



# ICRC

independent competition and regulatory commission

## MONITORING REPORT

# Monitoring Report: Utility Licence Annual Report (ULAR) and National Energy Retail Law (NERL) Retailer Compliance Report 2021-22

Report 1 of 2023, April 2023



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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# Snapshot of 2021-22

We report each year on the performance and compliance of utilities licensed in the ACT. From 2020-21, we have been reporting on National Energy Retail Law (NERL) retailers' compliance with the 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 2021-22. 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 Regulatory (AER). However, we apply industry codes to energy retailers operating in the ACT.<sup>1</sup> Part B tells the retailers' customers and other interested people how well the NERL retailers performed in delivering services and complying with customer protections.

## Automatic rebate payments

The Consumer Protection Code sets out guaranteed service levels (GSLs) for the licensed utilities and NERL retailers. In 2020, we introduced a requirement for the utilities to pay rebates automatically to affected customers when they have not met the GSLs. Prior to the 2020-21 reporting year, customer had to know that they were entitled to a rebate and apply to the utility. We also introduced a requirement for NERL retailers to make automatic rebate payments when they have not met GSLs.

Automatic payment of rebates has led to a significant increase in rebates paid to customers, from a total of \$1,200 paid by utilities in 2019-20, to \$151,610 in 2020-21 and \$297,034 paid for the 2021-22 reporting year.<sup>2</sup> We attribute the increase in rebates paid from 2020-21 to 2021-22 mainly to increased rebates paid by Evoenergy electricity for late connections (GSL-E1).<sup>3</sup> Rebates paid under the Code are recognition that customers have received poorer services than they should expect.

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<sup>1</sup> Schedule 3 of the Consumer Protection Code provides which parts of the Code apply to NERL retailers.

<sup>2</sup> In our 2020-21 monitoring report, we provided estimated figures for Icon Water's rebate payments. We have since received final figures and have updated those figures in this report. For the 2020-21 reporting year, this total figure includes \$30,580 in rebates paid by Icon Water to ineligible customers due to error.

<sup>3</sup> Please see section 3.2 of this report for further information about Evoenergy's compliance with GSLs.

**Table 0.1. Total rebates paid by utilities in 2021-22**

Utility	Number of GSLs not met	Number of rebates paid	Money paid
Icon Water	543	543	\$70,680
Evoenergy (Electricity)	2,182 <sup>4</sup>	1,684	\$226,274
Evoenergy (Gas)	2	2	\$80
<b>Total</b>	<b>2,727</b>	<b>2,229</b>	<b>\$297,034</b>

## NERL retailers

This is the second year NERL retailers had an obligation to pay rebates. Three NERL retailers paid rebates for 2021-22: ActewAGL, Origin Energy, and Energy Australia. A total of \$7,760 was paid to customers for 2021-22 compared with \$9,870 for the previous reporting year.

**Table 0.2. Total rebates paid by NERL retailers in 2021-22**

NERL retailer	2021-22 (Number of GSLs not met)	Amount
ActewAGL	229	\$5,200
Origin Energy	8	\$960
Energy Australia	32	\$1,600
<b>Total</b>	<b>271</b>	<b>\$7,760</b>

## Impacts of the COVID-19 pandemic and weather events

We received reporting that the utility performance was impacted by the restrictions imposed to address the COVID-19 pandemic and by prevailing weather conditions.

Evoenergy reported that 885 premises lost power for more than 12 hours in 2021-22 mainly due to large scale storm events in December 2021 and January 2022. The severe storm that occurred on 3 January 2022 caused power outages for approximately 21,000 customers.

Evoenergy also reported an increase in complaints about its timing of work and network / service quality. It advised this increase occurred primarily due to ongoing effects of COVID-19 and the multiple large scale weather events which resulting in long period of power outages for some customers.

<sup>4</sup> Evoenergy received an exemption for not meeting GSL-E1 on 498 occasions. We provide our reasoning for granting this exemption at section 3.2.

Icon Water reported it received more complaints about metering and meter reading in 2021-22. Icon Water advised that its ability to perform customer meter reading was impacted by resourcing constraints and meter reading schedule delays arising from COVID-19 impacts and ongoing wet weather during quarter 2 of 2021-22.

# Outcomes at a glance

## Reliability

### Electricity distribution

#### Planned interruptions

**1,381**

Number of planned interruptions to services.

▲ 118 from 2020–21

**101**

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

▼ 577 from 2020–21

#### Unplanned sustained interruptions

**52**

events that lasted 12 hours or longer, which required a rebate (885 customers).

▲ 26 events from 2020-21



### Water supply and sewerage services

**438**

Number of unplanned interruptions to water supply services.

▼ 64 from 2020-21

**1,188**

Premises affected by unplanned interruptions for sewerage services.

▼ 609 from 2020-21

**16**

Premises not restored to sewerage services within 12 hours.

▲ 16 from 2020–21

### Gas distribution

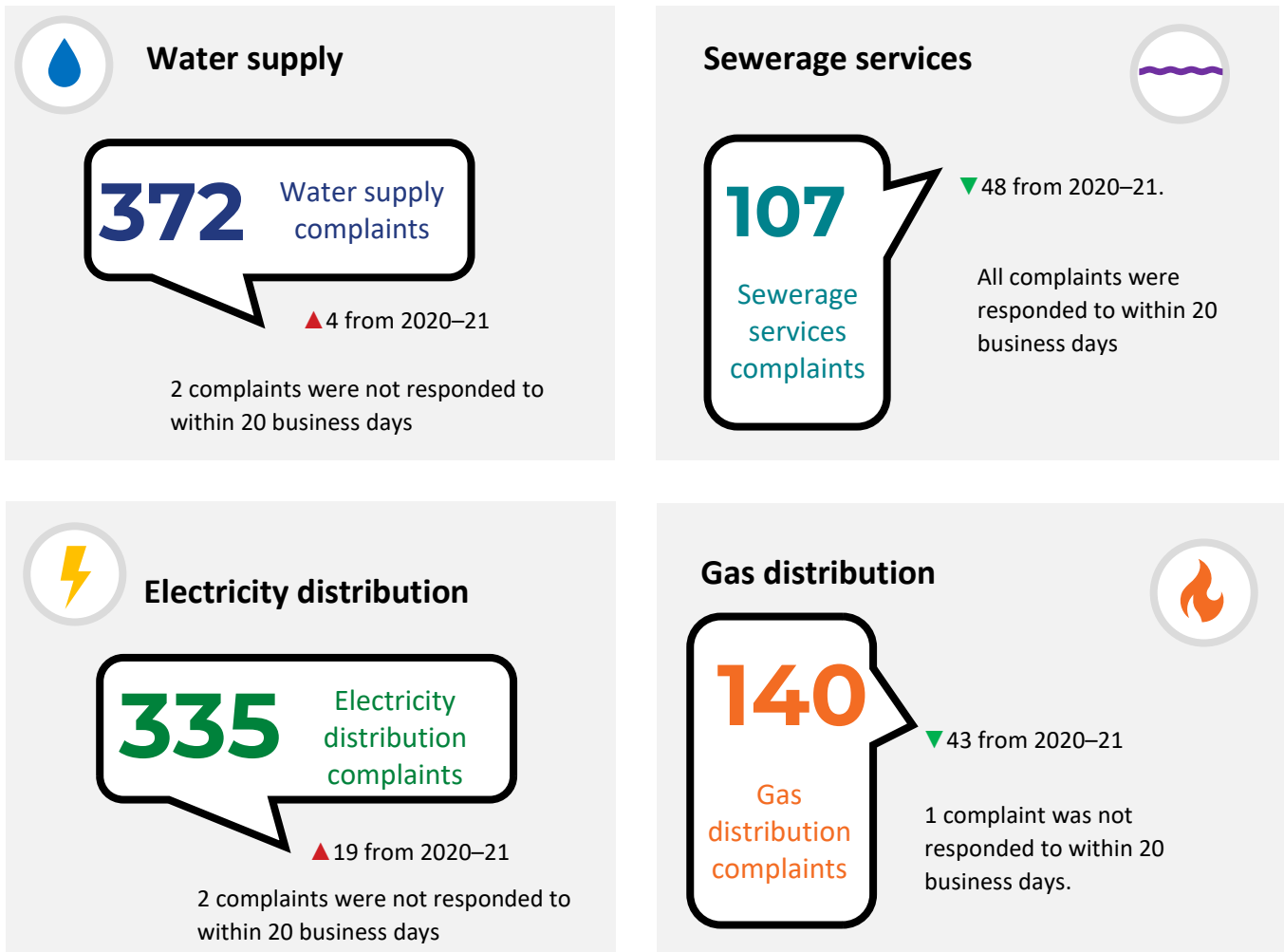


All premises affected by planned interruptions to gas supply were notified within 4 business days.

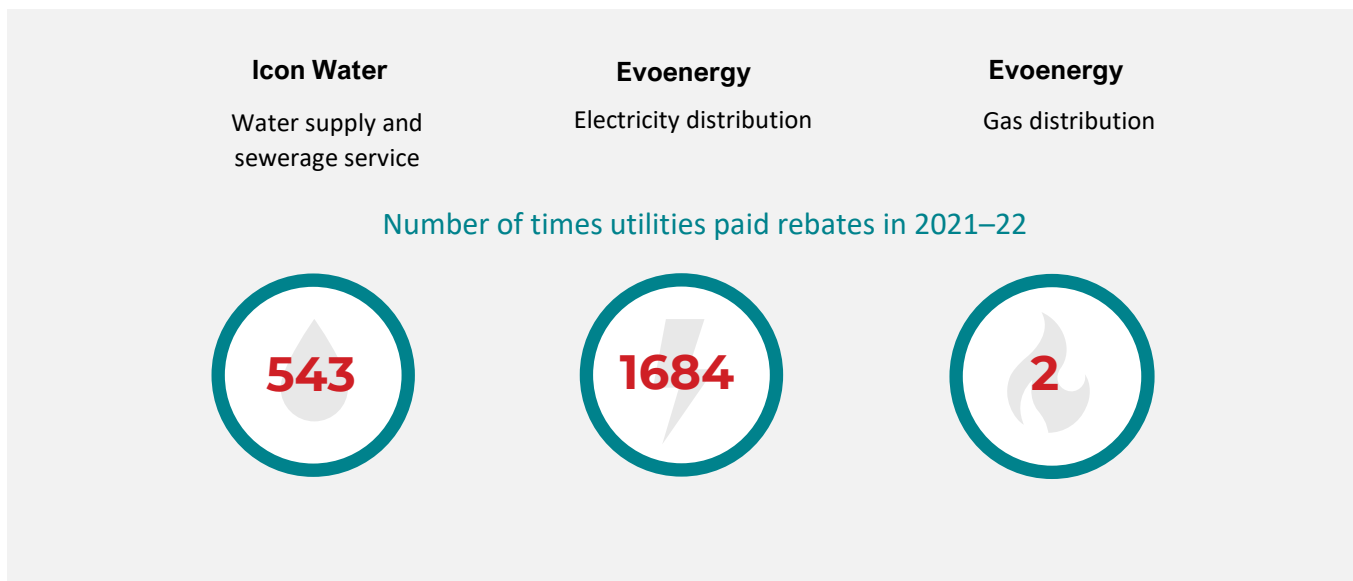


All interruptions were restored within 12-hours.

## Customer complaints



## Consumer protection



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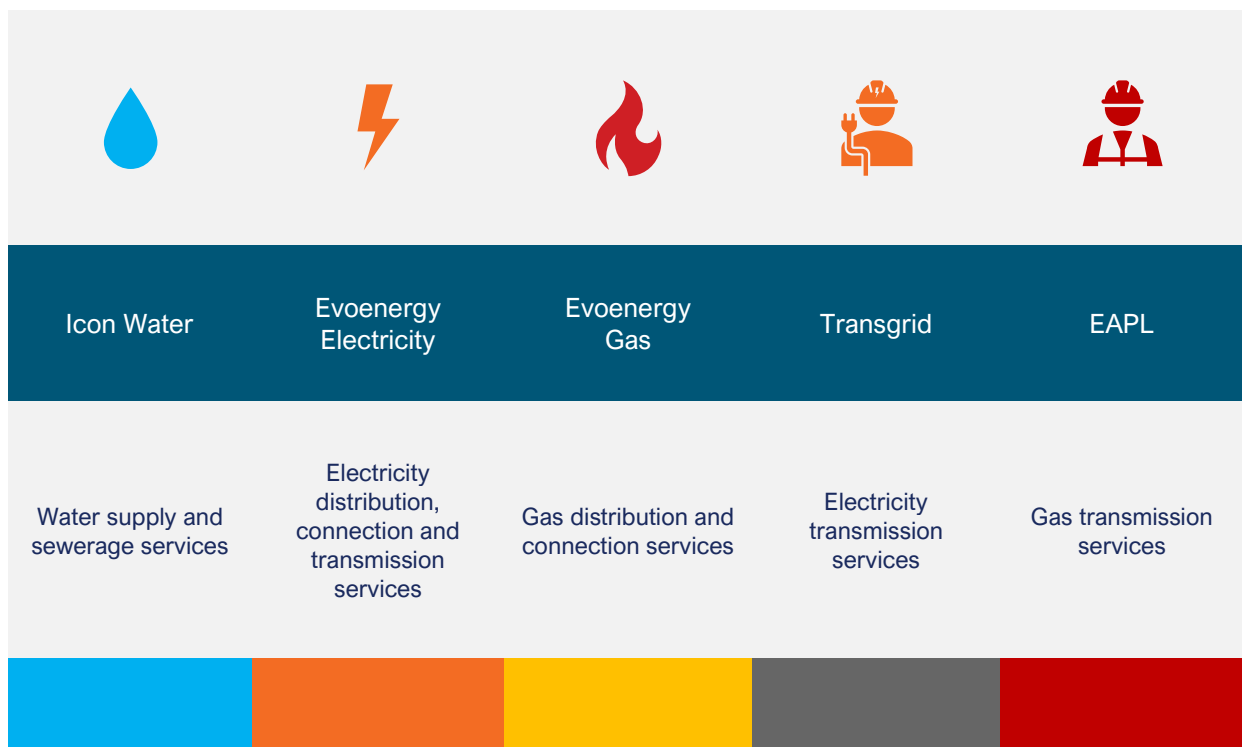
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# Part A – Utility Licence Annual Report

# 1. Our annual performance reporting

We are the Australian Capital Territory’s (ACT) independent economic regulator under the *Independent Competition and Regulatory Commission Act 1997*. One of our responsibilities 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 2021-22**



## 1.1 Our framework

We manage the utility licence framework in the ACT established by the *Utilities Act 2000* (Utilities Act). We issue licences and 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.

We do not license retail energy providers. The Australian Energy Regulator (AER) licenses energy retailers under the national energy customer framework. The AER reports the performance of these retailers

annually on its website.<sup>5</sup> However, we apply industry codes to energy retailers through the Utilities Act. These codes impose standards and responsibilities on the retailers. We monitor their compliance with these codes.

## 1.2 How we monitor performance and compliance

We require each licenced utility to report to us annually on their performance in carrying out their functions under the Utilities Act and their compliance with licence conditions and industry codes. We assess utilities' performance and compliance based on information and data that utilities provide to us and then produce the monitoring and compliance report known as Utility Licence Annual Report (ULAR).

Through the ULAR we monitor the utilities' compliance with licence conditions, which require that utilities comply with the Utilities Act and other ACT laws that relate to the provision of a utility licence, as well as industry and technical codes that apply to the utility. Current industry codes are the Consumer Protection Code<sup>6</sup>, Water and Sewerage Capital Contribution Code<sup>7</sup> and the Electricity Feed-in Code.<sup>8</sup> The licences also set out obligations relating to environmental requirements, compliance reporting and record keeping.

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.

## 1.3 The purpose and scope of this report

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

<sup>5</sup> AER, <https://www.aer.gov.au/retail-markets/performance-reporting>

<sup>6</sup> *Utilities (Consumer Protection Code) Determination 2020* (DI2020-6).

<sup>7</sup> *Utilities (Capital Contribution Code) Approval 2017* (DI2017-291).

<sup>8</sup> *Utilities (Electricity Feed-in Code) Determination 2020* (DI2020-86).

**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

Since 1 July 2001, Icon Water has held a utility licence for water and sewerage supply services in the ACT. Icon Water remains the only licenced utility for water and sewerage supply services in the ACT. The current version of the licence can be accessed online.<sup>9</sup>

### 2.1 Interruptions to water supply 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 (GSLs) for interruptions under the Consumer Protection Code 2020 (ACT).

#### 2.1.1 Planned interruptions to water supply reduced

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

Planned interruptions to water supply decreased to 7,559 in 2021-22, a 14.6% reduction from the previous year (8,856). Icon Water attributed this outcome to a reduction in household water meters replaced under its capital expenditure water meter replacement program due to operational changes in response to COVID-19 restrictions.

Icon Water reported it notified all premises affected by a planned interruption to water supply at least two business days before the interruption began.

**Table 2.1. Water supply – planned interruptions, 2017–18 to 2021–22**

Measure	2017-18	2018-19	2019-20	2020-21	2021-22		Change
Number of planned interruptions to water supply	6,698	7,854	8,533	8,856	7559	▼	1297
Number of premises not given at least two business days' notice of a planned interruption (GSL-W3)	0	0	0	13	0	▼	13

<sup>9</sup> <https://www.legislation.act.gov.au/ni/2021-109/>



## 2.1.2 Unplanned interruptions to water supply reduced

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.

Unplanned interruptions to water supply decreased to 438 in 2021-22 from 502 in 2020-21 (a decrease of 12.7%). Icon Water restored all water supply unplanned interruptions within 12 hours.

The average duration of unplanned interruptions in Icon Water's network was 9% shorter in 2021-22 (135.82 minutes) than in 2020-21 (149.4 minutes).

**Table 2.2. Water supply – unplanned interruptions, 2017–18 to 2021–22**

Measure	2017-18	2018-19	2019-20	2020-21	2021-22		Change
Number of unplanned interruptions to water supply	650	588	545	502	438	▼	64
Average interruption duration (minutes/property)	119.70	98.90	136.40 <sup>10</sup>	149.40	135.85	▼	13.55

## 2.1.3 Unplanned interruptions to sewerage services decreased

There were 1,188 unplanned interruptions to sewerage services in 2021-22. This was a significant reduction of 33.9% from 2020-21 (1,797). There has been a trend of gradual reduction in unplanned interruptions since 2019-20. This reflects continued wet weather over 2020-21 and 2021-22, which led to fewer sewer breaks and chokes caused by tree roots. Dry weather and low rainfall cause tree roots to enter sewers seeking water. Icon Water's measures to minimise unplanned interruptions to sewerage services have also contributed to this downward trend.

Icon Water reported 16 unplanned interruptions to the sewerage supply that took 12 hours or longer to restore (GSL-W4). Icon Water attributed these breaches to human errors and delayed works.

**Table 2.3. Sewerage services – unplanned interruptions, 2017–18 to 2021–22**

Measure	2017-18	2018-19	2019-20	2020-21	2021-22		Change
Number of unplanned interruptions to sewerage services	1,809	2,433	2,843	1,797	1,188	▼	609
Number of premises not restored to sewerage services within 12 hours	0	0	0	0	16	▲	16

<sup>10</sup> During this reporting year, Icon Water implemented a new data system for recording water supply interruptions. Due to this system change, this figure only accounts for 10 months of that reporting year.

## 2.2 Icon Water's compliance with Guaranteed Service Levels

The Consumer Protection Code requires licensed utilities to comply with all applicable GSLs. If utilities do not meet the GSLs, they must pay automatic rebates to customers.<sup>11</sup> The GSLs and associated rebates are provided in Appendix B.

### 2.2.1 Updated 2020-21 compliance and rebates report

In early 2022, Icon Water advised that it had decided to pause all rebates after discovering that it had paid out several hundred rebates in error for the 2020-21 regulatory year.<sup>12</sup> At the time we developed the 2020-21 monitoring report, Icon Water advised that it was undertaking a review of its internal data processes before recommencing its rebate payments. Therefore, in the 2020-21 ULAR monitoring report, we published Icon Water's estimates of its rebates paid and the number of times it did not meet the GSLs.

Icon Water advised it has since completed its review and formed a working group to resolve the issues identified in the 2020-21 rebate report. Icon Water identified that their reporting did not point to the correct data source in its system, and that they did not have a process to validate the data. Subsequently, Icon Water confirmed that it has paid out all the rebates owing from the 2020-21 regulatory year and provided us an updated rebate report as part of the 2021-22 reporting process.

Icon Water reported that it paid 739 rebates for 2020-21 to eligible customers, totalling \$66,280. In addition, Icon Water also paid 215 rebates to non-eligible customers due to its system error, totalling \$30,580.

### 2.2.2 2021-22 compliance and rebates report

In 2021-22, Icon Water reported that it did not meet the GSLs 543 times, a 26.5% reduction from last year (Table 2.4).

Icon Water paid 543 rebates, totalling \$70,680, to customers in 2021-22. These payouts were mainly for GSL-W6 (fails to respond to a notification relating to damage or fault or problem with the network within time) and GSL-W4 (an unplanned interruption lasts for 12 hours or longer).

In 2020-21, Icon Water paid more rebates than 2021-22. However, despite this, Icon Water paid more money for rebates in 2021-22. GSL-W6 accounts for most of these rebates, which provides a rebate of \$60 per day late up to a maximum of \$300. Therefore, as Icon Water responded to these notifications later than in 2020-21, it paid more in rebates.

<sup>11</sup> Under the previous Code, if a utility does not meet a minimum service standard, the customer is entitled to apply for a rebate within three months of the service standard not being met. However, many customers did not know their entitlement and no receive rebates. For example, in 2019-20 Icon Water did not meet minimum service standards 241 times and paid no rebates to customers.

<sup>12</sup> 215 rebates of \$30,580 were paid to ineligible customers in 2020-21.

**Table 2.4. Water supply – GSLs and rebates for 2020-21 and 2021-22**

Guaranteed service level	2020-21			2021-22		
	Number of times GSL was not met	Number of rebates paid	Total value of rebates paid	Number of times GSL was not met	Number of rebates paid	Total value of rebates paid
<b>GSL-1:</b> Connection not provided, or flow restrictors not removed, by required date	0	0	\$0	0	0	\$0
<b>GSL-2:</b> Complaint not responded to within 20 business days	8	8	\$160	2	2	\$40
<b>GSL-3:</b> Two business days' notice not given for a planned interruption	9	9	\$400	0	0	\$0
<b>GSL-4:</b> An unplanned interruption lasts for 12 hours or longer	19	19	\$1,520	16	16	\$1,280
<b>GSL-5:</b> Customer experiences more than 9 unplanned interruptions in a financial year	0	0	\$0	0	0	\$0
<b>GSL-6:</b> Utility fails to respond to a notification relating to damage or fault or problem with the network within time <sup>13</sup>	703	703	\$64,200	527	527	\$69,360
<b>Total</b>	<b>739</b>	<b>739</b>	<b>\$66,280</b>	<b>543</b>	<b>543</b>	<b>\$70,680</b>

## 2.3 Icon Water changes its water services complaints process

For the 2021-22 reporting year, Icon Water changed its complaints handling process for water services. It advises that it now can capture a wider range of complaints, such as complaints made on social media. Icon Water has also captured a category of complaint that previously went unreported – those that the retailer resolved at first contact. For example, Icon Water reports that around 97% of the complaints about billing were resolved at first contact by ActewAGL, who provide Icon Water's billing services under contract.

Icon Water states its intention with this approach is to measure, understand and address customer dissatisfaction more proactively and holistically.

However, due to expanding its methods for capturing complaints, Icon Water advises that its complaints figures have significantly increased from previous reporting years. We have accounted for these changes

<sup>13</sup> Upon being notified of damage to, or a fault, or problem with the network, a utility must respond within six hours if the issue is likely to affect public health. This also applies to issues that cause, or have 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.

when comparing this year's reporting to previous years. To compare performance from year to year and identify trends, we will require more data. As Icon Water continues to report its complaints figures in subsequent years, we will adjust our reporting.

After considering Icon Water's new complaint data sources, we report that for 2021-22 Icon Water received:

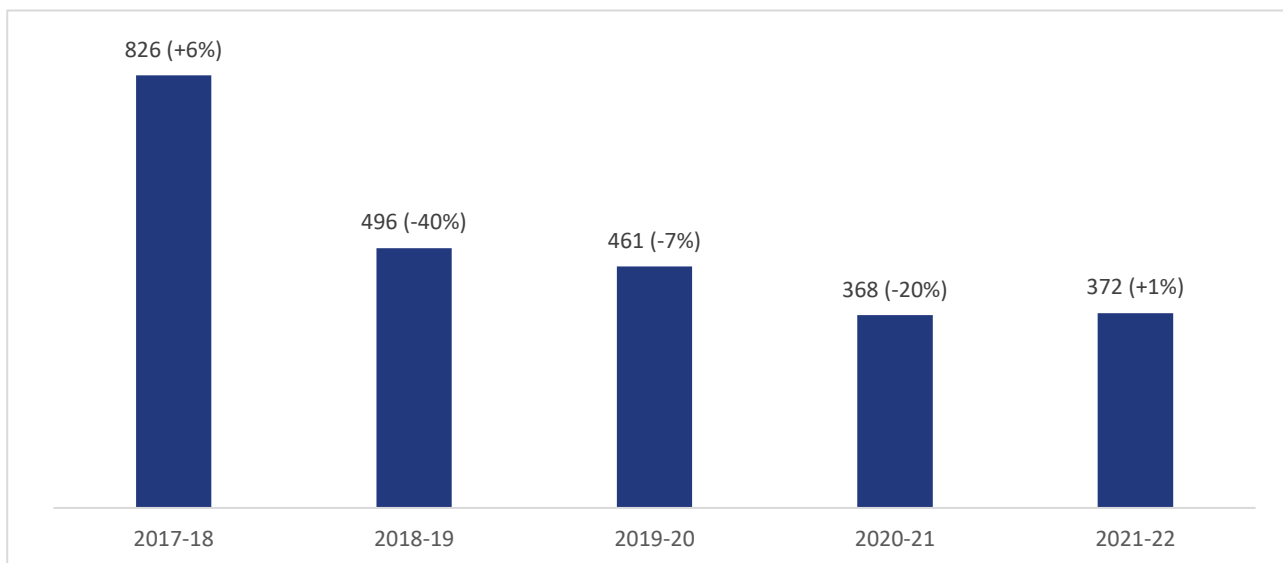
- a slightly higher number of water complaints
- significantly fewer sewerage service complaints.

### 2.3.1 Water supply complaints increased slightly

Under the new system, Icon Water reported 12,987 complaints in 2021-22, mainly relating to accounts / billing, metering / meter reading and other retail complaints.

To better compare the performance across regulatory years, Figure 2.1 and Table 2.5 show the number of water supply complaints received in 2021-22 by using the previous method of calculation. Despite a slight increase for 2021-22, the overall trend for the last 5 reporting years demonstrates a significant decrease in complaints (down 55% from 2017-18).

**Figure 2.1. Number of water supply complaints and percentage change from previous year, 2017-18 to 2021-22**



Accounts and billing complaints, 'other network complaints' and complaints about metering and meter reading were the three largest categories of complaint, comprising around two-thirds of all complaints in 2021-22 (shown in Table 2.5).

Complaints about accounts and billing were the most common and accounted for around 25% of total complaints in 2021-22. Complaints in this category decreased by 38% from 150 in 2020-21 to 93 in 2021-22. Icon Water attributed this difference to receiving notification of land title transfers more quickly due to improvements in the Land Title Office's processes. The improvements enabled Icon Water to bill the new

owner more quickly. Icon Water also updated its website to clarify that any balances brought forward on the new account represent unpaid amounts resulting from the settlement process.

The complaint category of 'other network' includes complaints about connection timeframes, damage or fault to Icon Water's asset, damage to environment, driving/parking, staff rude, noise, water leak and water pressure. These complaints increased from 40 in 2020-21 to 80 in 2021-22 and is the second most common category of complaints. Icon Water attributed to an increase in this complaints category to:

- a one-off survey that generated complaints about its questions and process
- an increase in high consumption complaints attributed to a meter fault
- an increase in 'service request not met' due to the time it took to approve or complete an application.

Complaints about metering and meter reading accounted for around 18.8% of total complaints received in 2021-22. These complaints increased by 27% from last year. Icon Water advised that the ability to perform customer meter reading was impacted in quarter two of 2021-22 by resourcing constraints and meter reading schedule delays arising from COVID-19 impacts and ongoing wet weather.<sup>14</sup>

Complaints about property damage and restoration of property fell significantly from 77 in 2020-21 to 33 in 2021-22 (down by 57%). Icon Water attributed this improvement to better communication with customers, contractors and field crews.

Complaints about water quality more than doubled in 2021-22. Icon Water investigated these complaints and found that the quality of the water was either within the guidelines or an issue related to household works such as plumbing or renovations.

**Table 2.5. Water supply complaints from 2017-18 to 2021-22**

Complaint categories	2017-18	2018-19	2019-20	2020-21	2021-22		Change	% of total
Accounts / billing	168	121	97	150	93	▼	57	25.0
Property damage and restoration of property	111	104	100	77	33	▼	44	8.9
Metering / meter reading	214	64	42	55	70	▲	15	18.8
Other network complaints	26	6	77	40	80	▲	40	21.5
Other retail complaints	145	79	24	25	44	▲	19	11.8
Water supply quality	134	105	84	15	40	▲	25	10.8
Unplanned interruptions	5	5	4	5	2	▼	3	0.5
Failure to provide notice	19	10	27	1	9	▲	8	2.4
Water supply reliability	4	2	6	0	1	▲	1	0.3

<sup>14</sup> 7,073 estimations were performed before December 2021 to enable the meter reading schedule to return to normal. Icon Water advised that it provided an explanatory communication to affected customers to explain the reason for meter read estimations and provided option to submit a self-read. Icon Water confirmed that following this decision the meter reading schedule was back on track and it continued to work with the service providers to monitor and oversee the program.

Total number of complaints	826	496	461	368	372	▲	4
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### 2.3.2 Sewerage service complaints continued to reduce

In 2021-22, Icon Water received 107 sewerage complaints, down 31% from 2020-21 (155 complaints).

The fall in total sewerage service complaints in 2021-22 was due to fewer complaints about property damage and restoration of property. These complaints have been trending downwards over the last 2 years. These complaints were 35 in 2021-22 compared to 79 in 2020-21 (a reduction of 56%). Icon Water attributed this ongoing decrease to restoration process improvements:

- Field crews now provide more information and photos on the work required.
- Service contact officers contact customers at the start and end of every job.
- Contractors immediately engage customers prior to work commencing.
- Call center staff have been further trained to access relevant information and provide it to customers.

Only the 'sewerage odour' complaint category increased in 2021-22. Icon Water attributed this increase to the sewerage system needing remedial works at the Molonglo Valley. In response to these complaints, Icon Water advises it has undertaken works.

Icon Water reported that all other complaints, such as those about sewerage service reliability, failure to provide notice and other network matters, decreased in 2021-22.

**Table 2.6. Sewerage service complaints from 2017-18 to 2021-22**

Complaint categories	2017-18	2018-19	2019-20	2020-21	2021-22		Change	% of total
Property damage and restoration of property	85	73	98	79	35	▼	44	32.7
Sewerage services reliability	28	29	74	27	26	▼	1	24.3
Other network complaints	0	0	45	20	13	▼	7	12.1
Sewerage odour complaints	9	14	22	18	30	▲	12	28.0
Failure to provide notice	6	5	4	11	3	▼	8	2.8
Unplanned interruptions	0	0	0	0	0		0	0.0
Other retail complaints	29	25	0	0	0		0	0.0
<b>Total number of complaints</b>	<b>157</b>	<b>146</b>	<b>243</b>	<b>155</b>	<b>107</b>	▼	<b>48</b>	

### 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 2021-22 it had a complaint handling procedure in place that complied with Australian Standard *10002-2018: 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.<sup>15</sup>

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 2021–22, 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 2021–22, including obligations under the Water and Sewerage Capital Contribution Code.

### 2.4.1 Environmental requirements

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. For 2021-22, Icon Water reports an average annual distribution loss of 1,998 litres/km of main per day from the network. This represents a 4% improvement from 2020-21 reporting year, which had a loss of 2,082 litres/km of main per day.

Icon Water supplied 41,661 ML of water in the ACT during 2021-22, 7.9% less than in 2020-21 (45,251 ML). The total volume of water supplied (30,190 ML) to residential customers fell 5.1% from 2020-21 (32,014ML). Water supplied (7,342 ML) to commercial customers fell by 15% from 2020-21 (8,639 ML).<sup>16</sup>

### 2.4.2 Material breach reporting

If Icon Water commits a material breach, it is to then immediately report that breach to us. We did not receive any self-reported material breaches. Further, during our review of Icon Water's ULAR report, we reviewed all the breaches reported by Icon Water and did not find a material breach.

<sup>15</sup> Icon Water, [Complaints handling policy](#), Icon Water website, 2023, accessed 19 January 2023.

<sup>16</sup> 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.

### 2.4.3 Capital contribution charges

In 2017, we made a Water and Sewerage Capital Contribution Code.<sup>17</sup> 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.

Since the Water and Sewerage Capital Contribution Code commenced in January 2018,<sup>18</sup> capital contribution charges have increased every year. For 2021-22, Icon Water reported customers contributed \$4.8 million in charges. For comparison, the charges were \$1,472,100 in 2019-20 and \$3,585,519 in 2020-21. Icon Water attributes the increase in charges for 2021-22 to a few large projects with a value of \$250,000 or above.

### 2.4.4 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 2021-22 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.

### 2.4.5 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 2021-22.

<sup>17</sup> *Utilities (Water and Sewerage Capital Contribution Code) Approval 2017* (DI2017-291).

<sup>18</sup> The Code took effect from 1 January 2018, with an 18-month transition period for properties purchased prior to the commencement date.



## 3. Electricity distribution

Since 1 July 2001, Evoenergy has held a utility licence for electricity distribution in the ACT. Evoenergy remains the only licenced utility for electricity distribution in the ACT. The current version of the licence can be accessed online.<sup>19</sup>

### 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 GSLs under the Consumer Protection Code.

#### 3.1.1 Planned interruptions increased

As shown in Table 3.1, planned interruptions to electricity distribution network increased from 1,263 in 2020-21 to 1,381 in 2021-22 (up 9.3%). Evoenergy reported that although the number of outages were higher than last year, the number of customers impacted by supply interruptions (35,852) was approximately 8,000 less than in 2020-21.

Under the Consumer Protection Code, Evoenergy must give customers at least four business days' notice of a planned interruption. During 2021-22, Evoenergy did not give 101 customers the required notice. This is 85% less than in 2020-21.<sup>20</sup>

**Table 3.1. Electricity distribution – planned interruptions, 2017–18 to 2021–22**

Measure	2017-18	2018-19	2019-20	2020-21	2021-22		Change
Number of planned interruptions to the electricity distribution network	1,245	1,186	1,093	1,263	1,381	▲	118
Number of premises not given at least four business days' notice of a planned interruption (GSL-E4)	451	316	54	678	101	▼	577

#### 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 premises.<sup>21</sup>

<sup>19</sup> <https://legislation.act.gov.au/ni/2021-106/>.

<sup>20</sup> On 6 May 2021, 623 customer lost supply at once, significantly increasing the number of planned interruptions during the 2020-21 reporting year. For more information, please see the 2020-21 ULAR at section 3.1.1.

<sup>21</sup> Clause 10.2 of the Consumer Protection Code 2020.

In 2021-22, Evoenergy reported that it notified all customers with registered life support equipment about planned outages within the required timeframe.

### 3.1.2 Unplanned sustained interruptions were higher

#### Single event interruptions lasting 12 hours or more increased

Evoenergy reported that 885 premises experienced unplanned sustained interruptions lasting 12 hours or longer (single event) in 2021-22. Evoenergy paid 885 rebates for a total of \$70,800. This is a significant increase from last year when 349 premises were affected.

#### Cumulative interruptions totalling 20 hours or more increased

Of these interruptions, 246 customers experienced outages of more than 20 hours in total during the reporting year, 50 customers experienced outages exceeding 30 hours in total during the reporting year, and one customer had experienced cumulative interruptions exceeding 60 hours.

Evoenergy attributed these interruptions to a storm that affected its network in December 2021 and January 2022. Evoenergy paid rebates to the affected customers (297) for a total of \$32,400.

**Table 3.2. Electricity distribution – unplanned sustained interruptions, 2017–18 to 2021–22**

Measure	2017-18	2018-19	2019-20	2020-21	2021-22
Number of premises affected by an unplanned interruption (single event) to the electricity distribution network that lasted for 12 consecutive hours or more (GSL-E5)	395	128	614	349	885
Number of customers experiencing a cumulative total of unplanned sustained interruptions equalling or exceeding (GSL-E6):					
Level 1 – 20 hours	n/a	n/a	n/a	129	246
Level 2 – 30 hours				49	50
Level 3 – 60 hours				8	1
Number of customers experiencing more than 9 unplanned sustained interruptions in a financial year (GSL-E7)	n/a	n/a	n/a	0	0

#### Large interruptions occurred on a major event day

Major Event Day (MED) is an industry term that is used to indicate the days when the distributor experiences interruptions beyond those normally expected due to events outside the distributor's control, such as extreme weather and storms. The Code provides that an event may be excluded for GSL payments.

The severe storm that occurred on 3 January 2022 satisfied the criteria of a Major Event Day.

On 3 January 2022 Evoenergy responded to a significant weather event that impacted the network across the Belconnen and Gungahlin areas. Damage from this storm resulted in power outages for approximately 21,000 customers.

Evoenergy advised that the damage to its network was the largest since the damage of the 2003 bushfires. The storm caused damage to more than 550 electrical assets. With the assistance from Endeavour Energy, crews replaced 190 service lines, restrung 50 powerlines, replaced 20 cross arms and 11 power poles.

Evoenergy advises it did not have the resources to repair damage of that scale quickly and safely. Consequently, Evoenergy took longer to restore power. Evoenergy advised that although most customers were restored to the network within 12 hours, there were 3,084 customers who experienced power outage lasting 12 hours or longer. Evoenergy did not pay rebates to these customers because the supply interruption occurred on a Major Event Day.

## 3.2 Evoenergy's compliance with guaranteed service levels for electricity distribution

### 3.2.1 Customers receive rebates to recognise poor service

Since the automatic payment of rebates introduced in 2020, Evoenergy's customers are receiving the rebates they are entitled to when Evoenergy does not meet a GSL.

In 2021-22, Evoenergy (electricity) failed to meet the GSLs 1,684 times, and paid 1,294 rebates to customers, totalling \$226,270.

For comparison, in 2020-21, Evoenergy did not meet the GSLs 1,226 times when a rebate was payable and paid 1,227 rebates (worth \$85,180) to customers.

**Table 3.3. Electricity distribution – Number of GSLs not met and rebates paid**

Guaranteed Service Level	2020-21			2021-22		
	Number of times GSL was not met	Number of rebates paid	Total value of rebates paid	Number of times GSL was not met	Number of rebates paid	Total value of rebates paid
<b>GSL-E1:</b> Connection not provided by required date	1,906*	1	\$60	891 <sup>#</sup>	393	\$117,180
<b>GSL-E2:</b> Customer disconnected wrongfully	3	3	\$300	5	5	\$500
<b>GSL-E3:</b> Complaint not responded to within 20 business days	6	6	\$120	2	2	\$40
<b>GSL-E4:</b> Sufficient notice of a planned interruption to supply not provided	679	679	\$33,950	101	101	\$5,050

<b>GSL-E5:</b> An unplanned sustained interruption lasts 12 hours or longer	349	349	\$27,920	885	885	\$70,800
<b>GSL-E6:</b> Total cumulative hours of unplanned sustained interruptions experienced by a customer in a financial year is equal to or exceeds 20 hours	186	186	\$22,650	297	297	\$32,400
<b>GSL-E7:</b> Customer experiences more than 9 unplanned sustained interruptions in a financial year	0	0	\$0	0	0	\$0
<b>GSL-E8:</b> Utility fails to respond to a notification about damage, problems or faults with the network within time <sup>22</sup>	3	3	\$180	1	1	\$300
<b>Total</b>	<b>3,132</b>	<b>1,227</b>	<b>\$85,180</b>	<b>2,182</b>	<b>1,684</b>	<b>\$226,270</b>

**Note:** \* The commission supported Evoenergy's proposal to not to pay rebates for GSL-E1 for the 2020-21 reporting year due to difficulties in delivering services caused by COVID-19 restrictions. Evoenergy paid one rebate for GSL-E1 prior to receiving its exemption.

**Note:** # The commission supported Evoenergy's proposal not to pay 498 GSL-E1 rebates.

## Evoenergy breached the customer connection times GSL on 393 occasions

Evoenergy did not meet the customer connection time GSL on 891 occasions during 2021-22 and submitted a proposal not to pay rebates for 888 of those late connections.<sup>23</sup> In its proposal, Evoenergy argued that circumstances beyond its control prevented it from complying with the GSL. In support of its proposal, Evoenergy advised us that:

- Customers had rescheduled works on 378 occasions.
- In response to the Belconnen super-cell storm in January 2022, Evoenergy redirected its resources to prioritise restoring power to affected customers. To accomplish this, Evoenergy advised it needed to reschedule basic connections. Evoenergy attributes 120 of its late connections to the storm.<sup>24</sup>
- Ongoing COVID-19 restrictions occurring between July and October 2022 impacted Evoenergy's ability to meet the GSL. Evoenergy attributed 390 late connections to COVID-19 related issues.

<sup>22</sup> 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, 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 the problem or concern within the time specified in the utility's response.

<sup>23</sup> Evoenergy paid 3 rebates for late re-energisation requests.

<sup>24</sup> The storm has been determined to be a Major Event Day (MED) as described by the Australian Energy Regulator's *Electricity distribution network service providers: Service target performance incentive scheme*.

We considered Evoenergy's arguments and supporting evidence and agreed with Evoenergy not paying rebates when the customer had rescheduled the works, and for late connections caused by the super-cell storm.<sup>25</sup>

However, Evoenergy did not provide sufficient evidence to demonstrate to the commission the extent that COVID-19 related issues impacted the delays. Nor did Evoenergy demonstrate circumstances outside of its control. Rather, given the experience Evoenergy gained from the 2020-21 regulatory year, we consider Evoenergy to have been better placed in 2021-22 to predict the impacts of COVID-19 and respond accordingly. In our view, Evoenergy did not sufficiently mitigate this harm. Therefore, we recommended that Evoenergy pay the remaining 390 rebates to affected customers.

### 3.3 Complaints were slightly higher

Complaints about Evoenergy's electricity distribution network increased slightly from 316 in 2020-21 to 335 in 2021-22 (up 6%), after 5 years of continuous reduction. Table 3.4 shows a breakdown of electricity distribution complaints for 2021-22 in 8 broad categories. The highest number of complaints received were about network operations and network and service quality.

**Table 3.4. Electricity distribution complaints from 2017-18 to 2021-22**

Complaint categories	2017-18	2018-19	2019-20	2020-21	2021-22		Change	% of total
Network operations	249	246	202	68	105	▲	37	31.3
Notice of work and outage	144	64	82	47	11	▼	36	3.3
Network and service quality	151	154	98	47	100	▲	53	29.9
Customer service	40	24	58	46	29	▼	17	8.7
Meter and meter reading	17	23	39	27	21	▼	6	6.3
Fees and charges	12	13	20	6	16	▲	10	4.8
Connection/Disconnection	20	49	18	3	1	▼	2	0.3
Other	58	45	56	72	52	▼	20	15.5
<b>Total number of complaints</b>	<b>691</b>	<b>618</b>	<b>573</b>	<b>316</b>	<b>335</b>	▲	<b>19</b>	

Complaints about network operations made up 31.3% of all complaints. These complaints increased from 68 in 2020-21 to 105 in 2021-22. This category includes complaints about timing of work (59) due to ongoing effects of COVID-19, damage to property (24), damage to the environment (11), noise, entry to land, and site restoration. Evoenergy advised it repaired the damage or paid compensation to the affected customers.

Complaints about network and service quality were the second most common, at 29.9% of all complaints. These complaints increased from 47 in 2020-21 to 100 in 2021-22. This category includes complaints about

<sup>25</sup> We found that 378 connections caused by customers rescheduling works falls within clause 11.1(1) of the Consumer Protection Code 2020. The GSL does not apply when alternative arrangements or standards have been agreed between the utility and the customer.

damage or fault to an asset (13), electricity quality (8), system unreliability (60) and trees in wires (19). Evoenergy reported that an increase in electricity quality complaints related to multiple large scale weather events in December 2021 and January 2022 which resulting in long period of power outages for some customers.

Another complaint category that increased in 2021-22 was fees and charges. Evoenergy reported that most complaints in this category were in relation to disputes over the fees for clearing vegetation that was infringing the network.

Evoenergy reported improvements across several categories of complaints. Complaints about notice of work and outages decreased from 47 in 2020-21 to 11 in 2021-22 (down 76.6%). Evoenergy also reported fewer complaints about customer service (down from 46 to 29), meter and meter reading (down from 27 to 21), and connection / disconnection (down from 3 to 1).

### Complaint handling procedures

As required by its licence, Evoenergy has a complaint handling procedure that complies with the Australian standards<sup>26</sup>. In summary, Evoenergy's complaint practices include:

- acknowledging complaints within two business days
- giving a meaningful response within 20 business days
- keeping records of customer complaints for at least twelve months after the complaint is resolved
- publishing information on its website about its complaints and dispute resolution procedure
- informing customers of their right to take their complaint to the ACT Civil and Administrative Tribunal if they are not satisfied with Evoenergy's response.

## 3.4 Evoenergy met its licence and reporting obligations

Evoenergy's utility licence requires it to comply with any requirements under the Utilities Act, relevant industry and technical codes, and directions we provided. Evoenergy must also report any material breach and non-compliance with its licence conditions for its electricity distribution network.

### 3.4.1 Performance of network operations

Evoenergy must operate the network safely and 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 distribution network against its obligations under the Utilities Act.

<sup>26</sup> Australian Standard: Guidelines for complaints management in organisations AS/NZ 10002:2014

**Table 3.5. Network operation performance indicators and requirements under the Utilities Act**

Performance indicator	2019-20	2020-21	2021-22
Number of complaints about inconvenience, detriment and damage to land while carrying out network operations	10	14	27
Times failed to give landholder at least 7 days' notice before commencing a network operation	0	0	0
Times notice given for disrupting a heritage site to ACT Heritage Council <sup>27</sup>	1	0	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	1
Number of complaints about failure to ensure that land was restored to its original condition following a network operation	33	8	1

Complaints about inconvenience, detriment and damage to land while carrying out network operations increased from 14 in 2021-22 to 27 in 2021-22. Evoenergy reported that of these complaints, 24 were recorded as damage to property and 3 as damage to appliances.

In response, Evoenergy investigated the complaints. Evoenergy confirmed that in the instances where it determined it was at fault, direct feedback was delivered to the teams involved in the work to ensure that the customers' experience was heard in each case. Further, Evoenergy advised that each complaint was fully investigated, with outcomes established and damage repaired, or compensation paid where necessary.

### 3.4.2 Material breach reporting

If Evoenergy commits a material breach, it is to then immediately report that breach to us. We did not receive any self-reported material breaches. Further, during our review of Evoenergy's ULAR report, we reviewed all the breaches reported by Evoenergy and did not find a material breach.

### 3.4.3 Feed-in Tariff scheme

Evoenergy did not report any compliance breaches with operation of the *Electricity Feed-in (Renewable Energy Premium) Act 2008* during 2021-22. Evoenergy received 2 complaints relating to the administration of the scheme. Evoenergy reported that it investigated the complaints and established that it was not in breach of the Feed-in Tariff Act.

### 3.4.4 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 2021-22, 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.

<sup>27</sup> 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.

## 4. Gas distribution

Since 1 July 2001, Evoenergy has held a utility licence for gas distribution and connections in the ACT. Evoenergy remains the only licenced utility for gas distribution in the ACT. The current version of the licence can be accessed online.<sup>28</sup>

### 4.1 Interruptions to gas distribution network decreased

In 2021-22, Evoenergy reported 679 planned interruptions which was 87.8% lower than 2020-21 (5,552). The significant reduction in planned interruption has been attributed to fewer aged meters needing to be replaced in 2021-22 compared to previous years.

Evoenergy reported that it gave all customers affected by a planned interruption proper notice (at least 2 business days') in 2021-22.

Evoenergy reported that it restored all interruptions to the gas distribution network within 12 hours. No customers had 9 or more interruptions in 2021-22 and no customers experienced 20 or more cumulative hours of interruptions in the year.

### 4.2 Evoenergy's compliance with the Guaranteed Service Levels for gas distribution

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.

Evoenergy reported that it did not meet GSLs 8 times, and paid rebates for 2 breaches in 2021-22. These two rebate payments, totalling \$80, were for:

- connection not made within required timeframe (GSL-1, \$60)
- not responding to 1 complaint within 20 business days (GSL-3, \$20).

Evoenergy initially reported that it breached GSL-E2 (wrongful disconnection) on 6 occasions through its meter wadding project and did not pay the rebates owing.<sup>29</sup> Evoenergy advised that it had breached the

<sup>28</sup> <https://legislation.act.gov.au/ni/2021-107/>

<sup>29</sup> ActewAGL Retail initiated the meter wadding project to manage around 5000 meters that have never been registered with a customer or have had consecutive zero readings for at least 18 months. The program of work, targeting approximately 80 meters per week, involves placing a wad (a metal disc) between the company service and the regulator, which temporarily isolates gas supply to the customer's service to ensure gas supply cannot be unsafely reintroduced to the premises unless the reconnection is undertaken by an authorised person. Hard controls are in place to ensure no work is completed on Fridays, and public holidays are managed with human intervention.



GSL because it disconnected the premises on a protected day due to a scheduling mistake. Following a query, we found that these premises did not have accounts with Evoenergy and did not use the services. Therefore, the premises did not meet the definition of a customer within the meaning of the Consumer Protection Code. As these were not customers, Evoenergy did not breach the GSL.

In comparison, for the 2020-21 reporting year, Evoenergy reported 2 breaches (one for wrongful disconnection and one for sufficient notice of planned interruption not given) and paid \$150 in rebates.

## 4.3 Complaints reduced

Complaints to Evoenergy about its gas distribution network decreased from 183 in 2020-21 to 140 in 2021-22 (a reduction of 23.5%). Table 4.1 shows the number of complaints by category over the last 5 years. Evoenergy reported that it did not respond to 1 complaint within required timeframe and it paid rebate to customer.

**Table 4.1. Number of complaints by category, 2017-18 to 2021-22**

Complaint categories	2017-18	2018-19	2019-20	2020-21	2021-22		Change	% of total
Fees and charges	23	47	47	47	47		0	33.6
Connection and supply	13	31	12	36	21	▼	15	15.0
Customer service	3	8	7	13	6	▼	7	4.3
Meter and meter reading	14	17	25	60	50	▼	10	35.7
Property damage and restoration	1	8	9	19	9	▼	10	6.4
Serious incidents	8	7	11	8	7	▼	1	5.0
<b>Total number of complaints</b>	<b>62</b>	<b>118</b>	<b>111</b>	<b>183</b>	<b>140</b>	▼	<b>43</b>	

Complaints about meter and meter reading was the most common category of complaint in 2021-22. These complaints were 17% lower than in 2020-21, mainly due to fewer complaints received regarding meter reading (2).

Connection and supply complaints reduced from 36 in 2020-21 to 21 in 2021-22. Complaints under this category include new connection complaints, supply complaints and reconnection complaints. Evoenergy attributed the decrease in this category to fewer complaints received regarding new connection.

## 4.4 Evoenergy met its licence and reporting obligations

Evoenergy's utility licence requires it to comply with any requirements under the Utilities Act, relevant industry and technical codes, and directions we provided. Evoenergy must also report any material breach and non-compliance with its licence conditions for its gas distribution network.

### **4.4.1 Material breach reporting**

Evoenergy gas distribution reported that there were no material breaches or non-compliance of its utility licence in 2021-22.

### **4.4.2 Emergency telephone service**

In 2021–22, 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

Since 1 July 2001, Transgrid has held a utility licence for electricity transmission in the ACT. The current version of the licence can be accessed online.<sup>30</sup>

### 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.

#### 5.1.1 Material breaches reporting

Based on information from Transgrid and our monitoring during the year, there were no material breaches of its utility licence in 2021-22.

#### 5.1.2 Non-compliances reporting

Transgrid reported one incident when it did not meet its obligations under the *Utilities (Technical Regulation) Act 2014*.

Transgrid is required to report to the Utilities Technical Regulator about the notifiable incident within 24 hours after it becomes aware of the incident. In this instance, a fallen conductor incident occurred on 7 September 2021. However, Transgrid did not report this incident to the Utilities Technical Regulator until 21 September 2021. Thereby, it has failed to meet the 24-hour reporting requirement. Transgrid advised that it completed a review of its reporting processes to ensure that the information is available for reporting within the required timeframes.

Transgrid notified the commission about this incident as part of the ULAR reporting. We are satisfied that by doing so Transgrid met the requirement under its licence.

#### 5.1.3 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.

<sup>30</sup> <https://legislation.act.gov.au/ni/2021-114/>

Transgrid has improved its network performance in 2021-22, with zero complaints reported during the year. For comparison, in 2020-21, Transgrid reported 6 complaints about its network operation.

## 6. Gas transmission

Since 1 July 2001, the Eastern Australia Pipeline Limited (EAPL) has held a utility licence for gas transmission in the ACT. EAPL remains the only licenced utility for gas transmission in the ACT. The current version of the licence can be accessed online.<sup>31</sup>

### 6.1 EAPL 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 2021-22, EAPL transferred 4,042 terajoules (TJ) of gas from the transmission network to the gas distribution network, compared to 3,669 TJ in 2020-21.

EAPL reported that it continually reviews its data collection and reporting process while its parent company, APA Group, are implementing a formal Asset Information Improvement Initiative.

#### 6.1.1 Material breaches and non-compliances reporting

Based on information from EAPL and our monitoring during the year, there were no material breaches or non-compliances of its utility licence in 2021–22.

#### 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)*<sup>32</sup> and the APA Group Operational Environmental Management Plan<sup>33</sup>. These protocols ensure that damage to land is minimised during and after network operations.

#### 6.1.3 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 2021–22, 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.

<sup>31</sup> <https://legislation.act.gov.au/ni/2021-105/>

<sup>32</sup> Australian Standards—Pipelines Gas and liquid petroleum (AS2885.3) sets the minimum requirements for the operation and maintenance of pipelines.

<sup>33</sup> EAPL is a member of the APA Group.

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

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 submitted 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. Sections 2 to 6 report on the utilities' performance and compliance.

We provided our proposed assessment results to each utility invited them 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

### 7.1.1 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 provides a description for each criterion.





**Figure 7.1. Assessment criteria**

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

## 7.1.2 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, as shown in Figure 7.2. 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
 <p><b>4 Excellent</b></p> <p>The utility has gone above what is needed to achieve a rating of good and provided high quality and timely information or responses.</p>	<p>The utility performed at a very high level.</p>
 <p><b>3 Good</b></p> <p>The information or response was good and has fully met the expected requirements.</p>	<p>The utility provided the information or response as required or expected.</p>
 <p><b>2 Satisfactory</b></p> <p>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.</p>	<p>Satisfactory applies when reporting of figures or information needed follow up work to respond to issues or correct errors we found.</p>
 <p><b>1 Unsatisfactory</b></p> <p>The utility would receive unsatisfactory where it has failed to resolve issues or correct errors we found.</p>	<p>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.</p>



## 7.2 Assessment results for 2021-22

Table 7.1 shows a summary of assessment results for each utility for 2021-22. Individual assessment results have been provided to utility for comments prior to publish.

**Table 7.1. Assessment results for each utility against the assessment criteria, 2021–22**

Criteria	Icon Water	Evoenergy (Electricity)	Evoenergy (Gas)	Transgrid	EAPL
<b>Timeliness</b>	Good	Satisfactory	Good	Excellent	Excellent
<b>Responsiveness</b>	Good	Good	Good	Good	Good
<b>Data and information quality and integrity</b>	Good	Satisfactory	Excellent	Excellent	Good
<b>Quality and relevance of supporting statements and responses</b>	Good	Satisfactory	Good	Good	Good

### 7.2.1 Icon Water

Icon Water submitted its report prior to the 1 October deadline and responded to information requests in a timely fashion.

We found the information provided in the report and a subsequent meeting to be clear and in plain English. After we detected an inconsistency with Icon Water's data regarding rebate payments, Icon Water provided more accurate and clearer information.

For the 2020-21 monitoring report, we noted that Icon Water's report lacked detail with respect to GSL-W6 and that Icon Water was undertaking a review of its processes to ensure its GSL payments were accurate. For the 2020-21 report, we therefore used estimates. Icon Water has provided updated information for the 2020-21 figures in its 2021-22 ULAR submission. Furthermore, during 2020-21 Icon Water delayed payments some rebates until it completed its review. Icon Water has since confirmed that it has paid those outstanding rebates and has paid out rebates owing for the 2021-22 reporting year.

## 7.2.2 Evoenergy (electricity distribution)

### Background

Evoenergy submitted its report shortly after the 1 October deadline.

We found that Evoenergy's report contained accurate information in plain-English, an improvement from the 2020-21 ULAR report. When we requested additional information, Evoenergy responded to those information requests in a timely fashion. The report contained supplementary information which we also found in plain-English, accurate and helpful. However, Evoenergy's proposal to not pay rebates for late connections was delayed, and at times lacking in necessary detail. This impacted its overall grading for the ULAR.

In July 2022, Evoenergy advised that it was continuing to manage its backlog of late connections from 2020-21 and that it continued to have problems meeting GSL-E1. However, we first became aware that the GSL-E1 rebates had not yet been paid when Evoenergy submitted its ULAR response in October 2022. Evoenergy provided its reasoning in December 2022, however, this response lacked sufficient detailed information and relied heavily on its proposal and evidence from the previous reporting year. Evoenergy provided an updated proposal in January 2023 with detailed information in support.

In February 2023, Evoenergy revised the number of GSL-E1 rebates it proposed not to pay from 1,797 to 888 and described events that reduced its capacity to meet the connection timeframes. Of these 888 late connections, we agreed that Evoenergy does not need to pay 498 of the 888 late connection rebates. However, we concluded that Evoenergy did not justify the non-payment of the remaining 390 rebates to affected customers.<sup>34</sup>

Preferably, Evoenergy should have engaged the commission throughout the reporting process to advise of the ongoing issue with this service. We would have advised it on how to best address the GSL-E1 rebate non-payments, resulting in a better outcome for customers as well as a better assessment.

### Ratings

We have downgraded Evoenergy's timeliness ratings for the ULAR due to its late submission of the initial report, and not having enough information to support the non-payment of GSL-E1 rebates ready at the time of the ULAR submission. We have assessed its performance for timeliness as 'satisfactory'.

We found Evoenergy to be responsive to our request to update or clarify information about its ULAR report. There were some initial delays when we sought progress updates about the non-payment of rebates. Direct engagement from Evoenergy's executive resulted in prompt responses and a commitment to ongoing engagement with the commission. On balance we have rated Evoenergy's performance for this criterion as 'good'.

Evoenergy provided its report in plain-English, and the quality of data was generally good. However, Evoenergy's exemption proposal was inconsistent with previously provided data on GSL breaches for customer connection times and the number of complaints. Overall, we gave Evoenergy a 'satisfactory' rating for data and information quality.

<sup>34</sup> For more information about this decision, please see section 3.2 of this report.

Evoenergy did not always provide sufficient supporting information for its exemption proposal. We have assessed its provision of supplementary reports and material as 'satisfactory'.

### 7.2.3 Evoenergy (gas distribution)

Evoenergy met the reporting requirements in a timely manner. We found the information provided in the reports to be accurate, complete and in plain-English. When we requested further clarifying information, Evoenergy's response took longer than the agreed timeframe. The information was complete, accurate and with plain English explanations.

### 7.2.4 Transgrid

Transgrid met the reporting requirements in a timely manner. We found the information provided in the reports to be accurate, complete and in plain-English. We did not identify any issues that required additional information.

### 7.2.5 EAPL

EAPL met the reporting requirements in a timely manner and provided its information well in advance of the reporting deadline. We found the information provided in the reports to be accurate and in plain-English. However, the report would benefit from further information about EAPL's ongoing audits and process reviews. For this reason, we ranked EAPL's administration of its ULAR on data and information quality and integrity as good.

For the 2020-21 monitoring report, we rated EAPL's timeliness and responsiveness as 'unsatisfactory'. Further, in that report we noted that EAPL had not complied with its licence condition to publish its ULAR report or a summary of its ULAR report on its website for 4 consecutive years. In response, EAPL advised that it has since addressed several internal processes and published a summary of its ULARs for the previous years. It has published a summary of its ULAR for this year in advance of the deadline.

## 7.3 Suggestions for further improvement in ULAR administration

In preparation for submitting a ULAR for the 2022-23 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.

Please communicate with us if you have a question or concern with the reporting template at the earliest opportunity.

# Part B - NERL Retailer Compliance Report

## 8. Energy retailers

We require that NERL retailers to report on their compliance with their obligations in the Consumer Protection Code 2020. The parts of the Code that apply to NERL retailers are listed in Schedule 3 of the Code. In summary, Schedule 3 places the following 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 compliance reports from 28 NERL retailers operating in the ACT in 2021-22. 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 these NERL retailers, 3 retailers reported not meeting the relevant GSLs. These retailers are ActewAGL, Origin Energy, and EnergyAustralia, which together have 95.5% of the ACT market.<sup>35</sup>

Table 8.1 shows how often retailers did not meet GSLs and rebates paid for 2020-21 and 2021-22.

**Table 8.1. NERL retailers – GSL not met and rebates paid**

NERL retailer	2020-21		2021-22	
	Number of GSLs not met	Total value of rebates paid	Number of GSLs not met	Total value of rebates paid
ActewAGL	246	\$6,680	229	\$5,200
Origin Energy	30 <sup>a</sup>	\$3,290	8	\$960
Energy Australia	0	\$0	32	\$1,600
<b>Total</b>	<b>276</b>	<b>\$9,970</b>	<b>269</b>	<b>\$7,760</b>

**Note:** <sup>a</sup> Origin's 2020-21 report was updated to include one wrongful disconnection which was identified in 2021-22.

### 8.1 ActewAGL

ActewAGL failed to meet the GSLs 229 times in 2021-22, and paid 229 rebates to customers, totalling \$5,200. These breaches include:

- not meeting the GSL for timely connection on 4 occasions (GSL-E1).
- not responding to complaints within 20 business days 223 times (GSL-E3).

<sup>35</sup> According to AER Retail Performance data for Q2 of 2022-2023, ActewAGL accounts for 73.2% of ACT residential customers for electricity supply, Origin Energy for 17.2%, and EnergyAustralia for 5.1.

- wrongfully disconnecting supply to 2 premises (GSL-E2). ActewAGL advised that a call centre agent did not follow its procedure. ActewAGL confirmed that it provided training to the agent and paid rebates to affected customers.

## 8.2 Origin Energy

Origin Energy reported that it did not meet GSL-E1 for timely customer connections on 8 occasions in 2021-22 and that it paid \$960 in rebates. Origin Energy noted that 2 of these rebates have been paid in 2022-23.

Origin Energy also reported that in August 2021, it detected an error in its processes for deregistering life support equipment. If a customer registers life support equipment, they are provided certain protections under national law. To remain on the register, a customer needs to provide medical documentation and is provided a certain amount of time to provide that information. If the customer does not provide that information, their equipment will be deregistered. Prior to deregistration, the retailer/distributor must provide reminder notices and try to contact the customer through all available means, including phone calls.

While it provided written reminders and letters to customers if they failed to provide medical documentation, Origin Energy did not make phone calls prior to deregistration in some cases. Origin Energy advises it has since informed the AER and corrected the systemic issue that caused this error.

Origin Energy later disconnected one of these wrongfully deregistered customers for arrears. Origin advises that had the customer not been deregistered, it would not have sought to disconnect the customer for arrears. Therefore, Origin Energy has reported this incident as a wrongful disconnection and paid out the rebate to the affected customer.

## 8.3 EnergyAustralia

EnergyAustralia reported it did not give 32 customers at least two business days' notice for a planned interruption to services and paid out all rebates.

## 8.4 ReAmped Energy

ReAmped Energy initially reported that it did not give 2 customers two business days' of notice for a planned interruption to services, and it did not pay rebates to affected customers. ReAmped Energy submitted that it did not have oversight of whether it had breached its obligation to ensure its customers received sufficient notice for planned interruptions. It advised it had contracted its meter management to a third party, which also handled notices to customers.

In response, we requested that ReAmped confirm how many breaches had taken place and to pay out any rebates the affected customers. Further, we requested that ReAmped develop a plan so that it has sufficient oversight and control of the GSL so that it meets its obligations under the Consumer Protection Code. In response, ReAmped Energy investigated its internal processes and the information provided advised that the earlier reported breaches did not occur in the ACT and that it had taken steps to have better oversight going forward.

# Appendix A – Regulatory framework

## A.1.1 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 1.1 and their licences are available on our website at <https://www.icrc.act.gov.au/utilities-licensing/current-licences>.

## A.1.2 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 Guideline<sup>36</sup>. 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.

## A.1.3 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

<sup>36</sup> See [https://www.icrc.act.gov.au/\\_\\_data/assets/pdf\\_file/0019/1800064/Material-Breach-Guidance-Note-2021.pdf](https://www.icrc.act.gov.au/__data/assets/pdf_file/0019/1800064/Material-Breach-Guidance-Note-2021.pdf)

- 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
- 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 procedures<sup>37</sup>. 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).

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<sup>37</sup> 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.



## Appendix B – Guaranteed Service Levels and rebates

Measure	Threshold	Amount
<b>GSL-E1</b> Customer connection times	Connection not provided by required date	\$60 per day (maximum \$300)
<b>GSL-E2</b> Wrongful disconnection	Where customer is wrongfully disconnected	\$100
<b>GSL-E3</b> 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
<b>GSL-E4</b> 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
<b>GSL-E5</b> 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
<b>GSL-E6</b> 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
<b>GSL-E7</b> 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
<b>GSL-E8</b> <b>Response time to notification of a fault, problem or concern that affects the premises of the customer.</b>  <b>This GSL applies to an electricity distributor or gas distributor only.</b>	Utility fails to respond: <ol style="list-style-type: none"> <li>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</li> <li>2. In all other cases within 48 hours; and</li> <li>3. Resolve the problem or concern within the time specified in the response.</li> </ol>	\$60 per day (maximum \$300)

Measure	Threshold	Amount
<b>GSL-W1</b> <b>Customer connection and removal of flow restrictors</b>	Connection not provided, or flow restrictors not removed, by required date	\$60 per day (maximum \$300)
<b>GSL-W2</b> <b>Responding to complaints</b>	Upon receiving a complaint, utility does not: <ol style="list-style-type: none"> <li>(a) Acknowledge the complaint immediately or as soon as practicable; and</li> <li>(b) Provide a response addressing the matters in the complaint within 20 business days</li> </ol>	\$20
<b>GSL-W3</b> <b>Notice of planned interruption</b>	Two business days' notice not given	\$50
<b>GSL-W4</b> <b>Duration of interruption (single event)</b>	An unplanned interruption lasts for 12 hours or longer	\$80
<b>GSL-W5</b> <b>Frequency of unplanned interruptions</b>	Customer experiences more than 9 unplanned interruptions in a financial year	\$80
<b>GSL-W6</b> <b>Response time to a fault, problem or concern that affects the premises of the customer</b>	Utility fails to respond: <ol style="list-style-type: none"> <li>(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</li> <li>(b) In all other cases within 48 hours; and</li> <li>(c) Resolve the problem or concern within the time specified in the response.</li> </ol>	\$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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