



Rule Change Requests from Major Energy Users Inc— ERC0136 and GRC0013

Submission from

Jemena Limited

to the

Australian Energy Market Commission

20 January 2012



Contact Person

Sandra Gamble

General Manager Regulation and Strategy

Ph: (02) 9455 1512

sandra.gamble@jemena.com.au

Jemena Limited

ABN 95 052 167 405

321 Ferntree Gully Road
Mt Waverley VIC 3149

Postal Address:

Locked Bag 7000
Mt Waverley VIC 3149

Ph: (03) 8544 9000

Fax: (03) 8544 9888

Table of contents

1	Executive summary	1
2	Introduction	2
2.1	Context of this consultation.....	2
2.2	Jemena's network businesses.....	2
2.3	Structure of Jemena's submission.....	2
3	MEU's rationale	3
3.1	The MEU application overlooks critical differences between the strategies and practices available to regulated and unregulated businesses.....	3
3.2	The capex forecast is not a budget or a contract.....	5
4	MEU's proposed rules	6
4.1	Optimisation of the RAB.....	6
4.1.1	<i>RAB optimisation is costly and imprecise</i>	6
4.1.2	<i>Arrangements for approval of oversized investments are unclear</i>	6
4.1.3	<i>MEU's proposals overlook key aspects of the environment in which regulated businesses operate</i>	7
4.1.4	<i>MEU's proposals introduce significant asymmetric risk</i>	7
4.2	Incentive to replace fully-depreciated assets prematurely.....	8
4.3	Jemena's position on MEU's proposed rules.....	9
5	AEMC questions	10
5.1	Question 1.....	10
5.2	Question 2.....	11
5.3	Question 3.....	11
5.4	Question 4.....	11
5.5	Question 5.....	12
5.6	Question 6.....	13
5.7	Question 7.....	13
5.8	Question 8.....	14
	Appendix (Glossary)	15



1 Executive summary

The National Electricity Rules (**NER**) and the National Gas Rule (**NGR**) encapsulate some very good elements of incentive regulation as policy makers and the Australian Energy Market Commission (**AEMC**) intended when they were put in place a few years ago.

Jemena presently owns two distribution businesses—Jemena Electricity Networks (Vic) Limited (**JEN**) and Jemena Gas Networks (NSW) Limited (**JGN**)—which are subject to economic regulation under the NER and the NGR respectively. The Australian Energy Regulator (**AER**) has completed price reviews for both. Those processes have been a substantial learning process for the businesses, the AER and stakeholders. The rules and our regulatory practice have been tested, and the body of knowledge we have developed is valuable.

JEN and JGN are both investing and operating efficiently in response to their regulatory incentives. Their capacity to continue to do that is dependent on the stability of the rules and the investment certainty they create. Accordingly, we encourage the AEMC to apply a very high threshold before adopting any changes to the rules that have been in place only a short time—that threshold being whether a major problem with the current rules has been clearly established.

Electricity distribution prices are rising. There is strong evidence to show that these price rises are the result of increased costs driven by the need to replace aging asset, meet growing demand and legislative requirements, and maintain reliability. There is no evidence to show that these price rises are due to inadequacies of the current rules.

That is not to say that there is not scope to improve the rules or their application. Jemena supports changes to the regulatory process where they demonstrably advance the objectives of the electricity and gas laws; that improve the efficiency and quality of the decision-making processes under the laws and rules; and that enhance stakeholders' confidence in those processes and their outcomes.

In Jemena's view the rule changes proposed by Major Energy Users Inc (**MEU**), and which are the subject of the AEMC's current consultation, fail to meet these principles. The AEMC should not make the proposed rules.

2 Introduction

2.1 Context of this consultation

On 3 November 2011, MEU submitted two rule change requests to the AEMC in relation to the economic regulation of electricity and gas transmission and distribution businesses. These are:

- National Electricity Amendment (Optimisation of Regulatory Asset Base and Use of Fully Depreciated Assets) Rule 2011 (ERC0136), relating to the economic regulation of electricity transmission and distribution businesses, and
- National Gas Amendment (Optimisation of Regulatory Asset Base and Use of Fully Depreciated Assets) Rule 2011 (GRC0013), relating to the economic regulation of gas transmission and distribution businesses.

On 1 December 2011, the AEMC published a consultation paper¹ which invites interested parties to make submissions on MEU's proposals, and to respond to a number of questions posed by the AEMC. This submission should be read as a response to both consultations—ERC0136 and GRC0013.

2.2 Jemena's network businesses

Jemena owns two network businesses—JEN and JGN—and also has a 34 percent interest in the United Energy Distribution electricity network in Victoria and a 50 per cent interest in the ActewAGL Distribution electricity and gas distribution businesses in the ACT. All of these businesses would be directly and materially affected by MEU's proposed changes to the NER and the NGR if those proposals were to be adopted.

2.3 Structure of Jemena's submission

This submission responds to MEU's rule change proposals and to the questions posed by the AEMC in its consultation paper as follows:

Section 3: MEU's rationale

Section 4: MEU's proposed rules

Section 5: AEMC questions

¹ AEMC, *Consultation paper: National Electricity Amendment (Optimisation of Regulatory Asset Base and Use of Fully Depreciated Assets) Rule 2011 and National Gas Amendment (Optimisation of Regulatory Asset Base and Use of Fully Depreciated Assets) Rule 2011*, 1 December 2011.

3 MEU's rationale

MEU's proposal appears to be based on a presumption that service providers have an incentive to maximise their RABs and are unconstrained in their ability to respond to that incentive.

3.1 The MEU application overlooks critical differences between the strategies and practices available to regulated and unregulated businesses

In describing the rationale for its proposed rule changes, MEU spends some time contrasting the situation of regulated businesses with that of businesses that operate in competitive markets, asserting that the latter:

- are subject to constraints, including penalties for under-utilised assets, that are not faced by regulated businesses²
- only replace a fully depreciated asset when it is no longer economic to operate³.

The application overlooks the fact that businesses that operate in competitive markets have strategies and practices available to them that are not available to regulated businesses. These strategies and practices and the contrasting position of regulated businesses are summarised in the following table.

Table 1 – Strategies and practices of competitive and regulated businesses

Businesses that operate in competitive markets:	Effect	Regulated business
1. Will often shift risk to customers by requiring them to commit to take or pay provisions	Transfers volume risk to customers and mitigates the risk of under-utilisation which could result in returns less than WACC.	Not available except to the extent that a regulated business may request a customer contribution.

² MEU, *Rule change proposal*, October 2011, pp 8–9.

³ MEU, *Rule change proposal*, October 2011, p. 10.

Businesses that operate in competitive markets:	Effect	Regulated business
2. Will require that unique or dedicated investments be underwritten by foundation customer(s) so that any subsequent/additional customers are served at incremental cost (but charged at market price, not at cost)	Mitigates the risk of under-utilisation and provides an opportunity to earn a return greater than WACC.	Not available except to the extent that a regulated business may request a customer contribution.
3. Can, and often do, achieve returns in excess of WACC on successful investments by pricing above cost on fully depreciated assets	The opportunity to achieve returns in excess of WACC on some investments compensates for investments that may not achieve WACC so that WACC (or greater) is achieved on average.	Not available. Maximum expected return over the life of an asset is WACC. Revenue for fully-depreciated assets limited to cost.
4. Can and do revalue assets	Recognises the continuing economic value of assets that would otherwise be fully depreciated.	Not available.
5. Look to recover capital early (short payout periods): it is most unlikely that an unregulated business would invest in an asset with a 50 year economic/engineering life if expected IRR over the 50 years was just equal to WACC. Put another way, an unregulated business will normally invest only if there is an expectation that the asset will have paid out on a PV/cash basis before it is fully depreciated for accounting purposes.	Mitigates the risk of adverse/unforeseen events that might occur later in the asset's life and maximises the potential gain from favourable events.	Not available. Expected recovery over the economic life of the asset.

The fact that these strategies and practices are not available to regulated businesses is significant when considering the merits of MEU's proposals.

3.2 The capex forecast is not a budget or a contract

The MEU proposals imply⁴ that the business should be “bound” by the regulator’s forecast of capex at the project or program level.

This reflects a fundamental misunderstanding of the place of the building blocks forecast in an incentive regulation regime. The point of incentive regulation is that businesses will respond to appropriately set incentives, revealing their efficient costs in the process. Building blocks is just one of a number of alternative mechanisms that may be used to determine the revenue or price path which is set for the business for the regulatory period. For example, there are alternative approaches to building blocks such as Total Factor Productivity and Glide Path where the revenue/price path may be set without any reference to the business’s forecast costs.⁵ In that sense, the building block capex forecast and its make-up have no special significance once the revenue or price path has been set.

For network businesses, a significant proportion of capex is required for “program” expenditure, principally on extensions and connections, to meet demand growth. The volume of capex in this category is not within the business’s control. The other major component of network capex is for projects—replacements, reinforcement, and expansion. A business may or may not proceed with all the projects that underpinned the forecast and for those that it does proceed with, the business may implement them with different scope, technology, timing and costs reflecting the best information available at that time. The business may also undertake capital projects that were not included in the forecast build-up and may substitute opex for capex (or vice versa).

The building block capex forecast is just that: it is not a budget or a contract. That being the case, the business is not and cannot be held accountable at the line item level for spending building block capex as forecast. That is especially so for expenditure that is forecast to occur in the later years of the regulatory period.

⁴ MEU, *Rule change proposal*, October 2011, pp 8-9.

⁵ See for example, The Brattle Group, *Options for Reforming the Building-Blocks Framework – report prepared for the AEMC*, December 2009.

4 MEU's proposed rules

4.1 Optimisation of the RAB

4.1.1 *RAB optimisation is costly and imprecise*

As drafted, MEU's proposed rules would require the RAB to be "reduced by the amount determined by the AER reflecting the difference between the actual depreciated value of assets provided and the depreciated replacement value (DRV) of assets deemed by the AER to be required to provide the services".⁶

MEU's drafting raises two issues. Firstly, it presumes that the adjustment will always result in a reduction in the RAB. That may not be the case.⁷ Secondly, it is not clear what MEU means by "the depreciated replacement value of assets deemed by the AER to be required to provide the services" if it has in mind something other than depreciated optimised replacement cost (**DORC**). Assuming that what MEU actually means is DORC, then establishing a DORC value is a major, costly undertaking. A DORC value is also imprecise in the sense that it involves significant matters of judgement as well as contentious matters of principle and methodology⁸, some of which remain unresolved notwithstanding review and appeal proceedings initiated by East Australian Pipeline Pty Limited.⁹

4.1.2 *Arrangements for approval of oversized investments are unclear*

MEU states that "the AER should be empowered to approve an oversized investment ..."¹⁰. However, there is no explicit provision for this in MEU's proposed


⁶ MEU, *Rule change proposal*, October 2011, pp 17-18.

⁷ For example, the Independent Pricing and Regulatory Tribunal of NSW (**IPART**) set the initial capital base for AGLGN (now JGN) at \$1,550 million as at 1 July 1996. That value was approximately mid-way between depreciated actual cost (\$961 million) and DORC (\$2,060 million) as assessed at that time. (IPART, *Final Decision: Access Arrangement For AGL Gas Networks Limited Natural Gas System In NSW*, July 2000, p. 8.)

⁸ There can be significant variation depending on whether the optimized replacement cost (**ORC**) is assessed on a greenfield or a brownfield basis. Unresolved matters of principle in applying the NPV DORC methodology endorsed by the High Court include whether it is to be approached from a new entrant's or the incumbent's point of view, and the discount rate to be applied to the two cost streams.

⁹ The ACCC's final decision on the initial capital base for the Moomba to Sydney Pipeline system (MSP) was the subject of review by the Australian Competition Tribunal (ACT). The ACT's decision was taken on appeal to the Full Bench of the Federal Court and from there to the High Court. Matters to do with the correct determination of the initial capital base and DORC were at the heart of those proceedings. (See *East Australian Pipeline Pty Limited v Australian Competition and Consumer Commission* [2007] HCA 44 (27 September 2007); *Australian Competition & Consumer Commission v Australian Competition Tribunal* [2006] FCAFC 83 (2 June 2006); *Australian Competition & Consumer Commission v Australian Competition Tribunal (No 2)* [2006] FCAFC 127 (18 August 2006); and *East Australian Pipeline Limited* [2004] ACompT 8 (8 July 2004), all available at <http://www.austlii.edu.au/au/cth/>).

¹⁰ MEU, *Rule change proposal*, October 2011, p. 16.



rule changes. Neither is it clear whether the approval is to be given ex ante or ex post. It may be that MEU intends that the approval of oversized investments would occur as part of the AER's determination of "... the depreciated replacement value of assets deemed by the AER to be required to provide the services". Whatever the case, even if the AER had approved/endorsed excess capacity at some point in time (ex ante or ex post) there is no certainty for the service provider because, on the face of it, the asset would still be exposed to the risk of stranding at any time in the future.

4.1.3 MEU's proposals overlook key aspects of the environment in which regulated businesses operate

MEU's proposals overlook key aspects of the regulatory and commercial environments in which regulated businesses operate. Regulated businesses:

- are in fact capital-constrained
- already face incentives to under-spend capital, especially in the early years of a regulatory period
- are restricted to a maximum expected return of WACC on every investment: "depreciate only once" is a feature of the regulatory design for electricity and gas which businesses accept
- most often are subject to real straight line depreciation because it produces a recovery profile and tariff path that are more acceptable to consumers than alternatives such as historic cost straight line.

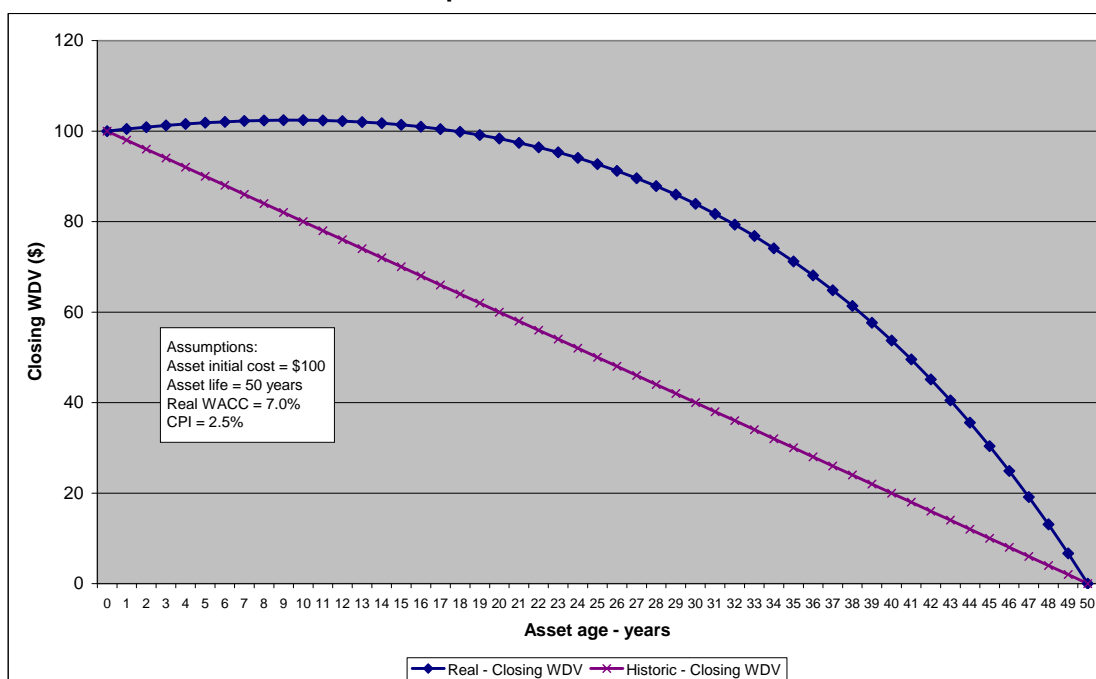
Privately-owned regulated businesses such as Jemena are especially capital constrained. Even if there was an incentive to over-spend or gold-plate, businesses are not in a position to respond to that incentive. In fact the AER has now strengthened the incentive to under-spend by moving to require the use of actual rather than forecast depreciation in RAB roll-forward calculations.

4.1.4 MEU's proposals introduce significant asymmetric risk

The last two of the points listed above, in particular, mean that MEU's proposal to require optimisation of the RAB at each price review would introduce a significant asymmetric risk for service providers. The expected return on any asset that is stranded through optimisation will be less than WACC even though the asset was assessed to be prudent and efficient when built. At the same time, the regime ensures that the expected return will be no greater than WACC for any asset. Regulated businesses would require an increased WACC to compensate for this additional risk.

The asymmetric risk is exacerbated by the fact that the real straight line depreciation profile most often applied to regulated assets is back-ended. That is, the amount of unrecovered capital that is at risk from stranding at any time is greater, and in some cases significantly greater, than it would be under alternative depreciation profiles such as historic cost straight line. This can be seen in the figure below which compares closing written down value (WDV) profiles under real and historic cost straight line depreciation as a function of asset age.

Figure 1 – Comparison of WDV under real and historic cost straight line depreciation



Source: Jemena calculation

4.2 Incentive to replace fully-depreciated assets prematurely

MEU states that it has “noticed in the last regulatory period, that NSPs have sought to retire some assets early with the AER providing approval for this to occur”¹¹. However, MEU provides no evidence to support that statement—which also implies that the AER has somehow failed in its duty—or the more general proposition that businesses are replacing partly- or fully-depreciated assets prematurely simply in order to maintain profit.

Once again MEU’s argument presumes that service providers have unconstrained access to capital.

¹¹ MEU, *Rule change proposal*, October 2011, p. 10.

MEU has apparently overlooked the significant adjustments that the AER can make and has made to service providers' replacement capex proposals. For example, in Victoria, the AER substituted a forecast based on its "repex" model for the DNSPs' proposals. The result was a significant reduction from the DNSPs' initial proposals.

**Table 2 – Victorian Electricity Distribution Price Review – 2011-15
Reliability and Quality Maintained Capex**

	Initial proposal	AER draft decision	Revised regulatory proposal	Final Decision	Change vs Initial Proposal
CitiPower	258.0	137.2	191.6	125.1	-52%
Powercor	364.4	256.4	364.4	129.0	-65%
JEN	151.5	66.5	132.0	47.9	-68%
SP AusNet	353.2	240.9	401.9	119.6	-66%
United Energy	277.2	140.1	274.2	109.3	-61%
Total	1,404.3	841.1	1,364.1	530.9	-62%

Note: These numbers are at a direct cost level and exclude the AER's final decision on margins, overheads and real cost increases.

Source: AER Final Decision¹², Tables 8.28 and 8.29 and Jemena calculations.

Over the course of a regulatory period, a business will make many hundreds of individual asset replacements ranging from computing equipment and motor vehicles to major distribution assets such as transformers (for electricity distributors) and pressure reduction stations (for gas distributors). It is unreasonable and inappropriate for the AER to commit resources, even if it had them, to evaluating each of those replacements in the manner envisaged by MEU's rule—i.e. by making an ex post economic assessment of the replace versus maintain decision for every replacement.

4.3 Jemena's position on MEU's proposed rules

In Jemena's view, both of MEU's proposals are flawed. The AEMC should not make the proposed rules.

¹² AER, *Final decision Victorian electricity distribution network service providers Distribution determination 2011–2015*, October 2010.

5 AEMC questions

In its consultation paper on MEU's rule change proposal, the AEMC seeks stakeholder views in response to a number of questions. Jemena's responses follow.

5.1 Question 1

What would the impact on investment be with the rule change requests?
Would this have a positive or negative impact?

In Jemena's view, the overall effect will be negative.

Stranding through optimisation will ensure that return is less than WACC on stranded assets when, at the same time, the regime ensures that the expected return will be no greater than WACC for any asset. MEU's proposals, if adopted, will introduce a significant new asymmetric incentive which will increase service providers' cost of capital.

MEU proposes that "the AER should be empowered to approve oversized investment ..."¹³ although there is no specific mention of in the proposed rules as drafted. Arguably the AER already has that power by virtue of the capital expenditure objectives and criteria in section 6.5.7 of the NER. Whatever the case, under MEU's proposal, expenditure on "over-sized" assets will be subject to optimisation if growth does not materialise, even if the AER has approved the expenditure ex ante. Approval will give the service provider no certainty. In order to mitigate this risk, new facilities will be sized to meet known/existing conditions. That is, the proposals will have significant adverse consequences for dynamic efficiency and consumers will be denied the benefits of economies of scale. Moreover, if MEU's and the AER's proposals are adopted together, then the adverse effects of AER's proposals¹⁴ will, be amplified.

Given that DRV and DORC (assuming that is what MEU really intends) both involve significant judgement and key principles and methodologies are not settled, the result of optimisation is also open to manipulation which further increases risk. On the other hand, a prescriptive/formulaic approach to optimisation could be equally damaging if it is wrongly calibrated.

The overall effect of the proposal is likely to be contrary to the long term interest of consumers.

¹³ MEU, *Rule change proposal*, October 2011, p. 10.

¹⁴ See Jemena Limited, *Rule Change Requests Relating to Economic Regulation of Network Service Providers*, submission to the Australian Energy Market Commission, 18 December 2011, section 5.

5.2 Question 2

Is it appropriate for the AER to determine and assess the age and condition of a regulated network business's asset?

MEU's proposed rules—to optimise the RAB; to assess expenditure on over-sized assets (although there is no specific provision for that in the proposed rules as drafted); and to disallow capex where it is related to the premature replacement of an existing asset—together imply that the AER will have to engage in detailed and forensic analysis of capex plans ex ante and then actual expenditure ex post.

In effect the AER would be required to micro-manage the business. The AER is not equipped for that role. Moreover, such a role is inimical to the principles of incentive regulation where it is accepted that businesses themselves are in the best position to plan and manage their assets and operations. The regulatory regime encourages businesses to reveal their efficient costs in response to appropriately set high level incentives.

5.3 Question 3

Does the increase in administrative burden outweigh the benefits of the proposed rule?

Contrary to MEU's submission, the increase in administrative burden is likely to be considerable if, as implied, there would be rigorous ex post and ex ante reviews of capex, and if RABs were to be re-optimised at every review.


As noted elsewhere, Jemena believes that the proposed rules would be contrary to the long term interests of consumers—they do not create any benefits.

5.4 Question 4

Does rule 85(1) of the NGR (capital redundancy) adequately address the proposed rule's objective to remove under-utilised assets from the RAB?
Should rule 85(1) of the NGR be duplicated in the NER?

MEU's proposed rule would establish a requirement to re-optimize the entire RAB at each price review. That is very different from the current provisions of the NGR (rules 77(2)(e) and 85(1)) which are about the treatment of individual assets that are identified as redundant. In addition, rules 85(3) and (4) provide very important safeguards which are consistent with our observations above about the asymmetric risk presented by stranding and redundancy.

While access arrangements may include redundancy mechanisms, those mechanisms have been invoked only infrequently—for example, IPART declared part of the value of JGN's Wilton to Wollongong pipeline as redundant for the 2006-



10 regulatory period in a decision made under the National Gas Code which applied at the time and the AER has confirmed that that treatment for the 2011-15 period under the NGR.

The current provisions of the NGR are long-standing in that they are carried over from sections 8.27 to 8.29 from the former National Gas Code. However, Jemena would not support duplication of the NGR provisions in the NER because of the uncertainty that it would create for investors in electricity infrastructure.

It would be better to have a well-structured symmetrical capex incentive scheme. The Energy Networks Association (**ENA**) proposes an approach to developing such a scheme in its submission in response to the AER's and Energy Users Rule Change Committee's proposed rule changes.¹⁵ Jemena support the ENA's proposal.

5.5 Question 5

The proposed rule requires the amount (to be determined by the AER) to reflect the difference between the actual depreciated value of assets provided and the depreciated replacement value of assets (to be deemed by the AER) required for provision of services. Does this provide the appropriate signals for efficient utilisation of assets? If not, is there a better alternative approach?

Incentives for inefficient use of assets arise when tariffs are too high or too low.


It is difficult to predict the likely consequences of MEU's proposed rule in quantitative terms. Qualitatively, the effects on tariffs, demand, asset utilisation, and additional capex requirements are complex and potentially far-reaching.

MEU clearly anticipates that, with its proposed rule in place, assets and hence value will be stranded leading to lower tariffs. Significantly, the capacity of any stranded assets will still be available, effectively at no cost to users of network services.

The combination of lower tariffs and spare capacity will directionally encourage greater demand and utilisation of assets. Depending on where the additional demand occurs in the network, additional capex may be required for reinforcement, extensions and connections in order to meet that additional demand.

When stranded assets are utilised again, they will be restored to the RAB but only at a subsequent price review when the value of the RAB will increase by the

¹⁵ ENA, *Response to Consultation Papers – Proposed Energy Rules Changes: Economic Regulation of Network Service Providers and Calculation of Return on Debt for Electricity Network Businesses*, December 2011, Section 4.2.4 and Attachment B.



escalated value of those assets (NGR, rule 86). Until then services will be under-priced to the extent that they are utilising stranded assets.

The qualitative analysis is based on MEU's expectation that its proposed rule will result in a net tariff reduction. However, as we have observed previously:

- The potential for asset stranding creates an asymmetric risk for service providers which will increase their cost of capital. When that risk is properly recognised, tariffs generally will be higher.
- It is also conceivable that, in some cases, optimisation of the RAB will result in increased asset values and hence tariffs. For example, IPART set the initial capital base for the Jemena Gas Network in NSW (formerly AGLGN) at \$1,550 million as at 1 July 1996. That value was approximately mid way between depreciated actual cost (\$961 million) and DORC (\$2,060 million) as assessed at that time.

5.6 Question 6

The proposed rule places a requirement that would disincentivise expenditure for replacement of a fully or partially depreciated asset from being included in the RAB. Does this ensure that fully or partially depreciated assets that are still in use and useful are not replaced? If not, is there a better alternative?

In order to apply the proposed rule the AER would be required to examine the business at the micro level—something it is not equipped to do.


It is possible to envisage debates about whether a “premature” replacement was for the purpose of generating profit (MEU's argument) or was justified/required on some other ground. For example, it may be necessary to replace an asset such as a meter set or customer service that is used and useful in order to meet additional demand. Proposed NGR cl79(2)(e) would result in such expenditure being automatically disallowed.

MEU has not produced any evidence that that premature replacement is a problem.

5.7 Question 7

Should optimisation of the RAB be considered as an alternative to the “40/60 sharing factor” approach when the AEMC is considering the best capex incentive mechanism in response to the AER's rule change request?

In theory, with RAB optimisation, the AER's proposed 40/60 sharing factor rule would be redundant. In fact if both rules were in place together, there is potential



for conflict in that capex that is disallowed under the 40/60 sharing factor might be allowed as part of an optimised RAB and vice versa.

Having said that, it is Jemena's view that both proposals are flawed for the reasons provided in this submission and in Jemena's December 2011 submission on the AER/EUCC rule change proposals¹⁶. The two proposals, either separately or together, will have detrimental consequences for the long term interest of consumers.

5.8 Question 8

When should any proposed rule commence?

If, contrary to Jemena's submission, MEU's proposals are to be adopted then it will be necessary to provide for an orderly transition. The AEMC has correctly identified the possible impact on scheduled revenue determination processes, and the timing of rule changes arising from the AER/EUCC proposals, as relevant considerations.

In Jemena's view, if MEU's proposals are translated into rules, then the AER would have to develop and publish guidelines detailing how it will:

- administer the requirement to optimise businesses' RABs
- determine whether a particular asset replacement is or is not premature.

These matters are potentially contentious and so adequate time must be allowed for consultation. There would then need to be a period of time allowed before any business is required to submit an access arrangement proposal under the new arrangements.

¹⁶ Jemena Limited, *Rule Change Requests Relating to Economic Regulation of Network Service Providers*, submission to the Australian Energy Market Commission, 18 December 2011.

Appendix (Glossary)

ACT (or Tribunal)	Australian Competition Tribunal
AER	Australian Energy Regulator
capex	capital expenditure
DNSP	distribution network service provider
EDPR	electricity distribution price review (Victoria)
JEN	Jemena Electricity Networks (Vic) Ltd
JGN	Jemena Gas Networks (NSW) Limited
MEU	Major Energy Users Inc.
NEL	National Electricity Law
NEO	National Electricity Objective
NER	National Electricity Rules
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
NSP	network service provider
opex	operating expenditure
PTRM	post tax revenue model
PV	present value
RAB	regulatory asset base
TNSP	transmission network service provider
Tribunal (or ACT)	Australian Competition Tribunal
WACC	weighted average cost of capital