

16 September 2024

Ms Rowena Park
General Manager, Compliance and Enforcement
Australian Energy Regulator
GPO Box 3131
CANBERRA ACT 2601

Lodged via email: AERGasNetworksCompliance@aer.gov.au

Dear Ms Park,

Re: APA Submission to draft AER Compliance Procedures and Guidelines Issues Paper

Thank you for the opportunity to comment on the proposed draft AER Compliance Procedures and Guidelines (Draft Guidelines) and Issues Paper published in August 2024.

APA is an ASX listed owner, operator, and developer of energy infrastructure assets across Australia. Through a diverse portfolio of assets, we provide energy to customers in every state and territory. As well as an extensive network of natural gas pipelines, we own or have interests in gas storage and generation facilities, electricity transmission networks, and 692 MW of renewable generation and battery storage infrastructure.

Gas infrastructure is expected to play a key role in supporting renewable energy during the energy market transition and APA has recently invested around \$700 million to support energy reliability in southern markets. Commercial decision-making and bilateral contracting have enabled the nimble and efficient expansion of infrastructure and the appropriate allocation of risk between parties.

APA supports the development of a compliance framework that is fit for purpose and does not place an undue regulatory burden on service providers. Any additional costs imposed by the new compliance framework will ultimately be borne by customers, both for scheme and non-scheme pipelines.

Below, we provide comments on two matters relating to the Draft Guidelines.

Bilateral engagement with service providers in advance of an information request

In our experience, the process of seeking information from service providers is most effective when there is bilateral engagement between the AER and service provider in advance of a formal information request.

Section 3 of the Draft Guidelines foreshadows various circumstances in which the AER may seek information from service providers to monitor compliance with obligations under the National Gas Law and Rules.

The way information is requested can influence significantly the usefulness of the information provided, and the cost to the service provider in providing it. And if there is any ambiguity in the way information is requested, the information provided by a service provider may not actually answer the question the regulator is seeking to answer.

For this reason, we suggest that the AER engage with service providers in advance of formally requesting information to make sure that the form of the information request will allow the regulator to efficiently and effectively gather and analyse the information relevant to their question.

Audit framework

As we submitted in our response to the Annual Compliance Order consultation, conducting an audit or review of information provided by a service provider will be a costly and resource intensive exercise.

Section 5.4 of the Draft Guidelines sets out the factors the AER will consider in determining the use of compliance audits and the AER's risk based approach to compliance audits. The Draft Guideline also provides that the AER will consider if there are other means of obtaining the information required before deciding to use compliance audits.

We support the consideration of other options before deciding to use compliance audits. Similar to engagement with the service provider in advance of an information request, we suggest that the AER engage with the service provider when considering other options and that this be explicitly mentioned in section 5.4 of the Draft Guidelines. Service providers will usually be willing to provide information voluntarily, without the need for a formal information request. Early engagement with the service provider provides an avenue for this to happen.

If the AER comes to the view that an audit process is the only option to acquire the information needed, the AER should clearly explain why it has come to that view when requesting an audit. This will help build trust and provide stakeholders with confidence that the AER is using its powers judiciously.

If you wish to discuss our submission in further detail, please contact me on [REDACTED] or [REDACTED].

Yours sincerely,

[REDACTED]

John Skinner
Senior Manager Policy

[REDACTED]