$5m in all other cases. The consequence is that Service Provider (JGN) has little commercial incentive to observe its duty of care in connection with the contract and makes the retailer liable for many things which would ordinarily be excluded. The</p>	<p>Indirect: These are likely to result in increased risks to retailers, resulting in higher costs and are likely to discourage market entry, competition and choice for customers.</p>	<p>In our view, the Definitions of Loss and Consequential Loss should be amended to reflect JGN's 2015-2020 RSA definitions for 'Damage', 'Consequential Damage' and 'Direct Damage'.</p>

¹ Insurance is only required to the extent that JGN's is required to satisfy the requirements of any licence.

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
			cost of additional insurance premiums would clearly be a matter that would normally be within the definition of consequential loss.		
2.	10.1 (b)	Gas Specification	JGN will deem off-specification gas to be within specification if used for network security. Effectively, JGN can use off-specification gas, but not the shipper. The 2015 contract also excused the Retailer if JGN as distributor was excused.	Direct: This can potentially result in poor quality gas being delivered to the customer, with JGN free of all liabilities.	<i>Reinstate the exception in 2015, clause 10.1(a)(iii):</i> where the Director-General issues an exemption to the Service Provider in relation to the requirements of the <i>Gas Supply (Safety and Network Management) Regulation 2013 (NSW)</i> related to the specification of Gas, then the specification under clause 10.1(a)(i) or clause 10.1(a)(ii) (as the case may be) is modified (for the period during which the exemption applies) to the extent necessary to accord with the terms of that exemption;
3.	10.5	User to satisfy JGN The User must, if requested by JGN:	This appears to be putting one-sided obligations on the user. It is also not clear what the scope is and what this might cover.	Direct: This clause requires the user to subsequently require the customer to perform whatever tasks JGN requires	Amend clause 10.5(a), line 1, to read 'reasonable satisfaction'. Amend clause 10.5(d) to conclude 'at a time and

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
					place agreed between the parties acting reasonably'.
4.	10.8	<p>Exemptions to Specifications</p> <p>JGN will not be in breach of this Agreement (and will be deemed to have complied in all respects with it, despite any Loss suffered or incurred by the User) as a result of the Director General issuing:</p>	<p>JGN needs to be more specific about the exemption and context – it appears to be with something particular in mind regarding gas specifications.</p> <p>The exemption is one-sided and extends further than necessary because it cures all defaults if there is a specification default.</p>	<p>Direct: This can potentially result in poor quality gas being delivered to the customer, with JGN free of all liabilities.</p>	<p><i>Suggested amendment:</i></p> <p>Opening words to read: 'Despite anything in this clause 10, a party will be deemed not to have breached its obligations to deliver or convey Gas which meets the Specification, to the extent that it does so in compliance with the terms of an exemption or direction issued by the Director General...'</p>
5.	10.9 - 11	<p>10.9 Gas Source</p> <p>10.10 User responsible for Gas Testing</p> <p>10.11 Gas Testing by User</p>	<p>It is not always possible for a User to know the physical source of gas and the quality of gas delivered. This appears to be putting all obligations on the user.</p> <p>These clauses cannot be reasonably met by the user purchasing gas from the STTM, particularly as the user isn't the asset owner.</p> <p>In addition, the User having to test according to JGN's operational schedule allows JGN to dictate timings at its own convenience, not</p>	<p>Direct: This can potentially result in poor quality gas being delivered to the customer, due to the gas testing and responsibility/accountability sitting with a party (the retailer) who does not have the information needed to ascertain the quality of the gas, with JGN disclaiming liability.</p> <p>In addition, the User having to test according to JGN's operational schedule allows JGN to dictate</p>	<p>Begin clause 10.9(a) with 'The User must use its reasonable endeavours to...'</p>

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
			necessarily to the efficiency or benefit to the market or customers.	timings at its own convenience, not necessarily to the efficiency or benefit to the market or customers.	
6.	12	Deletion of delivery points from Customer List:	<p>See comments below relating to specific clauses. Request and standing charges should cease for that delivery point. However, the User is still charged for those 20 business/days although Service has ceased. It is also not clear why it takes 20 business days after disconnection to remove a delivery point from the Customer List; why not the date of disconnection?</p> <p>12(a)(i) has the effect of removing JGN's liability while keeping the benefit of its indemnities (see Clause 26) intact.</p> <p>We are also concerned that JGN does not have an express obligation to act promptly to complete a disconnection.</p>	Direct: This is likely to lead to an unknown consumer process, and/or customers getting charged for the 20 business days while the service has ceased.	Amend clause 12(b)(i) to read 'as soon as practicable, but no later than 20 Business Days...'
7.	12(a)(iv)	notwithstanding the removal of the Delivery Point from the Volume Customer List, the Parties will co-operate	This acknowledges that JGN has issues accessing its own Measuring Equipment (i.e. meters). We emphasise that the primary responsibility for	Direct: This allows JGN to continue to access customers even after they have been stopped being billed.	Clause 12(a)(iv) to read: 'notwithstanding the removal of the Delivery Point from the Customer List, JGN must use all

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
		and the User will continue to provide reasonable assistance so that JGN may obtain access to each delivery station and to the Measuring Equipment.	access to the premises must logically be borne by the person that owns the pipeline and has statutory rights of access (i.e. JGN).	It is also likely to result in an unknown consumer process to the detriment of the customer, where the customer starts getting credit collection letters, etc. and a back bill up to the maximum NERR requirement.	necessary endeavours to access the Delivery Station and Measuring Equipment, and accordingly, the Parties will cooperate...'.
8.	15.9(a)	<p>Disconnection and abolishment of Delivery Points</p> <p>...by such means as JGN reasonably determines unless JGN reasonably considers that obligations under relevant Laws or under the relevant Customer Connection Contract relating to the disconnection of supply of gas to the Delivery Point or the abolishment of the Delivery Point have not been met.</p>	<p>The application of the NERR exceptions for JGN to refuse a disconnection service order are broad.</p> <p>In our view, “reasonably determines” imposes little obligation on JGN to disconnect, while it can recover network charges from the retailer in the interim. The balance of risk is not evenly allocated to the retailer given the regulated revenue asset base available to JGN as a monopoly distribution network.</p> <p>Clause (a) does not prescribe a time frame. This can lead to higher charges payable by the User, which ultimately will be passed on to the customer.</p>	<p>Direct: for a customer-initiated disconnection or abolishment, if JGN fail to disconnect or abolish, this means the customer continues getting billed.</p> <p>This particularly affects large sites (e.g. a large supermarket chain) which consumes large amounts of gas and where access might be an issue.</p> <p>In our view the reasons JGN can refuse or disconnect appear all-encompassing and appear to include instances where JGN’s inability to disconnect (e.g. failure to gain access or coordinate with the customer) is to the detriment of the customer.</p>	<p>Amend the first line of (a) to read 'JGN must promptly and with all due expedition, at the request of the User...'. Change the exception in (a) to read to read 'unless obligations under relevant Laws...' that is, omit the words 'JGN reasonably considers that'.</p>

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
				<p>The imbalance of risk could also deter market entry and lead to lesser competition, particularly for smaller retailers who have a smaller base for which to absorb network charges they are unable to bill the customer.</p>	
9.	15.9(b)	<p>(b) Where the User wishes to have a Demand Customer Delivery Point disconnected or abolished, the following provisions apply:</p> <p>(i) the User may, at any time, request JGN to disconnect the supply of Gas to, or abolish, a Demand Customer Delivery Point;</p> <p>(ii) within 30 Business Days of receiving the request, JGN will provide the User with an offer to disconnect or abolish the Delivery Point, including an estimate of the costs of performing the disconnection or abolishment and a timeframe for</p>	<p>The inclusion of a time frame (albeit a very long one) is welcome, but we would like to understand the reasoning behind the 30 business days timeframe? The clause gives JGN the right to take up to 6 weeks to effect a disconnection</p> <p>What relevant Laws or customer contract can JGN refuse to disconnect or abolish the delivery point?</p> <p>This may be acceptable for an abolishment but is not acceptable for a disconnection.</p> <p>We would expect the service to be split between de-energisation and re-energisation costs.</p>	<p>Direct: Similar to points above in 15.9(a).</p> <p>A demand customer delivery point is likely to be a large organisation; 30 business days is also a long lead time for the customer to not have certainty about whether the site is going to be disconnected.</p> <p>There is also no avenue for the customer where parties (i.e. the customer and JGN) cannot agree on an offer.</p>	<p>Amend the start of clause 15.9(b)(ii) to read 'as soon as practicable, but in any event within 20 Business Days'.</p>

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
		<p>performing the works (Offer); and</p> <p>(iii) if the User accepts the Offer, JGN must disconnect or abolish the Delivery Point in accordance with the Offer unless JGN reasonably considers that obligations under relevant Laws or under the relevant Customer Connection Contract relating to the disconnection of the supply of gas to the Delivery Point or the abolishment of the Delivery Point have not been met.</p>			
10.	15.9(c)	<p>(c) JGN will not be in breach of clause 15.9(a) or clause 15.9(b)(iii) where JGN is unable to obtain clear and safe access to the Delivery Station to perform the work required for disconnection or abolishment including due to a Customer failing to comply with its obligations under the Customer Connection</p>	<p>In most instances JGN is unable to obtain access to the delivery station due to deficiencies in JGN's own processes and assets.</p> <p>JGN appears to be putting all responsibility and liability with the user in these instances, which is inappropriate given JGN are best placed to mitigate the risk as the asset owner.</p> <p>Removes any JGN liability for a disconnection when unable</p>	<p>Direct: These clauses cannot be reasonably met by the retailer only, with JGN being the asset owner.</p> <p>This is also inconsistent with JGN's powers under the NSW Gas Supply Act 1996, section 55, which gives powers of entry to JGN.</p> <p>A long drawn out disconnection process (especially when customer initiated) can result in the</p>	<p>We suggest the introductory words to this paragraph read:</p> <p>'JGN will not be in breach of clause 15.9(a) or clause 15.9(b)(iii) to the extent that JGN is unable, despite the use of best endeavours and all prudent operating practices...'</p>

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
		Contract in force at the relevant Delivery Point.	to obtain clear and safe access to perform the work required for disconnection or abolishment. This clause absolves JGN of any responsibility to complete disconnections.	customer being continued to be billed for consumption on a vacant site (or the unknown consumer process).	
11.	15.9(d)	<p>(d) The User acknowledges that a new Request and a new connection and applicable charges will be required for the reconnection or re-establishment of a Delivery Point: where:</p> <p>(i) for a Volume Customer Delivery Point and a Demand Customer Delivery Point, the Delivery Point has been abolished; and</p> <p>(ii) for a Demand Customer Delivery Point, where the Delivery Point has been disconnected, unless agreed otherwise in the Offer made under Clause 15.9(b).</p>	<p>What is the reasoning behind 15.9(d)(ii) where a demand point is disconnected (not abolished), the user would have to request a new connection? Why can't a reconnect be used?</p> <p>Jemena currently charge a \$150 fee for a combined disconnection and reconnection service. This effectively means they do not charge for reconnection separately; we understand they proposed to split the disconnection and reconnection services but later withdrew the proposal.</p> <p>If a demand point is disconnected (not abolished) then it would be expected that only a reconnect should be required.</p> <p>Lastly, we are a little unsure as to the intended interface</p>	<p>Direct: We see no reason why a reconnect service cannot be used if a demand point is disconnected.</p> <p>Blurring the line between a disconnection and an abolishment operationally also means that customers may end up in a situation where there is a meter that has been disconnected, but they are required to install a new (additional) meter when they wish to reconnect, which seems inefficient and unnecessary.</p>	Delete paragraph (ii).

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
			between clause 15.9(d)(ii) and clause 15.9(b).		
12.	15.9(e)	<p>User information</p> <p>(ii) provide JGN with sufficient information to enable JGN to determine the appropriate method of disconnection or decommissioning disconnection or abolishment, including the reasons for disconnection, and to access the site and perform the work; and</p>	<p>The risk and obligation is not appropriately shared in this clause and is inappropriate given JGN are best placed to mitigate the risk as the asset owner; the network is responsible for the asset.</p> <p>Where the retailer has customer information, this is limited to the de-energisation reason, and limited customer information. JGN holds information about the site as the asset owner and has responsibility to obtain the information. Note that JGN does receive customer information from the retailer via market B2B processes.</p> <p>The method is JGN's responsibility and should not need to specify customer contact information or access information from the User.</p>	<p>Direct: These clauses cannot be reasonably met by the retailer only, with JGN being the asset owner.</p> <p>This clause attempts to absolve JGN of any responsibility in doing work to the detriment of the customer; a long drawn out disconnection process (especially when customer initiated) can result in the customer continuing being billed for consumption on a vacant site (or the unknown consumer process).</p> <p>This clause appears to be primarily aimed at absolving JGN of any responsibility for unknown consumers where information about the customer is not available.</p>	<p>Amend to read:</p> <p>do such things as are reasonably within its power to provide JGN with information to enable JGN to determine the appropriate method of disconnection or decommissioning disconnection or abolishment, including the reasons for disconnection, and to the extent practicable, to access the site and perform the work; and</p>
13.	15.9(f)	<p>If reasonably requested by JGN, a representative of the User must be present when JGN disconnects the supply of Gas to, or abolishes, a Delivery Point.</p>	<p>In what circumstances would this be warranted? Again, this appears to be put all the obligations on the user rather than JGN.</p>	<p>Direct: JGN could require the user to be present for every disconnection. This can potentially not only add unnecessary costs which eventually get passed on to the consumer but would</p>	<p>Delete this sub-paragraph. A User representative is not necessary for the disconnection to be carried out.</p>

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
			JGN could require the User to be present for every disconnection.	require significantly more coordination for the customer when initiating a disconnection.	
14.	16.4(b)	<p>16.4 Maintenance of Basic Metering Equipment</p> <p>Where JGN is responsible for maintenance of the Basic Metering Equipment under this Agreement and provided that the User procures the co-operation of the User's Customer, JGN must or must cause its authorised contractors to carry out necessary repairs of the Basic Metering Equipment within a reasonable time of:</p> <p>(a) becoming aware of the need to do so; and</p> <p>(b) securing access to the Delivery Station.</p>	<p>16.4(b) requires JGN to be able to secure access to the Delivery Station. This obligation should not be solely the user's if JGN has issues with meter access.</p> <p>Under NECF, JGN has an agreement with the end user and can therefore procure its own co-operation of the customer.</p> <p>By limiting responsibility to be only under the agreement, this appears to be attempting to remove liability for JGN's obligations to maintain its metering equipment with respect to its own installation codes and guidelines² and appears to be an attempt to absolve JGN of liability where specific concerns were raised by EA. This appears to be JGN specifically attempting to avoid liability for non-</p>	Direct: This is inconsistent with NECF, where JGN has an agreement with the end user (the customer) and can therefore procure its own co-operation of the customer.	<p>JGN has adequate protection (and User defined obligations) under NERR 94. E.g. NERR 94(1) states that:</p> <p>The distributor and the retailer must give all reasonable assistance to each other and cooperate with each other, in relation to the performance of their respective obligations and the enforcement of their respective rights in respect of the sale and supply of energy to shared customers under <i>the Law</i> [the National Energy Retail Law], the Regulations, these Rules and the Retail Market Procedures. This provision already contemplates the User's cooperation with</p>

² Jemena Gas Networks Natural Gas & Central Hot Water Metering Guide ADG-002- Medium Density & High Rise Residential
<https://jemena.com.au/getattachment/57f48414-0536-40ad-9ae7-d628c1474beb/Metering-Guide-Medium-Density-High-Rise-Residential.aspx>

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
			compliance with its own metering guidelines.		procuring cooperation of the customer. Accordingly, we seek the deletion of 'and provided that the User procures the co-operation of the Customer'.
15.	16.5(a) and (b)	<p>Safe Access to Measuring Equipment</p> <p>(a) The User must provide reasonable assistance so that JGN may obtain clear and safe access to each Delivery Station and to the Measuring Equipment at each Delivery Point.</p>	Under NECF, JGN has an agreement with the end user and can therefore procure its own co-operation of the customer.	<p>This is inconsistent with NECF, where JGN has an agreement with the end user (the customer) and can therefore procure its own co-operation of the customer.</p> <p>The NSW Gas Supply Act 1996, section 55, gives powers of entry to JGN.</p> <p>Their rights in this space far exceed retailer's rights.</p>	<p>Amend to read:</p> <p>(a) The User must provide such assistance as JGN may reasonably request concerning the provision of clear and safe access to each Delivery Station and to the Measuring Equipment at each Delivery Point.</p> <p>Amend chapeau to (b) to read: 'The User must, if reasonably requested by JGN, use reasonable endeavours to ensure that, to the extent practicable...'</p>
16.	16.6	<p>Entry and access to Delivery Points</p> <p>JGN and the User must cooperate, and the User must give all reasonable assistance to procure, that JGN and JGN's authorised contractors</p>	The primary responsibility for access to a delivery point must rest with the operator of the pipeline, not the retailer. JGN has a contract with the customer and statutory rights of access. They should be the primary means of access, rather than requiring the	<p>Direct: This gives JGN wide remit to access the customer's property to obtain access to its metering equipment without any prior notice.</p> <p>This needs to be limited to specific situations and</p>	Amend to read: JGN and the User must cooperate, and the User must give all assistance reasonably requested by JGN in connection with entry and access to any Delivery Point at all

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
		<p>may, at all reasonable times, and without giving prior notice to the User or the User's Customer, enter and have access to any Delivery Point:</p> <p>(a) to obtain access to any Measuring Equipment;</p> <p>(b) for any purpose associated with this Agreement; or</p> <p>(c) for the purpose of exercising any right or obligation conferred on JGN by Law,</p> <p>free of any charge or hindrance from any person or other obstruction.</p> <p>JGN will participate in reasonable site induction or safety training required by the User or the Customer at a Delivery Point. provided that the User must reimburse all of JGN's costs (including internal costs) associated with</p>	<p>retailer to procure that outcome.</p> <p>Also, we consider it would be reasonable for one to expect prior notice to be given to the User.</p> <p>This clause needs to be limited to specific situations.</p> <p>It doesn't seem reasonable that JGN should be reimbursed by the retailer for attending site induction safety training where it (the training) was reasonable.</p>	<p>reasonable prior notice be given to both the user and customer if JGN requires access.</p>	<p>reasonable times, and on reasonable notice to the User or the User's Customer</p> <p>We suggest deleting the requirement that the 'User must reimburse all of JGN's costs....associated with....training'. If training is reasonably necessary then JGN should not be reimbursed, and certainly not by User.</p>

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
		participation in such induction or training.			
17.	16.7	<p>Consequences of no access</p> <p>If JGN is unable to safely access a Delivery Point for any of the purposes of clause 16.6, then JGN may at its option do any or all of the following:</p> <p>(a) estimate the Quantity of Gas delivered to that Delivery Point, by having regard to Gas consumption patterns for that Delivery Point, and render an invoice based on such estimate ; and/or ...</p> <p>(c) after giving the User 1 Business Day's notice where access is required for safety issues, and 5 Business Days' notice for all other issues, replicate at a location accessible to JGN, and at the User's reasonable cost, the Measuring Equipment at the Delivery Point.</p>	<p>JGN should be dealing with the customer regarding meter relocation.</p> <p>That JGN can give the User 1-5 b/day notice and relocate a meter and service at the User's cost is unacceptable.</p> <p>Estimations should also be done in accordance with AEMO procedures.</p>	<p>Direct: Taken together with the clauses above attempting to absolve JGN of any responsibility due to its inability to access its own meters, this is likely to result in estimated invoices being billed to the customer.</p> <p>Misallocation of financial risk (see Clause 15) means that JGN are likely to over-recover and potentially customers over-pay (assuming it is not an unknown customer).</p>	<p>Paragraph (a) to conclude (in the manner required by law).</p> <p>In paragraph (c), we think 'Customer' should be substituted for 'User'.</p>

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
18.	17.4	Meter Reading	There is nothing in this clause about hot water meters, which are used to calculate gas usage.	Direct: The obligations that apply to gas meters should also apply to hot water meters as this impacts the accuracy of the billing.	Amend definition of 'Daily Meter Reading Facilities' to read 'equipment at or near a Delivery Station necessary to enable a Customer's Daily consumption of Gas to be recorded and measured, and includes, as appropriate, hot water meters'.
19.	17.5	Deleted clause: In the event that the User reasonably forms the view that meter data information or a meter reading is incorrect, it shall notify JGN of this in writing as soon as reasonably practicable, stating the reasons for the User's belief. JGN undertakes to investigate the matter and advise the User of its findings without delay. Except for circumstances beyond its control, JGN remains liable for the accuracy of the information provided by it.	Why was JGN's obligation to notify and investigate erroneous meter data information removed? Is there already a market transaction in place?	Direct: This clause was removed; it is unclear why JGN is trying to absolve its liability for the accuracy of the meter data information (needed for accurate billing of customers) provided by it?	Reinstate the 2015 clause: 'In the event that the User reasonably forms the view that meter data information or a meter reading is incorrect, it shall notify JGN of this in writing as soon as reasonably practicable, stating the reasons for the User's belief. JGN undertakes to investigate the matter and advise the User of its findings without delay. Except for circumstances beyond its control, JGN remains liable for the accuracy of the information provided by it.'

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
20.	19.5	Theft of Gas	The implication is that retailers hold all liability and pay for it immediately. Removes the incentive for JGN to prevent gas theft (it has control of the assets).	Indirect: These are likely to result in increased risks to retailers, resulting in higher costs and are likely to prevent market entry, competition and choice for customers.	Amend the introductory words to read 'If, due to theft of Gas, JGN has invoiced a User with incorrect Charges in respect of a Delivery Point, JGN may, provided it has taken all reasonable and prudent steps to prevent and mitigate such a theft...
21.	20	Invoicing	These are already covered by NGR		To the extent of inconsistency with the NGR, the NGR should prevail. Amend clause 20.8(c) to read 'the User must pay the undisputed amount of the invoice, together with half the amount in dispute in accordance with clause 20.5...' Consequential amendments are necessary to clause 20.8.
22.	23.2	23.2(c)/23.2(c)(i) (c)If JGN intends to interrupt or reduce the	The notification requirement does not specify a particular number of days prior to interruption by which the User must be notified.	Direct: This could cause disruptions and limit quality of service if JGN does not allow sufficient warning for	The former clause from the 2015-2020 service agreement should be reinstated. It reads:

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
		<p>Services in accordance with clause 23.2(b), JGN will:</p> <p>(ii) notify the User;</p>	<p>Notification without sufficient warning is not useful. While the clause as it stands also obliges JGN to 'use reasonable endeavours to agree with the User the timing of the intended interruption or reduction', a more concrete timeframe for notification would provide greater certainty for EnergyAustralia.</p>	<p>the user to mitigate the effects of interruptions.</p>	<p>(c)If JGN intends to interrupt or reduce the Services in accordance with clause 23.2(b), JGN will:</p> <p>(ii) notify the User and the relevant Customer as early as reasonably practicable (and provide not less than 4 Business Days' notice) prior to the interruption or reduction of Services of its intention to interrupt or reduce the Services.</p>
23.	26 and 27	<p>Liability</p> <p>26.2 Mutual Indemnity</p> <p>27.2(a)(iv)</p>	<p>The Liability and indemnity provisions are generally heavily in favour of Jemena. We do not think it is reasonable that the user should have to accept exposure to Consequential Loss. The indemnity for 'Loss' in clause 26.2 extends, by virtue of the definition of 'Loss' to Consequential Loss. The indemnity therefore applies to Consequential Loss flowing from property damage. The exclusions in clause 27.4 mean that the limitations in clause 27.2 do not apply to amounts payable under an indemnity.</p>	<p>Indirect: These are likely to result in increased risks to retailers, resulting in higher costs and are likely to prevent market entry, competition and choice for customers.</p>	<p>Exclude 'Consequential Loss' from the indemnity in clause 26.2 (a) relating to property damage.</p> <p>Delete clause 26.2(b).</p> <p>In clause 26.3 amend 'Loss' to read 'Loss (other than Consequential Loss).</p> <p>Amend clause 27.2(b)(iv) to make it clear that they only apply in the case of the User.</p> <p>27.2(b)(iv) should read</p> <p>(A) in the case of the</p>

No.	Section	Clause under RSA	Industry/User impact	Customer impact	Proposed solution
					<p>User, \$5 million in the aggregate for all claims in a Financial Year for the other party, its Related Bodies Corporate or their Associates.</p> <p>(B) in the case of the User, \$5 million in the aggregate for all claims by those persons arising out of or in connection with all acts, omissions or conduct referred to in sub-paragraph (b)(i) and (ii) above this Agreement during a Financial Year;</p>