

Our Ref: S2005/70
Contact Officer: Trevor Johnston
Contact Phone: 02 9230 9136

5 June 2006

Ms Sandra Dureau
General Counsel
Australian Pipeline Trust
PO Box 934
MASCOT NSW 2020

Dear Ms Dureau *Sandra*

Re: Ring fencing requirements

Thank you for your letter of 17 May 2006 providing further information on the expression 'establish and maintain a separate set of accounts' in section 4.1(c) of the *National Third Party Access Code for Natural Gas Pipelines* (the Code).

In your letter you expressed the view that a service provider will comply with its obligation to maintain ring fenced accounts if those accounts are prepared after the end of each financial year when the information for the relevant financial year becomes available. As you have noted, such an interpretation differs from that outlined in the AER's letter of 7 September 2005, which is that the service provider is obliged to ensure that appropriate accounting measures are in place for the entire financial year.

Subsequent to the letter of 7 September 2005, the AER sought its own legal opinion on the interpretation of the words 'establish and maintain' in the context of the obligation this places on service providers under the Code. This advice suggested that the preferable interpretation of the phrase may be that accounts must be maintained on a continuous basis. However the alternative interpretation, for the production of accounts on a periodic basis, cannot be dismissed as being unreasonable. That is, section 4.1(c) may be validly interpreted as preparing and maintaining accounts at the end of each financial year, as expressed by APT.

Nonetheless, our expectation is that production of accounts undertaken at the end of an accounting period is done so on the basis of internal cost allocation conventions established prior to the commencement of the financial year.

Accordingly the AER will not be taking any further action on this matter at this stage. I thank you for APT's assistance. If you have any questions, please contact Meredith Hooper on 02 9230 9173.

Yours sincerely

A handwritten signature in black ink that reads "Mike Buckley". The signature is written in a cursive style with a large, sweeping flourish at the end.

Mike Buckley
General Manager
Network Regulation North