

! Purpose of this document

Each of the existing network operator licences (ACERERZ, Ausgrid, Endeavour Energy, Essential Energy and Transgrid) include a condition that requires the Licence Holder to ensure that it and all other network operators comply with the critical infrastructure licence conditions set out in an appendix to the licence.

The Appendix below sets out draft critical infrastructure licence conditions that we are proposing to recommend replace the current appendix in each of the licences from 1 July 2025.

There are other general provisions in each of the licences that are relevant to this Appendix including interpretation provisions and defined terms.

We propose to update the defined terms relevant only to this Appendix as set out in clause 5.3 of this Appendix. The other defined terms will continue to apply—the Tribunal is not proposing to recommend major changes to those terms.

To assist in the interpretation of this Appendix we have included the current definitions for these terms in Table 1 at the end of this document.

We invite all interested stakeholders to make a submission on these draft conditions and/or our Draft Report. You can find details on how to make a submission in section 1.4 of our Draft Report.

APPENDIX CRITICAL INFRASTRUCTURE LICENCE CONDITIONS

In addition to the conditions in this Appendix, the Licence Holder may be subject to other statutory obligations, including under the *Security of Critical Infrastructure Act 2018* (Cth).

1 Protocol with the Commonwealth Representative

- 1.1 The Licence Holder may enter into a Protocol with the Commonwealth Representative.
- 1.2 Where the Licence Holder has entered into a Protocol with the Commonwealth Representative and the Licence Holder is complying with the terms of that Protocol, the Licence Holder is not required to comply with the following conditions to the extent provided for in the Protocol:
 - (1) condition 2.1, and
 - (2) condition 2.3, and
 - (3) condition 2.4, and
 - (4) condition 3.1.
- 1.3 The Licence Holder may vary a Protocol with the agreement of the Commonwealth Representative.
- 1.4 The Licence Holder must provide a copy of any Protocol or varied Protocol to the Tribunal within one week of entering or varying the Protocol.

2 Substantial presence in Australia

Network maintenance

- 2.1 Subject to conditions 1 and 2.2, the Licence Holder must take all practical and reasonable steps to ensure maintenance of the System is undertaken solely from within Australia.
- 2.2 Despite condition 2.1, the Licence Holder may acquire components from outside Australia and conduct physical servicing of components outside Australia for the purposes of maintenance of the System where:
- (1) it is not reasonably practicable to acquire the components or conduct physical servicing from within Australia, and
 - (2) the senior officer with Network Operations Responsibility approves the acquisition from, or physical servicing by, a specific person or Entity.

Network operation and control

- 2.3 Subject to condition 1, the Licence Holder must use Best Industry Practice for electricity network control systems to ensure that:
- (1) the System, and all associated ICT Infrastructure, can only be accessed, operated and controlled from within Australia, and
 - (2) the System is not connected to any infrastructure or network in a way that could enable a person outside Australia to access, control or operate it in whole or in part.
- 2.4 Subject to condition 1, the Licence Holder must notify the Commonwealth Representative of its intention to outsource any part of the operation or control of the System, including any associated ICT Infrastructure, before it takes steps to procure a contract for that purpose.



Drafting note: The following condition 2.5 would only apply to ACEREZ and only if the Transitional Requirements are still required at the time the Tribunal makes its final recommendations to the Minister. The Tribunal does not propose to include this condition in any of the other recommended network operator licences.

- 2.5 Conditions 2.3 and 2.4 do not apply to the extent that:
- (1) immediately before the Commencement Date, the Licence Holder does not satisfy the requirements of conditions 2.3 and 2.4, and
 - (2) the Transitional Requirements apply.

Network management

- 2.6 Subject to condition 2.7, the Licence Holder must ensure that it has at least two Directors who:
- (1) are Australian citizens, and
 - (2) reside in Australia, and
 - (3) either:
 - (a) hold a National Security Clearance, or
 - (b) have been the subject of a Background Check after the Variation Date.

- 2.7 If a Director who satisfied the requirements in condition 2.6 vacates the position or ceases to satisfy any of the requirements in condition 2.6:
- (1) in the case of condition 2.6(1) or condition 2.6(2), condition 2.6(1) or condition 2.6(2) (as the case may be) does not apply to the Licence Holder with respect to that Director position for a period of up to two months (or a longer period nominated by the Licence Holder and approved by the Tribunal); and
 - (2) in the case of condition 2.6(3), condition 2.6(3) does not apply to the Licence Holder with respect to that Director position for a period of up to four months (or a longer period nominated by the Licence Holder and approved by the Tribunal).
- 2.8 Subject to condition 2.9, the Licence Holder must ensure that it has senior officers with Network Operations Responsibility, Operational Technology Responsibility or Security Operations Responsibility who:
- (1) reside in Australia, and
 - (2) either:
 - (a) hold a National Security Clearance, or
 - (b) have been the subject of a Background Check after the Variation Date.
- 2.9 If a senior officer referred to in condition 2.8 vacates the position or ceases to satisfy any of requirements in condition 2.8:
- (1) in the case of condition 2.8(1), condition 2.8(1) does not apply to the Licence Holder with respect to that senior officer position for a period of up to two months (or a longer period nominated by the Licence Holder and approved by the Tribunal); and
 - (2) in the case of condition 2.8(2), condition 2.8(2) does not apply to the Licence Holder with respect to that senior officer position for a period of up to four months (or a longer period nominated by the Licence Holder and approved by the Tribunal).
- 2.10 The Licence Holder must ensure that any Director or senior officer who has undertaken a Background Check does not, based on the outcome of that Background Check, present a security risk.

3 Data security

- 3.1 Subject to conditions 1, 3.2 and 3.3, the Licence Holder must ensure that all Sensitive Information is:
- (1) held solely within Australia, and
 - (2) only accessible from within Australia, and
 - (3) in the case of Operational Technology Information, only accessible by a Relevant Person who has been authorised by the Licence Holder, and
 - (4) in the case of Sensitive Information (other than Operational Technology Information), only accessible by a person who has been authorised by the Licence Holder.
- 3.2 Condition 3.1 does not prevent the Licence Holder from disclosing, holding, using or accessing Sensitive Information where reasonably required for any one of the following purposes:

- (1) disclosing the information to a recognised stock exchange that is to be made publicly available in compliance with a binding obligation on the Licence Holder or an Associate, or
- (2) complying with any Australian state, territory or Commonwealth law, or
- (3) disclosing the information to the following persons to the extent necessary for them to provide services to the Licence Holder or an Associate:
 - (a) a financial, accounting, insurance, legal, regulatory or other adviser, or
 - (b) auditors, insurers, security trustees and financiers (and each of their advisers), or
- (4) disclosing the information to a prospective purchaser of any interest in the Licence Holder or any Associate, or of any interest in the main undertaking of operating the System, to the extent necessary to facilitate the purchase, or
- (5) disclosing the information to participants, regulators, Commonwealth, State or Territory government agencies, and service providers in the electricity sector where disclosure of that information is:
 - (a) in the ordinary course of business, and
 - (b) in accordance with Best Industry Practice for electricity network control systems, and
 - (c) required by those persons to provide services or to perform functions, or
- (6) providing aggregated data that does not permit identification of any customer, Connection Points or a customer's demand characteristics.

3.3 Condition 3.1 does not prevent the Licence Holder from disclosing, holding, using or accessing Sensitive Information in accordance with any:

- (1) arrangement agreed to in writing by the Licence Holder and the Commonwealth Representative under the Licence before the Variation Date that remains in force, or
- (2) approval granted by the Tribunal under the Licence before the Variation Date that remains in force, or



Drafting note: The following paragraph (3) and condition 3.4 would only apply to ACERZ and only if the Transitional Requirements are still required at the time the Tribunal makes its final recommendations to the Minister. The Tribunal does not propose to include this condition in any of the other recommended network operator licences.

- (3) arrangement agreed in writing by the Licence Holder and the Commonwealth Representative under the Transitional Requirements that remains in force.

3.4 Condition 3.1 does not apply to the extent that:

- (1) immediately before the Commencement Date, the Licence Holder does not satisfy the requirements of condition 3.1, and
- (2) the Transitional Requirements apply.

4 Compliance with critical infrastructure provisions

4.1 The Licence Holder must, by 30 September each year:

- (1) prepare a compliance report on its compliance with conditions 1 to 3 for the preceding Financial Year, and
- (2) ensure that an Approved Auditor has undertaken a comprehensive audit of the compliance report and prepared an audit report that meets the requirements of any applicable Audit Guideline, and
- (3) prepare a certification in writing supported by a resolution of the Board that:
 - (a) the Licence Holder has complied with conditions 1 to 3 for the preceding Financial Year, or
 - (b) if the Licence Holder has not complied with conditions 1 to 3 for the preceding Financial Year, details of:
 - (i) the nature and extent of each non-compliance, and
 - (ii) the steps the Licence Holder has taken or is taking to remedy each non-compliance and prevent further non-compliance, and
 - (iii) when it expects to achieve compliance.

4.2 The Licence Holder must, by 30 September each year, provide the following documents to the Tribunal in respect of the preceding Financial Year:

- (1) the compliance report, audit report and certification referred to in condition 4.1; and
- (2) the report the Licence Holder is required to submit to the relevant Commonwealth regulator under section 30AG of the *Security of Critical Infrastructure Act 2018* (Cth).

4.3 The Licence Holder must provide the compliance report, audit report and certification referred to in condition 4.1 to the Commonwealth Representative upon their request or when directed to by the Tribunal.

5 Interpretation

5.1 Terms defined in the General Conditions to this Licence have the same meaning in this Appendix, unless otherwise specified.

5.2 A reference to a condition in this Appendix, is a reference to the condition within this Appendix (as opposed to, for example, the General Conditions), unless otherwise specified.

5.3 The following terms have the corresponding meaning when used in this Appendix:

Background Check means a background check that complies with section 9(3) of the *Security of Critical Infrastructure (Critical infrastructure risk management program) Rules (LIN 23/006) 2023* (Cth).

Best Industry Practice includes access required by relevant Australian regulators and market and system operators to meet the Licence Holder's obligations under Australian law.

Board means the governing body of the Licence Holder however described.

Carrier has the meaning given by the *Telecommunications (Interception and Access) Act 1979* (Cth).

Commonwealth Representative means the First Assistant Secretary responsible for critical infrastructure security in the Commonwealth, or equivalent level and role in the agency with responsibility for critical infrastructure security or such other representative nominated by the Commonwealth Government.

Connection Point means, in relation to the premises of a customer(s), the point of connection to an electrical installation supplying electricity to the premises as determined in accordance with the Service and Installation Rules of New South Wales, as in force from time to time, published by the NSW Department of Climate Change, Energy, the Environment and Water.

Director means a member of the Board of the Licence Holder.

Entity has the same meaning as under section 64A of the *Corporations Act 2001* (Cth).

Financial Year means the period commencing on 1 July and ending the following 30 June.

ICT Infrastructure means the information and communications technology equipment, systems, firmware and software for handling information and managing communication processes.

Load Data means data as to the quantum of electricity delivered, both historical and current load demand from or to any one or more sites, or their Connection Points, which satisfies all of the following criteria:

- (a) it is not historical data older than 30 days, and
- (b) it is not fault data, and
- (c) it describes a location that allows a customer or Connection Point to be identified, and
- (d) it describes the date and time of the data record, and



Drafting note: The following paragraph (e) is only relevant to transmission operator licences. The Tribunal does not propose to include this paragraph in the distributor licences when it makes its recommendations to the Minister.

(e) it describes a magnitude which comprises a voltage of at least 330 kV and energy of at least one Terawatt hour, and

(f) it describes the duration for which a quantum of electricity was delivered.

National Security Clearance means a clearance of not less than Negative Vetting Level 1 (or equivalent) issued by the NSW Government on advice from the Australian Government Security Vetting Agency.

Network Operations Responsibility means being responsible for:

- (a) the day-to-day operation, monitoring and maintenance of the System, and
- (b) directing the operational planning, management, control and security of the System.

Operational Technology Information means all information relating to the operational technology of the System (such as the supervisory control and data acquisition (SCADA) system) and associated ICT Infrastructure including, for example, design specifications and operating manuals.

Operational Technology Responsibility means being responsible for:

- (a) delivering the supervisory control and data acquisition (SCADA) capability required to safely and reliably operate the System, and
- (b) developing and implementing strategies to manage cyber security and other threats affecting the network operational technology environment, and
- (c) developing systems for effectively managing assets remotely, including but not limited to network switches, condition monitoring and remote interrogation or operation of protection systems and relays.

Protocol means a document agreed between the Commonwealth Representative and the Licence Holder, which may set out:

- (a) the specified purposes and circumstances in which the acquisition and maintenance of components that forms part of the System may be conducted offshore, and
- (b) the methodology and activities to be undertaken to allow for maintenance and repairs of System components to be carried out involving remote access from offshore, and
- (c) the specified purposes and circumstances in which Sensitive Information may be held offshore and accessed, and
- (d) the exceptional circumstances in which the protocol applies, and
- (e) the specific circumstances in which the Licence Holder is not required to comply with conditions 2.1, 2.3, 2.4, and/or 3.1 and any requirements that apply instead of those conditions; and
- (f) the activities and processes which achieve requisite levels of cybersecurity.

Relevant Person means the:

- (a) Licence Holder, and
- (b) a network operator of the System, and
- (c) any person who is contracted or subcontracted, and approved, by the Licence Holder to work on the System.

Security Operations Responsibility means being responsible for:

- (a) approving the Licence Holder's personnel or other nominated personnel to access the Licence Holder's information systems or physical access to the Licence Holder's premises and associated infrastructure, and
- (b) personnel security, and
- (c) managing relationships with Commonwealth and state government agencies for the purposes of paragraphs (a) and (b).

Sensitive Information means:

- (a) Operational Technology Information,
- (b) Load Data relating to, or obtained in connection with, the operation of the System by a Relevant Person, and
- (c) Third Party Data that the Licence Holder obtains or accesses indirectly because a Carrier or another person transferred the Third Party Data using the Licence Holder's infrastructure.



Drafting note: For the following definition of 'System', The Tribunal will insert the applicable term in each licence when it makes its recommendations to the Minister.

System means the [Distribution System OR Transmission System] referred to in this Licence.

Third Party Data includes:

- (a) Communications, within the meaning of the *Telecommunications (Interception and Access) Act 1979* (Cth), and
- (b) personal information, within the meaning of the *Privacy Act 1998* (Cth), and
- (c) closed-circuit television footage.



Drafting note: The following definition would only apply to ACERZ and only if the Transitional Requirements are still required at the time the Tribunal makes its final recommendations to the Minister. The Tribunal does not propose to include this condition in any of the other recommended network operator licences.

Transitional Requirements means:

- (a) the Licence Holder has made a submission to the Commonwealth Representative within 2 months of the Commencement Date:
 - (i) in the case of condition 2.5, for the establishment of a Protocol that modifies the application of conditions 2.3 and 2.4, and
 - (ii) in the case of condition 3.4, for an arrangement of a kind referred to in condition 2.2(6)(a) of Appendix 2 to the Licence as in force immediately before the Variation Date, and
- (b) the Commonwealth Representative has not decided whether to approve the arrangement proposed by the relevant submission in paragraph (a), and
- (c) a period of no more than 2 months (or a longer period nominated by the Licence Holder and approved by the Tribunal) has elapsed since the submission was made.

Variation Date means the commencement date of the Instrument of Variation of Conditions of [Distributor's/Transmission Operator's] Licence which amends the Licence by replacing the appendix that contains the critical infrastructure licence conditions..

! Purpose of Table 1

The following Table 1 sets out the definitions of defined terms under each of the network operator licences that are used, but not defined, in the Appendix above. The purpose of Table 1 is to assist in the interpretation of the proposed conditions in the Appendix, but they do not form part of the proposed conditions.

The Tribunal may recommend minor changes to align the definitions of defined terms where appropriate, but is not proposing to recommend major changes to the substance of these definitions.

Table 1 Definitions in body of licence

Defined term	Ausgrid	Endeavour Energy	Essential Energy	Transgrid	ACERZ
Approved Auditor	Approved Auditor means an auditor who has been approved by the Tribunal in accordance with any Audit Guidelines issued by the Tribunal.	Same as Ausgrid.	Same as Ausgrid.	Approved Auditor means a person chosen from a panel of auditors approved by the Tribunal or an auditor otherwise approved by the Tribunal as being of reputable standing, suitably qualified and who is independent of the Licence Holder.	Approved Auditor means: (a) a person chosen by the Licence Holder from a panel of auditors approved by IPART, or (b) an auditor otherwise approved by IPART as being of reputable standing, suitably qualified, and who is independent of the Licence Holder.
Associate	Associate has the meaning given to that term in the <i>Corporations Act 2001</i> (Cth)	Same as Ausgrid.	Same as Ausgrid.	Same as Ausgrid.	Associate has the same meaning given by the <i>Corporations Act 2001</i> (Cth).
Audit Guidelines	Audit Guidelines means any document setting out audit requirements for Licence Holders which is prepared by the Tribunal and is available on its website at www.ipart.nsw.gov.au as amended from time to time.	Same as Ausgrid	Same as Ausgrid	Same as Ausgrid	Not defined in licence.

Defined term	Ausgrid	Endeavour Energy	Essential Energy	Transgrid	ACERZ
Commencement Date	Not used.	Not used.	Not used.	Not used.	Commencement Date means the date this Licence is signed by the Minister.
Distribution System	Distribution System means the distribution system that is a transacted distribution system under the <i>Electricity Network Assets (Authorised Transactions) Act 2015</i> operated by the Licence Holder.	Distribution System means the distribution system that is a transacted distribution system under the <i>Electricity Network Assets (Authorised Transactions) Act 2015</i> operated by the Licence Holder.	Distribution System means the distribution system of which the Licence Holder is a network operator.	N/A	N/A
Licence	Licence has the same meaning as 'Licence' in clause 3 of this Instrument.	Same as Ausgrid.	Same as Ausgrid.	Same as Ausgrid.	Licence means this transmission operator's licence granted by the Minister under section 93A(2) of the Act authorising the Licence Holder to operate the Transmission System.
Licence Holder	Licence Holder has the same meaning as 'Licence Holder' in clause 3 of this Instrument.	Same as Ausgrid.	Same as Ausgrid.	Same as Ausgrid.	Licence Holder has the meaning set out on page 1 of this Licence.
Transmission System	N/A	N/A	N/A	Transmission System means the transmission system of which the Licence Holder is a network operator.	Transmission System means the transmission system which is the subject of the Network Operator Authorisation ^a .
Tribunal	Tribunal means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> .	Same as Ausgrid.	Same as Ausgrid.	Same as Ausgrid.	Not used. The ACERZ licence uses 'IPART' and relies on the meaning given to the term under the <i>Interpretation Act 1987</i> .

^a Network Operator Authorisation means the authorisation granted under section 31(1)(b) of the *Electricity Infrastructure Investment Act 2020* (EII Act) to the Licence Holder in relation to the Central-West Orana renewable energy zone as declared under section 19 of the EII Act.

