

The ACCC Gas Group: Ring Fencing Issues

Overview of the 2003 ring fencing compliance reports

Background to compliance reporting

Under the National Third Party Access Code for Natural Gas Transmission Pipelines (“the Code”), the ACCC has responsibility for monitoring compliance with the ring fencing requirements as they apply to service providers on gas transmission pipelines.

Section 4 of the Code sets out the relevant ring fencing compliance requirements for service providers. Ring fencing of regulated assets is designed to assist the introduction of effective competition into markets traditionally supplied by integrated utilities. It involves putting structures in place to prevent flows of information, personnel, costs and revenues that create advantages to upstream and downstream operations of vertically integrated companies. Effective ring fencing measures also prevent the inappropriate transfer of these elements between regulated and unregulated assets.

Since 2001, the ACCC has required Service Providers to submit annual ring fencing compliance reports. In the first annual reporting period the ACCC did not set specific requirements as to the format or content of the report other than that Service Providers must demonstrate how they complied with their obligations under section 4.1 of the Code. The submitted reports, however, only complied at a very basic level with the requirements of the Code and the ACCC resolved to make a number of changes to the compliance reporting program to enhance the accountability and transparency of the process and value of information lodged by Service Providers.

In the 2002 reporting period service providers were required to submit their compliance reports in keeping with a pro forma document. This was designed to ensure that the information provided fulfils the reporting requirements of the Code without creating an unreasonable regulatory burden on Service Providers. For this reason service providers were required to base their 2003 compliance reports on the same pro forma document (rtf).

In 2002, the ACCC also required each service provider to obtain approval for the content of the report from their Board of Directors and sign-off by both the CEO and an external director. These requirements were implemented to ensure that Service Providers’ Board of Directors, the level at which entity-wide strategic decisions are made, have considered the compliance procedures and were aware of what is in place to meet ring fencing obligations. The approval and sign-off requirements meant that the board of directors of each company were accountable for the information provided in the report. They also provided the ACCC with sufficient confidence that the assessment by each Service Provider of the effect of the procedures in place has been carried out thoroughly. The sign-off requirements were retained in 2003, although the stipulation that the reports be signed by an external director was amended to a director. This is because the particular requirement for sign-off by an external director proved difficult to implement as a number of the service providers did not have external directors on their boards.

Overview of the 2002/03 reporting process

All relevant service providers submitted reports that substantially complied with the reporting requirements specified by the ACCC. The reports described the procedures and processes in place and provided an assessment of their adequacy as required by the Code. The table below outlines the ACCC's satisfaction with the reports received against each of the criteria requested.

Name of Service Provider	Covered Pipeline	Submitted in standard format	Board of directors' approval	Requested sign-off
Victorian Energy Networks Corporation	Principal Transmission System	✓	✓	✓
GasNet Australia (Operations) Pty Ltd	Principal Transmission System	✓	✓	✓
Origin Energy Resources Ltd	Ballera to Mt Isa Pipeline	✓	✓	✓ *
Oil Company of Australia Ltd	Ballera to Mt Isa Pipeline	✓	✓	✓ *
Delhi Petroleum Pty Ltd	Ballera to Mt Isa Pipeline	✓	✓	✓ *
Santos Ltd	Ballera to Mt Isa Pipeline	✓	✓	✓
Santos Petroleum Pty Ltd	Ballera to Mt Isa Pipeline	✓	✓	✓
Vamgas Pty Ltd	Ballera to Mt Isa Pipeline	✓	✓	✓
Santos Australian Hydrocarbons Pty Ltd	Ballera to Mt Isa Pipeline	✓	✓	✓
Roverton Pty Ltd	Ballera to Mt Isa Pipeline	✓	✓	✓
East Australian Pipeline Ltd	Moomba to Sydney Pipeline	✓	✓	✓
APT Pipelines (NSW) Pty Ltd	Central West Pipeline	✓	✓	✓

NT Gas Pty Ltd	Amadeus Basin to Darwin Pipeline	✓	✓	✓
Epic Energy South Australia Pty Ltd	Moomba to Adelaide Pipeline System	✓	✓	✓
DEI Queensland Pipeline Pty Ltd	Queensland Gas Pipeline	✓	✓	✓ *
Duke Queensland Pipeline Pty Ltd	Queensland Gas Pipeline	✓	✓	✓ *
Duke Australia Operations Pty Ltd	Queensland Gas Pipeline	✓	✓	✓ *
APT Petroleum Pipelines Ltd	Roma to Brisbane Pipeline	✓	✓	✓
Epic Energy Queensland Pty Ltd	Ballera to Wallumbilla Pipeline	✓	✓	✓

* Note: Delhi Petroleum Pty Ltd, Oil Company of Australia Ltd, Origin Energy Resources Ltd, DEI Queensland Pipeline Pty Ltd, Duke Queensland Pipeline Pty Ltd and Duke Australia Operations Pty Ltd do not have a person with the title of CEO within their corporate structures – in these cases, a director with a role similar to that of CEO was approved by the ACCC to sign off as CEO.

Future Reporting

For the 2003/04 reporting period, the ACCC will continue to require that Service Providers submit ring fencing reports based on the pro forma report. The ACCC considers that the reporting requirements set out in the pro forma, and in particular the approval requirements, assist in ensuring that each Service Provider's ring fencing obligations are met.

The ACCC is of the view that its role in monitoring compliance with the ring fencing requirements of the Code can be enhanced with the introduction of Accounting Guidelines. Section 4.2 of the Code allows the ACCC to introduce accounting guidelines that operate in addition to the minimum ring fencing obligations set out in section 4.1. The ACCC anticipates that a draft version of the Accounting Guidelines will be circulated for public comment early in 2004, and it is intended that a final version of these guidelines be formally introduced ahead of the 2003/04 reporting period.

The next ring fencing compliance report will be due on 31 July 2004.