



ACERERZ Partnership licence

Draft Report

July 2024

Energy >>



Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders both past and present.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

Tribunal members

The Tribunal members for this review are:

Carmel Donnelly PSM, Chair
Jonathan Coppel
Sharon Henrick
Dr Darryl Biggar

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Invitation for submissions

IPART invites comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by Friday, 2 August 2024

We prefer to receive them electronically via our [online submission form](#).

You can also send comments by mail to:

ACEREZ Partnership transmission licence application
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop, Sydney NSW 1240

If you require assistance to make a submission (for example, if you would like to make a verbal submission) please contact one of the staff members listed above.

Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our [website](#) as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed above.

We may decide not to publish a submission, for example, if we consider it contains offensive or potentially defamatory information. We generally do not publish sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please let us know when you make the submission. However, it could be disclosed under the *Government Information (Public Access) Act 2009* (NSW) or the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART's [submission policy](#) is available on our website.

The Independent Pricing and Regulatory Tribunal

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

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Chapter 1 >>

Introduction

01

1.1 We want to know what you think about an ACERERZ Partnership Licence

This report sets out our draft recommendation that ACERERZ Partnership (ACERERZ) be granted a transmission operator's licence and our draft recommended licence conditions, if the Minister for Energy (Minister) grants the licence.

Licensing helps guard against adverse outcomes for an essential service. The state's electricity supply is an essential service for consumers and the Central-West Orana (CWO) Transmission System ACERERZ will be a vital piece of it. The community and businesses reliant on the effective operation of the CWO network will not have an option to change to another network operator if they are dissatisfied with the level of service from ACERERZ. Regulation and licensing of transmission operators in Renewable Energy Zones (REZs) help to achieve positive outcomes for the community and businesses in NSW by promoting the safe, efficient, environmentally responsible, and reliable operation of electricity networks.

We seek to ensure licences are in the public interest and reflect public expectations, best practice and the licensees' circumstances. If granted, a licence will set conditions by which ACERERZ must operate the transmission system that connects the Central-West Orana Renewable Energy Zone (CWO-REZ) to the NSW electricity grid.

The CWO-REZ covers an area of approximately 20,000 square kilometres, centred by Dubbo and Dunedoo, on the land of the Wiradjuri, Wailwan and Kamilaroi people. The CWO-REZ is intended to facilitate, through the construction of new transmission infrastructure, the connection of new renewable generation to the NSW electricity grid.

The Minister may grant transmission operators' licences for the purposes of the *Electricity Supply Act 1995* (ES Act), and to licence a person to operate a transmission system that is the subject of a network operator's authority under the *Electricity Infrastructure Investment Act 2020* (EII Act).¹

ACERERZ is required to hold a transmission operator's licence in order to operate the CWO-REZ Transmission System² because it is the subject of a network operator's authority issued under the EII Act.³ ACERERZ applied for a transmission operator's licence (Licence) on 19 April 2024.

The Tribunal has now considered the application and submissions to the application. The Tribunal's draft recommendation is that the Minister grant ACERERZ a Licence.

This report contains recommendations for conditions for a prospective Licence. Our final recommendations to the Minister will be informed by feedback from stakeholders on this discussion paper and the draft licence conditions.

We expect to make our final recommendations in response to this application for a new Licence to the Minister by early September 2024.

1.2 Background

Declaration of the CWO-REZ and CWO Transmission System

The then Minister for Energy and Environment issued the *Renewable Energy Zone (Central-West Orana) Order 2021* declaring the CWO-REZ in October 2021 under the EII Act. This order was subsequently amended to increase the intended network capacity from 3GW to 6GW in [December 2023](#), and provide a more detailed outline of the overall network infrastructure for the CWO-REZ in [April 2024](#).

The CWO-REZ is the first of 5 REZs planned for NSW and the first in Australia. This project is intended to replace the generation capacity of retiring coal fired power stations across NSW (such as Eraring and Liddell power stations). These REZs are key contributors to the NSW Government's plan to transform the electricity system, known as the electricity infrastructure roadmap⁴.

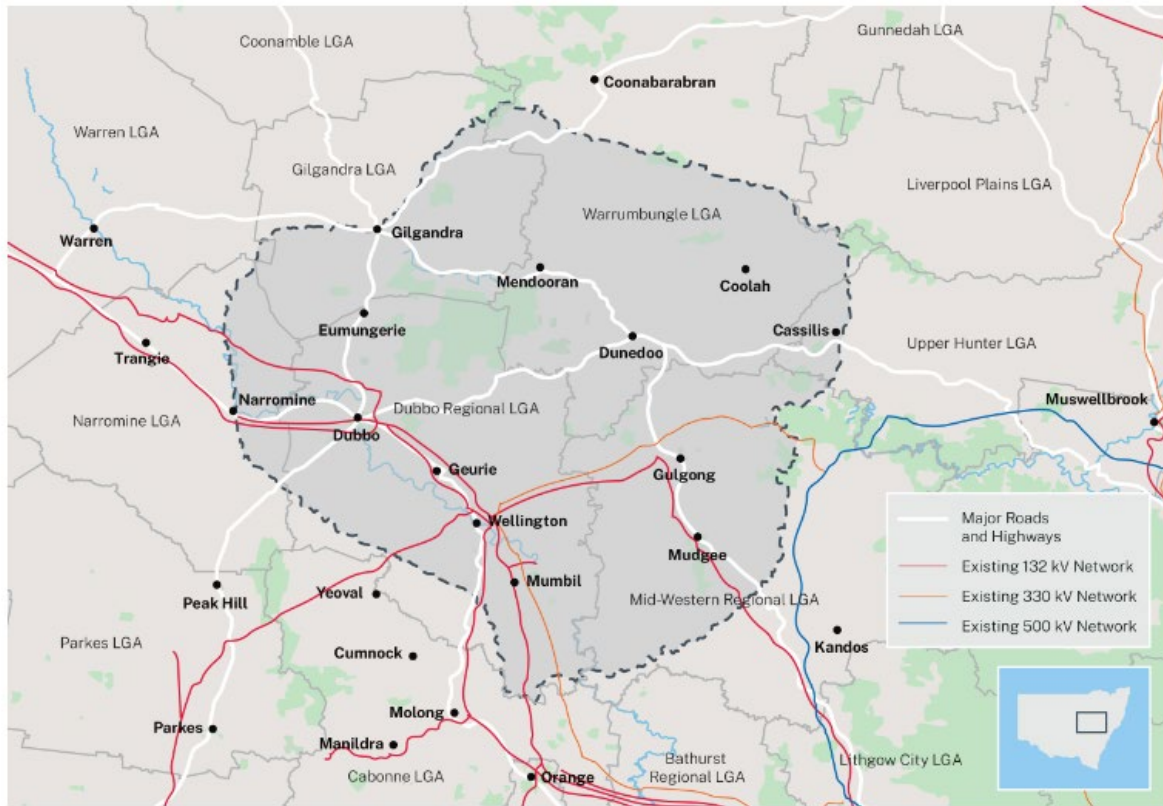
On 19 April 2024, the Minister for Energy declared the electricity power lines and associated equipment and electricity structures for the CWO-REZ as a transmission system under the ES Act.⁵ This transmission system will initially comprise up to 4.5GW of transfer capacity located in the Central West Orana region.

The CWO-REZ Transmission System is approximately 20,000 square kilometres centred by Dubbo and Dunedoo (Figure 1). The CWO Transmission System will span a corridor from the Barigan Creek switching station at Wollar to Elong Elong via Merotherie. In addition, the CWO Transmission System will also include infrastructure connecting the new renewable generation and storage to energy hubs at Elong Elong and Merotherie (Figure 2).

The electricity generated will be supplied to the Transgrid transmission system at Barigan Creek.

The geographic and infrastructure layouts are shown in Figure 1 and Figure 2, respectively.

Figure 1 Geographic location of the CWO-REZ



Source: Central-West Orana Renewable Energy Zone | EnergyCo (nsw.gov.au)

Figure 2 ACERZ infrastructure layout



Source: ACERZ Licence application

Purpose of ACERERZ's application

In December 2023, Energy Corporation of NSW (EnergyCo), in its capacity as the Infrastructure Planner^a under the EII Act, entered into a commitment deed with ACERERZ and announced ACERERZ as the preferred network operator for the CWO-REZ.

ACERERZ is a partnership consisting of:

- **Acciona Concesiones** - Acciona Concesiones is a Spanish sustainable infrastructure and renewables multinational conglomerate. Concesiones CWO-REZ NO Pty Limited, the ACERERZ partner, is a wholly owned subsidiary of Acciona Concesiones
- **Endeavour Energy** - Endeavour Energy is a NSW based electricity distribution network service provider and holder of a NSW distributor's licence
- **Cobra** - Cobra is a Spanish renewable energy and transmission developer. Cobra CWO NO Pty Limited, the ACERERZ partner, is a wholly owned subsidiary of Cobra.

On 4 June 2024⁶, AEMO Services, in its capacity as the Consumer Trustee^b under the EII Act, authorised ACERERZ to develop, construct, own, control and operate the Main CWO-REZ Network Infrastructure Project in accordance with the terms of the authorisation instrument.

ACERERZ is required to hold a Licence to operate the CWO Transmission System as it is the subject of a network operator's authority issued under section 31(1)(b) of the EII Act.⁷ If granted, the Licence will authorise ACERERZ to operate the CWO Transmission System.

IPART makes recommendations to the Minister about licence applications

The Tribunal has the function of making recommendations to the Minister for or with respect to:

- the granting, variation, transfer, or cancellation of a licence, and
- the imposition, variation, or cancellation of conditions in relation to a licence.⁸

1.3 This draft report

This draft report outlines the justifications and principles we considered in preparing the Licence conditions that we propose to recommend to the Minister. In this draft report, we explain our draft:

- recommendation on whether to grant a Licence to ACERERZ (see Chapter 2)
- recommendations for the Licence conditions.

^a EnergyCo, as the Infrastructure Planner, coordinates where the generation, long duration storage and firming capacity will be built in addition to planning the location of Renewable Energy Zones and contracting and overseeing the suppliers delivering the transmission network infrastructure required to connect the generation built in Renewable Energy Zones to the NSW electricity grid.

^b The Consumer Trustee's purpose is to act independently and in the long-term financial interests of NSW electricity customers to improve affordability, reliability, security and sustainability of electricity supply. Their role includes the authorisation of network infrastructure projects.

1.4 We have applied licensing principles to our review

We applied the following principles when developing draft licence conditions for an ACERZ Licence.



Principle #1: Protect customers, consumers and the environment

We have designed licence conditions that drive beneficial outcomes for the people of NSW. The licence conditions:

- set necessary and appropriate regulatory requirements to achieve the desired outcome and address identified risks
- minimise social cost
- be in the public interest.

We used cost-benefit analysis where appropriate to help assess the cost of licence obligations on licensed network operators, and the benefits to the people of NSW.



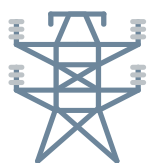
Principle #2: Proportionate and risk-based

In designing licence conditions, we first identified risks for:

- electricity end users,
- the NSW electricity supply system,
- the community, and
- the environment

that the licence should address, and identified the outcomes we are seeking to address those risks.

We designed licence conditions that are effective in achieving these desired outcomes, proportionate to the licensed network operator's authority and influence to address those risks.



Principle #3: Facilitate efficient monitoring and enforcement of compliance

We designed licence conditions that facilitate IPART and co-regulators, such as the Cyber and Infrastructure Security Centre, to efficiently conduct their compliance monitoring and enforcement activities on licensed network operators. This includes clearly defined licence, audit and minimum reporting obligations necessary for us to be assured of the network operator's compliance with licence obligations.



Principle #4: Avoid duplication where possible

The licence conditions avoid duplication with other regulatory obligations to maximise efficiency, while recognising that it may be appropriate in some circumstances. For example, a duplicative condition may reflect government policy, legislation, an intergovernmental agreement or a court decision that requires inclusion of a licence condition.



Principle #5: Facilitate efficient compliance with licence conditions by licensees

We designed licence conditions that are outcomes focused and performance-based, not prescriptive. This allows licensees to find the most efficient way of delivering outcomes and encourage innovation. For example, we designed conditions that are technology neutral in achieving regulatory outcomes.



Principle #6: Promote safe, efficient, environmentally responsible and reliable electricity networks

We considered the statutory context of the ES Act when making recommendations about licence conditions. This includes:

- the objects of the ES Act:
 - to promote the efficient and environmentally responsible production and use of electricity and to deliver a safe and reliable supply of electricity, and
 - to confer on network operators such powers as are necessary to enable them to construct, operate, repair and maintain their electricity works, and
 - to promote and encourage the safety of persons and property in relation to the generation, transmission, distribution and use of electricity, and
 - to ensure that any significant disruption to the supply of electricity in an emergency is managed effectively
- the statutory context of the licence being applied for, including the matters the Minister may consider when considering refusing to grant a licence (e.g. for a transmission operator licence this would include the need to ensure the security and reliability of the State electricity supply).

1.5 How you can submit feedback

We invite all interested people to make submissions in response to this paper by **2 August 2024**.

We look forward to receiving your submission. For more information on how to make a submission and our submissions policy, and how to manage confidential or commercially sensitive information in your submission, please see page ii at the front of this paper.

Have your say

Your input is critical to our review process.

[Submit feedback »](#)

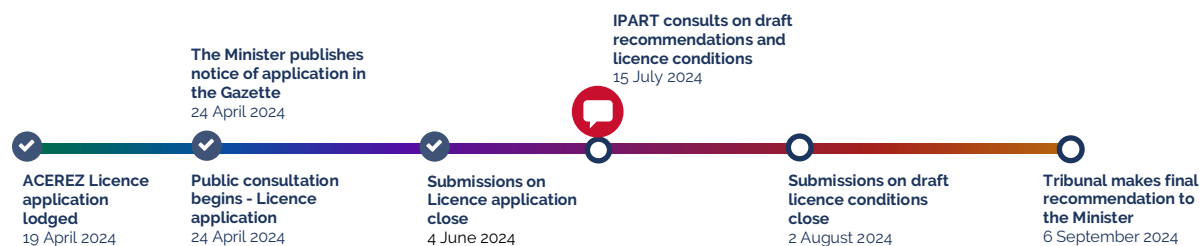
You can get involved by making a submission in response to this draft report.

1.6 Progress and next steps

On 24 April 2024, the Minister published notice of ACERERZ's application for a Licence in the Gazette.⁹ A public version of the application was published on [IPART's website](#) on the same day. Submissions on ACERERZ's application closed on 4 June 2024.

We intend to provide our recommended Licence to the Minister by 6 September 2024.

We will complete the review according to the timeline below:



Chapter 2 >>

Draft recommendation on granting of
a Licence

02

2.1 Our draft recommendation

We have assessed the application against the ES Act and our draft recommendation is for the Minister to grant ACERERZ a transmission operator's licence with conditions.

In undertaking our assessment of the application, we have considered:

- the purposes of the ES Act
- whether the application met any of the grounds to refuse a transmission operator's licence under clause 4 of Schedule 2 to the ES Act, and
- submissions on the Licence application.

Draft recommendation



1. That the Minister grants ACERERZ a transmission operator's licence with conditions.

This section of our report contains our assessment of the Licence application including consideration of:

- the objects of the ES Act
- grounds for refusal, including grounds the Minister may consider relevant
- public submissions.

2.2 We are guided by the objects of the ES Act

The Minister may grant transmission operator's licences:

- for the purposes of the ES Act, and
- for the purposes of licensing a person to operate a transmission system that is the subject of a network operator's authority under the EII Act.¹⁰

Section 3 of the ES Act sets out the objects of the ES Act which we have reproduced in Table 1 below. In assessing the Licence application, we considered whether licensing ACERERZ would meet these objects, with regard to the need to ensure the security of electricity supply to the people of NSW. To determine the suitability of ACERERZ to hold a Licence, we tested its application against each object. Our preliminary view is that granting ACERERZ a Licence would be consistent with the purposes of the ES Act and promote the security of electricity supply in NSW.

Table 1 Review against the objects of the ES Act

Objects of the ES Act	Licence application assessment
<p>To promote the efficient and environmentally responsible production and use of electricity and to deliver a safe and reliable supply of electricity.</p>	<p>The ACERECZ Licence application demonstrates that granting a transmission operator's licence would further this object of the ES Act, adding 4.5GWs of renewable energy to the NSW transmission network and improving the reliability, security and sustainability of the transmission system.</p> <p>We expect the network infrastructure that ACERECZ plan to build and operate will promote environmentally responsible production and use of electricity. It will primarily do this by helping to enable the NSW electricity system to transition away from environmentally polluting generation and to more clean renewable generation. In its application, ACERECZ stated that it is expected to result in an emissions saving of 11.6 million tonnes of carbon dioxide over its lifetime.</p> <p>We also consider that ACERECZ have credible plans to deliver a safe and reliable supply of electricity. They have plans to maintain an Asset and Environmental Management System, comply with reliability and availability requirements of the contractual arrangements to be entered by ACERECZ and EnergyCo in relation to the CWO-REZ network infrastructure project and our draft Licence conditions. They also have plans to develop and implement an Electricity Network Safety Management System compliant to <i>AS557-2013: Electricity network management safety management systems (AS5577)</i>.</p> <p>The Infrastructure Planner has completed a quantitative cost-benefit analysis to estimate that the financial net benefit expected to accrue from 2027 to 2078 to NSW electricity customers as a result of the CWO-REZ Network Infrastructure Project¹¹ is \$3 billion.</p>
<p>To confer on network operators such powers as are necessary to enable them to construct, operate, repair and maintain their electricity works.</p> <p>To promote and encourage the safety of persons and property in relation to the generation, transmission, distribution and use of electricity.</p>	<p>ACERECZ requires a licence to operate the CWO-REZ Transmission System.¹² Granting the licence would confer on ACERECZ powers that would facilitate the construction, operation, repair and maintenance of the CWO Transmission System.</p> <p>In their application, ACERECZ have stated they will implement the following systems and processes to promote the safety of persons and property:</p> <ul style="list-style-type: none"> • electricity network safety management system compliant to AS5577 and also covering the safety of the community, employees and contractors • health and safety regulatory reporting • business continuity plan • asset management system • environmental management system • reliability and performance provisions. <p>We note that ACERECZ will appoint a Safety Director to lead their commitment to safety. In addition, we consider the establishment of a governance framework, including safety systems, will support the safety of persons and property in relation to the transmission network. We note that they will develop these frameworks and systems using existing policies and procedures of their partners and network operator experts.</p> <p>A licence with associated conditions is appropriate to hold ACERECZ accountable for implementing and maintaining these systems and processes.</p>
<p>To ensure that any significant disruption to the supply of electricity in an emergency is managed effectively.</p>	<p>ACERECZ have outlined their intent to comply with a business continuity plan, reliability performance regime and adhere to established frameworks on critical infrastructure management.</p> <p>We consider the establishment of a head office in Paramatta and a field depot situated in Mudgee to house key personnel, are key commitments to allow ACERECZ to respond to a significant disruption to supply of electricity in an emergency.</p>

Objects of the ES Act	Licence application assessment
	<p>We consider that the commitment to operate a 24/7 control room will enable ACERZ to effectively respond to significant disruptions to the supply of electricity in an emergency.</p> <p>As set out in their application, the combined experience of the partners in operating transmission systems supports their ability to effectively manage any significant disruption to the supply of electricity in an emergency.</p> <p>A licence with associated conditions relating to business continuity, reliability performance standards and reporting would provide regulatory oversight of and public confidence in ACERZ's management of supply disruptions.</p>

2.3 Grounds for refusal

Clause 4(2A) of Schedule 2 to the ES Act provides that an application for a transmission operator's licence may be refused on the following grounds:

- such grounds as may be prescribed by the regulations,
- such grounds as the Minister considers relevant, having regard to the need to ensure the security and reliability of the State electricity supply system.

The regulations do not prescribe any grounds for refusing a transmission operator's licence application. However, the Minister may refuse to grant the licence based on other grounds they consider relevant.

We do not consider there to be any relevant grounds on which the Minister should refuse the application. In reviewing the application, we considered whether granting a licence would adversely impact customers. We looked at the net benefits to NSW electricity consumers identified by EnergyCo, in the context of this REZ in the overall energy transition and the capacity and capability of ACERZ to operate and maintain the transmission network. Further, under the EnergyCo and the NSW Government's electricity infrastructure roadmap, the CWO-REZ is one of 5 REZs that will allow existing power stations to progressively retire and be replaced by new and renewable sources of energy.

2.3.1 Capability and capacity of the applicant

We have also assessed the applicant to have the capability and capacity to operate the proposed CWO-REZ Transmission System.

ACERZ is a partnership consisting of two multinational companies with infrastructure and transmission network construction, maintenance and operations experience, and a licensed NSW distribution network operator. Combined, they have over 76,000 employees and \$40 billion in electricity industry infrastructure construction experience covering construction, maintenance and operation of transmission and distribution networks.

The application identified that they have secured specialists with a background in transmission operation and power engineering to build and develop operating manuals suitable for the CWO-REZ Transmission System.

ACERZ has stated that it will have a governance and compliance framework that will be overseen by an independent partnership committee. This framework involves management controls, review and challenge processes and internal and external auditing. It will enable ACERZ to monitor performance against set objectives, articulate risk appetite and manage risk. We consider this framework will provide effective guidance and direction, governance processes to support decision making, and executive development and planning.

2.4 Public submissions

We received 3 submissions on the Licence application from:

- Ausgrid
- Essential Energy
- Transgrid.

All submissions broadly supported the Licence application. A summary of the submissions and our comments can be found in [Appendix A](#).

Seek Comment



1. Do you agree with IPART's draft recommendation that the Minister grant ACERZ a transmission operator's licence? If not, why?

Chapter 3 »

Proposed Licence conditions

03

3.1 Process for determining appropriate licence conditions

In preparing these draft Licence conditions we have:

- applied our licensing principles (section 1.4)
- considered the licence conditions of other licensed network operators
- been guided by the objects and other requirements of the ES Act.

3.2 Consideration of other licences

IPART reviewed the 4 existing network operator licences (Ausgrid, Endeavour Energy, Essential Energy and Transgrid) in 2022.¹³ This review, directed by the former Minister, assessed whether the network operators' licences remained appropriate by ensuring that the licences reflected current public expectations and regulatory practices. In that review, we recommended licence conditions that are mostly consistent across the 4 licences. Consistency in licence conditions assists in the reporting and auditing of compliance with conditions, benchmarking network operators' performance (where appropriate), and reporting to the Minister.

There are some differences between a REZ transmission system and Transgrid's transmission system and a distribution system. For example, the primary benefit of a REZ transmission system is to facilitate the wholesale electricity market, meaning sufficient energy available at a lower cost.^a Nevertheless, we considered whether we should recommend aligning licence conditions for ACERREZ with aspects of the other licences.

In many cases, we have proposed licence conditions that are broadly consistent with the licence conditions imposed on other licenced network operators. However, in other cases, we have:

- made adjustments to how and when they take effect. This is particularly applicable for ACERREZ since the transmission system has not yet been built
- improved the readability of the draft licence conditions. The licence conditions have been drafted differently but impose the same or a similar obligation
- introduced obligations unique to ACERREZ, including reliability and performance standards appropriate to the REZ context, to be a member of an external dispute resolution scheme, to maintain financial capacity and maintain appropriate insurance. These conditions are intended to help support the safe and reliable operation of the CWO-REZ Transmission System.

^a Whereas the primary benefit of Transgrid's network or a distribution system is to maintain reliable supply of electricity for consumers.

3.3 Draft Licence conditions

3.3.1 National Electricity Market registration

Draft recommendation

2. That an ACERERZ licence include conditions that require ACERERZ to ensure it and all network operators of the transmission system:
- are registered or exempt from the requirement to be registered as a network service provider under the National Electricity Rules (NER), or hold any equivalent authorisation or right of participation in any national electricity market, and
 - satisfy the technical and prudential criteria that each entity is required to meet as a condition of its registration or exemption above, and as an intending participant under the NER.

In its application, ACERERZ indicated that it is registered as an Intending Participant and intends to register as a network service provider with the Australian Energy Market Operator (AEMO), while meeting all associated technical and prudential criteria. Given ACERERZ are expected to obtain and maintain registration under the NER we see little additional burden associated with including this condition in the licence.

We consider there are benefits to reflecting this obligation as a licence condition and to require ACERERZ to continue to meet the conditions of its registration. Without this licence condition:

- the Minister and Tribunal may not be able to take enforcement or other action if ACERERZ's National Electricity Market (NEM) registration or exemption ceases (for example, in the event the licence holder is deregistered from the NEM), or ACERERZ breaches a condition of its registration, including:
 - exercising step-in rights under the ES Act¹⁴, which can only be exercised where a network operator's licence has been cancelled or the network operator has contravened the ES Act, regulations or a licence condition, or
 - cancelling the licence (or taking other enforcement action) for breach of a licence condition
- IPART's ability to gather information on the network operator's compliance with NER obligations would be more limited.

As a result, we consider that these licence conditions prevent harm and provide a net benefit to society. We propose to supplement these licence conditions with the minimum necessary reporting requirements.^b

^b In line with general licence condition annual reporting requirements, Network Operators need only report non-compliances with licence conditions by exception annually.

In our draft condition, we have proposed a transition period of 9 months (or another date nominated by ACERREZ and approved by IPART) to give ACERREZ sufficient time to apply for and obtain registration.

In the meantime, ACERREZ has indicated it has registered as an intending participant under the NER. We propose requiring ACERREZ to ensure it satisfies technical and prudential criteria imposed as a condition of its registration as an intending participant under the NER from commencement of the licence.

Seek Comment



2. Do you agree with our proposed licence condition to obligate ACERREZ to be registered in the NEM? If not, why?

3.3.2 Financial capacity

Draft recommendation



3. That an ACERREZ licence include conditions that require ACERREZ to:
 - maintain financial capacity to operate the transmission system in connection with ACERREZ's obligations
 - notify IPART immediately if ACERREZ reasonably suspects one of the following events affecting it or one of its partners is likely to occur or has occurred:
 - it is unable to pay all its debts as and when they become due
 - an insolvency official is appointed to any part of its business
 - an application or order is made, resolution passed, or steps taken to pass a resolution for its winding up or dissolution
 - any other event that may adversely impact its financial capacity to operate the transmission system in connection with its obligations
 - notify IPART as soon as reasonably practicable if there is a change of control of the licence holder.
 - where IPART has been notified above, if circumstances change then ACERREZ must notify IPART of that as soon as possible.

We consider that a condition requiring financial capacity of the licence holder would help support the safe and reliable operation of the CWO-REZ network and reliable electricity supply in NSW. It would also ensure IPART is notified if ACERREZ becomes at risk of, or unable to, operate the transmission system due to financial incapacity.

Our draft recommendation that ACERERZ be granted a licence, is in part based on the capacity and experience of its partners. The draft condition will ensure IPART is notified of a change in control of any of the partners and, if need be, can consider any implications for its regulatory and compliance approach. We consider this obligation is low burden but we are interested in hearing from stakeholders on this draft condition.

While we expect the risk of financial incapacity is low, this condition enables a mechanism for the network to continue to operate safely and reliably if the licence holder is unable to, due to financial incapacity. If ACERERZ were to breach this condition (i.e. by failing to maintain financial capacity), it could provide a trigger for the Minister to issue a network administration order and, following that, IPART to exercise step-in rights under Part 6A of the ES Act.

Without this licence condition, the Minister and Tribunal may not be able to take enforcement or other action if ACERERZ is unable to operate the transmission system due to financial incapacity (or prepare for this when financial incapacity is likely), including:

- exercising step-in rights under the ES Act, which can only be exercised where a network operator's licence has been cancelled or the network operator has contravened the ES Act, regulations or a licence condition, or
- cancelling the licence (or taking other enforcement action) for breach of a licence condition.

We consider this condition to be low in cost but provide protections against a very low likelihood but high consequence outcome. This proposed licence condition to provide reports (by exception) is a low additional burden on ACERERZ. The consequences associated with the financial insolvency of ACERERZ could be much greater, including the network ceasing to operate.

Seek Comment



3. Do you agree with the inclusion of a new licence condition relating to financial capacity? Please expand on your answer

3.3.3 Conditions to maintain appropriate insurance

Draft recommendation



4. That an ACERERZ licence include conditions that require ACERERZ to:
 - maintain insurance of an appropriate type, scope and limit that is adequate to cover the licence holder's liabilities in connection with its operation of the transmission system having regard to the nature and risks associated with its operation of the transmission system in accordance with the licence, the ES Act and regulations
 - provide certificates of currency of insurance it is required to hold above to IPART and notify IPART of certain changes.

The ES Act provides that the Minister may impose “a condition requiring the holder of a licence to maintain specified insurance cover in respect of specified risks”¹⁵.

We understand that there are already extensive insurance provisions in the contractual arrangements to be entered by ACERZ and EnergyCo that require ACERZ to hold a range of specified insurances, to specified levels. Our proposed licence condition may provide a level of transparency and public confidence that the contractual arrangements may not provide. Further, this condition allows IPART, and strengthens the ability of the Minister in addition to the contractual obligations, to monitor and enforce compliance with the requirement to hold appropriate insurance. We consider the burden of ACERZ complying with this condition is low.

We consider this condition may be in the public interest and help promote confidence in the safety and reliability of the electricity supply. Operating a transmission system carries risks and, while they can be very unlikely, these could be of high consequence and often impacting third parties such as the public. In the event of an incident impacting the public, monetary compensation could be high and without appropriate insurance, this could destabilise the ability of ACERZ to continue to operate the network. This condition could help assure the public that ACERZ's insurance cover is appropriate.

Seek Comment



4. Do you agree that the licence should include a condition requiring the maintenance of insurance? If not, why?

3.3.4 Reliability and performance standards

Draft recommendation



5. We propose including reliability and performance conditions that provide for:
- reliability performance standards of:
 - reliability standard of 99.75%, and
 - availability standard of 99.963%
 - annual reporting of the:
 - actual reliability for the transmission system
 - actual availability of the transmission system
 - breakdown of the percentage contribution of each from different components of the transmission system
 - when either the reliability standard or availability standard is not met, ACERZ to submit:
 - an investigation report, and

- if required, based on cost-benefit analysis, a rectification plan or a report articulating why there is no solution with a net positive benefit or why augmentation to the network is needed
- how actual reliability and actual availability must be calculated, including providing for the exclusion of events which are beyond ACERERZ's control from the calculation.

The ES Act requires the Minister to impose “conditions that impose specified performance standards for the reliability of operation of a transmission system and provide for reliability performance monitoring and reporting”¹⁶. In addition, the objects of the ES Act include “... to deliver a safe and reliable supply of electricity”¹⁷.

In recommending these reliability standards, we first considered the role and objectives of the licence in regulating reliability. We had regard to the authority and influence of ACERERZ to address the causes of unplanned interruptions, the primary benefit that comes from increasing reliability and the interaction between licence standards and the penalty incentive scheme that applies under the contractual framework to be entered by ACERERZ and EnergyCo.

We have proposed reliability and availability standards that protect the public and consumers' interests by supporting the reliable use of the ACERERZ network to facilitate the market (i.e. allowing REZ generation to access the NEM). These standards:

- set a base level of performance which ACERERZ is generally expected to meet, but would trigger certain actions within the licence if the standards are not met. Failure to meet the standards would not be a breach of the licence since we expect ACERERZ will not meet these levels approximately every 1 in 10 to 1 in 20 years even if the network was operating in line with a 'benchmark' level of performance
- require ACERERZ to investigate the cause(s) where it fails to meet the standards, and prepare and implement a rectification plan in some cases. Failure to investigate the cause(s) or implement a rectification plan in accordance with the licence would result in a breach of the licence.

We considered options for reliability and performance standards

We reviewed other reliability and performance schemes, including:

- **Transgrid's licence reliability and performance standard.** This is a planning standard focusing on the benefit of reliability to customer's supply. We found that this standard is not appropriate for ACERERZ for the following reasons:
 - Unlike Transgrid, the primary benefit of reliability in ACERERZ's network is to facilitate the market (i.e. allowing REZ generation to access the NEM).
 - Unlike Transgrid, ACERERZ is not the planner for the ACERERZ network (this role is carried out by EnergyCo, as the Infrastructure Planner).

- While Transgrid operates an open network where demand is expected to increase, the maximum supply into the ACERREZ network is governed by an access scheme administered by EnergyCo. This is relevant since increases in loads are expected to drive exceedances (and work such as network augmentations) under the Transgrid licence reliability and performance standard. In contrast, increases in maximum supply is not expected to happen under the ACERREZ arrangement unless EnergyCo approves additional generation connections.
- **The Australian Energy Regulator's (AER) transmission Service Target Performance Incentive Scheme (STPIS)** operates as a reward/penalty incentive scheme and applies to Transgrid's network (this does not apply to ACERREZ since EnergyCo's penalty incentive framework exists instead under the contractual framework to be entered by ACERREZ and EnergyCo). The STPIS contains measures of the performance of the overall transmission network (not measures of individual bulk supply or other connection points) with separate components focused on:
 - Service Component: managing interruptions of the supply of electricity to consumers. This involves an unplanned outage rate and a maloperation event count.
 - Market Impact Component: managing the effect of the network on the wholesale market, (i.e. constraints on generation output due to outages of the transmission network). This is measured as counts of the number of dispatch intervals where a network outage has caused constrained generation with a marginal value greater than \$10/MWh.^c This measure applies to planned and unplanned interruptions.

We did not pursue this option for the following reasons:

- The Service Component is less relevant to the ACERREZ network, since parts of it measure unserved consumer load while other parts (those that are direct measures of asset performance) somewhat duplicate the availability measure proposed.
- The AER is currently reviewing the Market Impact Component and the measures within it are therefore subject to change. Therefore, as the AER's scheme changes, any benefit from aligning the licence measures with the AER's measures to achieve transparency of performance and comparability of performance (i.e. with other REZ and Transmission Network Service Providers) is eroded.
- **The distributors' licence reliability and performance standards.** These standards^d set various thresholds, including for individual feeder performance, based on the SAIDI and SAIFI measures.^e The licences establish an investigation and rectification process which the licence holder must apply if these standards are exceeded. Since the SAIDI and SAIFI measures relate to customer experience, these are not relevant to the ACERREZ network (which does not supply customers directly). However, we have sought to replicate the investigation and rectification approach of these conditions for the ACERREZ licence.

^c This is not a direct measure of the amount of constrained energy or the overall price impact, rather a count of significant network constraint events.

^d Effective from 1 July 2024.

^e System Average Interruption Duration Index (SAIDI) and System Average Interruption Frequency Index (SAIFI) are industry standard measures used at the distribution level to represent the total duration (SAIDI) or frequency (SAIFI) that the average customer has sustained interruptions of supply over a defined period.

- **EnergyCo's network operator performance regime framework**, implemented through the contractual arrangements to be entered by ACERREZ and EnergyCo. This framework is a penalty incentive scheme which places the annual revenue of ACERREZ at risk, with no upside incentive. We found that the measures within this framework, for reliability and availability, are appropriate for adaption in the reliability and performance standards in the licence. However, there will need to be some modifications in the licence conditions to the approach taken in the contractual framework. The contractual framework provides for adjustments to contractual payments where a target is not met down to a minimum level, which we do not consider would be suitable for a licence condition. Instead, we propose the licence conditions would set a single benchmark standard for each measure. In addition, the alignment of the licence measures, and the approach to calculating actual reliability and availability, with those in the contractual framework is expected to facilitate efficient compliance with licence conditions by licensee. These measures and how we propose to apply them in the licence are discussed further below.

ACERREZ will measure reliability and availability

Under the contractual arrangements to be entered by ACERREZ and EnergyCo, ACERREZ will measure reliability and availability as part of their incentive framework.

The reliability measure:

- is a direct measure of how much REZ generation energy is curtailed through unplanned outages on ACERREZ network components
- is the percentage of energy, calculated as the energy supplied by the REZ over a period divided by the energy that would have been supplied if no unplanned outages had occurred (i.e. if no outages occur, then the reliability measure will be 100%)
- has adjustments to exclude the effects of outages that are not primarily caused or under the control of the operator.

The availability measure:

- uses a direct measure of the time that physical network assets are unavailable due to unplanned outages
- is defined as a single percentage availability, with a methodology set to reflect the composite effect of the availability of all the key assets that constitute the REZ network
- weights asset groups according to their criticality to providing the service (i.e. lines and transformers have a higher weighting than switch bays and secondary equipment)
- has adjustments to exclude the effects of outages that are not primarily caused or under the control of the operator.

We propose reliability and availability standards for the Licence

The draft Licence conditions require ACERREZ to measure and report against reliability and availability standards (99.75% and 99.963%, respectively) and then take action if these standards are not met. This requirement seeks to ensure ACERREZ properly investigates and rectifies causes of excessive unplanned interruptions. Importantly, the conditions exclude unplanned

interruptions that are outside the reasonable control of ACERZ (e.g. a flood impacting the network).

The proposed licence conditions use the same reliability and availability measures, albeit in a different way and for a different purpose, as used in the contractual arrangements to be entered into between ACERZ and EnergyCo. In calculating these values, certain events outside of the control of ACERZ are excluded. For example, these include events caused by disaster (such as bush fire, flood, storm, etc), damage or interference not caused by the network operator or its associates, unplanned outages for safety or to comply with the law or direction of an authority, and others. The modelling to arrive at the reliability and availability standards allowed for these exceptions.

The proposed standards were developed in two main stages:

1. Modelling the estimated confidence levels on reliability performance in terms of system reliability and availability.
2. Developing the system reliability and availability standards that are set at levels which ACERZ would be expected to meet, for most years, given a 'benchmark' level of performance. This helps to identify potential degraded operation of the ACERZ network.

We consider that the reliability and performance standards should require ACERZ to report against a typical minimum expected level of service. For this reason, we engaged Dr Brian Nuttall from Nuttall Consulting to provide expert advice on the proposed framework and associated reliability standards. Reliability and availability standards have been identified, which modelling indicates would not be met in approximately 1 in 10 to 1 in 20 years if the network was operating in line with a 'benchmark' level of performance (where this 'benchmark' performance reflects the outage rates and restoration times assumed to set the Transgrid licence condition).

We consider that these standards complement the contractual performance regime between ACERZ and EnergyCo, not duplicate it. We consider the contractual framework provides a financial incentive for ACERZ to maintain and improve overall network reliability, while the proposed licence standards and framework:

- provides a transparent 'safety net' outcome, or expected typical minimum threshold, for consumers and the community¹⁸
- ensures ACERZ or EnergyCo^f are not encouraged to invest in improving reliability where the benefits to customers do not exceed the costs
- strikes a good balance between the costs incurred on ACERZ and consumers and community benefits associated with these levels of reliability
- allows for IPART and the Minister to utilise the licence enforcement provisions under the ES Act where ACERZ does not comply with the proposed investigation and rectification requirements.

^f EnergyCo determines the network configuration while the standards apply to ACERZ through the licence.

Investigation and rectification

We recommend that when ACERZ does not meet the reliability or availability standards, it must investigate the causes of that failure and implement any rectification work.

We propose that the investigation report must, to the Tribunal's satisfaction:

- identify the cause(s) of exceeding the standard, including analysing (as relevant) any one-off events and previous performance trends
- where the cause(s) of exceeding the standard have been rectified, identify the steps taken to rectify the causes and when those steps were completed
- where the cause(s) of exceeding the standard have not yet been fully rectified, identify any reasonable solutions that can be implemented to rectify the causes and improve conformance with the standard, including:
 - whether each solution:
 - involves expenditure on an asset that is part of the transmission system (network option), or
 - does not involve expenditure on an asset that is part of the transmission system (non-network option), and
 - the steps required to implement each solution, and
- include any other matter notified to the licence holder by the Tribunal in writing.

We propose that the Tribunal would have the ability to require ACERZ to undertake further investigation and reporting where the Tribunal is not satisfied that the investigation report satisfies the above requirements.

We propose that the rectification report must, to the Tribunal's satisfaction:

- set out the solutions the licence holder will implement to rectify the causes of exceeding the standard
- identify the timeframes for completing the steps required to implement the solutions, and
- apply the following principles:
 - the solution(s) must be subject to a cost-benefit analysis, using the cost-benefit methodology defined in the RIT-T⁹ (where relevant), and must demonstrate a positive net benefit;
 - all reasonable steps to improve conformance with the standard should be taken;
 - the timeframe for rectification should be as short as reasonably practicable;
 - implementation of the rectification plan must commence no later than 6 months from the date the investigation report is completed; and
 - solutions involving a 'non-network option' are preferred where they are equal or more cost-effective than a network option.

⁹ The RIT-T (Regulatory investment test for transmission) is a procedure to identify the transmission investment option which maximises net economic benefits and, where applicable, meets the relevant jurisdictional or Electricity Rule based reliability standards.

Like the investigation report, we propose the Tribunal would be able to require ACERZ to modify the rectification plan if the Tribunal considers that the plan has not been prepared to the above requirements.

We consider it important that rectification plans do not lead to over investment in the network or undue costs for ACERZ. For this reason, we consider rectification plans should be subject to a cost-benefit analysis, using the cost-benefit methodology defined in the RIT-T (where relevant), and must demonstrate a positive net benefit. Importantly, these requirements mean the standards do not encourage ACERZ to invest in improving system reliability or availability where the benefits to customers do not exceed the costs.

There are some circumstances where we consider it would not be appropriate to require ACERZ to prepare a rectification plan. These include where ACERZ determines:

- there is no solution that demonstrates a positive net benefit for the purpose of improving conformance with the standard, or
- the only available solution(s) that demonstrate a positive net benefit would require an augmentation to the network infrastructure project it is authorised by the Consumer Trustee to carry out under the EII Act.

This approach recognises that rectification work may not be appropriate in all circumstances, and that EnergyCo (as Infrastructure Planner) would be responsible for co-ordinating any augmentation of the network.

Where the above circumstances apply, instead of a rectification plan, we propose ACERZ would be required to report to IPART setting out:

- the potential solutions it considered
- the results of its cost-benefit analysis
- if it determined that there is no solution that demonstrates a positive net benefit, the reasons for that conclusion
- if it determined that the only available solution(s) that demonstrate a positive net benefit would require an augmentation to the network, details of the augmentation(s) that would be required.

This approach is broadly consistent with that which IPART recommended in our review of the [Electricity Distribution Reliability Standards 2020](#) (for example, in relation to individual feeder reliability standards). Differences include strengthening the ability of the Tribunal to require further investigation and modifications to rectification reports, and changes to circumstances and reporting where a rectification plan is not required.

Reporting and auditing

To ensure that the costs of reporting and auditing are commensurate with the benefits, we consider that it would be appropriate to require annual reports on compliance with this condition and to give IPART the discretion to decide on the frequency and scope of audits based on reported reliability performance.

Our draft recommendation is that annual compliance reporting is appropriate and relatively low risk compared to more frequent reporting. This is consistent with our previous recommendations for distributor reliability and performance standards.

In addition, we recommend an obligation for ACERZ to report on the actual reliability and availability levels for each separable portion of the transmission system. This will allow for the ability to monitor and identify changing performance over time and identify emerging trends as a lead indicator.

IPART expects to maintain a reporting manual which will set out more detailed reporting requirements and can include the timing of reporting. We propose to allow the Tribunal to adjust the timing of the reporting requirements through its reporting manual if it finds cause for more or less frequent reporting. A move from annual reporting would include a stakeholder consultation process.

We apply a similar risk-based approach to compliance auditing. We consider it would be more appropriate to provide the Tribunal with the discretion to call for an independent audit with a tailored audit scope as it finds appropriate. Audits would be based on an assessment of risk and likelihood of non-compliance and could for instance, be in response to information received about failure to comply or possible failure to comply.

Implementation

We recommend that the licence conditions apply from first energisation of the transmission system (the date that electricity first flows through the connection points(s) between ACERZ's transmission system and Transgrid's transmission network).

The formulae for calculating actual reliability and availability performance account for the state of the network and whether generators are relying on the network to transmit power to the NEM. Therefore, we consider that there are inherent transition arrangements built into the measures where components of the transmission system are commissioned and commence operation at different times.


Seek Comment



5. Are there any barriers to ACERZ complying with our proposed reliability and performance standards?

3.3.5 Business continuity and disruptions

Draft recommendation

-  6. That an ACERREZ licence include conditions that require ACERREZ to:
- develop and maintain a documented system (business continuity plan, or BCP) to identify, assess and manage business continuity risks and manage business disruptions associated with the design, construction and operation of the transmission system, and
 - ensure that all network operators of the transmission system implement and comply with the BCP.

The ES Act requires the Minister to impose conditions ensuring that a licenced network operator “has arrangements in place to identify, assess and manage business continuity risks and manage business disruptions”¹⁹. In addition, an object of the ES Act is to “ensure that any significant disruption to the supply of electricity in an emergency is managed effectively”²⁰.

The draft licence condition seeks to facilitate ACERREZ in identifying and preventing or reducing business continuity risks where possible, preparing for risks out of their control, and responding to and recovering if an incident or crisis occurs.

We consider the BCP should cover both the operation of the network as well as design and construction. Business continuity during the operation of the network has a direct bearing on the reliability of the network. The network that is the subject of the application is also an important step towards the transition of electricity supply in NSW from largely non-renewable generation to renewable generation. In this light, we consider that the BCP obligation should also apply to the design and construction of the network.

To allow time to develop the BCP, we propose a transition period of 6 months after the commencement of the licence (or a later date nominated by ACERREZ and approved by IPART). We understand that ACERREZ has already developed risk registers associated with the construction of the network and has contractual incentives to deliver the CWO-REZ project on time. We do not recommend specifying the form of the BCP, so that ACERREZ has flexibility to comply in an efficient way. We therefore consider the additional burden of ACERREZ complying with this condition to be low. We will also impose minimum reporting obligations.

All other network operator licences have a requirement in place to identify, assess and manage business continuity risks and manage disruptions, as required by the ES Act.

Seek Comment

-  6. Do you agree with our draft business continuity conditions?

3.3.6 Critical infrastructure

Draft recommendation

7. That an ACERZ licence include conditions that require ACERZ to:
- maintain a substantial operational presence in Australia, including for maintenance of the transmission system
 - ensure the transmission system, including all associated ICT infrastructure, can only be accessed, operated and controlled from within Australia and is not able to be accessed, controlled or operated by a person from outside Australia
 - have citizenship, residency and security clearance requirements for certain roles including members of its board, and senior officers with responsibility for operational technology, network operations and security operations
 - ensure the following data is held solely within Australia and accessible only by approved people from within Australia:
 - operational technology information
 - load data and bulk personal data
 - third-party data
 - maintain security controls to prevent the export of bulk personal data
 - comply with reporting and auditing provisions to allow IPART to monitor performance
 - seek approval from the Commonwealth Representative (First Assistant Secretary responsible for critical infrastructure security in the Commonwealth) for arrangements made prior to the commencement of the licence that allow a service provider or contractor to hold, use or access certain information, and terminate those arrangements if approval is not granted.

The ES Act requires that the Minister impose on each licence "conditions for ensuring that a network operator maintains a substantial operational presence in Australia"²¹. Such conditions are in all existing licences. These conditions support supply security and sovereignty, including cyber security. They require work to be conducted, and information to be retained, within Australia.

The proposed critical infrastructure licence conditions are expected to support supply chain resilience, leading to greater reliability of the network. These conditions also help protect against foreign cyber threats, which are beyond Australian laws and powers, that can threaten the reliability of the network.

These draft licence conditions on critical infrastructure are broadly consistent with the conditions in the current licences. Consistency in licence conditions assists in the reporting and auditing of compliance with conditions, benchmarking network operators' performance (where appropriate), and reporting to the Minister. However, they differ from the existing licences in the following ways:

- **Plain English and structural changes:** We have made plain English and structural changes to improve the readability of the licence conditions. The obligations are generally the same or similar to obligations imposed under the existing licences.
- **A provision dealing with prior arrangements.** Arrangements may have been made prior to the commencement of the licence which contravene the proposed conditions to hold specified data solely within Australia. To ensure that the Commonwealth Representative has oversight of these arrangements, we propose requiring ACERZ to terminate those arrangements, unless the Commonwealth Representative agrees to the arrangements within specified timeframes.

Review of critical infrastructure licence conditions

IPART is currently reviewing the critical infrastructure licence conditions of existing licences. In this review, we will consider:

- the interaction and potential duplication of these conditions against the requirements of the *Security of Critical Infrastructure Act 2018 (Cth)*, and
- the appropriateness of critical infrastructure licence conditions for all the existing licences, and the ACERZ Licence if it is granted.

IPART may recommend the Minister to amend critical infrastructure licence conditions in all network operator licences as part of this review. We expect this review will be completed towards the end of 2024.

Seek Comment



7. Do you agree with our draft critical infrastructure conditions? If not, why?

3.3.7 Conditions relating to management systems

Asset management system

Draft recommendation



8. That an ACERZ licence include conditions that require ACERZ to certify and maintain an asset management system (AMS) to a recognised standard.

We consider that a condition requiring an AMS is important for ACERERZ. An AMS supports a number of the objects of the ES Act, and in particular, is expected to assist ACERERZ to efficiently comply with safety, reliability and other regulatory obligations.

An electricity system such as that proposed by ACERERZ consists of high value physical assets located in the public space and exposed to nature's elements. Ensuring the assets are proactively managed will help support their purpose, being to efficiently, safely and reliably convey electrical power.

An AMS helps to support the measurement and reporting of performance against the electricity network safety management system (ENSMS).²² ACERERZ will be required to publish the results of its AMS performance measurements annually, in support of its ENSMS performance reporting.²³

AS ISO 55001:2014 Asset management – Management systems – Requirements (AS ISO 55001) is a relevant standard applied in the electricity industry and is used in other network operator licences. It provides a framework in establishing, implementing, maintaining, and continually improving an AMS.

Certification of the AMS provides IPART with a level of assurance that the network operator has an effective system for managing its assets. Certification may have the effect of minimising regulatory burden on ACERERZ as it allows IPART, applying its risk-based regulatory model, to limit audit and assurance activity where we consider that risks are minimised by an effective, certified AMS.

Without this licence condition, there is a risk that over time, ACERERZ may choose not to maintain an AMS that is compliant with AS ISO 55001 or a similar standard.

We have considered the costs and benefits of this recommended condition:

- The requirement for an AMS aligns with the contractual arrangements to be entered into between ACERERZ and EnergyCo. We therefore consider that compliance with this licence condition would come at a low cost (there would be a small potential cost of conducting any audits and actions from these audits).
- In addition to the benefits described above, this licence condition is in the public interest as it provides a level of public confidence that the contractual arrangements may not provide. Further, this condition allows IPART and the Minister to monitor and regulate against this obligation. It would also make clear to the public what the expectations for asset management are for ACERERZ as a licensed network operator and facilitate public reporting^h.

All other network operator licences have a requirement for a certified AMS to AS ISO 55001.

^h Through IPART's annual report to the Minister.

Environmental management system

Draft recommendation

9. That an ACEREZ licence include conditions that require ACEREZ to certify and maintain an environmental management system (EMS) to a recognised standard.

We consider that a condition requiring an EMS is appropriate for ACEREZ. An EMS obligation is consistent with the objects of the ES Act, which include “to promote the efficient and environmentally responsible production and use of electricity”²⁴.

We expect ACEREZ, through its operation of a large electricity network in public and environmentally sensitive land, is at risk of causing environmental impacts if left uncontrolled. We expect the operation of the network to involve risks to the ecology (including vegetation, wildlife and biodiversity) and Aboriginal cultural heritage. These risks could arise from pollution (e.g. insulation material), inappropriate resource use (including water use and run off during construction), inadequate waste management and poor environmental incident management.

We expect an EMS would provide the following benefits:

- Provide a system for proactively controlling environmental risks before they manifest themselves in environmental damage.
- Apply conditions on ACEREZ to be a responsible environmental neighbour within the Central West Orana community by providing a structured and integrated approach to managing any environmental impacts.

We consider *AS/NZS ISO 14001:2016 Environmental management systems – Requirements with guidance for use (AS/NZS ISO 14001)* to be a relevant and desirable standard for an EMS. AS/NZS ISO 14001 is an internationally recognised industry standard, used in other network operator licences. It sets out a systemic response to managing environmental risk and compliance, using the plan, do, check, act model. It specifies requirements for an EMS that ranges from planning, documentation, training and competence, communication, resourcing emergency response, monitoring and evaluation and continual improvement.

Certification against this standard would ensure the EMS is comprehensive, implemented and that ACEREZ continues to update and maintain their system. It also efficiently provides assurance to IPART for compliance.

We have considered the costs and benefits of this draft condition:

- The requirement for an EMS aligns with the existing contractual arrangements to be entered into between ACEREZ and EnergyCo. We therefore consider that compliance with this licence condition would come at a low cost (there would be a small potential cost of conducting any audits and actions from these audits).

- In addition to the benefits described above, this licence condition is in the public interest as it provides a level of public confidence that the contractual arrangements may not provide. Further, this condition allows IPART and the Minister to monitor and regulate against this obligation. It would also make clear to the public what the expectations for environmental management are for ACEREZ as a licensed network operator and facilitate public reporting.ⁱ

All other network operator licences have a requirement for a certified EMS.

Seek Comment



8. Do you agree with our draft licence conditions requiring ACEREZ to develop, maintain and certify AMS and EMS systems? If not, why?

3.3.8 Conditions relating to compliance, reporting and fees

Draft recommendation



10. That an ACEREZ licence include conditions that require ACEREZ to:
- report, give notices and provide information in accordance with IPART's reporting manuals
 - prepare and submit additional reports when notified by IPART to do so
 - audit when notified to do so by IPART in accordance with IPART requirements and audit guidelines
 - maintain internal systems for compliance
 - on IPART's request, provide IPART with information including statistical and performance indicators
 - pay licence fees as determined by the Minister (or their delegate).

The ES Act provides that the Minister may impose a licence condition requiring the network operators to exercise their functions under the ES Act "in accordance with specified guidelines or subject to specified restrictions"²⁵. This draft licence condition facilitates the efficient reporting, auditing and monitoring of ACEREZ's compliance, including the collection of licence fees.

Self-reporting and independent audits are important features of a compliance regime. For our compliance activities, we intend to take a risk-based approach, balancing the regulatory burden of compliance arrangements with the likelihood of non-compliance and risks to the community.^j

ⁱ Through IPART's annual report to the Minister.

^j This is in accordance with our [Compliance and Enforcement Policy](#).

In the absence of these licence conditions regarding reporting (including compliance with reporting manuals, provision of statistical and performance indicators and provision of ad-hoc information requests) and auditing, IPART's ability to perform our compliance monitoring functions would be reduced. We would not be able to require ACERZ to comply with specific reporting requirements and hence determine the type of information reported to us.

In addition, there would be no other basis through which to require audits be conducted (unless IPART wished to carry out the audit itself or engage an auditor to carry it out), noting that audits are a key tool we use to independently assess compliance. Related to the auditing function is an obligation to maintain internal systems for compliance. This is important since auditors can then target the systems behind the results and make constructive recommendations to improve compliance.

The information gathered through this proposed licence condition will allow IPART to:

- adequately review ACERZ's performance against their licence conditions and their safety management systems
- investigate and assess compliance
- determine whether ACERZ is meeting its obligations under the ES Act, regulations and licence
- identify immediate risks and long-term trends
- identify trends that signify emerging issues across the industry with a view to developing measures or supporting industry initiatives where appropriate.

The existing licences include provisions for the licence holder to pay licences fees determined by the Minister. In the past, the Minister has required the licensee to pay a licence fee through this licence condition each year. We recommend imposing a similar licence condition for ACERZ.


Seek Comment



9. Do you agree with our proposal to include a licence condition on compliance, fees and reporting? If not, why?

3.3.9 Conditions relating to external dispute resolution

Draft recommendation

-  11. That an ACERERZ licence include conditions that require ACERERZ to:
- become a member of the Energy and Water Ombudsman (EWON) or another approved external dispute resolution scheme, and
 - publish and maintain information on its website providing information about the dispute resolution scheme.

This draft licence condition provides an external dispute resolution mechanism, for dealing with disputes and complaints, by the licence holder's customers, electricity consumers, and the community. Examples of the types of matters that could arise include access to private property (e.g. gates to farmland being left open) and restoration of damage.


The August 2023 parliamentary inquiry into the *Feasibility of undergrounding the transmission infrastructure for renewable energy projects* recommended:

"That the NSW Government consider the creation of an independent ombudsman to oversee consultation upon, and rollout of, renewable energy projects and transmission infrastructure in New South Wales and to receive and handle complaints about these processes."

Our draft recommendation is in line with the recommendation of this inquiry.

We note that licensed distribution network operators are required under the ES Act²⁶ to be a member of an approved energy ombudsman scheme (e.g. EWON). The ES Act does not require a transmission network operator to be a member of any such scheme. Transgrid is a voluntary member of EWON, and we see benefits in formalising this arrangement for ACERERZ through a new licence condition.

Seek Comment

-  10. Do you agree with our draft licence condition for ACERERZ to become a member of an approved energy ombudsman scheme? If not, why?

3.4 Commencement of these licence conditions

We propose to introduce draft licence conditions in a way that is aligned to the expected construction and energisation timelines of the CWO-REZ Transmission System. This strategy will provide ACERERZ with the necessary time to prepare, test and implement the relevant systems to meet their licence condition obligations. It also means that conditions are introduced in line with the risk they are controlling against. Table 2 below provides a summary of the dates for compliance with the draft licence conditions.

Table 2 Proposed transitional arrangements for all licence conditions

Commencement date	Licence condition
Commencement of licence (Commencement)	<ul style="list-style-type: none"> Condition 3 Technical and prudential criteria (as an intending participant) Condition 4 Financial capacity Condition 5 Maintaining appropriate insurance Condition 8 and Appendix 2 Critical infrastructure (except those listed below) Conditions 10 – 14 Conditions relating to compliance, reporting and fees Conditions 16 – 17 Miscellaneous
4 months after Commencement	<ul style="list-style-type: none"> Appendix 2, clause 1.5(1) (Time for applying for security clearances) Appendix 2, clause 2.3 (Time to apply for an agreement from the Commonwealth Representative and time for the Commonwealth Representative to respond)^a
6 months after Commencement	<ul style="list-style-type: none"> Condition 7 Business continuity and disruptions Condition 15 External dispute resolution scheme
8 months after Commencement	<ul style="list-style-type: none"> Appendix 2, clause 1.5(3) (Time for obtaining security clearances)^a
9 months after Commencement	<ul style="list-style-type: none"> Condition 2 National Electricity Market registration Condition 3 Technical and prudential criteria (as a network service provider)
First energisation date of the electricity assets	<ul style="list-style-type: none"> Condition 6 Reliability and performance standards (including Appendix 1)^b Condition 9 Maintenance and implementation of certified management systems

a. Appendix 2 has various arrangements which have the effect of delaying the obligation.

b. Appendix 1 contains formulae for calculating reliability and availability standards. These formulae inherently imply that availability will begin on first energisation while reliability will begin when energy is first supplied by a generator connected to the network.

Seek Comment



11. Do you have any feedback on the proposed compliance commencement dates for the draft licence conditions?

3.5 We do not recommend other licence conditions

As part of our considerations into possible licence conditions, we considered a number of other licence conditions. We set these out below and the reasons for not recommending these conditions.

3.5.1 NSW Code of Practice for authorised network operators

If ACERZ is licensed, it will be an 'electricity supply authority' for the purposes of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP). The Transport and Infrastructure SEPP is intended to provide a more efficient planning framework for infrastructure in NSW. It confers a range of powers on electricity supply authorities, including to undertake development for the purposes of an electricity transmission network on any land without consent.

Under the ES Act, it is a condition of a licence that the licensee must, in the exercise of functions under section 5.5 (Duty to consider environmental impact) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), comply with requirements imposed by or under regulations made pursuant to section 5.6 of that EP&A Act. This condition has the effect of requiring Ausgrid, Endeavour Energy and Transgrid, as authorised network operators (ANO) (which are public authorities and prescribed determining authorities for the purposes of the EP&A Act), to comply with the *NSW Code of Practice for authorised network operators* (NSW Code of Practice).

The NSW Code of Practice for ANOs states:

"An ANO's access to the "without consent" provisions of the ISEPP^k and its role as a Part 5 determining authority go hand in hand, as access to those ISEPP provisions is accompanied by the duty to consider an Activity's impact on the environment. The legal source of this duty is the prescription of each ANO as a determining authority."

Because ACERZ is not an ANO, the NSW Code of Practice for ANOs will not apply to it. However, it will have the powers of an electricity supply authority under the Transport and Infrastructure SEPP.

We understand that the Department of Planning, Housing and Infrastructure is considering this matter and we therefore are not proposing any further conditions in the Licence.

3.5.2 Strategic Benefit Payments Scheme

The NSW Government is establishing a *Strategic Benefit Payments Scheme* (SBP Scheme). Under the SBP Scheme, private landowners and holders of other interests in land in NSW will receive payments for hosting infrastructure associated with new high-voltage transmission projects, including REZ network infrastructure projects, on their land. If ACERZ is licensed, the SBP Scheme is expected to apply to ACERZ in connection with the CWO-REZ network infrastructure project.

To implement the SBP Scheme, the NSW Parliament recently enacted the *Energy Legislation Amendment (Clean Energy Future) Act 2024* (amending Act). This Act amends the ES Act, the *Energy and Utilities Administration Act 1987* and the *Land Acquisition (Just Terms Compensation) Act 1991* to empower the Minister to:

- issue the Strategic Benefit Payments (SBP) guidelines, and

^k Noting that the NSW Infrastructure Environmental Planning Policy (ISEPP) has been superseded by the State Environmental Planning Policy (Transport and Infrastructure) 2021.

- impose a licence condition requiring holders of transmission operator's licences to make payments in accordance with the SBP guidelines.

These amendments will commence on proclamation.

The Department of Climate Change, Energy, the Environment and Water (DCCEEW) is working with EnergyCo to develop the SBP guidelines. We understand DCCEEW will consult directly with ACERERZ about the proposed licence condition and the SBP guidelines in due course. Since the SBP guidelines are still in development, we have not included a draft recommendation for a SBP licence condition as part of the draft licence package.

Seek Comment



12. Are there any additional comments you wish to make on the draft licence conditions or the draft report?

Chapter 4

Full list of recommendations
and questions



4.1 Recommendations

1.	That the Minister grants ACERREZ a transmission operator's licence with conditions.	13
2.	That an ACERREZ licence include conditions that require ACERREZ to ensure it and all network operators of the transmission system:	19
	<ul style="list-style-type: none"> are registered or exempt from the requirement to be registered as a network service provider under the National Electricity Rules (NER), or hold any equivalent authorisation or right of participation in any national electricity market, and satisfy the technical and prudential criteria that each entity is required to meet as a condition of its registration or exemption above, and as an intending participant under the NER. 	19
3.	That an ACERREZ licence include conditions that require ACERREZ to:	20
	<ul style="list-style-type: none"> maintain financial capacity to operate the transmission system in connection with ACERREZ's obligations notify IPART immediately if ACERREZ reasonably suspects one of the following events affecting it or one of its partners is likely to occur or has occurred: <ul style="list-style-type: none"> it is unable to pay all its debts as and when they become due an insolvency official is appointed to any part of its business an application or order is made, resolution passed, or steps taken to pass a resolution for its winding up or dissolution any other event that may adversely impact its financial capacity to operate the transmission system in connection with its obligations notify IPART as soon as reasonably practicable if there is a change of control of the licence holder. where IPART has been notified above, if circumstances change then ACERREZ must notify IPART of that as soon as possible. 	20
4.	That an ACERREZ licence include conditions that require ACERREZ to:	21
	<ul style="list-style-type: none"> maintain insurance of an appropriate type, scope and limit that is adequate to cover the licence holder's liabilities in connection with its operation of the transmission system having regard to the nature and risks associated with its operation of the transmission system in accordance with the licence, the ES Act and regulations provide certificates of currency of insurance it is required to hold above to IPART and notify IPART of certain changes. 	21
5.	We propose including reliability and performance conditions that provide for:	22
	<ul style="list-style-type: none"> reliability performance standards of: <ul style="list-style-type: none"> reliability standard of 99.75%, and availability standard of 99.963% annual reporting of the: <ul style="list-style-type: none"> actual reliability for the transmission system actual availability of the transmission system 	22

<ul style="list-style-type: none"> – breakdown of the percentage contribution of each from different components of the transmission system 	22
<ul style="list-style-type: none"> • when either the reliability standard or availability standard is not met, ACERZ to submit: <ul style="list-style-type: none"> – an investigation report, and – if required, based on cost-benefit analysis, a rectification plan or a report articulating why there is no solution with a net positive benefit or why augmentation to the network is needed 	22
<ul style="list-style-type: none"> – an investigation report, and – if required, based on cost-benefit analysis, a rectification plan or a report articulating why there is no solution with a net positive benefit or why augmentation to the network is needed 	22
<ul style="list-style-type: none"> • how actual reliability and actual availability must be calculated, including providing for the exclusion of events which are beyond ACERZ's control from the calculation. 	23
6. That an ACERZ licence include conditions that require ACERZ to:	30
<ul style="list-style-type: none"> • develop and maintain a documented system (business continuity plan, or BCP) to identify, assess and manage business continuity risks and manage business disruptions associated with the design, construction and operation of the transmission system, and 	30
<ul style="list-style-type: none"> • ensure that all network operators of the transmission system implement and comply with the BCP. 	30
7. That an ACERZ licence include conditions that require ACERZ to:	31
<ul style="list-style-type: none"> • maintain a substantial operational presence in Australia, including for maintenance of the transmission system 	31
<ul style="list-style-type: none"> • ensure the transmission system, including all associated ICT infrastructure, can only be accessed, operated and controlled from within Australia and is not able to be accessed, controlled or operated by a person from outside Australia 	31
<ul style="list-style-type: none"> • have citizenship, residency and security clearance requirements for certain roles including members of its board, and senior officers with responsibility for operational technology, network operations and security operations 	31
<ul style="list-style-type: none"> • ensure the following data is held solely within Australia and accessible only by approved people from within Australia: <ul style="list-style-type: none"> – operational technology information – load data and bulk personal data – third-party data 	31
<ul style="list-style-type: none"> – operational technology information – load data and bulk personal data – third-party data 	31
<ul style="list-style-type: none"> – load data and bulk personal data – third-party data 	31
<ul style="list-style-type: none"> – third-party data 	31
<ul style="list-style-type: none"> • maintain security controls to prevent the export of bulk personal data 	31
<ul style="list-style-type: none"> • comply with reporting and auditing provisions to allow IPART to monitor performance 	31
<ul style="list-style-type: none"> • seek approval from the Commonwealth Representative (First Assistant Secretary responsible for critical infrastructure security in the Commonwealth) for arrangements made prior to the commencement of the licence that allow a service provider or contractor to hold, use or access certain information, and terminate those arrangements if approval is not granted. 	31
8. That an ACERZ licence include conditions that require ACERZ to certify and maintain an asset management system (AMS) to a recognised standard.	32

9.	That an ACERREZ licence include conditions that require ACERREZ to certify and maintain an environmental management system (EMS) to a recognised standard.	34
10.	That an ACERREZ licence include conditions that require ACERREZ to:	35
	• report, give notices and provide information in accordance with IPART's reporting manuals	35
	• prepare and submit additional reports when notified by IPART to do so	35
	• audit when notified to do so by IPART in accordance with IPART requirements and audit guidelines	35
	• maintain internal systems for compliance	35
	• on IPART's request, provide IPART with information including statistical and performance indicators	35
	• pay licence fees as determined by the Minister (or their delegate).	35
11.	That an ACERREZ licence include conditions that require ACERREZ to:	37
	• become a member of the Energy and Water Ombudsman (EWON) or another approved external dispute resolution scheme, and	37
	• publish and maintain information on its website providing information about the dispute resolution scheme.	37

4.2 Questions

Seek Comment

1.	Do you agree with IPART's draft recommendation that the Minister grant ACERREZ a transmission operator's licence? If not, why?	16
2.	Do you agree with our proposed licence condition to obligate ACERREZ to be registered in the NEM? If not, why?	20
3.	Do you agree with the inclusion of a new licence condition relating to financial capacity? Please expand on your answer	21
4.	Do you agree that the licence should include a condition requiring the maintenance of insurance? If not, why?	22
5.	Are there any barriers to ACERREZ complying with our proposed reliability and performance standards?	29
6.	Do you agree with our draft business continuity conditions?	30
7.	Do you agree with our draft critical infrastructure conditions? If not, why?	32

8.	Do you agree with our draft licence condition requiring ACERERZ to develop, maintain and certify AMS and EMS systems? If not, why?	35
9.	Do you agree with our proposal to include a licence condition on compliance, fees and reporting? If not, why?	36
10.	Do you agree with our draft licence condition for ACERERZ to become a member of an approved energy ombudsman scheme? If not, why?	37
11.	Do you have any feedback on the proposed compliance commencement dates for the draft licence conditions?	38
12.	Are there any additional comments you wish to make on the draft licence conditions or the draft report?	40

Appendices

Appendix A >>

Summary of submissions
on the licence application



Theme	Ausgrid's response	Essential Energy's response	Transgrid's response	IPART's comments
Whether a licence should be granted	Supports the licence application.	Endorses the transmission operator's licence for ACEREZ and that licence conditions mirror those of Transgrid to the greatest extent possible, with required amendments to suit the specific infrastructure ACEREZ will operate.	<p>Transgrid supports:</p> <ul style="list-style-type: none"> • licence conditions that align with the objects of the <i>Electricity Supply Act 1995</i> • that all 'Hub to Project' assets be captured under a prospective ACEREZ licence • licence conditions that are consistent with those applied to Transgrid. <p>Transgrid has stated that while ACEREZ has included the Barigan Creek switching station as part of its core infrastructure in its licence application, Transgrid and EnergyCo are negotiating to transfer the Barigan Creek switching station, once constructed, to Transgrid. At that point it would form part of Transgrid's network.</p> <p>Transgrid proposed developing standalone licence obligations irrespective of commercial negotiations that may be taking place, as it is <i>"in the interest for promoting a robust licencing regime and consumer protection"</i>.</p>	<p>All respondents generally support the granting of a licence to ACEREZ, with feedback on the conditions.</p> <p>IPART sought clarification to the question raised by Transgrid relating to the ownership of the Barigan Creek switching station. We understand that the Barigan Creek switching station currently forms part of the Central-West Orana declared transmission system and, if the Minister grants a licence to ACEREZ, would form part of ACEREZ's network and licence while under construction. When the asset is constructed and transferred to Transgrid, DCCEEW proposes to review the transmission system declaration and licencing arrangements and make any recommendations to the Minister as appropriate to ensure they properly reflect the transfer.</p>
Duplication in licence conditions	Requests IPART to consider all regulatory frameworks applicable to ACEREZ when setting transmission licence conditions, to avoid unnecessary duplication.	If deemed appropriate by IPART, some synergies and efficiencies could be gained through avoiding duplication of performance reporting and compliance audit requirements.	No view.	<p>Both Essential Energy and Ausgrid support the avoidance of duplication.</p> <p>Our licencing principles support this approach as do our draft conditons.</p>
Timing of the commencement of any licence conditions	Supports ACEREZ's request to stagger the compliance of some licence conditions, in particular: <ul style="list-style-type: none"> • any technical, operational, and critical infrastructure related conditions are linked to the date of first energisation of the network, and • further reliability and performance standards and compliance reporting should take effect on the first Infrastructure Completion date. 	No view.	Transgrid encourages IPART to "apply licence conditions relating to management systems, technical and critical infrastructure conditions at the time the licence is granted, rather than at the date of first energisation as proposed by ACEREZ".	<p>We note that Ausgrid and Transgrid have opposing views on the timing of the introduction of licence conditons.</p> <p>We have taken an independent view from these submissions, proposing timing for conditions based on the risk on the people of NSW and to the practicability of ACEREZ to establish compliant systems and construct its network.</p>

Theme	Ausgrid's response	Essential Energy's response	Transgrid's response	IPART's comments
Auditing and compliance	No view.	Essential Energy believes that ACERREZ's performance against the transmission licence conditions should be closely monitored and regulated by IPART, independent of the contractual arrangements with EnergyCo.	Transgrid suggested establishing an audit plan prior to energisation to: <ul style="list-style-type: none"> • assess the required plans and procedures to ensure ACERREZ meet the relevant requirements • assess that the plans and procedures are being implemented. This would provide assurance that the eventual CWO-REZ will be safe, reliable and secure.	We received strong support for independently auditing and closely monitoring compliance with licence conditions. We have recommended reporting and auditing licence conditions.
Other feedback	Seeking further clarity on how future licensing processes will be conducted for future NSW Government REZ projects.	Consideration of future licensing arrangements for distribution level Renewable Energy Zones.		These are outside the scope of our assessment of the application.

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- 1 ES Act, s 93A(2) and 93B(2).
 - 2 *Renewable Energy Zone (Central-West Orana) Order 2024*.
 - 3 ES Act, s 93B(1).
 - 4 Electricity Infrastructure Roadmap.
 - 5 *Electricity Supply (Transmission System) Order 2024*, made under s 93 of the ES Act.
 - 6 AEMO Services, *Notice of Authorisation – Main CWO REZ Network Infrastructure Project*, 4 June 2024.
 - 7 ES Act, s 93B(1).
 - 8 ES Act, s 77(2)(a) and (b).
 - 9 NSW Gazette No. 147 24 April 2024.
 - 10 ES Act, s 93A(2) and 93B(2).
 - 11 *Central-West Orana Renewable Energy Zone - Rationale and basis for EnergyCo's network recommendations*, EnergyCo, May 2024
 - 12 ES Act, s 93B.
 - 13 Review of electricity network operators' licences.
 - 14 Step-in rights are detailed in Part 6A of the ES Act.
 - 15 ES Act, Sch 2 clause 6(2)(d).
 - 16 ES Act, Sch 2 clause 6(5)(a).
 - 17 ES Act, s 3(a).
 - 18 ES Act, Sch 2 clause 6(5)(a).
 - 19 ES Act, Sch 2 clause 6(5)(b).
 - 20 ES Act, s 3(e).
 - 21 ES Act, Sch 2 clause 6(5)(c).
 - 22 In accordance with clause 10 of the *Electricity Supply (Safety and Network Management) Regulation 2014*.
 - 23 We expect IPART's reporting manual for "safety management system performance measurement" would apply.
 - 24 ES Act, s 3(a).
 - 25 ES Act, Sch 2 clause 6(2)(b).
 - 26 ES Act, s 96C.

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ISBN 978-1-76049-749- 1