



FINAL DECISION

National Gas Law: Annual Compliance Order

Decision

After considering submissions on the modified proposal to make an Annual Compliance Order, on the 7 November 2008 the AER made a final decision to make an Annual Compliance Order under s. 48(1) of the National Gas Law (NGL).

The order made can be found at: www.aer.gov.au.

Reasons for the decision

The purpose of the Annual Compliance Order is to obtain information and documentation from service providers of covered transmission or distribution pipelines. This is to enable the AER to verify whether service providers are complying with their general duties and specific requirements under Chapter 4 of the NGL and other requirements under the NGR. Chapter 4 deals with obligations such as that the service provider must be a separate legal entity, must comply with certain obligations in relation to the provision of third party access and more broadly structural and operational separation of marketing staff among other matters.

The NGL contemplates that regulatory information instruments including orders and notices under s. 48(1) may be used to obtain information to enable the AER to verify whether service providers are complying with their general duties and specific requirements under Chapter 4 of the NGL (s. 54(c)).

Further reasons about why the Annual Compliance Order is made are elaborated in the Annual Compliance Guideline, including that the Annual Compliance Order establishes a consistent framework for all service providers to report compliance with their NGL obligations.

The Annual Compliance Order supports the annual compliance process to establish a consistent framework for all service providers to report their compliance with these obligations and a means for service providers to report compliance

The summary of submissions and the AER's responses that form part of the reasons for the decision can be found at www.aer.gov.au.

Process for making the Annual Compliance Order

On 16 July 2008 the AER released a Draft Annual Compliance Guideline including a preliminary information order (in an attachment) and a discussion paper relevant for its proposed annual compliance process. The consultation period for the Draft Annual Compliance Guideline closed on 15 August 2008.

On 18 August 2008, the AER released a proposal to make a general regulatory information order under s. 48(1) of the NGL to obtain information and documentation from service providers of covered transmission or distribution pipelines to ascertain compliance with their general and specific duties. The consultation period for the proposal for an Annual Compliance Order closed on 9 September 2008.

After considering submissions for both processes the AER made a draft decision on 1 October 2008 to make an Annual Compliance Order and to release a modified proposal for the Annual Compliance Order. On 22 October 2008, the AER held an industry forum to discuss the annual compliance process and the modified proposal to make the Annual Compliance Order. The consultation period for the draft decision and modified proposal closed on 24 October 2008.