

15 January 2021

Compliance and Performance Reporting Guideline review 2020
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne, Victoria 3000

To whom it may concern,

RE: Compliance and Performance Reporting Guideline review 2020

Australian Gas Infrastructure Group (AGIG)¹ welcomes the opportunity to make this submission to the Essential Service Commission (Commission) on the Compliance and Performance Reporting Guideline (Guideline). We thank the Commission for holding the workshop on the 9 December 2020 to discuss the key changes.

As a national business operating across South Australia, Queensland, New South Wales, Northern Territory and Victoria we support the alignment to national instruments such as the National Energy Retail Rules (NERR) and the Australian Energy Regulator (AER) Compliance Procedures and Guidelines². We highlighted this position during the Commissions' workshop on the 9 December 2020.

We support the adding of the new reporting obligations for gas distribution businesses as detailed in Table 1 to the Guideline. We support these additions as they are life support obligations and agree that a non-compliance could have a critical impact on customers. The classification of the non-compliance also aligns with the reporting requirements in the AER Compliance Procedures and Guidelines.

Table 1: Proposed Gas Distribution business reporting obligations AGIG supports

Instrument	Reference	Description of the Obligation	Type
Gas Distribution System Code	Clause 4A.3	Registration of life support equipment - Requirements when distributors are advised by a customer that a person residing or intending to reside at a customer's supply address requires life support equipment.	Type 1 immediate
Gas Distribution System Code	Clause 4A.4	Distributor obligations when advised by Retailer - Requirements when distributors are advised by a retailer that a person residing or intending to reside at a customer's supply address requires life support equipment.	Type 1 immediate
Gas Distribution System Code	Clause 4A.6	Confirmation of supply address as requiring life support equipment - Requirements when a medical confirmation form is provided under clause 4A.3 (a)(iii).	Type 1 immediate

¹ AGIG is one of the Australian leading gas infrastructure company which consists of three gas businesses including two gas distribution companies Multinet Gas Networks (MGN) and Australian Gas Networks (AGN) as well as a gas transmission company Dampier Bunbury Pipeline (DBP).

² AER, AER Compliance Procedures and Guidelines National Energy Retail Law, Retail Rules and Regulation Version 6, September 2018.

Gas Distribution System Code	Clause 4A.7	Ongoing distributor obligations - ongoing obligations when distributors are required to register a customer's supply address as requiring life support equipment.	Type 1 immediate
Gas Distribution System Code	Clause 4A.8	Deregistration of supply address - distributors must not deregister a customer's premises except in the circumstances permitted under clauses 4A.8-4A.12.	Type 1 immediate
Gas Distribution System Code	Clause 4A.13	Registration and deregistration details must be kept by distributors - distributors must establish policies, systems and procedures for registering and deregistering a supply address as requiring life support equipment to facilitate compliance with the requirements in this clause 4A, and ensure that life support equipment registration and deregistration details maintained.	Type 1 immediate

We do not support the addition of the new proposed reporting obligation for gas distribution businesses as detailed in Table 2 to the Guideline.

Table 2: Proposed Gas Distribution business reporting obligations AGIG does not support

Instrument	Reference	The Obligation	Type
Gas Distribution System Code	Clause 12.3	<p>(a) A <i>Distributor</i> is not permitted to recover charges from a <i>Retailer</i> if the <i>Retailer</i> is not permitted to recover those charges from a <i>Small customer</i> under the <i>Energy Retail Code</i>.</p> <p>(b) Subclause (a) does not apply where the reason the <i>Retailer</i> is not permitted to recover charges is the result of some fault of the <i>Retailer</i>.</p> <p>(c) Subject to subclause (a), a charge that may be imposed by a <i>Distributor</i> and included in a statement of charges provided to a <i>Retailer</i> may be adjusted to account for:</p> <p>(i) differences between estimated meter readings used for the purposes of a statement and <i>metering data</i> obtained after the issue of the statement; and</p> <p>(ii) any error in, or correction or substitution of:</p> <p style="padding-left: 40px;">A. <i>metering data</i>; or</p> <p style="padding-left: 40px;">B. any other amount or factor that affects the calculation of the charges that may be imposed by a <i>Distributor</i>.</p> <p>(d) An adjustment under subclause (c) may be made by a <i>Distributor</i> by including, in a subsequent statement of charges, the amount required to be paid by, or credited to, the <i>Retailer</i> together with an explanation of the adjustment.</p>	Type 1 immediate

We do not support the addition of this obligation as we do not believe this obligation meets the description of a type 1 obligations in the Guideline. The Guideline section 2.2 Energy distributors' states:

Type 1 regulatory obligations are considered to be those regulatory obligations where noncompliance would have a critical impact on customers and where the impact of that noncompliance increases over time if it is not rectified quickly.

Importantly, the obligation of Clause 12.3 relates to a distributor charging a retailer in all cases, not a distributor charging a customer.

In Victoria, gas distributors have no relationships with customers, and they cannot directly charge customers. All charges for services are charged via the retailer and the retailer is responsible for all charges on a customer energy bill. The Energy Retail Code details how customers' bills are calculated³ and they are not based on a distributors statement of charges to a retailer. We thus, do not believe this obligation meets the threshold of a type 1 obligation.

Retailers are protected under clause 510 of the National Gas Rules (NGR) and the relevant AER approved terms and conditions⁴ for disputing distributor charges. These instruments detail the process that both retailers and distributors must follow when disputing the statement of charges from a distributor. There are clear timeframes that must be met by both parties, thus we again argue that any overcharging impact once identified will be rectified quickly and not increase over time.

The clause 12.3 which was added to the Gas Distribution System Code is based on the wording of clause 508 in the NGR. The AER does not even include the requirement to report on this obligation in either the AER Compliance Procedures and Guidelines or the AER Annual Compliance Guideline⁵. As the Commission was also seeking to align with the AER reporting requirements, we recommend that this proposed obligation is not included in the revised Guideline.

Should you have any queries about the information provided please contact [REDACTED], Head of Compliance ([REDACTED]).

Yours sincerely,

[REDACTED]

[REDACTED]

General Manager People and Strategy

³ For example Clause 20(1)(b), 21 and 23.

⁴ For example clause 23 of the Australian Gas Networks Victorian and Albury Access Arrangement Terms and Conditions November 2017 and clause 7.7 of the Multinet Gas Part C – terms and Conditions 30 November 2017.

⁵ AER, Final Annual Compliance Guideline, April 2010