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Jemena Limited
ABN 95 052 167 405

Dr Michael Keating AC
Chairman
The Independent Pricing and Regulatory Tribunal of NSW
Level 8, 1 Market Street
PO Box Q290
QVB Post Office
SYDNEY NSW 1230

Level 14
1 O'Connell Street
Sydney NSW 2000
Locked Bag 5001
Royal Exchange
NSW 1225
T +61 2 9270 4500
F +61 2 9270 4501
www.jemena.com.au

By email: ipart@ipart.nsw.gov.au

Dear Dr Keating

Review of prices for the Sydney Catchment Authority

Thank you for the opportunity to provide comments on the Tribunal's draft determination in its review of prices for the Sydney Catchment Authority (SCA). Jemena has a number of comments.

The length of the regulatory period

Jemena supports the Tribunal's proposal to set the length of SCA's next regulatory period so that SCA and Sydney Water Corporation price reviews are aligned in future.

The proposed price path

Jemena also supports the Tribunal's proposal not to reduce volumetric charges (with a compensating increase in fixed charges) as sought by SCA. The proposed real increase in the volumetric charges over the period, while not as great as Jemena believes can be justified, is a move in the right direction. Ultimately these increases should flow through to retail volumetric charges to improve the competitive position of sources, such as recycled water, that compete in the retail market.

Jemena notes that the Tribunal characterises its proposal "not to change SCA's current price structure, including the balance between the volumetric and fixed charges ... [as] a reasonable 'holding' option [given current uncertainties facing SCA]".

Target revenue

Jemena is surprised at the proposal to set a price path for SCA that will result in revenue that is \$21.9m below SCA's expected costs over the period in present value terms (Draft Determination pp91-92). While apparently permissible under current NSW legislation, this type of adjustment is out of step with established regulatory

practice and contrary to the pricing principles in the National Access Regime as embodied in the Trade Practices Act 1974. Those principles include that:

... regulated access prices should:

- (i) be set so as to generate expected revenue for a regulated service or services that is at least sufficient to meet the efficient costs of providing access to the regulated service or services; (s44ZZCA(a))

This principle is in turn reflected in the National Electricity Law (s7A), the National Gas Law (s24) and also in the Water Industry Competition Act (NSW) 2006 (s41(2)).

The Tribunal does not provide any detailed reasoning why it should diverge from this principle in determining SCA's price path.

Scarcity pricing

Finally, Jemena notes that the Tribunal is interested in developing a form of 'scarcity pricing' for potential implementation at the 2012 SCA price determination and that it seeks comments on the potential application of scarcity pricing in Sydney at the wholesale and/or retail level. The Tribunal is not contemplating adopting scarcity pricing as part of the current SCA determination.

Jemena does not have a considered position on scarcity pricing and the related issues canvassed by the Tribunal at this time. Given that 2012 is the earliest that scarcity pricing could be introduced, there is an opportunity between now and then for the Tribunal to consult on scarcity pricing in principle as a separate piece of work outside the context of a determination. Jemena would welcome the opportunity to participate in that consultation.

Should you wish to discuss this submission, please contact Warwick Tudehope on 9270-4551.

Yours sincerely



Sandra Gamble
Group Manager Regulatory