



## **Overview of the annual compliance program for gas transmission and distribution pipelines 2009-2010**

### **Background**

This is the second year 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).

The annual compliance process was established under the NGL using an Annual Compliance Order<sup>1</sup> made in November 2008. An Annual Compliance Guideline was also published with the Annual Compliance Order.<sup>2</sup>

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 2009 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 2009–10 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 2009–10. The AER has reviewed the annual compliance reports provided by the nominated service providers under the Annual Compliance Order. Where the AER identified issues during the review process it made further inquiries. The outcomes of these inquiries were as follows:

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<sup>1</sup> Regulatory information order.

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

- in two cases the AER asked for further information to support the annual compliance reports and was satisfied with the responses.
- two service providers were approached about their reporting obligations under the Annual Compliance Order following a change in the ownership of a covered pipeline. Annual compliance reports were provided by the previous owners. The AER expects that the new owners will submit annual compliance reports for 2010–11.

In summary, all of the annual compliance reports were compliant with the Annual Compliance Order. Copies of the service providers' annual compliance reports for 2009–10 are located on the AER's website at <http://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 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)<sup>3</sup>
  - 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)

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<sup>3</sup> 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.

- associate contracts (ss.147 & 148 of the NRL)
3. Other requirements of a service provider are set out in Parts 5 and 7 of the *National Gas Rules* (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 (rr. 27(4), 36, 37 and 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 provider<sup>4</sup> nominated by the pipeline owner which provided a 2009–10 annual compliance report is identified in bold in the table below.

The AER has also identified from information provided in the 2009–10 annual compliance reports either related entities that are the Australian parents<sup>5</sup> or related entities performing material services for the covered pipelines.

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<sup>4</sup> ‘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.

<sup>5</sup> 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 2010**

Pipeline	Jurisdiction	Service Provider under NGL as nominated by pipeline owner	Related Entities	
			Australian parent	Entities performing material services for the pipeline
<b>Transmission</b>				
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	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
		Dawson Valley Pipeline <sup>6</sup>		
Amadeus Basin to Darwin Pipeline	NT	<b>NT Gas Pty Limited</b>  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
<b>Distribution</b>				
Jemena NSW Gas Networks	NSW	<b>Jemena Gas Networks (NSW) Ltd</b>	SPI (Australia) Assets Pty Ltd	Jemena Asset Management Pty Ltd
Wagga Wagga natural gas distribution network	NSW	<b>Country Energy Gas Pty Ltd<sup>7</sup></b>	Country Energy	Country Energy Gas Pty Ltd
Central Ranges Pipeline Gas Network (Tamworth natural gas distribution network)	NSW	<b>Central Ranges Pipeline Pty Ltd</b>	APA Group	APT Management Services Pty Ltd
ACT, Queanbeyan and Palerang gas distribution network	ACT/NSW	<b>ACTEW Distribution Limited and Jemena Networks (ACT) Pty Ltd trading as ActewAGL Distribution partnership</b>	ACTEW Distribution Limited is 100% owned entity of ACTEW Corporation Limited and Jemena Networks (ACT) Pty Ltd is 100% owned entity of Jemena Ltd <sup>8</sup>	Jemena Asset Management Pty Ltd
Envestra Victorian Distribution System	Vic	<b>Vic Gas Distribution Pty Ltd</b>	Envestra Limited which is partly owned by APA Group	APA Group
Albury Distribution System	Vic	<b>The Albury Gas Company Ltd</b>	Envestra Limited which is partly owned by APA Group	APA Group

<sup>6</sup> Note: As of 1 July 2010, WestSide Corporation Limited and Mitsui E&P Australia Pty Limited became the new owners and service providers of the DVP.

<sup>7</sup> Note: Envestra Ltd purchased Country Energy Gas Pty Ltd from Country Energy on 29 October 2010.

<sup>8</sup> ActewAGL Distribution 2009–10 Annual Gas Compliance Report, Attachment A –organisational chart.

Pipeline	Jurisdiction	Service Provider under NGL as nominated by pipeline owner	Related Entities	
			Australian parent	Entities performing material services for the pipeline
Multinet Distribution System	Vic	<b>Multinet Gas (DB No. 1) Pty Ltd</b> and <b>Multinet Gas (DB No. 2) Pty Ltd</b> trading as Multinet Gas Distribution Partnership.	Multinet Group Holdings Pty Ltd which is owned by DUET and Babcock and Brown Infrastructure Ltd	Jemena Asset Management Pty Ltd
SP AusNet Distribution System	Vic	<b>SPI Networks (Gas) Pty Ltd</b>	SP Australia Networks (Distribution) Ltd	SPI Management Services Pty Ltd and Data and Measurement Solutions Pty Ltd
Envestra South Australian Gas Distribution System	SA	<b>Envestra Limited</b>	Envestra Limited which is partly owned by APA Group	APA Group
Allgas Queensland Network	Qld	<b>APT Allgas Energy Pty Limited</b>	APA Group	APT Management Services Pty Ltd
Envestra Queensland Gas Distribution	Qld	<b>Envestra Limited</b>	Envestra Limited which is partly owned by APA Group	APA Group