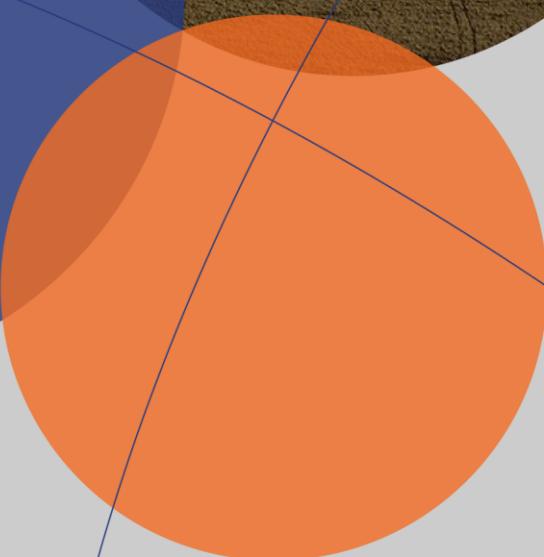




Utility Licence Annual Report (ULAR) and National Energy Retail Law (NERL) Retailer Compliance Report 2020-21

Report 2 of 2022, May 2022



The Independent Competition and Regulatory Commission is a Territory Authority established under the *Independent Competition and Regulatory Commission Act 1997* (the ICRC Act). We are constituted under the ICRC Act by one or more standing commissioners and any associated commissioners appointed for particular purposes. Commissioners are statutory appointments. Joe Dimasi is the current Senior Commissioner who constitutes the Commission and takes direct responsibility for delivery of the outcomes of the Commission.

We have responsibility for a broad range of regulatory and utility administrative matters. We are responsible under the ICRC Act for regulating and advising government about pricing and other matters for monopoly, near-monopoly and ministerially declared regulated industries, and providing advice on competitive neutrality complaints and government-regulated activities. We also have responsibility for arbitrating infrastructure access disputes under the ICRC Act

We are responsible for managing the utility licence framework in the ACT, established under the *Utilities Act 2000* (Utilities Act). We are responsible for the licensing determination process, monitoring licensees' compliance with their legislative and licence obligations and determination of utility industry codes.

Our objectives are set out in section 7 and 19L of the ICRC Act and section 3 of the Utilities Act. In discharging our objectives and functions, we provide independent robust analysis and advice.

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Correspondence or other inquiries may be directed to the Commission at the following address:
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We may be contacted at the above address, or by telephone on (02) 6205 0799. Our website is at www.icrc.act.gov.au and our email address is icrc@act.gov.au.

Snapshot of 2020-21

We report each year on the performance and compliance of utilities licensed in the ACT. From 2020-21, we are also reporting (for the first time) on National Energy Retail Law (NERL) retailers' compliance with the new Consumer Protection Code that came into effect from 1 July 2020.

Part A contains our monitoring report on the Utility Licence Annual Reports (ULARs), which tells the utilities' customers and other interested people how well the licensed utilities performed in delivering services in 2020-21. We measure performance by the reliability of services, the number of customer complaints, compliance with consumer protections, and whether each utility has met its licence and reporting obligations.

Part B contains the NERL Retailer Compliance Report. Unlike utilities, we do not license the NERL retailers, which are granted authorisations to operate by the Australian Energy Regulator. However, we still regulate NERL retailers operating in the ACT. Part B tells the retailers' customers and other interested people how well the NERL retailers performed in delivering services and complying with customer protections. NERL retailers report against Schedule 3 of the Consumer Protection Code, which specifically provides which parts of the Code apply to NERL retailers.

Automatic rebate payments

The Consumer Protection Code sets out guaranteed service levels (GSLs) for the licenced utilities and energy retailers. In the Code, we introduced a requirement for the utilities to pay rebates automatically to affected customers when they have not met the GSLs. Previously, customers had to know that they were entitled to a rebate and apply to the utility. The 2020 Code also introduced a new requirement for NERL retailers to make automatic rebate payments when they have not met the GSLs.

Automatic payment of rebates has led to a significant increase in rebates paid to consumers, from a total of \$1,200 paid in 2019-20 to a total of \$147,030 that will be paid for the 2020-21 reporting year. These rebates are recognition that customers have received poorer services than they should expect.

Total rebates paid by utilities in 2020-21

Utility	Number of GSLs not met	Number of rebates paid	Money paid	Number of rebates still owing	Money still owing	Total amount of money that will be paid for 2020-21
Icon Water ¹	294	231	\$31,040	273	\$30,660	\$61,700
Evoenergy (Electricity)	3,132 ²	1,227	\$85,180	0	0	\$85,180
Evoenergy (Gas)	2	2	\$150	0	0	\$150
Total	3,428	1,460	\$116,370	273	\$30,660	\$147,030

¹ Icon Water's rebate figures are estimates. Final figures may be updated in the 2021-22 ULAR monitoring report

² Evoenergy received an exemption for not meeting GSL-E1 on 1,906 occasions. We provide our reasons for granting this exemption at 3.2.

Icon Water reports that it discovered in late September 2021 that it had paid out rebates to 210 ineligible customers for a total of \$30,230. It reports that it then put together a working group to resolve the errors causing incorrect payments and paused its remaining rebate payments. Icon Water estimates that 273 customers still require rebates totalling \$30,660 to be paid out. Icon Water reports it will finalise all rebate payments owing for the 2020-21 reporting year by end of June 2022. We have published the estimated totals as we do not wish to delay the publication of this report any further.

NERL retailers

NERL retailers had an obligation to pay rebates for the first time in 2020-21. Only the two largest NERL retailers reported not meeting the relevant GSLs.

Both retailers reported that in each instance when they did not meet a GSL, they paid the relevant rebate to the customer.

Total rebates paid by NERL retailers in 2020-21

NERL retailer	2020-21 (Number of GSLs not met)	Amount
ActewAGL	246	\$6,680
Origin Energy	29	\$3,190
Total	275	\$9,870

Impacts of the COVID-19 pandemic and weather events

Utilities' performance was impacted by the restrictions imposed to address the COVID-19 pandemic and by prevailing weather conditions.

Evoenergy reported that due to a hailstorm on 20 January 2020 more than 3,474 homes lost power. Evoenergy also received a large number of customer requests to isolate and manage power supply at their homes to allow roof damage caused by hailstones to be repaired. From March 2020, in response to the COVID-19 pandemic, the ACT and other jurisdictions issued a series of health directions throughout 2020-21. These included lockdowns, border restrictions and mandatory quarantine for returning workers. The COVID-19 restrictions impacted Evoenergy's capacity to effectively allocate resources and address the backlog as they relied on specialist technicians coming in from other states to supply a surge workforce. After carefully considering a submission by Evoenergy, we accepted that the hailstorm and COVID-19 restrictions prevented Evoenergy from meeting the expected connection times and that Evoenergy had taken all reasonable steps to address the delays.

Icon Water reported a significant reduction in sewerage reliability complaints. It advised this reduction occurred primarily due to the change in the weather pattern from droughts in previous years to wetter weather. Wetter weather also resulted in fewer sewer breaks and chokes, due to fewer tree root incursions into sewers. This reduced unplanned interruptions and notifications related to damage, fault or a problem with the sewer network.

Outcomes at a glance

Electricity distribution

Planned interruptions

1,263

Number of planned interruptions to services

▲ 170 from 2019–20

Unplanned interruptions

26

Number of unplanned sustained interruptions that lasted 12 hours or longer

▼ 11 from 2019–20

677

Electricity customers not notified within at least four business days before a planned interruption.

▲ 623 from 2019–20



Water supply and sewerage services

502

Number of unplanned interruptions to water supply services. ▼ 43 from 2019–20

1,797

Premises affected by unplanned interruptions for sewerage services. ▼ 1,046 from 2019–20



Sewer main breaks and chokes decreased from 2,829 in 2019–20 to 1,787 in 2020–21.



Tree root intrusions remained the main cause of sewer main breaks and chokes during 2020–21.

Gas distribution

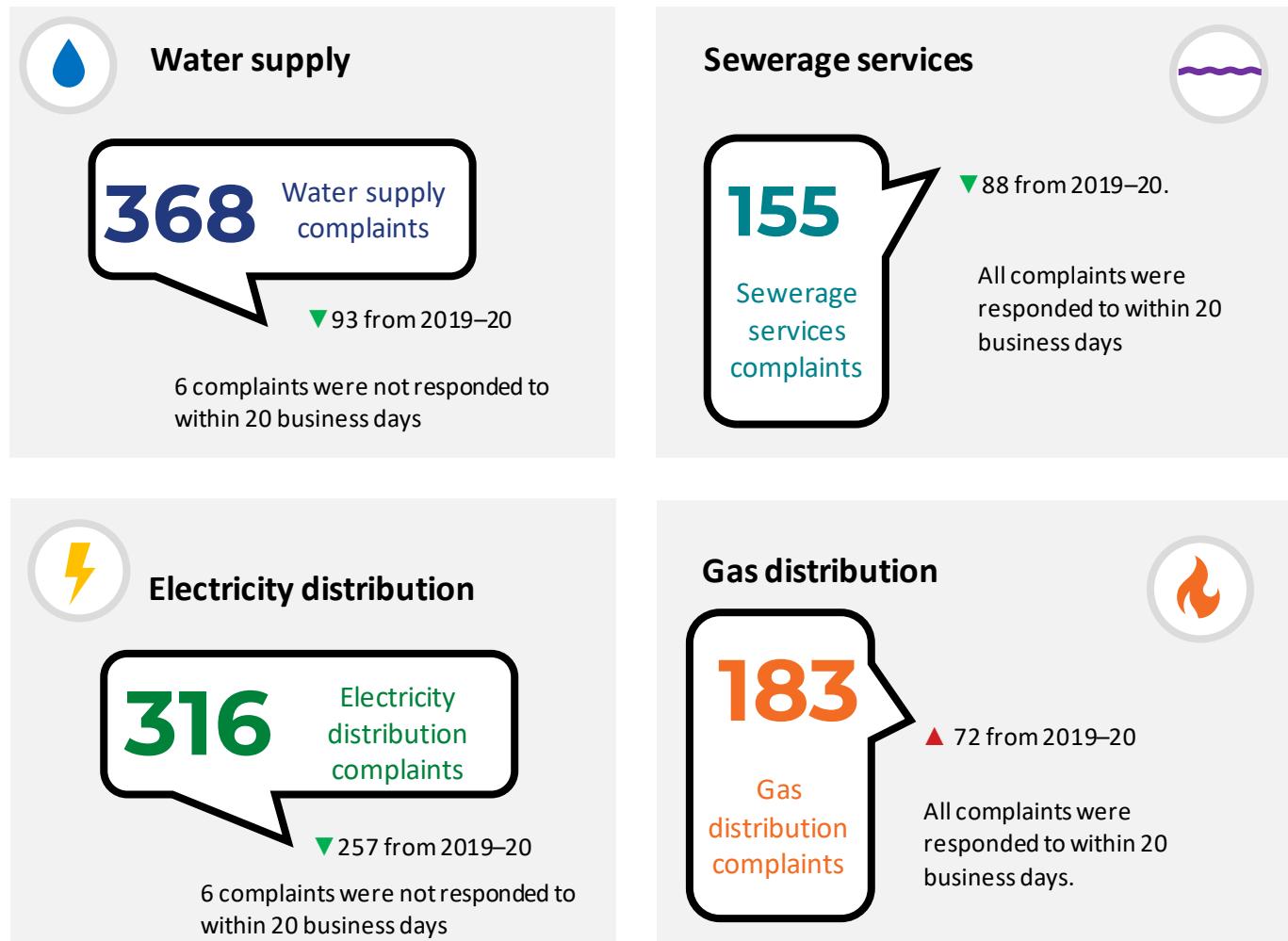


All premises affected by planned interruptions to gas supply were notified within 4 business days.



All interruptions were restored within 12-hours.

Customer complaints



Consumer protection

Icon Water

Water supply and sewerage service

Evoenergy

Electricity distribution

Evoenergy

Gas distribution

Number of times utilities paid rebates in 2020–21

504

1,227

2

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Part A – Utility Licence Annual Report

PART A

1. Our annual performance reporting

We are the economic regulator for the Australian Capital Territory under the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act). One of our functions is to monitor and report publicly on the performance of the utilities operating in the ACT.

Figure 1.1 Licensed utilities operating in the ACT during 2020-21

Icon Water	Evoenergy Electricity	Evoenergy Gas	Transgrid	EAPL
Water supply and sewerage services	Electricity distribution, connection and transmission services	Gas distribution and connection services	Electricity transmission services	Gas transmission services

We do not license retail energy providers. Energy retailers are licensed under the national energy customer framework by the Australian Energy Regulator (AER) and the AER reports annually on their performance³. However, through the Utilities Act, we apply codes to energy retailers. These codes impose standards and responsibilities on the retailers. We monitor their compliance with these codes.

Our framework

We manage the utility licence framework in the ACT established by the *Utilities Act 2000* (Utilities Act). We ensure that licensed utilities in the ACT comply with the obligations in their licences and in industry and technical codes made under the Utilities Act.

Each utility's licence sets out obligations relating to environmental requirements, compliance reporting and record keeping.

More information on the regulatory framework is in Appendix A.

³ AER (Australian Energy Regulator), [Retail markets: Performance reporting](#), AER website 2022, accessed 3 February 2022.

How we monitor performance

We require each licenced utility to prepare an annual compliance report. We then monitor the utilities' performance and compliance with their licence conditions and produce the ULAR. This report is one part of our approach to monitoring compliance. We also monitor customer complaints; and we have a self-reporting framework, along with compliance monitoring of marketing materials.

Through the ULAR we monitor the utilities' compliance with industry codes. Current industry codes are the Consumer Protection Code⁴, Water and Sewerage Capital Contribution Code⁵, ACT Retail (Transparency and Comparability) Code⁶, and the Electricity Feed-in Code⁷.

We look for issues that occur repeatedly over multiple reporting periods. We check whether there is a systemic problem that is negatively affecting customers or could prevent a utility from meeting its licence obligations. We proactively engage with utilities when issues are identified and encourage utilities to take action to improve their performance.

Consumer Protection Code 2020

In December 2019, we made a new Consumer Protection Code, that updated and strengthened consumer protections. On 1 July 2020, the new Code took effect. This is first time we have published a monitoring report since then. The 2020 code sets out new guaranteed service levels (GSLs) for the licenced utilities and for energy retailers.

When utilities and retailers fail to meet these GSLs, they must automatically pay rebates to customers. Previously, customers had to know about and apply for a rebate, and many customers did not receive a rebate because they did not know about their entitlement. Automatic payment of rebates has led to a significant increase in rebates paid to consumers.

The GSLs replaced the minimum service standards (MSS) in the previous Consumer Protection Code. There have been some changes from the MSS to the GSLs. Therefore, we have not been able to directly compare MSS numbers in previous reports and the GSL numbers in this report. The impact of the new Code on trends in consumer service performance will become clearer in coming years.

With the new Code, energy retailers are required to meet certain service levels and report to us on their annual performance, and when applicable, pay out rebates. Currently, 23 energy retailers are operating in the ACT that are covered by the Consumer Protection Code.

The purpose and scope of this report

This report helps make utilities accountable for their performance by giving the public information about where the utilities have performed well and where there is scope for improvement. This will give the utilities stronger incentives to improve their performance by providing better services to their customers.

⁴ Utilities (Consumer Protection Code) Determination 2012 (DI2012-149).

⁵ Utilities (Capital Contribution Code) Approval 2017 (DI2017-291).

⁶ Utilities (ACT Retail Electricity – Transparency and Comparability Code) Determination 2021 (DI2021-182).

⁷ Utilities (Electricity Feed-in Code) Determination 2015 (DI2015-256).

Publishing this report helps us achieve our objective of protecting the short term and long-term interests of customers in the ACT.

Figure 1.2 Purpose of annual compliance monitoring



Promote transparency, data integrity and accountability of licensed utilities

Reduce risks to customers and the community from a utility's non-compliance with its licence obligations

Inform customers and the ACT community about the performance of licensed utilities in the ACT

Encourage and motivate utilities to improve performance against obligations in their licence the Utilities Act and relevant industry codes

2. Water supply and sewerage services

2.1. Interruptions to water and sewerage services

We monitor and report on interruptions to the water and sewerage networks to assess the reliability of water supply and sewerage services in the ACT and identify the main causes of interruptions. This helps us monitor Icon Water's compliance with the guaranteed service levels for interruptions under the Consumer Protection Code.

2.1.1. Planned interruptions to water supply were higher

Planned interruptions take place when Icon Water undertakes maintenance work on its network. Icon Water must give customers at least 2 days' written notice of any planned maintenance which may interrupt their water supply.

Icon Water reported 8,856 planned interruptions to water supply during 2020-21. This was a 3.8% increase from the previous year (8,533). Icon Water reported that more planned interruptions were needed to replace more water meters, allow developer work to happen (for connections to a new suburb) and to replace more hydrants and valves than in the previous year.

The average duration of planned interruptions in Icon Water's water network was shorter in 2020-21 than in 2019-20.

Table 2-1 Water supply – planned interruptions, 2016–17 to 2020–21

Measure	2016–17	2017–18	2018–19	2019–20	2020–21	Change
Number of planned interruptions to water services network	7,760	6,698	7,854	8,533	8,856	▲ 323
Number of premises not given at least two business days' notice of a planned interruption to the water supply network (GSL-W3)	0	0	0	0	13	▲ 13

Failure to give customers at least two business days' notice of a planned interruption

Icon Water reported an incident in which 13 premises were impacted by a planned interruption, but Icon Water did not give at least 2 days' written notice to the affected customers. During this incident, Icon Water gave proper notice to customers at the properties where it planned to interrupt their water supply. But Icon Water mistakenly turned off the water supply to a neighboring unit complex. Icon Water advised that the error was caused by a water meter being incorrectly drawn on a map and that it has updated the map with the correct location of the water meter. It paid rebates to the 13 affected customers.

2.1.2. Unplanned interruptions to water supply were lower

The most common unplanned interruptions are caused by mains breaks, major leaks and emergency repairs due to tree roots damaging pipes, and infrastructure damage by third parties. Icon Water reported 502 unplanned interruptions of water supply during 2020-21. This was a 7.9% decrease from the previous year (545).

The average duration of unplanned interruptions in Icon Water's water network was longer in 2020-21 than in 2019-20.

Water main burst in O'Malley

Icon Water reported one unplanned interruption to the water supply that took more than 12 hours to restore. In this incident, a large water main burst in O'Malley and 12 premises did not have services for 17.5 hours. Icon Water provided bottled water to the affected customers. Icon Water undertook a technical post-incident review, which did not indicate that other pipes in the main are susceptible to bursting. Rebates were paid to the affected customers.

2.1.3. Unplanned interruptions to sewerage services decreased

Icon Water reported 1,797 unplanned interruptions to sewerage services during 2020-21. This was 36.8% lower than the previous year (2,843).

Icon Water reported that there were fewer unplanned interruptions due to fewer sewer breaks and chokes compared to 2019-20. This was mainly due to 2020-21 being much wetter than 2019-20. Dry weather and low rainfall cause tree roots to enter sewers seeking water. Icon Water's completion of its preventative maintenance program has also helped to reduce the number of sewer breaks and chokes.

2.2. Icon Water's compliance with Guaranteed Service Levels

The Consumer Protection Code requires licensed utilities to comply with all applicable guaranteed service levels (GSLs). The GSLs and associated rebates are provided in Appendix B.

Icon Water has thus far paid 231 rebates for a total of \$31,040 for 2020-21 reporting year. Icon Water estimates an additional 273 rebates totalling \$30,660 need to be paid⁸. Icon Water indicates all payments for the 2020-21 reporting year will be made by end of the 2021-22 financial year.

⁸ Icon Water's rebate figures are estimates. Final figures may be updated in the 2021-22 ULAR monitoring report.

Table 2-2 Water supply – GSLs and rebates for 2020-21

Ref	Subject of the service level	Number of times GSL was not met	Number of rebates paid ⁹	Total value of rebates paid ¹⁰
GSL-1	Connection not provided, or flow restrictors not removed, by required date	0	0	\$0
GSL-2	Complaint not responded to within 20 business days	8	8	\$160
GSL-3	Two business days' notice not given for a planned interruption	13	14	\$700
GSL-4	An unplanned interruption lasts for 12 hours or longer	12	150	\$12,000
GSL-5	Customer experiences more than 9 unplanned interruptions in a financial year	0	0	\$0
GSL-6	Utility fails to respond to a notification relating to damage or fault or problem with the network within time ¹¹	261	332	\$48,840
Total		294	504	\$61,700

2.2.1. Customers receive rebates to recognise poor service

For 2019-20, Icon Water reported in accordance with the 2012 Consumer Protection Code and the then minimum service standards. This is the first time Icon Water is reporting against the 2020 Code and the new guaranteed service levels (GSLs).

We introduced automatic payment of rebates to customers who had received poorer than expected service levels in the 2020 Code because many customers previously did not know they were entitled to a rebate. Before the 2020 Code took effect, very few customers received a rebate to recognise when service was below the minimum service standard. The evidence from the 2020-21 monitoring report shows that Icon Water's customers are now receiving the rebates they are entitled to when a GSL is not met.

In 2019-20, Icon Water did not meet minimum service standards 241 times and paid no rebates to customers.

During 2020-21, Icon Water did not meet GSLs 294 times and has paid 231 rebates to its customers. In late September 2021, Icon Water discovered that it had incorrectly paid rebates on 210 occasions totalling \$30,230 in payments to customers that were not eligible for a rebate. Icon Water has advised it will not

⁹ Icon Water reports all payments for 2020-21 will be made by 30 June 2022.

¹⁰ Icon Water reports all payments for 2020-21 will be made by 30 June 2022.

¹¹ A utility must upon being notified of damage to, or a fault, or problem with the network within six hours if the issue is likely to affect public health, or is causing, or has the potential to cause, substantial damage or harm to a person or property. In all other cases, the utility must respond within 48 hours and resolve the problem within the time specified in its response.

seek to recover these amounts. However, in response to this discovery it has paused payments. Icon Water sought to first identify and resolve issues that caused these incorrect payments before proceeding with further payments. Icon Water estimates that a further 273 rebates are outstanding for total of \$30,660. It advised it will pay out these outstanding rebates by 30 June 2022.

As provided in Table 2.2, Icon Water paid 14 rebates for GSL-W3 when only 13 were owing. All rebates have been paid for under GSL-W3. However, Icon Water paid out 138 rebates to ineligible customers under GSL-W4 and not to the 12 correct customers. Therefore, 12 more rebates totalling \$960 are owing for GSL-W4. Icon Water paid out 71 rebates to ineligible customers under GSL-W6. It still needs to pay 261 rebates to the correct customers for a total of \$29,700 under GSL-W6.

2.3. Complaints were lower

In 2018-19, Icon Water introduced a three-year customer service strategy project to improve customer service (including a review of the metering process) and the way it manages complaints. The project aimed to proactively address issues to prevent complaints from occurring and to improve its management of existing complaints. 2020-21 was the third year of the project.

2.3.1. Water supply complaints were lower

In 2020-21, Icon Water received 368 water supply complaints, down 20 per cent from the previous year. Icon Water noted that there has been a trend of fewer customer complaints since it implemented its customer service strategy in 2018-19. Icon Water considers that the trend indicates its efforts to improve complaint management have been largely successful.

Table 2-3 Water supply complaints from 2016-17 to 2020-21

Complaint categories	2016-17	2017-18	2018-19	2019-20	2020-21	Change	% of total complaints	
Accounts / billing	144	168	121	97	150	▲	53	40.8
Property damage and restoration of property	75	111	104	100	77	▼	23	20.9
Metering / meter reading	159	214	64	42	55	▲	13	14.9
Other network complaints	27	26	6	77	40	▼	33	10.9
Other retail complaints	151	145	79	24	25	▲	1	6.8
Water supply quality	169	134	105	84	15	▼	69	4.1
Unplanned interruptions	16	5	5	4	5	▲	1	1.4
Failure to provide notice	32	19	10	27	1	▼	26	0.3
Water supply reliability	3	4	2	6	0	▼	6	0.0
Total number of complaints	776	826	496	461	368	▼	93	

Accounts billing is the largest category of complaints for 2020-21. Complaints in this category increased significantly to 150 in 2020-21 from 2019-20 when there were 97 complaints.

Complaints about property damage and restoration of property fell in 2020-21. Since 2017-18, there has been a steady decrease in these complaints. In 2020-21 Icon Water has seen the most change (23) in this category since 2017-18, when the complaints increased by 36. Icon Water reported the lowest number of complaints in this category since 2016-17.

Metering complaints increased from 42 in 2019-20 to 55 in 2020-21. The previous three years showed a trend of lower complaints in this category. Despite the increase in 2020-21, complaints remain low compared to the 214 complaints recorded in 2017-18.

Complaints about water supply quality dropped from 84 in 2019-20 to only 15 in 2020-21. This continues a trend of lower complaints each year since 2016-17.

2.3.2. Sewerage service complaints were also lower

In 2020-21, Icon Water received 155 sewerage complaints, down 36.2% from 2019-20.

Table 2-4 Total number of sewerage service complaints 2016-17 to 2020-21

Complaint categories	2016-17	2017-18	2018-19	2019-20	2020-21	Change	% of total complaints
Property damage and restoration of property	106	85	73	98	79	▼	51.0
Sewerage services reliability	33	28	29	74	27	▼	17.4
Other network complaints	0	0	0	45	20	▼	12.9
Sewerage odour complaints	7	9	14	22	18	▼	11.6
Failure to provide notice	8	6	5	4	11	▲	7.1
Unplanned interruptions	0	0	0	0	0	0	0.0
Other retail complaints	24	29	25	0	0	0	0.0
Total number of complaints	178	157	146	243	155	▼	88

Icon Water noted that a significant reduction in sewerage reliability complaints was the main cause of the lower number of total complaints. Icon Water attributed the lower complaints about sewerage reliability to a change in weather pattern (from dry to wet), resulting in fewer sewer breaks and chokes.

The largest complaint category is for property damage and restoration of property complaints. These complaints decreased from 98 in 2019-20 to 79 complaints in 2020-21. Icon reports that improvements in the restoration process have led to a decrease in the number of these complaints.

Complaints about sewerage services reliability have also fallen, from 74 in 2019-20 to 27 in 2020-21. In 2019-20, Icon Water reported an increase in sewer blockages and sewer surcharges as the cause of these complaints increasing in this category. Further, in 2019-20, Icon Water reported that its ongoing sewer maintenance program would aim to clear out the tree roots out of the sewer mains and identify sewer mains for replacement. The 2020-21 reporting results indicate a return to the previous trend, with results similar to 2016-17 through 2018-19 reporting years.

Complaints about sewerage odour decreased slightly and have been relatively stable over the past three reporting years.

Icon Water reported that complaints about it failing to provide notice, or providing insufficient notice, about works increased. Complaints increased from 4 in 2019-20 to 11 in 2020-21. This is the highest number of complaints in this category in more than 9 years.

2.3.3. Icon Water's complaint handling procedures

The Consumer Protection Code sets out requirements for utilities to maintain a complaint handling procedure that complies with the Australian Standards. Icon Water reported that during 2020–21 it had a complaint handling procedure in place that complied with Australian Standard 10002-2006: *Customer satisfaction—Guidelines for complaints handling in organisations* and the Consumer Protection Code. Its complaint handling practices include giving customers and consumers a meaningful response and giving information about its complaint handling procedures when acknowledging complaints. Icon Water's complaint handling policy and information about customers' rights to complain to the ACT Civil and Administrative Tribunal (ACAT) are published on its website.¹²

The Code requires a licensed utility to keep records of complaints lodged for at least twelve months after the complaint is resolved. Icon Water reported that during 2020–21, it recorded all enquiries and complaints, along with the actions taken to rectify the problem. Icon Water reported it also keeps records of complaints for at least twelve months after the complaint is resolved.

2.4. Icon Water met its licence and reporting obligations

Icon Water's utility licence requires it to comply with any requirement under the Utilities Act, relevant industry and technical codes, and any directions we may give it. The licence also requires it to report any material (significant) breach and non-compliance to us. This section reports on Icon Water's compliance with its licence requirements and other reporting obligations during 2020–21, including obligations under the Water and Sewerage Capital Contribution Code.

Water supply reporting

Under its utility licence, Icon Water must collect information and report annually on the volume of water supplied in the ACT. The licence also requires Icon Water to develop and implement cost-effective programs to minimise unaccounted for water from its water network.

Icon Water supplied 45,251 ML of water in the ACT during 2020-21, 10.9% less than in 2019-20. The total volume of water supplied (32,014ML) to residential customers fell 10.0% from 2019-20 (35,564ML). Water supplied (8,639ML) to commercial customers fell by 17.3% from 2019-20 (10,447ML).¹³

¹² Icon Water, [Complaints handling policy](#), Icon Water website, 2021, accessed 19 April 2021.

¹³ This information comes from billing data used to obtain a breakdown of the volumes supplied to each category. Due to different billing cycles these volumes do not match the total volume of water supplied above.

Material breach reporting

There were no material breaches of Icon Water's utility licence in 2020–21. This finding is based on information from Icon Water and our monitoring throughout 2020–21.

Capital contribution charges

In 2017, we made a Water and Sewerage Capital Contribution Code.¹⁴ The Code sets out the framework under which Icon Water may require a customer to contribute towards developing or expanding the water network or sewerage network for development.

For 2020–21, Icon Water reported customers contributed \$3,585,519 in charges.

Capital contribution charges were \$226,464 and \$1,472,100 in 2018–19 and 2019–20 respectively. The Code took effect from 1 January 2018, with an 18-month transition period for properties purchased prior to the commencement date.

Emergency telephone service

Icon Water's utility licence requires it to maintain a 24-hour emergency telephone service that is accessible to the public and can receive reports of network emergencies every day of the year. In 2020–21 Icon Water reported no outages to the service.

Icon Water reported that information on its 24–hour emergency telephone number is available to customers and the public through the White Pages telephone directory, customer bills, Icon Water's website, newspaper advertisements, brochures, correspondence with customers, and social media.

Customer safety net arrangements

Under the Consumer Protection Code, Icon Water cannot disconnect water supply or withdraw sewerage services from a customer for failure to pay an account. Icon Water may restrict the water flow to amounts sufficient for essential use only. Icon Water reported that there were no disconnections of water supply, no restrictions on a customer's water flow, and no withdrawal of sewerage services for failure to pay an account in 2020–21.

¹⁴ Utilities (Water and Sewerage Capital Contribution Code) Approval 2017 (DI2017-291).

3. Electricity distribution

3.1. Interruptions to electricity supply

We monitor and report on interruptions to the supply of electricity from the electricity distribution network to assess the reliability of electricity supply in the ACT and identify the main causes of supply interruptions. We also monitor Evoenergy's compliance with the required Guaranteed Service Levels for interruptions under the Consumer Protection Code.

3.1.1. Planned interruptions increased

In 2020-21, planned interruptions on the electricity distribution network rose. Evoenergy reported a 15.6% increase in interruptions. There were 1,263 planned interruptions in 2020-21, compared to 1,093 interruptions in 2019-20.

Table 3-1 Electricity distribution – planned interruptions, 2016–17 to 2020–21

Measure	2016–17	2017–18	2018–19	2019–20	2020–21	Change
Number of planned interruptions to the electricity distribution network	1,186	1,245	1,186	1,093	1,263	▲ 170
Number of premises not given at least four business days' notice of a planned interruption to the electricity distribution network (GSL-E4)	564	451	316	54	678	▲ 624

Note: Evoenergy has advised that there were errors in previously reported figures for the number of premises not given at least 4 business days' notice of a planned interruption. The figures for 2016–17 and 2017–18 have been corrected and therefore differ from numbers published in our previous reports.

Failures to give customers at least four business days' notice of a planned interruption

Under the Consumer Protection Code, Evoenergy must give customers at least four business days' notice of a planned interruption. During 2020-21, Evoenergy did not give 678 customers the required notice. This is an increase from the 54 failures in 2019-20. The large difference is mainly due to the reporting of a single event.

On 6 May 2021, 623 customers lost supply at once, including 25 life support customers. The loss of supply lasted roughly 2 minutes and occurred due to human error. Evoenergy had planned to turn off the supply to one group of customers and gave the required written notice to the affected customers. An Evoenergy employee mistakenly turned off the supply for a different group of customers. The failure to give notice of a planned interruption relates to those customers who were not notified of the disruption to supply.

3.1.2. Unplanned interruptions were lower

Unplanned sustained interruptions lasting 12 hours or longer

Evoenergy reported that 349 premises experienced unplanned sustained interruptions lasting 12 hours or more in 2020-21. This is a better outcome than in 2019-20 when 614 premises were affected. In 2020-21, there were 2 main causes of sustained interruptions: trees being blown onto mains and equipment failures or defects.

Table 3-2 Electricity distribution – unplanned interruptions, 2016–17 to 2020–21

Measure	2016–17	2017–18	2018–19	2019–20	2020–21
Number of premises affected by an unplanned interruption to the electricity distribution network that lasted for more than 12 hours (GSL-E5)	92	395	128	614	349
Number of customers experiencing a cumulative total of unplanned sustained interruptions equalling or exceeding (GSL-E6): ¹⁵					
Level 1 – 20 hours	n/a	n/a	n/a	n/a	129
Level 2 – 30 hours					49
Level 3 – 60 hours					8
Number of customers experiencing more than 9 unplanned sustained interruptions in a financial year (GSL-E7)	n/a	n/a	n/a	n/a	0

Sustained unplanned interruption event

Evoenergy reports that from 30 November 2020 there was a sustained unplanned interruption due to an equipment failure, which affected 15 premises. The incident occurred when the main equipment supplying an industrial customer failed. Evoenergy restored electricity to 9 of the 15 premises, either through the network or with a generator, within 12 hours. The remaining 6 premises experienced an unplanned interruption lasting 167 hours and 20 minutes.

Evoenergy advised that it discussed the problem with the industrial customer and reached an agreement that these 6 premises did not require power restored immediately. This agreement allowed Evoenergy to replace the faulty equipment in a planned process to reduce costs. Evoenergy paid rebates to the premises that had sustained interruptions lasting 12 hours or more, as detailed in Appendix B.

¹⁵ GSL-E6 and GSL-E7 came into effect with the new Code and have no comparable MSS equivalent.

3.2. Evoenergy's compliance with Guaranteed Service Levels for electricity distribution

During 2020-21, Evoenergy paid 1,227 rebates to consumers to a total value of \$85,180.

Table 3-3 Electricity distribution – GSLs not met and rebates paid

Ref	Subject of service level	Number of times the GSL was not met	Number of rebates paid	Number of rebates not paid	Total value of rebates paid
GSL-E1	Connection not provided by required date	1906	1	1905	\$60
GSL-E2	Customer disconnected wrongfully	3	3	0	\$300
GSL-E3	Complaint not responded to within 20 business days	6	6	0	\$120
GSL-E4	Sufficient notice of a planned interruption to supply not provided	679	679	0	\$33,950
GSL-E5	An unplanned sustained interruption lasts 12 hours or longer	349	349	0	\$27,920
GSL-E6	Total cumulative hours of unplanned sustained interruptions experienced by a customer in a financial year is equal to or exceeds 20 hours	186	186	0	\$22,650
GSL-E7	Customer experiences more than 9 unplanned sustained interruptions in a financial year	0	0	0	\$0
GSL-E8	Utility fails to respond to a notification about damage, problems or faults with the network within time ¹⁶	3	3	0	\$180

Details of the GSLs and individual rebates payable are provided in Appendix B.

Evoenergy did not meet the customer connection times GSL due to circumstances outside of its control

In 2020-21, Evoenergy reported that it had not met the GSL for connection times on 1906 occasions. The new code requires that all rebates are paid automatically without the customer needing to apply for the rebate. Under clause 11.1(2) of the Code, Evoenergy applied to be exempted from paying rebates for late connections due to matters occurring outside of its control. After careful consideration, we found that

¹⁶If the issue is likely to affect public health, or is causing, or has the potential to cause substantial damage or harm to a person or property, the utility must respond as soon as practicable or within six hours. In all other cases, the utility must respond within 48 hours and respond to the problem or concern within the time specified in the utility's response.

Evoenergy did not breach GSL-E1 and therefore we granted that exemption. Therefore, Evoenergy was not required to pay these rebates.

To demonstrate to us that an exemption is justified, a utility must demonstrate that:

- events or conditions happened that were out of the utility's control and
- those events or conditions prevented the utility from meeting the GSL.¹⁷

In support of its application, Evoenergy put to us that two significant events reduced its capacity to meet the GSL- E1. These were the January 2020 hailstorm and restrictions imposed by state and territory governments in response to the COVID-19 pandemic.

On 20 January 2020, Canberra experienced a severe hailstorm. Evoenergy reported that the hailstorm caused extensive damage and 3,474 properties lost power. Due to hailstones damaging rooftops, Evoenergy reported that many customers asked it to manage the power supply to their homes to allow roof repairs to be carried out safely.

Before all repairs could be completed, Evoenergy's operations were further impacted by health directions introduced in the ACT and other jurisdictions in response to the COVID-19 pandemic. To comply with the health directions and protect its employees, Evoenergy established static crew structures to minimise the risk of spreading COVID-19. This reduced its capacity to complete works within normal timeframes and prevented it from dynamically reallocating its employees.

Evoenergy reported that these two events resulted in a backlog of work and resulted in delays in achieving the connection timeframes required under the GSL-E1.

In response to a growing number of connection delays, Evoenergy reported that it:

- met and discussed connection timeframes with the Master Builders Association and National Electrical Contractors Association
- used its customers service centres to communicate with customers about the connection delays and prompt customers to submit applications for quotes as soon as possible
- implemented a case management system for complaints and inquiries
- recruited more line workers and electrical fitters
- established a team to manage the connections issue
- engaged two external organisations to supply a surge workforce of with specialist staff from interstate.

In its request for an exemption, Evoenergy submitted that COVID-19 restrictions in the ACT and other jurisdictions delayed the ability of interstate surge workforces to travel to and work in the ACT. The Victorian team was subject to a quarantine of 14 days upon return to Victoria. When the Victorian team was delayed, Evoenergy engaged a team from Queensland, but this team could not enter the ACT due to the ACT lockdown that started in August 2021.

After carefully considering Evoenergy's submission and noting the substantial expenditures Evoenergy incurred to try to address the backlog of connections, we were satisfied that the severe hailstorm and COVID-19 restrictions were out of its control. We were satisfied that both events impacted on Evoenergy's capacity to comply with GSL- E1.

¹⁷ See clause 11.1(2) of the Consumer Protection Code.

We considered that Evoenergy made genuine attempts to inform its customers and took reasonable steps to find alternative means to address connection time delays. Taking all of these factors into account, we decided to grant the exemption. The exemption means that there were justifiable reasons for Evoenergy being unable to meet the GSL and no rebates were payable.

3.2.1. Customers receive rebates to recognise poor service

For 2019-20, Evoenergy (electricity) reported in accordance with the 2012 Consumer Protection Code and the minimum service standards. This is the first time Evoenergy is reporting against the 2020 Code and the new guaranteed service levels (GSLs).

We introduced automatic payment of rebates to customers who had received poorer than expected service levels in the 2020 Code. Previously, customers had to apply for the rebate.. Before the 2020 Code took effect, very few customers received a rebate because customers were generally not aware of their right to claim a rebate when service was below the minimum service standard. The evidence from the 2021-22 monitoring report shows that Evoenergy's customers are now receiving the rebates they are entitled to when a GSL is not met.

In 2019-20, Evoenergy (electricity) failed to meet the minimum service standards 696 times but only paid 24 rebates to customers, totalling \$1,200.

In 2020-21, Evoenergy (electricity) failed to meet the GSLs 1,226 times when a rebate was payable and paid 1,227 rebates to customers¹⁸, totalling \$85,180.

3.3. Complaints were lower

Complaints about Evoenergy's electricity distribution network fell by 44.9% to 316 complaints in 2020-21. Complaints have fallen each year since the 2016-17. Evoenergy has attributed this reduction to improved customer service and more proactive communications with its customers.

¹⁸ Evoenergy paid one rebate for GSL1 prior to receiving its exemption (customer connection times).

Table 3-4 Total electricity distribution complaints have decreased since 2016-17

Complaint categories	2016-17	2017-18	2018-19	2019-20	2020-21	Change	% of total complaints	
Network operations	195	249	246	202	68	▼	134	21.5
Notice of work and outage	364	144	64	82	47	▼	35	14.9
Network and service quality	254	151	154	98	47	▼	51	14.9
Customer service	47	40	24	58	46	▼	12	14.6
Meter and meter reading	80	17	23	39	27	▼	12	8.5
Fees and charges	19	12	13	20	6	▼	14	1.9
Connection/Disconnection	24	20	49	18	3	▼	15	0.9
Other	130	58	45	56	72	▲	16	22.8
Total number of complaints	1,113	691	618	573	316	▼	257	

Evoenergy noted that the most improved category was network operations, which received 68 complaints in 2020-21, down from 202 complaints in 2019-20. This category includes complaints about matters such as damage to property, noise, and appropriate notice and timing of work. There were fewer complaints about the timing of work (down from 90 in 2019-20 to 26 in 2020-21) and fewer complaints about site restoration (from 33 in 2019-20 to 8 in 2020-21) and insufficient notice (from 82 in 2019-20 to 11 in 2020-21).

Complaints about network and service quality fell from 98 complaints in 2019-20 to 47 complaints in 2020-21. This category includes complaints about damage or fault of an asset, electricity quality, system unreliability, and trees in wires.

Complaints about notice of work and outages fell from 82 in 2019-20 to 47 in 2020-21. This occurred mainly due to fewer complaints about no notice or inadequate notice of work (down from 48 to 11).

Complaint handling procedures

As required by its licence, Evoenergy has a complaint handling procedure that complies with the Australian standards¹⁹. Evoenergy's complaint practices include acknowledging complaints within two business days and giving a meaningful response within 20 business days. Evoenergy keeps records of customer complaints for at least twelve months after the complaint is resolved. Evoenergy publishes information on its website about its complaints and dispute resolution procedure and about customers' rights to take their complaint to the ACAT if they are not satisfied with Evoenergy's response.

3.4. Evoenergy met its licence and reporting obligations

There were no material breaches of Evoenergy's electricity distribution utility licence in 2020-21. This is based on information from Evoenergy and our monitoring during the reporting year.

¹⁹ Australian Standard: Guidelines for complaints management in organisations AS/NZ 10002:2014

Evoenergy must operate the network safely and to take all reasonable steps to ensure that network operations minimise inconvenience, detriment and damage to private land. Table 3.5 shows Evoenergy's performance in operating its electricity network against its obligations under the Utilities Act.

Table 3-5 Network operation performance indicators and requirements under the Utilities Act

Subject of service level	2019-20	2020-21
Number of complaints about inconvenience, detriment and damage to land while carrying out network operations	10	14
Times failed to give landholder at least 7 days' notice before commencing a network operation	0	0
Times notice given for disrupting a heritage site to ACT Heritage Council ²⁰	1	0
Number of complaints about carrying network operations that involve clearing, trimming, or removing trees, roots or vegetation on private land without at least 7 days' notice	4	0
Number of complaints about failure to ensure that land was restored to its original condition following a network operation	33	8

Evoenergy reported it received no complaints about carrying out tree-related activities in urgent circumstances under section 110(8) of the Utilities Act. This is an improvement from 2019-20 when there were 4 complaints.

Providing notice to life support customers

Under the Consumer Protection Code, Evoenergy must not disconnect and interrupt electricity supply to premises with a registered life support customer unless it has given at least four business days' notice of a planned interruption of supply to the premises²¹.

In 2020-21, Evoenergy interrupted supply to 25 life support customers without appropriate notice. This was due to human error during a single incident in which a field technician turned off supply to the wrong customer group for two minutes. Evoenergy paid rebates for this breach. It also reported the incident to the Australian Energy Regulator (AER) at the time of the incident, as required by Part 7 of the National Energy Retail Rules.

Emergency telephone service

Evoenergy's utility licence requires it to have a 24-hour emergency telephone service that is accessible to the public every day of the year and can receive reports of network emergencies. In 2020-21, Evoenergy did not report any outages to its emergency telephone service, which is staffed and accessible to the public 24 hours a day, every day of the year.

Feed-in Tariff scheme

Evoenergy did not report any compliance breaches with operation of the Feed-in Tariff scheme during 2020-21. However, it did receive 3 complaints from customers relating to the administration of the scheme.

²⁰ Utilities are required to give 7 days' notice to the ACT Heritage Council, if in its network operations it has affected, or may have affected, a place or object of heritage significance.

²¹ Clause 10.2 of the Consumer Protection Code 2020

4. Gas distribution

4.1. Interruptions

Planned interruptions were lower

In 2020-21, Evoenergy reported planned interruptions were 20% lower (5,552) than 2019-20. The 2019-20 total was inflated by the need to replace 6,562 old meters. The number of planned interruptions for 2020-21 is about the same as those reported for 2016-17, 2017-18 and 2018-19.

Unplanned interruptions

Evoenergy defines an unplanned outage as a confirmed case of ‘no supply’ which affects Evoenergy’s assets and the interruption was not planned. Evoenergy does not include supply interruptions that happen in a customer’s premises (such as those caused by problems in internal pipework or appliances). Evoenergy reported that there was only 1 instance when it did not give proper notice of a planned interruption to the customer, the same number as in 2019-20.

Evoenergy reported that all unplanned gas interruption were restored within 12 hours. No customers had 9 or more interruptions in 2020-21 and no customers experienced 20 or more cumulative hours of interruptions in the year.

4.2. Compliance with the guaranteed service levels

Under the Consumer Protection Code 2020, Evoenergy must comply with all guaranteed service levels (GSL) for its gas distribution network and report on its compliance annually through its ULAR.

The gas distribution GSLs are listed in the GSL and rebate schedule at Appendix B.

4.2.1. Rebates paid under the Consumer Protection Code

For 2020-21, there were 2 GSL breaches requiring automatic rebate payments.

One rebate of \$100 was paid to a customer for wrongful disconnection. This disconnection was due to an error as the wrong property was disconnected.

One customer was not given sufficient notice of a planned interruption to services and Evoenergy paid a \$50 rebate to the customer.

For 2019-20 (before the 2020 Code took effect), Evoenergy did not meet an MSS on one occasion and did not pay the applicable rebate, because the customer did not apply for a rebate.

4.3. Complaints were higher

Complaints to Evoenergy about its gas distribution network were higher in 2020-21 at 183, compared to 111 in 2019-20. This is a 64.9% increase. Evoenergy responded to all complaints within the required time period of 20 business days.

Table 4-1 Number of complaints by category, 2016-17 to 2020-21

Complaint categories	2016-17	2017-18	2018-19	2019-20	2020-21	Change	% of total complaints
Fees and charges	0	23	47	47	47	0	25.7
Connection and supply	9	13	31	12	36	▲ 24	19.7
Customer service	3	3	8	7	13	▲ 6	7.1
Meter and meter reading	1	14	17	25	60	▲ 35	32.8
Property damage and restoration	2	1	8	9	19	▲ 10	10.4
Serious incidents	0	8	7	11	8	▼ 3	4.4
Total number of complaints	15	62	118	111	183	▼ 78	

Evoenergy attributed the increase in total complaints to more billing disputes. Evoenergy noted that many of these billing disputes occurred due to it not being able to get access to customers' gas meters and therefore needing to use prior usage to estimate the bills rather than a reading.

4.4. Evoenergy met its licence and reporting obligations

Evoenergy gas distribution reported that there were no material breaches of its utility licence in 2020-21.

Emergency telephone service

In 2020-21, Evoenergy did not report any outages to its emergency telephone service. Evoenergy tells customers and the public about the emergency telephone service through the public telephone directory and customer bills issued by retailers.

5. Electricity transmission

5.1. Transgrid met its licence and reporting obligations

Transgrid reported that it has a corporate compliance framework for managing its compliance obligations across its operations. Transgrid audits the services and operations authorised under its utility licence. Transgrid reported that its compliance audits were mainly of its key management systems for health and safety, environment, asset management, and service quality. Transgrid also has a corporate risk and compliance team which conducts independent reviews to improve compliance performance.

Based on information from Transgrid and our monitoring during the year, there were no material breaches of Transgrid's utility licence in 2020–21.

For 2020-21, Transgrid reported its asset and environmental management systems maintained their certifications and were fully implemented during the year.

5.1.1. Utilities Act obligations

The Utilities Act requires Transgrid to ensure that its network operations minimise inconvenience, detriment and damage to land. The Act also requires Transgrid to restore land to its original condition after a network operation. We assessed Transgrid's performance against these requirements by looking into the number of complaints Transgrid received about its network operations.

Transgrid has reported 4 complaints about inconvenience and detriment. These complaints involved landscaping issues and easement issues. For example, residents raised concerns about whether their back fences needed to be earthed, and raised concerns about a buzzing noise. In response, Transgrid informed the residents that their back fences would not require earthing. Transgrid also provided them a written explanation and a factsheet about the noise. The explanation noted the amount of noise depended on local conditions, such as humidity and wind.

A property owner lodged 2 complaints alleging that Transgrid did not restore the land to its original condition following the network operations. The resident complained about weeds growing in the property's easement. The resident also questioned if Transgrid was going to plant trees in the easement. In response, Transgrid reports it told the resident that it only manages the vegetation to maintain security clearances. It advised the resident that any additional vegetation management would be the responsibility of the landowner. Transgrid reports it informed the resident that it had undertaken the landscaping in consultation with the landowners.

6. Gas transmission

6.1. EAPL mostly met its licence and reporting obligations

EAPL's utility licence requires it to report annually on the amount of gas transferred from the gas transmission network to the gas distribution network at North Watson Custody Transfer Station. During 2020-21, EAPL transferred 3,669 terajoules (TJ) of gas from the transmission network to the gas distribution network, compared to 3,875 TJ in 2019-20.

Based on information from EAPL and our monitoring during the year, there were no material breaches of EAPL's utility licence in 2020-21.

EAPL must report on restrictions on or interruptions to supply to the distribution network, operation and compliance audits, major periodic reviews, and emergency simulations.

For 2020-21, EAPL reported that:

- its parent company, APA Group, has commenced a formal Asset Information Improvement Initiative as part of its 2022 financial year project.
- it continually reviews its data collection and reporting process.

6.1.1. Failure to publish annual performance reports

A condition of EAPL's licence is that it must publish each year's ULAR or a summary of the ULAR on its website. Last year we raised this with EAPL and noted EAPL's failure to publish its annual performance reports in our 2019-20 Monitoring Report. EAPL had not published its ULAR or a summary of the ULAR for 2017-18, 2018-19 and 2019-20 and therefore failed to meet the licence requirement.

To give EAPL greater clarity about when it should publish its annual performance report, we asked EAPL to publish its ULAR for this year by 30 November 2021 and to publish future reports by 30 November of the reporting year. We also asked EAPL to publish the 3 outstanding reports (for 2017-18, 2018-19 and 2019-20) as soon as possible. After further correspondence, EAPL published these reports in April 2022.

As highlighted in chapter 1 of this report, we see the publication of annual performance reports by the utilities licensed to operate in the ACT as important for informing ACT customers, improving the utilities' accountability, and strengthening the utilities' incentives to deliver good service. We see EAPL's failure to meet this licence condition as a serious matter and will continue to engage with EAPL management to ensure that it meets this licence condition.

6.1.2. Utilities Act obligations

EAPL reported that it met its obligations under the Utilities Act in 2020-21 and did not receive any complaints about inconvenience, detriment or damage to land caused by its network operations.

EAPL conducts its network operations under easement guidelines registered with *DP490019, Australian Standards—Pipelines Gas and liquid petroleum (AS2885.3)*²² and the APA Group Operational Environmental Management Plan²³. These protocols ensure that damage to land is minimised during and after network operations.

6.1.3. Compliance with other licence conditions

Emergency telephone service

EAPL's licence requires it to maintain an emergency telephone service that is accessible to the public every day of the year and can receive reports of escapes of gas. In 2020–21, EAPL reported no outages to the emergency telephone service. EAPL used pipeline easement signs and landowner annual awareness programs to tell people how they can contact EAPL to report escapes of gas.

²² Australian Standards—Pipelines Gas and liquid petroleum (AS2885.3) sets the minimum requirements for the operation and maintenance of pipelines.

²³ EAPL is a member of the APA Group.

7. Assessment of the licenced utilities' administration of their annual performance reporting

Each year we assess each utility's administration of its ULAR. The assessment framework encourages the licensed utilities to improve their administration of their ULAR processes and the quality of their reports by assessing:

- the completeness of the report
- the accuracy and quality of the data and information in the report
- each utility's responsiveness to our requests
- whether the utility gave us its report by the due date.

This assessment is not about how well each utility performed in delivering services to customers or whether it complied with its licence conditions and obligations under the Utilities Act. Chapters 2 to 6 report on the utilities' performance and compliance.

Each of the utilities were given its proposed assessment results and invited to make comments. Each of the utilities accepted our assessment.

We note that the utilities continue to improve their administration of the ULAR and respond to our feedback and suggestions for further improvement.

7.1. How we assess the utilities' administration

Assessment criteria

Our assessment framework has 4 assessment criteria that the licensed utilities must meet to receive a good rating on their ULAR administration and reporting. The criteria are timeliness, responsiveness, data quality and integrity, and the quality and relevance of supporting statements.

Figure 7.1 Assessment criteria

Criteria	Description
 1. Timeliness	The utility meets the reporting deadline.
 2. Responsiveness	The utility responds to our questions and requests for further information and explanation by the agreed date.
 3. Data and information quality and integrity	The utility uses accurate, relevant, up to date and complete data and information in its ULAR.
 4. Quality and relevance of supporting statements and responses	The utility gives clear and relevant explanations for significant changes across years or apparent anomalies in reported data and information.

Assessment rating scale

We use an assessment rating scale for each assessment criterion. Each rating level has a brief description of indicators or examples of performance that would result in the rating. The rating scale creates consistency in assessing utilities and shows utilities where they can improve their ULAR administration and reporting in future years.

Figure 7.2 Assessment rating scale

Rating and description	Indicator of performance
4 Excellent  The utility has gone above what is needed to achieve a rating of good and provided high quality and timely information or responses.	The utility performed at a very high level.
3 Good  The information or response was good and has fully met the expected requirements.	The utility provided the information or response as required or expected.
2 Satisfactory  A utility receives satisfactory when further work was needed to ensure the ULAR meets the requirements, particularly in relation to providing clarification and/or further information.	Satisfactory applies when reporting of figures or information needed follow up work to respond to issues or correct errors we found.
1 Unsatisfactory  The utility would receive unsatisfactory where it has failed to resolve issues or correct errors we found.	A rating of unsatisfactory would occur when the utility did not give us information we asked for, or correct errors, or did not respond within a reasonable timeframe.

7.2. Assessment summary

Table 7-1 Assessment results for each utility against the assessment criteria, 2020–21

Criteria	Icon Water	Evoenergy Electricity	Evoenergy Gas	Transgrid	EAPL
Timeliness	Satisfactory	Excellent	Excellent	Excellent	Unsatisfactory
Responsiveness	Satisfactory	Excellent	Excellent	Excellent	Unsatisfactory
Data and information quality and integrity	Satisfactory	Good	Excellent	Excellent	Good
Quality and relevance of supporting statements and responses	Good	Good	Good	Good	Good

Icon Water

Icon Water met the reporting requirements in a timely and efficient manner and showed good knowledge of the reporting requirements and its licence obligations. Icon Water responded to our information requests with detailed responses in plain English with clear explanations.

While the report was submitted on time (1 October), it lacked detailed information on Icon Water's compliance with GSL-W6. Icon Water advised that it was undertaking a review of this information to ensure it was accurate. Icon Water provided its updated information to us on 17 December 2021.

However, Icon Water revealed to us in April 2022 that the updated information on rebates was only an estimate. After paying hundreds of rebates in error, Icon Water held back rebate payments to eligible customers (273) without first consulting us, and is seeking to finalise its payments by end of June 2022.

Evoenergy (electricity distribution)

Evoenergy met its reporting requirements in a timely manner in its initial submission of the report. However, we had to follow up and clarify some issues through correspondence and meetings. Some of the responses lacked sufficient detail or were overly technical. We sought additional information and clarifications from Evoenergy on several occasions. Evoenergy responded promptly to our follow up questions and staff made themselves available for meetings on short notice. After these follow up exchanges, Evoenergy's report satisfied us about its accuracy, clarity, and completeness.

Evoenergy (gas distribution)

Evoenergy met the reporting requirements in a timely and efficient manner. When we requested further clarifying information, Evoenergy responded quickly and with plain English information. The information was complete and accurate.

Transgrid

Transgrid met the information requirements for its ULAR report and included relevant supporting information. Transgrid provided the report on time and in plain English. We did not identify any issues that required additional information.

EAPL

EAPL met the information requirements for its ULAR report and included relevant supporting information. We found the data and explanations were mostly correct, relevant and clear.

We require utilities to give us their reports by 1 October. EAPL did not give us its report until 9 November 2021. During that time, we made multiple attempts to contact EAPL to check on the report.

As discussed in chapter 6 of this report, EAPL has failed to publish its ULAR or a summary on its website in a timely way. In its report, EAPL incorrectly reported that it had published its most recent report or summary on its website. On checking the APA website, we found that the 2016-17 report was the only summary/report on the ULAR. EAPL has now failed to meet this licence condition for 4 consecutive years. We are continuing to engage with EAPL staff on meeting this requirement.

For these reasons, EAPL's administration of its ULAR has been unsatisfactory on timeliness and responsiveness.

7.3. Suggestions for further improvement in ULAR administration

In preparation for submitting a ULAR for the 2021-22 reporting year, the Commission makes the following recommendations to utilities:

- write the report in plain English
- use less industry jargon
- avoid technical explanations, where possible
- provide context in the report where there has been a significant change from the previous year
- draw our attention to any trends or other information that you believe the Commission or general public would find valuable and informative
- communicate with us if you have a question or concern with the reporting template at the earliest opportunity.

Part B – NERL Retailer Compliance Report

PART B

8. Energy retailers

In the Consumer Protection Code 2020, we added additional protections for customers of National Energy Retail Law (NERL) retailers, which came into effect in 2020-21. This is the first year that NERL retailers are reporting on their compliance with their obligations in the Code. The parts of the Code that apply to NERL retailers are listed in Schedule 3 of the Code. In summary, Schedule 3 places obligations on NERL retailers:

- report to us on their compliance with the Code
- engage in ethical and fair conduct
- manage complaints effectively
- comply with the guaranteed service levels that apply to them (GSLs E1 - E4)
- pay rebates to customers when the retailer has not met the GSLs.

We received reports from 23 NERL retailers operating in the ACT on their compliance with the Consumer Protection Code 2020. Most of these NERL retailers supply to large business customers rather than small residential customers. Many of the GSLs do not apply to large customers that can negotiate protections in their contracts with retailers.

Of the NERL retailers that returned reports, only the two largest NERL retailers reported not meeting the relevant GSLs. These retailers paid rebates to their affected customers. These retailers are ActewAGL and Origin Energy, which have a 75.5% and 17.2% market share in the ACT respectively.²⁴ Together, these two NERL retailers account for 92.7% of ACT small residential customers for electricity supply.

8.1. ActewAGL

ActewAGL reported that it did not meet the GSL for timely customer connections (GSL E1) on 12 occasions and that it paid \$2000 in rebates in 2020-21. It did not respond to complaints within 20 business days 234 times and paid \$4,680 in rebates. ActewAGL reported there were no occasions where it did not meet GSL-E2 (wrongful disconnection) or GSL-E4 (notice of planned interruption to services).

8.2. Origin Energy

Origin Energy reported that it did not meet the GSL for timely customer connections on 18 occasions and that it paid \$2,640 in rebates in 2020-21.

Origin Energy did not give 11 households the required amount of notice for a planned interruption to services and paid \$550 in rebates to these customers. Origin Energy noted that these rebates were paid in 2021-22 and will be included in its compliance report for 2020-21.

Origin Energy reported there were no occasions when it did not meet GSL-E2 (wrongful disconnection) or GSL-E3 (responding to complaints).

²⁴ AER Retail Performance Data, Schedule 2 of the 2021-22 Q1 report.

Appendix A - Regulatory framework

Licensed utilities in the ACT

If a person wants to provide a utility service in the ACT, that person needs a licence from us or an exemption from the Minister. A licence requires that the utility obeys relevant laws and codes. Licence obligations include complying with:

- the Utilities Act
- the *Utilities (Technical Regulation) Act 2014* (UTR Act)
- the utility licence
- industry codes determined by the Commission under Part 4 of the Utilities Act
- technical codes determined by the Utilities Technical Regulator under Part 3 of the UTR Act.

Current licensed utilities are listed in Figure X.X and their licences are available on our website at <https://www.icrc.act.gov.au/utilities-licensing/current-licences>.

Reporting of material breaches and non-compliances

A licensed utility must tell us about any material breach of its licence as soon as practicable.

Material breach reporting under the licence is for serious matters and incidents. A breach would potentially be ‘material’ if the negative impact on customers is high.

For other incidents of non-compliance that are not a material breach, the utility must give us a brief statement that explains the circumstances of and reasons for the non-compliance, consequences of the non-compliance and actions the utility will take to rectify the non-compliance.

In 2021, we published a new Material Breach Guideline²⁵. We developed the guideline to provide utilities with more guidance on what we consider to be a material breach. We note that if a utility reports a material breach to us, this does not remove the utility’s responsibility to report to the Utility Technical Regulator where required.

Consumer Protection Code

The Consumer Protection Code is the main industry code that licensed utilities report against in their annual performance (ULAR) reports. The Code sets out:

- the basic rights of customers, consumers and utilities with respect to access to and provision of utility services
- the general conduct of utilities (and their agents) in delivering utility services
- circumstances in which a utility can interrupt, restrict or disconnect a utility service
- provisions that a utility must give effect to in its customer contracts

²⁵ See https://www.icrc.act.gov.au/__data/assets/pdf_file/0019/1800064/Material-Breach-Guidance-Note-2021.pdf

- obligations for responding to enquiries or complaints
- performance standards utilities must meet and rebates for not meeting that respective standard.

Utilities must address complaints from customers or consumers and must provide the customer or consumer with information relating to the utility's complaint handling procedures²⁶. In its final decision on a complaint, a utility must tell a customer or consumer of his or her rights to refer the complaint to the ACT Civil and Administrative Tribunal (ACAT).

Transitioning to the Consumer Protection Code 2020

In 2018, we started reviewing the Consumer Protection Code to ensure it was still appropriate, considering current and emerging utility consumer protection issues. We finished the review and made a new code in December 2019. The new code took effect from 1 July 2020²⁷.

In our review, we found that ACT consumers were generally not aware of the minimum service standards (MSS) and their right to claim a rebate when standards were not met. Consequently, few rebates had been claimed or paid under the 2012 code, despite the standards not being met on hundreds of occasions each year.

The new code has removed the requirement for a customer to apply for a rebate and instead requires utilities to automatically pay rebates when guaranteed service levels (GSL) (previously called MSS) are not met.

The new code sets out the guaranteed service levels for the licenced utilities and includes new guaranteed service levels that also apply to the energy retailers such as in the case of wrongful disconnection.

Full details of the review, findings and other changes to the Code can be found on our website at <https://www.icrc.act.gov.au/utilities-licensing/consumer-protection-code-review>.

The 2020-21 reporting year is the first-year licensed utilities and energy retailers have reported against the new code and its guaranteed service levels. We note that for energy retailers, only specific sections of the Code apply, and these sections are listed at Schedule 3 of the Code.

Where possible, to provide context for this year's reporting, we have compared this year's statistics against last year's reporting, which reported against the MSS. However, as not all the GSLs directly compare to the MSS, a comparison may not always be available, and we note this in the analysis sections of this report.

Transitioning from MSS to GSL

For 2019–20, the utilities reported against the 2012 code. Schedule 1 of the 2012 code sets out five minimum service standards covering connection times, responding to complaints, response times to notification of network problems or concerns, notice periods and duration of planned interruptions and restoration of services when unplanned interruptions occur.

²⁶ A customer of a utility service is a person for whom the service is provided under a customer contract. A consumer is the customer or an occupier of a customer's premises to which the service is provided. In the case of a rented property the landlord is usually the customer, and the tenant is the consumer.

²⁷ Utilities (Consumer Protection Code) Determination 2020 (D12020-6)

If a utility did not meet an MSS, affected customers or consumers could apply for and receive, a rebate. The MSS applied to utilities that distributed and connected utility services (but did not apply to transmission utilities like EAPL and Transgrid)²⁸. Appendix 1 of the old code described the MSS under the Consumer Protection Code 2012.

²⁸ Evoenergy electricity and gas are discussed in this report in chapters 3 and 4 respectively. Transgrid and EAPL do not fall within this area of monitoring due to the nature of their services being transmission, which means they do not directly have household or small business consumers or customers.

Appendix B - Guaranteed Service Levels and rebates

Measure	Threshold	Amount
GSL-E1 Customer connection times	Connection not provided by required date	\$60 per day (maximum \$300)
GSL-E2 Wrongful disconnection	Where customer is wrongfully disconnected	\$100
GSL-E3 Responding to complaints	Upon receiving a complaint, utility does not: 1. Acknowledge the complaint immediately or as soon as practicable; and 2. Provide a response addressing the matters in the complaint within 20 business days	\$20
GSL-E4 Notice of planned interruption	1. For electricity and gas distributors, 4 business days' notice is not given 2. For NERL retailers, 4 business days' notice not given, unless the NERL retailer has obtained consent from the customer for a shorter period	\$50 \$50
GSL-E5 Duration of interruptions (single event) This GSL applies to an electricity distributor or a gas distributor only.	An unplanned sustained interruption lasts for 12 hours or longer.	\$80
GSL-E6 Total duration of interruptions (cumulative) This GSL applies to an electricity or gas distributor only.	Total cumulative hours of unplanned sustained interruptions experienced by customer in a financial year is equal or exceeds: Level 1 – 20 hours Level 2 – 30 hours Level 3 – 60 hours	\$100 \$150 \$300
GSL-E7 Frequency of interruptions This GSL applies to an electricity distributor or a gas distributor only.	Customer experiences more than 9 unplanned sustained interruptions in a financial year	\$80

Measure	Threshold	Amount
GSL-E8 Response time to notification of a fault, problem or concern that affects the premises of the customer. This GSL applies to an electricity distributor or gas distributor only.	Utility fails to respond: 1. If the notification relates to damage to, or a fault or problem with the network which is likely to affect public health, or is causing, or has the potential to cause, substantial damage or harm to a person or property, respond as soon as practicable and in any event within six hours; or 2. In all other cases within 48 hours; and 3. Resolve the problem or concern within the time specified in the response.	\$60 per day (maximum \$300)

Measure	Threshold	Amount
GSL-W1 Customer connection and removal of flow restrictors	Connection not provided, or flow restrictors not removed, by required date	\$60 per day (maximum \$300)
GSL-W2 Responding to complaints	Upon receiving a complaint, utility does not: (a) Acknowledge the complaint immediately or as soon as practicable; and (b) Provide a response addressing the matters in the complaint within 20 business days	\$20
GSL-W3 Notice of planned interruption	Two business days' notice not given	\$50
GSL-W4 Duration of interruption (single event)	An unplanned interruption lasts for 12 hours or longer	\$80
GSL-W5 Frequency of unplanned interruptions	Customer experiences more than 9 unplanned interruptions in a financial year	\$80
GSL-W6 Response time to a fault, problem or concern that affects the premises of the customer	Utility fails to respond: (a) If the notification relates to damage to, or a fault or problem with the network which is likely to affect public health, or is causing, or has the potential to cause, substantial damage or harm to a person or property, respond as soon as practicable and in any event within six hours; or (b) In all other cases within 48 hours; and (c) Resolve the problem or concern within the time specified in the response.	\$60 per day (maximum \$300)

Appendix C - Abbreviations and acronyms

ACAT	ACT Civil and Administrative Tribunal
ACT	Australian Capital Territory
APA Group	Comprises two registered investment schemes - Australian Pipeline Trust (APT) and APT Investment Trust (APTIT) - and their controlled entities.
Commission	Independent Competition and Regulatory Commission
EAPL	East Australian Pipeline Limited
EPA	Environment Protection Authority
GSL	Guaranteed Service Level
ICRC	Independent Competition and Regulatory Commission
ICRC Act	<i>Independent Competition and Regulatory Commission Act 1997</i>
KL	Kilolitre
KM	Kilometre
ML	Megalitre
MSS	Minimum Service Standard
NSW	New South Wales
TJ	Terajoules
ULAR	Utility Licence Annual Report
Utilities Act	<i>Utilities Act 2000</i>
UTR Act	<i>Utilities (Technical Regulation) Act 2014</i>



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