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Mr Mike Buckley
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Dear Mr Buckley

Annual Compliance Reporting Consultation AER Draft Decision

We have read the AER's Draft Decision in relation to its proposal to make an Annual Compliance Order under section 48(1)(b) of the National Gas Law.

In previous rounds of consultation, Multinet and others have argued strongly that the proposed reporting requirements are excessive in light of experience under the Gas Code. Ring fencing has not been an issue in Victoria or in other jurisdictions despite the lighter-handed approaches taken by most jurisdictional regulators under the Gas Code (compared to the ACCC). In particular, the ESC did not require formal ringfencing reporting by Victorian distribution businesses. Multinet has no associated retail business and there are now very few vertically integrated businesses nationally.

Multinet and others also expressed concern at the proposed requirement that reports be submitted under cover of a statutory declaration. In the past, the ACCC has accepted a statement signed by a Director and the CEO. A similar form of assurance should be adequate for the AER's purposes.

There is a strong case for the AER to take a lighter-handed approach under the NGL. Multinet is therefore disappointed that the AER has not given greater weight to the arguments made in previous submissions.

We have the following comments to make on the detail of the amended proposed order published with the Draft Decision:

- Clauses 2.1(a) and (b) as drafted raise a number of issues:
 - Clause 2.1(a) apparently offers the option of two very different reporting alternatives i.e. the service provider must report either "the key business units ... of the service provider" (i.e. the internal structure of the service provider) OR "relevant controlled entities or associates of the service provider" (i.e. entities that are external to the service provider). We assume that the option is unintended.
 - The proposed use of "relevant" (in "relevant controlled entities and associates") is confusing because there is no apparent relevance criterion.

- The proposed addition of “providing pipeline services” at the end of clauses 2.1(a) and (b) is confusing. If it is to qualify “service provider” then it is redundant, because the service provider’s business is the provision of pipeline services. If it is to qualify “relevant controlled entities and associates” then it is unclear how the clause will produce information that is relevant to the title of the clause i.e. “Carrying on of a related business”.
- Assuming that the AER’s intention is capture the same information that the ACCC required previously i.e. details of “Associates with any involvement in natural gas”, clause 2.1(a) could be better stated as:

Provide in an organisational chart or alternative format, information that identifies:

- (i) the associates (if any) of the service provider that are service providers;
 - (ii) the associates (if any) of the service provider that take part in a related business; and
 - (iii) the principal business units and divisions (if any) of the service provider as at the end of the reporting period.
- As drafted, clause 2.2(a) is confusing. The phrase “in the NGL” appears to be out of place and clauses 2.2(b) and (c) would be clearer if the phrase “as identified in 2.2(a)” was placed at the end of the clause in each case.

Should you wish to discuss this submission, please contact Andrew Schille on (03) 8544 9432.

Yours sincerely



Hugh Gleeson
Chief Executive Officer