



Independent Pricing and Regulatory Tribunal

Annual licence compliance report

Electricity network operators and authorised gas
reticulators and distributors

Energy Networks Regulation — Annual Report
October 2016



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1 Executive summary

The Independent Pricing and Regulatory Tribunal (IPART) administers the licensing regimes for energy networks operating in NSW. As part of this role, we monitor and assess the networks' compliance with their licence conditions and other legislated obligations, and report annually to the Minister on the extent to which they met their licence conditions.¹

In addition to our role of monitoring licence compliance, we became the safety regulator for NSW networks and became responsible for monitoring the compliance of TransGrid, Ausgrid and Endeavour Energy with their obligations to comply with employment guarantees until 2020.² These are new obligations that arose following the leasing or partial leasing of these businesses to private operators. For TransGrid which was been issued with a Transmission Operator's licence for the first time in 2015, we also monitor compliance with their critical infrastructure licence conditions and the NSW Code of Practice for Authorised Network Operators³.

This report outlines our main findings on compliance performance for 2015-16. It also summarises trends in complaints about the networks investigated by the Energy and Water Ombudsman of NSW (EWON).

1.1 Overall performance continued to be good

Fifteen energy networks were licensed to operate in 2015-16, including four electricity network operators, seven natural gas reticulators and four liquid petroleum gas (LPG) distributors. The compliance performance of these businesses continued to be good, similar to previous years. In total, they reported five non-compliances with their licence or authorisation conditions during the year, and a further four non-compliances were identified by audits. All these non-compliances were non-material in nature, and had no significant impact on customers. The number of complaints investigated by EWON was also consistent with previous years.

¹ As required under section 88 of the *Electricity Supply Act 1995* (ES Act) and 75A(3C) of the *Gas Supply Act 1996* (GS Act).

² Under Schedule 4 of the *Electricity Network Assets (Authorised Transactions) Act 2015*.

³ NSW Department of Planning and Environment, *NSW Code of Practice for Authorised Network Operators*, September 2015.

Table 1.1 lists all the energy network operators and shows their number of non-compliances.

Table 1.1 Number of licence non-compliances in 2015-16

Licence holder	Non-compliances			Total
	Reported by network operator	Identified by audits	Identified by IPART	
Electricity transmission				
TransGrid	1	TBA ^a		1
Electricity distribution				
Ausgrid	2	1		3
Endeavour Energy	1	0		1
Essential Energy	0	3		3
Natural gas reticulation				
Allgas Energy Pty Ltd	0	N/A	0	0
Australian Gas Networks (Albury) Ltd	0	N/A	0	0
Australian Gas Networks (NSW) Ltd	0	N/A	0	0
Central Ranges Pipeline Pty Ltd	0	N/A	0	0
Jemena Gas Networks (NSW) Ltd	0	N/A	0	0
ActewAGL Distribution Ltd	0	N/A	0	0
LPG distribution				
Elgas Ltd	1	N/A	0	1
Elgas Reticulation Pty Ltd	0	N/A	0	0
Wesfarmers Kleenheat Gas Pty Ltd	0	N/A	0	0
Origin Energy LPG Ltd	0	N/A	0	0
TOTAL	5	4	0	9

^a To be assessed on completion of the audit of TransGrid's compliance with critical infrastructure licence conditions. IPART will provide an addendum to this report when the audit is completed.

Source: Licence holders' annual compliance reports and IPART's assessment.

1.2 Electricity networks' compliance

The performance of all electricity networks against their licence conditions continued to be good. Their performance against other legislated obligations that IPART monitors, including those related to safety management and employment guarantees, was also good.

1.2.1 Compliance with licence conditions

TransGrid reported one non-compliance with its licence conditions during the year, which was that it submitted its first employment guarantees report later than the due date indicated in our Reporting Manual. An audit of TransGrid's compliance with its 'critical infrastructure' licence conditions during 2015-16 is ongoing at the time of this report and finalisation is anticipated for early December 2016.

Among the electricity distributors, Ausgrid reported two non-compliances. These were not complying with some of its obligations under the National Electricity Rules (administered by the Australian Energy Regulator) and submitting its first employment guarantees compliance report later than the due date. Endeavour Energy reported one non-compliance – submitting its first employment guarantees compliance report later than the due date.

We note the requirements to comply with and report on employment guarantees are new obligations and all subsequent reports against the employment guarantees have been submitted by the due date.

Essential Energy reported no non-compliances.

The annual audit of the electricity distribution networks' compliance with their reliability standards licence conditions found:

- ▼ Ausgrid had one non-compliance, as it did not provide evidence that it is considering non-network strategies in the management of underperforming individual feeders.
- ▼ Endeavour Energy had no non-compliances, and
- ▼ Essential Energy had three non-compliances as it failed to complete some actions to address underperforming individual feeders within the timeframes specified in the licence.

1.2.2 Compliance with other legislated obligations

During 2015-16, IPART became the regulator of the network operators' safety management obligations, which apply to the four licensed electricity network operators as well as non-licensed network operators.⁴ As part of this role, we audited each operator's bushfire risk mitigation system during the reporting year. The following network operators had non-compliances relating to their bushfire risk mitigation systems:

- ▼ Ausgrid
- ▼ Endeavour Energy
- ▼ Essential Energy
- ▼ Sydney Trains, and
- ▼ TransGrid.

We have issued directions for amendments to rectify the non-compliances, and these amendments are currently being completed by the network operators.

1.3 Gas network licence compliance

All six natural gas reticulators reported no non-compliances during 2015-16.

Three of the four LPG distributors also reported no non-compliances for the year. Elgas Ltd (Elgas) reported one non-compliance that related to unlicensed distribution. Elgas acquired Wesfarmers Kleenheat Gas Pty Ltd's distribution assets including one unlicensed district during the 2014-15 financial year.

Elgas is currently distributing LPG in one unlicensed district. It has applied to add this district to its licence and we are assessing this application.

⁴ Under Part 2 of the *Electricity Supply (Safety and Network Management) Regulation 2014*. The Department of Trade and Investment was previously responsible for monitoring compliance with these obligations.

2 Context

IPART is responsible for administering the licensing regimes for energy networks operating in NSW. These include electricity transmission and distribution networks, natural gas reticulation networks and LPG distribution networks. As part of this role, we are required to monitor the extent to which:

- ▼ The electricity network licence holders comply with the conditions of their licences, which are imposed by the Minister for Industry, Resources and Energy (the Minister), and the *Electricity Supply Act 1995* (the ES Act).
- ▼ The gas network authorisation and distribution licence holders comply with the conditions of their authorisations and licences, which are imposed by the Minister and the *Gas Supply Act (NSW) 1996* (the GS Act).

Each year, we are required to prepare and forward to the Minister a report on the networks' compliance performance during the 12 months ending on 30 June in that year.⁵ The Minister must lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.⁶

To provide context for this report, the sections below outline the purpose of the report, the licence and authorisation holders it covers, and the information sources it draws on.

2.1 Purpose of report

Like our previous annual compliance reports, the main purpose of this report is to provide a transparent view of the compliance performance for each energy network licensee during 2015-16. This provides important information to the Minister – who may cancel or suspend a licence if the licensee contravenes the conditions of its licence – and enables stakeholders to compare the compliance performance of the licensees with each other and over time.

We also take this opportunity to report on the energy network operators' performance against some of their other legislated obligations, and to summarise the natural gas reticulators' key operating statistics.

⁵ Under section 88(1) of the ES Act and section 75A(3C) of the GS Act.

⁶ ES Act, s88(2) and GS Act s75A (3D).

2.2 Licensees covered

Table 2.1 and Table 2.2 provide an overview of the electricity and gas licensees covered by this report.

Table 2.1 Overview of electricity licence holders in 2015-16

Licence holder	Network type	Number of customers	Area of operation
TransGrid	Transmission	21	NSW excluding the central and north western areas.
Ausgrid	Distribution	1.68 million	Sydney, Newcastle and Hunter regions.
Endeavour Energy	Distribution	933,557	Wollongong, Western Sydney. Most of the NSW south coast, Southern Highlands, the Blue Mountains, and parts of the mid-west of NSW.
Essential Energy	Distribution	824,459	Areas not covered by Ausgrid and Endeavour, which is more than three quarters of New South Wales.

Source: Australian Energy Regulator, *Annual report on performance of the retail energy market 2014-15*, p 66, TransGrid, Ausgrid, Endeavour Energy and Essential Energy's websites.

Table 2.2 Overview of gas authorisation holders in 2015-16

Authorisation holder	Network type	Number of customers	Area of operation ^a
Allgas Energy Pty Ltd	Natural gas reticulation	1,208	Tweed, Narrabri
Australian Gas Networks (Albury) Ltd	Natural gas reticulation	27,402	Riverina and Murray regions
Australian Gas Networks (NSW) Ltd	Natural gas reticulation	28,881	Canberra Region (within NSW), Murrumbidgee and Riverina regions
Central Ranges Pipeline Pty Ltd	Natural gas reticulation	3,100	North Western, Northern and Central West Regions
Jemena Gas Networks (NSW) Ltd	Natural gas reticulation	1.29 million	Metropolitan Sydney, Murray, Central West, South West, North West, Northern, Illawarra, Canberra (within NSW), Murrumbidgee and Hunter regions
ActewAGL Distribution Ltd	Natural gas reticulation	17,946	Eastern Capital City Regional, Greater Queanbeyan, Shoalhaven, Tumut
Elgas Ltd and Elgas Reticulation Pty Ltd	LPG distribution	1,215	Elgas: Adelong, Batlow, Gundagai, Tumut Elgas Reticulation: Hunter, Richmond-Tweed and Mid North Coast regions
Wesfarmers Kleenheat Gas Pty Ltd ^b	LPG distribution	Serviced by Elgas	Murray Downs Estate, Shire of Tweed, City of Armidale
Origin Energy LPG Ltd	LPG distribution	994	Glen Innes, Broken Hill, Banora Point, Jindabyne, Cooranbong, Lennox Head, Murrumbateman

a A general description of the area operation is provided in this table. Detailed descriptions can be found in the respective licences and authorisations.

b WKG's licence was cancelled on 1 August 2016.

Source: Distributor licences, reticulator authorisations and information provided by licence/authorisation holders.

2.3 Information sources drawn on

For this report we have relied on information provided from licensees' self-reporting, and from independent audits of the electricity networks.

2.3.1 Licensees' self-reporting

Licensees are required to keep records relating to their activities, and to report any licence breaches to us. This information is primarily provided in licensees' annual compliance reports.

Electricity networks and gas reticulators are required (as a condition of their licence) to provide annual compliance reports in accordance with our published Reporting Manuals. Gas distributors are requested to provide these reports via a letter from the IPART CEO. We have not published a Reporting Manual for these licensees as gas distribution authorisations are not standardised.

2.3.2 Audits of electricity networks

Certain electricity network operator licence conditions are subject to an annual independent audit:

- ▼ Compliance with the 'reliability and performance' licence conditions in the distributions networks' licences is subject to annual limited assurance audits.
- ▼ Compliance with the critical infrastructure licence conditions in TransGrid's transmission operator's licence is subject to a full audit.

In addition, we can direct an audit of other electricity network operator licence conditions if we are satisfied a licence condition has been contravened.⁷

We also have a role in monitoring compliance with other legislated obligations (beyond the licence conditions) of electricity network operators, and have the powers to conduct ad hoc compliance audits under:

- ▼ clause 10 of the *Electricity Network (Safety and Network Management) Regulation 2014*, and
- ▼ the NSW Code of Practice for authorised Network Operators, produced by the Department of Planning and Environment.



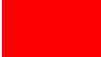

We have produced an Audit Guideline to inform the network operators and auditors of our expectations in the conduct of an audit, and this is available on our website.

2.3.3 Audit types and grades

Two types of audits are undertaken – compliance audits and limited assurance audits. The majority are compliance audits, where compliance with certain licence conditions are tested and assessed. Table 2.3 presents the audit grades that are used in compliance audits.

⁷ Under Schedule 2, section 8A of the ES Act.

Table 2.3 Compliance Grades

Grades of compliance	Description
Compliant 	Sufficient evidence to confirm that the requirements have been fully met.
Non-compliant (non-material) 	Sufficient evidence to confirm that the requirements have generally been met apart from a number of minor shortcomings which do not compromise the ability of the utility to achieve defined objectives or assure controlled processes, products or outcomes.
Non-compliant (material) 	Sufficient evidence has not been provided to confirm that all major requirements are being met and the deficiency adversely impacts the ability of the utility to achieve defined objectives or assure controlled processes, products or outcomes.
No Requirement 	The requirement to comply with the licence condition does not occur within the audit period or there is no requirement for the network operator to meet this assessment criterion.

Source: IPART, Electricity networks audit guideline.

In contrast, a limited assurance audit is a reduction in assurance engagement risk to a level that is acceptable in the circumstances of the engagement. The audit opinion is expressed in a negative form of assurance, for instance a finding might be that “nothing has come to the auditor’s attention to suggest a breach of licence conditions”. Limited assurance audits are undertaken of compliance with the distribution networks’ reliability and performance licence conditions, as specified in the licence conditions.

3 Electricity networks' compliance

The four major electricity network operators have been issued with operating licences that set out their conditions and standards of operation. TransGrid was issued with the *Transmission Operator's Licence* on 16 December 2015, and therefore was only required to comply with the conditions of this licence for just over half the reporting period. Ausgrid, Endeavour Energy, Essential Energy have been operating under the *Ministerially Imposed Licence Conditions for Distribution Network Service Providers* for a number of years, and so were required to comply for the full reporting year.

3.1 Transmission network operator's compliance with licence conditions

TransGrid reported one non-compliance with its licence conditions in 2015-16. This was a failure to comply with IPART's Reporting Manual because it did not submit its first quarterly employment guarantees compliance report by the due date. It subsequently submitted the report, and submitted its second quarterly compliance report on time.

TransGrid reported full compliance with all other licence conditions, including the obligation to comply with the new NSW Code of Practice for Authorised Network operators published by the Department of Planning and the Environment in September 2015.⁸ The Code sets out the process and outcomes for the environmental assessments that network operators are required to undertake under Part 5 of the *Environmental Planning and Assessment Act 1979*.⁹ It applied only to TransGrid during 2015-16, but will also apply to Ausgrid and Endeavour Energy after their private leasing transactions are complete.

⁸ The Department of Planning and Infrastructure, *The NSW Code of Practice for Authorised Network Operators*, September 2015. (Code of Practice).

⁹ Compliance with this Code of Practice constitutes a licence condition under clause 11 Schedule 2 of the Electricity Supply Act.

3.2 Distribution network operators' compliance with licence conditions

The distribution networks reported a total of three non-compliances with their licence conditions, and the annual audits of the reliability licence conditions found a further four non-compliances. All of these were considered to be non-material.

Ausgrid reported two non-compliances, the first of which related to the condition that it comply with its obligations under National Electricity Rule (NER). This non-compliance involved:

- ▼ four instances of failing to install and maintain all remote control, operational metering and monitoring devices for each substation in accordance with AEMO requirements, and
- ▼ two instances of failing to provide sufficient protection systems to ensure that a fault on its system is automatically disconnected.

Ausgrid's second non-compliance involved failing to comply with IPART's Reporting Manual because it did not submit its first quarterly employment guarantees compliance report by the due date. Endeavour Energy also reported this non-compliance. Both businesses subsequently submitted their reports, and also submitted their second quarterly compliance reports on time.

Essential Energy reported full compliance with its licence conditions.

3.2.1 Distribution network operators' compliance with reliability and performance standards

The distribution network operators report separately on their compliance with the licenced reliability standards set out in Schedules 2 and 3 of the *Reliability and Performance licence conditions for Electricity Distributors*. All three reported that their networks met the overall reliability standards for 'system average interruption duration index' (SAIDI) and system average interruption frequency index (SAIFI) in 2015-16.

All three also reported that a number of their network's individual feeders did not meet the reliability standard for these feeders.¹⁰ For Ausgrid and Endeavour Energy, there has been no notable change in this performance over the past five years. However, Essential Energy continued its trend of improvement over the last five years (see Table 3.1).

¹⁰ Note that instances of individual feeders not meeting the reliability standards are not non-compliances, but trigger a requirement to investigate the causes and undertake rectification works as necessary.

Table 3.1 Individual feeders not meeting reliability standard

	2011-12	2012-13	2013-14	2014-15	2015-16
Ausgrid					
No. feeders not meeting standard	50	28	34	38	40
% of all feeders	2.4%	1.3%	1.6%	1.8%	1.8%
Endeavour Energy					
No. feeders not meeting standard	8	11	15	33	25
% of all feeders	0.6%	0.8%	1.0%	2.3%	1.7%
Essential Energy					
No. feeders not meeting standard	170	171	124	73	52
% of all feeders	11.8%	11.8%	8.6%	5.0%	3.6%

Source: Ausgrid, Endeavour Energy and Essential Energy.

Compliance with the reliability licence conditions is subject to annual independent, limited assurance audit¹¹. The audits for 2015-16 found a total of four instances of non-material non-compliances relating to the investigation and rectification of individual feeders that have failed to meet the individual feeder standards. In particular:

- ▼ Ausgrid was found to not be adequately considering non-network solutions to rectify the non-performing feeders.
- ▼ Essential Energy had not met the timeframes prescribed for completing some investigation reports, completing some operational actions, and beginning the implementation of non-operational actions.

IPART is following up on network operator actions to rectify these non-compliances. None of the non-compliances materially affect the accuracy of data reported to the Minister in quarterly reports.

3.3 Compliance against other legislated obligations

IPART began monitoring the electricity network operators' compliance with their legislated obligations in relation to safety management and employment guarantees in 2015-16.

¹¹ See section 2.3.3 for more information about limited assurance audits.

3.3.1 Safety management obligations

All four of the licensed electricity network operators – as well as non-licensed electricity network operators in NSW – are obliged to have a safety management system under Part 2 of the *Electricity Supply (Safety and Network Management) Regulation 2014* (the Regulation). The primary objective of this system is support the safety of the public and people working on its network, the protection of property, and the management of safety risks arising from the protection of the environment and the loss of electricity supply. (For more detail, see Appendix A.)

IPART became the regulator of these safety management obligations in June 2015.¹² In this role, we are able to direct audits of the network operators' safety management systems, and these audits may relate to either the whole system or specified aspects of the system.¹³

In 2015-16, we directed audits of the bushfire risk mitigation aspect of each the licensed and two of the unlicensed network operators' (Sydney Trains and Directlink¹⁴) safety management systems. These audits found all bushfire mitigation systems had inadequacies, and the following network operators were non-compliant with some the regulatory requirements:

- ▼ Ausgrid
- ▼ Endeavour Energy
- ▼ Essential Energy
- ▼ Sydney Trains, and
- ▼ TransGrid.

The common non-compliances were:

- ▼ Formal safety assessments related to bushfire risk were either absent or deficient. The main reason they were deficient was that they were not undertaken with sufficient granularity, using the Rural Fire Services Bushfire Prone land mapping to inform the assessment, which the auditor found to be inappropriate for the particular purpose.
- ▼ Asset management systems were inadequate in facilitating asset and vegetation defects to be rectified before the 1 October start of the bushfire season.

¹² They were previously administered by the Department of Industry and existed under the Electricity Supply (General) Regulation until 2014.

¹³ Under the Regulation, clauses 3 and 5.

¹⁴ Sydney Trains is a distribution network and Directlink is a small transmission network in the north east of NSW.

In accordance with Schedule 2 of the ES Act, we have directed the network operators to change their safety management systems in order to become compliant as soon as practicable.

Table 3.2 below summarises the areas where non-compliances were found for each network operator.

Table 3.2 Summary of non-compliances found during the bushfire risk mitigation audit

Obligation and the auditor's description of area of non-compliance	Non-compliant network operators
ES Regulation Clause 6 - Primary objective of safety management systems ▼ The asset management system allows for adequate maintenance and monitoring of assets associated with bushfire risk	Ausgrid Endeavour Essential Sydney Trains TransGrid
ES Regulation Clause 7 - Content of safety management system ▼ Adequate risk assessment undertaken for management of assets within bushfire prone areas ▼ Vegetation management procedures are integrated with network programs and asset management systems	Ausgrid Endeavour Sydney Trains Sydney Trains
AS 5577 Clause 4.3.2 - Planning for safe operation ▼ Evidence that bushfire risks are being eliminated or at least reduced to 'as low as reasonably practicable' ▼ Formal Safety Assessment(s) exist that identify risks, analyse and evaluate bushfire risks against acceptance criteria	Sydney Trains TransGrid Ausgrid Endeavour Sydney Trains TransGrid
AS 5577 Clause 4.3.3 - Planning and preparation for abnormal circumstances ▼ Bushfire risks are assessed for foreseeable abnormal circumstances or during significant disruption to normal operations, including emergencies	Sydney Trains TransGrid
ES Act Section 48 – Interference with electricity works by trees ▼ Hazard trees identified and an effective rectification program evident	Sydney Trains
ES Act Clause 53C and Section 9 and 11.2, ISSC31 ▼ Management requirements for private overhead electricity lines are adequately and regularly monitored including vegetation management and asset maintenance	Ausgrid

Note: Clause 7 of the ES Regulation also requires that the SMS complies with AS 5577. Any non-compliances with AS 5577 is therefore are an additional non-compliance with Clause 7.

Source: EcoLogical Australia, various audit reports prepared for IPART March and April 2016.

3.3.2 Compliance with employment guarantees obligations

On 1 July 2015, the provisions of Schedule 4 of the *Electricity Network Assets (Authorised Transactions) Act 2015* in relation to employment guarantees commenced for the three electricity network operators nominated to be fully or partially leased to private operators – that is, Ausgrid, Endeavour Energy and TransGrid. IPART is required to monitor and enforce compliance with these provisions,¹⁵ which are outlined in Appendix A.

The network operators reported full compliance with the employment guarantees provisions in 2015-16.¹⁶ We note that TransGrid reported it had less than 110% of the minimum required number of full time equivalent employees, and therefore is required to take on at least five apprentices during the next financial year. We will continue with our quarterly reporting regime to monitor compliance with employment guarantees.

Table 3.3 Reported full time equivalent staff numbers

	Required minimum FTE ^a staff	FTE staff reported for Q3, 2015-16	FTE staff reported for Q4, 2015-16
Ausgrid	3,570	4,187	4,092
Endeavour Energy	2,100	2,715	2,581
TransGrid	1,000	1,047	1,026

a FTE means 'full time equivalent'.

Source: Electricity Network Asset (Authorised Transaction) Act 2014 and Quarterly compliance reports submitted to IPART.

¹⁵ Under clause 8 of Schedule 4 of the *Electricity Network Assets (Authorised Transactions) Act 2015*.

¹⁶ We required the three network operators to report to us quarterly on their compliance with the employment guarantees, starting from the quarter January to March 2015-16. A summary of each licensee's annual compliance report for 2015-16 is provided in a Fact Sheet on the IPART website.

4 Gas networks' compliance

The gas network operators have each been issued with either a reticulator authorisation or a distributor licence. A reticulator authorisation is for the operation of a distribution pipeline for the purpose of conveying natural gas. A distributor licence is for the operation of a distribution system for LPG and other gases.¹⁷ This authorisation/ licence sets out their conditions operation.

4.1 Natural gas reticulators' compliance with authorisation conditions

All six natural gas reticulators reported no non-compliances in 2015-16.

The reticulators are also required to provide their operating statistics as part of their annual compliance reports. Table 4.1 summarises these statistics for 2015-16.

In total, the operating statistics for 2015-16 indicate there were:

- ▼ 1,365,663 customers supplied with natural gas compared to 1,328,093 in 2014-15.
- ▼ 1,362,188 customers supplied with less than 1 terajoule (TJ) of natural gas compared to 1,324,633 customers the previous year.
- ▼ 3,473 customers supplied with more than 1 TJ of natural gas compared to 3,460 customers the previous year.
- ▼ 29,213 kilometres of mains supplying natural gas compared to 28,925 kms the previous year.

¹⁷ Gas transmission pipelines are regulated under the *Pipelines Act (NSW) 1967*.

Table 4.1 Overview of natural gas reticulator operating statistics, 2015-16

Reticulator	Number of customers			Kilometres of gas mains
	DPIs ^a supplied as at 30 June	DPIs taking less than 1 TJ	DPIs taking more than 1 TJ	
Allgas Energy Pty Ltd	1,208	1,197	11	32
Australian Gas Networks (Albury) Ltd	27,402	27,315	87	724
Australian Gas Networks (NSW) Ltd	28,881	28,813	68	1,221
Central Ranges Pipeline Pty Ltd	3,100	3,056	44	235
Jemena Gas Networks (NSW) Ltd	1,287,126	1,283,900	3,226	26,373
ActewAGL Distribution Ltd	17,946	17,907	37	629
Total	1,365,663	1,362,188	3,473	29,213

a Delivery Point Identifier.

Source: Gas reticulator 2015-16 annual compliance reports.

4.2 LPG distributors' compliance with licence conditions

Three of the LPG distributors reported no non-compliances for the year. Elgas Ltd has reported one non-compliance in relation to unlicensed distribution.

Elgas acquired Wesfarmers Kleenheat Gas Pty Ltd's distribution assets including one unlicensed district during the 2014-15 financial year.

Elgas is currently distributing LPG in one unlicensed district. It has applied to add this district to its licence and we are assessing this application.

5 Complaints investigated by EWON

The Energy and Water Ombudsman of NSW (EWON) provides an independent dispute resolution service to all electricity and gas customers in NSW without charge to customers. It provides IPART with quarterly reports on the number and nature of the complaints it receives from energy network customers. These reports provide a means for IPART to monitor trends in customer satisfaction and identify any potential compliance issues.

EWON's data on the number of customer complaints do not necessarily correlate to breaches of licence obligations. EWON's data reflects customer dissatisfaction that the energy licensee has not been able to resolve, which may or may not constitute breaches of licence conditions as reported to IPART by the licensees. Therefore, IPART adopts a cautious approach to the EWON data and avoids drawing conclusions about licensees' compliance with their licence obligations based on this data alone.

The number of complaints which EWON investigated is largely consistent across the five years from 2011-12 to 2015-16 for both electricity distributors and gas reticulators. The number of complaints amounts to one, or less than one complaint per 10,000 customers, depending on the distributor.

The primary issues for electricity customers related to customer service (523), followed by supply (453), provision¹⁸ (377) and land issues (308).

For gas customers, the main issues were provision and customer service (153 and 151 respectively), then land and supply (38 and 18 respectively).

¹⁸ For the purposes of networks, EWON classifies complaints as **customer service** if they relate to failure to respond, incorrect advice or poor attitude/service; as **supply** if they relate to quality, damage, loss or outages; as **provision** if they relate to problems with new or existing connections, as **land** if they relate to the impact of network assets maintenance or environment, and as **general** if it is non-energy related or related to contractors.

Table 5.1 Complaints to EWON, and proportion investigated

	2011-12	2012-13	2013-14	2014-15	2015-16	Number/ 10,000 customers ^a
Electricity						
Ausgrid	580	537	476	452	374	0.5
<i>Investigated</i>	18%	19%	22%	18%	29%	
Endeavour Energy	377	341	438	407	357	1.0
<i>Investigated</i>	18%	16%	24%	19%	21%	
Essential Energy	300	345	333	277	339	1.0
<i>Investigated</i>	20%	17%	19%	17%	24%	
TransGrid	3	5	6	4	4	N/A
<i>Investigated</i>	33%	40%	33%	24%	25%	
Gas networks						
Jemena				124	210	0.4
<i>Investigated</i>				34%	22%	
AGN (NSW)				5	5	N/A
<i>Investigated</i>				40%	0%	
AGN (Albury)				0	3	N/A
<i>Investigated</i>				0%	33%	

^a The number of complaints per 10,000 customers is only provided for the 4 main energy distributors.

Source: Energy and Water Ombudsman NSW, reports to IPART, IPART calculations.



Appendices

A Safety management system and employment guarantees

A.1 Safety management system obligations

Under part 2 of the *Electricity Supply (Safety and Network Management) Regulation 2014*:

- ▼ A network operator must take all reasonable steps to ensure that the design, construction, commissioning, operation and decommissioning of its network (or any part of its network) is safe.
- ▼ A network operator must have and implement a safety management system in place that is in accordance with Australian Standard (AS) 5577, takes into account the primary objective of a safety management system and any code, standard or guideline specified by the Minister, and deals with:
 - the safety and reliability of the network
 - safety of electrical installations of customers connected to the network
 - advice to the public about electrical hazards related to the network, and
 - bush fire ignition risk management, where electricity lines and other assets are capable of initiating bush fire.
- ▼ The primary objective of a safety management system is to support:
 - the safety of the public and of people working on the networks
 - the protection of property, and
 - the management of safety risks arising from the protection of the environment, and from loss of electricity supply.
- ▼ A network operator is to measure performance against its safety management system and publish the results, giving prior notice to IPART of its intention to publish the results.
- ▼ Apart from an initial audit of the safety management system, (that was due by April 2015), audits must be carried out as directed by IPART in writing to the network operator. IPART may require the audit concerned to relate to either specified aspects of a network operator's safety management system, or to the safety management system as a whole.

A.2 Employment guarantees

The employment guarantees are under Schedule 4 of the *Electricity Network Assets (Authorised Transactions) Act 2015*. They set out provisions relating to minimum employee numbers and some conditions of employment such as restrictions on changes to workplace locations and, for continuing employees, protections for current employment conditions during the transfer from a State-owned corporation to a private operator.

Our reference: 15/368
Your reference: None

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15 March 2017

The Hon. Don Harwin MLC
Minister for Energy and Utilities
52 Martin Place
Sydney NSW 2000



DELIVERED BY HAND

Dear Minister

TransGrid's compliance with the critical infrastructure conditions of its transmission operator's licence in FY2015-16

Section 88(1) of the *Electricity Supply Act 1995 (Act)* requires the Independent Pricing and Regulatory Tribunal (**Tribunal**) to report to you annually on the extent to which holders of licences under the Act have complied, or failed to comply, with their licence conditions.

On 31 October 2016, IPART provided your predecessor with its *Annual licence compliance report* for FY 2015-16 (**Annual Report**). The Annual Report did not cover compliance with conditions 6 and 7 of the transmission operator's licence because, on 31 October 2016, TransGrid, the holder of the licence, had not yet provided the Tribunal with its report under condition 8. In the Annual Report, we indicated that we would provide the Minister with an addendum addressing the outstanding issues.

Please find **enclosed** the Tribunal's addendum that addresses the extent to which TransGrid complied with the critical infrastructure conditions of that licence in FY 2015-16. We have also enclosed the Annual Report which was delivered to your predecessor in October 2016.

The addendum reports two technical non-compliances with the critical infrastructure conditions. However, there are a number of contextual matters that the Tribunal wishes to emphasise:

- ▼ TransGrid was first issued with its transmission operator's licence in December 2015 and this licence was the first to include critical infrastructure conditions. TransGrid was also the first to be subject to the reporting requirements under section 88(1) of the Act. In that respect, TransGrid has completed an audit for which it, and other operators, did not have prior experience.
- ▼ While the addendum identifies technical non-compliances with licence conditions 6.1(b) and 7.1(a), TransGrid has taken immediate steps to enhance its compliance and rectify many of the issues identified in the course of the audit. Where some issues have not been completely rectified, particularly in relation to condition 6.1(b), TransGrid



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New South Wales

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has advised this is due to practical difficulties that it faces in relation to the unavailability of specific relevant expertise within Australia. Similar concerns were raised by the Australian Energy Market Operator (AEMO) in correspondence with TransGrid.

In light of our experience in auditing compliance with the licence conditions and the practical considerations for TransGrid, we consider there may be merit in reviewing these conditions. In this regard, we note that the preamble to the critical infrastructure licence conditions provides that the conditions will be reviewed by the Minister from time to time.

The Tribunal recognises the time that TransGrid and its personnel have contributed to the audit process. The Tribunal looks forward to working productively with the Department, TransGrid and other licence holders to manage compliance with the licence conditions.

The Tribunal's contact is Alex Oeser (Director, Energy Networks Regulation Unit).

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Peter J. Boxall', written in a cursive style.

Peter J. Boxall AO
Chair

Enc.

Addendum - Annual licence compliance report for electricity network operators and authorised gas reticulators and distributors in 2015-16

The Independent Pricing and Regulatory Tribunal (IPART) monitors and assesses NSW electricity networks' compliance with their licence conditions and other legislated obligations. IPART reports annually to the Minister on the extent to which the networks met their licence conditions.¹

Our report to the Minister in October 2016 outlined our main findings on compliance performance for FY 2015-16. In that report we indicated we would provide an addendum to the report following the completion of an audit assessing TransGrid's compliance with its critical infrastructure licence conditions.

This addendum outlines our findings on TransGrid's compliance performance with its critical infrastructure licence conditions for FY 2015-16. Table 1.1 below outlines our final compliance findings for FY 2015-16, which include reporting two additional technical non-compliances for FY 2015-16.

We note that TransGrid was first issued with its Transmission Operator's licence in December 2015 and that this licence was the first to include critical infrastructure conditions. TransGrid was also the first to be subject to the reporting requirements under section 88(1) of the ES Act.

The licence granted to the Ausgrid Operator Partnership (granted in December 2016) includes critical infrastructure licence conditions that differ to those in TransGrid's licence.

Representations were made that, given the level of expertise in Australia, it may be difficult for TransGrid to fully comply with condition 6.1(b) in a way that allows the efficient operation of the system.

We note, in particular, that TransGrid has provided evidence to the auditor to indicate that it has addressed, or taken steps to address, all of the potential non-compliances reported.

Audit findings

TransGrid's compliance with the critical infrastructure conditions of the licence were the subject of an audit report delivered to IPART in January 2017 (**Audit Report**). The Audit Report identified potential non-compliance with the following three conditions of the licence:

1. condition 6.1(b), which requires that the operation and control of the transmission system is capable of being undertaken only from within Australia;

¹ As required under section 88 of the *Electricity Supply Act 1995* (ES Act) and 75A(3C) of the *Gas Supply Act 1996* (GS Act).

2. condition 7.1(a), which requires that 'data as to the quantum of electricity delivered (both historical and current load demand) from or to any one or more sites (or their connection points) ... relating to or obtained in connection with the operation of the transmission system' (**Electricity Load Data**) is held solely within Australia and is accessible only from within Australia; and
3. condition 7.1(b), which requires that 'personal information within the meaning of the *Privacy Act 1988* (Cth), relating to or obtained solely in connection with the operation of the transmission system' is held solely within Australia and is accessible only from within Australia.

There was no suggestion of any impropriety by the relevant service contractors involved. TransGrid disputed the findings in the Audit Report.

Condition 6.1(b)

IPART considers that there was a technical non-compliance by TransGrid with condition 6.1(b) in FY 2015-16. IPART is satisfied that, contrary to the condition, TransGrid's technology support services contractor had a degree of influence over TransGrid's transmission system in FY 2015-16 constituting a non-compliance with condition 6.1(b).

IPART notes that TransGrid has provided evidence to the auditor that it has taken steps to address the non-compliance with condition 6.1(b) since FY 2015-16 by removing access to certain systems for the contractor's personnel located overseas.

Condition 7.1(a)

IPART considers that there was a technical non-compliance by TransGrid with condition 7.1(a) in FY 2015-16. IPART is satisfied that, contrary to that condition, TransGrid's technology support services contractor could access Electricity Load Data from overseas in FY 2015-16.

IPART notes that TransGrid has provided evidence to the auditor that it has addressed the non-compliance with condition 7.1(a) since FY 2015-16 by removing access to TransGrid's information management systems for the contractor's personnel located overseas. As a result, IPART is satisfied that the circumstances leading to the technical non-compliance are not likely to lead to any recurring non-compliance.

Condition 7.1(b)

In IPART's view, there is insufficient factual information before IPART to report non-compliance with condition 7.1(b) of the licence. While the Audit Report identified that personal information was stored on a database hosted in the United States, it is not clear how the information relates to TransGrid's transmission system (if at all).

IPART notes that TransGrid has provided evidence to the auditor that it has removed the information from the database hosted in the United States. Consequently, IPART is satisfied that the relevant circumstances are not likely to lead to any future non-compliance.

15 March 2017

Summary

Table 1.1 Number of licence non-compliances in 2015-16

Licence holder	Non-compliances			Total
	Reported by network operator	Identified by audits	Identified by IPART	
Electricity transmission				
TransGrid	1	2 ^a	0	3
Electricity distribution				
Ausgrid	2	1	0	3
Endeavour Energy	1	0	0	1
Essential Energy	0	3	0	3
Natural gas reticulation				
Allgas Energy Pty Ltd	0	N/A	0	0
Australian Gas Networks (Albury) Ltd	0	N/A	0	0
Australian Gas Networks (NSW) Ltd	0	N/A	0	0
Central Ranges Pipeline Pty Ltd	0	N/A	0	0
Jemena Gas Networks (NSW) Ltd	0	N/A	0	0
ActewAGL Distribution Ltd	0	N/A	0	0
LPG distribution				
Elgas Ltd	1	N/A	0	1
Elgas Reticulation Pty Ltd	0	N/A	0	0
Wesfarmers Kleenheat Gas Pty Ltd	0	N/A	0	0
Origin Energy LPG Ltd	0	N/A	0	0
TOTAL	5	6	0	11

^a This does not include a potential non-compliance with condition 7.1(b) of the licence identified in the Audit Report. IPART found there was insufficient evidence for the potential non-compliance.

TransGrid also did not comply with IPART's specified date of 14 October 2016 to provide the audit report. IPART will consider whether TransGrid was non-compliant with condition 8.2 of the licence in its 2016-17 report to the Minister.