



Jemena

3 June, 2010

Andrew Bomm
Principal Research Officer
Senate Select Committee on Agricultural and Related Industries
PO Box 6100
Parliament House
CANBERRA ACT 2600

Jemena Gas Networks
(NSW) Ltd
ABN 87 003 004 322

Level 20
111 Pacific Highway
North Sydney NSW 2060
PO Box 1220
North Sydney NSW 2059
T +61 2 9455 1500
F +61 2 9455 1501
www.jemena.com.au

Dear Mr Bomm,

Adverse comment regarding Jemena

We refer to your letter of 14 May 2010 to Jemena's managing director, Mr Paul Adams, offering Jemena the opportunity to respond to adverse comment about Jemena made by Mr Andrew Helps during a committee hearing on 30 April 2010.

Thank you for providing Jemena with the opportunity to respond to Mr Helps' comments. Jemena acknowledges that this response will be a public document.

This response takes the form of a short overview of Jemena, its dealings with this gas connection request and Jemena's approach to connection charges in NSW, followed by individual responses to Mr Helps' specific comments.

In summary:

- Mr Helps' submission includes a number of comments concerning Jemena that are factually incorrect and/or misleading.
- Jemena operates under a regulatory framework that contains incentives for Jemena to expand its gas network prudently and efficiently. In the case of Climate Friendly Fertiliser (CFF) the prudence of Jemena's investment to provide the requested connection could not be justified from the additional revenues that would be received from the increase in network utilisation alone. Consequently, Jemena offered to make a connection on the condition that a capital contribution would be made in order to justify Jemena's investment.
- In light of the incorrect and misleading nature of Mr Helps' submission, Jemena requests the Select Committee to refrain from publishing any documentation provided by Mr Helps which concerns Jemena.

Who is Jemena?

Jemena Limited is a wholly owned subsidiary of Singapore Power International. Jemena Limited's wholly owned subsidiary, Jemena Gas Networks (NSW) Limited (JGN), is the owner and operator of the major natural gas distribution network in NSW. JGN's network footprint includes a large single network which serves the greater Sydney region,

Wollongong, Newcastle and the NSW Central Coast, as well as a number of country network sections serving around 30 individual country towns through NSW (including Leeton, NSW).

This network distributes gas to over 1,000,000 customer premises including around 430 large commercial and industrial premises. JGN sells gas transportation services to gas retailers who then bundle this service with gas for sale to the end consumers of gas. JGN's capitalisation is in excess of three billion dollars.

JGN's NSW gas network is subject to economic regulation and regulation of third party access under the National Gas Law.

Jemena and Climate Friendly Fertilisers

JGN had dealings with an engineering consultant acting on behalf of CFF and two gas retailers over a 6 month period from late 2008 to early 2009. These dealings were in relation to a prospective network extension to the site chosen by CFF near Leeton.

JGN made offers for network connection to the two gas retailers in February 2009. Subsequently, JGN responded to enquiries from the NSW government to explain the network cost and pricing issues associated with this location, and then also met directly with Mr Helps in April 2009 to explain JGN's connection offer. Between CFF's relationship with gas retailers and the direct contact with JGN, every opportunity was provided to Mr Helps to understand the cost implications to CFF of the choice of location so that CFF could assess its development options and respond commercially.

In his submission, Mr Helps referred to an earlier 2007 quote for connection to this site. JGN has no record of an offer for connection other than the two offers made to gas retailers in February 2009, which had identical connection charges. JGN has no knowledge of any earlier quote for gas connection charges.

JGN Connection Charges

The regulatory framework which applies to JGN's network contains incentives for JGN to expand its network prudently and efficiently, in the long term interest of consumers. The majority of connections and extensions made to the network are prudent in their own right and attract no connection charge. In these cases JGN's increased costs are able to be justified solely on the forecast increase in transportation revenues that arise from the additional network demand connected as a result of the investment.

In cases where JGN's costs of making connections and extensions are not able to be justified from the forecast increase in network load and transportation revenues, then JGN requires an additional contribution in order to justify its investment.

This approach is consistent with the regulatory framework which applies to JGN's network. Where contributions are paid, a corresponding share of costs is excluded from JGN's future regulated cost base. This approach ensures that existing customers are not required to subsidise network expansion for unprofitable connections through increased network tariffs.

JGN Response to Mr Helps' specific comments

1. *"..Then as we went through the permitting process for our site at Leeton we discovered that the gas connection price had gone from \$500,000 to \$3.853 million because about five days after our company was formed, a vehicle was created in New South Wales called Jemena which took over the old AGL assets."*

This statement is not correct. Firstly, JGN has no knowledge of the \$500,000 offer referred to in Mr Helps' submission and hence did not make any change to an earlier binding price. Secondly, JGN did not make any change to its policies for determining connection charges, notwithstanding the various changes in company ownership and changes in company name that occurred between 2006 and 2008. Similarly, there were no relevant changes to the regulatory framework which applied to JGN's network in that period.

2. *"Jemena also wanted us to provide an enduring five-year, 10 year rolling bank facility to guarantee payment for gas and to sign a very onerous contract with annual gas price increments."*

This statement is not correct. JGN never made an offer to CFF, and never had commercial discussion with CFF concerning gas prices or bank guarantees or facilities. Any contract considered by CFF would have been a contract proposed by a gas retailer for a bundled gas supply agreement.

3. *"I had a meeting with Jemena and they basically said, 'That's the price. We don't make a lot of money carting gas through the pipeline, so we have to make other money' blah blah blah."*

This statement misrepresents JGN's commercial position in relation to the network connection charge for this network extension. The additional revenue that JGN would receive through its regulated tariffs for the additional CFF gas demand would be substantially less than the additional cost to JGN to provide the network service. As a consequence, the connection charges were calculated to recover this shortfall from the party benefiting from the connection.

4. *"It later turned out at one of the Australian Energy Regulator meetings that they had to upgrade the hot point at Leeton anyway, and that would cost \$1.7 million. Obviously I was going to be the patsy to do that."*

This statement is not correct. The proposed upgrade of the Leeton receipt station (or "hot point") is required for compliance with technical and safety standards and not for an increase in station capacity. The cost of the upgrade would be recovered through JGN's regulated revenue streams and was not taken into account when determining the connection charges for CFF's requested network extension.

5. *"I have been to the ACCC on the Jemena gas supply issue – as a misuse of market power and deceptive and misleading conduct...."*

JGN has not received any notice from CFF, the ACCC or the AER of any allegation concerning misuse of market power or misleading or deceptive conduct.

The requests for service made by the two retailers were dealt with in accordance with the regulated access regime and access law.

Mr Helps' proposition of a conspiracy through which the ACCC applies a different interpretation of the law to Jemena than that applied to other organisations is fanciful and ludicrous.

6. *"No there was no comment like that. It was more, "We don't make a lot of money out of carting gas in the pipes so we've got to pick up profits elsewhere'. Its code for "We paid too much for the asset; we're trying to ramp up the profitability very quickly so that we can flog it."*

See item 3 above, this comment misrepresents JGN's commercial position. The connection charges were calculated to properly allocate JGN's costs to the parties benefiting from the service. This principle is consistent with the law and principles for economic regulation which apply to JGN. If JGN did not recover the allocated costs from the connecting parties then the only other means for JGN to recover its costs of the required network extension would be to increase charges to all other parties that receive network services to pay for CFF's connection and choice of location.

Publication of CFF Documents provided to the ACCC

Finally, JGN notes that during the hearing the Chair and Mr Helps discussed releasing Mr Helps' submission to the ACCC for publication by the Select Committee.

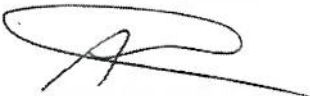
Noting that:

- Mr Helps' submission to the Select Committee contains statements which are incorrect or which misrepresent JGN's actions; and
- JGN's commercial dealings were with gas retailers, and in fact JGN had no direct commercial dealing with CFF,

JGN would like the opportunity to review and comment on this documentation, prior to any publication by the Select Committee. JGN does not believe that it is the intent of the Select Committee publications to be used to allow persons to make unsubstantiated allegations and public slurs against reputable and well operated organisations such as Jemena. The publication of Mr Helps' submission to the ACCC could cause financial loss and reputational damage to Jemena, despite the submission not having been accepted by the ACCC. We therefore deserve the right to review and respond to this material.

If there are any questions or further developments in regard to this matter, please contact the writer on 02 9455 1554.

Yours faithfully



Alf Rapisarda
General Manager Gas Networks