

CONSULTATION PAPER

Utility licence updates

Report 15 of 2020, November 2020



The Independent Competition and Regulatory Commission is a Territory Authority established under the *Independent Competition and Regulatory Commission Act 1997* (the ICRC Act). The Commission is 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.

The Commission has responsibilities for a broad range of regulatory and utility administrative matters. The Commission has responsibility 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. The Commission also has responsibility for arbitrating infrastructure access disputes under the ICRC Act.

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

The Commission's objectives are set out in section 7 and 19L of the ICRC Act and section 3 of the Utilities Act. In discharging its objectives and functions, the Commission provides independent robust analysis and advice.

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Correspondence or other inquiries may be directed to the Commission at the following address:

Independent Competition and Regulatory Commission
PO Box 161
Civic Square ACT 2608

The Commission may be contacted at the above address or by telephone on (02) 6205 0799. The Commission's website is at www.icrc.act.gov.au and its email address is icrc@act.gov.au.

How to make a submission

This consultation paper provides an opportunity for stakeholders to give feedback and views on the Commission's proposed variations to the licences for utilities that are licensed in the ACT.

Submissions on the consultation paper close on **1 December 2020**.

Submissions may be mailed to the Commission at:

Independent Competition and Regulatory Commission
PO Box 161
Civic Square ACT 2608

Alternatively, submissions may be emailed to the Commission at icrc@act.gov.au. The Commission encourages stakeholders to make submissions in either Microsoft Word format or PDF (OCR readable text format – that is, they should be direct conversions from the word-processing program, rather than scanned copies in which the text cannot be searched).

For submissions received from individuals, all personal details (for example, home and email addresses and telephone numbers) will be removed for privacy reasons before the submissions are published on the website.

The Commission is guided by the principles of openness, transparency, consistency, and accountability. Public consultation is a crucial element of the Commission's processes. The Commission's preference is that all submissions are published on the Commission's website unless the author of the submission indicates clearly that all or part of the submission is confidential and not to be made available publicly. Where a submission includes confidential material, the Commission prefers that this material is provided in a separate document and is clearly marked 'In Confidence'. The Commission will assess the author's claim of confidentiality and discuss appropriate steps to ensure that confidential material is protected while maintaining the principles of openness, transparency, consistency, and accountability.

The Commission may be contacted at the above address, by telephone on (02) 6205 0799 or via the Commission's website at www.icrc.act.gov.au.

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1. Introduction

The Independent Competition and Regulatory Commission (Commission) is making minor updates to current utility licences. The Commission aims to complete this process and issue updated licences to utilities licensed in the ACT in early 2021.

1.1 Purpose of utility licences

The provision of utility services in the ACT is legislated by the *Utilities Act 2000* (Utilities Act). The Commission's role under the Utilities Act is set out in section 3 and includes protecting the interests of customers and ensuring the provision of safe, reliable, efficient and high-quality utility services at reasonable prices.

Under the Utilities Act, an entity cannot provide a utility service in the ACT without either a utility licence or an exemption from requiring a licence from the Minister. The licence sets the conditions and obligations to be met by the entity providing the utility service and ensures utilities operate in a manner that is in the long-term interests of consumers particularly in the case of utilities that provide an essential service.

Utility services are defined in Part 2 of the Utilities Act to include:

- the transmission, distribution and connection of electricity
- the transmission, distribution and connection of gas
- the collection, treatment and/or distribution of water
- the conveyance, collection, treatment and disposal of sewage and sewerage connection services
- the provision of water and sewerage networks for the supply of water and sewerage connection services.

1.2 The Commission's role

The Commission is established under the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act) to regulate pricing, access and other matters in relation to declared regulated industries and to independently investigate competitive neutrality complaints and government regulated activities.

Section 7 of the ICRC Act sets the Commission's objectives as:

- (a) to promote effective competition in the interests of consumers
- (b) to facilitate an appropriate balance between efficiency and environmental and social considerations
- (c) to ensure non-discriminatory access to monopoly and near-monopoly infrastructure.

Under the Utilities Act, the Commission is responsible for managing the licensing framework for non-National Energy Retail Law (NERL) utility service providers in the ACT, including issuing licences and

monitoring licence compliance.¹ The Commission also has responsibility for industry codes of practice, approving standard customer contracts and determining licence fees paid by utilities in the ACT in respect of the regulatory functions undertaken by the Commission and other Territory bodies.

The Commission monitors licence compliance through annual compliance reporting, stakeholder and community feedback, media monitoring, and direct engagement with utilities and other regulators.

A licence is granted to a utility subject to an assessment that the utility:

- is a suitable person or entity to hold a licence
- has appropriate technical capacity to comply with licence conditions
- has the capacity to operate and manage the relevant service and comply with regulatory requirements
- has sufficient financial resources to operate a sustainable business that meets the needs of consumers.

There are currently five utility licences issued by the Commission. Table 1 shows when each utility licence was last updated.

Table 1. Utility licences and date last updated

Utility licence	Last updated
Evoenergy Electricity Distribution and Transmission Licence	1 January 2018
Evoenergy Gas Distribution Licence	1 January 2018
TransGrid Electricity Transmission Licence	16 December 2015
Icon Water Limited Water and Sewerage Licence	2 December 2014
East Australian Pipeline Limited Gas Transmission Licence	23 May 2011

1.3 Purpose, scope and objective of this licence update

The Commission has decided to update the licences for utilities licensed in the ACT to ensure they reflect the current regulatory framework and are clear and easy to understand.

In 2014, provisions relating to technical regulation were removed from the Utilities Act and the *Utilities (Technical Regulation) Act 2014* (UTR Act) was created. As a result, the Commission is no longer responsible for monitoring the utilities' technical compliance as these functions are now undertaken by the Utilities Technical Regulator (UTR). Following this change in the regulatory framework, and the subsequent development of technical codes and reporting requirements by the UTR, some licence conditions and reporting requirements are no longer necessary or require amendment to reduce unnecessary duplication and reporting burden on the licensed utilities.

¹ National Energy Retail Law (NERL) utility service providers are regulated by the Australian Energy Regulator (AER). Under the NERL, an entity engaging in the retail sale of energy (electricity or gas) must hold a retailer authorisation, unless exempt. The AER administers retailer authorisations. www.aer.gov.au/retail-markets/authorisations

The specific objectives of this review and licence updates are to ensure that:

- the licences reflect the current regulatory framework
- regulatory duplication and reporting burden on licenced utilities are reduced
- ambiguous clauses are clarified and the intent of clauses is clear.

The Commission is not conducting a wholesale licence review at this time or making substantive changes to licences.

The Commission has prepared a template of general conditions that will be included in all licences and individual schedules for each licensee that set out conditions specific to that licensee. The Commission is seeking feedback on the proposed variations to the licences and welcomes submissions. Marked-up versions of the general conditions and individual schedules, showing all proposed changes, are attached in the appendices. Chapter 2.2 provides a brief description of each of the proposed changes and an explanation of the reason for or effect of each change.

1.4 Process to vary a licence

Under section 38(2) of the Utilities Act, the Commission may vary a licence on its own initiative provided it:

- gives the utility reasonable notice of the proposed variation along with reasons for it
- allows the utility a reasonable opportunity to make representations about the proposal
- considers any representations made by the utility.

In addition to these requirements, the Commission may decide to seek public submissions on the proposed licence changes.

The purpose of this consultation paper is to inform stakeholders of the proposed updates to the licences and to invite public submissions. The Commission will consider matters raised in submissions, as well as representations by the utilities, in making its final decision on varying the licences.

1.5 Timeline for the process

Table 2 below outlines the Commission's indicative timeline for completing the updates of the utility licences.

Table 2. Indicative review timeline

Event	Date
Release of proposed licence updates	9 November 2020
Submissions close	1 December 2020
Licence updates finalised and notified on ACT legislation website	Early 2021

2. Proposed utility licence variations

As noted in chapter 1, following the introduction of the *Utilities (Technical Regulation) Act 2014*, the Commission is no longer responsible for monitoring the utilities' technical compliance as this monitoring is now undertaken by the UTR.

The proposed licence changes are intended to reflect the current regulatory framework. This will remove duplication of reporting requirements (where appropriate) and reduce reporting burden on licenced utilities. Additional updates are also proposed to clarify intent, ensure completeness and remove ambiguity.

2.1 Targeted consultation to date on proposed licence updates

As noted in section 1.4, the Commission may vary a licence on its own initiative provided it meets certain requirements in relation to informing the utilities of the proposed variations and giving them an opportunity to provide the Commission with their views and feedback on the proposed variations.

In developing the proposed licence variations, the Commission has conducted targeted consultation with the five utilities licensed in the ACT to:

- give each utility reasonable notice of the proposed updates to its licence and explain the reasons for the proposed variations
- allow each utility a reasonable opportunity to make representations about the proposed variations to its licence.

The Commission has considered the feedback and suggestions provided by each utility during targeted consultation. The utilities will have further opportunities to make representations to the Commission during the process for updating the licences (set out in chapter 1). The Commission will consider all representations made to it by the utilities when it makes its final decision on varying the licences.

In addition to targeted consultation with the utilities, the Commission has consulted with the UTR on the proposed licence updates and explained the reasons for updating the licences. The Commission has considered the feedback and suggestions provided by the UTR to date in developing the proposed variations and will consider any further comments from the UTR during its process.

Consultation with the UTR will assist the Commission in ensuring the licences reflect the current regulatory framework and in reducing regulatory duplication and reporting burden on licenced utilities.

2.2 Outline of proposed variations

Table 3 outlines the variations the Commission is proposing to make to the utility licences. The table specifies whether a change applies to all licences or only to a specific licence.

Each licence consists of two parts: general conditions and schedules of specific clauses relevant to the licensee.

Currently, all five utility licences have almost identical common clauses (general conditions) with tailored schedules for each service. Consequently, as noted in chapter 1, the Commission has prepared a template of general conditions that is proposed to apply to all licensees. Some of the older licences will have additional common clauses added to align them with the more recently updated licences and to achieve consistency in the general conditions applying to licensees. The general conditions template and individual schedules, with the changes in mark-up, are attached at Appendices 1 and 2.

The proposed changes will ensure licences reflect the updated regulatory framework and will remove duplication of regulation with the UTR.

Feedback from the targeted consultation with licensed utilities highlighted that the Commission's current guideline on material breach and non-compliance does not specify what constitutes a material breach against the licence. The Commission acknowledges the importance of setting out matters in the guideline to help utilities understand what would constitute a material breach of its licence. The Commission intends to revise the guideline to address the utilities' feedback and make any other required changes as after the licence update has been finalised.

Some utilities suggested the general licence conditions should include more detail about the circumstances under which a licence can be suspended and the process for removing the suspension. The Commission is proposing to include an updated clause that clarifies that licence suspension will only occur where a utility does not comply with a formal direction of the Commission regarding a licence condition. In the event that the Commission were to issue a formal direction to a utility, the direction would describe the requirements the utility must comply with, state that failure to comply may result in suspension of the licence, and specify what actions the utility would have to take to remove the suspension. The Commission considers that this process will provide sufficient clarity to utilities and does not consider that further details are required in the licence conditions.

Table 3. Summary of proposed licence updates

Clause	Proposed change	Comments	Amendment applies to:
Lead in (p 1)	Wording has been simplified and updated to reflect that utility services are outlined in the reference schedule	By placing the text that differs in each licence (in this case the utility services) into the 'reference schedule', it allows the Commission to create a template of general conditions that are replicated across all licences.	All licences
1.	<u>Definitions and interpretation</u> This clause has been moved up (from clause 2) and renamed (from 'dictionary') Interpretation guidance added. There were previously no	The new clauses reflect modern drafting style and improves clarity in interpreting the licence.	All licences

Clause	Proposed change	Comments	Amendment applies to:
	interpretation guidelines in the licence 1.2: statement explaining that bold typeface indicates a defined term.		
2.1	<u>Commencement date</u> 2.1: moved the date to the reference schedule.	Drafting change	All licences
2.2	<u>Licence term</u> Drafting updates to clarify source of powers and who has the right to exercise them. 2.2(1): updated to clarify that a variation can be made to the licence.	The addition aligns older licences with newer licences and improves clarity.	All licences (TransGrid's licence term clause is in clause 2.3)
2.2	<u>Transfer of licence</u> This clause has been moved from 1.2 to 2.2		TransGrid (electricity Transmission)
3.	<u>Limitations</u> Removal of 'and is not to be taken to'	Modernised wording	All licences
4.2	<u>Area of operations</u> Wording updated to refer specifically to the Authorised Utility Service.	More direct and modern drafting	All licences
5.1	<u>Obligations</u> Wording updated and modernised	The removed words are evident from the licence itself.	All licences
6.1	<u>Compliance with laws</u> Clause has been modernised	Modernised wording	All licences
6.2	<u>Compliance with Act</u> New provisions included to make it a requirement of the licence that the utility must comply with: the UTR Act; and a direction given by the Technical Regulator under the UTR Act	With the establishment of the UTR Act, obligations relating to technical codes and technical regulation are now contained in a different piece of legislation. These changes ensure continuity that it is a condition of the licence that the utility comply with the requirements of the UTR. This ensures that if a utility fails to meet UTR Act requirements, the utility can be found to be in breach of its licence.	All licences

Clause	Proposed change	Comments	Amendment applies to:
6.2	<u>Compliance with Act</u> 6.2(4): 'Chief Executive' changed to 'Technical Regulator' to provide clarity that the Licensee must comply with directions given by the UTR.	The change improves clarity about who is being referred to and aligns the clause with newer licences.	EAPL (gas transmission) Icon Water (water supply and sewerage services)
7	<u>Licence variation</u> This clause has been moved to improve flow. It was previously clause 16 or 18 (depending on the licensee).	Improved drafting	All licences
8.1	<u>Compliance monitoring</u> Wording updated to reflect the requirement relates to the Authorised Utility Services.	Improved clarity	All licences
8.2	<u>Material breaches</u> 8.2(2): has been added to ensure that the UTR is also notified of material breaches that relate to technical matters	8.2(2) clarifies that material breaches relating to technical regulation matters must be notified to both regulators. The Commission published a material breach and non-compliance guideline in 2009 and already asks licensed utilities to comply with these guidelines. https://www.icrc.act.gov.au/legislation/guidelines The material breach and non-compliance guideline will be reviewed in 2021.	All licences
8.3	<u>Non-compliance</u> 8.3(1): requirements for statement have been split into (a. b. c) to reflect modern drafting style and clearly identify requirements. 8.3(2): added requirement to provide non-compliance statement in accordance with ICRC reporting guidelines	New clause 8.3 (2) clarifies the Commission's default minimum reporting requirement is through the Utilities Licence Annual Report (ULAR)	All licences
8.4	<u>Annual compliance reporting</u> 8.4(2): added requirement to report annually to the Technical Regulator	Prior to the establishment of the UTR Act, compliance reports were submitted to the ICRC and the ICRC forwarded these reports to the Technical Regulator in accordance with the Utilities Act. In practice, the Technical Regulator is now collecting this information directly from utilities. This change reflects current	All licences

Clause	Proposed change	Comments	Amendment applies to:
		<p>practice and will assist in reducing regulatory duplication.</p> <p>Where possible, changes are also being made to schedule 1 of each licence to reduce the requirements to report technical information to the ICRC.</p>	
8.5	<p><u>Publication of compliance report</u></p> <p>Added requirement for publication on the licensee's website.</p> <p>The clause allows the licensee to choose whether to publish its full compliance report or a summary.</p>	<p>Formally requiring publication on the licensee's website reflects current practice. The Commission asks licensed utilities to put a link to their published report on their websites through the Utility Licence Annual Report process.</p> <p>The previous wording required the licensee to prepare a summary, which is unnecessary if the licensee chooses to publish the full report.</p>	All licences
8.6.1	<p><u>Audit</u></p> <p>Updated clause to reflect compliance with matters outlined in clause 6.2. The clause has also been varied to clarify that audits are required periodically.</p>	The Commission expects licensed utilities to audit their compliance against their licence obligations on a periodic basis.	All licences
9.2	<p><u>Financial capacity</u></p> <p>9.2(2): added to require a utility to proactively notify the Commission if there is a significant change in financial capability that could affect service provision.</p>	The new clause clarifies the requirement for self-reporting, rather than the Commission having to request information.	All licences
11.1	<p><u>Security interest</u></p> <p>Terminology updated.</p>	The definition of 'security interest' already included 'charge'. This change improves readability and clarity.	All licences
11.5	<p><u>Changes in major shareholders and office bearers</u></p> <p>Terminology has been updated to 'substantial holding' and reflects the terminology used in the <i>Corporations Act 2001</i> (Cwlth)</p>	<p>This change clarifies the Commission's requirements for reporting of 'relevant changes'. It will ensure that the Commission is made aware of major shareholder changes. This is important as some licensed utilities do not have a 50% or majority shareholder.</p> <p>The Commission has aligned the requirements to the Corporations Act to provide a consistent approach to other regulatory requirements for corporations</p>	All licences
12.2	<p><u>Information that may be requested</u></p>	This clarifies that the information listed is not the only information the Commission	All licences

Clause	Proposed change	Comments	Amendment applies to:
	Added a statement that the clause is not limiting.	can request. This is not a material change as the Commission has information gathering powers under the Utilities Act and the ICRC Act.	
12.3	<u>Provision of information</u> Added requirement to provide information in the time specified by the ICRC.	Improves clarity about when information must be provided.	All licences
13.1	<u>Restrictions on licensee</u> 13.1(6): requires consultation on activities that will materially affect ability to meet technical and prudential criteria	Non-material change that supports the risk management investigation powers of the ICRC in clause 12.	All licences
14.1	<u>Licensee to keep records</u> 14.1(2): added to clarify that licensed utility must also keep records for reporting requirements.	The new clause aligns the requirements with section 25(2)(c) of the Utilities Act, and clarifies that record keeping to report compliance with licence conditions is required.	All licences
14.2	<u>Consents and authorisations</u> Wording improved to provide clarity.	This is not a material change as it has moved the definition from the dictionary into the clause itself to improve readability.	All licences
14.3	<u>Provide copies of records</u> Included requirement to provide copies of documents under 14.1 (licences, permits, consents etc) if requested.	This links the requirement with any documents that must be kept under 14.1	All licences
17.1	<u>Suspension of licence</u> This clause has been moved (previously 12.2 and 12.3). Minor redrafting to remove 'not serious' in 17.1(1). Addition of 17.1(2) to link a suspension only to a circumstance where the licensee has failed to comply with a direction.	The clause has been redrafted to recognise that suspension of a licence for a network provider will always be a serious matter because of the significant impact on supply of services. The updated clause clarifies that licence suspension will only occur where a utility does not comply with a formal direction of the Commission regarding a licence condition.	All licences
17.2	<u>Timeframe to comply with suspension notice</u> Clarifies that the timeframe will be specified by the ICRC in the notice.	Improves clarity	All licences
18.1 18.2	<u>Notices</u>		All licences

Clause	Proposed change	Comments	Amendment applies to:
18.4.	Updated to reflect modern drafting and modern communication methods. Extended time for postal service delivery, reflecting current Australia Post guaranteed delivery times. Facsimile has been removed as an option.		
18.1	<u>Notice to be in writing</u> 18.1(3): added an option to communicate through email for any written communication.	The change reflects modern communication practices and aligns the clause with newer licences.	EAPL (gas transmission) Icon Water (water supply and sewerage services)
18.4	<u>Deemed delivery</u> 18.4(3): added to reflect email communication methods	The change reflects modern communication practices and aligns the clause with newer licences.	EAPL (gas transmission) Icon Water (water supply and sewerage services)

Schedule 1 – Gas distribution licence

Clause	Proposed change	Comments	Amendment applies to:
2	<u>Network operation standards</u> Changed to <i>National Gas (ACT) Act 2008</i> . The change requires the licensee to have its network operation standards comply with the Act.	Clause has been updated to reflect that the regulation of the gas market is under the <i>National Gas (ACT) Act 2008</i> (which adopts the National Gas Law) and that the Commission no longer approves network operating standards for gas.	Evoenergy (gas distribution)
3	<u>Environmental requirements</u> Standard updated and new interpretation clause added.	The new interpretation clause will ensure that if documents are modified or replaced over time, the licence will read as the new document	Evoenergy (gas distribution)
4	<u>Annual reporting requirements</u> Several reporting requirements have been removed as specific licence requirements.	The ICRC and the UTR can request reporting information directly through their Acts and Codes. We have removed the requirement to specifically report information to the ICRC that is: <ul style="list-style-type: none"> • technical in nature • able to be collected by the UTR; and • not required by the Commission. 	Evoenergy (gas distribution)

Schedule 1 – Gas Transmission licence

2	<u>Environmental requirements</u> Standard updated and interpretation clause added	The new interpretation clause will now ensure that if documents are modified or	EAPL (gas transmission)
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Clause	Proposed change	Comments	Amendment applies to:
		replaced over time, the licence will read as the new document	
3	<u>Compliance with Australian Standards</u> Requirement added to meet Australian Standard.	UTR currently requires the utility to comply with this standard. This update reflects current practice.	EAPL (gas transmission)
4	<u>Annual reporting requirements</u> Updates to reflect technical information should be reported to the technical regulator.	The ICRC still requires limited information to understand the utility service and potential impacts on downstream customers.	EAPL (gas transmission)
5	<u>Notification of specific events</u> Update of terminology to clarify that reporting is required to be made to the UTR rather than the ICRC.		EAPL (gas transmission)

Schedule 1 – Electricity Transmission licence

1	<u>Management systems</u> Minor updates to reflect correct name of international standard and to reflect notification is to be made to the Utilities Technical Regulator, rather than the ICRC		TransGrid (electricity transmission)
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Schedule 1 – Electricity distribution licence

2	<u>Environmental requirements / Network losses</u> Clause updated to remove greenhouse gas requirements	The Environment Protection Agency collects greenhouse gas emission information separately and the Commission is no longer required to capture and forward this information. Network losses information must be reported to the UTR	Evoenergy (electricity distribution)
3	<u>Electricity Feed-in Act</u> Clause re-titled		Evoenergy (electricity distribution)

Schedule 1 – Water and Sewerage services licence

2	<u>Environmental requirements</u> Update to remove annual reporting requirements of unaccounted for water to the ICRC.	The Commission does not require this data and the Utilities Technical Regulator gets water losses reports from the Bureau of Meteorology's National performance report for urban water utilities. Furthermore, the UTR prefers to capture 'Real losses' because it is a better comparative indicator of the physical	Icon Water (water supply and sewerage services)
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Clause	Proposed change	Comments	Amendment applies to:
		condition of the network than 'unaccounted for water'.	
4	<u>WSAA</u> Noted the full name of the Water Services Association		Icon Water (water supply and sewerage services)
5.1	<u>Fire fighting</u> Clause retitled with the current name ACT Fire and Rescue.		Icon Water (water supply and sewerage services)
5.4	<u>Reporting requirements</u> Update to reflect annual reporting to the UTR rather than to the ICRC.		Icon Water (water supply and sewerage services)

Abbreviations and acronyms

ACT	Australian Capital Territory
Commission	Independent Competition and Regulatory Commission
EAPL	East Australian Pipeline
ICRC	Independent Competition and Regulatory Commission
ICRC Act	<i>Independent Competition and Regulatory Commission Act 1997</i>
NERL	National Energy Retail Law
OCR	Optical character recognition
PDF	Portable Document Format
Territory	Australian Capital Territory
Utilities Act	<i>Utilities Act 2000 (ACT)</i>
UTR	Utilities Technical Regulator
UTR Act	<i>Utilities (Technical Regulation) Act 2014</i>
WSAA	Water Services Association Australia

Appendix 1 General conditions

Licence to provide **Utility Services** granted on [DATE].

BY

The **Independent Competition and Regulatory Commission**, a body corporate established under the *Independent Competition and Regulatory Commission Act 1997* (ACT) (**ICRC**) pursuant to the *Utilities Act 2000* (ACT)

TO

The **Person** specified in **Item 1** of the **Reference Schedule** ('Licensee').

Subject to the terms and conditions set out in this licence, the ICRC has determined to grant a licence to the Licensee, under Part 3 of the Act to provide the utility services outlined in Item 3 of the Reference Schedule.

1. Definitions and Interpretation

1.1. Interpretation

In this licence, unless the context requires otherwise:

- (1) the singular includes the plural and vice versa;
- (2) headings are used for convenience only and do not affect the interpretation of this licence;
- (3) a reference to a document includes the document as modified from time to time and any document replacing it;
- (4) the word 'person' includes a natural person and any body or entity whether incorporated or not.

1.2. Definitions

Terms shown in bold typeface are defined. Definitions are specified in the Dictionary at the end of this licence and are part of this licence.

1.2. Commencement and term

1.1.2.1. Commencement date

This licence ~~will take effect from 1 July 2001~~ commences on the date specified in Item 2 of the Reference Schedule.

1.2.2.2. Licence term

This licence will remain in force until:

- (1) a variation is made to this clause, or
- (2) the licence is transferred under section 40 of the Act, or ~~surrendered~~.
- (3) the Licensee surrenders the licence under section 41 of the Act, or
- (4) the ICRC revokes the licence under section 42 of the Act.

2.3. Licence does not ~~to~~ limit Licensee

This licence does not ~~and is not to be taken to:~~

- (1) limit or prevent the **Licensee** from doing anything that it may lawfully do without the benefit of this licence; or
- (2) override or derogate from a requirement under any other **Law**.

3.4. Authorisation

3.1.4.1. Authorised Utility Services

This licence confers on the **Licensee** the right to provide the **Authorised Utility Services** referred to in **Item 3** of the **Reference Schedule**.

3.2.4.2. Area of operations

The **Licensee** may ~~exercise the rights conferred on it~~ provide the **Authorised Utility Services** in any part of the **Territory**.

3.3.4.3. Non-exclusive rights

The rights conferred by this licence on the **Licensee** are not exclusive.

4.5. Licensee to comply with obligations under this Licence

4.1.5.1. Licensee to comply with obligations

The Licensee must, ~~at all times during the term of this licence,~~ provide the **Authorised Utility Services** in accordance with the obligations imposed ~~upon it~~ by this licence, including the obligations set out in the schedule.

4.2.5.2. Joint and several responsibility

Where the Licensee comprises two or more legal entities, each entity is jointly and severally liable for the Licensee's compliance with the terms of this licence.

5.6. Compliance with all applicable laws

5.1.6.1. Licensee to comply

The Licensee must comply with all Laws ~~for the time being~~ in force in the Territory ~~and during the licence term that are~~ applicable to any services provided by the Licensee in the Territory.

5.2.6.2. Licensee to comply with the Act and Utilities Technical Regulation Act (UTR Act)

Without limiting the generality of clause 6.1, in providing the **Authorised Utility Services** the Licensee must comply with:

- (1) any requirement of the Act; and the UTR Act;
- (2) relevant Industry Codes including the performance service standards (if any) prescribed under those codes;
 - (3) relevant Technical Codes including the performance standards (if any) prescribed under those codes;
- (4) any direction given to the Licensee by the ICRC or the Chief Executive under the Act; ~~and~~
 - (5) ~~_____~~
 - (5) any direction given to the Licensee by the Technical Regulator under the UTR Act;
 - and
- (6) any applicable ring fencing requirements.

5.3.6.3. Severance of any part of the licence does not affect continued operation of remainder of licence

If any part of this licence is prohibited, void, voidable, illegal or unenforceable, then that part is severed from the licence but without affecting the continued operation of the remainder of the licence.

6.7. Variation of Licence

The terms of this licence may be varied by the **ICRC** in accordance with section 38 of the **Act**.

7.8. Licence Compliance

7.1.8.1. Licensee to monitor compliance

The **Licensee** must monitor its compliance with this licence and any **Law**, **Industry code**, **Technical Code**, or such other code of practice, ~~directions and guidelines~~ direction or guideline applicable to the **Licensee** and ~~to any of the other services to be rendered~~ Authorised Utility Services provided by the **Licensee** ~~that it is required to comply with under clause 6.2.~~

7.2.8.2. Licensee to notify the ICRC of any material breaches

(1) ~~If the~~ The Licensee must notify the ICRC if it becomes aware of a material breach of this licence ~~and, or any Law or such other code of practice, directions and guidelines applicable to, Industry Code, Technical Code or direction that the Licensee and to any of the other services to be rendered by the Licensee that it is required to comply with under clause 6.2,~~ the Licensee must notify ICRC of the breach as soon as practicable and in accordance with any reporting guidelines published by the ICRC from time to time.

(2) —

(2) If the material breach relates to compliance with:

(a) The Utilities Technical Regulation Act, or

~~(b)~~

(b) Technical Code, or

(c) a direction by the Technical Regulator,

the Licensee must also notify the Technical Regulator of the breach as soon as practicable.

7.3.8.3. Licensee to provide statement on any non-compliance

(1) If the **Licensee** has not complied with any of its obligations under clause 6.2, the **Licensee** must identify those obligations and provide a ~~brief~~ statement to the ICRC that explains the:

(a) circumstances of, and reasons for the non-compliance,

(b) consequences of the non-compliance (including any penalties imposed)), and

(c) outlines measures that the **Licensee** will, or has, put in place to rectify ~~that~~the non-compliance. ~~8.4~~

7.4. Licensee to report annually

~~(2)~~ The non-compliance statement must be provided in accordance with any reporting guidelines published by the ICRC from time to time, and in the absence of any such guideline, it must be included with the annual compliance report outlined in clause 8.4(1).

8.4. Licensee must report compliance annually

(1) The **Licensee** must report to the ICRC on its obligations under clause 6.2, and ~~in relation to~~ any other reporting requirements the **Licensee** has under the **Act**, including information ~~which~~that the ICRC requires to be reported ~~against pursuant to the Act~~, by 1 October every year during the term of this Licence.

~~(2)~~

(2) The Licensee must report to the Technical Regulator on its obligations under the Utilities Technical Regulation Act, Technical Codes, any technical requirements outlined in the schedule of this licence and any other associated technical information that the Technical Regulator reasonably requires to be reported.

7.5-8.5. Availability of annual compliance report

The **Licensee** must ensure that ~~a summary of the its~~ annual compliance report required under clause 8.4(1), or a summary of the annual compliance report, is made publicly available by publishing it on the Licensee's website.

7.6-8.6. Operation and compliance audits

- (1) The **Licensee** must, ~~from time to time~~, undertake periodic audits of the services and operations authorised by this licence and of its compliance with its obligations under this licence and any **Law**, ~~code of practice, directions and guidelines~~ Industry Code, Technical Code, or direction that it is required to comply with under clause 6.2.
- (2) The audits must be conducted by an independent expert or auditor nominated by the **Licensee** and approved by the ICRC.
- (3) The audit results must be reported to the ICRC in a manner (including as to form and substance) approved by the ICRC.

8.9. Technical and prudential criteria

8.1.9.1. Requirement to continue to meet criteria

The **Licensee** must, throughout the term of this licence, continue to satisfy the same technical and prudential criteria that it was required to meet as a condition of the grant of the licence under the Act.

8.2.9.2. Licensee to advise the ICRC of financial and technical capacities

(1) The **Licensee** must, from time to time as reasonably required by the ICRC, provide the ICRC with:

(a) details of the **Licensee's** financial, technical and other capacity (including the capacity of its major contracted providers) to continue to provide the services and to conduct the operations authorised by this licence; and

(b) such other information as the ICRC requires.

(2) The Licensee must promptly notify the ICRC of any significant reduction in its financial capacity which has potential to impact upon the Licensee's ability to carry on the operations authorised by this licence.

9.10. Contracting out

9.1.10.1. Licensee may contract out

The **Licensee** may contract out the provision, construction, operation, management or maintenance of any of the systems or services that are the subject of this licence.

9.2.10.2. Licensee bound by obligations under licence

Contracting out does not relieve the **Licensee** of its responsibility to comply with its obligations under this licence.

10.11. Charge and Securities, assignment and changes to shareholdings

10.1. Charge

11.1. Security Interest

The **Licensee** must not grant a charge over its security interest in this licence without the prior written consent of the ICRC.

10.2.11.2. Assignment

The **Licensee** must not **assign** its interest under this Licence without the prior written consent of the ICRC.

10.3.11.3. Assignment generally

An application by a **Licensee** to the ICRC for consent to an assignment must demonstrate, to the reasonable satisfaction of the ICRC, that the proposed assignee is a respectable, responsible, and solvent **Person** who is capable of performing all obligations in this licence on the part of the **Licensee**.

10.4.11.4. ~~Changes~~Deemed assignment - changes in Licensee's shareholdings

A change in the shareholding in the **Licensee**, at any one time, resulting in the transfer of more than 50 percent of the shares in the **Licensee** to a third party will be deemed to be an assignment for the purposes of clause 11.2. The ICRC's consent to assignment in these circumstances will not be unreasonably withheld.

10.5.11.5. Changes in ownership

The Licensee must keep the **ICRC** informed of all ~~relevant~~substantial holding changes ~~in the ownership~~ of the **Licensee**.

11.12. Risk ~~anagement~~management

11.1.12.1. The ICRC may request information

The ICRC may, from time to time, request details of the **Licensee's** risk management strategy.

11.2.12.2. Information that may be requested

Without limiting the generality of clause 12.1~~The, the~~ information requested by the ICRC may include information about the **Licensee's** levels of insurance cover for the protection of:

- (1) persons affected by the activities or operations of the **Licensee** (including **customers**, owners or occupiers of land and members of the general public) from injury or harm; and
- (2) the property of those persons against damage or loss.

11.3.12.3. Licensee must provide information

The **Licensee** must provide the details requested under clause 12.1- within a reasonable time period specified by the ICRC.

11.4.12.4. Licensee to indemnify the ICRC

The **Licensee** will indemnify the ICRC, the **Territory** and their respective employees and agents ("those indemnified") against liability in respect of all claims and for all loss, damage or injury to

persons or property caused by the **Licensee**, its employees, agents or contractors in connection with services it provides pursuant to this licence (and those it purports to deliver under this licence). The amount of all claims, damage, costs and expenses which may be paid, suffered or incurred by those indemnified in respect of any such claim, loss, damage or injury will be made good at the **Licensee's** expense, except to the extent that the ICRC or the Territory caused the relevant loss, damage or injury.

12.13. Other restrictions on Licensee

12.1.13.1. Restrictions on Licensee

A **Licensee** must first consult with the ICRC if the **Licensee**:

- (1) intends to dispose of any major asset;
- (2) intends to enter into any major transaction;
- (3) is granted a **security interest** or a lien over the **Licensee's network facilities**; or
- (4) intends to engage in any other business activity;

that is likely to materially adversely affect the **Licensee's** ability to:

- (5) provide the Authorised Utility Services;
- (6) continue to meet the technical and prudential criteria specified in clause 9; or
- (7) comply with its obligations under:
 - (a) the Act,
 - (b) any Law,
 - (c) this licence, or
 - (d) the customer contract.

13.14. Maintenance and inspection of records

13.1.14.1. Licensee to keep records

- (1) The **Licensee** must keep, or cause to be kept, comprehensive records in accordance with ICRC'sthe requirements under the **Act**.
- (2) The Licensee must keep all records and documents necessary to enable it to meet any reporting requirement under this licence, the Act, the Utilities Technical Regulation Act, and any relevant Industry Code or Technical Code.

14.2. Consents and authorisation

The **Licensee** must obtain and keep current all licences, permits, authorities or consents issued or given by an agency or a Minister necessary for it to lawfully provide the **Authorised Utility Services**.

13.2-14.3. Licensee to provide copies of records

The ICRC's officers and agents may request the **Licensee** to provide copies of records and documents referred to in clause 14.1 and 14.2.

13.3-14.4. Licensee to comply with all requests

The **Licensee** must comply with all reasonable requests by the ICRC for copies of the records.

14.15. Annual ~~licenc~~licence fee

The **Licensee** must pay to the ICRC an annual licence fee determined in accordance with the **Act**. The payment of the fee is to be made in accordance with the ICRC's determination.

15.16. Review of Licensee's obligations

The ICRC may review this licence at any time in accordance with section 46 of the **Act**.

16.17. Transfer, surrender ~~or~~, revocation or suspension of Licence

This licence may only be transferred, surrendered or revoked in accordance with section 40, section 41 or section 42 of the **Act**.

16.1-17.1. Suspension of licence

- (1) If ~~during the term of this licence~~ the **Licensee** breaches or is likely to breach a licence condition in circumstances where the **ICRC** determines that the breach ~~is not serious~~ and is remediable by the **Licensee** in a timely manner, the **ICRC** may suspend this licence, or suspend the **Licensee's** conduct of specified services or operations under this licence, until the breach is remedied.
- (2) The ICRC may only suspend a licence, or the Licensee's conduct under clause 17.1(1), where it has issued a direction to the Licensee in accordance with section 48 of the Act and
 - (a) the Licensee has failed to comply within the timeframe specified in the direction, or
 - (b) there is a safety risk with continuing to provide the services prior to compliance with the direction.

~~16.2.17.2.~~ Licensee to comply with requirements of suspension notice

In the event of the **ICRC** notifying the **Licensee** that this licence is suspended, or that the **Licensee's** provision of any specified services or operations under this licence are suspended, the **Licensee** must comply with any requirements under the suspension notice for the purpose of remedying a specified breach of this licence in ~~a timely manner~~ the timeframe specified by the ICRC.

~~17. Variation of licence~~

~~18. Communication Notices~~

~~17.1.18.1.~~ Notice to be in writing

~~Any notice or other~~ communication given under this licence ~~is to~~ must be in writing addressed to the intended recipient; and:

- (1) delivered by hand at the address for service of the addressee; or
- (2) sent by post to the address for service of the addressee; or
- (3) —
- (4)(3) (4) — sent by facsimile email to the ~~facsimile number~~ primary contact email of the addressee.

~~17.2.18.2.~~ Address for service

~~The Licensee's service~~ A notice under this licence is only effective if given by the Licensee to the ICRC or by the ICRC to the Licensee on the specified service address is the for the recipient. The Licensee's service address and the ICRC's service address are the relevant addresses referred to in **Item 4** of the **Reference Schedule** or another address subsequently notified to the ICRC by the **Licensee** or to the Licensee by the ICRC.

~~17.3.18.3.~~ The ICRC to be advised of contact details

The **Licensee** must notify the **ICRC** of a change in address in **Item 4 of the Reference Schedule** and any other contact details within 10 **business days** of the change.

~~17.4.18.4.~~ Deemed delivery

Where a notice or other communication to be given under this licence is delivered or sent, it is deemed given to, and received by, the addressee:

- (1) if hand delivered, upon delivery;
- (2) if mailed to an address, ~~two~~ four business days after the date of posting;
- (3) —; or

(4) — if sent by facsimile email before 4:00 pm on a business day at the place of receipt, on the day it is sent ~~and,~~ otherwise on the next business day ~~at the place of receipt.~~

18.19. Waiver

18.1.19.1. Non exercise of power or right

A failure or delay to exercise a power or right arising under this licence by the ICRC or the **Licensee** does not waive that power or right.

18.2.19.2. Exercise of power or right

The exercise of a power or right arising under this Licence does not preclude either its exercise in the future or the exercise of any other power or right.

18.3.19.3. Waiver must be in writing

A waiver by the **Licensee** or the **ICRC** of a power or right arising under this licence is not effective unless it is in writing.

18.4.19.4. Limit on application

A waiver of a power or right arising under this licence is effective only with respect to the specific instance to which it relates and for the specific purpose for which it is given.

Appendix 2 Individual licence schedules



Appendix 2.1 Evoenergy (gas distribution)

REFERENCE SCHEDULE

Item 1

Licensee

Icon Distribution Investments Limited [ACNABN 83](#) 073 025 224
and Jemena Networks (ACT) Pty Ltd [ACNABN 24](#) 008 552 663
trading as “Evoenergy”

Item 2

Commencement date

Licence commencement date: 1 July 2001

Variation effective from:

Item 3

Authorised Utility Services

(a) gas distribution services under section 9 (b) of the **Act**; and
(b) gas connection services under section 9 (c) of the **Act**.

Item 4

AddressAddresses for Service of Licensee

	Licensee	The ICRC
<u>Electronic</u>		icrc@act.gov.au
<u>Postal</u>	GPO Box 366 Canberra ACT 2601	PO Box 161 Civic Square ACT 2608
<u>Physical</u>	40 Bunda Street Canberra City ACT 2601	

SCHEDULE 1: ADDITIONAL UTILITY SERVICE LICENCE OBLIGATIONS – GAS DISTRIBUTION AND CONNECTION SERVICES

1. Emergency telephone service

1.1. Availability of telephone service

The **Licensee** must have a 24-hour emergency telephone service that is accessible to the public. The telephone service must be:

- (1) accessible every day of the year; and
- (2) able to receive reports of escapes of gas supplied by the **Licensee**.

1.2. Telephone service publicity

The **Licensee** must ensure reasonable publicity is given to the ways in which the public can contact the **Licensee** for the purpose of reporting escapes of gas.

~~2. Network operation standards~~

~~2.1 Licensee to adopt network operation standards~~

2. National Gas (ACT) Act 2008

~~The **Licensee** must adopt and that~~ comply with ~~network operation standards. The standards must set out the Licensee's policies, practices and procedures with respect~~National Gas (ACT) Act 2008 or any other legislation in force in the Territory that relates to the provision of services to gas suppliers necessary to facilitate the operation of a competitive gas retail market in the **Territory**.

~~2.2 Standards to be approved by ICRC~~

~~Network operation standards must be submitted to ICRC within 14 business days of the grant of the **Licensee's** licence. ICRC must approve the standards before the **Licensee** can adopt the standards.~~

~~2.3 Variation of standards~~

~~Any variation to the standards must be negotiated with, and agreed to by, gas suppliers. Should agreement between the **Licensee** and the gas suppliers not be reached, ICRC shall:~~

- ~~(1) assist the **Licensee** and the gas suppliers to resolve unresolved issues and to develop agreed standards; and/or~~

~~(2) develop, in consultation with the Licensee and the gas suppliers, agreed standards.~~

~~The Licensee must notify ICRC of any variations to the standards.~~

~~2.4 Expiry of licence condition~~

~~This condition expires on a date determined by ICRC and notified in writing to the Licensee.~~

3. Environmental requirements

The Licensee must adopt the objectives, policies and practices relating to environmental management for the gas industry in accordance with ~~AG750~~ the Australian Pipeline and Gas Association Code of Environmental Code of Practice and the Australian Pipeline Industry Code of Practice for Pipeline Construction as amended or replaced from time to time.

4. Annual reporting

4.1. Additional reporting requirements

In addition to the reporting requirements under clause ~~7-8~~ of this licence, the Licensee must report to ~~ICRC on the following:~~ the ICRC on the total pipeline length (kilometres) — by pressure classes as of 30 June of the reporting year.

Market:

- ~~(a) — aggregate quantity of gas billed (terajoules);~~
- ~~(b) — aggregate quantity of gas entering the gas distribution network (terajoules);~~
- ~~(c) — total number of customer transfers processed by customer class;~~
- ~~(d) — total number of end users by customer class; and~~
- ~~(e) — total revenue;~~
- ~~(1) — Operation and maintenance:~~
 - ~~(a) — number of unplanned outages;~~
 - ~~(b) — significant gas leaks detected by survey by pressure classes;~~
 - ~~(c) — number of gas regulators replaced by customer class;~~
 - ~~(d) — number of meter replacements by customer class; and~~
 - ~~(e) — number of times gas distribution network goes below normal operating system minimum pressure by pressure classes;~~

~~(2) — Environment:~~

- ~~(a) — amount of gas lost from the Licensee’s gas distribution network in the year (unaccounted for gas);~~
- ~~(b) — a plan to minimise gas losses in the forthcoming year; and~~
- ~~(c) — an assessment of the effectiveness of the year’s plan;~~

~~(3) — Technical:~~

- ~~(a) — total pipeline length (kilometres) — by pressure classes at end of year;~~
- ~~(b) — update of general technical description (in total) as provided in application;~~

~~(4) — Incidents:~~

- ~~(a) — number of gas leaks (from mains, service and meters) reported by the public to the company by pressure classes;~~
- ~~(b) — number of mechanical damage incidents to mains and services by pressure classes; and~~
- ~~(c) — number of times gas specification reaches the maximum or minimum limits.~~

4.2. Licensee to report annually

The **Licensee** must report to the ICRC on the mattersmatter outlined in clause 4.1 of this schedule by 1 October every year.

5. Notification of specific events

The following events must be notified to the **Technical Regulator** as soon as possible:

- (1) any serious injury, fatality, significant property damage, or major equipment failure that has resulted from gas leaks or damage to pipeline infrastructure;
- (2) when any part of the **gas distribution network** reaches the emergency system minimum pressure; and
- (3) when the gas specification exceedexceeds the maximum specification or falls below the minimum specification.

The following event is to be notified to the **Technical Regulator** prior to commencement:

- (4) augmentation or major maintenance of the primary and secondary steel mains; and
- (5) increasing the network operating pressure.

6. Registration with the Australian Energy Market Operator

The **licensee** must register as a participant with the Australian Energy Market Operator as required under the National Gas Law in accordance with the National Gas Rules.

SCHEDULE 2: VARIATIONS TO THE LICENCE

<u>Variation Number</u>	<u>Effective Date</u>	<u>Clause</u>	<u>Reason for variation</u>
1.	20 August 2002	15	To simplify the licence fee payments and remove administrative anomalies. (NI2002 – 276)
2.	1 July 2009	Title page Reference Schedule Clause 6 Schedule 1	To reflect the change of name of AGL Gas Company (ACT) Ltd ACN 008 552 663 to Jemena Networks (ACT) Pty Ltd ACN 008 552 663 To reflect the formation of the Australian Energy Market Operator and its role in the operation of competitive gas markets. (NI2009 – 316)
3.	1 January 2018	Title Page	‘Granted’ was replaced by ‘granted to’ Changed the company name from ‘ACTEW Distribution Limited ACN 073 025 224’ to ‘Icon Distribution Investments Limited ACN 073 025 224’ Removed ‘ActewAGL Distribution’ to replace it with ‘Evoenergy’.
		1.2	Updated clause. Added ‘a variation is made to this clause’.
		6.2	Removed ‘Chief Executive’ to replace it with ‘Technical Regulator’.
		19.1(3) & 19.4(3)	Updated to include email as a method of delivery.
		Reference Schedule Item 1	Updated company name. Changed from ‘ACTEW Distribution Limited ACN 073 025 224’ to ‘Icon Distribution Investments Limited ACN 073 025 224’. Updated trading name of the Licensee. Changed from ‘ActewAGL Distribution’ to ‘Evoenergy’.

4.		Footer	'ActewAGL Distribution' was replaced by 'Evoenergy Gas Licence'.
		Dictionary	<p>Updated dictionary to take account of the changes made to the text of the licence.</p> <p>Removed definition of 'Chief Executive' to replace it with a definition of 'Technical Regulator'.</p> <p>Updated definition of 'Technical Code' referring specific part of the relevant Act.</p>
	[Date]		<u>[This section will be updated once the proposed changes have been finalised.]</u>

SIGNED for and on behalf of)
THE INDEPENDENT COMPETITION AND)
REGULATORY COMMISSION by)
SENIOR COMMISSIONER)
Joe Dimasi in the presence of:)
.....

.....
Signature of Witness

.....
Name of Witness (BLOCK LETTERS)

DICTIONARY

(1) In this licence, unless the contrary intention appears:

(1) “**Act**” means the *Utilities Act 2000* (ACT);

(2) “**assign**” includes assign, transfer, mortgage or otherwise deal with an interest but does not include the granting of a charge over an interest;

(3) “**Authorised Utility Services**” means the **Utility Services** referred to in the **Reference Schedule** that the **Licensee** is authorised to provide under clause 4.1;

(4) “**business day**” means a day, other than a Saturday, Sunday or public holiday in the **Territory**;

~~(5) “**consent**” includes any licence, permit, authority or consent issued or given by an agency or a Minister;~~

~~(6)~~(5) “**customer**” has the same meaning as in the **Act**;

~~(7)~~(6) “**customer class**” means all domestic, commercial and industrial **customers**;

~~(8)~~(7) “**customer contract**” has the same meaning as the **Act**;

~~(9)~~(8) “**electricity network**” has the same meaning as in the **Act**;

~~(10)~~(9) “**gas distribution network**” has the same meaning as in the **Act**;

~~(11)~~(10) “**gas transmission network**” has the same meaning as in the **Act**;

~~(12)~~(11) “**ICRC**” means the Independent Competition and Regulatory Commission established under section 5 of the *Independent Competition and Regulatory Commission Act 1997* (ACT);

~~(13)~~(12) “**Industry Code**” means a code approved or determined by the **ICRC** under Part 4 of the **Act**;

~~(14)~~(13) “**Item**” means the relevant **Item** in the **Reference Schedule**;

~~(15)~~(14) “**Law**” means any statute, regulation, rule, proclamation, order, ordinance or by-law whether present or future and whether Commonwealth, **Territory** or otherwise (in this subclause referred to as “statutory provision”) and includes:

- (a) any such statutory provision as amended or re-enacted from time to time;
- and

- (b) any statute, regulation, rule, proclamation, order, ordinance or by-law enacted in replacement of any statutory provision;

~~(16)~~(15) “**Licensee**” means the **Person** referred to in **Item 1** of the **Reference Schedule**;

~~(17)~~(16) ‘**network facilities**’ means:

- any part of the infrastructure of a **utility network**; or
- any powerline, pole or wire, any water, sewerage or gas main or pipe, or any equipment, apparatus, structure or other thing used or for use, in connection with the provision of a **utility service**;

~~(18)~~(17) “**Person**” includes a natural person, a firm, an unincorporated association, a **Territory** agency, a corporation or any other body corporate;

(18) ‘**Reference Schedule**’ means the **Reference Schedule** to this licence;

(19) ‘**security interest**’ means:

- (a) a mortgage, pledge, lien, charge, assignment, hypothecation, secured interest, title retention arrangement, preferential right, trust arrangement or other arrangement (including any set off or “flawed asset” arrangement) having the same or equivalent or commercial effect as a grant of security; or
- (b) an agreement to create or give any arrangement referred to above;

(20) ‘**sewerage network**’ has the same meaning as in the **Act**;

(21) ‘**substantial holding**’ has the same meaning as in the *Corporations Act 2001 (Cth)*;

~~(20)~~(22) ‘**Technical Code**’ means a code approved or determined by the Minister under *Part 3 of the Utilities (Technical Regulation) Act 2014 (ACT)*;

~~(21)~~(23) ‘**Technical Regulator**’ means the Technical Regulator as defined in the *Utilities (Technical Regulation) Act 2014 (ACT)*;

~~(22)~~(24) ‘**Territory**’ means:

- (a) when used in a geographical sense, the Australian Capital Territory; and
- (b) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988 (Cth)*;

~~(23)~~(25) **Utilities Technical Regulation Act** means the *Utilities (Technical Regulation) Act 2014 (ACT)*;

~~(24)~~(26) “**utility network**” means:

- (a) an **electricity network**,
- (b) a **gas transmission network**,
- (c) a **gas distribution network**,
- (d) a **sewerage network**, or
- (e) a **water network**;

~~(25)~~(27) “**utility services**” has the same meaning as in the **Act**;

~~(26)~~(28) “**water network**” has the same meaning as in the **Act**.

Appendix 2.2 EAPL (gas transmission)

REFERENCE SCHEDULE

- Item 1 Licensee**
- East Australian Pipeline Limited ABN 33 064 629 009
- Item 2 Commencement date**
- Licence commencement date: 1 July 2001
Variation effective from: xx
- Item 3 Authorised Utility Services**
- gasGas transmission services under section 9-(a) of the Act
- Item 4 Address for Service of Licensee**
- Level 19, HSBC Building
580 George Street
Sydney NSW 2000

	<u>Licensee</u>	<u>The ICRC</u>
<u>Electronic</u>		<u>icrc@act.gov.au</u>
<u>Postal</u>	<u>Level 19, HSBC Building</u> <u>580 George Street</u> <u>Sydney NSW 2000</u>	<u>PO Box 161</u> <u>Civic Square</u> <u>ACT 2608</u>
<u>Physical</u>	<u>Level 19, HSBC Building</u> <u>580 George Street</u> <u>Sydney NSW 2000</u>	

SCHEDULE 1: ADDITIONAL UTILITY SERVICE LICENCE OBLIGATIONS – GAS TRANSMISSION

1. Emergency telephone service

1.1 Availability of telephone service

The **Licensee** must have a 24-hour emergency telephone service that is accessible to the public. The telephone service must be:

- (1) accessible every day of the year; and
- (2) able to receive reports of escapes of gas supplied by the **Licensee**.

1.2 Telephone service publicity

The **Licensee** must ensure reasonable publicity is given to the ways in which the public can contact the **Licensee** for the purpose of reporting escapes of gas.

2. Environmental requirements

The **Licensee** must adopt the objectives, policies and practices relating to environmental management for the gas industry in accordance with ~~Part B~~, the Australian ~~Pipeline Industry Pipelines and Gas~~ Association Code of Environmental Practice as amended or replaced from time to time.

3. Compliance with Australian Standards

The **Licensee** must comply with all relevant recognised standards and practices applicable to the operation of a gas transmission pipeline, including AS 2885 Pipelines – Gas and Liquid Petroleum.

~~3.4.~~ Annual reporting

~~3.4.1~~ Additional reporting requirements - ICRC

In addition to the reporting requirements under clause ~~7.8~~ of this licence, the **Licensee** must report to the ICRC on the following:

- (1) the amount of gas transferred from the **gas transmission network** to the **gas distribution network** at the North Watson Custody Transfer Station for the previous **year**;
- (2) the number of restrictions or interruptions to the supply of gas delivered to the **gas distribution network** at the North Watson Custody Transfer Station; 5 for the previous year.

4.2 Reporting requirements – Technical Regulator

In addition to the reporting requirements under clause 7 of this licence, the Licensee must report the following data, relating to the previous year, to the Technical Regulator:

- (1) the amount of gas transferred from the **gas transmission network** to the **gas distribution network** at the North Watson Custody Transfer Station ~~for the previous year~~;
- (2) the number of restrictions or interruptions to the supply of gas delivered to the **gas distribution network** at the North Watson Custody Transfer Station;
- (3) the number of incidents affecting that section of the **gas transmission network** located in the **Territory**;
- (4) emergency simulations (the results of the simulations, issues identified and actions to address issues);
- (5) any major periodic reviews carried out during the period; including scope, results of a review/assessment and proposed actions resulting out of the review (**MAOP**, location class, pigging, integrity reports, risk assessment review);
- (6) number of reported third party hits that touched the pipeline/coating (specify what third party activity caused the incident, the location, whether any assessment was carried out and, if so, results of the assessment);
- (7) number and duration of instances when the pipeline pressure exceeded the **MAOP** and/or temperature exceeded the limits set by the pipeline design;
- (8) overall effectiveness of controls for the pipeline, including major corrective actions (number, type of action and location) arising from:
 - patrols;
 - **CP** surveys;
 - coating defect surveys;
- (9) One Call System
 - number of calls referred to the **Licensee** from a **One Call System**;
 - number of **One Call System** inquiries that required supervision at site (stand by);
 - number of third party activities detected (within 10 meters each side of the pipeline) that did not call the **One Call System**;
- (10) any periodic review/assessment conducted during the period;
- (11) number of patrols, **CP** and coating defect surveys:
 - as specified in the maintenance schedule; and
 - carried out during the reporting period;

- (12) number of excavations carried out (including those carried out in response to third party damage);
- (13) landowner liaison:
- all new landowners contacted during the 12 month reporting period;
 - existing landowners contacted during the period;
 - content of liaison – details of the message; and
 - type of content (letter, telephone, visit); and
- (14) total number of third party activities:
- within 10m each side of the pipeline; and
 - supervised at site (stand by).
- (15) Any other reporting information reasonably requested by the **Technical Regulator** relating to pipeline performance, compliance and safety. ~~The Licensee must report to ICRC on the matters outlined in clause 3.1 of this schedule by 1 October every year.~~

4.5. Notification of specific events

Notwithstanding the **Licensee's** annual reporting requirements, the **Licensee** must notify the following events to the ~~Chief Executive~~**Technical Regulator** as soon as possible:

- (1) any serious injury, fatality, significant property damage, or major equipment failure that has resulted from gas leaks or damage to pipeline infrastructure; and
- (2) when the gas specification ~~exceeds~~**exceeds** the maximum specification or falls below the minimum limits.

The following event is to be notified to the ~~Chief Executive~~**Technical Regulator** prior to commencement:

- (3) augmentation or major maintenance of the transmission pipeline or the meter station; and
- (4) increasing the network operating pressure.

SCHEDULE 2: VARIATIONS TO THE LICENCE

<u>Variation Number</u>	<u>Effective Date</u>	<u>Clause</u>	<u>Reason for variation</u>
<u>1.</u>	20 August 2002	15	To simplify the licence fee payment requirements and remove administrative anomalies. (NI2002-276)
<u>2.</u>	19 November 2002	Schedule 1: 3	To revise the annual reporting requirements to make them more appropriate to the licensee and aligned with the reporting requirements of New South Wales. (NI2002-367)
3.	23 May 2011	Reference Schedule	The address for service of Licensee was updated.
		Schedule 1. Clause 4	To amend the reference to transmission infrastructure in clause 4(3) 5 Notification of specific events , which establishes notification requirements before commencement of augmentation or major maintenance. (NI2011-263)
<u>4.</u>	<u>[Date]</u>		<u>[This section will be updated once the proposed changes have been finalised.]</u>

SIGNED for and on behalf of)
THE INDEPENDENT COMPETITION AND)
REGULATORY COMMISSION by)
Joe Dimasi in the presence of:)

.....

.....
Signature of Witness

.....
Name of Witness (BLOCK LETTERS)

DICTIONARY

~~(27)~~(29) In this licence, unless the contrary intention appears:

~~(28)~~(30) “**Act**” means the *Utilities Act 2000* (ACT);

~~(29)~~(31) “**assign**” includes assign, transfer, mortgage or otherwise deal with an interest but does not include the granting of a charge over an interest;

~~(30)~~(32) “**Authorised Utility Services**” means the **Utility Services** referred to in the **Reference Schedule** that the **Licensee** is authorised to provide under clause 4.1;

~~(31)~~(33) “**business day**” means a day, other than a Saturday, Sunday or public holiday in the **Territory**;

~~(32)~~ — “**Chief Executive**” means the **Chief Executive** responsible for administering Part 5 of the **Act**;

~~(33)~~ — “**consent**” includes any licence, permit, authority or consent issued or given by an agency or a Minister;

(34) “**CP**” means cathodic protection;

(35) “**customer**” has the same meaning as in the **Act**;

(36) “**customer class**” means all domestic, commercial and industrial **customers**;

(37) “**customer contract**” has the same meaning as the **Act**;

(38) “**electricity network**” has the same meaning as in the **Act**;

(39) “**gas distribution network**” has the same meaning as in the **Act**;

(40) “**gas transmission network**” has the same meaning as in the **Act**;

(41) “**ICRC**” means the Independent Competition and Regulatory Commission established under section 5 of the *Independent Competition and Regulatory Commission Act 1997* (ACT);

(42) “**Industry Code**” means a code approved or determined by **ICRC** under Part 4 of the **Act**;

(43) “**Item**” means the relevant **Item** in the **Reference Schedule**;

(44) “**Law**” means any statute, regulation, rule, proclamation, order, ordinance or by-law whether present or future and whether Commonwealth, **Territory** or otherwise (in this subclause referred to as “statutory provision”) and includes:

(a) any such statutory provision as amended or re-enacted from time to time; and

(b) any statute, regulation, rule, proclamation, order, ordinance or by-law enacted in replacement of any statutory provision;

- (45) “**Licensee**” means the **Person** referred to in **Item 1** of the **Reference Schedule**;
- (46) “**MAOP**” means maximum allowable operating pressure;
- (47) “**network facilities**” means:
- (a) any part of the infrastructure of a **utility network**; or
 - (b) any powerline, pole or wire, any water, sewerage or gas main or pipe, or any equipment, apparatus, structure or other thing used or for use, in connection with the provision of a **utility service**;
- (48) ‘**One Call System**’ Also known as the ‘Dial Before You Dig’ call system in the ACT and NSW, is a free call system designed to protect underground utility network infrastructures from potential damages and disruption.
- (49) “**Person**” includes a natural person, a firm, an unincorporated association, a **Territory** agency, a corporation or any other body corporate;
- (50) “**Reference Schedule**” means the **Reference Schedule** to this licence;
- (51) “**security interest**” means:
- (a) a mortgage, pledge, lien, charge, assignment, hypothecation, secured interest, title retention arrangement, preferential right, trust arrangement or other arrangement (including any set off or “flawed asset” arrangement) having the same or equivalent or commercial effect as a grant of security; or
 - (b) an agreement to create or give any arrangement referred to above;
- (52) “**sewerage network**” has the same meaning as in the **Act**;
- (53) ‘**substantial holding**’ has the same meaning as in the *Corporations Act 2001* (Cth);
- (54) ‘**Technical Code**’ means a code approved or determined by the Minister under *Part 3 of the Utilities (Technical Regulation) Act 2014* (ACT);~~Part 5 of the Act.~~
- (55) ‘**Technical Regulator**’ means the Technical Regulator as defined in the *Utilities (Technical Regulation) Act 2014* (ACT);
- ~~(53)~~(56) “**Territory**” means:
- (a) when used in a geographical sense, the Australian Capital Territory; and
 - (b) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth);
- ~~(54)~~(57) ‘**Technical Regulator**’ means the Technical Regulator as defined in the *Utilities (Technical Regulation) Act 2014* (ACT);

~~(55)~~(58) “**utility network**” means:

- (a) an **electricity network**,
- (b) a **gas transmission network**,
- (c) a **gas distribution network**,
- (d) a **sewerage network**, or
- (e) a **water network**;

~~(56)~~(59) “**utility services**” has the same meaning as in the **Act**;

~~(57)~~(60) “**water network**” has the same meaning as in the **Act**;

~~(58)~~(61) “**year**” means each period of twelve calendar months commencing on 1 July.

Appendix 2.3 TransGrid (electricity transmission)

REFERENCE SCHEDULE

Item 1	Licensee
	NSW Electricity Networks Operations Pty Limited as Trustee for the NSW Electricity Networks Operations Trust (ABN: 70 250 995 390). Trading as “TransGrid”.
Item 2	Commencement date
	24 February 2015
Item 3	Transfer of licence date of effect
	16 December 2015
Item 4	Authorised Utility Services
	Electricity transmission services under section 6(d) of the <i>Utilities Act 2000</i> .
Item 5	Address for Service of Licensee

	<u>Licensee</u>	<u>The ICRC</u>
<u>Electronic</u>		<u>icrc@act.gov.au</u>
<u>Postal</u>	<u>PO Box A1000</u> <u>Sydney South</u> <u>NSW 1235</u>	<u>PO Box 161</u> <u>Civic Square</u> <u>ACT 2608</u>
<u>Registered office</u>	<u>180 Thomas Street</u> <u>Sydney</u> <u>NSW 2000</u>	

SCHEDULE 1: CONDITIONS RELATING TO TECHNICAL REGULATION

1. Maintenance of certified management systems

1.1. The Licensee must have and maintain:

- (a) an asset management system that is consistent with the International Standard ISO 55001 Asset Management System- Management systems — Requirements; and
- (b) an environmental management system that is consistent with International Standard ISO 14001 Environmental Management systems.

1.2. The Licensee must ensure that:

- (a) its asset management system is certified by an appropriately qualified person to be consistent with International Standard ISO ~~55001~~Asset55001 Asset Management System- Management systems — Requirements; and
- (b) its environmental management system is certified by an appropriately qualified person to be consistent with International Standard ISO 14001 Environmental Management systems; and
- (c) once its asset management system and environmental management systems are each certified, that certification is maintained for the duration of the Licence.

1.3. The Licensee must notify the ~~ICRC~~ Technical Regulator of any significant changes

The Licensee must notify the Technical Regulator as soon as practicable of any significant changes it proposes to make to its asset management system or environmental management system.

2. Implementation of management systems

The **Licensee** must ensure that its asset management system and environmental management system are fully implemented and all relevant activities undertaken by it or any other network operator of its transmission system are carried out in accordance with the relevant management system.

SCHEDULE 2: Compliance with Operations Trust Deed Poll – [the ICRC](#)

1. Compliance with deed poll

For the duration that this utility services licence is issued to the **Licensee**, the **Licensee** must comply with the **Operations Trust Deed Poll** as executed on 14 December 2015.

SCHEDULE 3: ~~Licence amendment history~~ VARIATIONS TO THE LICENCE

<u>Variation Number</u>	<u>Effective Date</u>	<u>Clause</u>	<u>EventReason for variation</u>
<u>1.</u>	24 February 2015	N/A	Licence granted to TransGrid (ABN: 19 622 755 774). See NI2015-87 .
<u>2.</u>	16 December 2015	N/A	Licence transferred from TransGrid (ABN: 19 622 755 774) to NSW Electricity Networks Operations Pty Limited as Trustee for the NSW Electricity Networks Operations Trust (ABN: 70 250 995 390).
		Title page	Removed 'TransGrid' (ABN: 19 622 755 774) and inserted NSW Electricity Networks Operations Pty Limited as Trustee for the NSW Electricity Networks Operations Trust (ABN: 70 250 995 390) Trading as 'TransGrid'.
		Title page	Updated date to most recent licence issuance date.
		Clause 1.2 and Item 3 of the Reference schedule	Added to to make clear the date of effect of the transfer of licence.
		Item 1 of the Reference schedule	Updated 'Item 1 Licensee' to NSW Electricity Networks Operations Pty Limited as Trustee for the NSW Electricity Networks Operations Trust (ABN: 70 250 995 390). Trading as 'TransGrid'.
		Item 4 of the Reference schedule	Updated legislative reference for the licensed utility service due to changes to the <i>Utilities Act 2000</i> (A2014-60).
		Schedule 1	Removed the previous 'Schedule 1' (Additional Utility Service Licence Requirements) which had expired on 31 August 2015 under clause 2 of that schedule. Inserted new

			SCHEDULE 1: CONDITIONS RELATING TO TECHNICAL REGULATION 1: Conditions Relating -to Technical Regulation.
		Schedule 2 and Dictionary	Inserted new SCHEDULE 2: Compliance with Operations Trust Deed Poll – the ICRC 2: Compliance with Operations Trust Deed Poll – ICRC. Updated dictionary to include definition for ‘Operations Trust Deed Poll’.
		Schedule 3	Inserted new SCHEDULE 3: VARIATIONS TO THE LICENCE : Licence and amendment history.
		Dictionary and clause 6.2(4)	Updated clause 6.2(4) and dictionary reference to ‘technical regulator’ (from ‘director-general under the Act’) to take account of changes to the <i>Utilities Act 2000</i> (section 25(2)(a)(vi)) and the implementation of the <i>Utilities (Technical Regulation) Act 2014</i> .
		Dictionary	Updated referenece to ‘Technical Code’ and ‘Electricity transmission network’ to take account of changes to the <i>Utilities Act 2000</i> and the implementation of the <i>Utilities (Technical Regulation) Act 2014</i> .
3	[Date]		[This will be updated once the proposed changes has been finalised.]

SIGNED for and on behalf of)
THE INDEPENDENT COMPETITION AND)
REGULATORY COMMISSION by)
SENIOR COMMISSIONER)
Joe Dimasi in the presence of:)
.....

.....
Signature of Witness

.....
Name of Witness (BLOCK LETTERS)

DICTIONARY

In this licence, unless the contrary intention appears:

- (1) “**Act**” means the *Utilities Act 2000 (ACT)*;
- (2) “**assign**” includes assign, transfer, mortgage or otherwise deal with an interest but does not include the granting of a charge over an interest;
- (3) “**Authorised Utility Services**” means the **Utility Services** referred to in the **Reference Schedule** that the **Licensee** is authorised to provide under clause 4.1;
- (4) “**business day**” means a day, other than a Saturday, Sunday or public holiday in the **Territory**;
- ~~(5) “**consent**” includes any licence, permit, authority or consent issued or given by an agency or a Minister;~~
- ~~(6)~~(5) “**customer**” is a customer of the licensee in the **Territory**;
- ~~(7)~~(6) “**customer contract**” has the same meaning as in the **Act**;
- ~~(8)~~(7) “**electricity distribution network**” has the same meaning as in the **Act**;
- ~~(9)~~(8) “**electricity transmission network**” has the same meaning as in the **Act**;
- ~~(10)~~(9) “**gas distribution network**” has the same meaning as in the **Act**;
- ~~(11)~~(10) “**gas transmission network**” has the same meaning as in the **Act**;
- ~~(12)~~(11) “**ICRC**” means the Independent Competition and Regulatory Commission established under section 5 of the *Independent Competition and Regulatory Commission Act 1997 (ACT)*;
- ~~(13)~~(12) “**Industry Code**” means a code approved or determined by the **ICRC** under Part 4 of the **Act**;
- ~~(14)~~(13) “**Item**” means the relevant **Item** in the **Reference Schedule**;
- ~~(15)~~(14) “**Law**” means any statute, regulation, rule, proclamation, order, ordinance or by-law whether present or future and whether Commonwealth, **Territory** or otherwise (in this subclause referred to as “statutory provision”) and includes:
 - any such statutory provision as amended or re-enacted from time to time; and

- any statute, regulation, rule, proclamation, order, ordinance or by-law enacted in replacement of any statutory provision;

~~(16)~~(15) “**Licensee**” means the **Person** referred to in **Item 1** of the **Reference Schedule**;

~~(17)~~(16) A “**material breach**” ~~is~~includes a breach that occurs within the ACT, or a breach that occurs outside the ACT that does, or has the potential to, affect the **authorised utility service** provided under this licence.

~~(18)~~(17) “**network facilities**” means:

- any part of the infrastructure of a **utility network**; or
- any powerline, pole or wire, any water, sewerage or gas main or pipe, or any equipment, apparatus, structure or other thing used or for use, in connection with the provision of a **utility service**;

~~(19)~~(18) “**Operations Trust Deed Poll**” is the deed poll made on 14 December 2015 by NSW Electricity Networks Operations Pty Limited as Trustee for the NSW Electricity Networks Operations Trust (ABN: 70 250 995 390) in favour of the ICRC.

~~(20)~~(19) “**Person**” includes a natural person, a firm, an unincorporated association, a **Territory** agency, a corporation or any other body corporate;

~~(21)~~(20) “**Reference Schedule**” means the **Reference Schedule** to this licence;

~~(22)~~(21) “**security interest**” means:

(a) a mortgage, pledge, lien, charge, assignment, hypothecation, secured interest, title retention arrangement, preferential right, trust arrangement or other arrangement (including any set off or “flawed asset” arrangement) having the same or equivalent or commercial effect as a grant of security; or

(b) an agreement to create or give any arrangement referred to above;

~~(23)~~(22) “**sewerage network**” has the same meaning as in the **Act**;

~~(24)~~(23) ‘**substantial holding**’ has the same meaning as in the *Corporations Act 2001 (Cth)*;

~~(25)~~(24) “**Technical Code**” means a code approved or determined by the Minister under the *Utilities (Technical Regulation) Act 2014 (ACT)*.

~~(26)~~(25) “**technical regulator**” means the **technical regulator** under the *Utilities (Technical Regulation) Act 2014 (ACT)*;

~~(27)~~(26) “**Territory**” means:

(a) when used in a geographical sense, the Australian Capital Territory; and

(b) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (C'th);

~~(28)~~(27) **'Utilities Technical Regulation Act'** means the *Utilities (Technical Regulation) Act 2014*;

~~(29)~~(28) **"utility network"** means:

- (a) an **electricity transmission network**,
- (b) an **electricity distribution network**,
- (c) a **gas transmission network**,
- (d) a **gas distribution network**,
- (e) a **sewerage network**,
- (f) or a **water network**;

~~(30)~~(29) **"utility services"** has the same meaning as in the **Act**;

~~(31)~~(30) **"water network"** has the same meaning as in the **Act**.

Appendix 2.4 Evoenergy (electricity distribution)

REFERENCE SCHEDULE

Item 1 Licensee

Icon Distribution Investments Limited ABN 83 073 025 224
and Jemena Networks (ACT) Pty Ltd ABN 24 008 552 663
trading as “Evoenergy”

Item 2 Commencement date

Licence commencement date: 1 July 2001

Variation effective from: xxx

Item 3 Authorised Utility Services

- (a) electricity distribution services under section 6(a) of the Act;
- (b) electricity connection services under section 6(b) of the Act;
- (c) electricity transmission services under section 6(d) of the Act; and
- (d) the action required by the distributor under section 6 (2) of the *Electricity Feed-in (Renewable Energy Premium) Act 2008* (ACT).

Item 4 AddressAddresses for Service of Licensee

	<u>Licensee</u>	<u>The ICRC</u>
<u>Electronic</u>		<u>icrc@act.gov.au</u>
<u>Postal</u>	<u>GPO Box 366</u> <u>Canberra</u> <u>ACT 2601</u>	<u>PO Box 161</u> <u>Civic Square</u> <u>ACT 2608</u>
<u>Physical</u>	<u>40 Bunda Street</u> <u>Canberra City ACT 2601</u>	

SCHEDULE 1 **ADDITIONAL UTILITY SERVICE LICENCE OBLIGATIONS – ELECTRICITY TRANSMISSION, DISTRIBUTION AND CONNECTION SERVICES**

1. **Emergency telephone service**

The **Licensee** must have a 24-hour emergency telephone service that is accessible to the public. The telephone service must be:

- (1) accessible every day of the year; and
- (2) able to receive reports of network emergencies.

~~2. Environmental requirements~~

2. Network losses

2.1 **Program to minimise network losses**

The **Licensee** must develop, and implement, an ongoing program to cost effectively minimise losses of electrical power in the **Licensee's** electricity network(s).

2.2 **Annual reporting requirements**

The **Licensee** must report annually to ~~ICRC~~ **the Technical Regulator** on its ~~implementation of network losses and any~~ measures being taken to reduce ~~network losses.~~

~~network losses; and~~

~~the greenhouse gas emissions attributable to its network operations.~~

~~3. Requirements under the Electricity feed-in scheme~~

~~3.1 Licensee must comply~~

3. Compliance with the Electricity Feed-in (Renewable Energy Premium) Act 2008 (ACT)

The **Licensee** must comply with the *Electricity Feed-in (Renewable Energy Premium) Act 2008 (ACT)* and statutory instruments in force under that Act.

SCHEDULE 2: VARIATIONS TO THE LICENCE

<u>Variation Number</u>	<u>Effective Date</u>	<u>Clause</u>	<u>Reason for variation</u>
1.	15 August 2002	15	Clause 15.2 deleted and clause 15.1 renumbered as 16 and amended to the effect that the licensee must pay to the ICRC an annual licence fee determined in accordance with section 45 of the Utilities Act and that the payment of the fee be made in accordance with the ICRC's determination. NI2002–276
2.	25 March 2009	Title Page Reference Schedule Schedule 1	To: <ul style="list-style-type: none"> reflect the change of company name from 'AGL Gas Company (ACT) Ltd ACN 008 552 663' to 'Jemena Networks (ACT) Pty Ltd ACN 008 552 663' give effect to the provisions of the <i>Electricity Feed-in (Renewable Energy Premium) Act 2008</i> to make minor editorial amendments and formatting changes. NI2009–175
3.	3 September 2015	Title Page	Added 'transmission' to the licensed services. Changed the company name from 'ACTEW Distribution Limited ACN 073 025 224' to 'Icon Distribution Investments Limited ACN 073 025 224'.
		1.2	Updated clause to include 'until a variation is made to this clause'
		6.2(4),	Updated to take account of the <i>Utilities (Technical Regulation) Act 2014</i> .
		19.1(3) & 19.4(3)	Updated to include email as a method of delivery.
		Reference schedule	Updated licensee company name. Added electricity transmission as a service.

		Schedule 1	Removed clause 3.2 to take account of changes in reporting requirements resulting from <i>Electricity Feed-in Tariff Schemes Legislation Amendment Act 2015</i> .
		Dictionary	Updated dictionary to take account of the changes made to the text of the licence.
4.	1 January 2018	Title Page	Removed 'ActewAGL Distribution' and replaced it with 'Evoenergy'.
		Reference Schedule Item 1	Changed the trading name from 'ActewAGL Distribution' to 'Evoenergy'.
		Footer	Removed 'ActewAGL Distribution' and replaced it with 'Evoenergy Utility Licence'.
5	[Date]		[This table will be updated once the proposed changes has been finalised.]

SIGNED for and on behalf of)
THE INDEPENDENT COMPETITION AND)
REGULATORY COMMISSION by)
SENIOR COMMISSIONER)
Joe Dimasi in the presence of:)

.....

.....

Signature of Witness

.....

Name of Witness (BLOCK LETTERS)

DICTIONARY

In this licence, unless the contrary intention appears:

- (1) ‘**Act**’ means the *Utilities Act 2000*;
- (2) ‘**assign**’ includes assign, transfer, mortgage or otherwise deal with an interest but does not include the granting of a charge over an interest;
- (3) ‘**Authorised Utility Services**’ means the **Utility Services** referred to in the **Reference Schedule** that the **Licensee** is authorised to provide under clause 4.1;
- (4) ‘**business day**’ means a day, other than a Saturday, Sunday or public holiday in the **Territory**;
- ~~(5) “**consent**” includes any licence, permit, authority or consent issued or given by an agency or a Minister;~~
- ~~(6)~~(5) ‘**customer**’ has the same meaning as in the **Act**;
- ~~(7)~~(6) ‘**customer contract**’ has the same meaning as in the **Act**;
- ~~(8)~~(7) ‘**electricity distribution network**’ has the same meaning as in the **Act**;
- ~~(9)~~(8) ‘**electricity transmission network**’ has the same meaning as in the **Act**;
- ~~(10)~~(9) ‘**gas distribution network**’ has the same meaning as in the **Act**;
- ~~(11)~~(10) ‘**gas transmission network**’ has the same meaning as in the **Act**;
- ~~(12)~~(11) ‘**ICRC**’ means the Independent Competition and Regulatory Commission established under section 5 of the *Independent Competition and Regulatory Commission Act 1997 (ACT)*;
- ~~(13)~~(12) ‘**Industry Code**’ means a code approved or determined by the **ICRC** under Part 4 of the **Act**;
- ~~(14)~~(13) ‘**Item**’ means the relevant **Item** in the **Reference Schedule**;
- ~~(15)~~(14) ‘**Law**’ means any statute, regulation, rule, proclamation, order, ordinance or by-law whether present or future and whether Commonwealth, **Territory** or otherwise (in this subclause referred to as “statutory provision”) and includes:
 - (a) any such statutory provision as amended or re-enacted from time to time;
 - and

- (b) any statute, regulation, rule, proclamation, order, ordinance or by-law enacted in replacement of any statutory provision;

~~(16)~~(15) “**Licensee**” means the **Person** referred to in **Item 1** of the **Reference Schedule**;

~~(17)~~(16) “**network facilities**” means:

- any part of the infrastructure of a **utility network**; or
- any powerline, pole or wire, any water, sewerage or gas main or pipe, or any equipment, apparatus, structure or other thing used or for use, in connection with the provision of a **utility service**;

~~(18)~~(17) ‘**Person**’ includes a natural person, a firm, an unincorporated association, a **Territory** agency, a corporation or any other body corporate;

~~(19)~~(18) ‘**Reference Schedule**’ means the **Reference Schedule** to this licence;

~~(20)~~(19) ‘**security interest**’ means:

- (a) a mortgage, pledge, lien, charge, assignment, hypothecation, secured interest, title retention arrangement, preferential right, trust arrangement or other arrangement (including any set off or “flawed asset” arrangement) having the same or equivalent or commercial effect as a grant of security; or
- (b) an agreement to create or give any arrangement referred to above;

~~(21)~~(20) ‘**sewerage network**’ has the same meaning as in the **Act**;

~~(22)~~(21) ‘**substantial holding**’ has the same meaning as in the *Corporations Act 2001 (Cth)*;

~~(23)~~(22) ‘**Technical Code**’ means a code approved or determined by the Minister under Part 3 of the *Utilities (Technical Regulation) Act 2014 (ACT)*;

~~(24)~~(23) ‘**Technical Regulator**’ means the Technical Regulator as defined in the *Utilities (Technical Regulation) Act 2014 (ACT)*;

~~(25)~~(24) ‘**Territory**’ means:

- (a) when used in a geographical sense, the Australian Capital Territory; and
- (b) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988 (Cth)*;

~~(25)~~ ‘**Utilities Technical Regulation Act**’ means the *Utilities (Technical Regulation) Act 2014 (ACT)*;

- (26) **'utility network'** means:
- (a) an **electricity distribution network**;
 - (b) an **electricity transmission network**;
 - (c) a **gas distribution network**;
 - (d) a **gas transmission network**;
 - (e) a **sewerage network**; or
 - (f) a **water network**;
- (27) **'utility services'** has the same meaning as in the **Act**;
- (28) **'water network'** has the same meaning as in the **Act**.

Appendix 2.5 Icon Water (water services and sewerage services)

REFERENCE SCHEDULE

Item 1 Licensee

Icon Water Limited [ACNABN 86 069 381 960](#)

Item 2 Commencement date

Licence commencement date: 1 July 2001

Variation effective from: xx

Item 3 Authorised Utility Services

- (a) water services under section 11 of the **Act**; and
- (b) sewerage services under section 13 of the **Act**

Item 4 Address for Service of Licensee

	<u>Licensee</u>	<u>The ICRC</u>
<u>Electronic</u>		icrc@act.gov.au
<u>Postal</u>	GPO Box 366 Canberra ACT 2601	PO Box 161 Civic Square ACT 2608
<u>Physical</u>		

SCHEDULE: ADDITIONAL UTILITY SERVICE LICENCE OBLIGATIONS – WATER SUPPLY SERVICES AND SEWERAGE SERVICES

1. Emergency telephone service

The **Licensee** must have a 24-hour emergency telephone service that is accessible to the public. The telephone service must be:

- (1) accessible every day of the year; and
- (2) able to receive reports of network emergencies.

~~2.~~ Environmental requirements

~~3.2.~~ Program to minimise unaccounted water in network

The **Licensee** must develop and implement a program to cost effectively minimise ~~unaccounted~~ water losses from its **water network**.

~~3.1.~~ Unaccounted water annual report

~~The Licensee must report annually to ICRC on:~~

- ~~(1) the volume of unaccounted water from its water network; and~~
- ~~(2) the implementation of measures to minimise unaccounted water from its water network.~~

~~4.3.~~ Water use data collection

The **Licensee** must, where practicable, collect information on the volume of water supplied to the following categories of consumer:

- (1) residential – standard;
- (2) residential – flats and units;
- (3) commercial;
- (4) identifiable government;
- (5) educational premises;
- (6) ecclesiastical institutions;
- (7) irrigation or urban open spaces including parks and sport grounds; and
- (8) individual bulk supplies.

4.1.3.1. Water use data provision to the ICRC

The **Licensee** must provide the water use data collected under clause [2.33.1](#) of this schedule to [the ICRC](#) annually.

5.4. Water Services Association of Australia inter-agency comparisons

The **Licensee** must provide all information reasonably required by [the Water Services Association of Australia \(WSAA\)](#) to WSAA to assist with inter-agency comparisons.

6.5. Fire fighting

6.1.5.1. Agreement with ACT Fire Brigade and Rescue

The **Licensee** must develop and finalise an agreement with the ACT Fire [Brigade and Rescue](#) which details water supply quantities required at set pressures for the fire fighting purposes of the **Territory** and the **Licensee's** program for the maintenance of street hydrants. -This agreement must:

- (1) not be inconsistent with, or diminish, the **Licensee's** fire-fighting requirements specified in this licence or the relevant **Technical Codes**;
- (2) be finalised within 12 months of the commencement of this licence; and
- (3) be submitted to [the ICRC](#) for review and approval.

6.2.5.2. Failure to reach agreement

Should an agreement between the **Licensee** and the ACT Fire [Brigade and Rescue](#) not be finalised within 12 months of the commencement of this licence, [the ICRC](#) shall:

- (1) first assist the **Licensee** and the ACT Fire [Brigade and Rescue](#) to resolve unresolved issues and to develop an agreement; and/or
- (2) develop, in consultation with the **Licensee** and the ACT Fire [Brigade and Rescue](#), an agreement.

The **Licensee** will comply ~~with~~, and will procure the compliance of the ACT Fire [Brigade and Rescue](#), ~~with~~, any such agreement.

6.3.5.3. Water for fire fighting services

The **Licensee** must ensure that there is sufficient water available for fire fighting services to meet the **Licensee's** obligations under the agreement.

6.4.5.4. ~~Reporting requirements~~

The **Licensee** must report annually to ~~ICRC~~ the Technical Regulator about compliance with the agreement with the ACT Fire ~~Brigade and Rescue~~, in a manner and format agreed with the Technical Regulator.

SIGNED for and on behalf of)
THE INDEPENDENT COMPETITION AND)
REGULATORY COMMISSION by)
~~MALCOLM GRAY~~ **JOE DIMASI,**)
Senior Commissioner in the presence of:)
.....

.....
Signature of Witness

.....
Name of Witness (BLOCK LETTERS)

DICTIONARY

In this licence, unless the contrary intention appears:

- (1) “**Act**” means the *Utilities Act 2000* (ACT);
- (2) “**assign**” includes assign, transfer, mortgage or otherwise deal with an interest but does not include the granting of a charge over an interest;
- (3) “**Authorised Utility Services**” means the **Utility Services** referred to in the **Reference Schedule** that the **Licensee** is authorised to provide under clause 4.1;
- (4) “**business day**” means a day, other than a Saturday, Sunday or public holiday in the **Territory**;
- ~~(5) “**Chief Executive**” means the **Chief Executive** responsible for administering Part 5 of the **Act**;~~
- ~~(6) “**consent**” includes any licence, permit, authority or consent issued or given by an agency or a Minister;~~
- ~~(7)~~(5) “**customer**” has the same meaning as in the **Act**;
- ~~(8)~~(6) “**customer contract**” has the same meaning as in the **Act**;
- ~~(9)~~(7) “**electricity network**” has the same meaning as in the **Act**;
- ~~(10)~~(8) “**gas distribution network**” has the same meaning as in the **Act**;
- ~~(11)~~(9) “**gas transmission network**” has the same meaning as in the **Act**;
- ~~(12)~~(10) “**ICRC**” means the Independent Competition and Regulatory Commission established under section 5 of the *Independent Competition and Regulatory Commission Act 1997* (ACT);
- ~~(13)~~(11) “**Industry Code**” means a code approved or determined by the **ICRC** under Part 4 of the **Act**;
- ~~(14)~~(12) “**Item**” means the relevant **Item** in the **Reference Schedule**;
- ~~(15)~~(13) “**Law**” means any statute, regulation, rule, proclamation, order, ordinance or by-law whether present or future and whether Commonwealth, **Territory** or otherwise (in this subclause referred to as “statutory provision”) and includes:
 - any such statutory provision as amended or re-enacted from time to time; and

- any statute, regulation, rule, proclamation, order, ordinance or by-law enacted in replacement of any statutory provision;

~~(16)~~(14) “**Licensee**” means the **Person** referred to in **Item 1** of the **Reference Schedule**;

~~(17)~~(15) “**network facilities**” means:

- any part of the infrastructure of a **utility network**; or
- any powerline, pole or wire, any water, sewerage or gas main or pipe, or any equipment, apparatus, structure or other thing used or for use, in connection with the provision of a **utility service**;

~~(18)~~(16) “**Person**” includes a natural person, a firm, an unincorporated association, a **Territory** agency, a corporation or any other body corporate;

~~(19)~~(17) “**Reference Schedule**” means the **Reference Schedule** to this licence;

~~(20)~~(18) “**security interest**” means:

- (a) a mortgage, pledge, lien, charge, assignment, hypothecation, secured interest, title retention arrangement, preferential right, trust arrangement or other arrangement (including any set off or “flawed asset” arrangement) having the same or equivalent or commercial effect as a grant of security; or
- (b) an agreement to create or give any arrangement referred to above;

~~(19)~~ “**sewerage network**” has the same meaning as in the **Act**;

~~(20)~~ ‘**substantial holding**’ has the same meaning as in the *Corporations Act 2001 (Cth)*;

~~(21)~~ “**Technical Code**” means a code approved or determined by the Minister under [Part 3 of the *Utilities \(Technical Regulation\) Act 2014 \(ACT\)*](#) ~~Part 5 of the Act~~;

~~(21)~~(22) ‘**Technical Regulator**’ means the Technical Regulator as defined in the *Utilities (Technical Regulation) Act 2014 (ACT)*;

~~(22)~~(23) “**Territory**” means:

- (a) when used in a geographical sense, the Australian Capital Territory; and
- (b) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988 (Cth)*;

~~(23)~~(24) **Utilities Technical Regulation Act** means the *Utilities (Technical Regulation) Act 2014*;

~~(24)~~(25) “**utility network**” means:

- (a) an **electricity network**,
- (b) a **gas transmission network**,
- (c) a **gas distribution network**,
- (d) a **sewerage network**,
- (e) or a **water network**;

~~(25)~~(26) “**utility services**” has the same meaning as in the **Act**;

~~(26)~~(27) “**water network**” has the same meaning as in the **Act**.



ICRC

Independent competition and regulatory commission

www.icrc.act.gov.au