



public interest
ADVOCACY CENTRE LTD

Turning up the heat on consumers:

**Response to the Australian Energy Regulator draft decision,
*Jemena Gas Networks Ltd's access arrangement proposal for
the period 1 July 2010 to 30 June 2015***

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1. Introduction

1.1 The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the (then) NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based, public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from Industry and Investment NSW for its work on energy and water, and from Allens Arthur Robinson for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

1.2 Energy + Water Consumers' Advocacy Program (EWCAP)

This Program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the Program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the Program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW (CPSA);
- Park and Village Service;
- Ethnic Communities Council NSW;
- rural and remote consumers;
- Institute of Sustainable Futures (ISF), University of Technology (UTS);
- Western Sydney Community Forum (WSCF); and
- National Seniors.

2. The current inquiry

PIAC welcomes the opportunity to respond to the Australian Energy Regulator (AER) draft decision on Jemena Gas Network Ltd's (Jemena) access arrangements proposal for the period 1 July 2010 to 30 June 2015. PIAC did not make a submission on Jemena's proposal submitted to the AER in August 2009.

Upon reviewing the original proposal submitted by Jemena, the AER draft decision, and the revised proposal submitted by Jemena, PIAC comments, in this submission, on the following issues:

- The impact of the access arrangement proposal on retail customers.
- Forecast capital expenditure.
- Estimate annual revenue requirements.

3. Impact of access arrangement proposal on retail customers

The AER has publicly stated that the implications of the draft decision will be to increase gas bills for retail customers in NSW as at 1 July 2010. The AER estimates that the bill for the average customer using 23 GJ per annum is likely to increase by about \$19 to \$640 per annum as at 1 July 2010.¹

While this assessment appears on the AER website, this information does not appear in the AER draft determination. PIAC is of the view that such information is crucial to enable energy consumers to participate meaningfully in the determination processes. In addition, PIAC submits that throughout the draft determination, it is important that the implications for retail consumers of AER determinations on aspects of the proposal, including forecast capital expenditure, forecast operating expenditure and annual revenue requirements, are clearly detailed in the determination.

PIAC is concerned that Jemena's revised proposal will, if accepted by the AER, result in a significant increase in gas bills for retail customers in NSW. The increase will be much higher than estimated by the AER in its draft determination (ie, an increase of approximately \$19 to \$640).

PIAC is concerned about the sudden impact of such an increase on low-income households, particularly those households with little discretionary spending and little ability to absorb this rise in household costs particularly in light of other significant utility price increases already implemented and affecting household consumers.

4. Forecast capital expenditure

In its draft determination, the AER indicated that it did not consider that Jemena's proposed forecast capital expenditure represented capital expenditure that would be incurred by a prudent service provider acting efficiently. In addition, the AER considered that the forecast capital expenditure did not represent the best forecasts possible in the circumstances.²

¹ Australian Energy Regulator, *Access arrangement draft decision: Jemena's NSW Gas Networks* (2010) <<http://www.aer.gov.au/content/index.phtml/itemId/734223>> at 30 March 2010.

² Australian Energy Regulator, *Draft Decision – Public Jemena Access Arrangement proposal for the NSW gas networks 1 July 2010-30 June 2015* (2010) 66.

The revised forecast capital expenditure forecasts from Jemena include higher allocation of forecast capital expenditure in the later years of the access arrangement period, with a slightly lower forecast capital expenditure in the first year. However, Jemena’s revised total forecast capital expenditure for the entire access arrangement period is higher than was originally proposed in August 2009 (see Table 1).³

PIAC notes with concern the disparity between the forecast capital expenditure detailed in the AER draft decision, and the revised proposal from Jemena in March 2009.

The Energy Users Association has previously noted that the originally proposed large increase in forecast capital expenditure largely contributed to the significant increase in revenue of 18% for the access arrangement period.⁴ The revised forecasts for capital expenditure provided by Jemena represent a rejection of the AER draft decision in relation to forecast capital expenditure, and represent a further increase from what was originally proposed.

PIAC is concerned that the revised proposal from Jemena will result in a substantial increase in gas bills for retail customers, beyond that which was estimated by the AER following its draft decision, ie, an increase of approximately \$19 to \$640.

TABLE 1: Jemena Forecast Capital Expenditure (\$millions)

Total Forecast Capital Expenditure	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Jemena August 2009 Submission	173.1	167.1	167.8	181.0	196.2	885.2
AER Draft Decision	110.6	114.1	114.0	119.9	117.3	575.9
Jemena March 2009 Response	166.2	169.8	165.5	187.7	201.8	891.0

5. Estimation of annual revenue requirements

In its draft determination, the AER did not approve the estimates of total revenue for each regulatory year of the access arrangement period proposed by Jemena and required specified amendments.⁵ In its response, Jemena has revised the estimates of total revenue. However, the revised estimates are still significantly higher than those required by the AER in its draft decision (as detailed in Table 2).⁶

PIAC is concerned that the revised total revenue estimates from Jemena will result in a significant increase in gas bills for retail customers.

³ Jemena Gas Networks (NSW) Ltd, *Initial response to the draft decision* (2010) 52.

⁴ Energy Users Association of Australia, *Submission to the AER* (2009) 3.

⁵ Australian Energy Regulator, above n 2, 229-30.

⁶ Jemena Gas Networks (NSW) Ltd, above n 3, 194.

TABLE 2: Jemena revenue requirement (\$millions)

Revenue Requirement	2010-11	2011-12	2012-13	2013-14	2014-15
Jemena revenue requirement in original proposal	466.81	486.87	510.95	529.86	553.51
AER Draft Decision on Jemena annual revenue requirements	390.0	400.4	409.7	417.0	426.1
Jemena response to AER draft decision	444.07	463.69	482.83	504.15	529.29

6. Conclusion

Energy consumers in NSW have experienced, and will continue to face, significant increases in the basic cost of living through the use of utilities, as a result of the substantial reform of utility industries in NSW. The biggest and most deleterious effects of these increases are felt by low-income and vulnerable households because of their limited discretionary spending, which will be further diminished by other anticipated increases in energy bills. These households are most at risk of reduced and disconnected access to basic services such as gas and electricity, as a result of these increases. It is therefore important that the AER ensures that its final determination results in the smallest possible increase to household gas prices.

The revised proposal from Jemena, if accepted by the AER, would result in significant increases to household gas bills. It is in the interest of low-income and vulnerable households that the AER consider the impacts of increased costs as it assesses the revised proposal. PIAC strongly recommends that the forecast capital expenditure and revenue requirements proposed by Jemena be rigorously assessed to ensure that they are efficient and absolutely necessary.

PIAC also strongly recommends that the implications for retail consumers of the AER final decision are clearly detailed in the decision, and in all information publicly released by the AER regarding the final decision. Moreover, PIAC recommends that the impacts on retail customers of decisions made regarding forecast capital expenditure and revenue requirements be clearly outlined in the final decision.