



Independent Pricing and Regulatory Tribunal

Energy Distribution Licences Annual Compliance Report 2014-15

Report to the Minister

Energy — Annual Compliance Report
October 2015



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Contents

1	Executive summary	1
1.1	Developments since our last report	1
1.2	Main findings for 2014-15	1
2	Changes in the regulation of NSW energy distribution network service providers	2
2.1	New Electricity Technical and Safety Regulation Functions	2
2.2	Repeal of the NSW Gas Network Code	2
2.3	Review of licensing arrangements in NSW	2
3	IPART's compliance monitoring activities in 2014-15	3
3.1	Licence compliance monitoring	3
3.2	Customer complaints to EWON about energy distributors	3
3.3	Audits of electricity distributors' compliance	4
4	Compliance reporting by energy distributors in 2014-15	5
4.1	Electricity distributors	6
4.2	Gas reticulators	7
4.3	LPG distributors	8
	Appendices	
A	NSW licensing regime	10
B	Historical comparison	12

1 Executive summary

The Independent Pricing and Regulatory Tribunal of NSW (IPART) is responsible for monitoring and reporting the extent to which NSW electricity distribution network service providers, natural gas reticulators, and LPG distributors¹ comply with the conditions of their licences or authorisations as granted under the *Electricity Supply Act 1995* (ES Act) or the *Gas Supply Act 1996* (GS Act).² IPART is required to submit a report on the compliance of the electricity and gas licensees³ to the Minister by 31 October each year.

This report is for the period 1 July 2014 to 30 June 2015. It outlines the key developments since the last reporting period and IPART's findings on licensee compliance over this 12-month period.

1.1 Developments since our last report

During 2014-15, IPART was granted new compliance and enforcement functions and additional powers under the legislative amendments associated with the NSW Government's proposed partial lease of some of NSW's electricity network assets. Some of these powers are for the monitoring and enforcement of compliance with energy licence conditions.

The NSW Government also repealed the requirement for gas network operators to comply with a NSW Gas Network Code to remove duplication with National Energy Customer Framework managed by the Australian Energy Regulator.

1.2 Main findings for 2014-15

In 2014-15, energy network operators reported a small number of breaches of the obligations imposed by their licence conditions. The level of breaches reported by electricity distributors, gas reticulators and LPG distributors is consistent with and possibly marginally improved relative to their performance in previous reporting years. Breaches are mostly of discrete licence obligations which licensees are or have been able to remedy, without any significant impact on customers or on the regulated infrastructure.

¹ LPG distributors operate small regional distribution networks where the natural gas network is not available (bottled gas is not included). Use of the term 'LPG distributor' throughout this report refers to entities licensed under Part 3 of the GS Act.

² Section 88, ESAct; s75A, GS Act.

³ Gas reticulators are granted 'authorisations' under the GS Act and are 'authorisation holders'. The terms 'licence(s)' and 'licensee(s)' are used in this report interchangeably with 'authorisation(s)' and 'authorisation holder(s)' respectively.

2 Changes in the regulation of NSW energy distribution network service providers

2.1 New Electricity Technical and Safety Regulation Functions

On 4 June 2015, the *Electricity Network Assets (Authorised Transactions) Act 2015* (the Act) commenced. The Act transferred a range of functions relating to the safety and reliability regulation of NSW electricity networks to IPART from the then NSW Department of Trade and Investment, Regional Infrastructure and Services.

The new functions include new powers and responsibilities for the regulation of licensed electricity network providers in NSW. These include:

- ▼ advising the Government in relation to licensing for potentially privatised transmission providers
- ▼ regulatory responsibility for the transmission operator licences
- ▼ broader compliance and enforcement powers
- ▼ power to take control of distribution or transmission systems and appoint a step-in operator to ensure safe, secure and reliable electricity supply
- ▼ monitoring and enforcing employment guarantees, and
- ▼ enforcing compliance with the *Environmental Planning and Assessment Act 1979* (NSW) Code of Practice.

2.2 Repeal of the NSW Gas Network Code

Following consultation with stakeholders and a review of the NSW Gas Network Code (the Code), the NSW Government repealed the Code for NSW reticulators, effective from 1 July 2015. This removed duplication between the NSW framework and the National Energy Customer Framework managed by the Australian Energy Regulator.

The licence condition requiring gas reticulators to develop, adopt and comply with a Network Code will also be removed.

2.3 Review of licensing arrangements in NSW

In September 2014, IPART submitted the final report of its review of licensing arrangements in NSW to the Minister. The report, *Reforming licensing in NSW – Review of licence rationale and design*, recommended that the NSW Government should abolish LPG distributor licences and natural gas reticulator's authorisations by the end of 2015. In particular, the report notes that licensing of LPG distributors is not necessary or appropriate, as the licence's policy objectives of safety regulation and consumer protection can be achieved through the GS Act and regulations under that Act.

3 IPART's compliance monitoring activities in 2014-15

IPART's energy licensing responsibilities are limited to the regulation of energy network operators only, namely electricity distributors, natural gas reticulators, and LPG distributors.⁴

3.1 Licence compliance monitoring

To assess energy distributors' compliance, IPART examines the compliance reports submitted to it by the distributors, as detailed in Chapter 4. These include annual reports, immediate exception reports, and other reports requested when IPART has concerns about a compliance issue or the adequacy of compliance.

IPART can also undertake additional compliance monitoring activities when required. These include investigations to respond to industry non-compliance trends or apparent systemic issues, to review media reports, and to investigate specific energy network non-compliances (or potential non-compliances). Network non-compliances may be identified by the energy industry or other stakeholders, either directly to IPART or to other agencies, such as the Energy and Water Ombudsman of NSW. IPART also reviews its own records, identifies trends in reported historical data, and assesses compliance with licence conditions.

3.2 Customer complaints to EWON about energy distributors

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.

⁴ On 1 July 2013, IPART's licensing functions with respect to energy retail suppliers was transferred to the Australian Energy Regulator.

Table 3.1 compares the number of customer enquiries and complaints to EWON about electricity distributors and natural gas reticulators in 2014-15, with the number of enquiries and complaints in the previous four reporting years. It shows that the number of enquiries and complaints to EWON in 2014-15 for both electricity distributors and gas reticulators is consistent with the previous four reporting years.

The number of complaints which EWON investigated is also largely consistent across the five years from 2010-11 to 2014-15 for both electricity distributors and gas reticulators, although we observe an increase in the number of gas reticulators complaints investigated during 2014-15. It should be noted that, for both electricity distributors and gas reticulators, the levels of complaint constitute a small proportion of their overall customer bases, which are in the orders of three million for electricity distributors and one million for gas reticulators.

Table 3.1 Enquiries and complaints to EWON

	2010-11	2011-12	2012-13	2013-14	2014-15
Enquiries and complaints					
Electricity distributors	1004	1257	1223	1247	1140
Gas reticulators	83	115	124	127	131
Enquiries and complaints investigated					
Electricity distributors	179	232	214	275	206
Gas reticulators	28	27	24	32	45

Data Source: EWON annual reports.

Complaints regarding electricity distributors related mainly to supply (planned or unplanned outages), connections and disconnections, and standards of customer service. Complaints regarding gas distributors were mainly in relation to connections and disconnections, customer service, and land (including network assets, street lighting, vegetation management and easements).

3.3 Audits of electricity distributors' compliance

Electricity distributors are required to conduct an independent annual audit of the performance of their network against the reliability and performance conditions of their licence. The audit report is to be submitted to IPART and to the Minister by 30 September each year.

Gas reticulators receive a low level of customer complaints and fewer complaints from energy retailers and are currently not subject to annual audits.

In 2014-15, the electricity distributors Ausgrid, Endeavour Energy and Essential Energy submitted independent audit reports to IPART to meet their annual audit requirement. The auditors found that the distributors were substantially compliant with licence conditions relating to reliability and customer service and that their quarterly reports to the Minister were accurate and reliable.

4 Compliance reporting by energy distributors in 2014-15

To enable IPART to carry out its compliance monitoring and reporting responsibilities, each licensed energy network operator is required to submit an annual report. This annual report is to include a statement certifying that it has complied with its licence obligations for the reporting period, other than those breaches identified in the report.

IPART has prioritised compliance reporting by classifying all licence obligations as Types 1, 2, or 3 based on an assessment of the potential impact of a breach on the Government's policy objectives.⁵ Table 4.1 provides further detail on this classification.

Table 4.1 Compliance obligation breach classifications

Type	Explanation	Reporting requirement
1	A breach would have a critical impact on the Government's policy objective(s); or the impact of a breach would increase over time if it is not rectified quickly.	Immediate notification ^a
2	A breach would seriously impact the Government's policy objective; or the obligation is 'new' or has not been complied with in previous years; or there is a need to raise businesses' awareness of the obligation.	6-monthly reporting
3b	All other obligations.	Annual reporting

^a Immediate notification takes the form of immediate verbal advice to IPART on identification of a breach or potential breach and follow-up written confirmation to the IPART's CEO within five business days.

^b Certain obligations that may appear as though they should be classified as Type 1 or Type 2 are classified as Type 3 if another agency has primary responsibility for monitoring compliance.

In 2014-15, energy licensees reported a small number of breaches of Type 3 obligations imposed by their licences. The level of breaches reported by electricity distributors, gas reticulators and LPG distributors is consistent with performance in previous reporting years. Breaches are mostly of discrete licence obligations which licensees are or have been able to remedy, without any significant impact on customers or on the regulated infrastructure.

Table B.1 and Figure B.1 of Appendix B provide a comparison of non-compliances over a 5-year period, from 2010-11 to 2014-15 inclusive. When this analysis is considered, we observe that non-compliances relating to metering and transfers have improved over this period and 'other' non-compliances have remained relatively static over this period.

⁵ Classification of breaches apply to the conditions of electricity distributors' and natural gas reticulators' standardised licences.

4.1 Electricity distributors

Electricity distributors reported breaching four licence conditions during the 2014-15 reporting period. Table 4.2 shows the number of obligations breached by each distributor and the category of each breach, in comparison to reported breaches in 2013-14.

Table 4.2 Number of obligations breached by electricity distributor and category

	Metering		Transfers		Other		Total	
	2013-14	2014-15	2013-14	2014-15	2013-14	2014-15	2013-14	2014-15
Ausgrid	0	0	0	0	1	2	1	2
Endeavour Energy	0	0	0	0	1	1	1	1
Essential Energy	0	0	0	0	0	1	0	1
TOTAL	0	0	0	0	2	4	2	4

Data source: Licensees' annual compliance reports.

4.1.1 Ausgrid

Ausgrid reported that it breached one obligation on two occasions during the reporting period. One occasion involved non-compliance with an AEMO requirement regarding remote control and monitoring of substation connection to the network. Of the two sites affected, one was resolved in 2014-15. Ausgrid expects the remaining site to be resolved by December 2015. This does not have an effect on supply.

The second occasion involved non-compliance with network performance requirements regarding primary and back-up protection systems. Ausgrid reported that it has approached AEMO to seek an exemption in relation to one affected site and that remedial action addressing the remaining issues is expected to be completed by 30 June 2016.

4.1.2 Endeavour Energy

Endeavour Energy reported that it breached one obligation during the 2014-15 regulatory reporting period. Endeavour Energy failed to advertise in newspapers the availability of \$80 payments to customers who make a claim to their electricity distributor for breach of customer service standards by exceeding the frequency and/or duration of electrical outages. Endeavour Energy published newspaper advertisements under this licence condition on 31 July 2015.

4.1.3 Essential Energy

Essential Energy reported that it breached one obligation during the 2014-15 regulatory reporting period. Essential Energy also failed to advertise in newspapers the availability of \$80 payments to customers who make a claim to their electricity distributor for breach of customer service standards by exceeding the frequency and/or duration of electrical outages. Essential Energy published newspaper advertisements under this licence condition on 13 August 2015.

4.2 Gas reticulators

Gas reticulators reported five breaches in this reporting period, compared to three breaches in 2013-14. Table 4.3 shows the number of obligations breached by each distributor and the category of each breach, in comparison to reported breaches in 2013-14.

Table 4.3 Number of obligations breached by gas reticulators and by category

	Metering		Transfers		Other		Total	
	2013-14	2014-15	2013-14	2014-15	2013-14	2014-15	2013-14	2014-15
ActewAGL Distribution	0	0	0	0	1	0	1	0
Jemena Gas Networks	0	0	0	0	1	5	1	5
Wesfarmers Kleenheat	0	0	0	0	1	0	1	0
TOTAL	0	0	0	0	3	5	3	5

Note: Australian Gas Networks (Albury) Ltd, Australian Gas Networks (NSW), Allgas Energy Ltd, and Central Ranges Pipeline did not report any breaches in 2013-14 or 2014-15 and are not included in this table.

Data Source: Licensees' annual compliance reports.

4.2.1 Jemena Gas Networks (NSW) Ltd

The authorisation conditions for gas reticulators require that they develop, adopt and comply with a Network Code for their distribution pipeline. This condition will be removed in line with the NSW Government's repeal of the NSW Gas Network Code to remove duplication with requirements of the National Energy Customer Framework (NECF) administered by the Australian Energy Regulator (AER).

Jemena breached the authorisation condition regarding compliance with the Gas Network Code during the 2014-15 reporting period. There were five instances of breaching the Gas Network Code during the period which are recorded as three authorisation condition breaches:

- ▼ Jemena failed to provide five days' notice of a planned interruption on two separate occasions, affecting 20 residential customers in total.
- ▼ Jemena issued customers disconnection notices which did not comply with the requirements of the *Gas Supply (Natural Gas Retail) Regulation 2014* (NSW) to 779 customers between 1 July 2014 and 25 September 2014 before the non-compliance came to Jemena's attention.
- ▼ Jemena disconnected a customer's premises on a business day that preceded a non-business day on one occasion and after 3pm on another occasion. Both these disconnections fell within a "protected period" under the NECF.

Jemena reported that it has taken remedial action to prevent any reoccurrence. The breach in relation to non-compliant disconnection notices was reported to the AER in September 2014 in accordance with the requirements of the NECF.

4.2.2 Other gas reticulators

Australian Gas Networks (Albury) Ltd, Australian Gas Networks (NSW), Allgas Energy Ltd, and Central Ranges Pipeline did not report any breaches for the 2014-15 reporting period.

4.3 LPG distributors

LPG distributors report to IPART on compliance with the conditions of their individual licences. LPG distributors are not subject to a set of standard conditions of their licence, as is the case for natural gas reticulators' authorisations and electricity distributors' licences.

4.3.1 Origin Energy LPG Limited

Origin Energy LPG (Origin) reported a breach of the reporting requirements in its licence conditions. Origin failed to send a schedule of its revised charges to IPART prior to the increase taking effect. Origin has since reported the outstanding information and advised that it has rectified its systems to enable ongoing compliance.

As this is the second consecutive year that Origin has breached this licence condition, IPART will notify Origin of its concerns, take appropriate action to monitor Origin's compliance with this licence condition in the future, and will consider appropriate enforcement action should the breach recur.

4.3.2 Wesfarmers Kleenheat Gas Pty Ltd

Wesfarmers Kleenheat Gas Pty Ltd (Wesfarmers) reported breaching two licence conditions, one relating to supply and one relating to pipeline identification. These breaches were also reported by Wesfarmers for the 2013-14 compliance period.

Wesfarmers' application to add one supply district to its distribution licence was granted during the 2014-15 compliance period. However, the application to add a second district is still outstanding. IPART is continuing to work with Wesfarmers and Elgas, the company which acquired Wesfarmers' distribution districts, to ensure that the outstanding supply matter is resolved.

Wesfarmers also advised of a breach of its licence condition regarding identification of new pipes during 2013-14 whereby new pipes were not marked with Wesfarmers' name as required before installation. The Minister has now removed this condition from Wesfarmers' licence.

A NSW licensing regime

A.1 Key elements of the NSW energy licensing regimes

The NSW energy distribution licensing regime imposes obligations on electricity and gas businesses through a range of regulatory instruments, including legislation, Ministerial guidelines, codes and marketing operation rules.

The *Electricity Supply Act 1995* (ES Act) and *Gas Supply Act 1996* (GS Act) (collectively, the Acts) legislate respectively for the electricity and gas licensing regimes in NSW. These Acts empower the Minister to grant licences to electricity distributors, gas reticulators and LPG distributors.⁶ These licences are granted subject to conditions aimed at promoting, consistent with the objectives of the Acts, the safe and reliable supply of electricity and gas and their efficient and environmentally responsible production and use.

Conditions are imposed on licensees by the Acts, by regulations under the Acts, and by the Minister.⁷

A.2 Licence holders in 2014-15

The following tables list the companies or businesses that hold an electricity distributor licence, gas reticator's authorisation or an LPG distribution licence as at 30 June 2015.

Table A.1 Electricity distributor licence holders as at 30 June 2015

Company	ACN or ABN
Ausgrid	67 505 337 385
Endeavour Energy	59 253 130 878
Essential Energy	37 428 185 226

⁶ Section 14 of the ES Act for electricity distributors, section 9 of the GS Act for natural gas reticulators, and section 38 of the GS Act for LPG distributors.

⁷ Schedule 2, cl. 6 ES Act, sections 11 and 40 GS Act.

Table A.2 Gas reticulator's authorisation holders^a as at 30 June 2015

Company	ACN or ABN
ActewAGL Distribution	76 670 568 688
Allgas Energy Pty Limited	009 656 446
Australian Gas Networks (Albury) Limited	000 001 249
Australian Gas Networks (NSW) Pty Limited	083 199 839
Central Ranges Pipeline Pty Ltd	108 218 355
Jemena Gas Networks (NSW) Ltd	003 004 322

^a The then Minister cancelled the reticulator authorisation of Wesfarmers Kleenheat Gas Pty Ltd at the authorisation holder's request by written notice to the authorisation holder on 26 February 2015.

Table A.3 LPG distributor licence holders as at 30 June 2015

Company	ACN or ABN
Elgas Ltd	002 749 260
Elgas Reticulation Pty Limited	003 056 755
Origin Energy LPG Limited	000 508 369
Wesfarmers Kleenheat Gas Pty Ltd ^a	40 008 679 543

^a On 22 April 2015, Wesfarmers Kleenheat Gas Pty Ltd wrote to IPART requesting the cancellation of its licence following the sale of all of its East coast distribution districts to Elgas Ltd in February 2015.

B Historical comparison

The section compares the number of obligations breached by energy licensees' for the 2014-15 reporting period with their historical performance.

In 2014-15, electricity distributors and gas reticulators reported the breach of a total of nine licence compliance obligations; electricity distributors reported four breaches of obligations and gas reticulators reported five breaches of obligations. This represents an increase of four reported breaches of obligations compared to 2013-14 and is at a level consistent with the number of reported breaches of obligations in the reporting years 2010-11, 2011-12 and 2012-13. Both electricity distributors and gas reticulators reported an increased number of breaches of obligations during this reporting year compared to in 2013-14.

Table B.1 Number of obligations breached by licence type

Licence type	2010-11	2011-12	2012-13	2013-14	2014-15
Electricity distributors	9	9	9	2	4
Gas reticulator	1	0	1	3	5
Total	10	9	10	5	9

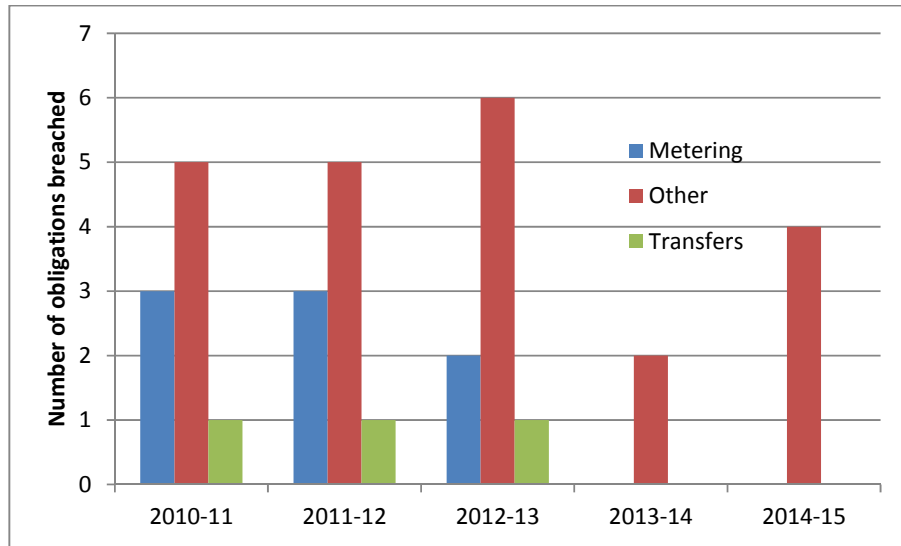
Data source: Licensees' annual compliance reports to IPART.

Electricity distributors reported breaching four obligations in 2014-15, compared with the 5-year average (2010-11 to 2014-15) of seven obligations breached each year. As noted previously in this report, electricity distributors' obligations monitored by IPART were reduced significantly with the commencement of National Energy Customer Framework (NECF) in NSW.

Figure B.1 displays the reported breaches of electricity distributors' obligations under three categories - metering, transfers and 'other'. The 'other' category includes general obligations such as technical and system issues.

Gas reticulators have considerably fewer licence obligations than other licensees. Gas reticulators reported five breaches in 2014-15, compared to three reported breaches in 2013-14, one each in 2012-13 and 2010-11, and no reported breaches in 2011-12. Their activities are primarily governed by gas market business rules administered and monitored by the Australian Energy Market Operator (AEMO).

Figure B.1 Electricity distributors: number of obligations breached by category



Data source: Licensees' annual compliance reports and IPART modelling.

