



## Statement of Compliance

### Statement of Compliance for APT Pipelines (NSW) Pty Limited ACN 080 842 360 ("APT Pipelines (NSW)") for the financial year 2010- 2011

#### APT Pipelines (NSW) Pty Limited - Central West Pipeline

1. Attached is the information sought by the AER Annual Compliance Order dated 7 November 2008 (the Annual Compliance Order). This information is in the format set out in Attachment 1 of the Annual Compliance Order.
2. This information is for the year ending June 30 2011.
3. The information and documentation provided in compliance with the Annual Compliance Order is accurate and can be relied on to provide a true and fair representation of the Service Providers operations and ownership of the pipeline and can be relied upon by the AER in the performance or exercise of its functions or powers under the NGL or the NGR.
4. The information and documentation provided in compliance with the Annual Compliance Order is in its reliance on information and documentation that is prepared, kept or maintained accurately represented.
5. The information and documentation provided in compliance with the Annual Compliance Order is not false or misleading.
6. The information and documentation provided in compliance with the Annual Compliance Order is complete.
7. The Board of Directors of APT Pipelines (NSW) Pty Limited has approved this report at its meeting on 28 October 2011.

Signed by:

NAME: **Michael McCormack**

DIRECTOR

DATE:

  
28/10/11

**Matters to be specifically addressed annually by service providers and related providers**

**AER Annual Compliance Order Report for APT Pipelines (NSW) Pty Limited ACN 080 842 360 for the financial year 2010-2011**

### **Introductory Statement**

APT Pipelines (NSW) Pty Limited ("APT Pipelines (NSW)") is not aware of any breach of any of the obligations in the National Gas Law and National Gas Rules other than any that are detailed in this report.

APT Pipelines (NSW) has maintained a compliance program during the relevant period that ensures that:

- (a) appropriate internal procedures have been established and maintained to ensure compliance with the obligations in the National Gas law and National Gas Rules;
- (b) the Board of Directors of APT Pipelines (NSW) is made aware of any breaches of the obligations;
- (c) remedial action is taken as soon as possible to rectify any breaches of the obligations and that completion of this action is reported to the Board of Directors; and
- (d) the compliance program is reviewed regularly and as necessary.

### **1. General duties for the provision of pipeline services of covered pipeline services by a service provider**

#### **1.1 Legal entity**

- (a) *Nominate the type of legal entity the service provider is according to the specified kinds of legal entity in section 131 of the NGL.*

APT Pipelines (NSW) Pty Limited ACN 080 842 360 is a legal entity registered under the *Corporations Act 2001* of the Commonwealth.

- (b) *What is the registered business name and ABN of the service provider legal entity providing the covered pipeline service?*

The registered business name of the legal entity providing the covered pipeline service is APT Pipelines (NSW) Pty Limited. The ABN is 37 080 842 360.

- (c) *Provide an outline of the group structure which is controlled by or which the service provider is a part (including identification of the head company, nature of investment or entity, relationship to the service provider and proportion of assets owned/share of investment within the group). This should include any assets (businesses) it owns or that own it. The group structure should include business that are beneficially controlled such as trustee companies, jointly owned or operated business such as partnerships or joint ventures, businesses that are significant investments or controlled. This can also be represented as an organisational chart.*



The service provider is part of the APA Group. An outline of the APA group structure, showing the service provider is provided in Appendix 1.

## **1.2 Preventing or hindering access**

- (a) *Is the service provider aware of any claims that it has prevented or hindered access to services on the covered pipeline within the terms of section 133 of the NGL?*

The service provider is not aware of any claims it has prevented or hindered access to services on the covered pipeline within the terms of s133 of the NGL.

## **1.3 Supply and haulage of natural gas**

- (a) *Does a producer supply natural gas through the covered pipeline at a place other than the exit flange of the producer's processing plant?*

One or more of the users on the pipeline may be "producers" as that term is defined in the NGL. It is likely that those persons supply natural gas to other parties either at off-take points on the pipeline or through downstream distribution networks.

## **1.4 Queuing requirements**

- (a) *Has the service provider complied with the queuing requirements of the applicable access arrangement during the year?*

The service provider has complied with the queuing requirements of the Central West Pipeline Access Arrangement.

## **1.5 Service provider providing light regulation services must not price discriminate**

- (a) *Does the service provider provide light regulation services?*

Yes. The Central West Pipeline became subject to Light Regulation in April 2010.

- (b) *If so, are there any differences in the prices of the provision of those services? Please provide an explanation as to why these price differences exist.*

No.

## **2. Structural and Operational Separation Requirements (Ring Fencing)**

### **2.1 Carrying on of a related business**

- (a) *Provide a list of associates of the service provider that take part in a related business and for each associate describe what the nature of the related business is.*

A related business means the business of producing, purchasing or selling natural gas. APA's business model is based on owning and operating energy infrastructure, and the production, purchase and sale of natural gas is not part of its business model. Where



this occurs, it is either incidental to APA's business or a legacy of businesses which have been acquired by APA.

APT Pipelines (NSW)'s sole business is the ownership and operation of the Central West Pipeline. APT Pipelines (NSW) does not produce natural gas and does purchase or sell natural gas other than for operational purposes.

APT Pipelines (NSW) does not have any Associates which take part in a related business other than the following associates:

- NT Gas Distribution Pty Limited and NT Gas Pty Limited (01 July 2010 to 16 June 2011) - NT Gas Distribution Pty Limited (100 percent owned by NT Gas Pty Limited) operated as a bundled utility and therefore carried on a related business. The ACCC had previously granted a waiver to NT Gas Pty Limited in relation to the provision of services by the Marketing Staff of NT Gas Pty Limited to NT Gas Distribution Pty Limited;
- NT Gas Distribution Pty Limited and APT Pipelines (NT) Pty Limited (17 June 2011 to 30 June 2011) - NT Gas Distribution Pty Limited (100 percent owned by APT Pipelines (NT) Pty Limited) operates as a bundled utility and therefore carries on a related business. The AER has previously granted a waiver to APT Pipelines (NT) Pty Limited in relation to the provision of services by the Marketing Staff of APT Pipelines (NT) Pty Limited to NT Gas Distribution Pty Limited.;
- APT Parmelia - APT Parmelia (Western Australia) was party to 2 contracts for supply of gas through the Parmelia Gas Pipeline. This was a residual activity reflecting the actions of previous owners of the Parmelia Gas Pipeline and these contracts which expired in December 2009 were not renewed. However APT Parmelia continued to supply gas until retailers not associated with APT Parmelia took over the contracts and during this interim period, appropriate ring-fencing arrangements were put in place.
- APT Facility Management - APT Facility Management Pty Limited buys and sells gas for the purposes of co-generation and natural gas for vehicles. Gas for co-generation is purchased and sold in Queensland at Baillie Henderson Hospital (Toowoomba), Redcliffe Hospital (Redcliffe) and Toowoomba Base Hospital (Toowoomba). Gas for natural gas vehicles is purchased in Western Australia. The gas, once purchased, is compressed and sold as compressed natural gas to the bus operator. The Public Transport Authority of Western Australia is obliged to step in and guarantee any outstanding amounts owed by the bus operator to APA for the gas. It is delivered to the following bus depots – Morley, Bayswater, East Perth, Fremantle, Champion Lakes, Rockingham, Welshpool, Malaga and Karrinyup.
- APA Facilities Management Pty Limited – APA Facilities Management Pty Limited buys and sells gas for the purpose of supplying liquefied natural gas for vehicles from Dandenong in Victoria. The gas, once purchased, is liquefied by a third party on APA's behalf and then sold by APA Facilities Management Pty Limited as liquefied natural gas to wholesalers.

(b) *Provide a list of associates that are service providers and/or provide pipeline services.*

A list of associates of the service provider is provided in a table in Appendix 2. This table outlines the nature of the associates' activities and whether they are service providers and / or provide pipeline services.



## **2.2 Marketing staff and the taking part in related businesses**

- (a) *Provide a list of associates of the service provider that are directly involved in the sale, marketing or advertising of pipeline services.*

A list of associates of the service provider is provided in a table in Appendix 2. This table outlines the nature of the associates' activities and whether they are involved in the sale, marketing or advertising of pipeline services.

- (b) *Provide a statement as to whether or not any of the service provider's marketing staff are also officers, employees, consultants, independent contractors or agents of an associate of the service provider that takes part in a related business.*
- (c) *Provide a statement as to whether or not any of the service provider's officers, employees, consultants, independent contractors or agents are also marketing staff of an associate of the service provider that takes part in a related business.*

APA Group staff are employed in several subsidiaries. APA assigns staff to undertake sales, marketing and advertising activities for the Central West Pipeline. The staff are located in APA's office located in Sydney. These persons may be:

- marketing staff of APT Pipelines (NSW) (as they may be within the definition of "officers" or "agents" of APT Pipelines (NSW)) and/or
- marketing staff of an associate of APT Pipelines (NSW) (as they may be employees of the associate and could also be within the definition of "officers" of the associate).

None of APT Pipelines (NSW)'s marketing staff are officers, employees, consultants, independent contractors or agents or otherwise provide services to associates which take part in a related business.

None of APT Pipelines (NSW)'s officers, employees, consultants, independent contractors or agents are marketing staff of an associate that takes part in a related business.

## **2.3 Separate accounts must be prepared, maintained and kept**

- (a) *Provide a statement as to whether or not the service provider has prepared, maintained and kept a separate set of accounts in respect of the services provided by every covered pipeline owned or operated by the service provider.*

The service provider has prepared, maintained and kept a separate set of accounts in respect of the services provided by the Central West Pipeline.

- (b) *Name the legal entity or entities in which the separate accounts are reported, maintained or kept for the services provided by each covered pipeline owner or operator?*

The separate accounts are kept by APT Pipelines (NSW).



- (c) *Provide a statement as to whether or not the service provider has prepared, maintained and kept a consolidated set of accounts in respect of the whole of the business of the service provider.*

A consolidated set of accounts have been kept in respect of the whole of the business of the service provider.

- (d) *Name the legal entity in which the consolidated set of accounts are reported, maintained or kept for the services provided by each covered pipeline owner or operator?*

The name of the legal entity in which the consolidated set of accounts are kept in respect of the whole of the business of the service provider is APT Pipelines (NSW).

- (e) *Provide a copy of the most recently lodged annual financial reports with the Australian Securities and Investments Commission or if no such reports exists other similar audited financial reports prepared for or provided to a state or territory department, agency or body under relevant state or territory legislation. These financial reports may be the consolidated set of accounts in respect to the whole of the business of the service provider, and if also separately lodged with the Australian Securities and Investments Commission the most recently lodged annual separate set of accounts in respect of the services provided by the service provider.*

A copy of the APA Group annual financial reports lodged with the Australian Securities and Investment Commission are attached at Appendix 3. These include the annual financial report of the Australian Pipeline Trust and the APT Investment Trust.

No separate financial reports for APT Pipelines (NSW) have been lodged with the Australian Securities and Investment Commission since 2005.

## **2.4 Additional ring fencing requirements or exemptions**

- (a) *Does the service provider have any additional ring fencing requirements?*

The service provider does not have any additional ring fencing requirements.

- (b) *What are these requirements?*

Not applicable.

- (c) *Provide a statement that these additional ring fencing requirements have or have not been met.*

Not applicable.

- (d) *Does the service provider have any exemptions for the minimum ring fencing requirements?*

The service provider does not have any exemptions for the minimum ring fencing requirements.

- (e) *What are these exemptions?*

Not applicable.

(f) *By what jurisdictional regulator and when where these exemptions granted?*

Not applicable.

## **2.5 Associate contracts**

(a) *Has the service provider entered into or given effect to any new associate contracts, or varied the terms and conditions of an existing associate contract?*

The service provider has not entered into, or given effect to, any new associate contracts, or varied the terms and conditions of any existing associate contract.

(b) *For each new or varied associate contract, please indicate the date the new or varied associate contract was entered into or given effect?*

Not applicable.

(c) *For each new or varied associate contract, please indicate if the contract or variation was approved by the AER and the date that it was approved?*

Not applicable.

(d) *If the associate contract was not approved by the AER, please indicate what date the new or varied associate contract was provided to the AER?*

Not applicable.

*Note: An 'associate contract' is defined under the NGL to include arrangements or understandings and is not limited to written contracts.*

## **3. Other requirements**

### **3.1 Making access arrangement or terms and conditions of access available**

(i) Ensuring applicable access arrangement and other specified information is available on website.

(a) *Has the service provider published the approved access arrangement on its website?*

As this pipeline is now subject to light regulation, it does not publish an Access Arrangement on its website. However, Terms and Conditions and Capacity Register are published.

(b) *Please provide the website address where this access arrangement can be accessed and the date that this access arrangement was provided on the website.*

The service provider's light regulation terms and conditions, and capacity register can be found at



<http://www.apa.com.au/our-business/economic-regulation/nsw-gas-assets.aspx>

This document was first placed on the website in April 2010.

- (c) *Has the service provider received any requests from the AER to provide to prospective users generally other information specified as reasonably necessary to determine if access should be sought.*

The service provider has not received any requests from the AER to provide to prospective users other information specified as reasonably necessary to determine if access should be sought.

- (d) *Please provide details of when and how this request was met.*

Not applicable.

(ii) *Publishing approved competitive tender process access arrangement*

- (a) *Where there is an approved competitive tender process access arrangement in place for a covered pipeline, has the service provider published the approved access arrangement on its website?*

This is not applicable as the Central West Pipeline is not a competitive tender pipeline.

- (b) *Please provide the website address where this access arrangement can be accessed and the date that this access arrangement was provided on the website.*

Not applicable.

(iii) *Publishing terms and conditions of access to light regulation services.*

- (a) *Where there is access to light regulation services on a covered pipeline, has the service provider published tariffs and other terms and conditions for these services on its website?*

The service provider has published tariffs and terms and conditions for light regulation services on its website.

- (b) *Please provide the website address where this information can be accessed and the date that this information was first made available on the website.*

The service provider's light regulation terms and conditions, and capacity register can be found at

<http://www.apa.com.au/our-business/economic-regulation/nsw-gas-assets.aspx>

This document was first placed on the website in April 2010.

- (c) *Has the service provider had access negotiations regarding light regulation services? If so, the following will need to be reported, the name of the party*



*requesting the service, the pipeline service requested, and the outcome of the access negotiations.*

To date the service provider has not had any access negotiations regarding light regulation services.

### **3.2 Access determinations**

*(a) Has the service provider been party to an access determination?*

The service provider has not been party to an access determination.

*(b) When did the access determination become operative?*

Not applicable.

*(c) For what period is the access determination in place?*

Not applicable.

### **3.3 Confidentiality**

*(a) Provide a statement that the confidentiality requirements under rule 137 of the National Gas Rules have or have not been met.*

The confidentiality requirements under rule 137 of the National Gas Rules have been met.

The service provider did not disclose relevant confidential information or use relevant confidential information for a purpose other than the purpose for which the information was given to the service provider.

The service provider took all practicable steps to protect relevant confidential information in the service provider's possession against improper disclosure or use.

*(b) Has the service provider established an internal protocol or policy guideline or procedure manual for the handling of confidential information?*

APT Pipelines (NSW) is part of the APA Group. Employees of APA who are involved with the Central West Pipeline have been informed of their obligations with respect to confidential information. Quarterly compliance reviews reinforce awareness of this obligation. Employees are required to sign confidentiality agreements upon commencement and standard employment contracts contain confidentiality obligations.

APA has also required contractors having access to Confidential Information to observe the requirements of the NGL in relation to such Confidential Information.

APA monitors compliance performance, including compliance with confidentiality obligations, quarterly. This monitoring is undertaken by the Manager Regulation and relevant commercial personnel associated with the assets. The results are reported to the Board.



More generally all APA employees are required to comply with the APA Code of Conduct, which explicitly addresses appropriate treatment on confidential and proprietary information, including customer information. Employee's employment agreements also include conditions relating to confidentiality.

In addition access to APA computer systems is through individual passwords and user names. Passwords are changed at periodic intervals. Firewall protection is in place to prevent unauthorised access to electronically stored information via the internet.

APA offices are secured.

A copy of the APA Group Separation Requirements for Covered Pipeline and Related Businesses is provided in Appendix 4.

### **3.4 Bundling**

- (a) *Has the service provider bundled any of its services when providing access or negotiating access with a prospective user?*

The service provider has not bundled any of its services when providing access or negotiating access with a prospective user.

- (b) *If so, provide a description of the bundled services and related conditions of access.*

Not applicable.