



Annual compliance program for gas transmission and distribution pipelines 2010–2011

Background

The Australian Energy Regulator (AER) has reviewed the compliance of service providers of covered gas transmission and distribution pipelines with their obligations under the *National Gas Law* (NGL). This is the third AER compliance review of this sector under the NGL.

The annual compliance process was established under the NGL with an Annual Compliance Order (the Order)¹ made in November 2008. An Annual Compliance Guideline was also published with the Order.²

The 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 Order applies.

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

The 2010–11 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 (reports) from 21 nominated service providers for 8 transmission and 11 distribution pipelines for 2010–11. The AER has reviewed these reports, and found that all of the reports were compliant with the Order. Copies of the service providers' reports for 2010–11 are located on the AER's website at:

<http://www.aer.gov.au/content/index.phtml/itemId/733418>.

¹ Regulatory information order.

² The Annual Compliance Guideline and Annual Compliance Order can be found at: <http://www.aer.gov.au/content/index.phtml?itemId=723147>.

The AER notes that the report for the Dawson Valley Pipeline (DVP) drew to attention a number of activities being carried out by the service providers of the DVP which do not appear to be compliant with the minimum ring fencing requirements under ss. 139–141 of the NGL.

On 21 February 2012, the DVP service providers applied to the AER for exemptions from their minimum ring fencing obligations under s. 146 of the NGL (the 2012 exemption application). The AER is currently assessing this exemption application in accordance with r. 31 of the *National Gas Rules* (NGR). The AER has initiated public consultation on this application. The details of this consultation process can be found on the AER's website at:

<http://www.aer.gov.au/content/index.phtml/itemId/753092>

The AER notes that the 2012 exemption application does not address the issue of non-compliance found in the report for the DVP. The AER will make a separate decision on this matter, which will be available publicly on the AER's website (at the link provided above) once it is made.

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 of the NGL)
 - not engaging in conduct that prevents or hinders access (s.133 of the NGL)
 - the 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 of the NGL)³
 - complying with the queuing requirements of the applicable access arrangement (s.135 of the NGL)
 - if the service provider is providing light regulation services, not price discriminating (s.136 of the NGL).
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 a related business (s.139 of the NGL)
 - ensuring that a service provider's employees, consultants, contractors or agents are not marketing staff of an associate that takes part in a related business (s.140 of the NGL)
 - preparing, maintaining and keeping separate and consolidated accounts (s.141 of the NGL)
 - additional ring fencing requirements or exemptions (ss.143 & 146 of the NGL)
 - associate contracts (ss.147 & 148 of the NGL).

³ 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.

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 requirements relate to:
- making the access arrangement or terms and conditions of access available to prospective users (r. 27(4), r.36, r.37 and r.107(1) of the NGR)
 - complying with access determinations (s.195 of the NGL)
 - not disclosing confidential information (r.137 of the NGR)
 - the prohibition of bundling of services (r.109 of the NGR).

Service providers and related entities

The service provider⁴ nominated by the pipeline owner which provided a 2010–11 report is identified in bold in the Table 1.1.

The AER has also identified from information provided in the 2010–11 reports either related entities that are the Australian parents⁵ or related entities performing material services for the covered pipelines.

Table 1.1 Summary of service providers and related entities of covered transmission pipelines and distribution networks at 30 June 2011

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	VENCorp Pty Ltd
Roma (Wallumbilla) to Brisbane	QLD	APT Petroleum Pipelines Pty Limited	APA Group	APT Management Services Pty Ltd

⁴ 'Service provider' is defined in section 8 of the NGL to mean the owner, controller or operator of a pipeline or any part of a pipeline.

⁵ The term 'Australian parent' is used to mean the immediate and/or ultimate Australian parent to the service provider.

Pipeline	Jurisdiction	Service Provider under NGL as nominated by pipeline owner	Related Entities	
			Australian parent	Entities performing material services for the pipeline
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 ⁶	QLD	The Meridian SeamGas Joint Venture comprised of Westside CSG A Pty Ltd and WestSide CSG D Pty Ltd (51%) and Mitsui E&P Australia Pty Ltd (49%).	WestSide Corporation Limited (51%) and Mitsui E&P Australia Pty Limited (49%).	WestSide Corporation Limited
Amadeus Gas Pipeline ⁷	NT	Amadeus Gas Trust (from 1 July 2010 to 16 June 2011). This comprised of 96% ownership by APT Pipelines (NT) Pty Ltd and a minor ownership of 4% by Darnor Pty Ltd (Power and Water Corporation) and Centrecorp Aboriginal Investment Corporation Pty Ltd (a Central Land Council operative). On 17 June 2011, APT Pipeline (NT) Pty Limited became the service provider of the Amadeus Gas Pipeline.	APA Group based on majority ownership (96%) of Amadeus Pipeline Trust from 1 July 2010 to 16 June 2011; and 100% ownership of APT Pipeline (NT) Pty Limited from 17 June 2011.	NT Gas Pty Limited (from 1 July 2010 to 16 June 2011) and APT Pipeline (NT) Pty Limited from 17 June 2011.
Distribution				
Jemena NSW Gas Networks	NSW	Jemena Gas Networks (NSW) Ltd	Singapore Power International	Jemena Asset Management Pty Ltd
Wagga Wagga Gas Distribution System	NSW	Envestra (NSW) Pty Ltd	Envestra Limited ⁸	APA Group

⁶ Formerly owned by Anglo Coal (Dawson) Limited and Mitsui Moura Investment Pty Ltd and operated by Anglo Coal (Dawson Management) Pty Ltd.

⁷ On 17 June 2011, the APA Group acquired the Amadeus Gas Pipeline and the NT Gas Distribution business from the Amadeus Gas Trust. As a result of this, APA Group became the wholly controller of the Amadeus Gas Pipeline and APT Pipeline (NT) Pty Ltd became the wholly owner and operator of the Amadeus Gas Pipeline.

⁸ Envestra Limited is owned by APA Group (30.6% share), Cheung Kong Infrastructure Holdings Ltd (17.3% share) and public investors (52.1% share).

Pipeline	Jurisdiction	Service Provider under NGL as nominated by pipeline owner	Related Entities	
			Australian parent	Entities performing material services for the pipeline
Central Ranges Pipeline Gas Network (Tamworth natural gas distribution network)	NSW	Central Ranges Pipeline Pty Ltd	APA Group	APT Management Services Pty Ltd
ActewAGL Gas Distribution System	ACT/NSW	ActewAGL Distribution partnership which is made up of ACTEW Distribution Limited and Jemena Networks (ACT) Pty Ltd. Each with an equal share in the partnership.	ActewAGL Distribution partnership	ActewAGL Distribution partnership and Jemena Asset Management Pty Ltd
Envestra Victorian Distribution System	VIC	Vic Gas Distribution Pty Ltd	Envestra Limited	APA Group
Albury Distribution System	VIC	The Albury Gas Company Ltd	Envestra Limited	APA Group
Multinet Distribution System	VIC	Multinet Gas (DB No. 1) Pty Ltd and Multinet Gas (DB No. 2) Pty Ltd trading as Multinet Gas Distribution Partnership.	Multinet Group Holdings Pty Ltd ⁹	Jemena Asset Management Pty Ltd
SP AusNet Distribution System	VIC	SPI Networks (Gas) Pty Ltd	SP Australia Networks (Distribution) Pty Ltd ¹⁰	SPI Management Services Pty Ltd and Data and Measurement Solutions Pty Ltd
Envestra South Australian Gas Distribution System	SA	Envestra Limited	Envestra Limited	APA Group
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	APA Group

⁹ Multinet Group Holdings Pty Ltd is owned by DUET (79.9 % share) and Babcock and Brown Infrastructure Ltd (20.1% share).

¹⁰ SP Australia Networks (Distribution) Pty Ltd is owned by Singapore Power Limited (51% share) and public investors (49% share).