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2016 Review of the Limited Merits Review Regime – Consultation Paper response

Jemena Limited (**Jemena**) welcomes the opportunity to respond to the Review of the Limited Merits Review (**LMR**) Regime Consultation Paper dated 6 September 2016 (**Consultation Paper**).

Jemena owns and manages gas and electricity transportation assets that provide essential services to millions of Australian energy consumers every day. We do this through our natural gas distribution network, which supplies 1.3 million sites across NSW; our Victorian electricity network, which delivers power to over 320,000 homes and businesses in north-west Melbourne; the Eastern Gas Pipeline, Queensland Gas Pipeline and Northern Gas Pipeline (to be commissioned in 2018) which transport natural gas to key markets and for export; and our ownership interests in the ActewAGL electricity and gas distribution networks and United Energy, which supplies electricity to over 600,000 customers across south-eastern Melbourne and the Mornington Peninsula.

We therefore have a strong interest in this review of the LMR regime.

Increased LMR activity levels reflect specific and material concerns with how the AER has applied the 2012 rule reforms

Rising energy prices, and a concern that regulatory decisions were not promoting customers' long-term interests, led to the 2012 amendments to the rules governing price reviews. A key outcome of those reforms was to increase the discretion afforded to the Australian Energy Regulator (**AER**) in making key elements of its revenue decisions. Since that time:

- the volume of LMR activity has increased;
- applicants' LMR grounds of review have often related to those elements of AER's decisions where the level of discretion has been increased, and have often involved issues that are common to multiple businesses;
- customer engagement and participation in the price review (and LMR) process has increased; and

- the first round of LMR proceedings under those new rules found material errors in the AER's decisions. These proceedings are not yet complete, but on completion are expected to "settle" a number of key issues.

In light of the above, we do not believe that drastic change to the regulatory regime (including the LMR process) is appropriate at this time.

We also caution against drastic change given other significant regulatory reforms being concurrently considered, which are also increasing the risk associated with long-term funding of energy transportation businesses:

- the COAG-initiated review of the coverage criteria applicable to gas transmission pipelines and networks (the uncertainty created by this review is exacerbated by the fact that the application of the coverage criteria is also subject to LMR); and
- the AER's review of the electricity network ring-fencing guidelines, which will limit the extent to which networks can participate in the new energy business models that will characterise energy markets in the future.

LMR abolishment is not in customers' long-term interests, and regime enhancement options are available

As a matter of principle, Jemena believes that economic regulatory frameworks should be designed to promote economic efficiency and, through this, the long-term interests of consumers.

We strongly believe that abolishing LMR (the Consultation Paper's option 4) will not advance customers' long-term interests. This is because it will:

- not promote greater customer participation in the regulatory process;
- risk material errors of fact in key regulatory decisions going uncorrected; and
- negatively impact investor confidence in the regulatory regime and ultimately put upward pressure on the cost of capital and energy prices.

We do believe there are opportunities to refine the regime to substantially address the concerns raised in the Consultation Paper, and in ways that could achieve broad support. Jemena has been closely involved in the development of both the Energy Networks Association and Australian Pipelines and Gas Association submissions to the Consultation Paper, and we endorse both submissions in this regard.

If you would like to discuss our views further, please contact Alex McPherson, Manager Asset Regulation and Strategy on 02 9867 7229 or alex.mcpherson@jemena.com.au.

Yours sincerely



CAMERON HERBERT
General Manager Regulation (Acting)