REVIEW OF ENERGY LICENSING REGIMES IN NSW: COMPLIANCE MONITORING AND REPORTING FRAMEWORK

A Final Report for the
Independent Pricing and Regulatory Tribunal

Prepared by NERA

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Sydney

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TABLE OF CONTENTS

EXECUTIVE SUMMARY

This report has been prepared by National Economic Research Associates (NERA) for the Independent Pricing and Regulatory Tribunal (IPART).

Background

IPART has commissioned NERA to assist with its review of the NSW energy licensing regime. The consultancy services NERA has been asked to provide fall into three parts, namely:

i. to provide advice on the most effective model for the NSW electricity and gas licensing regimes, given the current institutional arrangements;

ii. to develop a compliance monitoring and reporting framework which IPART can implement to discharge its role as the NSW licence regulator; and

iii. to assess the need for minimum performance standards for licensed electricity and gas businesses, and to advise on the appropriate process for developing any such minimum performance standards.

This report covers the second of these three parts. As such, it develops the framework for the administration of the licensing regime set out in NERA's first report on the most effective regulatory model.

The Compliance Monitoring Framework

The compliance monitoring framework presented in this report has been developed through applying the framework developed in NERA's Part 1 Report to a base set of licence/authorisation obligations as at 1 November 2001. In relation to *each* obligation in this base set, we have:

- classified the obligation as either Type 1, Type 2 or Type 3; and
- provided a detailed description of the compliance reporting required in relation to that obligation.

The detailed application of the framework is presented in Appendix A to this report. It should be noted that several of the legal instruments which place obligations on licensees/authorisation holders were in draft form on 1 November 2001.[1] Other have been introduced subsequently. The draft reporting requirements presented in Appendix A will therefore need to be updated to reflect these developments.

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[1] In particular the Gas Supply (Natural Gas Retail Competition) Regulation 2001, and several market operation rules.

Classification of Licence Obligations

Our recommendation is that compliance monitoring should be tailored, based on the nature of the licence condition and the implications of a breach. That is, compliance monitoring should depend on the *criticality* of a breach of a given obligation.

In particular, all obligations on licensees should be classified as being of one (or more) of the following types:

- **Type 1**: an obligation for which an annual *ex ante* assessment of compliance processes should be conducted;
- **Type 2**: an obligation for which frequent (quarterly) *ex post* compliance monitoring of performance should be conducted;
- **Type 3**: an obligation for which annual *ex post* compliance monitoring of performance should be conducted; or
- **Immediate**: an obligation for which licensees are required to inform IPART within 3 days of a breach occurring.

Licensees/ authorisation holders would be required to submit quarterly exception reports covering Type 2 conditions and annual exception reports covering Type 3 conditions.

Where other persons or agencies (eg, the Minister for Energy, Ministry of Energy and Utilities, EWON, MIG, GMCo) hold information or conduct audits which IPART is able to use to assess compliance, IPART should arrange via a Protocol/ Memorandum of Understanding to receive such information directly from that person or agency, rather than requiring licensees to provide that information.

Tables E1 and E2 summarise the Type 1, Type 2 and 'immediate' obligations we have identified for each electricity licence and gas authorisation. All other obligations for both electricity licensees and gas authorisation holders have been classified as Type 3 (ie, requiring annual compliance monitoring and reporting). Compliance assessment for Type 1 obligations focuses on the systems businesses have in place and the presence of any required plans or contractual conditions. Compliance assessment for Type 2 and Type 3 obligations is focused on performance outcomes. The majority of Type 1 obligations have in addition been identified as either Type 2 or Type 3 obligations.

Where an obligation in the tables is shaded, this indicates that information on compliance will be sourced by IPART from another agency (using that agency's compliance monitoring processes), rather than directly from licensees/authorisation holders.

The classification of licence conditions as Type 1, 2 or 3 should be open to change over time, in response to concerns over compliance, or performance data which indicates compliance.

IPART should also be able to require specific licensees to report more frequently (where there are compliance concerns) or to be exempt from some reporting (where behaviour has indicated compliance).

In addition to the standardised reporting frequency, IPART should have the ability to undertake *ad-hoc* investigations if a significant breach of licence obligations is suspected.

Table E.1: Electricity Licences: Classification of Obligations

Retail Licence		
Type 1 *[Compliance assessment relates to licensees' compliance systems or to plans]*	•	Compliance with the Customer Transfer Market Operation Rule
	•	Compliance with the Marketing Code of Conduct
	•	Compliance with billing obligations in the Electricity Supply (General) Regulation 2001
	•	Compliance with provisions regarding standard form and negotiated customer supply contracts set out in the Electricity Supply (General) Regulation 2001
	•	Transfer of customer calls regarding faults/difficulties in electricity works to DNSPs within 30 seconds, in line with Market Operation Rule
	•	Compliance with endorsement condition to have an approved Retailer of Last Resort plan
Immediate	•	Lapse of registration with NEMMCO
Type 2 *[Compliance assessment relates to performance]*	•	Compliance with the Customer Transfer Market Operation Rule
	•	Compliance with the Marketing Code of Conduct
	•	Compliance with billing obligations in the Electricity Supply (General) Regulation 2001
	•	Compliance with retailer communication requirements under Market Operation Rule
	•	Compliance with endorsement conditions if Retailer of Last Resort triggered
	•	Submission of quarterly reporting on Key Performance Indicators*

* Our recommendation is that an explicit licence condition is introduced requiring reporting on specified KPIs.

Table E.1 (cont):

Distribution Network Service Provider (DNSP) Licence	
Type 1 *[Compliance assessment relates to licensees' compliance systems or to plans]*	• Preparation of plans:[#] i. Safety and Operating Plan ii. Customer Installation Safety Plan iii. Public Electrical Safety Plan • Compliance with provisions regarding standard form and negotiated customer connection contracts set out in the Electricity Supply (General) Regulation 2001 • DNSP to establish and operate an NMI Discovery Service in accordance with the Market Operation Rule (NSW Transfer Rules for Retail Electricity Supply)
Immediate	• Lapse of registration with NEMMCO
Type 2 *[Compliance assessment relates to performance]*	• DNSP to operate an NMI Discovery Service in accordance with the Market Operation Rule (NSW Transfer Rules for Retail Electricity Supply) • Compliance with obligations not to withhold approval of transfer of small retail customers under the Market Operation Rule (NSW Transfer Rules for Retail Electricity Supply) • Compliance with obligations under Market Operation Rules on billing retailers for connection services • Submission of quarterly reporting on Key Performance Indicators[*]

[#] Currently the preparation of safety plans is an obligation under the Electricity Supply (Safety Plans) Regulation 1997.
[*] Our recommendation is that an explicit licence condition is introduced requiring reporting on specified KPIs.

Table E.2
Gas Authorisation Holders: Classification of Obligations

Supplier Authorisation	
Type 1 *[Compliance assessment relates to licensees' compliance systems or plans]*	• Compliance with billing obligations (Gas Supply (Natural Gas Retail Competition) Regulation)
	• Compliance with Marketing Code of Conduct
	• Compliance with provisions regarding standard form and negotiated customer supply contracts set out in the Gas Supply (Natural Gas Retail Competition) Regulation 2001
	• Compliance with Business Rules to support full retail competition
	• Compliance with communication provisions in the Network Code
	• Compliance with endorsement condition to have an approved Retailer of Last Resort Plan
Type 2 *[Compliance assessment relates to performance]*	• Compliance with Billing obligations (Gas Supply (Natural Gas Retail Competition) Regulation)
	• Compliance with Marketing Code of Conduct
	• Compliance with communication provisions in the Network Code
	• Compliance with endorsement conditions if Retailer of Last Resort triggered
	• Submission of quarterly reporting on Key Performance Indicators*
Natural Gas Reticulator Authorisation	
Type 1 *[Compliance assessment relates to licensees' compliance systems or plans]*	• Compliance with requirement to operate a safe distribution system
	• Must arrange and maintain appropriate insurance and indemnity
	• Must maintain effective emergency procedures
	• Must adopt and comply with a Network Code
	• Compliance with Business Rules to support full retail competition
Immediate	• Must notify any lapse of insurance and indemnity
Type 2 *[Compliance assessment relates to performance]*	• Must maintain effective emergency procedures
	• Submission of quarterly reporting on Key Performance Indicators*

* Our recommendation is that an explicit licence condition is introduced requiring reporting on specified KPIs.

Table E.2(cont)

LPG Distributor Licence	
Type 1 *[Compliance assessment relates to licensees' compliance systems or plans]*	• Compliance with requirement to operate a safe distribution system
	• Compliance with requirements to arrange and maintain appropriate insurance and indemnity
	• Appropriate arrangements in place to deal with gas escapes
Immediate	• Must notify any lapse of insurance and indemnity
Type 2 *[Compliance assessment relates to performance]*	• Compliance with requirements to have appropriate arrangements in place to deal with gas escapes

Recommendations

Key aspects of our recommendations on implementing the compliance monitoring framework set out in this report (and in the associated appendices) are summarised below.

In relation to the content of the Reporting Manuals:

i. Reporting requirements (including audit requirements) for both electricity and gas licensees should be standardised through the establishing of a Reporting Manual for each licence/authorisation;

ii. The Reporting Manuals should be prepared and updated by IPART. The process by which IPART can make changes to the Reporting Manual should be clearly set out;

iii. All obligations on licensees should be classified as being of one (or more) of the following types:

- **Type 1**: an obligation for which an annual *ex ante* assessment of compliance processes should be conducted;
- **Type 2**: an obligation for which frequent (ie, quarterly) *ex post* compliance monitoring of performance should be conducted;
- **Type 3**: an obligation for which annual *ex post* compliance monitoring of performance should be conducted; or
- **Immediate**: an obligation for which licensees are required to inform IPART within 3 days of a breach occurring.

A draft classification for existing licence obligations is provided in Appendix A;

iv. The classification of licence conditions as Type 1, 2 or 3 should be open to change over time, in response to concerns over compliance, or performance data which indicates compliance;

v. IPART should have the ability to require specific licensees to report more frequently (where there are compliance concerns) or to be exempt from some reporting (where behaviour has indicated compliance);

vi. Licensees compliance reporting should be on the basis of *exception reporting.* Licensees are required to state that they comply with all obligations, except for those instances of non-compliance listed. Exception report should include details of the action which has been taken to rectify the breaches reported. Licensees should be required to submit exception reports on a quarterly basis for Type 2 obligations and on an annual basis for Type 3 obligations. For a small number of Type 1 obligations, exception reports should be lodged 3 days after a breach occurred;

vii. Consideration should be given to the use of compliance reporting measures, to enable standardisation of the basis for 'yes/no' reporting by different licensees in cases where ambiguity exists;

viii. Licensees should be required to state that they have a 'high degree of confidence that the data on which the 'yes/no' assessment is made accurately reflects its performance'. In addition, external auditors would be asked to comment on the adequacy of the accuracy of the data captured by the licensee. More explicit data accuracy requirements could be introduced later, if data accuracy is found to be inadequate.

ix. IPART should consider whether the Reporting Manuals should explicitly specify the trigger for licensees' submitting an exception report, and the level at which this trigger should be set. It may be appropriate for IPART to err on the side of more rather than less compliance reporting initially, and to review the trigger levels over time.

x. Where other persons or agencies (eg, Minister for Energy, Ministry of Energy and Utilities, EWON, MIG, GMCo) hold information or conduct audits which IPART is able to use to assess compliance, IPART should arrange via a Protocol/ Memorandom of Understanding to receive such information directly from that person or agency, rather than requiring licensees to provide that information.

In relation to internal sign-off and audit requirements:

xi. CEO/Board sign-off should be required for all licensees' compliance reporting;

xii. External audits should be required for reports by licensees to IPART on Type 1 obligations[2] and (annually) for specified Type 2 obligations. Audit requirements should be reviewed over time, in the light of experience;

xiii. IPART should approve the use of auditors proposed and paid for by the licensees. The auditors' duty of care should be to IPART. IPART should determine the scope and conduct of the audit process.

In relation to the process for finalising the Reporting Manuals:

xiv. IPART should work with stakeholders to further develop each of the Reporting Manuals, from the draft reporting requirements set out in Appendix A;

xv. IPART should consult with representatives from the licensees/authorisation holders and from the MEU, MIG and EWON, together with any other interested parties;

xvi. IPART should retain responsibility for drafting Reporting Manuals.

2 With the exception of the requirement for electricity sector licensees to maintain NEMMCO registration.

1. INTRODUCTION

This report has been prepared by National Economic Research Associates (NERA) for the Independent Pricing and Regulatory Tribunal (IPART).

The Minister for Energy has asked IPART to review the electricity and gas licensing regimes in NSW. In particular, IPART has been asked to recommend any changes to the current administrative arrangements, or licence conditions, required to ensure improved compliance with existing government policy objectives.[3]

IPART has commissioned NERA to assist with its review of the NSW energy licensing regime. The consultancy services NERA has been asked to provide fall into three parts, namely:

i. to provide advice on the most effective model for the NSW electricity and gas licensing regimes, given the current institutional arrangements;

ii. to develop a compliance monitoring and reporting framework which IPART can implement to discharge its role as the NSW licence regulator; and

iii. to assess the need for minimum performance standards for licensed electricity and gas businesses, and to advise on the appropriate process for developing any such minimum performance standards.

This report covers the second of these three parts. As such, it develops the framework for the administration of the licensing regime set out in NERA's first report on the most effective regulatory model.

1.1. Scope of the Recommendations

The recommendations in this report provide a comprehensive basis for introducing a more effective licence[4] compliance monitoring and reporting regime. However, it needs to be recognised that, ultimately, there is a trade-off between the thoroughness of a compliance monitoring regime, and the costs associated with that regime (for both licensees and the monitoring agency).

In NERA's Part 1 Report we discussed tailored compliance monitoring. The report identified three specific types of compliance monitoring: Type 1 (ex ante), Type 2 (monthly or quarterly ex post) and Type 3 (annual ex post).

3 Terms of Reference from the Minister for Energy with respect to the Review of Electricity and Gas Licensing Regimes in NSW.

4 We use the terms 'licence' and 'licensee' throughout this report to refer to both licences and authorisations, and licensees and authorisation holders.

In addition to the *frequency* of reporting, there is also a spectrum in terms of *what* is reported, and the extent to which compliance reports are verified by an external party. The more specific the reporting requirements are on licensees and the greater the use of external audits of compliance reports, the greater the degree of consistency there is between reporting by different licensees and the greater the assurance the compliance monitoring body has in interpreting reported compliance by the licensee. However, there are costs imposed on licensees associated with establishing the internal business systems necessary to meet detailed reporting requirements, and with conducting external audits.

The choice as to the specific compliance regime to adopt is therefore one which will depend on a balance between the benefits expected from a more rigorous compliance regime, and the costs associated with such a regime.

There are currently a significant number of obligations which licensees are required to comply with as a condition of their licences. The weight placed on monitoring compliance with *each* of these obligations is ultimately a policy decision. Our categorisation of obligations as either Type 1, Type 2 or Type 3 (and the associated framework for thinking about this categorisation) reflects one view as to the relative importance of monitoring each of the existing licence conditions. However, we recognise that, ultimately, such categorisation is a matter of judgement, and we would expect government to play an important role in endorsing and/or revising the categorisation presented in this report.

Similarly, the costs of requiring licensees' compliance reports to be based on specific information will depend on the extent to which this information is currently captured (or can, in future, be captured) by the internal business systems which licensees have in place.

As such, in finalising the new compliance monitoring framework presented in this report, it is therefore important to involve both government and licensees, in order to ensure that the appropriate balance is reached between the thoroughness of the regime and the compliance costs involved. In this report we provide a suggested process for the finalisation of the compliance regime.

We note also that the compliance monitoring regime proposed in this report has been developed in relation to the current background in the NSW energy sector. There are a number of current drivers for change in the compliance monitoring arrangements. The first is the need to update the compliance monitoring regime to reflect the underlying evolution of the legislative framework from one in which the underlying regulatory philosophy was one of self-regulation, to one which has become more prescriptive. In addition, the introduction of additional consumer protection provisions (which are enforced as licence conditions) associated with the introduction of full retail competition for both electricity and gas in January 2002, will need to be adequately monitored and enforced to ensure that they are not breached.

However, the proposed compliance monitoring regime is one which can be expected to evolve over time, in response to changes in the legislative background, government policy priorities and licensees' behaviour.

It should again be noted that NERA has not been asked as part of this consultancy project to undertake a 'clean sheet' review of the electricity and gas licensing regime. Rather, we have been asked to take certain features of the NSW background as given, including the detailed obligations placed on licensees by the Electricity (General) Supply Regulation 2001 and the new Gas Supply (Natural Gas Retail Competition) Regulation 2001. Consideration of the *appropriateness* of imposing all of these obligations on licensees is beyond the scope of the current project.

1.2. Structure of this Report

The remainder of this report is structured as follows:

- Section 2 briefly summarises the framework for the compliance monitoring and reporting arrangements in the NSW licensing regime set out in NERA's first report;
- Section 3 sets out what we have taken as the base set of licence obligations (for both electricity licensees and gas authorisation holders), in applying our framework;
- Section 4 discusses NERA's recommendation for tailoring compliance monitoring according to the nature of the obligation and the implications of a breach, and provides a suggested classification for each of the obligations in the base set;
- Section 5 covers reporting requirements. In particular it discusses the suggested coverage of the Reporting Manual associated with each licence and the process for developing the initial Reporting Manuals. Draft reporting requirements for each licence/authorisation condition are provided in Appendix A;
- Section 6 describes the cycle of compliance monitoring activities, over an annual period;
- Section 7 covers the reporting of Key Performance Indicators (KPIs), as distinct from reporting on licence compliance. It assesses the current KPIs from the perspective of issuing comparative reports for regulated businesses, and suggests alternatives; and
- Section 8 highlights key recommendations in the report.

Appendix A to this report presents draft reporting requirements for each licence/authorisation condition included in the base set of obligations. Appendix B provides a draft licensee reporting pro forma.

2. RECOMMENDATIONS IN NERA'S PART 1 REPORT

2.1. Introduction

NERA's first report to IPART set out a number of recommendations on improving compliance with existing government policy objectives. These recommendations covered three distinct areas:

i. improvements to the administrative arrangements, so that the monitoring and enforcement of compliance is more effective;

ii. recommendations for clarification and co-ordination of the roles of the different agencies involved in the licensing regime; and

iii. changes in the licence obligations themselves, to increase the extent to which licence conditions reflect government policy objectives.

This report focuses on developing the recommendations in the first of these areas, with the focus on the compliance monitoring and reporting framework. We noted in our earlier report that an improvement in licence compliance will only bring a limited benefit, if the meaningfulness of the licence conditions themselves is not improved.

The reminder of this section recaps on NERA's recommendations in our Part 1 Report in relation to the compliance monitoring and reporting framework. Sections 4 and 5 present the detailed application of this framework to a base list of licence obligations in both the electricity and gas sectors.

2.2. Compliance Monitoring

NERA's Part 1 Report sets out a number of recommendations in relation to compliance monitoring:[5]

i. Compliance monitoring processes should be developed by IPART in respect of both electricity and gas licensees;

ii. Compliance monitoring should be tailored, based on the nature of the licence condition and the implications of a breach of that condition. Specifically, obligations on licensees should be classified as being of one of the following types:

- Type 1: an obligation for which *ex ante* assessment of compliance processes should be conducted;

[5] See Section 5.2.3 of NERA's Part 1 Report for a full discussion of these recommendations.

- Type 2: an obligation for which frequent *ex post* compliance monitoring should be conducted (for example monthly or quarterly); and

- Type 3: an obligation for which annual *ex post* compliance monitoring should be conducted.

iii. Processes should also be put in place to enable ad-hoc compliance investigations to be undertaken, *either* by IPART *or* under a direction by the Minister for Energy (but not both).

2.3. Reporting Requirements

The Part 1 Report also set out a number of recommendations in relation to the reporting framework, namely:[6]

i. Reporting requirements for both electricity and gas licensees should be standardised through the establishing of Reporting Manuals, prepared by IPART pursuant to a Reporting Guideline issued by the Minister.[7]

ii. The Reporting Manuals should be of the nature of a reporting pro-forma, and should also specify auditing requirements;

iii. The Minister's Reporting Guideline should specify the process by which future changes to the Reporting Manuals will be made. This process should involve consultation with licensees and any changes should be made in advance of the reporting period to which they are to apply;

iv. Electricity sector licensees should no longer be required to submit licence plans;

v. External audits should be required for reported information in relation to all licence conditions for which e*x ante* compliance assessment is required (ie 'Type 1' conditions) and for reporting against specified 'Type 2' obligations; and

vi. CEO certification and Board authorisation should continue to be required for reporting relating to all remaining licence obligations.

[6] See Section 5.2.4 of NERA's Part 1 Report for a full discussion of these recommendations.

[7] See further discussion in relation to this recommendation in this Part 2 report, Section 5.5.

3. BASE SET OF OBLIGATIONS

NERA's report has been prepared against a background of changes in the obligations on licensees/authorisation holders, as the result of revisions to regulations and the introduction of new market operation rules to facilitate the introduction of full retail competition on 1 January 2002.

In order to progress our report in the face of these changes, we have applied our framework for licence compliance monitoring to a 'snapshot' of the obligations applying as at the beginning of November 2001. Specifically, the recommendations relating to compliance monitoring and reporting in sections 4 and 5 of this report and the draft reporting requirements in Appendix A have been prepared in relation to consolidated lists of obligations applying under each licence and authorisation in both the electricity and gas sectors, as at 1 November 2001.

We believe that this approach provides a useful basis for the development of the Reporting Manuals. We note that IPART will need to update the draft reporting requirements in Appendix A to this report to take into account changes to obligations since 1 November 2001.

3.1. Base Set of Obligations for Each Licence/Authorisation

The lists of the base set of obligations applying to licensees/authorisation holders as at 1 November 2001 were prepared by IPART.[8] Separate lists were prepared for each of the following:

- Electricity Retail Licence
- Electricity Standard Retailer Endorsement Conditions;
- Electricity Distribution Network Service Provider Licence;
- Natural Gas Supplier Authorisation ;
- Standard Gas Supplier Endorsement Conditions;
- Natural Gas Reticulator Authorisation; and
- LPG Distribution Licence.

We have taken these initial lists of obligations as the basis for preparing the draft reporting requirements presented in Appendix A and discussed in the remainder of this report.

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8 These lists also formed the basis for the Consolidated Reference Documents prepared by IPART, in line with a recommendation in NERA's earlier Part 1 Report. We note, however, that the list of obligations used by NERA for this report reflects earlier (rather than final) drafts of the Consolidated Reference Documents.

The obligations included in the base set included both explicit licence conditions and obligations on licensees/authorisation holders arising from primary legislation and regulations which are explicitly made licence/authorisation conditions. In particular, the base set of obligations we have used include the obligations contained in:

- the standard Licences/Authorisations[9]
- the Electricity Supply Act 1995
- the Gas Supply Act 1996
- the Electricity Supply (General) Regulation 2001;
- the Gas Supply (Natural Gas Retail Competition) Regulation 2001;
- the Marketing Code of Conduct;
- the Market Operation Rules (NSW Transfer Rules for Retail Electricity Supply) 2001;
- the Market Operations Rules for the making of arrangements on behalf of customers for the provision of Customer Connection Services, record keeping and information exchange requirements for DNSPs and retail suppliers; and
- the gas reticulators Network Code developed in line with the Ministry of Energy's Network Code Guidelines.

We note that a number of the above documents were in draft form as at 1 November 2001, but have subsequently been finalised. As a consequence, the draft reporting requirements contained in Appendix A will need to be updated by IPART to reflect any changes to obligations subsequent to 1 November 2001.

3.2. Treatment of Obligations Subject to Recommendations to Change

The substantive content of a limited number of licence obligations were the subject of recommendations for change in NERA's Part 1 Report.

The base set of obligations used as the basis for the draft reporting requirements presented in this report relates to existing obligations. However, in Appendix A we have marked conditions where we have recommended substantive changes to the conditions themselves with an asterisks (*), and our recommendations for compliance monitoring and reporting takes into account our recommendation for changes to these obligations.

9 IPART has prepared reference documents which set out the 'standard' licence/authorisation conditions, for each type of licence/authorisation.

4. COMPLIANCE MONITORING

4.1. Introduction

As noted earlier, in order to provide a detailed framework for licence compliance monitoring which can be implemented by IPART in its role as licence regulator, NERA has taken the recommendations in relation to compliance monitoring and reporting presented in our Part 1 Report, and applied it to a base set of obligations applying to licensees and authorisation holders in both the electricity and gas sectors.

Specifically, in respect of *each* licence obligation, we have:

- classified the obligation as either Type 1, Type 2 , Type 3 or 'immediate'; and
- provided a detailed description of the draft content of the compliance reporting required in relation to that obligation.

This section discusses the basis on which we have classified obligations as Type 1, Type 2 or Type 3, and provides a summary of the classification. Section 5 discusses the reporting requirements and outlines the coverage of the Reporting Manuals.

The detailed application of the framework is presented in Appendix A.

4.2. Tailored Monitoring of Compliance

Our recommendation in Part 1 of the consultancy project was that compliance monitoring should be tailored, based on the nature of the licence condition and the implications of a breach. That is, compliance monitoring should depend on the *criticality* of a breach of a given obligation.

In particular, all obligations on licensees should be classified as being of one (or more) of the following types:

- **Type 1**: an obligation for which an annual *ex ante* assessment of compliance processes should be conducted;
- **Type 2**: an obligation for which frequent (monthly, quarterly) *ex post* compliance monitoring of performance should be conducted;
- **Type 3**: an obligation for which annual *ex post* compliance monitoring of performance should be conducted;
- **Immediate**: an obligation for which the licensee must inform IPART (as licence regulator) of a breach within 3 days of the breach occurring.

The key difference between compliance assessment for a Type 1 obligation and compliance assessment for Type 2 and 3 obligations is that the former relates to processes which the licensee has in place, whilst the latter relate to actual performance. For the majority of obligations classified as Type 1, it will also be important to undertake some form of *ex post* performance monitoring. Hence, many Type 1 obligations will also be classified as Type 2 or 3, or as 'immediate'.

Compliance reporting requirements will differ depending on whether an obligation is classified as Type 1, Type 2 or Type 3. A key difference in reporting requirements is the required *frequency* of reporting. However, the *content* of reporting required may also differ, particularly between Type 1 *ex ante* compliance assessment and Type 2 and 3 *ex post* reporting.

In addition, reporting requirements may differ between obligations with the same classification. That is, all Type 1 obligations need not have the same reporting requirements, even though the assessment for all Type 1 obligations will be conducted *ex ante*.

Reporting requirements are discussed further in Section 5.

4.2.1. Criteria for classification

Table 4.1 summarises the key criteria we have adopted for assessing whether a particular obligation should be categorised as Type 1, Type 2 or Type 3.

In brief, the criteria relate to the impact of any breach of the licence obligation on the government's policy objectives in relation to the gas and electricity sectors and the extent to which the costs/difficulty of correcting a breach increase the longer it is before the breach is detected. The greater the impact of a breach and/or the more the costs/difficulty of correction increase with a delay in detection, the more importance should be placed on either *ex ante* monitoring, to ensure that systems are in place to prevent a breach occurring in the first place, or frequent *ex post* monitoring, to enable any breaches to be detected (and corrective action taken) on a more timely basis. More frequent monitoring is also advisable where there is a history of non-compliance, or where there is suspected non-compliance, since the likelihood of a breach is greater in those cases.

The government's objectives in relation to the energy sector are set out in the Electricity supply Act 1995 and the Gas supply Act 1996.[10] Although expressed slightly differently in the legislation, these objectives can be paraphrased as:

- the safe and reliable supply of electricity and gas;
- the promotion of customer choice and the protection of customers' interests;

10 Electricity Supply Act 1995, Part 1, Section 3; Gas Supply Act 1996, Part 1, Clause 3.

- the promotion of environmentally responsible production and use of electricity and gas; and
- the development of a competitive retail market in both electricity and gas.

It is therefore the impact of a breach of a licence obligation on these policy objectives which it is important to consider in determining the classification of licence obligations as Type 1, 2 or 3.

Table 4.1
Criteria for Classifying Types of Licence Condition

Category	Criteria
Type 1: Ex ante compliance monitoring	• Breaches of the licence condition are likely to have severe adverse impacts on government policy objectives in the energy sector • There are significant costs associated with correcting a breach once it has occurred, and such costs are incurred by people other than the licensee.
Type 2: Frequent ex-post monitoring (Monthly, Quarterly)	• Breaches of a condition are likely to have a significant adverse impact on government policy objectives in the energy sector • The costs associated with the impact of the breach and/or the costs (and difficulty) of correction are significantly lessened by earlier detection of the breach • Non-compliance with the obligation is suspected • More frequent reporting is necessary to meet the *objective* of the licence obligation (eg, reporting on Key Performance Indicators)
Type 3: Annual ex post monitoring	• Breaches have little or no adverse impact on government policy objectives in the energy sector • Early detection does not significantly increase the impact of the breach or the cost (and difficulty) of correction. • Reporting indicates a high degree of compliance

We have not included the 'newness' of a licence obligation as a criterion to be taken into account in determining the classification of licence obligations. The impact of a breach of a new licence obligation will depend fundamentally on the nature of the obligation itself. Requiring new obligations to always be classified as either Type 1 or Type 2 would increase the costs associated with the compliance regime, and would not have a significant benefit in those cases where failure to comply would not severely impact the policy objective, and the cost of correction would not increase with any delay in detection.

However, for some licence obligations, the impact of a breach of an obligation on government policy objectives will be *greater* where the obligation is a new one. This is particularly the case with obligations connected with furthering new market arrangements. A breach of such obligations early on can have a much more severe impact on customer confidence in the new market arrangements, which in turn will impact on the success of the new arrangements. Where a breach of these obligations occurs later, once the market is established, the impact on customer confidence can be expected to be much lower. Therefore, the newness of an obligation may be relevant in assessing the impact of a breach. This is the case with the newly introduced obligations in connection with the start of full retail competition (see discussion in section 4.3).

The classification of obligations as either Type 1, 2 or 3 should be able to be changed over time, as circumstances change. Where IPART's assessment of the impact of a breach changes, the classification should change accordingly. As noted above, once full retail competition (FRC) is established, the impact of a breach of FRC related obligations on consumer confidence can be expected to be reduced. Hence, it may be appropriate to revise the categorisation of FRC-related obligations from Type 1 and Type 2 to Type 2 only, or even to Type 3. Similarly, where there is no evidence of a breach of obligations classified as Type 2, it may be appropriate to reclassify them as Type 3 obligations. Conversely, evidence of breaches of Type 3 obligations may lead IPART to reclassify these obligations as Type 2. The review of classifications is discussed further in section 4.4.

In the remainder of this section we discuss in generic terms the classifications of Type 1, 2 and 3 obligations. The classification of existing licence obligations as either Type 1, 2 or 3 is discussed in section 4.3.

4.2.1.1. Type 1 conditions

An *ex ante* assessment of the compliance processes licensees have in place is appropriate where it is considered important to avoid a breach of a licence obligation occurring in the first place. Where the costs associated with a breach occurring (both those costs resulting directly from the breach and the costs of correction) are significant, focusing compliance monitoring on an *ex ante* assessment of systems, rather than on performance, can be cost effective in terms of acting as a preventative measure or an 'early warning system' that breaches may be more likely.

Assessment of compliance processes cannot *ensure* that a breach will never happen, and therefore in most cases will need to be combined with some form of ex post monitoring (see discussion of Type 2 obligations below).[11] However, an *ex ante* assessment of compliance

[11] The exception is where the licence condition itself relates to a requirement to having processes or systems in place, rather than achieving a specified outcome.

processes can provide a high degree of reassurance that the licensee has processes in place which, if followed, should limit the probability of the licence obligations being breached.

However, the costs of an *ex ante* assessment of compliance systems are likely to be relatively substantial, especially where the assessment is conducted by an external party (see recommendation in section 5.3.2.4). Our recommendation would therefore be to target *ex ante* compliance monitoring on those obligations where the benefits of such an approach (in terms of the costs of breaches avoided) outweigh the costs of the *ex ante* assessment. compliance monitoring. From discussions with licensees, we understand that an *ex ante* assessment of specific aspects of their compliance systems (relating to specific obligations) is possible and would be less onerous than an *ex ante* assessment of the entire compliance system. Section 4.3 below highlights those obligations from the base set which we feel are current candidates for classification as Type 1 obligations, assuming that the new compliance regime is introduced early in 2002 .

Where compliance monitoring of a Type 1 obligation indicates that the licensee does <u>not</u> have an effective compliance system in place, this would not *in itself* represent a breach of current licence conditions. However, it would act as an 'early warning system' that breaches of that obligation were more likely for that licensee. This information should in turn trigger more frequent performance monitoring by the licence compliance body (eg, monthly rather than quarterly) in order to enable any such breaches to be identified and addressed more quickly.

Looking ahead, one of the recommendations in NERA's Part 1 Report was that the requirement on electricity sector licensees to submit licence plans should be removed, and, where deemed necessary, replaced with specific licence conditions covering the areas currently addressed by the licence plans. Currently, electricity sector licensees are required as part of their licence plans to develop plans for licence compliance management. It may be desirable to replace this obligation with a specific licence condition requiring licensees to have adequate compliance systems in place, which correspond with an agreed external standard (such as Australian Standard AS3806). Similar conditions may be appropriate for gas sector authorisations.

Finally, we note that, although IPART does not have the legislative powers under the Gas Supply Act to require *ex ante* audits of gas authorisation holders' compliance systems, our understanding is that the Minister has recently written to all gas sector authorisation holders proposing to include as an authorisation condition an audit power in gas which would parallel IPART's existing power to undertake audits in the electricity sector.[12] The Minister is currently considering the authorisation holders' responses.

If the Minister decides that granting IPART the power to require *ex ante* compliance systems audits for gas authorisation holders is not appropriate, then the obligations we have identified as Type 1 obligations for gas sector authorisation holders would have to instead

12 Electricity Supply Act 1995, Section 87.

be classified as Type 2 obligations. However, in this case we would recommend that the *ex post* monitoring be more frequent (eg, monthly).

4.2.1.2. Type 2 conditions

Type 2 obligations are those where a breach of the obligation results in a significant impact on the relevant government policy area, and where such impact is significantly lessened the earlier the breach is detected and corrective action taken.

As noted above, an *ex ante* assessment of compliance systems cannot prevent breaches occurring. Therefore, the majority of Type 1 obligations also require some form of *ex post*, performance monitoring.[13] Given that Type 1 obligations are those where a breach has a significant impact and is costly to correct, they are also likely to be obligations where the licence compliance body would want to detect breaches soon after they occur. In some cases (such as with obligations to maintain appropriate insurance provisions), it may be appropriate to require licensees to report any breach of their obligations 'within 3 days', ie, the class them as 'immediate'.[14] In other cases, it may be sufficient to classify obligations as both Type 1 *and* Type 2, and therefore to require monthly/quarterly *ex post* reporting against these obligations, in addition to an *ex ante* systems assessment.

There are also obligations where a breach does have a significant impact, but not so high as to justify the costs of an *ex ante* assessment of compliance systems. For these obligations, monthly/quarterly reporting is preferable to annual reporting, and so we would expect that these obligations would be classified as Type 2.

Where a breach of a licence obligation is suspected, requiring more frequent performance reporting can enable breaches to be uncovered in a more timely manner. We would therefore envisage obligations being classified as Type 2 (rather than Type 3) where a breach of the obligation is suspected. Since suspected breaches may arise and/or change over time, this implies that the ability to reclassify obligations is important (see Section 4.4 below).

The final situation where we envisage obligations being classified as Type 2 is where monthly/quarterly reporting is necessary in order to meet the *objective* of the obligation. Specifically, where licensees are asked to report quarterly on Key Performance Indicators (KPIs), compliance monitoring should be targeted at ensuring that the KPI data is in fact reported on a quarterly basis.

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[13] As noted earlier, the exception is where the licence condition imposes an obligation in relation to the licensee having appropriate systems in place, rather than in relation to a specified outcome. An example are the obligations on standard electricity retailers and standard gas suppliers to have an approved Retailer of Last Resort plan in place.

[14] In the draft reporting requirements in Appendix A, we have classified obligations as 'Immediate', where any breach is to be notified to IPART within 3 days. The decision as to whether 3 days is the appropriate timeframe is one which should be agreed between IPART and the licensees/authorisation holders as part of the process for finalising the initial Reporting Manuals.

Section 4.3 identifies, for each electricity licence and gas authorisation, those obligations from the base set which we would consider to be candidates for classification as Type 2 obligations, on the assumption that the new compliance regime is introduced early in 2002.

IPART has the powers under both the Electricity Supply Act and the Gas Supply Act to conduct compliance monitoring on a frequent basis, ie, it is not limited to only assessing compliance on an annual basis. Whilst the Electricity Supply Act *requires* IPART to submit an annual compliance report to the Minister before the end of October each year,[15] IPART is not prevented from monitoring compliance (and reporting to the Minister) on a more frequent basis.

We have left open the possibility of Type 2 reporting requirements being either monthly or quarterly.[16] There are benefits in standardising the reporting period for all Type 2 obligations (ie, all quarterly or all monthly), in terms of streamlining the compliance cycle of activities. However, ultimately the decision as to the frequency of reporting will come down to a judgement as to the benefits to be obtained from more frequent monitoring versus the increased costs. This trade-off need not be the same for all obligations.

Our working assumption for preparing the draft reporting requirements in Appendix A is that reporting for all Type 2 obligations is quarterly. However, we would anticipate the frequency of reporting against Type 2 obligations to be discussed as part of the process of finalising the initial Reporting Manuals.

4.2.1.3. Type 3 conditions

Finally, recognising that there are costs associated with more frequent monitoring, there remain obligations for which annual *ex post* monitoring remains appropriate, ie Type 3 obligations. These are obligations for which breaches have little or no adverse impact on the government's policy objectives, where early detection does not significantly increase the impact of the breach, the cost of correction and/or the ability of the licensee to redress the breach, and/or where available data already indicates a high degree of compliance.

Section 4.3 identifies for each electricity licence and gas authorisation, those obligations from the base set which we would classify as Type 3 obligations.

4.2.1.4. Ad-hoc investigations

An important recommendation in NERA's Part 1 Report was that IPART should have the ability to undertake *ad-hoc* investigations if a significant breach of licence obligations is

15 Electricity Supply Act 1995, section 88.

16 Whilst we have focused on a choice between monthly or quarterly reporting, as being the most appropriate choice when the new compliance regime is first introduced, ultimately there may be some Type 2 requirements for which six-monthly reporting is appropriate.

suspected.[17] This ability would supplement the regular compliance reporting required from licensees/authorisation holders, and would be used pro-actively to investigate suspected breaches which came to IPART's attention through, for example, media reports or reports by EWON. The ability for IPART to investigate suspected breaches on an *ad-hoc* basis means that classifying obligations as Type 3 does not mean that the only time at which compliance with those obligations will be considered is during IPART's annual compliance review. Information on non-compliance with these obligations which emerges during the year could be followed up by an investigation by IPART.

We noted in our Part 1 Report that IPART does not have the power under the Electricity Supply Act 1995 to directly compel licensees to provide additional information in order to conduct an *ad-hoc* investigation. In the absence of a change to the Electricity Supply Act, IPART would need to make the need for the information known to the Minister, and the Minister would then decide whether or not to request the additional information. In contrast, IPART does have the power to request information from gas authorisation holders under Section 33 of the Gas Supply Act 1996.

4.3. Classification of Current Obligations

Table 4.2 summarises the Type 1, Type 2 and 'immediate' obligations we have identified for each electricity licence holder. Table 4.3 presents the equivalent summary for gas authorisation holders. All other obligations for both electricity licensees and gas authorisation holders have been classified as Type 3. The shaded obligations in the tables indicate that our recommendation is for reporting to IPART in relation to compliance to be done by a person or agency other than the licensee/authorisation holder.

The remainder of this section discusses the basis for the classification in more detail.

[17] See Section 5.2.3.4 of NERA's Part 1 Report for a full discussion.

Table 4.2
Electricity Licences: Classification of Obligations

Retail Licence	
Type 1 *[Compliance assessment relates to licensees' compliance systems or to plans]*	• Compliance with the Customer Transfer Market Operation Rule • Compliance with the Marketing Code of Conduct • Compliance with billing obligations in the Electricity Supply (General) Regulation 2001 • Compliance with provisions regarding standard form and negotiated customer supply contracts set out in the Electricity Supply (General) Regulation 2001 • Transfer of customer calls regarding faults/difficulties in electricity works to DNSPs within 30 seconds, in line with Market Operation Rule • Compliance with endorsement condition to have an approved Retailer of Last Resort plan
Immediate	• Lapse of registration with NEMMCO
Type 2 *[Compliance assessment relates to performance]*	• Compliance with the Customer Transfer Market Operation Rule • Compliance with the Marketing Code of Conduct • Compliance with billing obligations in the Electricity Supply (General) Regulation 2001 • Compliance with retail communication requirements under Market Operation Rule • Compliance with endorsement conditions if Retailer of Last Resort triggered • Submission of quarterly reporting on Key Performance Indicators*
Distribution Network Service Provider (DNSP) Licence	
Type 1 *[Compliance assessment relates to licensees' compliance systems or to plans]*	• Preparation of plans:# i. Safety and Operating Plan ii. Customer Installation Safety Plan iii. Public Electrical Safety Plan • Compliance with provisions regarding standard form and negotiated customer connection contracts set out in the Electricity Supply (General) Regulation 2001 • DNSP to establish and operate an NMI Discovery Service in accordance with the Market Operation Rule (NSW Transfer Rules for Retail Electricity Supply)
Immediate	• Lapse of registration with NEMMCO
Type 2 *[Compliance assessment relates to performance]*	• DNSP to operate an NMI Discovery Service in accordance with the Market Operation Rule (NSW Transfer Rules for Retail Electricity Supply) • Compliance with obligations not to withhold approval of transfer of small retail customers under the Market Operation Rule (NSW Transfer Rules for Retail Electricity Supply) • Compliance with obligations under Market Operation Rules on billing retailers for connection services • Compliance with quarterly reporting on Key Performance Indicators*

(i) Compliance with Market Operation Rules and the Marketing Code of Conduct are made licence conditions under section 63D(2) and section 63I of the NSW Electricity Supply Act 1995;

(ii) Compliance with obligations in relation to billing set out in Division 4 of the Electricity Supply (General) Regulation 2001 is made a retail licence condition under clause 19 of that regulation;

(iii)Sections 39 and 40 of the NSW Electricity Supply Act 1995 makes it a licence condition for licensees to prepare a standard form customer supply contract and requires such contracts to make provision for such matters which may be prescribed by regulation. Sections 19 and 20 repeat the obligations for standard form connection contracts. Section 38A(6) and a retail supplier licence condition makes it a licence condition to comply with any requirements prescribed by regulations for negotiated customer supply contracts. The DNSP licence contains a condition relating to compliance with any requirements prescribed by regulations for negotiated customer supply contracts ;

(iv) It is a condition of a retailer's licence endorsement that they must prepare a Retailer of Last Resort plan, and comply with obligations in relation to the Retailer of Last Resort Role set out in the endorsement;

(v) The requirement to be registered with NEMMCO is a retail licence condition imposed by the Minister.

(vi) The Market Operation Rules for making of arrangements on behalf of customers for the provision of Customer Connection Services, record keeping and information exchange requirements for DNSPs and retail suppliers contains obligations on retail communications requirements, in Schedule 1.

([#]) Currently the preparation of safety plans is an obligation under the Electricity Supply (Safety Plans) Regulation 1997. However, the Ministry of Energy has proposed that it should also be supported by a licence condition.

(*) The requirement to submit information on Key Performance Indicators is currently included in that part of the Ministerial Guidelines and Requirements Policy covering the preparation of Licence Plans. Our recommendation is that an explicit licence condition is introduced in both electricity retail and electricity distribution licenses requiring reporting on specified KPIs.

Table 4.3
Gas Authorisation Holders: Classification of Obligations

Supplier Authorisation	
Type 1 *[Compliance assessment relates to licensees' compliance systems or to plans]*	• Compliance with billing obligations (Gas Supply (Natural Gas Retail Competition) Regulation) • Compliance with Marketing Code of Conduct • Compliance with provisions regarding Standard Form Customer Supply Contracts set out in the Gas Supply (Natural Gas Retail Competition) Regulation 2001 • Compliance with Business Rules to support full retail competition • Compliance with communication provisions in the Network Code • Compliance with endorsement condition to have an approved Retailer of Last Resort Plan
Type 2 *[Compliance assessment relates to performance]*	• Compliance with billing obligations (Gas Supply (Natural Gas Retail Competition) Regulation) • Compliance with Marketing Code of Conduct • Compliance with communication provisions in the Network Code • Compliance with endorsement conditions if Retailer of Last Resort triggered • Compliance with quarterly reporting on Key Performance Indicators*
Natural Gas Reticulator Authorisation	
Type 1 *[Compliance assessment relates to licensees' compliance systems or to plans]*	• Compliance with requirement to operate a safe distribution system • Must arrange and maintain appropriate insurance and indemnity • Must maintain effective emergency procedures • Must adopt and comply with a Network Code • Compliance with Business Rules to support full retail competition
Immediate	• Must notify any lapse of insurance and indemnity
Type 2 *[Compliance assessment relates to performance]*	• Maintenance of effective emergency procedures • Compliance with quarterly reporting on Key Performance Indicators*

(i) Compliance with the Marketing Code of Conduct is made an authorisation condition under section 33L of the NSW Gas Supply Act 1996;

(ii) Compliance with obligations in relation to billing set out in Division 4 of the Gas Supply (Natural Gas Retail Competition) Regulation 2001 is made a supplier's authorisation condition under clause 18 of that regulation;

(iii) Clause 42 (2) of the Gas Supply (Natural Gas Retail Competition) Regulation 2001 makes it an authorisation condition to comply with all provisions in the Act and Regulation in relation to customer supply contracts;

(iv) It is a condition of both a supplier's authorisation and a reticulator's authorisation imposed by the Minister that authorisation holders must comply with an approved scheme to support full retail competition. GMCo's Business Rules are currently the only approved scheme.
(v) It is a condition of a supplier's authorisation endorsement that they must prepare a Retailer of Last Resort plan, and comply with obligations in relation to the Retailer of Last Resort Role set out in the endorsement.

(vi) It is a condition of a reticulator's authorisation that they operate a safe distribution system, have in place an effective emergency telephone service, arrange and maintain appropriate insurance and indemnity and adopt and comply with a Network Code..

LPG Distributor Licence	
Type 1 *[Compliance assessment relates to licensees' compliance systems or to plans]*	• Compliance with requirement to operate a safe distribution system • Compliance with requirements to arrange and maintain appropriate insurance and indemnity • Compliance with requirements to have appropriate arrangements in place to deal with gas escapes
Immediate	• Must notify any lapse of insurance and indemnity
Type 2 *[Compliance assessment relates to performance]*	• Compliance with requirements to have appropriate arrangements in place to deal with gas escapes

(vii) All obligations on LPG distributor licensees arise as conditions of the licence.

(*) There is currently no requirement to submit information on Key Performance Indicators. Our recommendation is that an explicit licence condition is introduced in both suppliers' and reticulators' authorisations requiring reporting on specified KPIs.

4.3.1. Type 1 conditions

The Type 1 obligations we have identified relate primarily to safety obligations and key customer protection obligations which have been introduced in the light of full retail competition.

A breach of **safety obligations** would obviously have a critical impact, and monitoring should focus on aiming to ensure that such breaches do not occur. Under current monitoring arrangements, both gas reticulators and electricity DNSPs submit safety and operating plans to the Ministry of Energy and Utilities (MEU). Gas reticulators are required as a condition of their authorisation to operate a safe distribution system, having regard to their safety and operating plan. For electricity distributors, the preparation of and compliance with safety and operating plans is an obligation under the Electricity Supply (Safety Plans) Regulation 1997. However, MEU has proposed that it should also be supported by a licence condition.[18] MEU staff currently evaluate all safety and operating plans and monitor safety performance. The classification of the obligation to prepare and operate in accordance with safety plans as 'Type 1' therefore reflects a continuation of the current monitoring arrangements. Our recommendation is that the roles of IPART (as

18 Ministry of Energy and Utilities, NSW Electricity Network Management Report 1999/2000, page 2.

licence regulator) and MEU should be formally aligned, by requiring licence compliance reporting to only relate to notification by MEU to IPART that the licensee/authorisation holder has an approved plan in place and is operating in accordance with this plan.

The **customer protection obligations** we have identified in Tables 4.2 and 4.3 as Type 1 conditions are either wholly or largely new obligations, which have been introduced to provide specific protection to customers in a full retail competition environment. A breach of these obligations at a time when full retail competition is being introduced would be likely to have a significant impact in relation to customer confidence in the entire FRC process, and also a significant impact on customers themselves. An *ex ante* assessment of compliance is therefore recommended to provide the licence regulator with the reassurance that the licensees have adequate systems in place to comply with these obligations, and to prevent a breach of these obligations occurring as far as possible.

As noted as part of the discussion in Section 4.2, it is not the 'newness' of the FRC obligations *per se* which has resulted in their classification as a Type 1 obligation. Rather, it is an assessment that a breach of those obligations would have a severe impact on customer confidence in the new FRC market arrangements. Once full retail competition is firmly established, we would expect that a breach of these obligations would have a much lower impact on customer confidence in the FRC arrangements, and, hence, the impact would be lessened. At this point, it is likely to be appropriate to re-consider the classification of these obligations. This is discussed further in section 4.4.

The Electricity (General) Regulation 2001 and the Gas Supply (Natural Gas Retail Competition) Regulation 2001 include a number of requirements on the content and form of both **standard form customer supply contracts** and **standard form customer connection contracts**. These requirements are aimed at providing customer protection, by ensuring that standard form contracts incorporate specific provisions. These include (but are not limited to) specific provisions which must be included in standard form contracts in relation to disconnections, information which must be included in the contracts and circumstances in which the contract can ask for security. It is a condition of electricity retail and DNSP licences and natural gas supplier and reticulator authorisations, that the licence/authorisation holder comply with all requirements in the Act and Regulations on the content of standard form customer contracts. In view of the comprehensive nature of the Regulation provisions regarding the form and content of standard form contracts, and the importance of these provisions in triggering other customer protection provisions in the regulation,[19] we recommend that standard form contracts should be subject to *ex ante* compliance assessment.

[19] For example, licensees are required to highlight in their contracts the service standards that are subject to compensation payments if not met (ie, Guaranteed Service Levels). Customers need to be aware that GSLs exist, before they are able to claim compensation.

The regulations also contain a number of obligations on what must be included in **negotiated customer supply contracts** and **negotiated customer connection contracts**. Our recommendation is that licensees'/authorisation holders' procedures for ensuring that their negotiated contracts do in fact contain the relevant provisions is also subject to an *ex ante* assessment. To the extent that standardised versions of the negotiated contracts emerge,[20] this *ex ante* assessment may include a similar evaluation of these standard versions to that proposed for standard form contracts. However, where negotiated contracts differ widely in format, any *ex ante* monitoring of the content of *each* negotiated contract would be significantly more onerous, given that there could potentially be a large number of contracts in different formats being prepared at different times. In the latter situation, the *ex ante* assessment should focus only on evaluating the process by which contracts are drawn up.

We note that there are authorisation conditions for both natural gas suppliers and natural gas reticulators which requires authorisation holders to participate in and comply with an approved scheme to support full retail competition. In December 2000, the NSW retail gas industry established GMCo to manage on their behalf, the development and operation of the systems necessary to facilitate a competitive gas retail market. GMCo has in turn developed a set of Business Rules.

A breach of the Business Rules developed by GMCo could be expected to have a significant impact on customer confidence in the new FRC arrangements in the gas market. As such, we have classed these as Type 1 obligations. However, we understand that GMCo intends to *itself* monitor compliance with its Business Rules and that it is a policy decision that GMCo is the appropriate body to monitor compliance in this instance. As a result, our recommendation is that IPART's role in monitoring compliance with these authorisation conditions be limited to receiving information from GMCo on an annual basis that authorisation holders have complied with the Business Rules and describing any exceptions (together with the action GMCo and/or the authorisation holder has taken to address the breach). This avoids duplication in compliance monitoring by both GMCo and IPART.

Finally, there are provisions on both gas suppliers and gas reticulators to comply with a Network Code consistent with the Network Code Guidelines issued by the Director-General of the Ministry of Energy and Utilities. The Network Code Guidelines sets out a number of provisions, relating to communication between suppliers and reticulators (in relation to network faults and emergencies) and also in relation to required procedures for network related works, metering and discontinuance and recommencement of supply. We have identified these obligations as having a key impact on the functioning of the market, and therefore being Type 1 obligations.

[20] Or standardised versions of those aspects of negotiated contracts which are covered by regulation provisions.

4.3.1.1. *Reporting requirements*

In relation to compliance reporting for the Type 1 conditions identified above, we have identified three distinct forms of reporting, depending on the nature of the obligation. Specifically:

- Annual certification by the Board/CEO (supported by an external auditor) that the licensee has an *effective system* in place to meet the obligation: for customer transfer, billing obligations, negotiated customer contracts, communication requirements, the Marketing Code of Conduct and the Network Code Guidelines;[21]
- Certification by the Board/CEO[22] (supported by an external legal party[23]) that the standard form contract issued by the licensee contains the required information: for supply and connection contracts;
- Reporting by other agencies that the licensee has complied with the condition: for safety obligations, emergency procedures, the gas market Business Rules and ROLR plans.[24]

The majority of Type 1 obligations will require the first type of reporting, ie, on the effectiveness of the licensees' compliance *systems*. Our recommendation is that this reporting should be required annually. Since a breach of Type 1 obligations, by definition, will have a severe impact on government policy objectives, it is important not only that an effective system is put in place, but that it is *maintained.*

We note that the Electricity Supply (General) Regulation 2001, clause 109 allows for a transitional period for meeting the new billing obligations, and that systems which comply with the existing regulation obligations are taken to be compliant for this transitional period.

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21 Our understanding is that the 'market readiness' testing conducted by MIG for electricity licensees and by the MEU for gas authorisation holders was limited to testing the physical capabilities of the IT systems. The 'readiness' testing did not also cover a licensees' ability to comply with the licence obligations in these areas. The *ex ante* licence compliance monitoring recommended here does not therefore duplicate processes adopted by other agencies.

22 Ideally, such certification should be given a set number of days before the new standard form contract is initially introduced, and before any subsequent revisions.

23 Although the Regulations are prescriptive in terms of the coverage of the standard form contracts, they do not prescribe a specific *form* of contract. As a result, there will inevitably be a degree of interpretation in certifying that a licensees' contract complies with the Regulation obligations. Our recommendation is therefore that licensees/authorisation holders are required to have their certification supported by an external legal party. Given that the majority of licensees/authorisation holders will have their customer contracts drawn up by an external legal party, we do not view this requirement for external certification as overly onerous. This view has been confirmed in discussions with licensees.

24 Specifically, MEU currently monitors safety obligations and approves safety and emergency plans; GMCo will be the body monitoring compliance with the gas market business rules; and the Minister is required to approve ROLR plans for both electricity retailers and gas suppliers.

An equivalent provision applies to natural gas suppliers under clause 86 of the Gas Supply (Natural Gas Retail Competition) Regulation 2001.

Reporting requirements are discussed in more detail in Section 5, and presented in detail in Appendix A.

4.3.2. Type 2 conditions

We have recommended *ex ante* compliance assessment of key customer protection licence obligations. However, in addition to this *ex ante* assessment, some for of *ex post* assessment of actual performance should also be conducted. For such *ex post* performance assessment to be effective in detecting and addressing breaches of these customer protection provisions in a timely manner, it will need to be conducted on a more more frequent basis than the current annual compliance review. As a result, we have identified the majority of the Type 1 **customer protection obligations**[25] as also Type 2 condition, requiring quarterly, *ex post* compliance monitoring.

Once the new customer protection arrangements have been in place for a while, and if there is no widespread experience of breaches of the conditions, the criticality of a breach in terms of customer confidence in the new arrangements may be lessened. As a result, it may be desirable at that time to re-classify these obligations from Type 2 obligations to Type 3 (ie, annual reporting).

We have also identified any licence/authorisation conditions for licensees/authorisation holders to report on Key Performance Indicators as a Type 2 obligation.

4.3.2.1. Reporting requirements

In general, for Type 2 obligations we have recommended that licensees/authorisation holders submit a quarterly statement of compliance/non-compliance, based on actual performance and signed by the CEO and the Board. Such quarterly reporting is supported by an annual external audit.

Reporting requirements are again discussed further in Section 5 and are presented in detail in Appendix A.

[25] With the exception of the customer contract obligations.

4.4. Classifications should be subject to review

4.4.1.1. Changes in the classification of obligations

It is important that the categorisation of each obligation as Type 1, Type 2 or Type 3, and the associated reporting requirements, are clear. That is the role of the Reporting Manuals, discussed in the following section.

However, as noted earlier, it is also important that the classification of obligations as either Type 1, Type 2 or Type 3 is not a 'once-off' decision, but is able to be changed over time. The assessment of the criticality of a breach may change over time. In addition, where there are concerns regarding compliance with certain obligations, it would be appropriate to re-classify such obligations, in order to require more frequent monitoring, and/or ex ante monitoring. For example, we have classified compliance with the obligation to supply (a condition of a retailers' endorsement) as a Type 3, on the basis that it is an existing obligation and we are not aware of any compliance concerns. However, to the extent that compliance with this obligation is called into doubt in the future, it would be appropriate at that time to reclassify it as a Type 2 obligation.

Conversely, where quarterly compliance reports for Type 2 obligations indicate that there are no significant breaches of obligations occurring, it may be appropriate to re-classify such obligations as Type 3, provided that IPART's assessment of the impact of a breach and the value of early detection are consistent with this re-classification.

The reclassification of obligations should be subject to the same process as that recommended for all changes to the Reporting Manuals, and set out in Section 5.6.

It is important in terms of ensuring the clarity of the compliance regime that any re-classification of obligations, and the associated change in the reporting requirements, should be clearly signalled in advance, and should be reflected in updates in the Reporting Manuals.

4.4.1.2. Changes in reporting requirements for specific licensees

The compliance framework we have recommended is one in which the same Reporting Manual would apply to all licensees/authorisation holders holding the same type of licence/authorisation. That is, it is a standardised monitoring and reporting framework.

Notwithstanding the above, it is possible to envisage situations in which there are concerns with licence compliance with respect to a particular licensee, rather than all licensees. Similarly, there may be specific licensees who are considered to have more effective compliance systems in place, and therefore for whom *ex post* compliance monitoring by IPART is less of a concern.

We discussed above changes in the classification of obligations (and the consequent change in the nature and frequency in reporting), applying to all licensees. Where licence compliance concerns are limited to particular licensees, changing the reporting frequency for all licensees results in a cost being imposed on all businesses (and also a greater cost being faced by the monitoring agency). An alternative would therefore be to impose reporting requirements on particular licensees *in addition* to the general reporting requirements, in order to further target compliance monitoring, and to ensure that the additional costs are only imposed on those licensees whose compliance is in doubt.

For example, under an obligation for all licensees to report quarterly on compliance with the customer transfer market operation rules, if such reports identify a particular licensee as not complying, an additional obligation could be imposed on that licensee to also submit reports monthly, and/or to have the adequacy of their compliance systems externally audited. Similarly, if quarterly reporting indicates that there are continuing compliance concerns for the majority of licensees, but that a number of licensees have clearly complied, then the Type 2 classification could be maintained, but an exemption issued by IPART to the compliant licensees.

The imposition of additional reporting requirements where there has been a licence breach appears to be consistent with IPART's powers under both the Electricity Supply Act and Gas Supply Act.[26] Specifically, in response to a licence breach, IPART is permitted under the Act to require the holder of the licence to take such action as the Tribunal considers appropriate in the circumstances, provided that the cost of such action does not exceed the monetary penalty that IPART could have imposed instead. In the event that the cost of additional reporting exceeds the monetary penalty that IPART could apply and/or if IPART wanted to require additional reporting in response to a suspected (rather than actual) breach, then IPART would need to inform the Minister, and the Minister could then require the licensees/authorisation holders to provide the additional information.

The selective use of additional reporting requirements/reporting exemptions with respect to particular licensees needs to be used carefully, in order to avoid decreasing the transparency of the regime. It is also important that any additional reporting requirements/reporting exemptions can be appealed to the Minister, in order to guard against the potential for subjectivity in imposing such requirements. Nevertheless, the use of additional reporting requirements/reporting exemptions is a potentially useful tool.

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[26] Electricity Supply Act, Schedule 2, Section 8A. Gas Supply Act 1996, Section 13A (for natural gas authorisations) and Section 42A (for LPG licence).

5. REPORTING MANUALS

5.1. Introduction

Effective licensing regimes are characterised by clear reporting requirements, which are determined in advance. Knowing reporting requirements in advance provides licensees with the appropriate degree of certainty that the information they are collecting through their internal compliance monitoring systems is relevant and will meet the monitoring agency's reporting requirements. In addition, the monitoring agency should be able to rely on the information received from licensees. This improves the effectiveness of the compliance monitoring regime, since there is a greater degree of assurance that instances of non-compliance will be detected.

To improve the transparency and certainty of reporting requirements associated with the NSW energy licensing regime, we recommend that IPART, in its role as licence regulator, prepare a Reporting Manual for each gas and electricity authorisation/licence, which sets out standardised compliance reporting requirements.

This section discusses the coverage of the Reporting Manuals. Draft reporting requirements in relation to the consolidated base list of obligations for each licence/authorisation are contained in Appendix A, and have been written in such a way that they could form the basis of the Reporting Manuals. In this section we highlight key features of these draft requirements and recommend a process for finalising the Reporting Manuals, and for making future changes to the Reporting Manuals.

5.2. Reporting Requirements

Compliance monitoring regimes vary in terms of the *frequency* with which reports are submitted and the *content* of the reporting required.

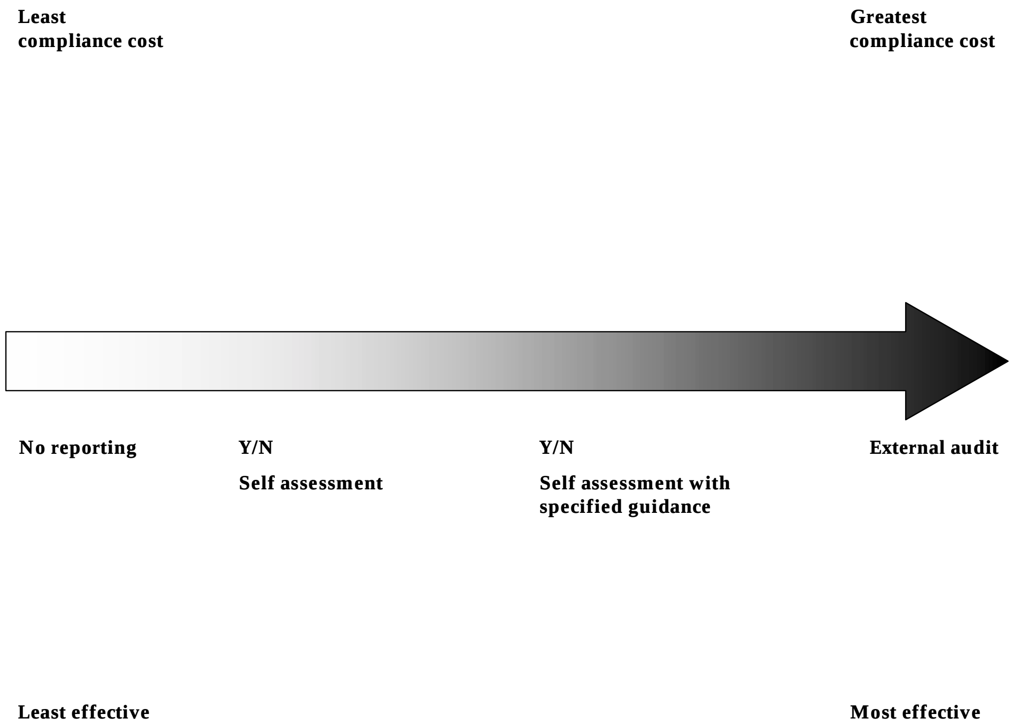
The content of reporting requirements can be considered to range along a spectrum, as depicted in Figure 5.1.

At one end of the spectrum there would be no compliance reporting by licensees. Such a regime would impose very low compliance costs, but would also be unlikely to be very effective, since there would be little active monitoring of compliance by licensees with their licence obligations.[27]

[27] Compliance monitoring can be conducted other than by requiring licensees to submit compliance reports. For example, IPART could rely solely on reports from EWON covering customer complaints. However, such an approach would reduce the overall flow of information to IPART (as licence regulator), and is likely to result in breaches in obligations remaining undetected.

Moving along the spectrum, licensees could be required to submit compliance reports which rely on ‘yes/no’ self-assessment by licensees of their compliance with licence obligations. This approach is adopted currently by IPART for electricity licensees,[28] and also by the SAIIR for electricity licensees in South Australia.

Figure 5.1: Compliance Reporting Spectrum



A compliance reporting regime in which licensees are required to report ‘yes/no’, without a clear definition of the basis on which a ‘yes’ or ‘no’ assessment should be made, means that each licensee has a degree of discretion in deciding whether to report non-compliance. It also means that the monitoring agency is required to interpret the results from each licensee.

The absence of a clear point of comparison for compliance reporting may result in the integrity of such reporting being undermined over time. A licensee may begin by reporting instances of non-compliance, but may then discover that other licensees are not reporting similar performance levels as ‘non-compliance’. In such circumstances, the first licensee is likely to decide to change the basis on which it reports non-compliance, and the credibility of the reporting regime becomes undermined.

[28] We note that electricity licensees in NSW are also required to have their self-assessment graded by an independent assessor.

Moving further along the reporting spectrum, one response to the above shortcoming is to specify the basis on which licensees are required to make their 'yes/no' assessment. That is, reporting requirements may provide specific, quantitative measures in relation to each obligation. The use of such 'compliance measures' means that there is an established point of comparison which increases the standardisation of licensees' compliance reporting. This in turn allows the compliance monitoring body to have a greater degree of confidence in interpreting reported performance.

The far right hand side of the reporting spectrum shown in Figure 5.1 shows licensees being required to have their compliance reports audited by an external party. Such external audits again allow for a point of comparison between the licensees' individual reports and allows the compliance monitoring body to rely on reported performance in assessing compliance. [29] The ORG in Victoria and both Ofwat and Ofgem in the UK make use of external auditors in assessing compliance.

In moving towards the right hand side of the compliance reporting spectrum shown in Figure 5.1, the effectiveness of the compliance monitoring regime is increased. The expected benefit associated with this increase in effectiveness will depend on the extent to which there is (or has been) non-compliance as well as the extent to which compliance with the licence obligations furthers policy objectives. Where there has been widespread non-compliance, or where the integrity of compliance reporting is in doubt, moving to the right of the spectrum shown in Figure 5.1 can be expected to deliver more benefit than where there is already a high degree of compliance with licence obligations.

It also needs to be recognised that the increase in effectiveness of the compliance regime comes at an increased cost in terms of the costs associated with compliance reporting. Requiring licensees' internal business systems to capture data on specific compliance measures may be costly, if the systems do not currently capture that data. The frequent use of external audits is also expensive.

This trade-off between the costs of compliance monitoring and the anticipated benefits is the driver behind our recommendation for a targeted approach to compliance monitoring, as set out in the previous section. Where the costs associated with a breach of an obligation are significant (ie, Type 1 and 2 conditions), the higher costs associated with more effective compliance monitoring are likely to be justified.

In the remainder of this section, we discuss the coverage of the proposed Reporting Manuals, and the draft reporting requirements set out in Appendix A. In drawing up these draft reporting requirements, we have erred on the side of being more rather than less prescriptive in terms of setting out guidelines for 'yes/no' reporting and the use of external audits. That is, we have positioned the reporting requirements more towards the right hand

[29] See discussion of the use of external audits in NERA's Part 1 Report, Section 5.2.4.3.

side of the spectrum shown in Figure 5.1. Ultimately it will be for IPART (as licence regulator), licensees/authorisation holders and government to consider the costs and benefits (and therefore the appropriateness) of the draft reporting requirements. However, we feel that such judgements can best be taken in full knowledge of what a more prescriptive approach would require.

5.3. Coverage of Reporting Manuals

There should be a separate Reporting Manual associated with each electricity sector licence and each gas sector authorisation/licence. Within the Reporting Manuals for electricity retailers and natural gas suppliers, the reporting requirements in relation to the licence endorsement conditions for standard retailers and standard suppliers should be clearly identified through the use of separate sections to refer to these endorsement conditions.

5.3.1. General reporting requirements

The Reporting Manuals should set out general information in relation to compliance reporting. In particular, it should set out the reporting deadlines for each type of obligation and the associated reporting period.[30] For example:

- quarterly report for Type 2 obligations to be submitted to IPART by both electricity licensees and gas authorisation holders:
  - by 30 April covering the period 1 January to 31 March
  - by 31 August covering the period 1 April to 30 June
  - by 31 October covering the period 1 July to 30 September; and
  - by 31 January covering the period 1 October to 31 December
- annual report for all Type 1 and Type 3 obligations to be submitted by electricity licensees to IPART by 31 August, covering the previous financial year.
- annual report for all Type 1 and Type 3 obligations to be submitted by gas authorisation holders licensees to IPART by 30 September, covering the previous financial year.

The Reporting Manuals should also highlight any reporting requirements which apply generally across all obligations.

For example, our recommendation is that licensees be required to submit a statement that they comply with *all* of the obligations placed on them, apart from the exceptions listed.

[30] The timetable for report submissions is discussed in more detail in Section 6 of this report.

Such a form of reporting is known as **exception reporting**, and is common in other jurisdictions (eg South Australia, UK).

Where a licensee submits an exception report, it should be required to list, not only the instances of non-compliance, but also the reasons for the non-compliance and the steps which have been taken to rectify the breach and to ensure that the non-compliance does not reoccur. The Reporting Manuals should set out a pro forma for such exception reports, to ensure that IPART (as licence regulator) receives compliance information in a standardised format. A draft pro forma is provided in Appendix B.

5.3.2. Specific reporting requirements

In addition to setting out general compliance reporting requirements, the Reporting Manuals should also make clear, for *each* licence/authorisation obligation, the specific form of compliance reporting required with respect to that obligation.

For each licence/authorisation obligation, our recommendation is that the Reporting Manuals should specify:

- the reference for where in the legislative regime the licence obligation arises and any cross-reference to the description of the obligation in the relevant Consolidated Reference Documents;
- whether the obligation is classified as Type 1, Type 2 or Type 3[31] and the associated frequency of reporting required;
- whether the licensee is required to report against the obligation, or whether IPART will receive reports from another agency (and, if so, which agency);
- the form and content of reporting required against each obligation, including any 'compliance measures' to be used and any specific triggers for when an exception report should be provided;
- any specific data accuracy requirements in relation to reporting; and
- whether the compliance report submitted is required to have CEO/Board sign-off and whether it is required to be subject to an external audit.

Table 5.1 provides an example of the detailed coverage of the Reporting Manuals. In Appendix A we present draft reporting requirements with respect to each of the base set of licence/authorisation obligations. In the remainder of this section we discuss key aspects of the information presented in the draft reporting requirements.

[31] Note, obligations can be classed as Type 1 *and* Type 2 or 3.

We note that the draft reporting requirements contained in Appendix A have been developed on the basis of the consolidated base list of obligations as at 1 November 2001, prepared by IPART. Inevitably these obligations have been added to, with the introduction of new Market Operation Rules issued in January 2001. However, the draft requirements in Appendix A form a comprehensive basis from which to further develop the Reporting Manuals. In section 5.4 we recommend a process for finalisation of the Reporting Manuals.

5.3.2.1. Compliance reporting measures

Our recommendation is that *ex post* performance reporting against Type 2 and Type 3 obligations should involve a 'yes/no' assessment by licensees of whether or not they have complied with the obligation. Where a licensee reports that they have not complied, it is required to submit an exception report detailing the reasons for non-compliance and the remedial steps that have been taken to address the breach and to prevent its reoccurrence.

We discussed in section 5.2 above the use of 'compliance reporting measures' to define the basis on which licensees should base their 'yes/no' assessment of compliance. The use of such measures increases the degree of standardisation in reporting between licensees. As a result, IPART is able to place a greater degree of reliance on the data reported. The use of such indicators therefore goes some way to increasing the effectiveness of the compliance monitoring regime without the need to require all licensees' compliance reporting to be subject to an external audit.

The draft reporting requirements in Table 5.1 and Appendix A include examples of the type of quantitative compliance measures which could be required.

As an example, the second row of Table 5.1 relates to the licence obligation on electricity retailers not to transfer customers without their signed consent and to allow customers a 10 day 'cooling off period' before transfer.[32]

[32] This obligation arises under the Market Operation Rules (NSW Transfer Rules for Retail Electricity Supply) 2001. Compliance with Market Operation Rules is made a licence obligation under clause 63D(2) of the Electricity Supply Act 1995.

Table 5.1: Example of Content of Reporting Manuals – Electricity Retail Licence

Reference	Compliance Type	Content of reporting	Sign-off requirement	Exception report not required if:
#	Type 1	'yes/no' statement that there is a high degree of confidence that the licensee has a system in place which will enable it to comply with the obligation.	CEO/Board sign-off External audit	Statement is 'Yes'
#	Type 2	'yes/no' assessment based on: • (number of customers transferred with consent)/(number of customers transferred) • (number of applications where the number of days between the customer's dated application to transfer and completion of the transfer was greater than ten)/ (total number of customers transferred) High degree of confidence that data on which assessment based accurately reflects performance.	Quarterly CEO/Board sign-off Annual external audit	Ratio is 1 for all measures specified.
#	Type 3	No licensee reporting required MEU to confirm to IPART by 31 August that adequate Safety and Operating Plans have been submitted by the licensee.	-	Not applicable

Similarly, measures could be constructed for the number of customers who were not transferred until after the ten day ‘cooling off’ period versus the total number of customers transferred (ie, within and after the cooling off period).

In looking at the practicality of introducing these type of measures, there are a number of factors to bear in mind.

Firstly, it is important to take into account whether the licensees’ internal businesses systems are in fact capable of generating the ‘compliance measures’ proposed. With respect to customer transfer, we understand that licensees are more likely to rely on customer complaints to identify cases of non-compliance, than conducting the type of internal check of their transfer systems which would use the measures suggested. However, it may still be possible for the systems to be used to generate the type of measures discussed above. An alternative would be to relate the indicator to the number of customer complaints in relation to erroneous transfers.

Secondly, it would be important to tightly define any measures used. For example, should an erroneous transfer which is corrected within 24 hours be included in calculating the above ratio? Would a customer transfer within the ten day period, which was subsequently reversed if the customer decided to exercise its right to negate the transfer within the cooling off period, still be counted as an instance of ‘non-compliance’?

The types of issues identified above are ultimately matters of judgement, determined by balancing considerations of what is practical with what is desirable in order to provide a more consistent and robust basis for compliance assessment. As such, we recommend that IPART and the licensees work through the examples provided in Appendix A (as part of the suggested ‘content of reporting’) as part of the process for finalising the Reporting Manuals. As noted previously, the examples we have provided err on the side of being more rather than less prescriptive in terms of the compliance measures listed, on the basis that ‘the devil is in the detail’, and that it will be easier to develop the final Reporting Manuals from this basis.

It should also be borne in mind that the compliance regime can be expected to evolve over time. It may be that IPART decides to continue with ‘yes/no’ assessments of compliance and only to introduce specific compliance reporting measures in response to areas in which ambiguity emerges in compliance reporting between licensees.

5.3.2.2. *Data accuracy*

The assessment of licensees' performance will be based largely on performance data.[33] The more accurate that performance data, the more the assessment of compliance will reflect actual outcomes.

Other jurisdictions vary in the extent to which they explicitly specify requirements in relation to the accuracy of the data used in businesses' compliance reports.

In South Australia, the SAIIR does not set out explicit targets for data accuracy. Instead, the requirement for the licensees' directors to sign-off on a statement that 'having made due enquiry' they are not aware of any breach of the obligations other than those listed, is viewed as placing the responsibility for ensuring adequate data accuracy back onto the licensees themselves.

In Victoria, the ORG includes requirements on data accuracy as part of its guideline on Regulatory Audits for electricity businesses.[34] In respect of performance information submitted by licensees, the compliance grades used to assess the information focuses on the *reliability* of the procedures for generating the information and the *accuracy* of the data itself.

Specifically, a two part confidence grade is assigned to each performance indicator. The first grade is a reliability assessment and is determined as follows:

Grade	**Reliability Assessment**
A	All data is based on sound information systems and records, and on documented policies, practices and procedures which are: • Consistent with the Office's information specifications; and • Fully understood and followed by staff
B	Most data conforms with grade A. Data which does not has a minor impact on overall data integrity. For example, a minority of data may be based on: • Information specifications which are significantly, but not substantially, different to those published by the ORG; or • Procedures which are not fully understood by staff; or • Minor variations from documented procedures; or • Estimation or extrapolation of data which conforms with Grade A; or • Reliance on unconfirmed reports
C	In many cases, but not all, data is based on: • Information specifications which are significantly, but not

33 Information from customer complaints may also be taken into account in determining licensees' performance.

34 Electricity Industry Guideline No. 9 Regulatory Audits, Version 1, July 1999, pages 8-9.

	substantially, different to those published by the ORG; or • Procedures which are not fully understood by staff; or • Estimation or extrapolation of data which conforms with grade A or B; or • Reliance on unconfirmed reports.
D	Other data

The accuracy grade is awarded according to the following levels of accuracy:

Grade	**Accuracy**
1	±1%
2	±5%
3	±10%
4	±25%
5	±50%
6	±100%
X	For small samples where an accuracy cannot be calculated or error would be more than 100%

As a result of the above classifications, performance data is therefore ranked by auditors as being, for example, A2, C5, DX and so on.

For other licence obligations (ie, those not requiring the submission of performance information) the ORG does not adopt a specific data accuracy requirement. Rather, it specifies a grading system for the assessment of compliance (see section 5.3.2.3 below).

In the UK, Ofgem has included requirements in relation to data accuracy in its Regulatory Information Guidelines. These data accuracy requirements have two elements, which relate to the extent to which the information captured is accurate, and the extent to which the information captured covers the number of actual occurrences. For example, electricity distribution licensees are required to satisfy the auditors that their measurement systems and reporting procedures are adequate to deliver accurate figures for both the number and the duration of interruptions to low voltage supply in 90 per cent of cases. In addition, the auditors must be satisfied that the company’s systems and procedures are adequate to deliver the required information 95 per cent of the time (that is, the information captured must cover at least 95 per cent of occurrences).

The data audits for the UK electricity businesses are conducted as a two stage process. First, the auditors look at the measurement systems to assess their adequacy. On the basis of this assessment, they then choose a sample size and audit the paper trail for this sample of specific incidents.

The target levels of accuracy set by Ofgem were decided on the basis of work undertaken on existing levels of accuracy. Target levels were then set slightly higher. The auditors are also required to provide an assessment of the potential level of accuracy that could be achieved. This suggests that Ofgem may consider changing the required level of accuracy in the future.

As noted above, other jurisdictions vary in the extent to which they explicitly specify requirements in relation to the accuracy of the data used in businesses' compliance reports. The desirability of explicitly specifying data accuracy requirements appears to be higher where the licence obligation requires actual performance data to be reported, rather than requiring a 'yes/no' assessment.

Our recommendation is that licensees' *ex post* reporting with respect to Type 2 and 3 obligations contain a statement that the licensee has a 'high degree of confidence that the data on which the 'yes/no' assessment is based accurately reflects its performance.' The second row of Table 5.1 again provides a relevant example. However, we note that it may be appropriate to introduce explicit standards for data accuracy in respect of licence obligations which require businesses to report on key performance indicators.

The accuracy of the licensees' performance data should also be included in the scope of any external audits associated with that obligation (see section 5.3.2.4 below). We would recommend that auditors are asked to provide an estimate of the current level of data accuracy. This would enable IPART to assess the extent to which the accuracy of data varies between licensees, and could be a trigger for introducing more explicit data accuracy requirements in the future, if data accuracy is found to be inadequate.

5.3.2.3. The trigger for an exception report

We noted above that our recommendation is that licensees should be required to submit exception reports in relation to each 'no' assessment of compliance.

The previous sections discussed quantitative compliance reporting measures, and the need for such measures to be based on accurate performance data. However, as well as specifying the required measure on which a 'yes/no' assessment should be based, our recommendation is that IPART also considers whether it would be appropriate for the Reporting Manuals to make clear what outcomes for that measure should result in a 'yes' assessment, and what outcomes should result in a 'no' assessment. That is, whether the Reporting Manuals should specify the trigger for an exception report.

In South Australia, the SAIIR does not formally set out the trigger for licensees to report ‘non-compliance’. Rather it leaves the decision to the licensees. The SAIIR’s compliance reporting guideline does provide some general guidance on the test which licensees should use in determining whether a breach is ‘material‘ and should be reported as such.[35] These guidelines are:

- the impact of the breach on consumers;
- whether the breach has a financial impact on consumers;
- the number of consumers affected; and
- the potential (and actual) impact on safety and risk to the public.

The SAIIR also reserves the right to write to licensees and inform them of those provisions which they consider to be ‘material’.

In contrast, the ORG specifies very specific guidelines for grading compliance with licence obligations by licensees.[36] These grades are set out below. The ORG notes that, in many cases, it will necessary to use judgement to estimate the compliance grade accordingly.

Grade	**Compliance Level** (% -estimated or actual)
A	95^{+}-100
B	80^{+}-95
C	50^{+}-80
D	0-50

Compliance grades must be assessed by the auditor to a 90% confidence level, based on statistical methods where possible, and judgement in other cases. It should be noted that a licensee can achieve the top ‘A’ grade if it is assessed as having complied with the licence condition in more than 95% of cases.

The last column in Table 5.1 illustrates what the explicit specification of a ‘reporting trigger’ in the reporting manuals may look like. In particular it sets out in what circumstances a ‘yes’ assessment is warranted. If this outcome is not achieved, the licensee is required to make a ‘no’ assessment, and to submit an exception report.

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35 SAIIR, Compliance Systems and Reporting, Electricity Industry Guideline No. 4, page 7.

36 These grades are set out as part of the ORG’s guidelines for external auditors. ORG Electricity Industry Guideline No. 9, Regulatory Audits

For some obligations, the trigger for reporting 'no' is straightforward and non-controversial. However, for those obligations involving a 'yes/no' assessment made on the basis of compliance reporting measures, the issue of what should be taken as a trigger for a 'no' response (and an exception report) is one which needs to be carefully considered. In particular, it is important to consider the nature of the obligation imposed by the licence and the use to which the monitoring body will put the information received in exception reports.

One possibility is that licensees should be required to report 'no' if any of the compliance reporting measures fall below the level associated with the obligation being met in *every* circumstance. To use the example of customer transfers again (second row of Table 5.1), any ratio of (the number of customer transferred with consent)/(total number of customers transferred) which falls below 1 indicates that the obligation was not met in all cases.

An argument in favour of such an 'absolute' approach is that the legislation in NSW itself imposes an absolute obligation: 'A Retail Supplier must not initiate or effect the transfer of an interim small retail customer without the written consent of the customer.'[37] This is in contrast to the specification of obligations in other jurisdictions or in other sectors, where the licence obligation itself refers to a required performance level, rather than imposing an absolute obligation. For example, in the UK the draft overall standards of performance set for Transco by Ofgem have target levels set at between 90% and 97%.

However, requiring licensees to report each time a customer is transferred without consent would be likely to result in *all* licensee compliance reports indicating non-compliance, and being accompanied by exception reports. It is unrealistic to expect that a customer will *never* be transferred without consent. An incorrect transfer could occur, for example, where a new employee failed to adequately follow the procedure for checking that customers had signed a consent form before affecting a transfer. What is important is that the practice of transferring customers without consent does not become systemic, and that those customers who are transferred incorrectly are transferred back with the minimum of inconvenience.

Where it is unrealistic to expect an obligation to be met in all circumstances, a regime where licensees are required to report on all instances of non-compliance would result in IPART (as licence regulator) being faced with the task of reviewing a large number of exception reports and deciding which of the exception reports indicated an 'acceptable' level of non-compliance, for which it does not propose to take further action, and which were 'unacceptable' and do require enforcement action. This would increase IPART's compliance assessment workload.

The alternative would be for the Reporting Manual to specify that an exception report is only required if the compliance measure is less than a specified percentage, such as 95%. This would reduce the flow of information on non-compliance to IPART (as licence

[37] Market Operation Rules (NSW Transfer Rules for Retail Electricity Supply) 2001, clause 7.1.

regulator). However, to the extent that IPART does not intend to act on the additional 5% of information it would receive if it required all instances of non-compliance to be reported, this may be one way of streamlining the administration of the compliance regime.

It should be noted that the discussion in this section focuses on the cut-off point for licensees' *reporting* of non-compliance. As such, it is separate from the decision as to whether a certain level of non-compliance should be subject to *enforcement action*. Although the presumption would be that non-compliance below this level would not attract enforcement action, there would be nothing to prevent IPART from deciding that enforcement was necessary in a case where (for example) a single customer had been transferred incorrectly and IPART felt that the circumstances of the transfer warranted imposing a breach. In such a case, although licensees would not be required to report non-compliance (if the reporting threshold was set at <1), IPART could still become aware of the breach through an alternative channel, such as information from EWON on customer complaints

In the draft reporting requirements set out in Appendix A, we have adopted the working assumption that IPART will require compliance reporting for *all* cases of non-compliance. We would anticipate that the issue of a realistic reporting level for compliance would be one which was discussed as part of the process of finalising the Reporting Manuals. Again it is important to note that the compliance regime is expected to develop over time. It may therefore be appropriate for IPART to err on the side of more rather than less compliance reporting initially.

5.3.2.4. CEO/Board certification and external audit requirements

IPART (as licence regulator) needs to have a high degree of assurance that the compliance data reported to it by licensees is a true reflection of licensees' performance and internal processes. Our recommendation is that such assurance be obtained from a combination of both internal sign-off of compliance reports by a licensee's CEO/Board and the use of external auditors.

The Reporting Manuals should clearly set out the requirements for CEO/Board sign-off and/or external audits, for each obligation. The fourth column in Table 5.1 provides some examples of the format we recommend is adopted in the Reporting Manuals. Appendix A provides draft sign-off requirements for each of the obligations in the base set.

NERA's Part 1 Report discussed the role of internal CEO/Board sign-off.[38] Requiring CEO and Board certification is consistent with the Australian Standard on Compliance Programs (AS3806), and ensures that awareness of compliance issues and responsibility for compliance is targeted sufficiently high-up within the licensee's organisation, thereby helping to establish a culture of compliance. Similar high-level sign-off is a feature of both

[38] NERA's Part 1 Report Section 5.2.4.3.

the South Australian and UK compliance regimes. Our recommendation is that CEO/Board sign-off is a requirement for all licensees compliance reporting (ie, for Type 1,2 and 3 obligations).

We also recommend that, at least initially, such internal certification be supported by an external audit for key obligations: namely all Type 1 obligations[39] and specified Type 2 obligations. The results of the external audits would be used by IPART in assessing businesses' compliance with their licence conditions. The use of external audits is consistent with the approach taken in other jurisdictions, such as Victoria, the UK and the South Australian gas sector. In the South Australian electricity sector, the SAIIR requires each licensee to undertake compliance audits, but that these audits are not required to be conducted by an external party. However, we note that the SAIIR has the power to require an ad hoc external independent audit if it considers that this is necessary.[40] In addition, the SAIIR has reported that the major regulated businesses (AGL SA, ETSA Utilities and ElectraNet SA) have agreed to provide some form of independent audit assurance to ensure that high quality performance data is reported on.[41]

We recognise that the requirement to have an external audit conducted does impose a cost on licensees. However, given the critical nature of the conditions being audited, the additional reassurance provided by an external confirmation that compliance systems are in place and/or that performance is as reported by the licensee would appear to be justified. By focusing audit requirements on only a small number of critical obligations (rather than requiring an *ex ante* audit of compliance processes in general, or an *ex post* audit of all licensees compliance reporting), the audit costs are contained. In addition, for Type 2 obligations, we recommend that an external audit is only conducted annually, and that the quarterly reports for Type 2 obligations rely solely on CEO/Board sign-off.

Again, the compliance regime is expected to evolve over time. To the extent that the external audits of Type 1 and Type 2 conditions do not highlight any areas of concern, it would be appropriate for IPART to revisit the external audit requirements. We note that in the UK, Ofgem currently requires reporting by licensees as part of the Information and Incentives Project (IIP) to be audited. However, Ofgem have noted if, after a couple of years, they consider that they have sufficient confidence in the companies' systems, they may scale down the auditing requirements.

Whilst we have not recommended external audits for Type 3 obligations, or for some Type 2 obligations, we note that IPART should have the ability to require an external audit of compliance data for *any* obligation, if it has good reason to believe that reporting by the licensee may be inaccurate. Under the Electricity supply Act 1995, IPART does not have the

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39 With the exception of the obligations on electricity sector licensees to maintain NEMMCO registration.

40 SAIIR Compliance Systems and Reporting Guideline No. 4, March 2001

41 SAIIR Performance of Regulated Electricity Businesses, November 2000

direct power to require such information to be submitted by electricity licence holders, but can request the Minister to require electricity licensees to submit external audit information, under the Minister's power to require the submission of information. Section 33 of the Gas Supply Act 1996 allows IPART to request information relating to compliance directly from authorisation holders.

5.3.2.4.1. Appointment of external auditors

The effectiveness of the external audit process will depend on the way in which auditors are appointed and the manner in which the audits are conducted.

The potential number of licensees in the energy sector who are required to obtain audits, and the desirability of completing such audits within a relatively short timeframe, means that it is likely to be impractical for the audits to be completed by a single audit firm.

Our recommendation is that IPART approves the appointment of the external auditors, but that the auditors are appointed by and paid for by the licensees. The auditors' 'duty of care' should be to IPART (as licence regulator).

This recommendation is consistent with the approach taken in other jurisdictions. In the Victorian electricity sector, audits of licensees' compliance with their licence obligations are required to be conducted by an independent auditor, appointed by the licensee and approved by the ORG. The auditor's duty of care is to the ORG, and the scope of the audits must be approved by the ORG. In the gas sector in South Australia, the South Australian Technical Regulator requires gas distribution system operators to audit compliance with their safety plans. Again, the auditor must be independent, paid for by the licensee and appointed with the approval of the technical regulator. In the UK, Ofwat approves the appointment of independent auditors nominated and paid for by the water licensees.

We note that in the case of the external audits of electricity retailers' ETEF requirements and the audit of licence compliance for Sydney Water, IPART directly appointed the auditors. However, in the case of auditing compliance with energy sector licence conditions, it is not clear that IPART need retain the role of appointing the auditor, provided that the auditor's duty of care is clearly with the regulator. It is likely to be sufficient for IPART to simply retain the role of *approving* the auditor appointed by the licensee, in order to ensure that reputable firms are appointed.

IPART could conduct this approval role in a number of ways. The first would be by establishing a pre-approved shortlist of audit firms from which the licensees could then choose which firm to appoint. However, this may be unduly restrictive. As an alternative, licensees could be asked to submit the name of a preferred auditor to IPART for approval, but also to provide a shortlist of other potential audit firms, in the event that the first proved unacceptable. This is the approach adopted by Ofwat in the UK, in relation to the appointment of 'reporters' by the water companies. The water company recommends the appointment of a particular reporter to the Director of Ofwat, who approves the appointment, or, alternatively, selects an appointee from the short list of acceptable candidates submitted by the company.[42]

5.3.2.4.2. Conduct of audits

We noted above that the auditors' duty of care should be to IPART (as licence regulator), rather than to the licensee. It is also important that IPART play a role in both defining the scope of the audit and the manner in which is should be conducted, in order to ensure consistency between the audits conducted for different licensees. This role could potentially encompass the overall 'project management' of the audit process.

In Victoria, auditors must conduct the audit in accordance with any terms and conditions specified by the ORG.[43] To ensure that audits are conducted in an independent, rigorous and comparable manner, the ORG has published minimum requirements that the auditor must ensure are met.[44] As a minimum, the auditors should:

- analyse documented procedures to assess whether they are consistent with regulatory definition of the obligation;
- interview responsible staff to assess whether they understand and comply with documented procedures;
- analyse information systems to ensure that they produce information meeting compliance requirements;
- analyse quality controls;
- identify changes in systems and documented procedures (this will help the auditor determine whether the current compliance level is representative of compliance over the entire audit timeframe);
- analyse relevant data to ensure that the data matches data reported to the ORG, and to identify whether any data is missing and/or unusual; and
- analyse a sample of cases or data, for example, to assess the accuracy of the reported data.

Our recommendation is that the Terms of Reference for external audits for *ex post* compliance reporting (ie, Type 2 and (any) Type 3) should be designed to provide IPART with sufficient comfort that:

42 Http://www.ofwat.gov.uk/reporters/contractexpiry.html

43 ORG Electricity Industry Guideline No. 9, Regulatory Audits

44 ORG Electricity Industry Guideline No. 9, Regulatory Audits

- the information on which the licensee has based its compliance reporting has been derived from robust and reliable monitoring procedures;
- the licensee's compliance reporting is in line with the reporting requirements specified in the Reporting Manuals;
- audit trails confirm that the licensees' compliance reports have been objectively prepared; and
- there is a high degree of confidence that the performance data used accurately reflects performance.

For *ex ante* compliance reports of Type 1 obligations, the focus of the external audit should be on the adequacy of the compliance procedures the licensee has in place, and the extent to which procedures are being followed in practice, rather than on performance outcomes.

5.3.2.5. Reporting by other agencies

The Reporting Manuals should document, not only the compliance reporting required from licensees but obligations where IPART will draw on reporting by other agencies in assessing compliance. There are cases where other persons/agencies such as the Minister for Energy, EWON, MIG, GMCo and MEU already receive reports from licensees, or hold other information from which IPART (as licence regulator) could assess compliance with licence obligations. The extent of duplication of reporting obligations and the overall reporting burden can therefore be minimised by explicitly tying in the licence monitoring regime with the information held by other agencies.

For example, electricity licensees and gas authorisation holders currently submit Safety and Operating Plans to the MEU. Compliance with licence obligations in relation to the preparation of safety plans can therefore be ascertained by IPART through information submitted by MEU that adequate Safety and Operating Plans have been submitted to them (see the third row of Table 5.1). Similarly, we understand that GMCo plan to monitor compliance by gas authorisation holders with its Business Rules. We therefore recommend that IPART receives information directly from GMCo in order to assess compliance by authorisation holders with the authorisation obligation to comply with the Business Rules, rather than imposing additional reporting requirements on authorisation holders.

The draft reporting requirements set out in Appendix A highlight where IPART would use information provided by other agencies in assessing licence compliance.

In order to streamline inter-agency reporting procedures, the timing and content of reporting requirements between IPART and other agencies should be set out in appropriate Memoranda of Understanding (or a Protocol, in the case of the Minster for Energy). This is consistent with the recommendations in NERA's Part 1 Report on coordinating activities between agencies.[45]

5.4. Process for Developing the Initial Reporting Manuals

The draft reporting requirements set out in Appendix A are intended to provide a basis for developing the initial Reporting Manuals.

We recommend that IPART consults stakeholders in order to further develop each of the Reporting Manuals. Given the differences in the obligations on different licensees/authorisation holders, it would seem appropriate to separately consult with respect to each licence/authorisation, although the commonality of obligations between natural gas supplier authorisations and electricity retail supplier licenses may make it possible for all of these authorisation holders/licensees to be involved in the same consultation process.

IPART should involve representatives from the licensees/authorisation holders and from the Ministry of Energy and Utilities, MIG and EWON as part of this consultation, together with any other interested parties. IPART should retain responsibility for drafting the Reporting Manuals.

In view of the fact that is desirable to have the new Reporting Manuals in place as quickly as possible, IPART's aim should be to finalise the draft reporting requirements provided in this report in a short timeframe, and leave further development to the 'modification' process set out below.

5.5. Reporting Manuals to be Living Documents

In both the gas and electricity sectors, compliance reporting requirements can be expected to change over time, reflecting both changes in the obligations faced by licensees and changes to the 'compliance category' a particular obligation is deemed to fall within. For example, the introduction of additional Market Operation Rules will need to be reflected in the compliance monitoring framework. In addition, experience with the introduction of full retail competition may indicate a need for more or less frequent reporting against customer protection obligations.

As a result, it is important that the Reporting Manuals are 'living documents'. The front of each of the Reporting Manuals should clearly indicate the version number and the date of last revision, as well as the date from which any changes in reporting requirements become applicable.

45 See NERA's Part 1 Report, section 5.3.

Updating the Reporting Manuals is largely an administrative function. As such, our recommendation in our Part 1 Report is that such updating be the responsibility of IPART, in accordance with a specified process for updating (see section 5.6 below).

The recommendation in NERA's Part 1 Report was that the Minister should issue a Ministerial Reporting Guideline, which references the Reporting Manuals and set out the process by which IPART could change the Reporting Manuals. The Minister has the power under both the Electricity Supply Act 1995[46] and the Gas Supply Act 1996[47] to introduce licence/authorisation conditions requiring licensees to provide information in order to allow compliance with licence conditions to be ascertained. Such a licence condition is currently included in standard electricity licences, but not in standard gas authorisations.

However, the introduction of an additional layer of documentation may complicate an already complex area. An alternative would be for IPART to issue the Reporting Manual directly, and for the Reporting Manual itself to specify the process by which it may be updated. IPART currently has the power to issue reporting guidelines for gas authorisation holders under the Gas Supply Act 1996.[48] For electricity sector licensees, IPART does not have an equivalent power under the Electricity Supply Act 1995, and a specific licence condition would need to be introduced to require licensees to comply with reporting guidelines issued by IPART.

5.6. Process for Changes to Reporting Manuals

In order to provide certainty over reporting requirements, in addition to clearly specifying those requirements in the Reporting Manuals, it is of equal importance to set out clearly the process by which the Reporting Manuals will be updated.

Such a process should allow IPART to change the requirements in the Reporting Manuals, but only after consultation with affected parties. This consultation should (as a minimum) involve:

i. IPART providing affected parties with written proposals for change, together with the reasons why a change is being sought;

ii. allowing 30 days for the affected parties to respond in writing to the proposals;

iii. holding a meeting between IPART and affected parties to discuss the proposed changes (unless all parties agree that such a meeting is not required); and

46 Schedule 2, Section 6(g)

47 Section 11(f)

48 Section 33. Compliance with any direction issued by IPART under this section is made an authorisation condition under the Act.

iv. IPART providing affected parties and the Minister with a written decision on the changes required, together with the rationale for the changes and noting any concerns from affected parties (together with the rationale for the concerns).

Any changes made to the Reporting Manuals following the above process should apply to compliance reporting *after* the changes have been introduced, and should allow sufficient time for licensees to adapt their systems to the new reporting requirements. We suggest that, as a minimum, changes to the Reporting Manuals should be published by IPART 45 days before they come into effect.

The more details which are provided on the process to be followed by IPART in revising the Reporting Manuals, the more credible the commitment to following due process will be.

6. PROCESSES FOR MONITORING COMPLIANCE

6.1. Introduction

This section describes the compliance monitoring cycle of activities, in relation to the timing and type of reports submitted by electricity licensees, gas authorisation holders and IPART over an annual cycle. It also looks at the compliance activities associated with the reports submitted by licensees.

6.2. Reporting Cycle

The compliance monitoring and reporting framework discussed in the previous sections has described a number of compliance reports submitted by licensees. In addition, IPART is required under the Electricity Supply Act to submit a compliance report to the Minister in relation to electricity sector licensees, and we recommend that IPART also reports to the Minister on compliance by gas sector authorisation holders.

Ultimately, the timing of report submission and the timing of the publication of reports by IPART will be driven by practical considerations. These include:

i. the desirability of synchronising (or staggering) the licensee reporting cycle in NSW with that adopted by other jurisdictions, in recognition that electricity and gas retailers are likely to operate in more than one jurisdiction;

ii. the advantages in ensuring that regulatory reporting timeframes match licensees' internal reporting timeframes;

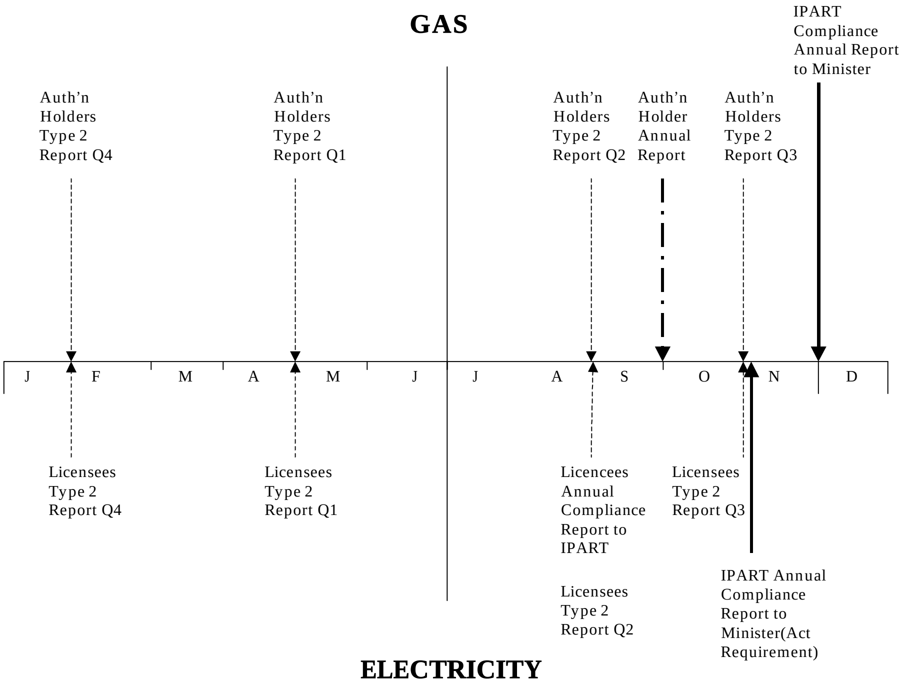
iii. the desirability of avoiding a 'bottleneck' of resources at IPART in undertaking compliance monitoring for both electricity licensees and gas authorisation holders; and

iv. the timeframes necessary to meet external audit requirements.

The one legislative constraint is that IPART is required under the Electricity Supply Act to submit a compliance report to the Minister in respect of compliance by electricity sector licensees, by the end of October each year.

Figure 6.1 depicts our initial recommendations for the timing of the reports to be submitted by electricity licensees and gas authorisation holders, and the timing of reports to be produced by IPART. We would anticipate this timetable being reviewed as part of discussions with the licensees in finalising the Reporting Manuals.

Table 6.1: Reporting Cycle



6.2.1. Licensee reporting

Electricity licensees and gas authorisation holders should be required to submit quarterly reports to IPART in relation to Type 2 obligations, one month after the end of the quarter. The exception is the Q2 report, which will be due two months after the end of the quarter, to allow sufficient time for external auditing.

Section 6.3 below discusses the action IPART may take in response to submission of a quarterly report. Given the limited nature of this action, it is not envisaged that having quarterly reports submitted by both gas and electricity businesses at the same time will cause a 'bottleneck' of resources at IPART.

We note that, currently, compliance reports for electricity licensees in South Australia are required to be compiled on the same quarterly basis. However, they are not due until two months following the end of the quarter. In Victoria, the ORG has no set timing for compliance reporting, but does require KPI reporting for electricity businesses on a quarterly basis, to be submitted 15 business days after the end of the quarter. Our recommended timing therefore ensures that licensees operating in these three jurisdictions are required to capture information over the same periods, but staggers the time at which the reports are required to be submitted.

Where licensees are required to obtain annual external audits of their compliance reporting for Type 2 obligations, our recommendation is that reporting of the outcome of these audits occurs together with the second quarter's Type 2 report.

In addition, licensees/authorisation holders will be required to continue to submit annual compliance reports to IPART. These reports will cover compliance with Type 1 and Type 3 obligations. In order to avoid a 'bottleneck' in resource requirements, we propose that the timetable for the annual gas compliance reports be one month behind that for electricity.

We would anticipate benefits from annual reporting coinciding with one of the quarterly reporting timeframes, in order to provide IPART with an overall 'snapshot' of compliance at the same point in time. The proposed timing of the electricity sector reports does align the Q2 compliance report with the electricity licensees' annual report.

6.2.2. Compliance reporting by IPART

The Electricity Supply Act requires that IPART submits a report to the Minister by 31 October each year, with respect to licensee compliance in the previous financial year. In order to allow IPART sufficient time to prepare such a report, electricity licensees will therefore continue to be required to submit their annual compliance reports to IPART by 31 August each year.

There is no specified timetable for IPART to report to the Minister in relation to compliance with gas authorisation holders. Our recommendation is that IPART should submit an annual compliance report to the Minister for gas authorisation holders. The preparation and submission of this report would be a clear signal that IPART was placing the same importance on compliance by gas sector authorisation holders as it does on electricity sector licensees.

In order to avoid a 'bottleneck' in resource requirements, we propose that the timetable for the annual gas compliance reports be one month behind that for electricity, ie, authorisation holders will be required to submit their annual compliance report to IPART by the end of September each year (with respect to performance in the previous financial year), and IPART will submit a report to the Minister by the end of November.

The coverage of IPART's compliance reports to the Minister should highlight relevant instances of non-compliance by licensees, together with the action taken in response, both by the licensee and/or any enforcement action taken by IPART or the Minister.

We note that currently IPART's annual compliance report for electricity licensees is made public. As noted in NERA's Part 1 Report, we see advantages in increasing transparency of compliance monitoring and enforcement action, and we would recommend that the compliance reports for both electricity and gas licensees are made public.[49]

6.3. Compliance Activities

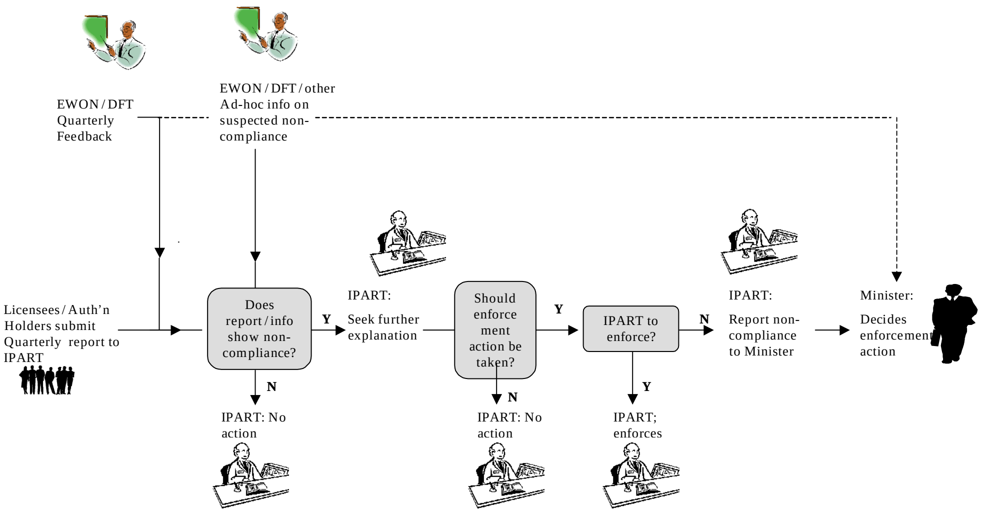
Figure 6.2 sets out the cycle of activities associated with the requirement on licensees to submit quarterly compliance reports with respect to Type 2 obligations.

IPART will assess the quarterly compliance reports submitted by the licensees, together with information submitted by EWON, the Department of Fair Trading and any other sources (eg, media investigations), and reach a view on whether the information indicates non-compliance.

If there are no indications of non-compliance, IPART will take no further action.

If there are indications of non-compliance, IPART will seek a further explanation from the businesses, before reaching a view as to whether a licence breach has occurred.

Figure 6.2: Quarterly Compliance Reports



Again, if IPART is of the view that no breach has occurred, then no further action will be taken.

[49] See discussion in NERA's Part 1 Report, section 5.2.5.

If, however, there has been a breach, IPART will then decide whether to enforce and (given a decision to enforce), whether IPART should undertake enforcement action, or whether IPART should refer the matter to the Minister, for the Minister to determine appropriate enforcement action.

7. REPORTING ON KEY PERFORMANCE INDICATORS

This final section of the report covers reporting on Key Performance Indicators (KPIs). In particular, we reiterate the importance of being clear on the *policy objective* behind requiring reporting on KPIs, and discuss the relationship between compliance reporting and KPI reporting. We then consider appropriate KPIs which IPART (in its role as price regulator) may decide to publish in the form of comparative reporting for monopoly electricity and gas businesses.

We have distinguished between KPIs and minimum standards on the basis that minimum standards have direct monetary penalties attached to them if performance falls below a specified standard, whereas there are no (direct) monetary penalties attached to KPIs. Minimum standards are discussed in NERA's Part 3 Report.

7.1. Policy Intent of KPI Reporting

In NERA's Part 1 Report, we noted that the fundamental question in relation to KPIs was the *rationale* for the reporting of KPIs, in relation to the government's policy objectives.

There are a number of potential policy objectives behind the reporting of performance indicators, namely:

i. reporting on KPIs may be a necessary precursor to introducing a formal minimum standard obligation;

ii. reporting on KPIs may be used as general indicators of licensees' performance, and included in any assessment of the adequacy or otherwise of licensees' expenditure, as part of the price review process;

iii. comparative reports covering KPIs achieved by different licensees may be issued publicly, in order to provide an incentive for improved performance; and

iv. comparative reporting of retailers' service performance can improve information flows to customers, which may be beneficial in a full retail competition environment.

The above objectives are not mutually exclusive. Different KPI information may therefore be requested for different reasons. What is important, however, is that the underlying rationale is clear, since this will determine what indicators are required, how frequently they are required and what happens with the information (for example, who publishes and in what format).

Our recommendation in our Part 1 Report was that the Ministry of Energy and Utilities, MIG and IPART should review from the perspective of the above objectives what KPI information should be collected and whether current KPIs are appropriate.

We note that IPART (in its role as price regulator) has begun to publish comparative reports for the NSW electricity distribution businesses. Such reports are in line with policy objective (iii) above. We therefore discuss the content of such KPI reporting further in section 7.3 below.

7.2. Compliance Reporting and KPI Reporting

A licence condition may place an obligation on licensees to provide information in relation to KPIs. In assessing compliance with this obligation, what is important is whether or not the licensee has in fact provided the KPI information. The actual level of performance reported via the KPI is not at issue in assessing compliance. For example, licensees may be required to report on how many customers they disconnected in the previous year. The assessment of compliance in this case would relate to whether the licensee reported the information (ie, a 'yes/no' assessment) and not whether the level of connections was above or below a specified number.

In contrast, licence conditions may impose obligations relating to minimum performance standards by the licensees. In this case, compliance with the licence condition does require that the actual level of performance in relation to the minimum standard is at or above a specified level and that (where the level is not met) compensation is payable. For example, electricity DNSP licensees are required to report on the number of late connections, and a 'guaranteed service level' currently requires that compensation is payable for every day connection is delayed beyond an agreed date.

Where KPIs are introduced as a precursor to introducing a formal minimum standard or as a general indicators of licensees' performance, IPART might choose to report on KPI data as part of its annual compliance report.

In South Australia, the SAIIR publishes a report which compares the performance of the regulated electricity businesses (AGL SA, ETSA Utilities and ElectraNet SA) and also contains some limited information on general licence compliance. This public report includes a section describing the monitoring role of the SAIIR, and discusses performance in relation to service standards and other statistical information of interest. The SAIIR also discusses what action they may be taking in relation to a standard, for example, they may decide to examine an issue further during the following year. Although the SAIIR report does not specifically focus on compliance reporting, the SAIIR has stated that there is scope to include this in the report in future, as part of an overall discussion of performance.[50]

Where KPI information is collected as the basis for comparative performance reporting, this is typically published as part of a separate report by the regulator. For example, the ORG in

[50] SAIIR Performance of Regulated Electricity Businesses, November 2000, p.8.

Victoria publishes information on licensees' performance in relation to key performance areas, but does not publish reports on compliance by licensees with their licence conditions.

7.3. Comparative Performance Reporting by IPART as Price Regulator

The publication of comparative reports on business performance is fraught with difficulties in ensuring that comparisons are made of like with like. Notwithstanding these difficulties, comparative reporting is a tool which is used by a number of regulators (including the ORG in Victoria, and both Ofwat and Ofgem in the UK).

IPART in its role of price regulator has begun publishing comparative performance reports for regulated businesses. Specifically, it released its first Price and Service Report for the NSW Electricity Distribution Businesses in July 2001, covering performance over the period 1999/2000. We understand that IPART may consider issuing a similar report for gas reticulators.

Below we consider appropriate KPIs to be used as the basis of comparative performance reporting in the electricity distribution and gas reticulation sectors.

7.3.1. Electricity distributors

Electricity distributors separately report on performance indicators to IPART and also to the Ministry of Energy and Utilities. The measures currently reported on are summarised in Table 7.1.

The requirement on the DNSPs to submit information on performance indicators is currently included in that part of the Ministerial Guidelines and Requirements Policy covering the preparation of Licence Plans. Our recommendation in our Part 1 Report was that an explicit licence condition should be introduced requiring reporting on specified performance indicators.

IPART's licence compliance report requires DNSP licensees to report on a range of 'performance indicators'. Most of these are related to the Guaranteed Service Levels set out in the Electricity Supply (General) Regulation 2001, namely punctuality in keeping appointments, timely provision of connection services, timely notice of planned interruptions to supply and the time taken to repair street lights. The measures which are not related to GSLs relate to customer service. Specifically, DNSPs are required to report performance in relation to their telephone enquiry service and customer complaints.

In addition, DNSPs report to the Ministry of Energy and Utilities on network performance. These reports cover network reliability measures, such as System Average Interruption Duration Index (SAIDI), System Average Interruption Frequency Index (SAIFI) and Customer Average Interruption Duration Index (CAIDI). IPART (as price regulator) published comparative data on these reliability measures as part of its Price and Service Report.

Table 7.1
KPIs Reported on by NSW DNSPs[1]

Network Reliability KPIs

System Average Interruption Duration Index (SAIDI)	Total customer minutes interrupted per year/average no. of customers
System Average Interruption Frequency Index (SAIFI)	Total number of customer interruptions per year/average total no. of customers
Customer Average Interruption Duration Index (CAIDI)	Total customer minutes interrupted/total no. of customer interruptions

Customer Service KPIs[2]

Telephone service for faults and difficulties	Number of calls made to service Number of calls which dropped out or were abandoned Number of calls answered by a human operator within 30 seconds
Complaints	Number of complaints received Number of complaints from residential small retail customers Number of complaints from non-residential small retail customers Average number of days to resolve complaints

1 *DNSP licensees are also required to report information on their performance in relation to their greenhouse gas abatement strategies and energy efficiency strategies. This information is not currently included in IPART's comparative performance reports.*

2 *DNSP licensees are also required to report information in relation to service standards for which there are Guaranteed Service Levels, namely punctuality in keeping appointments, timely provision of connection services, timely notice of planned interruptions to supply and the time taken to repair street lights.*

Our recommendation is that IPART and the Ministry Of Energy And Utilities agree (via a Memorandum of Understanding) to share information reported, within a specified timeframe.

We note that the Regulators' Forum Report has recently published draft recommendations on a number of KPIs, which it envisages could form the basis of useful cross-jurisdictional comparison reports. The KPIs proposed by the Regulators' Forum are summarised in Table 7.2. Whilst the KPIs are in the majority of cases similar to the ones currently reported on by NSW DNSPs, the definitions of the various indicators have been developed further.

To the extent that KPIs are intended to be used as the basis of comparative reports, it would appear desirable to align the reporting requirements in NSW with those adopted in other jurisdictions. However, we again note that requirements to report on KPIs may arise for reasons other than comparative reporting.

Table 7.2: KPIs Proposed by the Regulators Forum

Reliability KPIs	
	All reported by feeder category: (CBD, Urban, Rural short, Rural Long):
SAIDI	The sum of the duration of each customer interruption (in minutes), divided by the total number of connected customers averaged over the year. Excludes interruptions of less than one minutes duration.
SAIFI	The total number of customer interruptions, divided by the total number of connected customers averaged over the year. Excludes interruptions of less than one minutes duration.
CAIDI	The sum of the duration of each customer interruptions (in minutes), divided by the total number of customer interruptions.
MAIFI	The total number of customer interruptions of less than one minute in duration, divided by the total number of connected customers averaged over the year.
Energy not supplied	Energy not supplied due to unplanned outages (MWh * 60) divided by annual system maximum demand (MW)
Quality of Supply KPIs	
Complaints	Proposal is to monitor complaints until other measures can be introduced
Customer Service KPIs[1]	
Customer complaints	Number of customer complaints (per 1000 customers) (as defined by AS4296:1995) Reason for complaint (as number, and as % of total complaints) Number and % of complaints not investigated and responded to within 20 days Average number of days to investigate and respond to a compliant
Call centre performance	Number and % of times a call from a customer was not answered within 30 seconds[2] Average waiting time before a caller was able to speak to a human operator Percentage of calls abandoned

1 *The Regulators' Forum proposes that DNSPs also report information in relation to service standards for which there are Guaranteed Service Levels, namely punctuality in keeping appointments, timely provision of connection services, timely notice of planned interruptions to supply and the time taken to repair street lights.*

2 *A call is 'answered' when the caller speaks to a human operator, but not when the call is placed in an automated queuing system.*

7.3.2. Gas distributors

For gas distributors, there are no currently established KPI reporting requirements. Natural gas reticulators are required to submit an annual report to the Director of MEU quantifying unaccounted for gas and estimating losses for the previous financial year.

We understand from the discussions with the Ministry of Energy and Utilities that they are currently developing a reporting regime for gas network businesses, which would be an equivalent to the network performance reporting regime already in place for electricity network businesses. If IPART (as price regulator) decided to implement a KPI reporting regime for gas reticulator authorisation holders, it would therefore be important to coordinate the reporting requirements with the reporting requirements being considered by MEU. We also note that, given that AGL is the main gas reticulator in NSW, comparative reporting with other smaller NSW reticulators is unlikely to be very illuminating, or to provide AGL with a significant performance incentive. Rather, comparative reporting would need to relate to the performance of natural gas reticulators in other jurisdictions. As a result, reporting requirements would need to be aligned with those of other jurisdictions, in order to provided a basis for such a comparison.

Below we summarise the KPI reporting regime for gas distributors in Victoria, by way of illustration of the types of information which is used for comparative reporting elsewhere.

7.3.2.1. ORG, Victoria

The Office of the Regulator General in Victoria ('the ORG') publishes an annual Gas Industry Comparative Report. Its second report was published in September 2001 and relates to performance by the three gas distribution business in 2000.[51]

The ORG has divided its KPIs into three categories: reliability, affordability and customer service. Table 7.3 summarises the KPIs reported on for gas distributors.

[51] The ORG Report also covers performance by the three franchised retail companies in Victoria. We have not considered reporting on retailer performance in this section.

Table 7.3
Gas Comparative Reporting Indicators - Victoria

Reliability KPIs	
Frequency of outages[1]	Gas outages affecting more than 5/100/1,000 customers Gas outages affecting less than 5 customers
Unplanned hours off supply[2]	Per 1,000 customers
Leaks[3]	Publicly reported leaks per 1,000 customers Detection of mains leaks from proactive leakage surveys: leaks per km of main (averaged over 4 years)
Response to customer incidence calls	No. of responses within 60 minutes: metro business hour calls/after hours calls/country area calls
Affordability KPIs	
Disconnections	Disconnection of domestic/ non-domestic customers for non-payment (per 100 customers)
Budget instalment plans	Percentage of domestic/non-domestic customers on budget instalment plans
Refundable advances	No. of domestic/non-domestic customers paying refundable advances (per 100 customers)
Customer Service KPIs	
Level of complaints related to distribution	Currently insufficient information to report on, but ORG anticipates that a measure will be included in future reports

1 *Includes outages caused by third party damage*

2 *Planned outages are not included in the ORG report because of inconsistencies in reported data between distributors.*

3 *KPI on publicly reported leaks measures the effectiveness of the distribution business' maintenance strategy; KPI in relation to leakage surveys reflects averaged performance over the 4 year cycle in which the networks are surveyed.*

Reporting in relation to reliability performance of Victorian gas distributors is separate from the monitoring of gas safety. The ORG has developed a list of reliability performance indicators jointly with the gas businesses, which cover the frequency of outages, unplanned hours off supply, leakage and the response time to customer incidence calls. The ORG plans to further develop the current indicators by distinguishing the performance of high, medium and low pressure pipelines for some of the reliability indicators. [52]

As well as comparing performance across businesses, the ORG also comments on 'customer affordability' and 'customer service' performance indicators for gas businesses compared with those reported by the electricity businesses.

[52] In relation to other indicators, we note that VenCorp monitors gas quality, and the distributors report on gas quality to the Office of Gas Safety. VenCorp also monitors and reports on the level of unaccounted for gas.

8. SUMMARY OF RECOMMENDATIONS

Key aspects of our recommendations on implementing the compliance monitoring framework set out in this report (and in the associated appendices) are summarised below.

In relation to the content of the Reporting Manuals:

i. Reporting requirements (including audit requirements) for both electricity and gas licensees should be standardised through the establishing of a Reporting Manual for each licence / authorisation;

ii. The Reporting Manuals should be prepared and updated by IPART. The process by which IPART can make changes to the Reporting Manual should be clearly set out;

iii. All obligations on licensees should be classified as being of one (or more) of the following types:

- **Type 1**: an obligation for which an annual *ex ante* assessment of compliance processes should be conducted;
- **Type 2**: an obligation for which frequent (ie, quarterly) *ex post* compliance monitoring of performance should be conducted;
- **Type 3**: an obligation for which annual *ex post* compliance monitoring of performance should be conducted; or
- **Immediate**: an obligation for which licensees are required to inform IPART within 3 days of a breach occurring.

A draft classification for existing licence obligations is provided in Appendix A;

iv. The classification of licence conditions as Type 1, 2 or 3 should be open to change over time, in response to concerns over compliance, or performance data which indicates compliance;

v. IPART should have the ability to require specific licensees to report more frequently (where there are compliance concerns) or to be exempt from some reporting (where behaviour has indicated compliance);

vi. Licensees compliance reporting should be on the basis of *exception reporting*. Licensees are required to state that they comply with all obligations, except for those instances of non-compliance listed. Exception report should include details of the action which has been taken to rectify the breaches reported. Licensees should be required to submit exception reports on a quarterly basis for Type 2 obligations and on an annual basis for Type 3 obligations. For a small number of Type 1 obligations, exception reports should be lodged 3 days after a breach occurred;

vii. Consideration should be given to the use of compliance reporting measures, to enable standardisation of the basis for 'yes/no' reporting by different licensees in cases where ambiguity exists;

viii. Licensees should be required to state that they have a 'high degree of confidence that the data on which the 'yes/no' assessment is made accurately reflects its performance'. In addition, external auditors would be asked to comment on the adequacy of the accuracy of the data captured by the licensee. More explicit data accuracy requirements could be introduced later, if data accuracy is found to be inadequate;

ix. IPART should consider whether the Reporting Manual should explicitly specify the trigger for licensees' submitting an exception report, and the level at which this trigger should be set. It may be appropriate for IPART to err on the side of more rather than less compliance reporting initially, and to review the trigger levels over time; and

x. Where other persons or agencies (eg, Minister for Energy, Ministry of Energy and Utilities, EWON, MIG, GMCo) hold information or conduct audits which IPART is able to use to assess compliance, IPART should arrange via a Protocol/ Memorandum of Understanding to receive such information directly from that person or agency, rather than requiring licensees to provide that information.

In relation to internal sign-off and audit requirements:

xi. CEO/Board sign-off should be required for all licensees' compliance reporting;

xii. External audits should be required for all Type 1 obligations[53] and (annually) for specified Type 2 obligations. Audit requirements should be reviewed over time, in the light of experience;

xiii. IPART should approve the use of auditors proposed and paid for by the licensees. The auditors' duty of care should be to IPART. IPART should determine the scope and conduct of the audit process.

In relation to the process for finalising the Reporting Manuals:

xiv. IPART should work with stakeholders to further develop each of the Reporting Manuals, from the draft reporting requirements set out in Appendix A;

xv. IPART should consult with representatives from the licensees/authorisation holders and from the MEU, MIG and EWON, together with any other interested parties;

xvi. IPART should retain responsibility for drafting the Reporting Manuals.

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53 With the exception of the requirement for electricity sector licensees to maintain NEMMCO registration.

REVIEW OF ENERGY LICENSING REGIMES IN NSW: COMPLIANCE MONITORING AND REPORTING FRAMEWORK

A Final Report for the
Independent Pricing and Regulatory Tribunal

Appendices

Prepared by NERA

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Sydney

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TABLE OF CONTENTS

REF: Ann Whitfield/3/4-3-02/G:\IPART\ELECTRICITY AND GAS LICENSING\PART 2\REPORT\APPENDICES - FINAL (MARCH).DOC

APPENDIX A.

A.1. Introduction

This Appendix A sets out the draft reporting requirements we have developed for the following energy sector licenses/authorisations:

- Electricity retail supplier
- Electricity retail supplier – endorsement conditions
- Electricity Distribution Network Service Provider (DNSP)
- Natural gas supplier
- Natural gas supplier – endorsement conditions
- Natural gas reticulator
- LPG Supplier

These draft reporting requirements reflect a base set of licence/authorisation obligations **as at 1 November 2001**, prepared by IPART, and have been drafted in a way to enable them to form the basis of a Reporting Manual for each licence/authorisation. IPART will need to update the obligations covered by these draft reporting requirements to reflect market operation rules introduced since 1 November, and any differences between draft obligations at that time and final obligations applicable at the time the Reporting Manuals are issued.

In particular, the following documents were still in draft form at the time this Appendix A was prepared:

- the Gas Supply (Natural Gas Retail Competition) Regulation 2001
- the Market Operation Rule for the making of arrangements on behalf of the customers for the provision of Customer Connection Services, record keeping and information exchange requirements for DNSPs and retail suppliers.[1]

References to these documents therefore relate to the draft versions NERA had access to at the time that this report was prepared, and not the final versions which have subsequently been released.

We have also provided a number of comments in relation to specific obligations. Obligations for which comments are provided are marked with an asterisks (*).

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[1] This has subsequently been approved as the Market Operations (Arranged Connection Services) Rule.

A.2. Content of Reporting Requirements

In line with our recommendations in the main body of the report, the draft reporting requirements contain the following information for *each* licence/authorisation obligation:

- A cross-reference to the description of the obligation in the relevant Consolidated Reference Document;[2]
- A brief description of the obligation, and the reference to where in the legislative framework the obligation arises. This description is intended only as an aid to following the reporting requirements, and is not a substitute for the description provided in the Consolidated Reference Document, or for consultation by licensees/authorisation holders of the source legislation.
- The compliance type assigned to the obligation, ie, Type 1, Type 2 or Type 3.
- The reporting required by licensees. Where 'compliance measures' have been proposed in order to provide a consistent basis for licensees' 'Y/N' compliance reporting, these measures are listed within the reporting tables.
- Whether the compliance report submitted by the licensees is required to have CEO/Board sign-off and whether it is required to be subject to an external audit.

The main body of the report discusses the merits of also specifying in the Reporting Manuals a 'trigger' for when licensees/authorisation holders should submit an exception report. Where licensees base their compliance assessment on the outcome of a specified ratio (ie, 'compliance measures'), in some cases there may be merit in specifying what outcome for that ratio should lead to a 'No' assessment of compliance. However, for the purposes of preparing the draft reporting requirements we have adopted the working assumption that *all* instances of non-compliance with licence/authorisation obligations will be required to be reported. That is, for all of the proposed compliance measures, any ratio less than '1' would be expected to lead to an exception report.

Since this is the same for all obligations, we have not specified the reporting 'trigger' as part of the tables. However, in the event that a reporting trigger of less than '1' was adopted for some or all obligations, we would recommend that a further column be added to the reporting requirements detailing the trigger for each obligation.

[2] It should be noted that the references given to the Consolidated Reference Documents in this Appendix A are to drafts of the documents made available to NERA as at 1 November 2001, and will need to be updated to reflect the section numbering of the final version of these documents.

A.3. Accuracy of Reported Compliance Data

There are no specific data accuracy requirements set out in the draft reporting requirements. Rather, licensees/authorisation holders are required to ensure that they have a high degree of confidence in the accuracy of the compliance assessment submitted. This requirement should be interpreted as follows:

Type 1 - High Degree of Confidence: this should be interpreted as meaning that there is a high degree of confidence that the licensee has a system in place which will enable it to comply with obligations

Type 2 and 3 – High Degree of Confidence: this should be interpreted as meaning that the licensee/authorisation holder has a high degree of confidence that the data on which its compliance assessment is based accurately reflects its performance

A.4. Role of the Reporting Manuals

We have recommended that IPART, in its role as licence regulator, prepares a **Reporting Manual for each licence/authorisation**. The Reporting Manuals should set out the standardised compliance reporting requirements for licensees/authorisation holders.

Our recommendation is that the Reporting Manuals are prepared and kept updated by IPART. The process by which IPART may make changes to the Reporting Manuals over time should be clearly set out.

The Reporting Manual should contain cross-references to the Consolidated Reference Documents, so that, for each licence/authorisation, the two documents taken together provide licensees/authorisation holders with a complete picture of both their obligations and the reporting requirements associated with those obligations.

It should be noted that we have not repeated in this Appendix A the reporting requirements set out in the current **Ministerial Guidelines and Requirements Policy** applying to electricity sector licensees. Our recommendation would be that the Reporting Manual replaces the current electricity Ministerial Guidelines and Requirements Policy. In particular, it is important for the transparency of the compliance regime that all reporting requirements are brought together in one place. To the extent that the Minister wishes to retain parts of the current Guidelines and Requirements Policy (such as the reports required in relation to environmental strategies), we therefore recommend that these requirements be transferred to the Reporting Manual.

Finally, we note that in determining whether a licensee/authorisation holder has breached the conditions of its licence/authorisation, IPART will draw not only on the information provided by licensees/authorisation holders in their compliance reports, but also information supplied by other agencies (in particular, EWON and MEU) and information available to IPART through other channels (such as media reports).

A.5. Electricity Retail Supplier Draft Reporting Requirements

Consolidated Reference Document		Description	Compliance Type	Content of Reporting	Sign off Required
Part A – [Licence Fees]					
	7	Licence Fees To Be Paid[1]	3	No licensee reporting	n/a
Part B – Requirement to be a Market Participant					
 *	1 2	National Electricity Market Registration Must Be Held[2] Technical And Prudential Criteria Must Be Complied With[3]	Immediate	On-going exception reporting: licensee to notify IPART within 3 days if deregistered	n/a
Part C – Marketing to Small Retail Customers					
*	3-5	Marketing Code Of Conduct Must Be Complied With, and Must Ensure that Marketers Comply[4]	1 2	Y/N that: (i) a compliance system is in place, which covers all Marketing Code of Conduct obligations (ii) the compliance system records data as per obligations under 6.2.5, 6.2.6, 6.3.3, 6.3.4, 6.4.3,6.4.4,6.5.1(b), 6.5.2, 6.7.6, , 7.1.1 of the Marketing Code of Conduct (iii) Performance data demonstrates compliance	Board/CEO sign-off Annual external audit of (i) and (ii) Annual external audit of (iii)

Part D – Customer Supply Contracts					
	6	Electricity Must Be Supplied Under A Customer Supply Contract[5]	3	Y / N that electricity is supplied under a customer supply contract	Board / CEO Sign-off
	6.1 [for regulation provisions on content see Part D: 8, 9.1, 9.2, 9.3 & 9.9 Part E: 10, 11 & 12 Part F: 15 Part G: 16, 17, 18, 19, 21, 21.1, 21.2, 21.3, 21.4 & 22 Part I: 25 & 26 Part J: 28, 28.1, 28.2, 29, 29.1, 37 & 47 Part K: 48]	Licensee To Comply With Provisions Of The Act And Regulations On The Making, The Content And Effect Of Standard Form Customer Supply Contracts And Negotiated Customer Supply Contracts.[6]	Standard contract: 1	**Standard contract:** Y / N that the standard contract complies with all obligations Any changes to **standard contract** must be submitted to IPART for assessment of compliance [5] days before coming into effect, accompanied by external auditor sign-off	**Standard contract:** Board / CEO sign-off accompanied by external auditor sign-off
			Negotiated contract: 1 3	**Negotiated contract:** (i) Y / N that licensee has a process in place to ensure negotiated contracts contain the required provisions (ii) Y / N that the negotiated contract meets all obligations	**Negotiated contract:** Board / CEO sign-off Annual external audit of (i) and (ii)

	7.1	Conditions To Be Met When Entering Into A Negotiated Customer Supply Contract With Any Franchise Customer[7]	3	Y/N that a system exists that ensures that customers receive the appropriate information; and Y/N that this is supported by actual performance including: (i) [the number of customers who received required information prior to entering into a negotiated supply contract]/[the number of customers who entered into a negotiated customer supply contract] (ii) [the number of customers sent contractual and related documentation on request] /[the number of customers requesting this information] (iii) [the number of customers who received a copy of the contract at the time the contract was entered into]/[the number of customers who entered into a negotiated supply contract] (iv) if the Retail Supplier arranges connection service on behalf of a small retail customer: [the number of customers who received the required information]/[the number of customers who have their connection arranged] (v) that the contract is provided free of charge and the contract and any document referred to in the contract are available on the internet.	Board/CEO sign-off Annual External Audit
	7.2	Contract And Related Documents To Be Available At The Supplier's Office[8]	3	Y/N that contract and related documents are available at the supplier's office	Board/CEO sign-off

Part E – Facilitating Customer Connection Services					
	13.1	Applications For Connection Services To DNSP Must Be Arranged[9] Information Must Be Forwarded To Customer[10] Put Customer In Touch With DNSP[11]	3	Y/N that a system is in place to meet each obligation; and Y/N that this is supported by actual performance: • [number of customers where a connection application was made]/[the number of customers where a connection application was required to be made] • [the number of customers where the required information was forwarded when connection application was made]/[the number of customers where a connection application was made] • [the number of customers put in touch with a DNSP on connection application]/[the number of customers where a connection application was made]	Board/CEO sign-off
	13.3	Payment of Connection Charges To DNSPs [12]	3	Y/N based on: • [the number of payments made after x business days]/[total number of payments made] where X is 20, unless varied by 'other arrangements' as allowed under cl 8.3	Board/CEO sign-off

	13.4	Provision of Information to DNSPs In Relation To Connection Services[13]	3	Y/N assessment based on: • [Provision of information following requests]/[number of requests]	Board/CEO sign-off Annual external audit
		Retail Communication Requirements[14]	1	Y/N assessment that a system is in place to ensure that all customer calls regarding faults/difficulties are transferred to DNSP within 30 seconds	
			2	Y/N assessment based on (for each specified obligation): • [Number of communications where obligations met]/[Total number of communications]	
	13.5	DNSP To Be Notified Of Record Changes[15]	3	Y/N that notification system in place that meets obligations and that performance on notification reflects this	
	13.6	Correspondence To Be Kept For 18 Months[16]	3	Y/N that a record retention system is in place allowing compliance with obligations	Board/CEO sign-off
Section F – Customer Transfers					
	14.1	No Transfer Without Customer Consent[17]	1 2	Y/N based on: • [the number of customers transferred with consent]/[the number of customers transferred]	Board/CEO sign-off Annual external audit
		Written Consents To Be Retained For 2 Years[18]	1 3	Y/N that a retention system in place to allow compliance	Board/CEO sign-off Annual external audit
	14.2	Transfer Of A Small Retail Customer Not Withheld On The Grounds Of Contractual Impediment.[19]	2	No licensee reporting	n/a

	14.5	10 Day Cooling-Off Period Allowed By Retailer Before Transfer Complete[20]	1 2	Y / N based on: The days between customer's dated application to transfer and completion of transfer >= 10 (except where customer has requested quicker transfer)	Board / CEO sign-off Annual external audit
Part G – Commencing and Discontinuing Supply					
	20	Disconnection Under Negotiated Customer Contract Must Be In Accordance With Contract[21]	3	Y / N based on: (i) Disconnection not restricted (ii) Conditions met for disconnection / disconnection requested (iii) Due notice given (iv) Required information provided (v) Meets other contract conditions	Board / CEO sign-off
Part H – Identifying and Providing Notice to Small Retail Customers					
	23	A Customer To Be Determined As A Small Retail Customer At Prescribed Times[22]	3	Y / N that: (i) a compliance system is in place to allow the obligation to be met; and (ii) calculations have occurred at the required time	Board / CEO Sign-off Annual external audit

	24	Providing Notice Where Small Retail Customers Change Supplier Or Status[23]	3	Y/N that a system is in place that ensures that the provision of notices to small retail customers under prescribed conditions; and Y/N that this is supported by actual performance, based on: (ii) [the number of customers issued required written notices]/[the number of customers where written notices were required] (iii) in the case of a negotiated contract: [the number of times where a required written notice was given not later than 21 days before the end of the period of supply under contract]/[the number of times a written notice was given to a customer under a negotiated contract] (iv) in the case of a standard supply contract, the timeframe within which notice is given after the event has occurred should be recorded.	Board/CEO sign-off
Part I – Service Standards					
*	27, 27.1, 27.2 and 27.3	Licence Plans To Be Prepared And Submitted To The Minister[24]	3	No licensee reporting	n/a
		Affairs To Be Conducted In Accordance With Licence Plan[25]	3	Y/N that affairs have been conducted in accordance with licence plan	Board/CEO sign-off

Part J – Charges and Bills					
	30 to 46 (except 37)		1	Y / N that a compliance system is in place to meet the billing obligations set out in Division 4 of the Electricity Supply (General) Regulation 2001	Board / CEO sign-off External Audit
	31 and 32	Charges Under A Negotiated Customer Contract To Be Varied Only If Required Notice Sent. Any Variation May Not Operate Retrospectively[26]	2	Y / N based on: • [The number of times rates to a class of negotiated customer contracts were varied without a prescribed notice being sent out in advance and / or the number of retrospective variations] / [the number of times rates were varied]	Board / CEO sign-off
	33 and 40	Customer's Bill Must Include Prescribed Information[27]	2	Y / N that both the standard and negotiated bill comply with all obligations	Board / CEO sign-off
	34	Correction Obligations Where Customer Undercharged[28]	2	Y / N based on: [The number of customers where undercharging obligations met] / [the number of customers undercharged]	Board / CEO sign-off Annual External Audit
	35	Correction Obligations Where Customer Overcharged[29]	2	Y / N based on: [The number of customers where overcharging obligations are met] / [the number of customers overcharged]	Board / CEO sign-off Annual External Audit
	36	Provision Of Information About Bills And Related Matters[30]	2	Y / N based on: [The provision of information following a request] / [number of requests]	Board / CEO sign-off
	38	Billing Period For Customer Supply Contracts With Small Retail Customers A Minimum Of 3 Monthly[31]	2	Y / N based on: [the number of customers receiving bills at least every 3 months (unless otherwise agreed in a negotiated supply contract)] / [number of billed customers]	Board / CEO sign-off Annual external audit

	39	Payment Of Bills For Electricity Supply By Small Retail Customers[32]	2	Y / N based on: [the number of customers where payment requirements are met (including payment due not less than 15 business days after bill was sent, no charge with listed payment methods, and payment in advance accepted)] / [number of billed customers]	Board / CEO sign-off Annual external audit
	41	Payments Must Firstly Be Applied To Electricity Related Charges[33]	2	Y / N based on: [the number of payments applied firstly to electricity] / [number of payment received]	Board / CEO sign-off
	42	Provision Of Historical Billing Information[34]	2	Y / N based on: [the number of customers requesting billing information who were provided information and where charged, charging requirements were met] / [the number of customers requesting billing information]	Board / CEO sign-off
	43	Meter Testing Requirements[35]	2	Y / N that a metering system is in place to allow obligations to be met; and Y / N that this is supported by actual performance, based on: (i) [the number of meters checked] / [over the number of meter requested to be checked] (ii) [the number of customers refunded for faulty meters after checking (including charges for testing)] / [the number of faulty meters]	Board / CEO sign-off Annual external audit
	44	Calculation Of Charges If Increase In Rates Of Charges Occurs[36]	2	Y / N based on an assessment of the methodology used to calculate a customer's bill when a rate change occurs against the prescribed methodology (or equivalent – this should be specified) for calculating a customer's bill when a rate change occurs. The measure should be: • [the number of customers where prescribed procedures were followed] / [number of customers affected by the rate change]	Board / CEO sign-off

	45	Conditions When Electricity Supplied Must Be Estimated[37]	2	Y / N: (i) that the methods for assessing charging or rebates meet obligations; (ii) that the methods used to devise estimated consumption meet obligations; and (iii) based on an assessment of [the number of customers where supply was estimated for the required period (up to six months prior to discovery of fault)] / [number of customers with estimated supply] (iv) based on an assessment of [the number of times metering equipment is deemed to be not registering correctly when the error in registration is greater than 2%] / [the number of times metering equipment is deemed to not be measuring correctly]	Board / CEO sign-off
	46	Customer to elect how consumption is measured when access to a meter has not been obtained[38]	2	Y / N based on an assessment of: [the number of customers with unread meters whose level of consumption for billing purposes is determined according to the customer's elected method] / [number of customers whose meter has not been read]	Board / CEO sign-off
Part K – Dispute Resolution					
	49	Customer Complaints Regarding Bills Or Charges Must Be Considered[39]	3	Y / N that a record is kept of all customer complaints and outcomes	Board / CEO sign-off
	50	Must Be A Member Of, And Comply With, An Electricity Industry Ombudsman Scheme[40]	3	No licensee reporting requirements *[Under MOU membership reported to IPART by EWON; EWON to report to IPART if licensee has not complied with any decisions]*	n / a
Part L – Varying Customer Service Standards					

	51	Conditions Regarding Variation Of Guaranteed Customer Service Standards[42]	3	Y / N that if the Minister has varied, then: (i) contracts have been varied (ii) notice was given within required timeframes	Board / CEO sign-off
Part M – Environmental Obligations					
	53	No Discrimination[44]	3	Y / N based on: (i) terms for types of customers identified in obligation (ii) no cases of refusal to supply	Board / CEO sign-off
	54	Greenhouse Strategies Must Be Developed[45]	3	No licensee reporting	n / a
	55	Strategies Must Be Audited By The EPA At Least Every 3 Years[46]	3	Y / N that the strategy has been audited by the EPA in the previous three years	Board / CEO sign-off
	56	1, 3 And 5 Year Plans Must Be Developed[47]	3	No licensee reporting requirements	n / a

	59	Requirement To Provide Minister With Information As The Minister Determines To Determine Compliance With Licence Conditions[49]	3	No licensee reporting requirements	n/a
	Inactive Conditions – Attach. 2	Separation Of Franchise Customer Supply Business[51]	-	No licensee reporting requirements – inactive condition	n/a
		Participation In Social Programs For Energy Required If A Direction Is Issued[52]	-	No licensee reporting requirements– inactive condition	n/a
		Provision Of Supply To An Exempt Person[53]	-	No licensee reporting requirements– inactive condition	n/a

Footnotes:

1 Electricity Retail Supplier Licence Conditions Reference Document, Condition 3.12 (imposed by the Minister)

2 Electricity Retail Supplier Licence Conditions Reference Document, Condition 3.2 (imposed by the Minister)

3 Electricity Retail Supplier Licence Conditions Reference Document, Condition 3.3 (imposed by the Minister)

4 Electricity Supply Act 1995 s63I(a)(b).

5 Electricity Supply Act 1995 s38, s38A, s38A(6), s39

6 Electricity Retail Supplier Licence Conditions Reference Document, Conditions 3.5.1 and 3.5.2 (imposed by the Minister); *Electricity Supply Act 1995*, Section 39(1), Section 40(1)-(4). The relevant regulation conditions are set out in the Electricity Supply (General) Regulation 2001, 41(1), Schedule 1 cl 1(1), 1(2), 1(3), 1(3)(j), 2(1), 2(2), 2(3), 4, 5(1), 5(2), 5(3), 6, 7, Schedule 2 cl 1, 2(1), 2(2), 2(3), 2(4), 3(1), 3(2), 3(3), 3(4), 4(1), 4(2), 4(3), 4(4), 5(1), 5(2), 5(3), 6(1), 6(2), 7(1), 7(2), 8(1), 8(2), 8(3), 9(1), 9(2), 10(1), 10(2), 10(3), 11, 12(2), 12(3), 12(4), 12(5), 12(6), 12(7), 12(8), 12(9), 13(1), 13(2), 13(3), 14

7 Electricity Retail Supplier Licence Conditions Reference Document Condition 3.5.3 (imposed by the Minister), Electricity Supply (General) Regulation 2001, cl 42(1), 42(2), 32(3), 42(4), 42(5)

8 Electricity Supply (General) Regulation 2001, cl 43(b), 43(d)

9 Market Operations Rules (Market Operations Rules for making of arrangements on behalf of customers for the provisions of Customer connection services, record keeping and information exchange requirements for DNSPs and retail suppliers), cl 5.1, 5.4

10 Market Operations Rules (Market Operations Rules for making of arrangements on behalf of customers for the provisions of Customer connection services, record keeping and information exchange requirements for DNSPs and retail suppliers), cl 5.3

11 Market Operations Rules (Market Operations Rules for making of arrangements on behalf of customers for the provisions of Customer connection services, record keeping and information exchange requirements for DNSPs and retail suppliers), cl 5.4

12 Market Operations Rules (Market Operations Rules for the making of arrangements on behalf of customers for the provisions of Customer connection services, record keeping and information exchange requirements for DNSPs and retail suppliers), cl 8.1, 8.3

13 Market Operations Rules (Market Operations Rules for the making of arrangements on behalf of customers for the provisions of Customer connection services, record keeping and information exchange requirements for DNSPs and retail suppliers), cl 9.1

14 Market Operations Rules (Market Operations Rules for the making of arrangements on behalf of customers for the provisions of Customer connection services, record keeping and information exchange requirements for DNSPs and retail suppliers), cl 9.2

15 Market Operations Rules (Market Operations Rules for the making of arrangements on behalf of customers for the provisions of Customer connection services, record keeping and information exchange requirements for DNSPs and retail suppliers), cl 11.1, 11.3, 11.4, 11.5

16 Market Operations Rules (Market Operations Rules for the making of arrangements on behalf of customers for the provisions of Customer connection services, record keeping and information exchange requirements for DNSPs and retail suppliers), cl 12.1

17 Market Operations Rules (NSW Transfer Rules for Retail Electricity Supply) 2001, cl 7.1, 7.2

18 Market Operations Rules (NSW Transfer Rules for Retail Electricity Supply) 2001, cl 7.3

19 Market Operations Rules (NSW Transfer Rules for Retail Electricity Supply) 2001, cl 8.3(a), 8.3(b)

20 Market Operations Rules (NSW Transfer Rules for Retail Electricity Supply) 2001, cl 14.1

21 Electricity Supply (General) Regulation 2001, cl 16

22 Electricity Supply Act 1995 s92, Electricity Supply (General) Regulation 2001, cl7

23 Electricity Supply (General) Regulation 2001, cl 11(1), 11(2), 11(3), 11(4), 11(6)

24 Electricity Retail Supplier Licence Conditions Reference Document, Conditions 3.7 and 3.8 (imposed by the Minister), Ministerial Guidelines and Requirements Policy, boxed para 4.3.1, 4.3.2, 4.3.3

25 Electricity Retail Supplier Licence Conditions Reference Document, Licence condition 3.8 (imposed by the Minister).

26 Electricity Supply (General) Regulation 2001, cl 22(1), 22(2), 23

27 Electricity Supply (General) Regulation 2001, cl 24(1), 24(2), 24(3), 31(1), 31(2)

28 Electricity Supply (General) Regulation 2001, cl 26(1), 26(2), 26(3), 26(4), 26(5)

29 Electricity Supply (General) Regulation 2001, cl 27(1), 27(2), 27(3)

30 Electricity Supply (General) Regulation 2001, cl 28(1), 28(2), 28(3)

31 Electricity Supply (General) Regulation 2001, cl 29(1), 29(2)

32 Electricity Supply (General) Regulation 2001, cl 30(1), 30(2), 30(3), 30(4), 30(5)

33 Electricity Supply (General) Regulation 2001, cl 32

34 Electricity Supply (General) Regulation 2001, cl 33(1), 33(2), 33(3), 33(4)

35 Electricity Supply (General) Regulation 2001, cl 34(1), 34(2), 34(3)

36 Electricity Supply (General) Regulation 2001, cl 35(1), 35(2), 35(3)

37 Electricity Supply (General) Regulation 2001, cl 36(1), 36(2), 26(3), 36(4), 36(5), 36(6), 36(7)

38 Electricity Supply (General) Regulation 2001, cl 37(1), 37(2), 37(3)

39 Electricity Supply (General) Regulation 2001, cl 25(1), 25(2), 25(3), 25(4)

40 Electricity Supply Act 1995 s96C

41 Electricity Retail Supplier Licence Conditions Reference Document, Licence Condition 2.2 (conditions imposed by the Act and Regulations)

42 Electricity Supply (General) Regulation 2001, cl 44(1), 44(2), 44(3)

43 Electricity Supply (General) Regulation 2001, cl 45(1), 45(2), 45(3)

44 Electricity Supply Act 1995, s35(2)

45 Electricity Supply Act 1995 Schedule 2 cl 6(4)(a), which requires the Minister for Energy to impose such a condition on each retail supplier, Ministerial Guidelines and Requirements Policy, boxed para 3.3.1 and 3.3.2

46 Electricity Supply Act 1995 Schedule 2 cl 6(4)(b), which requires the Minister for Energy to impose such a condition on each retail supplier, Ministerial Guidelines and Requirements Policy, boxed para 3.3.1

47 Electricity Supply Act 1995 Schedule 2 cl 6(4)(c), which requires the Minister for Energy to impose such a condition on each retail supplier

48 Electricity Supply Act 1995 Schedule 2 cl 6(4)(d), which requires the Minister for Energy to impose such a condition on each retail supplier

49 Condition 3.9 (imposed by the Minister)

50 Ministerial Guidelines and Requirements Policy, boxed para 3.3.3 and 5.4.1, condition 3.1.5 (imposed by the Minister)

51 See Guidelines and Requirements Policy, Chapter 2, “Separation of Business Affairs”.

52 Electricity Supply (General) Regulation 2001, cl75(4)

53 Condition 3.6 (imposed by the Minister)

A.6. Electricity Retail Supplier Endorsement Draft Reporting Requirements

	Consolidated Document Reference	Description	Compliance Type	Content of Reporting	Sign off Required
Part 2 – Obligation To Supply					
	1	Eligible customers who apply for supply under (i) a negotiated customer supply contract; or (ii) a standard form customer supply contract must be supplied.[1]	3	Y/N based on: [the number of applications for supply from eligible customers accepted]/[the number of applications for supply from eligible customers]	Board/CEO sign-off Annual external audit
		Obligation to arrange customer connection services[2]	3	Y/N based on: [Connection services arranged]/[Applications for connection services within maximum capacity of the connection at the premises]	Board/CEO sign-off Annual external audit
*	2	The following information must be issued (within 24 hours) to a customer who requests to be supplied under a standard form contact[3] (i) an application form which contains specified particulars plus (ii) a document containing specified information	3	Y/N based on: [the number of compliant application forms + required information sent within 24 hours]/[the total number of applications]	Board/CEO sign-off
		Customer elections to be supplied under a standard form contract only accepted if on retailer's application form and complete[4]	3	Y/N based on: [the number of customer election which comply with Regulation requirements]/[the number of customer elections accepted]	Board/CEO sign-off

		A statement must be issued that supply will commence between 10 and 21 days after application made[5]	3	Y/N based on: [the number of customers where supply has been commenced within 10-21 days (excluding cases where supply is permitted to commence earlier)]/[the number of customers where supply is commenced]	Board/CEO sign-off Annual External Audit
*	4.2	Supply may only be discontinued under specified circumstances[6]	3	Y/N based on: (i) [the number of customers where supply was discontinued under the required circumstances]/[the number of times supply was discontinued] (ii) [the number of customers disconnected who were given notice as per clause 11 of the Regulation]/[the number of customers who were disconnected]	Board/CEO sign-off
	5	Tariffs and charges under Standard Form Contracts must be in accordance with any relevant determination by IPART[7]	3	Y/N that tariff and charges have been varied according to IPART determinations	Board/CEO sign-off
		At least 30 days written notice of new tariffs/charges must be given, and information as determined by the Minister must be provided to show that the change is consistent with any relevant determination by IPART[8]	3	Y/N that 30 days written notice has been given and appropriate information has been provided	Board/CEO sign-off
	5.1	Requirement to provide information to Tribunal when requested in writing[9]	3	No licensee reporting required	n/a
	6	Conditions to be met Regarding Notification of variations to charges under a standard form customer contract[10]	3	Y/N that: (i) a record of notices issued (ii) the form of notice meets regulation requirements and variations in tariffs made	Board/CEO sign-off

	7	Standard form customer supply contracts must be prepared[11]	3	Y / N that standard form customer contracts for different classes of small retail customers have been prepared	Board / CEO sign-off
		Any relevant customer consultative group must be notified and due regard given to their comments[12]	3	Y / N that and relevant customer consultative group is notified and any comments given due regard	Board / CEO sign-off
		A notice of standard terms and conditions must be published[13]	3	Y / N that required notices have been published and a record of these notices kept	Board / CEO sign-off
*	8	Standard form customer supply contracts must make provision for specified matters[14]	1	Y / N that the standard contract complies with all obligations **[Note: reporting against this obligation is already covered by reporting under the obligation ref D6.1 in the Retailer Supplier licence]**	Board / CEO sign-off accompanied by external auditor sign-off
	9 & 10	Contract and related documents to be available at the supplier's office and via the internet[15]	3	Y / N that contract and related documents are available at the supplier's office and via the internet	Board / CEO sign-off
	11	A charter for customer consultative group must be prepared[16]	3	No licensee reporting requirements *[IPART to confirm with the Minister/MEU that there is an approved charter in existence]*	n / a
	12	A payment plan must be operated[17]	3	No licensee reporting requirements [*IPART to confirm that there is a Payment Plan in existence, approved by the Minister]*	n / a
Part 4 – Electricity Tariff Equalisation Fund					
	13	Requirement to participate in Electricity Tariff Equalisation Fund[18]	3	No licensee reporting [IPART to separately audit the ETEF scheme, under a Terms of Reference from the Treasury]	n / a
	14.1	Information, documents and evidence must be provided in relation to ETEF audits[19]	3	No licensee reporting	n / a

Part 5 – Retailer Of Last Resort					
	15	Conditions of endorsement as retailer of last resort must be complied with[20]	1	Y / N that a system in place that allows the supplier to meet its obligations as the supplier of last resort	Board / CEO sign-off Annual Audit
		Retailer of last resort obligations must be complied with, when a last resort event occurs [21]	2	Y / N based on an assessment of the percentage of times retailer of last resort obligations were not complied with	Board / CEO sign-off Annual Audit
		Last resort fee charge must be calculated in a manner approved by the Minister, when a last resort event occurs [22]	2	Y / N that the last resort fee charge has been calculated in the required manner	Board / CEO sign-off Annual Audit
		Retailer of last resort must publish charges, when a last resort event occurs [23]	2	Y / N that charges have been published	Board / CEO sign-off
	16	An approved last resort supply plan must be in place[24]	1	No licensee reporting [*IPART to confirm with the Minister that an approved plan is in place]*	n / a
	17	When a retailer commences their obligations to provide last resort supply arrangements, written notice containing prescribed information must be provided to each customer[25]	2	Y / N based on: [the number of customers receiving written notice containing required information] / [the number of customers]	Board / CEO sign-off Annual Audit
		A statement that last resort supply arrangements have come into force for specified classes of customers must be published, when a last resort event occurs. This statement must also include contact details Customers to be transferred s9(3)(4)[26]	2	Y / N that an appropriate statement has been published and a copy of this statement has been kept on record	Board / CEO sign-off Annual Audit

	18	Transferred customers must be supplied under the appropriate contract, when a last resort event occurs [27] A retailer of last resort may not charge a transfer fee greater than $50[28]	2	Y / N based on: (i) [The number of customers transferred who are supplied under the appropriate contract] / [the number of customers transferred] (ii) [The number of customers who were charged a last resort fee not exceeding $50] / [the number of customers charged a last resort fee]	Board / CEO sign-off Annual Audit
	19	If an agreement as to the terms and conditions of electricity supply between a retailer of last resort and a non-small retail customer is not reached, the retailer of last resort must supply electricity at a price not exceeding specified limits, when a last resort event occurs [29] A retailer of last resort may not include in charges to a transferred customer any additional charges othe than network charges, costs of network losses, NEMMCO charges and charges relating to metering services[30]	3	Y / N based on: (i) [The number of non-small customers with no supply agreement charged according to specified price limits] / [the number of non-small customers with no supply agreement] (ii) [The number of customers transferred charged allowable charges only] / [the number of customers transferred]	Board / CEO sign-off Annual Audit
	20	A retailer of last resort may only discontinue the supply of electricity under specified conditions, when a last resort event occurs [31]	2	Y / N based on: [The number of customers where power is discontinued and the required criteria are met] / [the number of customers where power is discontinued]	Board / CEO sign-off Annual Audit

1 Electricity Supply Act, s34(4). Clause 15(1) of the Electricity Supply (General) Regulation 2001 sets out circumstances in which a retailer can refuse to supply a customer

2 Electricity Supply Act, s34(5), 34(6)

3 Electricity Supply (General) Regulation 2001, cl 12(4). Required information is set out in cl 13.

4 Electricity Supply (General) Regulation 2001, cl 5(c), 12(2), 12(3), 12(4)

5 Electricity Supply (General) Regulation 2001, cl 12(2)

6 Electricity Supply (General) Regulation 2001, cl 15(2), 15(3)

7 Electricity Supply Act 1995, s36

8 Electricity Supply (General) Regulation 2001, cl 5

9 Electricity Supply Act 1995, s43EF(1)

10 Electricity Supply (General) Regulation 2001, cl 21(1), 21(2), 21(3)

11 Electricity Supply Act 1995, s39(1), 39(3)

12 Electricity Supply Act 1995, s39(3)

13 Electricity Supply Act 1995, s39(4), 39(5), 39(6)

14 Electricity Supply Act 1995, s40(1), 40(2), 40(3), 41(1), 41(2), 41(3), 42

15 Electricity Supply (General) Regulation 2001, cl 43(a), 43(d), 42(5),

16 Electricity Supply (General) Regulation 2001, cl 17(3)

17 Electricity Supply (General) Regulation 2001, cl 6(1), 6(2)

18 Electricity Supply Act 1995, s43ER

19 Electricity Supply Act 1995, s87B

20 Electricity Supply (General) Regulation 2001, cl 57

21 Electricity Supply (General) Regulation 2001, cl 57(b)

[22] Electricity Supply (General) Regulation 2001, cl 57(d)

[23] Electricity Supply (General) Regulation 2001, cl 57(e)

[24] Electricity Supply (General) Regulation 2001, cl 58(1), 58(2), 58(3)

[25] Electricity Supply (General) Regulation 2001, cl 61(1)

[26] Electricity Supply (General) Regulation 2001, cl 61(2)

[27] Electricity Supply (General) Regulation 2001, cl 62(1), 62(2), 62(3), 62(4)

[28] Electricity Supply (General) Regulation 2001, cl 62(5)

[29] Electricity Supply (General) Regulation 2001, cl 63(1), 63(2)

[30] Electricity Supply (General) Regulation 2001, cl 63(3)

[31] Electricity Supply (General) Regulation 2001, cl 64(1), 64(2), 64(3), 64(4), 64(5)

A.7. Electricity DNSP Draft Reporting Requirements

Consolidated Document Reference		Description	Compliance Type	Content of Reporting	Sign-off Required
Part A – [Licence Fees]					
	7[1]	Licence Fees To Be Paid	3	No licensee reporting	n/a
Part B – Requirement To Be A Market Participant					
	1	A Network Operator's Authorization Or Equivalent For Participation In the National Electricity Market Must Be Held And Complied With[2]	Immediate	On-going exception reporting: notify IPART within 3 days of any suspension by NEMMCO	n/a
*	2	Technical And Prudential Criteria Must Be Complied With[3]			
Part C – Ring Fencing					
	3	Separation Of Distribution System Affairs In Accordance With Any (Ministerial Guidelines)[4]	3	Y/N assessment that IPART's accounting separation Code of Practice adopted and complied with	CEO/Board sign-off
Part D – Obligation To Provide Customer Connection Services On Standard Terms					
	5	Customer Connection Services Must Be Provided Unless Legitimate Grounds For Disconnection Or Refusal To Connect Are Met[5]	3	Y/N based on: • [the number of customers not connected on application where legitimate grounds for refusal exist]/[the number of customers not connected on application];	Board/CEO sign-off

		Premises May Be Disconnected When Each Responsible Supplier Has Requested That The Premises Be Disconnected And Has Provided Notification That It Has Complied With Notice Of Discontinuance Provisions[6]	3	• [the number of disconnections where legitimate grounds for disconnection exist]/[the number of disconnections]; and	Board/CEO sign-off
*		Contract Conditions Must Be Complied With And Reasonable Notice Of Intention Given Before Disconnection[7]	3	• [the number of disconnections where contract conditions are complied with and reasonable notice of intention given]/[number of disconnections]	Board/CEO sign-off
	6	Any Tribunal Determination Must Be Complied With When Requiring Customers To Contribute Towards The Cost Of Augmentation[8]	3	Y/N assessment that determination has been complied with	Board/CEO sign-off
	7	Electricity To Be Conveyed For Certain Persons Only[9]	3	Y/N that electricity is only being conveyed for persons in the designated categories.	Board/CEO sign-off
	10	A Charter Governing The Constitution And Procedure Of A Customer Consultative Group Must Be Prepared[10]	3	No licensee reporting requirements [*IPART to confirm with the Minister that approved charter is in place]*	n/a
	14 and 14.1	Notice Of The Prescribed Information Regarding The Terms Of A Standard Form Customer Connection Contract And Any Subsequent Amendments Must Be Published In A Newspaper[11]	3	Y/N assessment that the required notice has been published and a record of such notices kept	Board/CEO sign-off

Part E – Customer Connection Contracts					
	18 [for regulation conditions on content, see Part D: 8, 9 ,11 Part E: 15, 16, 17, 21, 22, 22.1, 22.2, 22.3, 22.4, 22.5, 22.6, 22.7 Part I: 27, 29, 30, 31, 32 Part J: 33, 34, 34.1, 35.1, 35.2, 41 Part L: 45, 46, 47, 48.1, 48.2, 48.3, 48.4, 49]	Provisions Of The Act And Regulations On The Making, The Content And Effect Of Standard Form Customer Connection Contracts And Negotiated Customer Connection Contracts Must Be Complied With[12]	Standard contract: 1	**Standard contract:** Y/N that the standard connection contract complies with all obligations Any changes to **standard contract** must be submitted to IPART for assessment of compliance [5] days before coming into effect, accompanied by external auditor sign-off	**Standard contract::** Board/CEO sign-off accompanied by external auditor sign-off
			Negotiated contract: 1 3	**Negotiated contract:** Y/N that licensee has an effective system in place to ensure that negotiated contracts contain the required provisions. Y/N that the negotiated connection contract meets all obligations	**Negotiated contract:** Board/CEO sign-off Annual external audit

	19.1	When Entering Into A Negotiated Customer Connection Contract With A Small Retail Customer A DNSP Must: (i) Disclose that the customer is entitled to a Standard Customer Connection Contract; (ii) Provide The Customer With A Copy Of The Standard Connection Contract, on Request (ii) Provide The Customer With A Copy Of The Contract At The Time The Contract Is Entered Into; And (ii) Provide The First Copy Of The Contract And Documents Incorporated In The Contract Free Of Charge[13]	3	Y/N a system is in place that ensures that customers receive required information; and Y/N based on: (i) [the number of customers who received required information prior to entering into a negotiated connection contract]/[the number of customers who entered into a negotiated customer connection contract] (ii) [the number of customers provided with a copy of the negotiated contract at the time the contract is entered into]/[the number of customers entering into a negotiated contract]; and (iii) [the number of customers provided required documentation free of charge]/[the number of customers provided required documentation]	Board/CEO sign-off
	19.2	Contract Documents To Be Available At DNSP's Office[14]	3	Y/N that the contract documents are available at the office	Board/CEO sign-off
	20	Required Information To Applicants For Standard Form Contracts[15]	3	Y/N based on: [the number of customers who are, or may be small retail customers provided the required information on application for connection services]/[the number of customers applying for connection services]	Board/CEO sign-off
Part F – Dealings With Retail Suppliers[16]					
	23.1	Summary Of The Terms And Conditions Of Standard Form Connection Contracts To Be Available To Retailers[17]	3	Y/N that a summary of the terms and conditions is available to retailers	Board/CEO sign-off

	23.2	Consent Must Not Be Unreasonably Withheld For A Retail Supplier To Pay Charges, On Behalf Of A Customer, Required To Be Paid By A Customer To A DNSP Under Section 25 Of The Act[18]	3	Y/N that consent not unreasonably withheld	Board/CEO sign-off
*	23.3	A Retail Supplier Must Be Billed For Charges For Customer Connection Services For All Arranged Connection Services Bills Issued By DNSPs To Retail Supplier Must Contain Sufficient Information To Enable The Supplier To Bill The Customer In Accordance With Requirements[19]	2	Y/N based on: [the number of times retail suppliers were billed for arranged customer connection services]/[the number of arranged customer connections services undertaken]	Board/CEO sign-off
		Conditions To Be Met Where A Retail Supplier Is To Correct A Customer's Bill For Under Or Overcharging In The Case Of Arranged Connection Services[20]	2	Y/N based on: • [the number of retailers where undercharging obligations were met]/[the number of retailers undercharged] • [the number of retailers where overcharging obligations were met]/[the number of retailers overcharged]	Board/CEO sign-off Annual external audit
		Conditions To Be Met When A Customer Requests To Be Billed Directly For Customer Connection Services[21]	3	Y/N based on: [the number of customers requesting direct billing from the DNSP who are billed directly]/[the number of customers requesting direct billing]	Board/CEO sign-off

	23.4	Information Relating To The Provision Of Arranged Connection Services Must Be Provided To A Retail Supplier If Requested[22]	3	Y/N based on: [the number of customers provide information following a request]/[number of requests for information]	Board/CEO sign-off
		A Copy Of Any Notice Issued By A DNSP Directly To A Customer In Relation To Matters Under A Standard Form Connection Contract For Arranged Connection Services Must Be Provided To The Retail Supplier[23]	3	Y/N based on: [the number of notices issued and provided to retail suppliers]/[the number of notices issued]	Board/CEO sign-off
	23.5	Retail Supplier To Be Notified Of Connection And Disconnection[24]	3	Y/N based on: [the number of times a retail supplier is notified of a connection or disconnection at the required time]/[the number of connections and disconnections]	Board/CEO sign-off
	23.6	Record Keeping Requirements[25]	3	Y/N assessment that a record keeping system is in place to meet obligations	Board/CEO sign-off
		Records Must Be Updated When A Change Occurs And The Retail Supplier Informed Of This Change[26]	3	Y/N assessment based on: [the number of times retail suppliers are notified when a change occurs[/[the number of times a change occurs]	Board/CEO sign-off
*	23.7	Correspondence Kept For 18 Months[27]	2	Y/N that a retention system is in place to allow compliance	Board/CEO sign-off Annual external audit
	23.8	Communications Protocols In Accordance With Requirements Must Be Prepared By 1 Jan 2002[28]	1	No licensee reporting requirements	N/a (unless not approved by IPART, retailers and Minister]

Part G – Customer Transfers[29]					
	24.1	Approval For Transfer Of A Small Retail Customer Not Withheld On Grounds Of Specified Conditions[30]	2	No licensee reporting	n/a
	24.6	Record Of Acceptance To Be Kept[31]	3	Y/N that records of acceptance are maintained	Board/CEO sign-off
	24.7	A NMI Discovery Service Must Be Established and Operated To Provide Access To The Required Information[32]	1	Y/N assessment that effective NMI Discovery Service in place	Annual external audit
			2	Y/N based on: (i) [the number of times that information is provided in which the premises has been accurately identified]/[the number of times information was provided] (ii) Requests are met within required timeframe	Board/CEO sign-off Annual external audit
Part H – Identifying Small Retail Customers					
	26	Obligations When A Customer Subject To A Negotiated Customer Connection Contract Is Reclassified As A Small Retail Customer[33]	3	Y/N based on: [the number of customers reclassified as a small retail customer where the contract is amended within required timeframes]/[the number of customers who are reclassified as small retail customers]	Board/CEO sign-off

Part I – Service Standards					
*	28	Standards Of Service Plan Must Be Submitted As Required[34] Licensee Must Operate In Accordance With The Plan[35] A Report Must Be Prepared On The Extent To Which The DNSP Has Operated In Accordance With The Plan[36]	3	Licensee submission of Licence Plan Y/N that licensee has operated in accordance with the Licence Plan. **[Note: submission of the Licence Plan and Y/N assessment covers the conditions in Ref. 28,44,53 and 54]**	Board/CEO sign-off
Part J – Charges and Bills					
	36	Charges under a standard form customer contract may only be varied if a notice containing required information is published[37]	3	Y/N based on: [The times charges were varied when the required notice was sent]/[the number of times charges were varied]	Board/CEO sign-off
	37 and 38	Charges Under A Negotiated Customer Contract To Be Varied Only If Required Notice Sent Out. Any Variation May Not Operate Retrospectively[38]	3	Y/N based on: [the number of customers where rates were varied without a prescribed notice being sent out in advance and/or the number of retrospective variations]/[the number of times rates were varied]	Board/CEO sign-off
	39	Customer's Bill Must Include Prescribed Information[39]	3	Y/N that both the standard bill and negotiated bill comply with all obligations	Board/CEO sign-off
	40	Payments Firstly To Be Applied To Electricity Related Charges[40]	3	Y/N based on: [the number of payments applied firstly to electricity services]/[the number of payments received]	Board/CEO sign-off
	43	Licensee To Be A Member Of An Approved Electricity Industry Ombudsman Scheme and Must comply With Decisions[41]	3	No licensee reporting *[Under MOU membership reported to IPART by EWON; EWON to report to IPART if licensee has not complied with any decisions]*	n/a

*	44	Requirements Relating To Plans For The Responsive Management Of Enquires And Complaints Received[42]	3	Licensee submission of Licence Plan Y/N that licensee has operated in accordance with the Licence Plan. **[Note: submission of the Licence Plan and Y/N assessment covers the conditions in Ref. 28,44,53 and 54]**	Board/CEO sign-off
Part M – Varying Guaranteed Customer Service Standards					
	50	Variation Of Guaranteed Customer Service Standards[43]	3	Y/N that if the Minister has varied guaranteed customer service standards that: (i) contracts have been varied; and (ii) notice given within required timeframes	Board/CEO sign-off
Part N – Asset Management					
*	52	Demand Management And Expansion Of Distribution System Requirements[44]	3	No licensee reporting [*IPART to receive information from MEU on Network Management Reports]*	n/a
*	53	A Plan Must Be Submitted In Relation To Industry Standards, Guidelines And Codes Of Practice As Required[45] Affairs Must Be Conducted In Accordance With The Plan[46] Performance Against Plan Must Be Reported On As Required[47]	3	Licensee submission of Licence Plan Y/N that licensee has operated in accordance with the Licence Plan. **[Note: submission of the Licence Plan and Y/N assessment covers the conditions in Ref. 28,44,53 and 54]**	Board/CEO sign-off

Part O – Safety And Public Risk					
*	54	A Plan Or Plans Regarding A Cost Effective Risk Management Strategy And A Cost Effective Program For Compliance Of Electricity Contractors With Relevant Safety Standards Must Be Submitted[48] Affairs Must Be Conducted In Accordance With The Plan And Submit A Report As Required On The Extent To Which It Has Adhered To This[49]	3	Licensee submission of Licence Plan Y/N that licensee has operated in accordance with the Licence Plan. **[Note: submission of the Licence Plan and Y/N assessment covers the conditions in Ref. 28,44,53 and 54]**	Board/CEO sign-off
*	55.1-55.4	The Following Plans Must Be Prepared: (i) Safety And Operating (ii) Customer Installation Safety (iii) Public Electrical Safety Awareness[50]	1	No licensee reporting *[IPART to confirm with MEU that appropriate Safety and Operating Plans have been prepared and that licensees are operating in accordance with these Plans.]*	n/a

Part P – Reporting Obligations					
	56	Requirement To Provide Minister With Information To Determine Compliance With Licence Conditions[51]	3	No licensee reporting *[IPART to confirm with the Minister]*	n/a

[1] DNSP licence conditions imposed by the Minister, 3.12.1 and 3.12.2

[2] DNSP licence conditions imposed by the Minister, 3.2

[3] DNSP licence conditions imposed by the Minister, 3.2

[4] DNSP licence conditions, 3.4.2, 3.4.3, 3.4.4, 3.4.5, Minister for Energy, Guidelines and Requirements Policy for Electricity Distribution Network Service Providers and Retail Suppliers, Chapter 2, "Separation of Business Affairs", May 1997, cl 2.3.1, Guidelines and Policy cl 2.3.3 and 2.3.4

[5] Electricity Supply Act 1995, s 15(4) (licence condition 2.1), Electricity Supply (General) Regulation 2001, cl 14(1), Electricity Supply Act 1995, s 54

[6] Electricity Supply (General) Regulation 2001, cl 14(3)

[7] Electricity Supply (General) Regulation 2001, cl 14(2)(a), 14(2)(b)

[8] Electricity Supply Act 1995, s 25 and DNSP licence condition 2.12.

[9] Electricity Supply Act 1995, s 16(b), 16(d), 72(2), 72(3), Electricity Supply (General) Regulation 2001, cl 67, 68(2)

[10] Electricity Supply (General) Regulation 2001, cl 17(1), 17(3)

[11] Electricity Supply (General) Regulation 2001, cl 39(1), 39(2), 39(3)

[12] DNSP licence conditions, imposed by the Minister, 3.5.1, 3.5.2. Relevant obligations imposed by the Act and the Regulations are set out in the following: Electricity Supply Act 1995, s 19(1), 19(2), 19(3), 25, 26, 27, 28, 29, 30, 31, 32, 20(1), 20(2), 20(3), 20(4); Electricity (General) Regulation 2001, 41(1), Schedule 1, cl 1(1), 1(2), 1(3), 2(1), 2(2), 2(3), 4, 5(1), 5(2), 5(3), 6, 7, Schedule 3, cl 1(1), 1(2), 3(1), 3(2), 3(3), 3(4), 4(1), 4(2), 5(1), 5(2), 5(3), 5(4), 6, 7, 8, 9(1), 9(2), 10(1), 10(2), 11(1), 11(2), 11(3), 12(1), 12(2), 12(3), 13, 14, 15(1), 15(2), 15(3), 15(4), 15(5), 15(6), 16(1), 16(2), 17, 18(1), 18(2), 18(3), Electricity Supply Act 1995, s 18, 19, 21(5), 23, 23(4),

[13] DNSP licence condition, imposed by the Minister, 3.5.3; Electricity Supply (General) Regulation 2001, cl42(1), 42(2), 42(3), 42(4), 42(5),

[14] Electricity Supply (General) Regulation 2001, cl 43(c), 43(d)

[15] Electricity Supply (General) Regulation 2001, cl 13

[16] MOR – Compliance with MOR is required under DNSP licence condition 2.15, Electricity Supply Act 63d(3)

[17] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), para 5.2

[18] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), para 6

[19] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), paras 7.1, 7.2, 8.2,

[20] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), paras 7.3, 7.4, 7.5

[21] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), paras 7.6, 7.7, 7.8

[22] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), paras 9.1, 9.3

[23] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), para 9.4

[24] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), para 10.1

[25] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), para 11.1

[26] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), para 11.2

[27] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), para 12.1

[28] Market Operations Rule, (Market operations rules for the making of arrangements on behalf of customers for the provision of customer connection services, record keeping and information exchanged requirements for DNSPs and retail suppliers), para 13.1, 13.2, 13.3, 13.4, 13.5, 13.6

[29] MOR – Compliance with MOR is required under DNSP licence condition 2.15, Electricity Supply Act 63d(3)

[30] Market Operations Rules (NSW Transfer Rules for Retail Electricity Supply) 2001, para 8.2(a), 8.2(b), 8.2(c), 8.2(d), 8.2(e)

[31] Market Operations Rules (NSW Transfer Rules for Retail Electricity Supply) 2001, para 11.1(a), 11.1(b)

[32] Market Operations Rules (NSW Transfer Rules for Retail Electricity Supply) 2001, para 12.1(a), 12.1(b), 12.1(c), 12.2, 12.3(a), 12.3(b)

[33] Electricity Supply (General) Regulation 2001, cl 8

[34] DNSP licence condition, imposed by the Minister 3.7.1(b)

[35] DNSP licence condition, 3.8.1

[36] DNSP licence condition 3.8.2

[37] Electricity Supply (General) Regulation 2001, cl 21(1), 21(2), 21(3)

[38] Electricity Supply (General) Regulation 2001, cl 22(1), 22(2), 23

[39] Electricity Supply (General) Regulation 2001, cl 24(1), 24(2), 24(3)

[40] Electricity Supply (General) Regulation 2001, cl 32

[41] Electricity Supply Act 1995, s 96(C)

[42] DNSP licence conditions, 3.7.1(c), 3.8.1, 3.8.2

[43] Electricity Supply (General) Regulation 2001, cl 44(1), 44(2), 44(3)

[44] DNSP licence conditions, imposed by the Minister, 3.1.1, 3.1.2, 3.1.3

[45] DNSP licence condition, 3.7.1(e)

[46] DNSP licence condition, 3.8.1

[47] DNSP licence condition 3.8.2

[48] DNSP licence condition 3.7.1(i), (ii).

[49] DNSP licence conditions, 3.8.1, 3.8.2

[50] Electricity Supply (Safety Plans) Regulation 1997 cl 6, 7, 8

[51] DNSP licence condition, imposed by the Minister, 3.9

A.8. Natural Gas Supplier Draft Reporting Requirements

Consolidated Reference Document		Description	Compliance Type	Content of Reporting	Sign off Required
Part 2 – Efficient Market Operation					
*	1	Authorisation holder to comply with Market Operations Rules[1] [As at 1 November 2001: no market operations rules had been approved in the gas sector]	n/a	No authorisation holder reporting requirements	n/a
	2	Authorisation holder must meet ring fencing requirements if they are also holders of a distributor's licence and a retailer's licence[2]	3	Y/N assessment that ring fencing requirements have been met	Board/CEO sign-off Annual external audit
*	3	Authorisation holder must comply with network code[3]	1	Y/N that the licensee has an effective system in place to enable compliance with the procedures set out in the following sections of the Network Code: • Section 5.2(1) on reporting procedures for network-related inquiries • Section 6.7 on network safety incident reporting procedures	Annual external audit
			2	Y/N that the authorisation holder has complied with the Network Code, including: • [Number of network inquires notifies to the network operator within 2 business days]/[number of network inquires] • maintenance of a 24 hour transfer capability for Netwrok Safety Incident calls	Board/CEO sign-off

*	4	Requirement to participate in an Approved Scheme to develop business rules to support full competition[4] The approved scheme must be complied with[5] Information about the operation of the scheme must be provided, as requested[6]	3	No authorisation holder reporting requirements *[GMCo to notify IPART of whether authorisation holder has complied, [under MOU between IPART and GMCo]*	n/a
Part 3 – Customer Protection Framework					
	7	Gas must be supplied under a customer supply contract[7]	3	Y/N that gas is supplied under a customer supply contract	Board/CEO Sign-off
	8	A Customer To Be Determined As A Small Retail Customer At Prescribed Times[8]	3	Y/N that: (i) a compliance system is in place to allow the obligation to be met; and (ii) calculations have occurred at the required time	Board/CEO Sign-off Annual external audit
	9	Must Be A Member Of, And Comply With, An approved Gas Industry Ombudsman Scheme[9]	3	No authorisation holder reporting requirements *[Under MOU membership reported to IPART by EWON; EWON to report to IPART if authorisation holder has not complied with any decisions]*	n/a
Part 4 & Part 5 – Customer Supply Contracts & Guaranteed Customer Service Standards					
*	7 [for provision on content see sections 10, 11, 11.1, 12,	Customer supply contract must comply with conditions in Act and Regulations[10]	Standard contract: 1	**Standard contract:** Y/N that the standard contract complies with all obligations Any changes to standard contract must be submitted to IPART for assessment of compliance [5] days before coming into effect, accompanied by external auditor sign-off	**Standard contract::** Board/CEO sign-off accompanied by external auditor sign-off

	12.1, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25.1, 25.2, 25.3, 25.4, 26, 27]		Negotiated contract: 1 3	**Negotiated contract:** Y / N that authorisation holder has an effective system in place to ensure that required provisions are included in negotiated contracts. Y / N that the negotiated contract meets all obligations	**Negotiated contract:** Board / CEO sign-off Annual external audit
	28	Variation of guaranteed customer service standards[11]	3	Y / N that if the Minister has varied, then: (i) contracts have been varied (ii) notice was given within 3 months	Board / CEO sign-off
Part 6 – Discontinuing Supply					
	30	Disconnection Under Negotiated Customer Contract Must Be In Accordance With Contract[12]	3	Y / N based on: (i) Disconnection not restricted (ii) Conditions met for disconnection / disconnection requested (iii) Due notice given (iv) Required information provided (v) Meets other contract conditions	Board / CEO sign-off
Part 7 – Charges and Bills					
	31 to 48		1	Y / N that a compliance system is in place to meet the billing obligations set out in Division 4 of the Gas Supply (Natural Gas Retail Competition) Regulation	Board / CEO sign-off External audit
	31	Standing and minimum charges must only be increased in accordance with Tribunal approval[13]	2	Y / N that charges have been varied only in accordance with Tribunal approval	Board / CEO sign-off

	31.1	Conditions regarding information on service, fees and payment procedures[14]	2	Y / N that: (i) a statement was prepared and any revisions sent to IPART; (ii) a copy of the statement is available for inspection; and (iii) Y / N based on: [the number or copies sent when requested] / [the number of copies requested]	Board / CEO sign-off
	32	Discount to pensioners must be at least $3.50 per quarter[15]	2	Y / N based on: [The number of pensioners receiving a discount of at least $3.50 per quarter] / [number of pensioners supplied]	Board / CEO sign off
	33 & 34	Charges under a negotiated contract may only be varied if required notice sent. Any variation may not operate retrospectively[16]	2	Y / N based on: [The number of times rates to a customer were varied (not retrospectively) and prescribed notice was sent in advance] / [number of times rates were varied]	Board / CEO sign-off
	35 and 42	Customer's bill must include prescribed information[17]	2	Y / N that both the standard and negotiated bill comply with all obligations	Board / CEO sign-off
	36	Customer Complaints Regarding Bills Or Charges Must Be Considered[18]	2	Y / N that a record is kept of all customer complaints and outcomes	Board / CEO sign-off
	37	Correction Obligations Where Customer Undercharged[19]	2	Y / N based on: [The number of customers where undercharging obligations met] / [the number of customers undercharged]	Board / CEO sign-off Annual External Audit
	38	Correction Obligations Where Customer Overcharged[20]	2	Y / N based on: [The number of customers where overcharging obligations are met] / [the number of customers overcharged]	Board / CEO sign-off Annual External Audit
	39	Provision Of Information About Bills And Related Matters[21]	2	Y / N based on: [The provision of information following a request] / [number of requests]	Board / CEO sign-off
	40	Billing Period For Customer Supply Contracts With Small Retail Customers A Minimum Of 3 Monthly[22]	2	Y / N based on: [the number of customers receiving bills at least every 3 months (unless otherwise agreed in a negotiated supply contract)] / [number of billed customers]	Board / CEO sign-off Annual external audit

	41	Payment of bills for gas supply by small retail customers[23]	2	Y/N based on: [The number of customers where payment requirements are met (including payment due not less than 15 business days after bill was sent, no charge with listed payment methods, and payment in advance accepted)]/[the number of billed customers]	Board/CEO sign-off Annual external audit
	43	Payments Must Firstly Be Applied To Electricity Related Charges[24]	2	Y/N based on: [the number of payments applied firstly to electricity] / [number of payment received]	Board/CEO sign-off
	44	Provision of historical billing information[25] Billing information may only be provided to a third party with written consent[26]	2	Y/N based on: [the number of customers requesting billing information who were provided information and where charged, charging requirements were met]/[the number of customers requesting billing information] Y/N that records of customer consent are retained	Board/CEO sign-off
	45	Meter testing Requirements[27]	2	Y/N that a metering system is in place to allow obligations to be met; and Y/N that this is supported by actual performance, based on an assessment of: • [the number of meters checked]/[over the number of meter requested to be checked] • [the number of customers refunded for faulty meters after checking (including charges for testing)]/[the number of faulty meters]	Board/CEO sign-off Annual external audit

	46	Calculation of charges if increase in rates of charges occurs[28]	2	Y/N based on an assessment of the methodology used to calculate a customer's bill when a rate change occurs against the prescribed methodology (or equivalent – this should be specified) for calculating a customer's bill when a rate change occurs. The measure should be: • [the number of customers where prescribed procedures were followed] /[number of customers affected by the rate change]	Board/CEO sign-off
	47	Estimation of gas supplied[29]	2	Y/N: (i) that the methods for assessing charging or rebates meet obligations; (ii) that the methods used to devise estimated consumption meet obligations; and (iii) based on: [the number of customers where supply was estimated for the required period (up to six months prior to discovery of fault)]/[number of customers with estimated supply] (iv) based on: [the number of times metering equipment is deemed to be not registering correctly when the error in registration is greater than 2%]/[the number of times metering equipment is deemed to not be measuring correctly]	Board/CEO sign-off
	48	Customer to elect how consumption is measured when access to a meter has not been obtained[30]	2	Y/N based on: [the number of customers with unread meters whose level of consumption for billing purposes is determined according to the customer's elected method]/ [number of customers whose meter has not been read]	Board/CEO sign-off
Part 8 – Information To Be Provided To Customers					

	49	Providing notice where small retail customers change supplier or status[31]	3	Y/N that a system is in place that ensures that the provision of notices to small retail customers under prescribed conditions; and Y/N that this is supported by actual performance, including: (i) [the number of customers issued required written notices]/[the number of customers where written notices were required] (ii) in the case of a negotiated contract: [the number of times where a required written notice was given not later than 21 days before the end of the period of supply under contract]/[the number of times a written notice was given to a customer under a negotiated contract] (iii) in the case of a standard supply contract, the timeframe within which notice is given after the event has occurred should be recorded.	Board/CEO sign-off
	50	Information to be provided to small retail customers about contracts[32]	3	Y/N based on: [The number of customers who received the required information]/[the number of customers who were required to receive the information] [The number of customers who received information free of charge]/[the number of customers to whom the information should have been provided free of charge]	Board/CEO sign-off
Part 9 – Marketing To Small Retail Customers					
	51.1	Marketing Code Of Conduct Must Be Complied With, and Must Ensure that Marketers Comply[33]	1 2	Y/N that: (i) a compliance system is in place, which covers all Marketing Code of Conduct obligations (ii) the compliance system records data as per obligations under 6.2.5, 6.2.6, 6.3.3, 6.3.4, 6.4.3,6.4.4,6.5.1(b), 6.5.2, 6.7.6, , 7.1.1 of the Marketing Code of Conduct (ii) Performance data demonstrates compliance	Board/CEO sign-off Annual external audit
Part 10 – Greenhouse Abatement Obligations					

*	54	Greenhouse Strategies Must Be Developed[34]	3	No authorisation holder reporting	n/a
*	55 &58	Requirement to prepare and submit plans (in accordance with Environmental Guidelines)[35]	3	No authorisation holder reporting	n/a
*	56 & 58	Annual reports must be prepared and published (in accordance with Environmental Guidelines)[36]	3	No authorisation holder reporting	n/a
*	57	Effectiveness of plans must be assessed by an independent auditor at least every three years[37]	3	Date of last independent assessment and outcome	n/a
Part 11 – Conditions Relating To Safety					
	59 & 62	A plan for a consumer safety awareness program must be submitted, in accordance with Safety Guidelines[38]	3	No authorisation holder reporting *[MEU to advise IPART whether an appropriate plan is in place.]*	n/a
	60 & 62	Requirement to submit a report on the effectiveness of the consumer safety awareness program[39]	3	No authorisation holder reporting *[MEU notifies IPART that it has received report]*	n/a
	61 &62	Requirements for the Consumer Safety Awareness Program that must be met[40]	3	No authorisation holder reporting *[MEU notifies IPART whether obligations met]*	n/a
Part 12 – Reporting Obligations					
*	63	Specified records must be kept and required information to be provided to IPART at IPART's request[41]	3	No authorisation holder reporting	n/a
*	63.1	Information to be provided to Director-General as requested[42]	3	No authorisation holder reporting	n/a
	63.2	Records must be kept for each financial year and a summary provided to the Department[43] Records must be kept to ensure compliance and supplied to the Director-General on request[44]	3	No authorisation holder reporting	n/a

Part 13 – Authorisation Fees					
	64	Licence fees to be paid[45]	3	No authorisation holder reporting	n/a

1 Gas Supply Act 1996, s33L(2)

2 Condition imposed by the Minister

3 Condition imposed by the Minister

4 Condition imposed by the Minister

5 Condition imposed by the Minister

6 Condition imposed by the Minister

7 Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 37(1)

8 Gas Supply Act, s33R(7), Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 7(1), 7(2), 7(3)

9 Gas Supply Act 1996, s33H

10 Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 37(2). Clauses in relation to the content of customer supply contracts are 43(1), 43(2), 44(1), 44(2), Gas Supply (Natural Gas Retail Competition) Regulation 2001, Schedule 1, cl 1(1), 1(2), 1(3), 2(1), 2(2), 2(3), 2(4), 3(1), 3(2), 3(3), 5, 6(1), 6(2), 6(3), 7, 8, 9(1), 9(2), 9(3), 9(4), 10(1), 10(2), 10(3), 11(1), 11(2), 12(1), 12(2), 13(1), 13(2), 14(1), 14(2), 15(1), 15(2), 15(3), 16, 17(2), 17(3), 17(4), 17(5), 17(6), 17(7), 17(8), 18(1), 18(2), 18(3), 19, 20(1), 20(2)

11 Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 47(1), 47(2), 47(3)

12 Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 14

13 Condition imposed by the Minister

14 Condition imposed by the Minister

15 Condition imposed by the Minister

16 Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 20(1), 20(2), 21

17 Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 22(1), 22(2), 22(3), 29(1), 29(2)

[18] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 23(1), 23(2), 23(3), 23(4)

[19] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 24(1), 24(2), 24(3), 24(4), 24(5)

[20] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 25(1), 25(2), 25(3)

[21] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 26(1), 26(2), 26(3)

[22] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 27(1), 27(2)

[23] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 28(1), 28(2), 28(3), 28(4), 28(5)

[24] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 30

[25] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 31(1), 31(2), 31(4)

[26] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 31(3)

[27] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 32(1), 32(2), 32(3)

[28] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 33(1), 33(2), 33(3)

[29] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 34(1), 34(2), 34(3), 34(4), 34(5), 34(6), 34(7)

[30] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 35(1), 35(2), 35(3)

[31] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 10(1), 10(2), 10(3), 10(4), 10(5), 10(6)

[32] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 45(1), 45(2), 45(3), 45(4)

[33] Gas Supply Act 1996 s33P

[34] Condition imposed by the Minister

[35] Condition imposed by the Minister

[36] Condition imposed by the Minister

[37] Condition imposed by the Minister

[38] Condition imposed by the Minister

[39] Condition imposed by the Minister

[40] Condition imposed by the Minister

41 Gas Supply Act 1996, s33(1), 33(2), 33(4)

42 Condition imposed by the Minister

43 Condition imposed by the Minister

44 Condition imposed by the Minister

45 Gas Supply Act 1996, s15(1)

A.9. Natural Gas Supplier Endorsement Draft Reporting Requirements

	Consolidated Reference Document	Description	Compliance Type	Content of Reporting	Sign Off Required
Part 2 – Obligation To Supply					
	1	Eligible Customers Who Apply For Supply Under A Standard Form Customer Supply Contract Must Be Supplied[1]	3	Y/N based on: [The number of applications for supply from eligible customers accepted]/[the number of applications for supply from eligible customers]	Board/CEO sign-off Annual external audit
	2&3	The following information must be issued (within 24 hours) to customers who request to be supplied under a Standard Form Contact (i) An Application Form Which Contain Specified Particulars; (ii) A Document Containing Specifie Information[2]	3	Y/N based on: [the number of compliant application forms + required info sent within 24 hours]/[Total no of applications]	Board/CEO sign-off

		In Addition, A Supplier Must Provide, Free Of Charge, Information On Any Rebate Or Relief Scheme At A Customer's Request[3]	3	Y/N based on: [the number of information packs on rebate or relief schemes provided at a customer's request]/[number of customers requesting rebate or relief scheme information]	Board/CEO sign-off
		Customer Elections To Be Supplied Under A Standard Form Contract Only Accepted If On Retailer's Application Form And Complete[4]	3	Y/N based on: [the number of customer election which comply with Regulation requirements]/[the number of customer elections accepted]	Board/CEO sign-off
*	4.2	Supply May Only Be Discontinued Under Specified Circumstances[5]	3	Y/N based on: (i) [the number of customers where supply was discontinued under the required circumstances]/[the number of times supply was discontinued] (ii) [the number of customers disconnected who were given reasonable notice]/[the number of customers who were disconnected] 'Given reasonable notice' Notice under guideline 2	Board/CEO sign-off
Part 3 – Standard Form Customer Contracts					
	5	Standard Form Customer Supply Contracts Must Be Prepared[6]	3	Y/N that standard form customer contracts for small retail customers have been prepared	Board/CEO sign-off
	6	Tariffs And Charges Under Standard Form Contracts Must Be In Accordance With Any Relevant Gas Pricing Orders[7]	3	Y/N that tariffs and charges are in accordance with relevant gas pricing orders	Board/CEO sign-off
	6.1	At Least 30 Days Notice In Writing Of New Tariffs/Charges Must Be Give , And Information As Determined By The Minister Provided To Show Consistent With Any Relevant Determination By IPART[8]	3	Y/N that 30 days written notice has been given and appropriate information has been provided to IPART	Board/CEO sign-off

	7	Conditions To Be Met Regarding Notification Of Variations To Charges Under A Standard Form Customer Contract[9]	3	Y/N that: (i) a record of notices issued (ii) the form of notice meets regulation requirements and variations in tariffs made	Board/CEO sign-off
	8	Any Relevant Customer Council Must Be Notified And Due Regard Given To Its Comments Before Completing A Standard Form Customer Contract[10]	3	Y/N that any relevant customer council is notified and any comments given due regard	Board/CEO sign-off
	8&9	Notice Of Contract Terms Containing Required Information To Be Published[11]	3	Y/N that required notices have been published and a record of these notices kept	Board/CEO sign-off
*	10	A Standard Form Contract Must Contain A Right For The Supplier To Amend The Contract Without Prior Customer Consent[12]	1	Y/N that the contract contains a right for the supplier to amend the contract without prior customer consent **[Note: reporting requirement against this obligation is already covered by reporting under the obligation ref D7 in the Supplier authorisation]**	Board/CEO sign-off accompanied by external auditor sign-off
	11	Contract And Related Documents To Be Available At Supplier's Office[13]	3	Y/N that contract and related documents are available at the supplier's office	Board/CEO sign-off
	12	A Payment Plan Must Be Operated[14]	3	No authorisation holder reporting requirements *[IPART to confirm with the Minister/MEU that there is an approved payment plan in existence.]*	n/a
	13	A Charter For Customer Council Must Be Prepared[15]	3	No authorisation holder reporting requirements *[IPART to confirm with the Minister/MEU that there is an approved charter in existence.]*	n/a
Part 4 – Retailers Of Last Resort					
	15	Conditions Of Endorsement As Retailer Of Last Resort Must Be Complied With[16]	1	Y/N that a system in place that allows the supplier to meet its obligations as the supplier of last resort	Board/CEO sign-off Annual Audit

		Retailer Must Comply With Retailer Of Last Resort Obligations[17]	2	Y/N based on an assessment of the percentage of times retailer of last resort obligations were not complied with	Board/CEO sign-off Annual Audit
		Last Resort Fee Charge Must Be Calculated In A Manner Approved By The Minister [18]	2	Y/N that the resort fee charge has been calculated in the required manner	Board/CEO sign-off Annual Audit
		Retailer Of Last Resort Must Publish Charges [19]	2	Y/N that charges have been published	Board/CEO sign-off Annual Audit
	16	An Approved Last Resort Supply Plan Must Be In Place[20]	1	No authorisation holder reporting *[IPART to confirm with the Minister that an approved plan is in place]*	n/a
	17	When A Last Resort Supply Event Occurs, A Last Resort Supplier Must: (i) Ensure The Transfer Of Customers And (ii) Implement The Last Resort Supply Arrangements[21]	2	When a last supply event occurs, Y/N based on: [the number of customers transferred/the number of customers required to be transferred] [the number of customers where the last resort arrangements were implemented]/[the number of customers where last resort supply arrangements were applicable]	Board/CEO sign-off Annual Audit
	18	When A Retailer Commences Their Obligations To Provide Last Resort Supply Arrangements, Written Notice Containing Prescribed Information Must Be Provided To Each Customer[22]	2	When a last supply event occurs, Y/N based on: [The number of customers receiving written notice containing required information]/[the number of customers]	Board/CEO sign-off Annual Audit
		The Retailer Must Publish A Statement That Last Resort Supply Arrangements Have Come Into Force For Specified Classes Of Customers, And Contact Details[23]	2	When a last supply event occurs, Y/N that an appropriate statement has been published and a copy of this statement has been kept on record	Board/CEO sign-off Annual Audit

	19	Transferred Customer Must Be Supplied Under The Appropriate Contract[24]	2	When a last supply event occurs, Y/N based on: [The number of customers transferred who are supplied under the appropriate contract]/[the number of customers transferred]	Board/CEO sign-off Annual Audit
		A Retailer Of Last Resort May Not Charge A Transfer Fee Greater Than $50[25]	2	When a last supply event occurs, Y/N based on: [The number of customers who were charged a last resort fee not exceeding $50]/[the number of customers charged a last resort fee]	Board/CEO sign-off Annual Audit
	20	If An Agreement As To The Terms And Conditions Of Gas Supply Between A Retailer Of Last Resort And A Non-Small Retail Customer Is Not Reached, The Retailer Of Last Resort Must Supply Gas At A Price Not Exceeding Specified Limits [Yet To Be Specified].[26]	2	Y/N based on: [The number of non-small customers with no supply agreement charged according to specified price limits]/[the number of non-small customers with no supply agreement] .	Board/CEO sign-off Annual Audit
		A Retailer Of Last Resort May Not Include In Charges To A Transferred Customer Any Additional Charges Other Than ???? [Yet To Be Specified][27]	2	Y/N based on: [The number of customers transferred charged allowable charges only]/[the number of customers transferred]	Board/CEO sign-off Annual Audit
	21	Conditions To Be Met Before A Retailer Of Last Resort Is Authorised To Discontinue The Supply Of Gas[28]	2	Y/N based on: [The number of customers where power is discontinued and the required criteria are met]/[the number of customers where power is discontinued]	Board/CEO sign-off Annual Audit

A.10. Natural Gas Reticulator Draft Reporting Requirements

Consolidated Reference Document		Description	Compliance Type	Content of Reporting	Sign off Required
Part B – Efficient Market Operation And Customer Protection					
*	7	Technical And Prudential Criteria Adopted By The Minister Must Be Complied With[29] **[Currently inactive]**	-	No authorisation holder reporting	n/a
*	8	The Tribunal Must, Where Practical, Be Given At Least 12 Months Notice Of Any Cessation Or Reduction In Activities[30]	3	No authorisation holder reporting	n/a

*	9 [21, 33.1,33.5, 34.6 & 34.7 also cover Network Code obligations]	A Network Code Meeting Required Conditions Must Be Developed, Adopted And Complied With[31]	1	Y/N that the licensee has an effective system in place to enable compliance with the procedures set out in the following sections of the Network Code: • Section 5 on reporting procedures for network-related inquiries • Section 6 on Network safety incident reporting procedures • Section 7 on retailer inquiries regarding consumption data • Section 8 providing the retailer with billing information in relation to small customers • Sections 9 to 11 on security of basic metering equipment, access to meters, provision of information, accuracy of meters and meter testing procedures • Section 12 on correction of billing information • Sections 13 to 15 on network related works, including provision of notices for works • Section 17 and 18 on discontinuance and recommencement of supply	Annual external audit
			3	Y/N that the Network Code provisions have been complied with.	CEO/Board sign-off

		The Director-General, Ministry Of Energy And Utilities And The Tribunal Must Be Notified Of Any Amendment To The Network Code[32]	3	No licensee reporting *[Under MOU: IPART to confirm with the MEU that amendments notified]*	n/a
		Copies Must Be Made Available At A Reasonable Charge[33]	3	Y/N that copies are available, and a record of the amount charged is maintained	Board/CEO sign-off
*	12	Requirement To Participate And Comply With The Terms And Conditions Of An Approved Scheme To Support Full Competition[34] The Approved Scheme Must Be Complied With Information Regarding The Operation Of The Scheme Must Be Provided, As Requested	1 3	No authorisation holder reporting requirements *[GMCo to notify IPART of whether authorisation holder has complied,.under MOU between IPART and GMCo]*	N/a
*	15	Market Operations Rules Must Be Complied With [There were no market operation rules in the gas sector as at 1 November 2001 **]**[35]	n/a	No authorisation holder reporting requirements	n/a
Part C – Safety, Public Risk And Service Standards					
*	23	Requirement To Operate A Safe Distribution System[36]	1 3	No authorisation holder reporting *[IPART to confirm with MEU that authorisation holder is operating its distribution system safely, under MOU between IPART and MEU]*	n/a
	25	Authorisation Holder Must Ensure: (i) Appropriate Contact Arrangements Regarding Gas Escape Must Be In Place And Appropriately Publicized (ii) Must Act Promptly On Any Reports (iii) Ensure That Details Of Emergency Service And A Statement Regarding Gas Escape Are Available On Request[37]	1 2	Y/N that: obligations have been met and all reports acted promptly on a record of the time taken to act on reports has been maintained	Board/CEO sign-off Annual external audit

	26	Appropriate Insurance, Including Indemnity Insurance Must Be Arranged And Maintained[38]	1 Immediate	Y/N that appropriate indemnity insurance is in place Any breach to be notified within [3] days	Board/CEO sign-off with external audit
	27	A Report Quantifying Unaccounted For Gas, Estimating Gas Loses And Including A Plan To Minimize Gas Losses Must Be Prepared[39]	3	No authorisation holder reporting *[IPART to confirm with MEU that report prepared]*	n/a
	28	New Pipes To Be Marked At Intervals Of No Greater Than 2 Meters[40]	3	Y/N that pipes are marked at required intervals	Board/CEO sign-off
	29	When Supply Is Refused Or Discontinue, A Written Notice Containing The Reasons Must Be Provided. In The Case Of Discontinuance To A Premises, Notice Must Be Also Provided To The Director-General[41]	3	Y/N based on: [the number of times supply is refused or discontinued and the required notice is sent out]/[the number of times supply is refused or discontinued]	Board/CEO sign-off
	30	A Notice Of An Accident Must Be Provided To The Director-General If The Accident: (i) Involves The Escape Or Explosion Of Gas; And (ii) Results In Death, Serious Personal Injury Or Substantial Property Damage The Notice Must Contain Required Information, And Must Be Provided Within 14 Days[42]	3	No authorisation holder reporting *[IPART to confirm with MEU that reports submitted]*	n/a
*	31	Practices And Procedures For Handling Emergency Incidents, Outages And Other Safety Situations, Meeting Specified Conditions Must Be In Place[43]	1 2	No authorisation holder reporting *[MEU to inform IPART of adequacy of authorisaiton holders emergency procedures, under MOU between IPART and the MEU]*	n/a
	37	Any direction issued by the Tribunal to: (i) keep specified records; and/or (ii) furnish the Tribunal with specified information for compliance purposes, must be provided	3	No authorisation holder reporting	n/a
	12	Annual Authorisation Fees To Be Paid[44]	3	No authorisation holder reporting	n/a

[1] Gas Supply Act 1996, s33C(3), 33C(4), Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 5(c)

[2] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 11(1), 11(2), 11(3), 11(4), 12(1)

[3] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 12(2)

[4] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 11(1)

[5] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 13(2), 13(3)

[6] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 40(1)

[7] Gas Supply Act 1996, s27A(4)

[8] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 5

[9] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 19(1), 19(2), 19(3), 21

[10] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 40(2), 40(3), 40(6)

[11] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 40(4), 40(5), 42(1)

[12] Gas Supply (Natural Gas Retail Competition) Regulation 2001, Schedule 1, cl1(3)(m)

[13] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl46

[14] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 6(1), 6(2)

[15] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 15(1), 15(2), 15(3), 15(4), 15(5)

[16] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 59

[17] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 59(b)

[18] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 59(d)

[19] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 59(e)

[20] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 60(1), 60(2), 60(3)

[21] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 61(1), 61(2), 61(3), 61(4)

[22] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 63(1)

[23] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 63(2)

[24] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 64(1), 64(2), 64(3), 64(4)

[25] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 64(5)

[26] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 65(1), 65(2)

[27] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 65(3)

[28] Gas Supply (Natural Gas Retail Competition) Regulation 2001, cl 66(1), 66(2), 66(3), 66(4)

[29] Authorisation condition imposed by the Minister

[30] Authorisation condition imposed by the Minister

[31] Authorisation condition imposed by the Minister

[32] Authorisation condition imposed by the Minister

[33] Authorisation condition imposed by the Minister

[34] Authorisation condition imposed by the Minister.

[35] Gas Supply Act 1996, s33L(3), Draft Market Operation Rules, issued by MEU 11 Oct 01, W.1, W.2, W.3

[36] Authorisation condition imposed by the Minister

[37] Authorisation condition imposed by the Minister

[38] Authorisation condition imposed by the Minister

[39] No Director-General Guidelines exist at the current time

[40] Authorisation condition imposed by the Minister

[41] Gas Supply (General) Regulation 1997, cl 23(1), 23(2), 23(3)

[42] Gas Supply (General) Regulation 1997, cl 24(1), 24(2), 24(3)

[43] Authorisation condition imposed by the Minister

[44] Gas Supply Act 1996, section 15(1) and 15(3)

A.11. LPG Distributor Draft Reporting Requirements

Consolidated Document Reference		**Description**	**Compliance Type**	**Content of Reporting**	**Sign-off Required**
Part B – Customer Protection					
*	7	The Tribunal Must, Where Practical, Be Given At Least 12 Months Notice Of Any Cessation Or Reduction In Activities[1]	3	No licensee reporting	n / a
	8	Conditions Regarding Information On Service, Fees, Tariff Structures And Payment Procedures[2]	3	Y / N that: • a statement was prepared and any revisions sent to IPART; • a copy of the statement is available for inspection; and Y / N based on: • [the number or copies sent when requested] / [the number of copies requested]	Board / CEO sign-off
	9	Conditions To Be Met Prior To Any New Tariffs Being Introduced[3]	3	Y / N that prior to any new tariffs being introduced: • A notice and schedule of prices meeting obligations has been published; and • A copy of the schedule has been provided to IPART	Board / CEO sign-off
*	10	A Safe Distribution System Must Be Maintained And Operated, Having Regard To The Safety And Operating Plan[4]	1 3	No licensee reporting [*Under MOU: IPART to receive confirmation from MEU that the licensee has submitted an acceptable safety and operating plan, and has operated its system in accordance with the Plan*]	n / a

	11	If A Licence Holder Has Small Retail Customers Then They Must Either: (i) Establish A Customer Council; Or (ii) Be A Member Of An Industry Customer Council[5]	3	Y / N that a licence holder has established, or is a member of, a customer council	Board / CEO sign-off
		This Section Must Be Complied With Within 6 Months Of The Commencement Of The Regulation, Or Within 6 Months Of The Grant Or Transfer Of A Licence[6]	3	Y / N that this has been completed within required timeframes	Board / CEO sign-off
*	12.1	A Customer Service Code Must Be Prepared[7]	3	Y / N that a customer service code has been prepared, complying with section 12 of the Regulation	Board / CEO sign-off
		The Customer Service Code Must Be Applied And Complied With Within 6 Months Of The Commencement Of The Regulation Or Within 6 Months Of The Grant Or Transfer Of A Licence [8]	3	Y / N that the customer service code has been applied and complied with, within required timeframes	Board / CEO sign-off
*	12.2	Due Regard Must Be Given To The Customer Council When Preparing And Amending The Customer Service Code, And In Adopting And Amending Any National Customer Service Code[9]	3	Y / N that due regard given to customer council comments	Board / CEO sign-off

		Copies Of The Customer Service Code Must Be Available For Public Inspection At The Licensee's Office[10]	3	Y / N that copies of the customer service code prepared or adopted are available	Board / CEO sign-off
*	12.3	Customer Service Code Must Include Required Provisions[11]	3	Y / N that customer service codes provides for: • Standard form contract; • Standards of service; • Form and content of bills; • Charges and meters; • Debt collection procedures; and • Dispute resolution procedures	Board / CEO sign-off
Part C – Safety and Public Risk					
	13	A Plan For A Consumer Safety Awareness Program Must Be Submitted Within Required Timeframes[12]	3	No licensee reporting *[Under MOU: MEU to advise IPART whether an appropriate plan is in place.]*	n / a
	14	Requirement To Submit A Report On The Effectiveness Of The Consumer Safety Awareness Program[13]	3	No licensee reporting *[Under MOU: MEU to notify IPART that it has received report]*	n / a
	15	Requirements For The Consumer Safety Awareness Program That Must Be Met[14]	3	No licensee reporting *[Under MOU: MEU notifies IPART whether obligations met]*	n / a

	17	Licensee Must Ensure: (i) Appropriate Contact Arrangements Regarding Gas Escape Must Be In Place And Appropriately Publicized (ii) Must Act Promptly On Any Reports (iii) Ensure That Details Of Emergency Service And A Statement Regarding Gas Escape Are Available On Request[15]	1 2	Y / N that: • A system is in place to allow obligations to be met; • obligations have been met and all reports acted promptly on; and • a record of the time taken to act on reports has been maintained	Board / CEO sign-off Annual external audit
	18	Appropriate Insurance, Including Indemnity Insurance Must Be Arranged And Maintained[16]	1 Immediate	Y / N that appropriate indemnity insurance is in place Any breach to be notified within 3 days	Board / CEO sign-off with external audit
Part D – Other Obligations					
	19	Adverse Environmental Effects Must Be Minimized[17]	3	Y / N that in conducting its reticulated gas activities, all steps as are reasonable and practicable must be taken to minimize any adverse environmental effects	Board / CEO sign-off
	20	Licence Fees To Be Paid[18]	3	No licensee reporting	n / a
	21 and 22	Any Direction Issued By The Tribunal To: (i) Keep Specified Records; And / Or (ii) Furnish The Tribunal With Specified Information For Compliance Purposes, Must Be Provided[19]	3	No licensee reporting	n / a

	23	Required Statistical Information Must Be Maintained And Submitted To The Tribunal No Later Than 3 Months After The End Of Each Financial Year[20]	3	No licensee reporting	n/a

[1] The appropriateness of the 12 month period in this section is to be reviewed – reflects an existing licence condition

[2] Condition imposed by the Minister

[3] References to the Tribunal in this section are proposed only – existing licence conditions refer to the Director-General

[4] Gas Supply (Safety and Operating Plans) Regulation 1997

[5] Gas Supply (Customer Protection) Regulation 1997, cl 7(2), 7(5), 7(6)

[6] Gas Supply (Customer Protection) Regulation 1997, cl 7(6)

[7] Gas Supply (Customer Protection) Regulation 1997, cl 11(2), 12(1)

[8] Gas Supply (Customer Protection) Regulation 1997, cl 13, 15

[9] Gas Supply (Customer Protection) Regulation 1997, cl 11(3), 12(2)

[10] Gas Supply (Customer Protection) Regulation 1997, cl 14

[11] Gas Supply (Customer Protection) Regulation 1997, Division 2, cl 16-22

[12] Licence condition imposed by the Minister

[13] Licence condition imposed by the Minister

[14] Licence condition imposed by the Minister

[15] Licence condition imposed by the Minister

[16] Licence condition imposed by the Minister

[17] Licence conditions imposed by the Minister

[18] Gas Supply Act 1996, s44(3)

[19] Gas Supply Act, s40(2)(f)

[20] Licence condition imposed by the Minister

A.12. Comments on Draft Reporting Requirements

This section provides a number of comments in relation to those licence obligations marked with an asterisks (*) in the tables in the main body of the draft reporting requirements set out in this Appendix A.

We have prepared the draft reporting requirements on the basis of the obligations on licensees and authorisation holders as at 1 November 2001. We note, however, that the substantive content of some licence obligations was subject to recommendations in NERA's Part 1 Report. These recommendations were based on improving compliance by licensed bodies with government policy objectives. In addition, in preparing the draft reporting requirements we have come across a number of obligations where we feel that it is helpful to provide comments. In both cases, we have marked such obligations in the draft reporting tables with an asterisks.

A.12.1. Electricity Retail Licence

Consolidated Reference Document: Part B Section 2 – Technical and prudential criteria

We noted in our Part 1 report that including financial prudency as a licence condition for electricity retailers appears at odds with the move towards a competitive retail market. In a competitive market, it is to be expected that some businesses will fail. As such, it should not be a condition of a business' licence that it should not be allowed to fail.

Our recommendation is that the content of the licence provision in relation to meeting technical and prudency criteria continue to be limited to meeting NEMMCO's registration criteria – as suspension of a retailer by NEMMCO is the trigger for the Retailer of Last Resort (ROLR) provisions. We have therefore classified the reporting requirement for this licence obligation as 'immediate', requiring exception reporting within 3 days of a breach.

Consolidated Reference Document: Part C Sections 3 to 5 – Compliance with the Marketing Code of Conduct

Compliance with the Marketing Code of Conduct is made a licence obligation under the Electricity Act. However, the Code itself sets out reporting and auditing requirements for marketers, and nominates the Minister for Energy as the Code Administrator. As a result, there is potential duplication between IPART's licence monitoring and enforcement role and the Minister's role as Code Administrator in enforcing the Marketing Code of Conduct.

Our Part 1 report recommended that this potential duplication be addressed by *either* having compliance with the Marketing Code of Conduct administered by the Minister, separate from the licensing regime *or* by bringing assessment of compliance under the same regime as other licence conditions, *but not both.*[3]

[3] See NERA's Part 1 Report, section 5.2.6.

The draft reporting requirements propose a comprehensive monitoring role for IPART, with compliance with the Marketing Code of Conduct (and ensuring that marketers used by a retailer have complied with the Marketing Code of Conduct) subject to Type 1 *ex ante* assessment, and Type 2 quarterly reporting. In addition, we propose that IPART draw on information provided by EWON on complaints in relation to marketing practices, to supplement retailers' own reporting.

Consolidated Reference Document: Part I Section 27 - Licence Plans

NERA's Part 1 Report recommended that the licence condition which requires electricity retailers to submit licence plans be removed, on the grounds that this obligation does not further policy objectives.[4] The requirement for licensees to submit a licence plan is a licence condition imposed by the Minister. As such, it is open to the Minister to revise this licence condition, in consultation with the Minister for the Environment.

Our recommendation is that the requirement to submit a licence plan be replaced with licence conditions which directly cover the areas currently covered by the licence plan - namely a requirement to maintain a complaint management system which meets an external standards and a requirement to report on specified Key Performance Indicators and any minimum standards established.

A.12.2. Electricity Standard Retail Supplier – Endorsement Conditions

Consolidated Reference Document: Part 2 Section 2 – Elections to be Supplied Under Standard Form Customer Contract

Electricity Supply (General) Regulation 2001 clause 13 requires certain information to be provided to small retail customers who apply to be supplied under a standard form customer contract. However, this clause is not expressly made a licence condition, in contrast with the other provisions in that division of the Regulation.

Similarly, the requirement under clause 12(2)(e) of the Regulation for standard retailers to provide a statement that supply of electricity is to commence between 10 days and 21 days after the application is served on the supplier has not been made an explicit licence condition. Moreover, we note that compliance with this obligation would be limited to the *provision of a statement* that supply would commence within the required timeframe, rather than by supply *actually commencing* within that timeframe.

We have included draft reporting requirements in relation to these obligation but note that, if not made licence conditions, then monitoring compliance falls outside IPART's role as licence regulator.

[4] See discussion in NERA's Part 1 Report: Section 5.4.1

Consolidated Reference Document: Part 2 Section 4.2 – Limitation on Circumstances where Standard Retail Supplier May Refuse Supply

Clause 15(2) of the Electricity Supply (General) Regulation 2001 sets out conditions under which a standard retail supplier may not discontinue the supply of electricity. This clause is not made an explicit licence condition. In contrast, Schedule 2 Clause 8.3 of the Regulation makes it a licence condition for disconnection of customers on negotiated customer supply contracts to only occur in line with the conditions in the contract.

We have included draft reporting requirements in relation to this obligation but note that, if not made a licence condition, then monitoring compliance falls outside IPART's role as licence regulator.

Consolidated Reference Document: Part 3 Section 8 – Matters For Which Standard Form Contracts Must Provide

Compliance with this condition will already be monitored by virtue of the monitoring of conditions covered under Part D Section 6.1 of the Consolidated Reference Document for Retail Suppliers. There is no need for separate reporting against this obligation.

A.12.3. Electricity Distribution Network Service Provider (DNSP) Licence

Consolidated Reference Document: Part B Section 2 – Technical and Prudential Criteria

We noted in our Part 1 Report that for network monopoly businesses, which are subject to price regulation, the issue of financial adequacy is one which is a direct consequence of price regulation itself, and should be explicitly considered in setting regulated prices. Similarly, technical requirements on DNSPs should be covered in their safety and operating plans. It is difficult to see in what way including a prudency condition in licences (even one which is limited to requiring NEMMCO registration) furthers government objectives.

Our recommendation is therefore that the Minister reviews the need to include the current licence conditions relating to financial and technical prudency in the DNSP's licence, with the aim of removing these conditions if a need is not identified.

Consolidated Reference Document: Part D Section 5 – Obligations Relating to Disconnections

Clause 14(2) of the Electricity General (Supply) Regulation 2001 places restrictions on when DNSPs can disconnect customer premises. We note that this clause is not explicitly made a licence condition, under the Regulation. Nor are there any Ministerial conditions imposed on licences which require DNSP licensees to comply with conditions in the customer connection contract before disconnecting supply.

We have included draft reporting requirements in relation to these obligations but note that, if not made licence conditions, then monitoring compliance falls outside IPART's role as licence regulator.

Consolidated Reference Document: Part F Section 23 – Dealings between DNSP and Retail Supplier

It is a DNSP licence condition, imposed by the Electricity Supply Act, that DNSPs are to comply with all Market Operation Rules. As at 1 November 2001 there was a draft Market Operation Rule governing the interaction between DNSPs and Retail Suppliers (the Draft Market Operations Rule for the making of arrangements on behalf of customers for the provision of Customer Connection Services, record keeping and information exchange requirements for DNSPs and retail suppliers).[5]

We have recommended that those particular obligations under this Market Operation Rule relating to billing by the DNSPs to retailers for connection services be designated as Type 2 obligations, requiring quarterly compliance reports. This is consistent with billing obligations for retailers being identified as Type 1 and Type 2 obligations: if DNSPs are not billing retailers correctly for connection services, then retailers will not be able to meet their billing obligations to customers.

We have also identified the retention of correspondence as a type 2 obligation, since we envisage that assessment of compliance would be based to a large extent on correspondence records. Hence, it is desirable to ensure that these records are maintained on an on-going basis.

Consolidated Reference Document: Part I Section 28 – Standards of Service
Part J Section 44 - Charges and Bills
Part N Section 53 – Asset Management
Part O Section 54 – Safety and Public Risk

A licence condition imposed by the Minister requires DNSP licensees to submit licence plans, covering a number of areas, including standards of service, complaints handling, participation in development of industry standards, the adoption and implementation of a cost effective risk management strategy and ensuring electrical contractors comply with safety standards.

NERA's Part 1 Report recommended that the licence condition which requires electricity DNSPs to submit licence plans be removed, on the grounds that this obligation does not further policy objectives.[6] The requirement for licensees to submit a licence plan is a licence condition imposed by the Minister. As such, it is open to the Minister to revise this licence condition, in consultation with the Minister for the Environment.

Our recommendation is that the requirement to submit a licence plan be replaced with licence conditions which directly cover the areas currently covered by the licence plan - namely a requirement to maintain a complaint management system which meets an external standards, a requirement to report on specified Key Performance Indicators and any

[5] This market operation rule has now been finalised.

[6] See discussion in NERA's Part 1 Report: Section 5.4.1

minimum standards established., and explicit requirements relating to risk management strategies and electrical contractors.

Consolidated Reference Document: Part N Section 52 – Asset Management

Under licence conditions imposed by the Minister, DNSPs need to consider (and report on) demand management alternatives to network augmentation. We noted in our Part 1 Report[7] that the NSW Code of Practice for Demand Management for Electricity Distributors provides details of how the assessment of alternatives should be conducted, and prescribes reporting requirements. We also noted that the National Electricity Code requires DNSPs to consider both demand side and generation alternatives, before augmenting their network, and to apply the ACCC's Regulatory Test to assess alternatives. Currently, DNSPs also include as part of their Network Management Report submitted to MEU a discussion on how they have considered alternatives to network augmentation.

In order to streamline what appears to be an overlap in reporting requirements, we would recommend that IPART use the same information as submitted to the Ministry of Energy and Utilities in the Network Management Reports, to assess compliance with the licence condition (rather than to require licensees to submit additional information). Furthermore, it would appear to be sensible for the Ministry of Energy and Utilities' guidelines for its Network Management Report to reflect the Code of Practice reporting requirements.

Consolidated Reference Document: Part O Section 55 – Safety and Operating Plans

Under the Electricity Supply (Safety Plans) Regulation 1997, DNSP licensees are required to prepare and submit Safety and Operating Plans to the Ministry of Energy and Utilities, and to operate in accordance with those Plans. However, we note that compliance with the Regulation conditions is not an explicit licence condition (in contrast the gas sector licences). The Ministry of Energy and Utilities has proposed that explicit licence condition be introduced to support the obligations in the Regulation.

The Ministry of Energy and Utilities is currently actively involved in assessing Safety and Operating Plans, and in monitoring compliance with the plans (and with safety and technical obligations in general).

We have proposed identifying compliance with safety conditions as a Type 1 condition, but with the Ministry of Energy and Utilities continuing to monitor compliance, and IPART to simply receive reports from the Ministry, rather than requiring licensees to submit reports directly to IPART.

A.12.4. Natural Gas Supplier Authorisation

Consolidated Reference Document: Part 2 Section 1 – Compliance with Market Operation Rules

7 See discussion in NERA's Part 1 Report: Section 5.4.7

The Gas Supply Act clause 33L(2) makes compliance with market operation rules a condition of a gas supplier's authorisation. However, as at 1 November 2001, there were no market operation rules approved for the gas sector. As a consequence, we have not proposed any monitoring with this authorisation condition, as it is currently an inactive condition.

Market operation rules have subsequently been introduced in the gas sector. We recommend that the form of the reporting requirements reflect those that we have proposed for monitoring compliance with the electricity market operation rules. That is, that where compliance with the market operation rule is seen as a Type 1 obligation, an *ex ante* assessment of compliance processes is required, and that *ex post* reporting be related to the specific obligations imposed by the market operation rule (rather than being a general 'yes/no' assessment of whether the market operation rule has been complied with, with no specific guidance on how compliance should be assessed).

Consolidated Reference Document: Part 2 Section 3 – Compliance with Network Code

A gas supplier authorisation holder is required as one of the authorisation conditions imposed by the Minister to comply with the Network Code adopted by the reticulator in whose reticulation system the authorisation holder is supplying gas.

The Network Code for Full Retail Competition will be the default set of arrangements applying in NSW.[8] The Network Code covers supplier obligations in relation to minimum service standards, procedures for reporting network-related inquiries and network safety incidents, inquiries regarding consumption data, security of basic metering equipment, Meter testing procedures, changes in occupancy and requirements in relation to new connections and disconnections.

To the extent that the Network Code is an agreement between a supplier and a network operator, and contains dispute resolution procedures, monitoring of compliance with the Network Code as a licence condition appears somewhat superfluous. Suppliers and network operators will themselves have an incentive to ensure that the other party complies with its obligations.

Notwithstanding the above point, we have incorporated draft reporting requirements in relation to compliance with the Network Code provisions.

Consolidated Reference Document: Part 2 Section 4 – Compliance with Approved Scheme to support full retail competition.

8 Gas Network Code for Full Retail Competition, approved 20 December 2001.

The Minister has imposed an authorisation condition which requires natural gas suppliers to participate in and comply with an approved scheme to support full retail competition.

In December 2000, the NSW retail gas industry established GMCo to manage on their behalf, the development and operation of the systems necessary to facilitate a competitive gas retail market. GMCo is the only approved scheme to be recognized by the Minister for Energy. The members of GMCo are holders of either a reticulator's or supplier's authorisation under the Gas Supply Act 1996 (NSW) and under the Constitution of GMCo are bound to comply with its Business Rules.[9]

We understand that GMCo intends to monitor compliance with its Business Rules. As a result, our recommendation is that IPART's role in monitoring compliance with this authorisation condition is limited to receiving information from GMCo on an annual basis that authorisation holders have complied with the Network Code and describing any exceptions (together with the action GMCo and/or the authorisation holder has taken to address the breach).

Consolidated Reference Document: Part 10 Sections 54 to 58 - Greenhouse Abatement Obligations

We noted in NERA's Part 1 Report that the effectiveness of the environmental obligations placed on authorisation holders would be improved by the introduction of binding targets, rather than requirements to submit non-binding plans. For gas suppliers, these authorisation conditions are imposed by the Minister, and the Minister has the ability to revise the conditions.

Consolidated Reference Document: Part 12 Sections 63 to 63.1 - Reporting Requirements

It appears that current authorisation conditions require authorisation holders to furnish information to both IPART and MEU in order for those agencies to determine compliance by the authorisation holder with the authorisation conditions. These conditions appear to need updating to reflect the fact that responsibility for compliance monitoring has been transferred from MEU to IPART (as licence regulator).

A.12.5. Natural Gas Supplier Endorsement conditions

Consolidated Reference Document: Part 2 Section 4.2 – Limitation on Circumstances Where Standard Supplier May Refuse Supply

Clause 14(3) of the Gas Supply (Natural Gas Retail Competition) Regulation 2001 sets out conditions under which a standard supplier may not discontinue the supply of gas. This clause is not made an explicit authorisation condition. In contrast, Clause 15 of the Regulation makes it an authorisation licence condition for disconnection of customers on

[9] Draft "Gas Retail Market Business Rules to Support Retail Competition in Gas" have been published by GMCo. The Minister of Energy has still to recognize the Business Rules under the Retail Scheme Approval Deed.

negotiated customer supply contracts to only occur in line with the conditions in the contract.[10]

We have included draft reporting requirements in relation to this obligation but note that, if not made an authorisation condition, then monitoring compliance falls outside IPART's role as licence regulator.

Consolidated Reference Document: Part 3 Section 10 – Standard Form Contract Must Contain A Right For The Supplier To Amend The Contract Without Prior Customer Consent

Compliance with this obligation will already be monitored by virtue of the monitoring of conditions covered under Part D Section 7 of the Consolidated Reference Document for Natural Gas Suppliers. There is no need for separate reporting against this obligation.

A.12.6. Natural Gas Reticulator Authorisation

Consolidated Reference Document: Part B Section 7 – Compliance with Technical and Prudential Criteria

The Minister has imposed a licence condition which requires each authorisation holder to satisfy and to continue to satisfy such technical and prudential criteria as may be adopted by the Minister to determine whether it is able to operate a viable business as an authorised reticulator. Currently no requirements have been specified, and so this licence condition is inactive.

We noted in our Part 1 Report that for network monopoly businesses, which are subject to price regulation, the issue of financial adequacy is one which is a direct consequence of price regulation itself, and should be explicitly considered in setting regulated prices. Similarly, technical requirements on gas reticulators should be covered in their safety and operating plans. It is difficult to see in what way including a prudency condition in licences furthers government objectives. Our recommendation is therefore that the Minister reviews the need to include the current licence conditions relating to financial and technical prudency in the gas reticulators' licence, with the aim of removing these conditions if a need is not identified.

It should also be noted that on-going financial monitoring is a complicated and costly exercise, and one for which IPART does not currently have the suitable resources. The current situation is therefore one in which IPART is (nominally at least) required to monitor compliance with licence conditions in areas where it does not have the appropriate resources to conduct such monitoring. If these licence conditions remain (in variance to our recommendation above), it would therefore be necessary to review the resources available to IPART in order to allow it to adequately discharge its responsibility in this area.

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10 References given here are to the final version of the Gas Supply (Natural Gas Retail Competition) Regulation. The references applicable to the draft Gas Regulation used in preparing the draft reporting requirements are clause 13(3) and clause 14, respectively.

Consolidated Reference Document: Part B Section 8 – Requirement To Give 12 Months Notice Of Any Cessation Of Activities

It is not clear how this licence condition could be enforced in practice. As a result, we have included only annual reporting in the draft reporting requirements. Our recommendation is that the rationale for including this authorisation provision is reviewed.

Consolidated Reference Document: Part B Section 9 – Requirement To Develop, Adopt And Comply With A Network Code

The Network Code for Full Retail Competition will be the Network Code applying in NSW.[11]

To the extent that the Network Code is an agreement between a supplier and a network operator, and contains dispute resolution procedures, monitoring of compliance with the network Code as a licence condition appears superfluous. Suppliers and network operators will themselves have an incentive to ensure that the other party complies with its obligations.

Consolidated Reference Document: Part B Section 12 – Compliance With Approved Scheme To Support Full Retail Competition

The Minister has imposed an authorisation condition which requires natural gas reticulators to participate in and comply with an approved scheme to support full retail competition.

In December 2000, the NSW retail gas industry established GMCo to manage on their behalf, the development and operation of the systems necessary to facilitate a competitive gas retail market. GMCo is the only approved scheme to be recognized by the Minister for Energy. The members of GMCo are holders of either a reticulator's or supplier's authorisation under the Gas Supply Act 1996 (NSW) and under the Constitution of GMCo are bound to comply with its Business Rules.[12]

We understand that GMCo intends to monitor compliance with its Business Rules. As a result, our recommendation is that IPART's role in monitoring compliance with this authorisation condition is limited to receiving information from GMCo on an annual basis that authorisation holders have complied with the Network Code and describing any exceptions (together with the action GMCo and/or the authorisation holder has taken to address the breach).

Consolidated Reference Document: Part B Section 15 – Compliance with Market Operation Rules

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[11] Draft Network Code for Full Retail Competition, 28 May 01.

[12] Draft "Gas Retail Market Business Rules to Support Retail Competition in Gas" have been published by GMCo. The Minister of Energy has still to recognize the Business Rules under the Retail Scheme Approval Deed.

The Gas Supply Act clause 33L(2) makes compliance with market operation rules a condition of a gas supplier's authorisation. As at 1 November 2001, there were no market operation rules approved for the gas sector. As a consequence, we have not proposed any monitoring with this authorisation condition, as it is currently an inactive condition.

Market operation rules have subsequently been introduced in the gas sector. We recommend that the form of the reporting requirements reflect those that we have proposed for monitoring compliance with the electricity market operation rules. That is, that where compliance with the market operation rule is seen as a Type 1 obligation, an *ex ante* assessment of compliance processes is required, and that *ex post* reporting be related to the specific obligations imposed by the market operation rule (rather than being a general 'yes/no' assessment of whether the market operation rule has been complied with, with no specific guidance on how compliance should be assessed).

Consolidated Reference Document: Part C Section 23 – Requirement to Operate a Safe Distribution System and Section 31 – Emergency Procedures

Our recommendation for all 'safety' related licence obligations is that IPART should not attempt to duplicate the role currently filled by MEU in approving authorisation holders safety and operating plans and monitoring performance. Rather, IPART should receive information from MEU that authorisation holders have (or have not) met these conditions. It is questionable whether it is also necessary to require authorisation holders to undertake external audits of these obligations, given MEU's current involvement.

A.12.7. LPG Distributor's Licence

Consolidated Reference Document: Part B Section 7 – Notice of Cessation of Activities

It is not clear how this licence condition could be enforced in practice. As a result, we have recommended that licensee reporting is restricted to an annual requirement. We would recommend that the rationale for the inclusion of this licence condition be reviewed.

Consolidated Reference Document: Part B Section 10 – Operation of a Safe Distribution System

Our recommendation for all 'safety' related licence obligations is that IPART should not attempt to duplicate the role currently filled by MEU in approving licensees' safety and operating plans and monitoring performance. Rather, IPART should receive information from MEU that licensees have (or have not) met these conditions. It is open to question whether it is also necessary to require licensees to undertake external audits of these obligations, given MEU's current involvement.

Consolidated Reference Document: Part B Section 11 and Section 12 – Establishment of a Customer Council and Customer Service Code

The Gas Supply (Customer Protection) Regulation 1997 requires all suppliers and distributors of gas to establish a customer council and to prepare a customer service code.

Compliance with these conditions is not made an explicit condition of the LPG distributor's licence. We have included draft reporting requirements in relation to these obligations but note that, if not made a licence condition, then monitoring compliance falls outside IPART's role as licence regulator.

APPENDIX B. PRO-FORMA LICENSEE COMPLIANCE REPORT

Section 5.3.1 of the main body of the report recommends a form of exception reporting for licence compliance. In particular, licensees should be required to submit a statement that they comply with all the obligations placed on them, apart form the exceptions listed. In listing exceptions, licensees should also be required describe the reasons for the non-compliance and the steps which have been taken to rectify the breach and to ensure that the non-compliance does not reoccur. The Reporting Manual should set out a pro forma for such exception reports, so ensure that IPART (as licence regulator) receives compliance information in a standardised format.

This Appendix provides a recommended pro-forma for licensees' compliance report for Type 2 and Type 3 obligations, modelled on the reporting required by the SAIIR in South Australia. A similar pro-forma (with suitably adapted wording) should also apply for Tyoe 1 *ex ante* compliance assessment.

We note that the submission of a single report, confirming that licensees comply with all obligations differs from the current compliance arrangements for the NSW electricity sector, where licensees currently confirm *for each obligation* that they have complied (or note where they have not complied). Our recommendation is for a single 'compliance statement', on the grounds of minimising the administrative burden. However, we note that licensees could be required to explicitly list those obligations with which they have complied, if it were considered necessary (especially in the early stages of the new regime) to emphasise to all parties the specific nature of their licence obligations.

COMPLIANCE REPORT SUBMITTED BY [LICENSEE]

i. This Compliance Report is a Quarterly/Annual Compliance Report covering the period [insert] and has been prepared in accordance with version [X] of the Reporting Manual issued by the Independent Pricing and Regulatory Tribunal.

ii. The Licensee, having made due enquiry, is not aware of any breach of any of the Type 2/Type 3 obligations listed in the Reporting Manual other than as detailed in Schedule A.

iii. This Compliance Report has been approved by the Chief Executive Officer and the Board of Directors of the licensee at its meeting on (date).

DATE:

Signed

……………………..

Name:

Designation:

……………………..

Name:

Designation:

SCHEDULE A

Non-Compliances	**Brief Comments**
Reporting Manual Reference number for obligation	Briefly describe: i. extent of non-compliance ii. likely cause iii. remedial action taken