



Overview of reports submitted by gas distribution and transmission pipelines against the Annual Compliance Order

For reporting period 2016–17

February 2019

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1 Introduction

As a part of our ongoing compliance monitoring process, we issued an Annual Compliance Order (Order) under section 48(1) of the NGL in November 2008 to regulated gas transmission and distribution pipeline businesses (referred to as "covered pipeline" in the National Gas Law (NGL) and National Gas Rules (NGR)). The Order requires that the covered pipelines report on their compliance status regarding key regulatory obligations for the 12-month period ending 30 June of that year.¹ To ensure that the top management of the regulated businesses take compliance matters seriously, the compliance reports must be signed by a director or a board member of the regulated business.²

This reporting framework forms a part of our compliance monitoring framework as well as informing our economic regulatory functions (under sections 27(1)(a) and (e) of the NGL)—including revealing the structure of all related businesses of the regulated pipeline owners.

The annual compliance process is also a continuation of the regulatory function previously undertaken by the Australian Competition and Consumer Commission (ACCC) (for transmission pipelines) and the state and territory regulators (for distribution pipelines) to assess service providers' ring-fencing compliance. These former processes were carried out under the former National Third Party Access Code for Natural Gas Pipeline System. It establishes a consistent framework for all service providers to report compliance with their obligations under the NGL and NGR. These obligations include:

- the general compliance required for a service provider (such as not hindering access)³
- structural and operational separation arrangements (including minimum ring-fencing requirements)⁴
- not disclosing confidential information⁵
- compliance with an access determination (if a party to an access dispute).⁶

We published an Annual Compliance Guideline on 1 April 2010 to assist service providers in meeting the requirements of the Order. This guideline is available on the AER's website at: <http://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/annual-compliance-reporting-guideline>.

¹ Under the NGL, a covered pipeline is defined as both a pipeline subject to a coverage determination or deemed to be covered by the operation of s.126 (tender approval pipelines) or s.127 (pipelines with approved voluntary access arrangements). The annual compliance process only applies to covered pipeline service providers as defined by the NGL.

² The person submitting must declare that the information is accurate, true and not misleading.

³ Chapter 4, Part 1 of the NGL.

⁴ Chapter 4, Part 2 of the NGL.

⁵ Part 16 of the NGR.

⁶ Chapter 6, Part 5 of the NGL.

About this report

This report accompanies the annual compliance reports submitted by regulated gas transmission and distribution pipelines, which are published on our website.⁷ It provides the background on the annual compliance reporting and informs stakeholders on whether there have been any reported non-compliance issues under the Order.

It also provides a list of the current gas service providers and their related entities.

⁷ Available at: http://www.aer.gov.au/networks-pipelines/compliance-reporting?ff0=field_accr_aer_report_type%3A311

2 What must be reported by the covered pipeline owners

Each covered pipeline owner must address the following matters in the annual compliance reports:

1. The general duties of a service provider as set out in Chapter 4 Part 1 of the NGL. These general requirements include:
 - being a legal entity of a specified kind (s.131 of the NGL)
 - if applicable, submitting a full access arrangement or revisions to a full access arrangement to the AER for approval (s.132 of the NGL)
 - not engaging in conduct that prevents or hinders access of services to a third party on the covered pipeline (s.133 of the NGL)
 - providing a statement of reasons if there is a difference between the terms and conditions stated on offer and the terms and conditions stated when there is a request for the supply and haulage of gas along the covered pipeline (s.134 of the NGL)⁸
 - complying with the queuing requirements of the applicable access arrangement (s.135 of the NGL)
 - not engaging in price discrimination when providing light regulation services (s.136 of the NGL).
2. The minimum ring-fencing requirements of structural and operational separation as set out in Chapter 4 Part 2 of the NGL. The NGL:
 - prohibits the service provider from carrying on a related business (s.139 of the NGL)
 - prevents the service provider's marketing staff from taking part in a related business, or other staff from being the marketing staff of an associate because of the sensitivity of certain information known to marketing staff about tariff and non-tariff terms and conditions of certain arrangements between service providers and users (s.140 of the NGL)
 - requires service providers to separately account for regulated parts of its business by preparing, maintaining and keeping separate accounts for each pipeline service. Service providers also must prepare, maintain and keep a consolidated set of accounts (s.141 of the NGL)
 - requires service providers to comply with every additional ring-fencing requirement on and from the notified compliance date in a ring-fencing determination (s. 143(6) of the NGL)

⁸ On review of the responses to the annual compliance reports, the AER has come to the view that the requirements set out under section 134 of the NGL do not apply to the service providers of covered pipelines. The AER amended its Annual Compliance Guideline to provide further explanation about the applicability of this obligation for service providers under the NGL (see section 4.4.3.4 of the Guideline).

- requires related businesses to not contract with each other on terms that are different to those that would be entered into with unrelated businesses (s.147 of the NGL)
 - requires associate contracts between related business to be neither anti-competitive in effect nor be on terms that are different to entities that are unrelated (unless approved) (s.148 of the NGL).
3. Other requirements of a service provider are set out in Parts 5 and 7 of the NGR (publishing requirements), Chapter 6 Part 5 of the NGL (compliance with access determinations) and Parts 11 and 16 of the NGR (confidentiality requirements and prohibition of bundling of services). These include that a service provider must:
- ensure that the applicable access arrangement is accessible on its website and includes an access arrangement for an approved competitive tender process (r. 107(1) and r. 27(4) of the NGR)
 - publish on its website the tariffs on offer for light regulation services and other terms and conditions of access to those services (r. 36 of the NGR)
 - report to the AER on access negotiations relating to light regulation services, which the AER may choose to publish from time to time (r. 37 of the NGR)
 - respond within a certain time and in a specified way to an access request from a prospective user (r. 112 of the NGR)
 - comply with the prohibition against the bundling of services (r. 109 of the NGR)
 - maintain confidentiality of relevant information and take all practicable steps to protect relevant confidential information in the service provider's possession against improper disclosure or use (r. 137 of the NGR)
 - comply with an access determination, if party to an access dispute where an access determination has been made (s. 195 of the NGL).

3 Review of the 2016–17 annual compliance reports

We received annual compliance reports (reports) from 20 nominated service providers for seven transmission and 10 distribution pipelines for 2016–17. (Some pipelines have more than one nominated service provider).

Our review process involved assessing each response to the Order against the relevant NGL and NGR obligations. We found that none of the reports, except from Jemena Gas Network (JGN), raised any compliance issues with respect to the Order.

Copies of the service providers' compliance reports for 2016–17 are located on the AER's website at: <https://www.aer.gov.au/networks-pipelines/compliance-reporting>.

Jemena Gas Network (JGN) report

JGN reported three instances during the 2016–17 period where the confidentiality requirements under rule 137 of the NGR were not met. These events occurred during the transfer of customers from their previous retailer to a new one. JGN reported that these instances involved providing the customer's metering data (which should be confidential information) to the outgoing retailer. In summary, JGN reported on these instances as follows:

- The first non-compliance spanned the period May to September 2016. This involved JGN mistakenly providing meter reading data for 33 customers to third parties. This followed JGN's implementation of its new "SAP" IT system in May 2016.
- The second non-compliance involved the transfer of one customer on 1 July 2016. This was due to a weakness in the SAP system when processing period read meters.
- The third non-compliance related to the transfers of eight demand customers on 1 January 2017, with information being sent to the outgoing retailer. This was due to system weaknesses when processing demand transfers.

Further details of these incidences are provided in JGN's report for 2016–17.⁹

In June 2017, following our review of JGN's report for 2015–16 (which includes the first non-compliance), we advised JGN to review and improve its quality assurance procedures and staff training to ensure similar incidences would not recur.¹⁰ JGN completed its review in September 2017 and reported back to us in December 2017 that it has implemented all corrective actions identified in the review to reduce the risk of further breaches.¹¹

⁹ Jemena Gas Networks (NSW) Ltd, *Annual Compliance Report for 2016–17*, 17 October 2017, section 3.3.

¹⁰ AER, *Letter to JGN - Breach of rule 137 of the NGR associated with the transition to a new SAP enterprise resource planning software during May and September 2016*, 7 June 2017.

¹¹ Jemena Gas Networks (NSW) Ltd, *E-mail to the AER*, 18 December 2017.

JGN confirmed that its 2017 review of quality procedures also covered the instances of non-compliance reported in the 2016–17 report. Specifically, JGN stated that:¹²

In 2017, JGN carried out a risk based assessment of the business processes relating to the instances of non-compliance via a series of workshops attended by relevant parts of the business. This assessment included root cause analysis, risk identification, review of current controls, and gap analysis to identify additional controls and implementation.

Following this review, JGN implemented 16 actions to provide significant improvements to the customer transfer management process and quality assurance process. More specifically to provide on-going assurance for non-compliances due to system weakness when processing period read meters and demand transfer, JGN has implemented the following actions:

- system changes to pre-identify a period read site and manual processes to ensure meter read is available for transfer
- automatic demand customer transfer request detection and information delivered to relevant operations areas
- initial and regular refresher training of a pool of operational team members who can take action to shepherd customer transfers and update Jemena systems, and in the event of issues, act to prevent unauthorised disclosure of data
- develop and operationalise the new end-to-end procedure document with matrix of responsibilities
- create a check list for operational teams based on the end-to-end procedure document
- implement roster calendar for business and IT resources for key transfer dates.

JGN also engaged with the Australian Energy Market Operator (AEMO) to seek the necessary changes to the NSW Retail Market Procedures (RMP) since last year. This change has been now implemented and will remove the potential conflicts between the National Gas Rules and the RMP in the transfer process as well as provide alignment to the Reference Service Agreement forming part of the approved Access Arrangement. This change will mitigate risks of breach of the same nature for demand transfer to arise going forward.

JGN has not had any instances of non-compliance with the confidentiality protection obligations for the period of 1 July 2017 to 30 June 2018, reflecting its successful implementation of improvements to the customer transfer process.

¹² Jemena Gas Networks (NSW) Ltd, *E-mail to the AER*, 5 October 2018.

4 Service providers and related entities

The covered pipeline owners must disclose the service providers of each regulated pipeline network and their respective related Australian parent businesses. This information is summarised in Table 1.1.

Table 1.1 Summary of service providers and related entities of covered gas transmission pipelines and distribution networks at 30 June 2017

Pipeline	Jurisdiction	Full or light regulation (a)	Service Provider under NGL as nominated by pipeline owner	Related Australian parent business
Transmission Pipelines				
Moomba Sydney Pipeline	NSW	Partial (light)	East Australian Pipeline Pty Limited	APA Group
Central West Pipeline (Marsden to Dubbo)	NSW	Light	APT Pipelines (NSW) Pty Ltd	APA Group
Central Ranges Pipeline (Dubbo to Tamworth)	NSW	Full	Central Ranges Pipeline Pty Ltd	APA Group
Victorian Transmission System	VIC	Full	APA VTS Australia (Operations) Pty Limited	APA Group
Roma to Brisbane Pipeline	QLD	Full	APT Petroleum Pipelines Pty Limited	APA Group
Carpentaria Gas Pipeline (Ballera to Mount Isa)	QLD	Light	CGP Joint Venture comprised of APT Pipelines (Qld) Pty Ltd (30%) and Roverton Pty Ltd (70%)	APA Group
Amadeus Gas Pipeline	NT	Full	APT Pipeline (NT) Pty Limited	APA Group

Distribution Pipelines

Jemena NSW Gas Networks	NSW	Full	Jemena Gas Networks (NSW) Ltd	State Grid International Development Australia Investment Company Limited (60%) and Singapore Power International (40%)
Central Ranges Network	NSW	Full	Central Ranges Pipeline Pty Ltd	APA Group
ActewAGL Gas Distribution System	ACT/NSW	Full	ActewAGL Distribution partnership (trading as Evoenergy), made up of Icon Distribution Investments Limited (50%) and Jemena Networks (ACT) Pty Ltd (50%)	Icon Water Limited; AGL Energy Ltd; Jemena Ltd
AGN Victorian Distribution System	VIC	Full	Australian Gas Networks (Vic) Pty Ltd	CK Hutchison Holdings Limited, CK Infrastructure Holdings Limited, and Power Assets Holdings Limited (from 15 May 2017)
Albury Distribution System	VIC	Full	Australian Gas Networks (Albury) Pty Ltd	CK Hutchison Holdings Limited, CK Infrastructure Holdings Limited, and Power Assets Holdings Limited (from 15 May 2017)
AGN Queensland Gas Distribution System	QLD	Light	Australian Gas Networks Limited	CK Hutchison Holdings Limited, CK Infrastructure Holdings Limited, and Power Assets Holdings Limited

(from 15 May 2017)

AGN South Australian Gas Distribution System	SA	Full	Australian Gas Networks Limited	CK Hutchison Holdings Limited, CK Infrastructure Holdings Limited, and Power Assets Holdings Limited (from 15 May 2017)
Multinet Distribution System	VIC	Full	Multinet Gas (DB No. 1) Pty Ltd and Multinet Gas (DB No. 2) Pty Ltd trading as Multinet Gas Distribution Partnership	DUET1 Trust (1 July 2016 to 14 May 2017); CK Hutchison Group (from 15 May 2017)
AusNet Distribution System	VIC	Full	AusNet Gas Services Pty Ltd	Singapore Power International Pte Ltd (31.1%), State Grid International Australia Development Company Limited (19.9%) and other security holders (49%)
Allgas Network	QLD	Light	Allgas Energy Pty Limited	GDI (EII) Pty Limited owned by Marubeni (40%), SAS Trustee Corporation (40%) and the APA Group (20%)

Note: (a) Under the Compliance Order, service providers providing light regulation services must not price discriminate and must publish terms and conditions of access to light regulation services.