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Consultation on draft Annual Compliance Order

Please find below QGC Pty Limited's (**QGC**) submission in response to the consultation paper published by the AER on 19 February 2024 and the draft Annual Compliance Order (**ACO**).

Structure of Submission

The balance of the submission follows the structure of request for feedback set out in item 1.5 of the consultation paper and makes clear additional areas of concern.

1. Information sought & template

The AER has sought feedback on whether the information sought in the ACO is clear and understandable and whether the template for responses to the ACO is accessible and fit for purpose. Having considered the draft ACO and template, QGC provides the following feedback:

- a) Compliance Period: The draft ACO states *"Service providers must provide... the information and documentation covering the 12-month period ending 30 June of that year (Compliance Period)"*. Accordingly, QGC understands that Appendix A is to be completed on information and documentation covering the 12-month period ending 30 June of that year, however some items in Appendix A refer to a time period (e.g. item 3.1). To make this clear, a guidance note could be inserted in cell "information request" in tab "Reporting Template" directing that Appendix A is to be completed using information and documentation covering the 12-month period ending 30 June of that year.
- b) Tab titled "Checklist": To make the template clear and easy to understand, the language in column B, numbering and headings could be aligned with the tab "Reporting Template".
- c) Tab titled "Reporting Template": Column G ("Conformance with requirement") has a yes/no drop down option. Presumably, this is intended to refer to conformance with the obligations set out in Column D ("Obligation"). If consistent language was used across the columns, the required input would be clearer.
- d) Information Request: Some information requests contain language that is unclear and accordingly, QGC suggests the following changes (with insertions in underline and deletions in strikethrough):
 - Item 1.1 - "Provide the type of legal entity ~~structure~~ the Service Provider is in accordance with section 131 of the NGL."
 - Item 3.1 - "Has the Service Provider complied with the queuing requirements under both the ~~any~~ applicable access arrangement and the NGR during the year?"
 - Items 4.1 and 4.2 only arise where a party is seeking to establish an interconnection and could be amended to make this clear.

- Item 7.1 asks for provision of any published information. For clarity, this could be amended to identify that the information to be provided is information published by the service provider.
- Item 16.3 contains a typographical error.

2. Scope

The scope of the draft ACO and Appendix A is broad and significant time and effort will be spent by staff in responding.

It would be appreciated if the AER could provide guidance as to whether service providers who hold an exemption from an obligation are required to respond to each information request in respect of that obligation and then in Column H ("*if not, why?*") identify that it holds an exemption. Should this be the case:

- it will significantly increase the compliance burden created by the ACO. For example, a service provider could expend significant time and effort in compiling and providing the lists and statements under item 8 ("*carrying on a related business*") where it holds an exemption in respect of those obligations. To better manage the compliance burden, QGC suggests where an information request relates to an obligation for which a service provider holds an exemption, the service provider's required response is limited to identifying the applicable exemption; and
- the provision of this information by the service provider is not reasonably necessary for the performance or exercise of the AER's functions or power.

Appendix A requires service providers to provide financial reports and the associated obligation is identified as s141 of the NGL, which requires service providers to prepare, maintain and keep separate accounts in respect of pipeline services provided by means of every pipeline owned, operated or controlled by the service provider, and a consolidated set of accounts in respect of the whole of the business of the service provider. The requirement to provide financial reports in respect of this obligation is excessive and unreasonable given both the confidentiality and commercial sensitivity of the information contained in financial reports, and that the provision of this information is not reasonably necessary for the performance or exercise of the AER's functions or powers particularly in circumstances where a service provider holds an exemption. Instead, Appendix A could require the provision of other less confidential and commercially sensitive information from which the AER could monitor compliance with s141 of the NGL.

3. Clause 5 – Assurance Requirements

The language of clause 5.1 is unclear, but it appears that the AER proposes to include within the ACO an ability to direct service providers to conduct audits and review and impose parameters around how this is done. QGC would appreciate guidance from the AER if this interpretation is correct, and if so, the legislative basis for inclusion within the ACO. If it would assist, QGC would welcome a discussion with the AER on this issue.

4. Compliance Burden

In addition to other references throughout this submission to the compliance burden, QGC notes that the proposed changes to the ACO will add to significant pre-existing regulatory and compliance obligations in an environment where there are a number of material information reporting reforms occurring concurrently and in which QGC already has separate reporting obligations to various other government bodies. Significant time and effort will be expended by QGC in responding to the ACO.

Clause 2.2.1 of the draft ACO requires service providers to maintain all information used to prepare the annual responses for a period of 7 years from the date of submission. Where information is not already caught by equivalent separate retention obligations, this will create a significant record keeping burden with associated costs. A shorter duration could be imposed, such as 3 years.

5. Other issues in respect of the draft ACO

Clause 4 of the draft ACO requires service providers to provide a basis of preparation for their response. However, the basis of preparation does not apply uniformly to the information requests. To reduce the compliance burden and make Appendix A simpler to complete, the requirement to provide a basis of preparation should be limited to apply to particular information requests only (based on their specific nature).

Thank you for the opportunity to provide input into the draft ACO. We look forward to further engagement on the issues raised in this submission. Please contact **Marion Carthew** for matters relating to this submission via the phone number in the address block.

Yours sincerely

**Shell Australia
Policy & Advocacy**