



Overview of compliance reports by gas distribution and transmission pipelines

For reporting period 2015-16

June 2017

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1 Introduction

This paper accompanies the annual compliance reports submitted by regulated gas transmission and distribution pipelines, which are published on our website.¹ It provides the background on the annual compliance reporting and informs stakeholders on whether or not there are significant compliance issues.

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

Our Annual Compliance Order

The National Gas Law (NGL) and National Gas Rules (NGR) comprise the legislative framework to establish a cooperative national access regime for natural gas transmission and distribution pipelines.

We issued an Annual Compliance Order (Order) under section 48(1) of the NGL in November 2008. The Order requires regulated gas transmission and distribution pipeline businesses (referred to as "covered pipeline" in the NGL and NGR) to report on their compliance status regarding key regulatory obligations for the 12-month period ending 30 June of that year.² The compliance reports must be signed by a director or a board member of the regulated business.³

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)—in particular 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 (the Code). 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)⁴
- structural and operational separation arrangements (including minimum ring fencing requirements)⁵

¹ Available at: [http://www.aer.gov.au/networks-pipelines/compliance-reporting?ff0\]=field_accr_aer_report_type%3A311](http://www.aer.gov.au/networks-pipelines/compliance-reporting?ff0]=field_accr_aer_report_type%3A311)

² 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.

³ The person submitting must declare that the information is accurate, true and not misleading.

⁴ Chapter 4, Part 1 of the NGL.

⁵ Chapter 4, Part 2 of the NGL.

- not disclosing confidential information
- have an access determination.

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

2 What must be reported by the covered pipelines 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)
 - provide 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)⁶
 - complying with the queuing requirements of the applicable access arrangement (s.135 of the NGL)
 - not to price discriminate 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 services. Service providers also must prepare, maintain and keep a consolidated set of accounts (s.141 of the NGL)
 - service providers must also 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)

⁶ 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. As an interim measure, the AER has amended its Annual Compliance Guideline to provide further explanation about the applicability of this obligation for service providers under the NGL.

- related businesses should 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)
 - associate contracts between related business should 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 2015–16 annual compliance reports

We received annual compliance reports (reports) from 20 nominated service providers for 7 transmission and 10 distribution pipelines for 2015–16. (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 raised any compliance issues with respect to the Order.

Copies of the service providers' compliance reports for 2015–16 are located on the AER's website at: <https://www.aer.gov.au/publications> .

All pipeline operators, except Jemena Gas Networks (JGN), have not reported any breaches regarding the obligations covered by the Order.

JGN reported two events, involving 47 customers, of inadvertent disclosure of private meter data to a third party. It advised that remedial actions had been implemented to prevent recurrences.

JGN also advised that no person or entity has suffered detriment as a result of the disclosure.

The above breaches occurred during the period for implementing a new IT system because of human error (1 case); and temporary disconnection to AEMO's customer information server leading to sending meter data to wrong retailers of 46 customers who switched retailer between 5:00pm on 26 April 2016 and 8:00am of 2 May 2016. Details of such incidences are provided in JGN's report.

We consider that both unauthorised information disclosure events relate to either or both (1) failure to anticipate the risks associated with the IT system change over; and/or (2) failure to adequately plan to manage such risk. We have instructed JGN to:

- review its current quality assurance procedures, including staff training, to ensure that similar events would not recur in future.
- report back to us within three months to confirm the completion of the review and any corrective actions taken to reduce risk of further breaches.

4 Appendix A: Service Providers and Related Entities

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

Table 1.1 Summary of service providers and related entities of covered transmission pipelines and distribution networks at 30 June 2016

Pipeline	Jurisdiction	Full or light regulation (a)	Service Provider under NGL as nominated by pipeline owner	Related Australian parent business
<i>Transmission Pipelines</i>				
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 which is made up of ICON Distribution Limited and Jemena Networks (ACT) Pty Ltd. Each with an equal share in the partnership.	ActewAGL Distribution partnership
AGN Victorian Distribution System	VIC	Full	Australian Gas Networks (Vic) Pty Ltd	Cheung Kong (Holdings) Ltd ("CHK"), Cheung Kong Infrastructure Holdings Ltd ("CKI") and Power Assets Holdings Ltd ("PAH").
Albury Distribution System	VIC	Full	Australian Gas Networks (Albury) Ltd	As above
AGN Queensland Distribution System	QLD	Light	Australian Gas Networks Limited	As above
AGN South Australian Distribution System	SA	Full	Australian Gas Networks Limited	As above

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.	DUET 1 Trust
AusNet Distribution System	VIC	Full	AusNet Gas Services Pty Ltd	Singapore Power International (31.1%), State Grid International Australia Development Company Limited (19.9%) and public investors (49%)
Allgas Network	QLD	Light	Allgas Energy Pty Limited	GDI (EII) Pty Limited which is owned by Marubeni (40%), Deutsche AWM (40%) and APA Group (20%)

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