

**INDEPENDENT COMPETITION AND REGULATORY
COMMISSION**

**Utility Services Licence under
the *Utilities Act 2000***

issued to

**NSW Electricity Networks Operations Pty Limited as
Trustee for the NSW Electricity Networks Operations
Trust (ABN: 70 250 995 390)**

Trading as “TransGrid”

16 December 2015



**AUSTRALIAN
CAPITAL TERRITORY**

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Licence to provide **Utility Services** issued on 24 February 2015.

BY

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

TO

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

The **ICRC** has determined to issue a licence under the *Utilities Act 2000* on the conditions set out in this licence.

1. COMMENCEMENT AND TERM

1.1 Commencement date

This licence will take effect from 24 February 2015 (see **Item 2** of the **Reference Schedule**).

1.2 Transfer of licence

This licence has been transferred from TransGrid (ABN: 19 622 755 774) to the **Licensee**. The transfer will take effect on the date as set out in **Item 3** of the **Reference Schedule**

1.3 Licence term

This licence will remain in force until a variation is made of this clause, or the licence is transferred, surrendered or revoked.

2. DICTIONARY

The dictionary at the end of this licence is part of this licence.

3. LICENCE 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**.

4. AUTHORISATION

4.1 Authorised Utility Services

This licence confers on the **Licensee** the right to provide the **Authorised Utility Services** referred to in **Item 4** of the **Reference Schedule**.

4.2 Area of operations

The **Licensee** may exercise the rights conferred on it in any part of the **Territory**.

4.3 Non-exclusive rights

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

5. LICENSEE TO COMPLY WITH OBLIGATIONS UNDER THIS LICENCE

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 schedules.

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.

6. COMPLIANCE WITH ALL APPLICABLE LAWS

6.1 Licensee to comply

The **Licensee** must comply with all **Laws** in force in the Commonwealth of Australia, including its territories and states, and regulatory and legal obligations applicable to any services provided by the **Licensee** in the **Territory**.

6.2 Licensee to comply with the 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**;
- (2) relevant **Industry Codes** including the performance 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 **technical regulator**; and
- (5) any applicable ring fencing requirements.

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.

7. LICENCE COMPLIANCE

7.1 Licensee to monitor compliance

The **Licensee** must monitor its compliance with this licence and any **Law** or such other code of practice, directions and guidelines applicable to 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.

7.2 Licensee to notify the ICRC of any material breaches

If the **Licensee** becomes aware of a **material breach** of this licence and any **Law** or such other code of practice, directions and guidelines applicable to 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 the **ICRC** of the breach as soon as practicable.

7.3 Licensee to provide statement on any non-compliance

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 circumstances of, and reasons for, the non-compliance, consequences of the non-compliance (including any penalties imposed) and outlines measures that the **Licensee** will put in place to rectify that non-compliance.

7.4 Licensee to report annually

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 the **ICRC** requires to be reported pursuant to the **Act**, by 1 October every year during the term of this Licence.

7.5 Availability of annual report

The **Licensee** must ensure that a summary of the annual report required under clause 7.4 is publicly available.

7.6 Operation and compliance audits

- (1) The **Licensee** must, from time to time, undertake 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 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. TECHNICAL AND PRUDENTIAL CRITERIA

8.1 Requirement to continue to meet criteria

The **Licensee** must, throughout the term of this licence, continue to satisfy the technical and prudential criteria established by the **ICRC** under section 26 of the **Act**.

8.2 Licensee to advise ICRC of financial and technical capacities

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

- (1) 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
- (2) such other information as the **ICRC** requires.

9. CONTRACTING OUT

9.1 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 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. CHARGE AND ASSIGNMENT

10.1 Charge

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

10.2 Assignment

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

10.3 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 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 10.2. The **ICRC's** consent to assignment in these circumstances will not be unreasonably withheld.

10.5 Changes in ownership

A **Licensee** must keep the **ICRC** informed of all relevant changes in the ownership of the **Licensee**.

11. RISK MANAGEMENT

11.1 ICRC may request information

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

11.2 Information that may be requested

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 Licensee must provide information

The **Licensee** must provide the details requested under clause 11.1.

11.4 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. OTHER RESTRICTIONS ON LICENSEE

12.1 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**; or
 - (6) comply with its obligations under:
 - (a) the **Act**,
 - (b) any **Law**,
 - (c) this licence, or
 - (d) a **customer contract**.

12.2 Suspension of licence

If during the term of this licence the **Licensee** breaches a licence condition in circumstances whereby 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.

12.3 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.

13. CONSENTS

The **Licensee** must obtain and keep current all **consents** necessary for it to lawfully provide the **Authorised Utility Services**.

14. INSPECTION OF RECORDS

14.1 Licensee to keep records

The **Licensee** must keep, or cause to be kept, comprehensive records in accordance with the **ICRC's** requirements under the **Act**.

14.2 Licensee to provide copies of records

The **ICRC's** officers and agents may request the **Licensee** to provide copies of records referred to in clause 14.

14.3 Licensee to comply with all requests

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

15. ANNUAL 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.

16. REVIEW OF LICENSEE'S OBLIGATIONS

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

17. TRANSFER, SURRENDER OR REVOCATION OF LICENCE

This licence may only be transferred, surrendered or revoked in accordance with the **Act**.

18. VARIATION OF LICENCE

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

19. COMMUNICATION

19.1 Communication to be in writing

A communication under this licence is to be in writing and:

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

19.2 Address for service

The **Licensee's** service address is the address referred to in **Item 5** of the **Reference Schedule** or another address subsequently notified to the **ICRC** by the **Licensee**.

19.3 ICRC to be advised of contact details

The **Licensee** must notify the **ICRC** of a change in address in **Item 5** and any other contact details within 10 **business days** of the change.

19.4 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 **business days** after the date of posting;
- (3) if sent by email before 4:00 pm on a **business day** at the place of receipt, on the day it is sent, otherwise on the next business day; or
- (4) if sent by facsimile before 4:00 pm on a **business day** at the place of receipt, on the day it is sent, otherwise on the next **business day** at the place of receipt.

20. WAIVER

20.1 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.

20.2 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.

20.3 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.

20.4 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.

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 Postal: PO Box A1000 Sydney South NSW 1235 Registered office: 180 Thomas Street Sydney NSW 2000

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 — Requirements; and
- (b) an environmental management system that is consistent with International Standard ISO 14001 Environmental Management.

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

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

3. 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 - 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

Date	Clause	Event
24 February 2015	N/A	Licence granted to TransGrid (ABN: 19 622 755 774). See NI2015-87 .
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.
	Schedule 2 and Dictionary	Inserted new schedule 2: Compliance with Operations Trust Deed Poll – ICRC. Updated dictionary to include definition for "Operations Trust Deed Poll".
	Schedule 3	Inserted new schedule 3: 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 reference 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> .	

SIGNED for and on behalf of)
THE INDEPENDENT COMPETITION AND)
REGULATORY COMMISSION by)
SENIOR COMMISSIONER MALCOLM)
GRAY 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) “**customer**” is a customer of the licensee in the **Territory**;
- (7) “**customer contract**” has the same meaning as in the **Act**;
- (8) “**electricity distribution network**” has the same meaning as in the **Act**;
- (9) “**electricity transmission network**” has the same meaning as in the **Act**;
- (10) “**gas distribution network**” has the same meaning as in the **Act**;
- (11) “**gas transmission network**” has the same meaning as in the **Act**;
- (12) “**ICRC**” means the Independent Competition and Regulatory Commission established under section 5 of the *Independent Competition and Regulatory Commission Act 1997 (ACT)*;
- (13) “**Industry Code**” means a code approved or determined by the **ICRC** under Part 4 of the **Act**;
- (14) “**Item**” means the relevant **Item** in the **Reference Schedule**;
- (15) “**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) “**Licensee**” means the **Person** referred to in **Item 1** of the **Reference Schedule**;

-
- (17) A “**material breach**” is 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) “**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) “**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) “**Person**” includes a natural person, a firm, an unincorporated association, a **Territory** agency, a corporation or any other body corporate;
- (21) “**Reference Schedule**” means the **Reference Schedule** to this licence;
- (22) “**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) “**sewerage network**” has the same meaning as in the **Act**;
- (24) “**Technical Code**” means a code approved or determined by the Minister under the *Utilities (Technical Regulation) Act 2014 (ACT)*.
- (25) “**technical regulator**” means the **technical regulator** under the *Utilities (Technical Regulation) Act 2014 (ACT)*;
- (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’t)*;
- (27) “**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**;
- (28) “**utility services**” has the same meaning as in the **Act**;
- (29) “**water network**” has the same meaning as in the **Act**.