



Overview of the annual compliance program for gas transmission and distribution pipelines 2008-2009

Background

This is the first time that the AER has reviewed the compliance of service providers of covered gas transmission and distribution pipelines with their obligations under the *National Gas Law* (NGL).

The annual compliance process was established under the NGL using an Annual Compliance Order (*regulatory information order*) made in November 2008. An Annual Compliance Guideline was also published with the Annual Compliance Order.

The Annual Compliance Order applies to service providers of covered gas transmission and distribution pipelines. The AER wrote to the owners of covered gas transmission and distribution pipelines in November 2008 asking them to nominate the relevant service provider or providers for the covered pipeline (nominated service provider) to which the Annual Compliance Order applies.

The annual compliance process is a continuation of the regulatory function that was previously undertaken by the ACCC (for transmission) and the state and territory regulators (for distribution) with regards to assessing service providers' ring fencing compliance under the National Third Party Access Code for Natural Gas Pipeline System (Code).

The 2008-09 overview report outlines general observations about the annual compliance review and summarises the obligations under the NGL that the nominated service provider is required to report about. It also provides a list of the nominated service providers and related entities.

Overview

The AER received annual compliance reports from 23 nominated service providers for 8 transmission and 11 distribution pipelines for 2008-09. The AER has reviewed these annual compliance reports which were provided by the nominated service providers under the Annual Compliance Order and has advised individual service providers of issues it has identified through this review process.

In summary 21 of the annual compliance reports received were compliant with the Annual Compliance Order, where the AER identified issues of compliance in the reports the AER made further inquiries. The outcomes to these inquiries were as follows:

- in 13 instances the follow up query with the service provider related to minor issues about completeness or the nature of documentation provided
- in 13 cases the AER asked for further information to support the annual compliance report and was satisfied with the response.
- 2 breaches were identified and reported, reasonable explanations were provided and/or corrective action taken to prevent future breaches in both cases.¹

Copies of the Annual Compliance Order and the service providers' annual compliance reports for 2008-09 are located on the AER's website at www.aer.gov.au.

Obligations

A service provider of a covered pipeline is required to comply with:

1. The general duties of a service provider as set out in Chapter 4 Part 1 of the NGL. These duties relate to:
 - being a legal entity (s.131)
 - not engaging in conduct that prevents or hinders access (s.133)
 - Supply and haulage of natural gas. Where there is a difference in the tariff stated for the supply of gas then the producer must include in the terms offered a statement of reasons for the difference (s.134).
 - complying with the queuing requirements of the applicable access arrangement (s.135)
 - if the service provider is providing light regulation services, then it must not price discriminate (s.136).
2. The structural and operational separation requirements (including minimum ring fencing requirements) as set out in Chapter 4 Part 2 of the NGL. These requirements relate to:
 - not carrying on related business (s.139)
 - ensuring that marketing staff do not work for an associate that takes part in a related business and that its employees, consultants, contractors or agents are not marketing staff of an associate (s.140)

¹ 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.

- preparing, maintaining and keeping separate and consolidated accounts (s.141)
 - additional ring fencing requirements or exemptions (ss.143 & 146)
 - associate contracts (ss.147 & 148)
3. Other requirements of a service provider as set out in Parts 5 and 7 of the NGR (publishing requirements), Chapter 6 Part 5 of the NGL (compliance with access determinations) Parts 16 and 11 of the NGR (confidentiality requirements and prohibition of bundling of services). These requirements relate to:
- making access arrangement or terms and conditions of access available (rules 107(1), 27(4), 36 and 37)
 - complying with access determinations (s.195)
 - not disclosing confidential information (r.137)
 - the prohibition of bundling of services (r.109)

Service providers and related entities

The service provider² or service provider nominated by the pipeline owner which provided a 2008-09 annual compliance report is identified in bold in the table below.

The AER has also identified from information provided in the 2008-09 annual compliance reports either related entities that are the Australian parents³ or related entities performing material services for the covered pipelines.

² Service provider is used within the definition provided under section 8 of the NGL to mean the owner, controller or operator of a pipeline or any part of a pipeline.

³ The term 'Australian parent' is used to mean the immediate and/or ultimate Australian parent to the service provider.

Table: Summary of service providers and related entities of covered transmission pipelines and distribution networks at 30 June 2009

Pipeline	Jurisdiction	Service Provider under NGL as nominated by pipeline owner	Related Entities	
			Australian parent	Entities performing material services for the pipeline
Transmission				
Moomba to Sydney	NSW	East Australian Pipeline Pty Limited	APA Group	APT Management Services Pty Ltd
Central West (Marsden to Dubbo)	NSW	APT Pipelines (NSW) Pty Ltd	APA Group	APT Management Services Pty Ltd
Central Ranges(Dubbo to Tamworth)	NSW	Central Ranges Pipeline Pty Ltd	APA Group	APT Management Services Pty Ltd
Victorian Transmission System (GasNet System)	Vic	APA GasNet Australia (Operations) Pty Limited	APA Group	The Australian Energy Market Operator (AEMO) (incorporates former entity known as VENCorp Pty Ltd)
Roma (Wallumbilla) to Brisbane	Qld	APT Petroleum Pipelines Pty Limited	APA Group	APT Management Services Pty Ltd
Carpentaria Pipeline (Ballera to Mount Isa)	Qld	CGP Joint Venture comprised of APT Pipelines (Qld) Pty Ltd (30%) and Roverton Pty Ltd (70%)	APA Group	APT Management Services Pty Ltd
Dawson Valley Pipeline	Qld	Anglo Coal (Dawson Management) Pty Ltd, Anglo Coal (Dawson) Limited, Mitsui Moura Investment Pty Ltd Note: Anglo Coal (Dawson Management) Pty Ltd is also the operator of the Dawson Valley Pipeline	Mitsui Coal Holdings Pty Ltd And Anglo Coal (Dawson) Holdings Pty Ltd	Anglo Coal (Dawson Management) Pty Ltd

Pipeline	Jurisdiction	Service Provider under NGL as nominated by pipeline owner	Related Entities	
			Australian parent	Entities performing material services for the pipeline
Amadeus Basin to Darwin Pipeline	NT	NT Gas Pty Limited Note: NT Gas Pty Limited is also the operator of the Amadeus Basin to Darwin Pipeline	APA Group based on majority ownership (96%) of Amadeus Pipeline Trust	NT Gas Pty Limited
Distribution				
Jemena NSW Gas Networks	NSW	Jemena Gas Networks (NSW) Ltd	SPI (Australia) Assets Pty Ltd	Jemena Asset Management Pty Ltd
Wagga Wagga natural gas distribution network	NSW	Country Energy Gas Pty Ltd	Country Energy	Country Energy Gas Pty Ltd
Central Ranges Pipeline Gas Network (Tamworth natural gas distribution network)	NSW	Central Ranges Pipeline Pty Ltd	APA Group	APT Management Services Pty Ltd
ACT, Queanbeyan and Palerang gas distribution network	ACT/NSW	ACTEW Distribution Limited and Jemena Networks (ACT) Pty Ltd trading as ActewAGL Distribution partnership	ACTEW Distribution Limited is 100% owned entity of ACTEW Corporation Limited and Jemena Networks (ACT) Pty Ltd is 100% owned entity of Jemena Ltd ⁴	Jemena Asset Management Pty Ltd
Envestra Victorian Distribution System	Vic	Vic Gas Distribution Pty Ltd	Envestra Limited which is partly owned by APA Group	APT Management Services Pty Ltd
Albury Distribution System	Vic	The Albury Gas Company Ltd	Envestra Limited which is partly owned by APA Group	APT Management Services Pty Ltd
Multinet Distribution System	Vic	Multinet Gas (DB No. 1) Pty Ltd and Multinet Gas (DB No. 2) Pty Ltd	Multinet Group Holdings Pty Ltd which is owned by DUET and Babcock and Brown	Jemena Asset Management Pty Ltd

⁴ ActewAGL Distribution 2008-09 Annual Gas Compliance Report, Attachment A –ActewAGL Distribution Ownership structure.

Pipeline	Jurisdiction	Service Provider under NGL as nominated by pipeline owner	Related Entities	
			Australian parent	Entities performing material services for the pipeline
		trading as Multinet Gas Distribution Partnership.	Infrastructure Ltd	
SP AusNet Distribution System	Vic	SPI Networks (Gas) Pty Ltd	SP Australia Networks (Distribution) Ltd	SPI Management Services Pty Ltd and Data and Measurement Solutions Pty Ltd
Envestra South Australian Gas Distribution System	SA	Envestra Limited	Envestra Limited which is partly owned by APA Group	APT Management Services Pty Ltd
Allgas Queensland Network	Qld	APT Allgas Energy Pty Limited	APA Group	APT Management Services Pty Ltd
Envestra Queensland Gas Distribution	Qld	Envestra Limited	Envestra Limited which is partly owned by APA Group	APT Management Services Pty Ltd