



# Overview of the ring fencing compliance reporting program for gas transmission pipelines, 2004-2005

**June 2006**

## **Introduction**

Ring fencing is designed to assist the introduction of effective competition into markets traditionally supplied by natural monopolies. It involves developing and maintaining structures and procedures to prevent certain flows of information and personnel which could be detrimental to users of the pipeline and to competition in upstream and downstream markets.

Ring fencing is also intended to prevent inappropriate transferring of costs and revenues within an integrated utility, between related businesses and between regulated and unregulated assets.

## **Ring fencing obligations**

Section 4 of the *National Third Party Access Code for Natural Gas Pipeline Systems* (the Code) sets out the minimum ring fencing obligations for service providers of covered pipelines. These include the establishment and maintenance of appropriate internal procedures to ensure compliance with the ring fencing provisions.

From the time a pipeline is covered a service provider must comply with the provisions relating to:

- establishing and maintaining separate and consolidated accounts (sections 4.1(c) and (d) of the Code)
- allocating shared costs consistent with Code principles (section 4.1(e)), and
- protection of confidential information (sections 4.1(f) and (g)).

Compliance with the remaining section 4.1 provisions is required from six months after the pipeline becomes covered. These provisions relate to:

- the legal entity of a service provider (section 4.1(a))
- not conducting a related business (section 4.1(b)), and
- separation of marketing staff (sections 4.1(h) and (i)).

Section 4.12 provides that the ACCC, as the transmission pipeline regulator (other than for Western Australia), may assess the adequacy of these procedures and review compliance with these obligations at regular intervals.

Section 4.13 requires service providers to provide a report to the ACCC at reasonable intervals determined by the ACCC. These reports are to describe the measures the service providers have taken to ensure compliance with their obligations under section 4 and should include an accurate assessment of the effect of those measures. The ACCC has determined that service providers must submit ring fencing compliance reports annually.

Schedule 1 clause 2 of the *Gas Pipeline Access Law* defines a service provider as the owner or operator of a pipeline. Under section 10.1(d) of the Code, where there is more than one service provider for a covered pipeline each service provider is required to comply with the ring fencing provisions of the Code. Accordingly, the ACCC requires that, where there is more than one service provider for a covered pipeline, each service provider is to submit a compliance report for the pipeline in line with its reporting arrangements.

## **Current reporting arrangements**

The ACCC has developed a pro-forma compliance report to assist service providers to meet their ring fencing obligations and to standardise the information received. The ACCC requests that service providers use the pro-forma document as the basis for their ring fencing compliance reports. In addition, the ring fencing reports are to be approved by the board of directors and include a signed statement of compliance.

A copy of the pro-forma compliance report relevant to 2004-2005 is located on the AER website at [www.aer.gov.au](http://www.aer.gov.au) under the Gas link.<sup>1</sup>

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<sup>1</sup> The enabling legislation to transfer the ACCC's current functions in gas to the AER has yet to be enacted. However, for administrative simplicity, all ACCC documents relating to the gas transmission regulation function have been included on the AER website.

## Service providers

The ACCC received annual ring fencing compliance reports from 13 service providers, reflecting their interests in nine transmission pipelines.

Pipeline	Service provider
Amadeus Basin to Darwin Pipeline	NT Gas Pty Ltd
Moomba to Adelaide Pipeline	Epic Energy South Australia Pty Ltd Epic Energy Corporate Shared Services Pty Ltd
South West Queensland Pipeline	Epic Energy Queensland Pty Ltd Epic Energy Corporate Shared Services Pty Ltd
GasNet System	GasNet Australia (Operations) Pty Ltd VENCorp
Wallumbilla to Gladstone Pipeline	Alinta DEQP Pty Ltd Alinta DQP Pty Ltd
Moomba to Sydney Pipeline	East Australian Pipeline Ltd
Central West Pipeline	APT Pipelines (NSW) Pty Ltd
Roma to Brisbane Pipeline	APT Petroleum Pipelines Ltd
Ballera to Mt Isa Pipeline	Roverton Pty Ltd APT Pipelines (Qld) Pty Ltd

## Reports for 2004-2005

The ACCC has assessed the ring fencing reports for compliance with the information requirements currently set out in its pro-forma report, within the context of service providers' reporting obligations under section 4.13 of the Code.

As in previous years, the ACCC found that the level of detail and usefulness of the information provided varies between service providers. In summary, in terms of meeting the requirements currently set out in the pro-forma report:

- reports for four pipelines fully complied (Epic Energy South Australia Pty Ltd, Epic Energy Queensland Pty Ltd, Epic Energy Corporate Shared Services Pty Ltd, VENCorp, and NT Gas Pty Ltd);
- most reports generally complied, but the ACCC identified areas for improved reporting in future with respect to confidential information (sections 4.1(f) and (g)) and/or marketing staff (sections 4.1(h) and (i));
- two reports provided only marginally adequate information in relation to the cost allocation process employed (in reference to section 4.1(e)); and also
- in two instances, issues in relation to sections 4.1(c) and (d) of the Code were identified.

The ACCC has written to the service providers individually identifying as appropriate areas where better future reporting appears warranted.

In addition, one report from a service provider was not provided and remains outstanding. The ACCC has requested that this report be provided promptly.

### **Future reporting arrangements**

The future scope of the ring fencing compliance reporting program is to be reviewed by the ACCC. Overall, the level of service providers' compliance with the ring fencing provisions of the Code remains a concern for the ACCC. Increased scrutiny has resulted in marginal improvements in the level of supporting material provided. However, assurance that the Code's requirements are being met in full is dependent upon enhanced information gathering powers being included in the new National Gas Law.