



Overview of reports submitted by gas distribution and transmission pipelines in accordance with the Annual Compliance Order

For reporting period 2019–20

February 2021

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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 National Gas Law (**NGL**) in November 2008 to regulated gas transmission and distribution pipeline businesses (referred to as "covered pipelines" in the 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 senior 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 information,⁵ and
- 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: <https://www.aer.gov.au/networks-pipelines/compliance-reporting>

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), and
 - 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 The Annual Compliance Guideline explains 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), and
 - 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), and
 - 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 2019-20 annual compliance reports

We received compliance reports from sixteen⁹ nominated service providers for six transmission and nine distribution pipelines for 2019-20. Both Central Ranges Pipeline and Central Ranges Network access arrangements expired on 1 July 2019 and from that time they ceased to be covered pipelines for the purposes of the National Gas Law and Rules.

Our review process involved assessing each response to the Order against the relevant NGL and NGR obligations. We found that none of the compliance reports, except from APT Petroleum Pipelines, raised any compliance issues with respect to the Order.

Copies of the service providers' compliance reports for 2019-20 are located on the AER's website at: <https://www.aer.gov.au/networks-pipelines/compliance-reporting>.

APT Petroleum Pipelines Pty Limited

APT Petroleum Pipelines (which is part of the APA Group) reported two instances post the reporting period 1 July 2019 to 30 June 2020 where the confidentiality requirements under rule 137 of the NGR were not met. APT Petroleum Pipelines reported the instances as follows:

- on 12 July 2020 in which APA inadvertently sent shipper nomination information, intended for APA commercial operations team, to a shipper. The information included confidential volumetric, but not financial, information and potentially disclosed data of a Roma to Brisbane Pipeline customer.
- on 6 August 2020 in which APA inadvertently sent Roma to Brisbane Pipeline nomination information relating to one shipper, intended for APA commercial operations team, to another shipper. The information included confidential volumetric, but not financial, information.

Further details are provided in APT Petroleum Pipelines' compliance report for 2019-20.¹⁰

In November 2020, following our review of APT Petroleum Pipelines' compliance report for 2019-20, we sought further information on its remedial actions taken. APA advised that once it became aware of the inadvertent transmission of the information, it was immediately in contact with the recipient, who advised that they undertook to delete the email from their system. APA also advised that it promptly notified relevant entities and no shipper expressed concern in relation to the inadvertent information disclosure. APA reported that in response to the non-compliance, changes to its email communication systems and protocols were implemented on 10 August 2020 to prevent similar incidents occurring in the future.

⁹ In this report where a service provider operates as a joint venture, we have counted the number of service providers to be a total of one service provider, not two service providers (as in previous reports) unless a service provider submitted two reports.

¹⁰ APT Petroleum Pipelines Pty Limited's Annual Compliance Report for 2019-20, 31 October 2020, section 3.3.

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 and distribution pipelines at 30 June 2020¹¹

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) ¹²	East Australian Pipeline Pty Ltd	APA Group
Central West Pipeline (Marsden to Dubbo)	NSW	Light	APT Pipelines (NSW) Pty Ltd	APA Group
Victorian Transmission System	VIC	Full	APA VTS Australia (Operations) Pty Ltd	APA Group
Roma to Brisbane Pipeline	QLD	Full	APT Petroleum Pipelines Pty Ltd	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 Pipelines (NT) Pty Ltd	APA Group

¹¹ Note both Central Ranges Pipeline and Central Ranges Network access arrangements expired on 1 July 2019 and from that time they ceased to be covered pipelines for the purposes of the National Gas Law and Rules.

¹² There are sections of the Moomba Sydney Pipeline that are covered and other sections of this pipeline system that are uncovered. Light regulation services are provided on the covered portion of the Moomba Sydney Pipeline. The AER's Annual Compliance Order does not apply to uncovered pipelines and therefore does not apply to the uncovered section of the Moomba Sydney Pipeline.

Pipeline	Jurisdiction	Full or light regulation (a)	Service Provider under NGL as nominated by pipeline owner	Related Australian parent business
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Distribution Pipelines

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 Limited; Jemena Limited
Jemena NSW Gas Networks	NSW	Full	Jemena Gas Networks (NSW) Limited	State Grid International Development Australia Investment Company Limited (60%) and Singapore Power International (40%)
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
Albury Distribution System	VIC	Full	Australian Gas Networks (Albury) Pty Ltd	CK Hutchison Holdings Limited, CK Infrastructure Holdings Limited, and Power Assets Holdings Limited

Pipeline	Jurisdiction	Full or light regulation (a)	Service Provider under NGL as nominated by pipeline owner	Related Australian parent business
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%)
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	CK Hutchison Infrastructure Holdings Limited, Power Asset Holdings Limited, CK Asset Holdings Limited
AGN Queensland Gas Distribution System	QLD	Light	Australian Gas Networks Limited	CK Hutchison Holdings Limited, CK Infrastructure Holdings Limited, and Power Assets Holdings Limited
Allgas Network	QLD	Light	Allgas Energy Pty Ltd	GDI (EII) Pty Ltd owned by Marubeni (40%), SAS Trustee Corporation (40%) and the APA Group (20%)
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

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.