

Operation of the electricity licensing scheme and licensee compliance – Annual Report 2018/19

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Economic Regulation Authority

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Chair's foreword

The Economic Regulation Authority is Western Australia's independent economic regulator and is responsible for administering the licensing scheme governing the supply of electricity to customers.

The ERA has a statutory obligation to report annually to the Minister for Energy on the operation of the electricity licensing scheme and licensee compliance.

The ERA's assessment is that Western Australia's electricity licensing scheme is, for the most part, operating effectively.

Through the preparation of this report, the ERA has identified opportunities to improve the operation of the licensing scheme. Some of these areas for improvement will provide a direct benefit to customers, while others represent good regulatory practice by removing regulatory requirements. Removing unnecessary regulation will reduce both the ERA's and licensees' costs, which in turn should reduce the costs passed through to Western Australian consumers.

The substantive improvements to the licensing scheme will provide for emerging distribution technologies and supply arrangements, such as microgrids and stand-alone power systems. The current electricity licensing scheme sets the same standards and requirements for all electricity utilities, regardless of the generation technology, distribution method or number of customers. This does not allow flexibility to ensure the level of regulation is proportionate to the size of the distribution system, which could act as a barrier to market entry for smaller providers and deny customers access to more affordable, secure and reliable electricity.

Providing a more flexible regulatory framework would also help customers of embedded distribution systems connected to the main network behind the meter, such as apartment complexes and shopping centres. These supply arrangements operate under licence exemptions, with unregulated service standards and limited consumer protections.

The Minister for Energy has asked Energy Policy WA to review the regulatory framework for electricity retail licensing and exemption activities. The ERA welcomes the review, which provides an opportunity to develop a robust regulatory framework that protects all electricity consumers, regardless of how they are supplied electricity.

The ERA also recommends amending the *Electricity Industry Act 2004* to include streetlight performance standards. Together, Horizon Power, Western Power and the Rottnest Island Authority maintain more than 280,000 streetlights and there has been an increase in the time taken to repair faults over recent years. This is a concern for local governments and the community and there is currently no regulatory incentive for distributors to improve their performance.

The ERA will prepare this report each year, including updates on any progress that has been made to address the areas for improvement identified in the previous year's report, as well as any new areas that the ERA has discovered through its work.

The ERA reports separately on the performance of electricity retailers and distributors. These reports provide the reader with information about the performance of individual licensees and trends in the electricity market. The reports are available on the ERA's website.



Nicola Cusworth
Chair, Economic Regulation Authority

1. Introduction

1.1 Purpose of this report

This is the first edition of a new report that the Economic Regulation Authority intends to publish once a year to report on the operation of the electricity licensing scheme and provide an overview of licensee compliance during the reporting year.¹

As the independent regulator, the ERA is in a position to identify current and emerging issues with the licensing scheme and suggest improvements.

The State Government is responsible for the legislative framework that establishes the scheme. This report includes recommendations on how the Government could improve the operation of the scheme.

1.1.1 Legislative requirements

Under section 38 of the *Electricity Industry Act 2004*:

It is a function of the Authority -

- (a) to monitor and report to the Minister on the operation of the licensing scheme provided for in this Part; and
- (b) to inform the Minister about any failure by a licensee to meet performance criteria or other requirements of its licence.

This report forms part of the ERA's function to report to the Minister on the operation of the scheme.

The ERA requires all electricity licensees to submit an annual compliance report identifying possible licence breaches that have occurred during the reporting year and publishes annual performance data collected from electricity distributors and retailers that supply small use customers.²

The ERA requires licensees to complete independent performance audits and asset management reviews on a periodic basis, and to supply those reports to the ERA for its consideration. These reports identify any non-compliances with a licence and determine whether a licensee's asset management system is effective. The ERA provides the reports to the Minister.³

¹ The reporting year is the year ending 30 June.

² A 'small use customer' is a customer who consumes not more than 160 megawatt hours of electricity per year.

³ Section 13(3) of the Electricity Act requires the ERA to "give the Minister a report on each performance audit within two months after its receipt of the audit". There is not a similar obligation for review reports, but the ERA provides them to the Minister as a matter of course.

1.2 Report scope and structure

The scope of this report is set by section 38 of the Electricity Act, which requires the ERA to report to the Minister on the operation of the scheme and licensee compliance. To achieve this, the report:

- Identifies opportunities for beneficial reform of the scheme for consideration by the Minister.
- Provides an overview of the ERA's licensing activities during the year, including reviews of codes, licences, regulatory guidelines and reporting manuals.
- Presents data on the annual costs the ERA incurs in carrying out its licensing functions, which licensees are required to pay through fees and charges.
- Provides an overview of licensee compliance during the reporting year, including performance audits and asset management system reviews.

The scope of the recommendations to improve the scheme do not include those parts of the scheme that the Minister is not responsible for, such as the *Code of Conduct for the Supply of Electricity to Small Use Customers* (Customer Code) and individual licence conditions. These are the responsibility of the ERA and dealt with in separate review processes.

1.3 Licensing scheme

The licensing scheme is established in Part 2 of the Electricity Act.

The ERA is the regulator of the scheme and has many functions, including:

- Granting, amending, transferring and renewing licences for entities that generate, transmit, distribute or retail electricity in Western Australia.⁴
- Monitoring and enforcing compliance with licences.⁵
- Monitoring and reporting on the performance of licensees through the annual collection and publication of performance data.⁶
- Arranging performance audits and asset management system reviews of individual licensees.⁷

The ERA recovers its licensing costs from licensees under the *Economic Regulation Authority (Licensing Funding) Regulations 2014*. Information about the ERA's licensing costs is in Appendix 2.

The Minister is responsible for maintaining the legislative framework for the licensing scheme, which consists of the Electricity Act, regulations and codes.⁸ This involves making amendments to the legislative framework as and when they are required. The Minister is supported by the State Government's energy policy agency, Energy Policy WA.⁹

⁴ Electricity Act s18, s19, s21 and s22. The full text of these sections is in Appendix 1.

⁵ Electricity Act s32 and s38. The full text of these sections is in Appendix 1.

⁶ Electricity Act Schedule 1(m). The full text is in Appendix 1.

⁷ Electricity Act s13 and s14. The full text of these sections is in Appendix 1.

⁸ The codes and regulations that a licensee must comply with are listed in a licence.

⁹ Formerly the Department of Treasury's Public Utilities Office.

2. Areas for reform

This chapter identifies opportunities for beneficial reform of the electricity licensing scheme that the ERA has identified from carrying out its licensing functions.

The recommended reforms are set out in order of priority according to the benefits for consumers and licensees if they are addressed.

2.1 Suitability of licensing scheme for new technologies and supply models

The licensing scheme and regulatory framework more generally do not adequately provide for emerging distribution technologies and supply arrangements, such as microgrids and stand-alone power systems.

Microgrids and emerging distribution technologies

The licensing scheme and regulatory framework in the *Electricity Industry Act 2004* were established between 2004 and 2006, as part of the disaggregation of Western Power. They were designed for an electricity supply arrangement based on a centralised model of generation, transmission, distribution and retail of electricity to end use customers.

Emerging distribution technologies and supply arrangements have different characteristics to the historical supply model. For example, household rooftop solar means that many customers are now both consumers and generators of electricity.

A stand-alone power system will be wholly situated on one site (a mine site or rural property) and usually supply a single customer. A microgrid is, as the name suggests, a smaller network with some element of centralised control. Customers connected to the microgrid may generate, consume and store their own electricity, and the microgrid is likely to have a sophisticated communications network allowing it to distribute that electricity to other customers within the microgrid. This includes remotely controlled smart meters, which allow for greater use of the distribution system, presenting opportunities for more efficient, affordable and reliable supply of electricity than the traditional model.

The emergence of new distribution technologies and supply models presents challenges for the regulatory framework. Currently, the licensing scheme does not provide flexibility to strike a balance between risks and costs for each supply arrangement to ensure the level of regulation is proportionate to the size of the distribution system. It is important that the regulatory framework allows for the provision of different supply arrangements to meet consumers' needs, but that appropriate consumer protections and service standards are maintained, without imposing unreasonable regulatory costs on service providers.

Until now, in Western Australia, embedded distribution systems connected to the main network behind the meter (such as apartment complexes or shopping centres) have not been regulated in the same way as the main network. These supply arrangements operate under licence exemptions, with unregulated service standards and limited customer protections. For example, customers are not able to access the Energy and Water Ombudsman and are not covered by the Customer Code, which provides protections for customers in the areas of billing, connection, disconnection, financial hardship and complaints. With the emergence of

microgrids and stand-alone power systems, licence exemptions may no longer be an effective way to regulate alternative supply arrangements that operate behind the meter, or off-grid.

The ERA has received enquiries from service providers about the licensing requirements in Western Australia for microgrids and stand-alone power systems. The current regulatory framework creates uncertainty about what those requirements are, because it does not deal with these technologies specifically and was not designed with them in mind. This creates problems for both the ERA and industry, as it is not clear what regulatory model should be applied to these service providers.

If the regulatory model does not provide for the development of tailored regulatory frameworks for alternative supply arrangements, then the current one-size-fits-all licensing scheme will have to be applied to these service providers. Applying the current licensing framework to these service providers may create inefficiencies and barriers to market entry, particularly for smaller, independent providers who are unlikely to be as well-resourced as network distribution businesses. The inability of the regulatory framework to respond to new technologies may also delay their uptake, act as a barrier to innovation and deny customers access to more affordable, secure and reliable electricity.

Current review activities affecting alternative supply models

In May 2019, the Minister published a Ministerial Statement announcing that he had asked the Public Utilities Office (now Energy Policy WA) to review the regulatory framework for retail electricity licensing and exemption activities.¹⁰

In the Ministerial Statement, the Minister explained that rapid technological changes were enabling new electricity supply business models to enter the market, and this could pose risks for consumers if they were not adequately protected. The review will determine the most suitable regulation to ensure all electricity consumers are adequately protected, regardless of the business model used to deliver the electricity.

On 21 January 2020, Energy Policy WA published a Directions Report setting out the terms of reference for the review.¹¹ The ERA welcomes the review and will offer any assistance relevant to its regulatory functions that Energy Policy WA requires. The review will provide an opportunity for stakeholders to have input into the development of a robust regulatory framework that adequately protects electricity consumers, regardless of how they are supplied electricity. This review will provide an opportunity to address uncertainty around the suitability of the licensing scheme to provide for new technologies and supply models.

The State Parliament's Economics and Industry Standing Committee is conducting an inquiry into microgrids and associated technologies in Western Australia. The committee's final report may include recommendations that affect the licensing scheme. The ERA has provided evidence to the committee and awaits the outcome of the inquiry with interest.¹²

¹⁰ Minister for Energy, 20 May 2019, *Ministerial Statement: Regulatory framework review of retail electricity licensing and exemptions*, ([online](#)) [accessed 20 December 2019].

¹¹ Energy Policy WA, 13 December 2019, *Directions Report: Creating a dynamic customer protection framework for behind-the-meter electricity services*, ([online](#)) [accessed 21 January 2020].

¹² Economic Regulation Authority, 2018, *Evidence to Legislative Assembly Economics and Industry Standing Committee, Inquiry into Microgrids and Associated Technologies in WA*, ([online](#)) [accessed 20 December 2019].

Nationally, the Australian Energy Market Commission (AEMC) has completed its review of the regulatory frameworks for stand-alone power systems in the National Electricity Market.¹³ The AEMC uses the term ‘stand-alone power systems’ broadly and it includes microgrids and individual power systems that are not connected to the national grid. In its final report published on 31 October 2019, the AEMC recommended a tiered framework to allow for consumer protections to be provided in a proportionate manner while avoiding unnecessary costs, rather than a one-size-fits-all approach.¹⁴

Recommendation

The regulatory framework should provide appropriate customer protections relative to the customer’s needs and the supply arrangements in place, while avoiding unnecessary costs, rather than the current one-size-fits-all approach. Clearly defined roles and responsibilities for market participants, including the ERA, are also needed.

2.2 Generation licensing

The *Electricity Industry Act 2004*’s requirement for generators to be licensed may be causing generators to incur unnecessary licensing costs.

In 2016, the Public Utilities Office conducted a review of the requirement for generators to be licensed.¹⁵ It determined that the costs to comply with a generation licence outweighed the benefits of licensing generators. It also determined that there were other regulatory obligations and contractual arrangements that generators must comply with that acted to effectively manage the operation of generating works and represented a more suitable form of intervention than licensing.

The then Minister for Energy endorsed the removal of the requirement of generators to be licensed and introduced legislation to amend the Electricity Act into State Parliament. This legislation was not passed prior to the change of government in March 2017.

While changes to the Electricity Act are a matter for the State Government, the ERA supports the changes and encourages the State Government to repeal the requirement for generators to be licensed.

Recommendation

The requirement in the *Electricity Industry Act 2004* for generators to be licensed should be removed.

¹³ Australian Energy Market Commission, ‘Review of the regulatory framework for stand-alone power systems’, ([online](#)) [accessed 20 December 2019].

¹⁴ Australian Energy Market Commission, 2019, *Final Report - Review of the Regulatory Frameworks for Stand-Alone Power Systems – Priority 2*, p. i-xiii.

¹⁵ Department of Treasury, Public Utilities Office, ‘Proposal to amend *Electricity Industry Act 2004* to remove requirement for electricity generators to be licensed’, ([online](#)) [accessed 20 December 2019].

2.3 Licensing retailers that supply large-use customers

The *Electricity Industry Act 2004*'s requirement for retailers to be licensed to supply large use customers may be causing retailers to incur unnecessary licensing costs.

The licence conditions that provide consumer protections apply to small use customers only.¹⁶ This is standard practice throughout Australia, because it is accepted that large use customers do not require the same level of regulatory protection. Large use customers are likely to have comprehensive power purchase agreements or supply contracts with their retailer, which provide them with contractual protections and negate the need for regulatory intervention. Consequently, the benefits to large use customers of licensing are limited, while retailers incur unnecessary compliance costs by being licensed.

The requirement in the Electricity Act for retailers to be licensed to supply any customer, small or large, is different to the gas licensing scheme in the *Energy Coordination Act 1994* (Gas Act), which only requires a gas retailer to have a licence if they supply small use customers.¹⁷

These retailers generally exhibit a high level of compliance with their licence, which the ERA has acknowledged by increasing the periods (typically to four or five years) between their performance audits.

Electricity retailers that supply only large use customers have a small number of licence obligations to comply with, most of which provide little or no benefit to customers. A retail licence does require retailers to comply with the *Electricity Industry (Customer Transfer) Code 2016* and *Electricity Industry (Metering) Code 2012*, which contain provisions that could need to be retained in some form if there was no longer a requirement for these retailers to have a licence.

To ensure retailers do not incur unnecessary compliance costs, the Government should review the requirement in the Electricity Act for a retailer to be licensed to supply large use customers.

The review should consider whether there is a need for these retailers to continue to comply with the Transfer Code and Metering Code and if this can be achieved through other more cost-effective mechanisms other than licensing, such as customer contracts and network access contracts, which prescribe the terms and conditions that retailers must meet to use the network. These contracts usually require retailers to follow processes and procedures necessary to support the network operator's role in facilitating the transfer of customers and the collection and publication of metering data (if the network operator has these roles instead of an independent market operator).

Recommendation

The requirement in the *Electricity Industry Act 2004* for a retailer to be licensed to supply large use customers should be removed to make the electricity licensing scheme consistent with the gas licensing scheme.

¹⁶ A 'small use customer' is a customer who consumes not more than 160 megawatt hours of electricity per year.

¹⁷ A 'small use customer' in the gas licensing scheme is a customer who consumes less than 1 terajoule of gas per year.

2.4 Approval of auditors

To improve the independence and transparency of audits and reviews, the ERA, and not the licensee, should engage the independent expert who conducts an audit or review.

Under sections 13 and 14 of the Electricity Act, all licensees must provide the ERA with a report by an independent expert (auditor) on the licensee's compliance and the effectiveness of its asset management system (if it operates infrastructure). The auditor for an audit or review is appointed by the licensee.¹⁸

In comparison, in the water licensing scheme under the *Water Services Act 2012* (Water Act), the ERA appoints the auditor and retains full control over the audit and review. The decision to give the ERA responsibility for appointing auditors was influenced by the final report of the parliamentary Standing Committee on Public Administration's inquiry into Western Power's wood pole management practices. One of the committee's recommendations was:¹⁹

Where energy utilities are required to undergo regulatory and licence-related audits, such audits should be conducted by reviewers that are selected and engaged by the ERA, at the expense of the relevant utility. In the conduct of such audits, there should be absolute clarity that the ERA is the principal for the life of the engagement. This is consistent with current practice relating to the Auditor General.

As the ERA does not appoint the auditor for electricity licence audits and reviews, the ERA does not see the audit or review findings until the report is received from the licensee. There have been occasions where the initial draft report provided by the auditor to the licensee is amended before it is provided to the ERA for approval. The ERA has concerns about the lack of transparency in this process, and the potential for the licensee to influence the audit or review findings.

Governments and regulators in Australia, New Zealand and the United Kingdom have raised concerns about the conduct of, and reporting on, financial audits.^{20 21 22} In Australia, there has been commentary in the Federal Parliament, discussed below, and in the media on the threats to auditor independence and the quality of audits. The main area of concern is the real and perceived conflicts of interest arising from audit firms also providing non-audit services to the entity they are auditing. Although the recent inquiries into these matters focus mostly on financial audits, the problems they have identified can also be applied to compliance audits.

¹⁸ The full text of sections 13 and 14 of the Electricity Act is in Appendix 1.

¹⁹ Legislative Council Standing Committee on Public Administration, 2012, *Report 14: Unassisted Failure*, p. 251.

²⁰ United Kingdom, House of Commons Business, Energy and Industrial Strategy Committee, 2019, *The future of audit*, p. 3.

²¹ United Kingdom, Competition & Markets Authority, 2019, *Statutory audit services market study – final summary report*, pp. 3-7.

²² New Zealand, Financial Markets Authority, 2019, *Audit Quality Monitoring Report 2019*, pp. 11-12

On 1 August 2019, the Federal Senate referred an inquiry into the regulation of auditing in Australia to the Parliamentary Joint Committee on Corporations and Financial Services.²³ The terms of reference for the inquiry include:

- The relationship between auditing and consulting services and potential conflicts of interests.
- Other potential conflicts of interests.
- The role and effectiveness of audit in detecting and reporting fraud and misconduct.

Submissions to the inquiry from Chartered Accountant Australia and New Zealand, the Australian Prudential Regulation Authority, the International Auditing and Assurance Standards Board, and the International Ethics Standards Board for Accountants all raised the threats to auditor independence as an item requiring further attention.

At its first public hearing on 19 November 2019, the Committee heard that Ernst & Young prepared a risk management report for the National Australia Bank in 2018 and “at the behest of NAB’s leaders, toned down the language in the final version of the assessment”.²⁴

Based on its experience with managing the audits and reviews of water licences, the ERA considers the transparency and independence of electricity licence audits and reviews would be strengthened by the ERA engaging the auditor and controlling the audit and review process, which is the case with audits and reviews of water services licences.

Recommendation

The *Electricity Industry Act 2004* should be amended so the independent expert who conducts an audit or review of a licence is engaged by the ERA, at the expense of the licensee.

2.5 Change of licensee ownership

The *Electricity Industry Act 2004* does not allow the ERA to apply the Act’s technical, financial and public interest tests to the new owner of an existing licensee, as it can for applicants for a new licence.

Section 19 of the Electricity Act authorises the ERA to approve the transfer of a licence from one entity to another.²⁵ Approval is subject to the ERA being satisfied that the applicant (transferee) has the necessary financial and technical resources to provide the services authorised by the licence and that granting the licence would not be contrary to the public interest.²⁶

²³ Parliamentary Joint Committee on Corporations and Financial Services, 2019, Regulation of auditing in Australia, Terms of Reference.

²⁴ Edmund Tadros, 27 November 2019, ‘ASIC ‘squibbed’ on audit concerns’, *The Australian Financial Review*, p. 13.

²⁵ Each entity in the transfer has its own unique combination of company name and ABN.

²⁶ The full text of section 19 of the Electricity Act is in Appendix 1.

A change in the ownership of a licensee where the licensee itself remains in operation under the same company name and ABN is not considered a transfer of the licence under section 19 of the Electricity Act.

Because a change of ownership is not a transfer under the Electricity Act, neither the existing owner nor the new owner of the licensee is required to seek the ERA's approval of the change in ownership. Consequently, the ERA cannot apply the same technical and financial capacity assessments or the Electricity Act's public interest test to the new owner as it did when the licence was granted to the original owner.

In the past, there have been instances when the ERA would have applied one or more of the financial, technical and public interest tests to the new owner of a licensee if it had the authority to do so.

Not being able to apply the regulatory tests applicable to a licence transfer to a change of ownership creates a risk that a licence is held by a person that does not possess the requisite experience and capacity to provide the service authorised by the licence.

The Electricity Act should be amended to provide that ownership of a licensee can be transferred only with the ERA's approval, subject to the ERA being satisfied that the new owner meets the tests in the section 19 of the Act.

Recommendation

The *Electricity Industry Act 2004*'s provisions on the transfer of a licence should be amended to allow the ERA to apply the Act's technical, financial and public interest tests to the new owner of an existing licensee.

2.6 Network reliability standards

The service standards in the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* may not guide network investment decisions for the benefit of consumers.

It is a condition of distribution licences that distributors comply with the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*.²⁷ The Reliability Code requires distributors to report on both planned and unplanned interruptions, regardless of the cause of an interruption. This differs from other reliability measurement frameworks that are commonly used in Australia, such as the framework established by the Steering Committee on National Regulatory Reporting Requirements (SCONRRR), which requires distributors to report only on unplanned interruptions that are caused by factors under their control, which excludes interruptions caused by storms, bushfires and generator failures.

The Reliability Code requires distributors to publish annual reports on their performance against the standards in the code. Including interruptions caused by factors beyond the control of the distributor in the reported data prevents the reader from determining how well the distribution networks are performing.

²⁷ The Reliability Code is approved by the State Government (Minister for Energy).

The Reliability Code's standards and reporting framework were established in 2005 and have never been reviewed. The ERA considers that the standards in the Code are no longer suitable and unlikely to effectively guide network investment decisions for the benefit of consumers. For example, the inclusion of interruptions caused by factors outside the reasonable control of the distributor in the Reliability Code may create incentives for distributors to invest in their networks to mitigate the risks posed by the sources of these interruptions rather than to invest in improvements to their own network performance.

Western Power has previously advised the ERA that compliance with the Reliability Code's standards is difficult. As well as differing from the SCONRRR framework, which requires distributors to report only on unplanned interruptions that are caused by factors under their control, the standards exceed the service standard benchmarks set in Western Power's network Access Arrangement, which are based on recent performance. This means Western Power has two, inconsistent sets of standards to comply with, causing operational and decision-making difficulties. Western Power recommends amending the Reliability Code's standards to adopt the approach in its Access Arrangement.²⁸

The supply interruption standards in the Reliability Code should be revised to focus on the performance of the distribution networks operated by each distributor by excluding interruptions caused by factors that are beyond their reasonable control. Interruption standards should be developed with consideration of the historical performance of the distribution networks and include an incentive mechanism for distributors to invest in improving network reliability over time.

Recommendation

The *Electricity Industry (Network Quality and Reliability of Supply) Code 2005's* standards should be reviewed to identify alternatives that may better meet the needs of customers and distributors.

2.7 Biennial review of the Customer Code

The legislative requirement to conduct biennial reviews of the *Code of Conduct for the Supply of Electricity to Small Use Customers* is no longer necessary and should be replaced with a longer review period, such as five years.

Under section 81 of the Electricity Act, the ERA is required to establish a committee to advise it on matters relating to the Customer Code. The committee is known as the Electricity Code Consultative Committee or ECCC, and comprises industry, government and consumer representatives. The ERA is responsible for the ECCC's administration. The ECCC makes recommendations to the ERA on amendments to the Code.

Section 88 of the Electricity Act requires the ECCC to review the Customer Code every two years.²⁹ Reviews are resource intensive and take around 10 to 12 months to complete. The next review begins about 12 months after a new Customer Code comes into effect.

²⁸ Western Power, 2018, *Electricity Industry (Network Quality and Reliability of Supply) Code 2005: Annual Reliability and Power Quality Report for the year ended 30 June 2018*, p. 7.

²⁹ The full text of section 88 of the Electricity Act is in Appendix 1.

Since its commencement in 2004, the Customer Code has undergone six reviews by the ECCC and three targeted reviews on its pre-payment meter provisions (twice) and life support provisions. Recent reviews of the Customer Code have identified only a small number of relatively minor issues to address. As the Code is well established, a legislative requirement to review the Customer Code every two years is no longer needed and creates unnecessary costs for the ERA and licensees.

In comparison, the Water Act requires the ERA to undertake reviews of the customer code for water services at least once every five years.³⁰

To reduce the regulatory burden on the ERA and licensees, the ERA recommends increasing the period between reviews of the Customer Code from two years to five years. This would align the Customer Code with the framework for the Water Code in the Water Act. The ERA would continue to have the discretion to review the Customer Code at any time in that five-year period, if circumstances called for an earlier review.

Recommendation

The *Electricity Industry Act 2004* should be amended to change the period between reviews of the *Code of Conduct for the Supply of Electricity to Small Use Customers* from two to five years.

2.8 Single energy code

Currently, there are separate codes and review processes for electricity and gas customer protection legislation, which would benefit from being combined in a single energy code to remove the inefficiencies created by them being separate instruments.

Customer protections for electricity customers are specified under the Customer Code, while the equivalent gas customer protections are in the *Compendium of Gas Customer Licence Obligations* (Compendium). The Gas Act establishes the *Gas Marketing Code of Conduct* (Gas Marketing Code) and a Gas Marketing Code Consultative Committee to review the Gas Marketing Code, but it covers only the marketing of gas to customers.³¹ The ERA made the Compendium to address that gap in the coverage of the Customer Code and the Gas Marketing Code. The Gas Marketing Code and the Compendium together provide gas customers with the same level of protection as electricity customers.

The Customer Code is reviewed by the ECCC and administered by the ERA, while the Compendium is administered by the ERA as a schedule to gas distribution and trading licences. Reviews of the Compendium can include the ERA holding workshops and round-table meetings of industry, government and consumer representatives. However, the Compendium does not benefit from independent review, as the Customer Code does.

While they are operating effectively as separate instruments, merging the Customer Code, Gas Marketing Code and Compendium into a single energy code will remove the inefficiencies created by the ERA administering three instruments and allow for greater consistency between the electricity and gas customer protection regimes. The creation of a single energy code would require amendments to both the Electricity Act and Gas Act.

³⁰ Section 27(7) of the Water Act. The full text is in Appendix 1.

³¹ Sections 11ZPM and 11ZPO of the Gas Act. The full text of the sections is in Appendix 1.

An energy code that incorporates the Customer Code, Gas Marketing Code and Compendium would harmonise the customer protections for electricity and gas customers, streamline the code review process and ensure that there is a broad representation of views on a review committee that would review the code. The benefits would also extend to reducing the workload of members of the committee, the ERA and licensees. An energy code would reduce the regulatory burden for those licensees that operate in both the electricity and gas retail markets, as they would only have to comply with one set of customer protection obligations.

Recommendation

The *Code of Conduct for the Supply of Electricity to Small Use Customers*, *Gas Marketing Code of Conduct* and *Compendium of Gas Customer Licence Obligations* should be merged into a single energy code.

2.9 Streetlight repairs

There is no regulatory oversight of streetlight fault repairs, which may be contributing to a recent deterioration in performance by distributors. There is a need to review the regulatory framework to include streetlight performance standards in the licensing scheme.

Horizon Power, Western Power and the Rottne Island Authority maintain more than 280,000 streetlights.³² There is no regulatory oversight of streetlights, such as service standards for repairing faults. For example, the Electricity Act does not allow electricity licences to include conditions on streetlight repairs.

In recent years Horizon Power and Western Power's streetlight fault repair performance has deteriorated.³³ Changes to streetlight maintenance practices have contributed to this. There is no regulatory incentive for Horizon Power and Western Power to improve their performance in this area.

As part of the ERA's assessment of the fourth Access Arrangement for Western Power's network, the Western Australian Local Government Association made a submission to the ERA, which included concerns about poor service levels for streetlight services.^{34 35}

To provide regulatory oversight of streetlight repairs, including creating incentives for distributors to repair faulty streetlights, the licensing framework in the Electricity Act should be amended to include streetlight performance standards. The standards should be enshrined in regulations or a code made under the Act.

The regulations or code should include an obligation for distributors to publish annual reports on their streetlight repair performance.

³² Economic Regulation Authority, 2019, *Annual Performance Report – Energy Distributors 2017/18*, p. 30.

³³ Ibid, p. 30 – 32.

³⁴ Western Australian Local Government Association, 2017, Submission to the ERA on Western Power's proposed access arrangement for the period 2017-2022. ([online](#)) [accessed 20 December 2019].

³⁵ The Access Arrangement includes design criteria and service standard benchmarks for streetlights that Western Power manages.

Recommendation

The *Electricity Industry Act 2004* should be amended to include streetlight performance standards in the licensing scheme.

2.10 Right to supply under standard customer contract

The *Electricity Industry Act 2004*'s provisions on standard form contracts, and the role of standard form contracts in the customer protection framework more generally, may not be benefitting customers in the way it was intended.

Section 50 of the Electricity Act requires all licensed retailers that supply small use customers to have an ERA-approved standard form contract.³⁶ However, there is no obligation on these retailers, except Horizon Power and Synergy, to offer supply to customers under their standard form contract. Instead, licensees other than Horizon Power and Synergy can supply small use customers under a non-standard form contract that effectively serves the same purpose as the standard form contract, in that it sets out their terms and conditions of supply.

Most of the licensees who are not obliged to offer supply under a standard form contract choose to offer supply under a non-standard contract, which brings into the question the purpose of standard form contracts.

There are a small number of protections for customers supplied under a non-standard contract. Section 54(1)(b) of the Electricity Act requires a non-standard contract to comply with the Act, which also includes the applicable provisions in the *Electricity Industry (Customer Contracts) Regulations 2005*. These provisions include a customer's right to a cooling-off period when entering into a contract.³⁷ However, unlike for standard form contracts, the ERA does not have any oversight of non-standard contracts and fewer customer protections are required in non-standard form contracts compared to standard form contracts.

The ERA has no evidence that customers on non-standard form contracts are being disadvantaged compared to customers on standard form contracts. Horizon Power and Synergy supply a large majority of the State's small use customers, including most residential customers, on standard form contracts, which are an important part of the customer protection framework. However, customers of retailers other than Horizon Power and Synergy do not have an alternative to a non-standard form contract unless the retailer offers them its standard form contract.

The administration of standard form contracts requires the ERA and retailers to expend substantial resources on contracts that are not going to be offered to customers.

In the national energy market, retailers are required to provide energy services to residential and small business customers under a standard retail contract if the customer does not accept a market offer (the equivalent of a non-standard form contract).³⁸ However, as mentioned earlier, in Western Australia, electricity customers who are supplied by a retailer other than

³⁶ The full text of section 50 of the Electricity Act is in Appendix 1.

³⁷ The full text of section 54 of the Electricity Act is in Appendix 1.

³⁸ Section 22(1) of the National Energy Retail Law and Rule 16 of the National Energy Retail Rules (full text of both provisions is in Appendix 1).

Horizon Power or Synergy do not have the right to the standard form contract if they do not want a non-standard form contract, because it is up to the retailer if it offers its standard form contract to the customer.

To ensure customers have the safety net of the standard form contract if they do not want a non-standard form contract, it is recommended that the Electricity Act is amended to require all retailers to offer their ERA-approved standard form contract to prospective customers.

Recommendation

The *Electricity Industry Act 2004* should be amended to require all retailers to offer to supply electricity to a customer under an ERA-approved standard form contract, if the customer does not accept a non-standard form contract.

2.11 ERA assessment of standard customer contracts

There is an inconsistency between the number of days the ERA has to assess a retailer's standard form contract (45 days) and the number of days the ERA has to assess a licence application (90 days). There is a need to review the *Electricity Industry Act 2004* to address this inconsistency.

Under section 49(1) of the Electricity Act, for an electricity retailer to supply small use customers, it must submit a standard form contract with its licence application to the ERA for approval.³⁹

Under section 51(3), the ERA must take all reasonable steps to make a decision to approve or refuse a retailer's standard form contract within 45 calendar days of the contract being submitted. Under section 50, the ERA cannot grant, renew or transfer a licence unless it has approved a standard form contract first. However, under section 19(2), the ERA has 90 calendar days to approve or refuse an application to grant, renew or transfer a licence.⁴⁰

The ERA has found it difficult to assess contracts within 45 days, due to the complex and time-consuming review that is required to ensure the contract is not inconsistent with any written law (a requirement of section 51(2)). Even if the contract is approved within 45 days, the applicant cannot supply customers until it has a licence, which the ERA has 90 days to decide on.

Amending the Electricity Act to give the ERA 90 days to assess a standard form contract to align it with the timeframe to assess a licence application will not disadvantage the applicant, as it cannot operate without a licence, and it will afford the ERA enough time to conduct a detailed assessment of the contract.

³⁹ The full text of section 49 of the Electricity Act is in Appendix 1.

⁴⁰ The full text of sections 19, 50 and 51 of the Electricity Act is in Appendix 1.

Recommendation

It is recommended that the inconsistency between the timeframes for assessing a standard form contract and licence application is addressed by amending section 51(3) of the *Electricity Industry Act 2004* to give the ERA 90 days to make a decision on a standard form contract.

3. Licensing scheme and ERA activities

This chapter provides an overview of the objectives of the licensing scheme and the licensing activities that the ERA has carried out during the year.

3.1 Objectives

A best practice licensing scheme will have clearly identified objectives that are administered by an independent and accountable regulatory authority. The regulator will perform its functions in a manner that ensures service standards are met, regulatory risk is as low as reasonably practicable and compliance costs are minimised.

The Electricity Act does not have an explicit set of objectives for the licensing scheme. While the ERA, licensees and customers would benefit from defined objectives being included in the Act, the ERA considers that to be effective the scheme will:

- Ensure defined service standards for the quality and reliability of electricity supply are met by licensees.
- Ensure customers, particularly small-use customers, are treated fairly through the application of a customer protection regime.
- Promote access to, and confidence in, energy data used to bill customers.
- Provide a framework for the efficient transfer of contestable customers between retailers.⁴¹
- Ensure that licensees maintain effective asset management systems for their electricity supply assets.
- Ensure licensing is implemented only where it is the most appropriate form of intervention to address a risk of market failure, or the exercise of market power at the expense of the interests of consumers.
- Ensure the costs of licensing are kept to a minimum and do not outweigh the benefits.

In developing these objectives, the ERA has drawn on its experiences as the regulator of the scheme and similar objectives in other jurisdictions, such as the National Electricity Objective in the National Electricity Law.⁴² The ERA also takes into account the public interest matters that it is required to consider when making decisions, which are set out in section 8(5) of the Electricity Act and section 26(1) of the *Economic Regulation Authority Act 2003*.⁴³

The regulation of third-party access to networks and the price, safety and security of supply fall outside the scope of the licensing scheme and are addressed by other legislation and regulatory frameworks.

Apart from a small number of licence non-compliances, the scheme is currently meeting these objectives. There is always room for improvement, and one of the aims of this report is to identify areas of reform, so that the scheme can better meet these objectives at the least possible cost to government, industry and consumers.

⁴¹ A 'contestable customer' is a customer who consumes more than 50 megawatt hours of electricity per year. These customers can choose their retailer, including transferring from one retailer to another.

⁴² The National Electricity Objective is in Appendix 1.

⁴³ The full text of sections 8(5) and 26(1) is in Appendix 1.

3.2 Licensing activities

3.2.1 Licensing scheme reviews

As the licensing scheme is established in the Electricity Act, it is the responsibility of the State Government to conduct any legislative reviews of the scheme. The licensing scheme has not been reviewed since 2004 when the Electricity Act came into effect.

The ERA is responsible for the licenses issued under the scheme. In accordance with good licensing practice, the ERA reviews the format and content of the licences at least every three years to ensure licences protect consumers effectively and meet current legislative requirements.⁴⁴ These reviews are not required by legislation; the ERA conducts the reviews to ensure its licences are operating effectively. The reviews generally involve two rounds of public consultation to give the community and industry the opportunity for input.

The ERA last reviewed electricity licences in 2017/18.⁴⁵ The next review is due in 2020/21.

As part of the ERA's recently completed *Inquiry into reform of business licensing in Western Australia*, the ERA's licensing division, the Utility Services Regulation branch, reviewed its own licensing operations against the final recommendations. This included a self-assessment tool and licensing dashboard to assist agencies to assess the operation of their licensing schemes. For the inquiry's final report, to illustrate how agencies may complete the self-assessment tool and dashboard, the ERA used the self-assessment tool to assess the electricity licensing scheme and used the dashboard to assess electricity generation licences. These assessments are in Appendix B of the inquiry's final report and provided as Appendix 3 to this report.⁴⁶

The ERA intends to use the self-assessment tool and dashboard each year to review the operation of the electricity licensing scheme.

3.2.2 Licensing activities during the year

During 2018/19, the ERA completed the following major activities, as regulator of the electricity licensing scheme:

- The *Audit and Review Guidelines – Electricity and Gas Licences* were reviewed, resulting in updated guidelines being published on 1 March 2019.
- The *Financial Hardship Policy Guidelines – Electricity and Gas Licences* were reviewed.⁴⁷
- The 2017/18 annual performance reports for energy distributors and energy retailers were published on 12 April 2019.⁴⁸

⁴⁴ The ERA may occasionally review licences more frequently, if required by amendments to codes or regulations.

⁴⁵ Economic Regulation Authority, 2018, *Decision - Electricity Licence Review 2018*. ([online](#))

⁴⁶ Economic Regulation Authority, 2019, *Inquiry into reform of business licensing in Western Australia – Final report*, p. 81 ([online](#)).

⁴⁷ The updated guidelines were published in August 2019.

⁴⁸ The reports are available on the ERA [website](#).

- The most recent changes to the Customer Code came into effect on 1 July 2018.⁴⁹ The changes were the result of the 2017/18 review of the Customer Code.
- Changes were made to electricity licences on 1 July 2018, following the Electricity Licence Review 2018.
- An updated Electricity Compliance Reporting Manual was published on 3 July 2018.⁵⁰
- Applications for new licences and licence amendments, transfers and surrenders were received and processed.

3.2.3 Stakeholder engagement

The ERA's *Public Consultation Guidelines – Electricity, Gas & Water Licences and Electricity & Gas Standard Form Contracts* documents the public consultation process for its licensing activities.

The ERA also seeks public comment on other regulatory reviews, such as reviews of its licences, regulatory guidelines and codes.

When relevant, ERA holds workshops and forums for licensees on its licensing activities. For example, in November 2018 the ERA held a workshop with licensees and auditors on the review of its *Audit and Review Guidelines – Electricity and Gas Licences*.

Most of the licensing activities outlined in section 3.4.2 involved public consultation.

⁴⁹ The 2018 version of the [Customer Code](#) is available on the ERA website.

⁵⁰ The 2018 version of the [Manual](#) is available on the ERA website.

4. Licensee compliance

This chapter provides an overview of the compliance framework for the licensing scheme and the compliance monitoring and enforcement activities undertaken by the ERA during the reporting year.

4.1 Compliance framework

The ERA has a compliance monitoring and enforcement strategy for electricity licensees, comprising:

- Periodic performance audits and asset management system reviews (see section 4.2).
- Annual compliance and performance (data) reports submitted by licensees.
- A requirement for licensees to notify the ERA when they become aware of a breach of a Type 1 licence obligation (see section 4.3).
- Compliance Enforcement Policy.
- Regulatory guidelines and compliance reporting manuals published by the ERA to assist licensees in achieving compliance.

The Electricity Compliance Reporting Manual requires licensees to provide annual compliance reports to the ERA. To minimise the burden on the licensee, the report includes only non-compliances that were identified during the year. The scope of the performance audits includes reviewing the compliance reports submitted since the previous audit.

The Electricity Act requires the licensee to undertake independent audits of the effectiveness of the measures it has taken to meet the performance criteria specified in the licence. The Electricity Act also requires generation, transmission and distribution licensees to undertake independent reviews of the effectiveness of the licensee's asset management system.

The data collected in the annual compliance reports and audit reports is used to monitor and enforce compliance with licence conditions.

4.2 Performance audits and asset management reviews

The ERA has published *Audit and Review Guidelines: Electricity and Gas Licences*, which provide a comprehensive guide to the audit and review process.

The ERA uses a risk-based approach to performance audits and asset management system reviews to focus the audit or review on higher priorities, with less extensive coverage of medium and lower priorities. Auditors are required to apply the risk evaluation model described in the Audit and Review Guidelines to determine the audit and review priorities.

The Audit and Review Guidelines also require auditors to apply a common set of rating scales to rate licensees' compliance with the licence and the effectiveness of an asset management system. This enables the ERA to compare the performance of individual licensees and groups of licensees over time.

Table 1 sets out the number of performance audits and asset management system reviews that were completed in 2018/19.

Table 1: Audit and reviews completed in 2018/19

Licensees	Performance audits	Asset management system reviews
Generation	3	3
Transmission	1	1
Distribution	2	2
Retail	7	N/A
Integrated regional	2	2
Total	15	8

The ERA will increase the period between audits or reviews if the licensee has a strong compliance framework that is achieving a high level of compliance with the licence. Conversely, the period will be reduced (subject to the 24-month minimum in the Electricity Act) if an audit or review finds serious compliance problems. This is to ensure that regulatory resources are focussed on licensees who need to improve compliance with their licence. This is also an incentive for licensees to comply with their licence and have an effective asset management system.

If an audit identifies compliance problems, the ERA actively monitors the actions taken by the licensee to address the cause(s) and return to compliance. In some instances, the compliance issues may be so serious that the ERA will take enforcement action against a licensee using the powers available in the Electricity Act.

Of the 15 audits of electricity licences completed in 2018/19:

- nine licences had their audit period left unchanged.
- one licence had its audit period decreased following a deterioration in performance.
- five licences had their audit period increased for good performance.⁵¹

Of the eight asset management system reviews completed in 2018/19:

- five licences had their review period unchanged.
- three licences had their review period increased for good performance.

There were no trends or systemic issues identified in the audits and reviews that caused the ERA concern or required intervention. However, the ERA regularly receives incorrect licence performance data from licensees, which is either identified by the ERA through its validation processes, or by the licensees themselves.⁵² To improve the accuracy of data collected from licensees as part of the ERA's annual performance reporting framework, the ERA intends to make performance data collection a special focus of upcoming performance audits of the electricity and gas retailers that provide data.

The upcoming audits of retailers that supply small use customers will include a focus on the effectiveness of the processes and systems that retailers have in place to assist customers experiencing payment difficulties and financial hardship. This will examine the retailer's processes for determining if a customer is experiencing payment difficulties or financial

⁵¹ Four of the licences are held by the same licensee.

⁵² Only licensees that supply small use customers are required to provide performance data to the ERA.

hardship and determining whether customers were offered the assistance they were entitled to.

4.3 Type 1 licence breaches

Licence obligations are classified as Type 1 if a breach of the obligation would cause major disruption to a customer.

A licensee must notify the ERA immediately when it becomes aware of a breach of a Type 1 licence obligation.

In 2018/19, the ERA did not receive any Type 1 licence breach notifications.

Appendix 1 - Legislative provisions referenced in report

Economic Regulation Authority Act 2003

Section 26 Authority to have regard to certain matters

- (1) In performing its functions, other than the functions described in section 25(c) and (d), the Authority must have regard to —
 - (a) the need to promote regulatory outcomes that are in the public interest;
 - (b) the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets;
 - (c) the need to encourage investment in relevant markets;
 - (d) the legitimate business interests of investors and service providers in relevant markets;
 - (e) the need to promote competitive and fair market conduct;
 - (f) the need to prevent abuse of monopoly or market power;
 - (g) the need to promote transparent decision-making processes that involve public consultation.

Electricity Industry Act 2004

Section 8 Power to exempt

- (5) Without limiting the other matters that may be taken into account, matters that are to be taken into account by the Governor in determining whether the making of the order would not be contrary to the public interest are -
 - (a) Environmental considerations;
 - (b) Social welfare and equity considerations, including community service obligations;
 - (c) Economic and regional development, including employment and investment growth;
 - (d) The interests of customers generally or of a class of customers;
 - (e) The interests of any licensee, or applicant for a licence;
 - (f) The importance of competition in electricity industry markets;
 - (g) The policy objectives of government in relation to electricity supply.

Section 9 Authority to consider public interest

- (1) The Authority must not exercise a power conferred by this Division unless the Authority is satisfied that it would not be contrary to the public interest to do so.
- (2) Without limiting the other matters that may be taken into account, the Authority, in determining whether the exercise of the power would not be contrary to the public interest, is to take into account the matters referred to in section 8(5) but as if the area or areas referred to in section 8(5)(e) were the area or areas to which the licence in respect of which the power is exercised applies.

Section 13 Licence condition: performance audit

- (1) It is a condition of every licence that the licensee must, not less than once in every period of 24 months (or any longer period that the Authority allows) calculated from the grant of the licence, provide the Authority with a performance audit conducted by an independent expert acceptable to the Authority.
- (2) A performance audit is an audit of the effectiveness of measures taken by the licensee to meet the performance criteria specified in the licence.
- (3) The Authority must give the Minister a report on each performance audit within 2 months after its receipt of the audit.

Section 14 Licence condition: asset management system

- (1) It is a condition of every licence, other than a retail licence, that the licensee must —
 - (a) provide for an asset management system in respect of the licensee's assets;
 - (b) notify details of the system and any substantial changes to it to the Authority; and
 - (c) not less than once in every period of 24 months (or any longer period that the Authority allows) calculated from the grant of the licence, provide the Authority with a report by an independent expert acceptable to the Authority as to the effectiveness of the system.
- (2) An asset management system is to set out measures that are to be taken by the licensee for the proper maintenance of assets used in the supply of electricity and in the operation of, and, where relevant, the construction of, any generating works, transmission system or distribution system.

Section 18 Transfer of licence

- (1) A licence cannot be transferred except with the approval of the Authority.
- (2) Approval for the purposes of subsection (1) may be given on such terms and conditions as are determined by the Authority.
- (3) An application for approval to transfer a licence must be —
 - (a) made in a form approved by the Authority; and
 - (b) accompanied by the prescribed application fee.
- (4) An applicant must provide any additional information that the Authority may require for the proper consideration of the application.

Section 19 Decisions as to grant, renewal or transfer of licence

- (1) Subject to section 9, the Authority must grant, renew or approve the transfer of a licence if it is satisfied that the applicant —
 - (a) has, and is likely to retain; or
 - (b) will acquire within a reasonable time after the grant, renewal or transfer, and is then likely to retain,
the financial and technical resources to undertake the activities authorised, or to be authorised, by the licence.
- (2) The Authority must take all reasonable steps to make a decision in respect of an application for —
 - (a) the grant or renewal of a licence; or

- (b) approval to transfer a licence, within 90 days after the application is made.
- (3) The duties imposed on the Authority by subsections (1) and (2) apply only if —
 - (a) an application has been made in accordance with section 10, 16 or 18, as the case may be;
 - (b) section 50 or 100 does not prohibit the grant or renewal of the licence or the approval of the transfer; and
 - (c) where a requirement has been made under section 10(2), 16(2) or 18(4), the relevant information has been provided to the Authority.

Section 21 Amendment of licence on application of licensee

- (1) A licensee may apply to the Authority at any time for amendment of the licence.
- (2) An application for the amendment of a licence must be —
 - (a) made in a form approved by the Authority; and
 - (b) accompanied by the prescribed application fee.
- (3) An applicant must provide any additional information that the Authority may require for the proper consideration of the application.
- (4) The Authority may grant the application if —
 - (a) it has been made in accordance with subsection (2); and
 - (b) where a requirement has been made under subsection (3), the relevant information has been provided to the Authority.

Section 22 Amendment of licence on initiative of Authority

- (1) The Authority may, on its own initiative, determine that a licence is to be amended.
- (2) A licence must specify the procedure to be followed in making such a determination, including the manner in which an amendment is to be notified to the licensee, and the determination may only be made in accordance with that procedure.
- (3) An amendment under this section cannot take effect until it is notified to the licensee under the procedure referred to in subsection (2).
- (4) This section applies to the substitution of a new licence for an existing licence in the same way as it applies to the amendment of a licence.

Section 49 Form of contact to be submitted with application for grant, renewal or transfer

- (1) An applicant for the grant or renewal of a retail licence or an integrated regional licence must submit with the application a draft of the standard form contract under which the applicant will supply electricity to customers pursuant to the licence.
- (2) Where an application is made under section 18 for the transfer of a retail licence or an integrated regional licence to be approved, the proposed transferee must submit with the application a draft of the standard form contract under which the proposed transferee will supply electricity to customers pursuant to the licence if the transfer is approved.
- (3) The requirement in subsection (1) and (2) only applies if the applicant or proposed transferee intends to supply electricity to customers pursuant to the licence.

Section 50 Licensing application not to be granted unless standard form contract approved

- (1) Despite section 19, the Authority must not grant or renew, or approve a transfer of, a retail licence or an integrated regional licence unless —
 - (a) the applicant or the proposed transferee has submitted a draft form of contract as required by section 49; and
 - (b) the Authority has approved the standard form contract under which the applicant or proposed transferee will supply electricity to customers pursuant to the licence.
- (2) If when a retail licence or an integrated regional licence was granted or renewed, or the transfer of a retail licence or an integrated regional licence was approved, subsection (1) did not apply because of section 49(3), the licensee may at any subsequent time submit to the Authority a draft of a standard form contract under which the licensee will supply electricity to customers pursuant to the licence if the standard form contract is approved by the Authority.

Section 51 Approval of standard form contract

- (1) Subject to subsection (2), the Authority may at its discretion approve or refuse to approve a standard form contract submitted under section 49 or 50(2).
- (2) The Authority must not give an approval if it considers that the standard form contract —
 - (a) will not meet the requirements of the regulations in respect of such contracts; or
 - (b) will be inconsistent with —
 - (i) this Act or any other written law; or
 - (ii) any term, condition or provision of the licence concerned.
- (3) The Authority must take all reasonable steps to make a decision under subsection (1) within 45 days after the standard form contract is submitted to it.

Section 54 Licence condition: contracts

- (1) It is a condition of every retail licence and integrated regional licence that, subject to any exception provided for in the regulations, the licensee must not supply electricity to a customer otherwise than under —
 - (a) a standard form contract; or
 - (b) a non-standard contract that complies with this Act.
- (2) It is also a condition of every retail licence and integrated regional licence that the licensee must comply with a direction given to the licensee under section 53.
- (3) For the purposes of subsection (1)(b), a non-standard contract complies with this Act if it —
 - (a) meets the requirements of the regulations in respect of such contracts; and
 - (b) is not inconsistent with —
 - (i) this Act or any other written law; or
 - (ii) any term, condition or provision of the licence concerned.

Section 73 Approval or determination of plan

- (1) The Authority may —
 - (a) approve a draft last resort supply plan submitted under section 72; or
 - (b) request that it be amended and approve it in an amended form.
- (2) If a plan has not been approved by the Authority within a period that it considers reasonable and notifies to the supplier of last resort, the Authority may determine the contents of the last resort supply plan.

Section 79 Code of conduct

- (1) The Authority may, in consultation with the committee, approve a code of conduct under this section.
- (2) The code of conduct is to regulate and control the conduct of —
 - (a) the holders of retail licences, distribution licences and integrated regional licences; and
 - (b) electricity marketing agents,
 with the object of —
 - (c) defining standards of conduct in the supply and marketing of electricity to customers and providing for compensation payments to be made to customers when standards of conduct are not met; and
 - (d) protecting customers from undesirable marketing conduct.
- (3) The code of conduct may contain such ancillary and incidental provisions as are necessary or expedient for the purposes of subsection (2).
- (4) In the case of the initial code of conduct, subsection (1) has effect subject to Schedule 3 clause 1.

Section 92 Authority may approve scheme

- (1) The Authority may, by instrument in writing, approve a scheme that provides for a person (the **electricity ombudsman**) to investigate and deal with —
 - (a) disputes and complaints under customer contracts;
 - (b) disputes between —
 - (i) customers and licensees; or
 - (ii) customers and electricity marketing agents;
 - (c) complaints by customers about —
 - (i) licensees; or
 - (ii) electricity marketing agents;
 and
 - (d) any other kind of dispute or complaint (whether or not under a customer contract) that is prescribed by the regulations.
- (2) A scheme may treat a failure to make a decision within a specified period as a decision of a particular kind.
- (3) A scheme may be made applicable to a dispute or complaint that arose before the commencement of the scheme, but not earlier than 12 months before that commencement.

- (4) The Authority may, by instrument in writing, approve an amendment to an approved scheme.
- (5) Notice of an approval under subsection (1) is to be published in the Gazette.
- (6) In the case of the initial electricity ombudsman scheme, this section has effect subject to Schedule 3 clause 4.

Section 93 Requirements for scheme or amendment to be approval

The Authority may approve a scheme, or an amendment to an approved scheme, only if it is satisfied that the scheme, or the scheme as amended, meets —

- (a) the objectives set out in Schedule 2; and
- (b) any other prescribed objective.

Schedule 1 Licence terms and conditions

- (m) requiring the licensee to provide to the Authority, in the manner and form determined by the Authority, specified information on any matter relevant to the operation or enforcement of the licence, the operation of the licensing scheme provided for in Part 2, or the performance of the Authority's functions under that Part;

Energy Coordination Act 1994

Section 11ZPM Code of conduct

- (1) The Authority may, in consultation with the committee, approve a code of conduct under this section.
- (2) The code of conduct is to regulate and control the conduct of —
 - (a) the holders of trading licences; and
 - (b) gas marketing agents,
 with the object of —
 - (c) protecting customers from undesirable marketing conduct; and
 - (d) defining standards of conduct in the marketing of gas to customers.
- (3) The code of conduct may contain such ancillary and incidental provisions as are necessary or expedient for the purposes of subsection (2).
- (4) Subsection (1) has effect subject to section 53 of the *Energy Legislation Amendment Act 2003*.

Section 11ZPO Consultative committee

- (1) The Authority is to establish a committee to advise it on matters relating to the code of conduct.
- (2) The Authority —
 - (a) is to prescribe the membership, constitution and procedures of; and
 - (b) may discharge, alter, or reconstitute,
 the committee.
- (3) The Authority may determine that a member of the committee is to receive remuneration or an allowance, and if the Authority so determines it is to fix the remuneration or allowance on the recommendation of the Public Sector Commissioner.

- (4) Subject to this section, the committee may determine its own procedure.
- (5) The Authority is to provide the committee with such support services as it may reasonably require.
- (6) This section has effect subject to section 54 of the *Energy Legislation Amendment Act 2003*.

Water Services Act 2012

Section 27(7) Compliance with code of conduct made by the Authority

The Authority must carry out a review of the operation and effectiveness of the code of conduct at least once every 5 years.

National Electricity Law (National Electricity (South Australia) Act 1996)

Section 7 National electricity objective

The objective of the law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- price, quality, safety and reliability and security of supply of electricity; and
- the reliability, safety and security of the national electricity system.

National Energy Retail Law

Section 22(1) Obligation to make offer to small customers

- (1) A retailer must make an offer (a standing offer) to provide customer retail services to small customers for whom it is the designated retailer—
 - (a) at the standing offer prices; and
 - (b) under the retailer's form of standard retail contract.

National Energy Retail Rules

Rule 16 Pre-contractual duty of retailers

- (1) This rule applies where a retailer is contacted by a small customer who is seeking to purchase energy for premises.
- (2) If the retailer is the designated retailer for the premises, the retailer:
 - (a) may elect to offer the customer a market retail contract; and
 - (b) must advise the customer of the availability of the retailer's standing offer, unless the customer is a small market offer customer.

Note: Subrule (2) (b) is a civil penalty provision for the purposes of the Law. (See the National Regulations, clause 6 and Schedule 1.)

- (3) If the retailer is not the designated retailer for the premises and the retailer does not elect to offer the customer (whether at the request of the customer or of its own initiative) a market retail contract, the retailer:
- (a) must refer the customer to the distributor for the premises concerned; and
 - (b) must inform the small customer that the distributor will be able to advise the customer which retailer has an obligation to make a standing offer that is applicable to the customer.

Appendix 2 - Licences and licensing costs

Licences and licensees

A list of electricity licensees can be found on the ERA's website, along with copies of their licences.⁵³

Table 2 shows the total number of electricity licences and licensed services as at 30 June 2019.

The four licence classifications reflect the four licence services: generation, transmission, distribution and retail. The reason there are more licensed services in the table than licences is because an integrated regional licence authorises a licensee to undertake any combination of the four services outside the South West Interconnected System. For example, Horizon Power has an integrated regional licence that authorises it to provide three services: transmission, distribution and retail.

Table 2: Electricity licences by type and service 2018/19

Classification	Licences	Share (%)	Licensed services	Share (%)
Generation	27	41	33	44
Transmission	3	5	7	9
Distribution	4	6	7	9
Retail	22	34	29	38
Integrated regional ⁵⁴	9	14	N/A	N/A
Total	65	100	76	100

Licensing costs

The *Economic Regulation Authority (Licensing Funding) Regulations 2014* set out the fees and charges that licensees must pay to the ERA. The ERA recovers its costs to administer the licensing scheme from licensees through an annual licence fee and a quarterly standing charge. The regulations are the responsibility of the Treasurer.

The ERA's costs to administer the electricity licensing scheme over the past three years are set out in Table 3.

⁵³ The licensees and licences are available on the ERA's [Licence Holders](#) webpage.

⁵⁴ The nine integrated regional licences authorise 21 services that make up the total difference between the number of licences other than integrated regional licences and the number of licensed services.

Table 3: ERA licensing costs

Licence service	Costs per year (\$)		
	2016/17	2017/18	2018/19
Generation	293,615	199,589	255,356
Transmission	235,871	139,439	187,988
Distribution	238,153	141,721	190,270
Retail	321,509	225,077	273,626
Total	1,089,148	705,826⁵⁵	907,240

Licence fee

The annual licence fee is a fixed amount set by the regulations.

- Generation - \$2,406
- Transmission - \$2,406
- Distribution - \$2,732
- Retail - \$3,416

Integrated regional licence fees consist of the aggregate of the fees for each activity (generation, transmission, distribution and/or retail) authorised by the licence.

Standing charge

Licensees are required to pay a standing charge every quarter for the ERA to recover the costs it incurs in performing its licensing functions.

For the ERA to calculate the standing charge, licensees must report annually on the number of units relevant to the licence (Table 2). The number of units reported by the licensee will determine the standing charge that the licensee must pay.⁵⁶

Under the regulations, the four licence types (generation, transmission, distribution and retail) are collectively required to pay a quarter of the total standing charge for the ERA's electricity licensing function each year.

For example, if the ERA's electricity licensing costs to be recovered from the standing charge is \$1 million and a licensed retailer has 500,000 customers from a total of 1 million customers supplied by all licensed retailers, its annual standing charge is \$125,000. This is because retailers are collectively responsible for 25 per cent of the electricity standing charge

⁵⁵ There was a substantial reduction in the ERA's licensing costs in 2017/18, because other divisions of the ERA incurred more overheads and costs that year due to the projects they carried out, such as the assessment of Western Power's network access arrangement for the 2017-22 regulatory period.

⁵⁶ The regulations require the ERA to calculate the total number of units reported by licensees for each service (called UT). The costs payable by each licensee determined by the formula: $C \times (UL/UT)$, where C is the total cost for the service and UL is the number of units reported for the licence.

(\$250,000) and the retailer has 50 per cent of the total number of customers supplied by all retailers within the licensing scheme.

Table 4: Standing charge by licence service

Licence service (unit of measurement)	Cost per unit (\$)		
	2016/17	2017/18	2018/19
Generation (megawatt capacity)	30.90	17.82	24.23
Transmission (kilometres of line)	24.63	13.85	19.41
Distribution (kilometres of line)	2.15	1.20	1.66
Retail (customers)	0.19	0.12	0.15

The cost per unit changes from year to year due to several factors, including the proportion of the ERA's licensing resources that are allocated to each licensing scheme (electricity, gas or water) each year and the allocation of the ERA's overheads across its divisions.⁵⁷ For example, if there is an increase in staff one year in another area of the ERA to address a higher workload, such as the electricity markets division, then a lower percentage of the ERA's overheads are allocated against licensing functions.

Regulation 13 of the regulations requires the ERA to review its costs to administer the licensing scheme and the extent to which the charges paid to the ERA are sufficient to meet these costs. The ERA must provide a written report on its first review to the Treasurer by 1 January 2020 (following the first review, the ERA must conduct a review every three years).

⁵⁷ Some licensing activities are annual, while others are biennial or triennial, which results in fluctuations in the amount of staff resources needed to complete the activities each year.

Appendix 3 – Appendix B of final report: *Inquiry into reform of business licensing in WA*

Electricity generation licence (BLR-491-LI)

Self-assessment tool

Portfolio questions		
Licences in this portfolio	Electricity licensing scheme (generation, transmission, distribution, retail and integrated regional licences)	
Category	Questions	Response
Is the portfolio of licensing schemes achieving its objectives?	Are the objectives this portfolio of schemes is trying to meet clearly set out in legislation? If not, are they clearly documented elsewhere? Is this information public?	Part 2 of the <i>Electricity Industry Act 2004</i> establishes the scheme to license electricity suppliers. The Act does not contain objectives for the licensing scheme.
	Is data collected to assess whether the objectives are being met?	As the scheme has no prescribed objectives, the ERA does not collect this data.
Is the portfolio of licensing schemes being administered in a cost-effective way?	Are the internal processes and systems efficient? What could be changed to improve efficiency? Examples of internal processes and systems include those used for collating information on the number of active licence holders and revenues collected from fees and charges.	The ERA has an internal web-based licensing workflow system to manage its licensing activities. To complement the licensing system, the ERA has individual documented procedures for all its licensing activities, which provide staff with a step-by-step guide on how to complete an activity, such as processing a licence application or performance audit. The ERA periodically reviews its licences and the regulatory instruments that it publishes to assist licensees in understanding their obligations under the licence, such as guidelines, compliance manuals and performance reporting handbooks. These reviews often include public consultation, which gives licensees and other stakeholders an opportunity to raise any concerns they have with the cost and level of service provided by the ERA and its administration of the licensing schemes. Evidence collected by the ERA through its reviews of licences and regulatory guidelines indicate its internal processes and systems are efficient. This view is also supported by the high proportion of licence applications that are completed within the 90-day target.
	What minimum level of service should licence holders expect from the agency in processing licence applications and renewals? Is this documented? Is it published?	A minimum level of service should include: <ul style="list-style-type: none"> • A publicly available and clearly described application process that meets the needs of applicants and the agency. • Details, with examples, of the information that should be included in an application. • The ability for the applicant to submit an application in different ways, including online. • A requirement for the agency to process the application within a specified timeframe (that is reasonable). • An appeals process for a licence application decision. The ERA's licence application guideline is available on its website. The guideline also includes information on how to appeal an ERA decision. The Act requires the ERA to use reasonable endeavours to make a decision on a licence application within 90 calendar days of receiving it. The ERA allows applicants to submit applications in different ways, including by email, through its website and through a secure file server.

Portfolio questions		
Category	Questions	Response
Is the portfolio of licensing schemes being complied with?	Is there a compliance and enforcement strategy that applies to licensing schemes in this portfolio? Is it documented? When was it last reviewed/updated? Has it been published?	<p>The ERA has a compliance and enforcement strategy for electricity licensees, comprising annual reports and periodic independent audits.</p> <p>The data collected in the annual compliance reports and the audit reports is used to monitor and enforce compliance with licence conditions.</p> <p>The ERA's compliance reporting manual requires licensees to provide annual compliance reports to the ERA. To minimise the burden on the licensee, the report only has to include non-compliances that were identified during the year.</p> <p>The Act requires the licensee to undertake independent audits of the effectiveness of the measures it has taken to meet the performance criteria specified in the licence. The audits are carried out not less than once every 24 months, but this period can be increased by the ERA. The ERA's audit guidelines states that the ERA will increase the period between audits if the licensee has a strong compliance framework that is achieving a high level of compliance with the licence. Conversely, the period will be reduced (subject to the 24-month minimum) if an audit finds serious compliance problems.</p> <p>If an audit identifies compliance problems, the ERA actively monitors the actions taken by the licensee to address the causes, and get back to compliance. In some instances, the ERA may take enforcement action against a licensee using the powers available in the Act.</p> <p>Licensees that supply small-use customers are also required to provide annual performance data that is published by the ERA.</p> <p>The current audit guidelines were published in April 2014. They are currently being reviewed, and the updated version will be published in April 2019.</p> <p>The current compliance reporting manual was published in July 2018. The manual is updated whenever there is a change in the legislation or the licence.</p> <p>The performance reporting handbooks are updated annually.</p>
	Is the compliance and enforcement strategy risk-based?	Yes. The ERA's compliance reporting manual and audit guidelines use a risk-based approach to compliance.

Portfolio questions		
Category	Questions	Response
Is the portfolio of licensing schemes being reviewed and improved?	Is there a schedule of legislative reviews that must be undertaken for licensing schemes in this portfolio? Is this information public?	<p>The ERA reviews its electricity licence conditions every three years. This review is limited to the format and content of the licences. These reviews are not required by legislation; the ERA conducts the reviews to ensure its licences are operating effectively. The licence reviews are a public process that involves publishing issues papers and decision documents for public comment.</p> <p>As the licensing scheme is established in the Act, which is administered by the Department of Treasury's Public Utilities Office on behalf of the Minister for Energy, it is the responsibility of the State Government to conduct any legislative reviews of licensing schemes in the Act.</p>
	Is there a plan of improvements that applies to licensing schemes in this portfolio?	<p>The ERA made a number of improvements to its electricity licences following a review in 2018. The next electricity licence review is due in 2021.</p> <p>A review of the Act's legislative framework for the licensing schemes is a matter for the State Government.</p>
Is there effective engagement about the schemes in the portfolio?	Is there a stakeholder engagement strategy that applies to licensing schemes in this portfolio? Is it documented? When was it last reviewed/updated? Has it been published?	<p>The ERA has a public consultation process for its day-to-day licensing activities, which is documented in publicly available guidelines on the ERA's website. The guidelines were last reviewed and updated in April 2016.</p> <p>The ERA also seeks public comment on its broader regulatory reviews, such as reviews of its licences, regulatory guidelines and codes.</p> <p>The ERA holds workshops and forums for licensees on its licensing activities when required. For example, in November 2018 the ERA held a workshop with licensees and auditors on the review of its audit guidelines. The draft guidelines were published for public comment in January 2019.</p>
	Which other agencies have a role in managing licensing schemes in the portfolio? Is there regular engagement with these agencies?	No other agency has a role in the day-to-day management of the licensing schemes.
	Is there a complaints handling mechanism in place, to allow licensees and members of the public to raise concerns?	The ERA provides several ways for licensees and members of the public to raise concerns about the licensing schemes, including public consultations when it conducts reviews of licences, codes and guidelines. The ERA also has a dedicated email address for its licensing activities and other means to contact the ERA's licensing team, such as by phone, post and an online system on its website to submit information and make enquiries.

Individual licensing scheme questions (complete for each licensing scheme in the portfolio)		
Name of licensing scheme	Electricity generation licences	
Category	Questions	Response
Is the scheme achieving its objectives?	How does this scheme contribute to the broader objectives of the regulatory system?	In practice, the ERA considers generation licences are used as a means to ensure the generators maintain effective asset management systems for their generation assets. However, there are no prescribed objectives for the electricity licensing schemes in the Act.
	Is data collected to assess whether it is making this contribution?	The ERA requires generation licensees to provide it with annual, exception based, compliance reports, and periodic independent reports on audits of their performance against their licence conditions and the effectiveness of their asset management systems. The Act requires that reviews are conducted once in every 24 months, but this period can be increased by the ERA.
Is the scheme administered in a cost-effective way?	Does the legislation that establishes the scheme only include elements that need to be prescribed (for example, the scheme's objectives), and exclude elements that do not need to be prescribed (for example, administrative requirements)? If not, are there plans to make amendments to the legislation in a future omnibus bill?	The Act does not include objectives for its licensing schemes. Administrative requirements are generally in secondary legislation, such as the Economic Regulation Authority (Licensing Funding) Regulations 2014, which prescribe the fees and charges for a licence application and retaining the licence. Most administrative requirements associated with applying for a licence, and subsequently complying with a licence are at the discretion of the ERA and contained in the ERA's licences and guidelines. There are improvements that can be made to the Act's provisions. For example, a review of licensing electricity generation was conducted by the Public Utilities Office in 2015/16. The outcome of the review was that the then State Government endorsed a proposal to amend the Act to repeal the requirement for generation licences, but was unable to progress it through Parliament before the end of the term of government. The inclusion of this reform in a future omnibus bill is a matter for the State Government.
	Does the scheme include administrative or compliance requirements that are duplicated in other schemes or regulations? An example of administrative duplication is when licence holders are asked to supply the same information multiple times for different purposes or in different formats.	Generation licences do not include administrative requirements that are duplicated in other schemes or regulations. There are likely to be contractual requirements that a generator connected to Western Power's network must meet that duplicate a licence condition. For example, the small number of metering obligations in the <i>Electricity Industry (Metering) Code 2012</i> that apply to generation licensees are potentially duplicated in a generator's network access contract with the network operator.

Individual licensing scheme questions (complete for each licensing scheme in the portfolio)		
Category	Questions	Response
Is the scheme being complied with?	Is data collected to measure compliance? Is this data used to inform agency activities that encourage compliance?	<p>The ERA uses the data collected in annual compliance reports and periodic performance audits and asset management system reviews to monitor and enforce compliance with licence conditions.</p> <p>If the audit identifies compliance problems or deficiencies in the licensees' asset management system, the ERA actively monitors the actions taken by the licensee to address the causes, and get back to compliance. In some instances, the ERA may take enforcement action against a licensee.</p>
	Are current compliance levels appropriate given the risks the scheme aims to address?	<p>Yes. Generally, the compliance history of generation licensees is very good compared to other licence types.</p> <p>One of the reasons is that generation licensees have fewer licence conditions compared to other types of electricity licence. Other than requiring generators to have an asset management system, the licence conditions relate to metering of the network connection point and administrative conditions to ensure licensees pay their fees and charges and report to the ERA on their performance.</p>
	Have there been changes to compliance resourcing that affect this licensing scheme? If so, how have the changes affected the achievement of policy outcomes?	There have been no changes to compliance resourcing that affect this licensing scheme. The costs the ERA incurs to manage the licensing scheme are recovered directly from licensees on a full cost recovery basis.
Is the scheme being reviewed and improved?	Have findings and recommendations from when the scheme was last reviewed been published?	<p>In 2015/16, the Public Utilities Office reviewed the Act's requirement to hold a generation licence. The outcome of the review was that the then State Government endorsed a proposal to amend the Act to repeal the requirement for generation licences, but was unable to progress it through Parliament before the end of the term of government. The findings and recommendations were published by the Public Utilities Office at the time.</p> <p>The ERA conducted its latest electricity licence review in 2018, which resulted in improvements to generation licences. The ERA published a number of documents as part of the review, including its decision, which provides a detailed explanation of the licence amendments.</p>
	Is there a legislative requirement to review this scheme? If so, when is (or was) the next review due?	There is no legislative requirement to review this scheme.
	What improvements should be made to this licensing scheme?	The ERA supports a repeal of the Act's requirement to hold a generation licence.
Is there effective engagement about the scheme?	<p>Is it possible for licensees to easily find clear information about:</p> <ul style="list-style-type: none"> • The purpose of the licence and when it is needed. • The licence conditions and requirements, and how to comply with them. • The application process. 	<p>The ERA has published the following guidelines and manuals to assist licensees in obtaining a licence and then complying with the licence conditions:</p> <ol style="list-style-type: none"> 1. Licence Application Guidelines 2. Audit and Review Guidelines 3. Customer Complaint Guidelines 4. Financial Hardship Policy Guidelines 5. Compliance Reporting Manual 6. Compliance Enforcement Policy 7. Performance Reporting Handbook. <p>A full list is available on the ERA's website.</p>

Licensing dashboard

Name of licence		Electricity generation licence	
List titles of enabling legislative instruments		Primary legislation: <i>Electricity Industry Act 2004</i> Subsidiary legislation: <i>Electricity Industry (Licence Conditions) Regulations 2005</i> , <i>Economic Regulation Authority (Licensing Funding) Regulations 2014</i> and <i>Electricity Industry (Metering) Code 2012</i>	
Category	Measure	Metric	Comment (optional)
Is the scheme achieving its objectives?	How well is the licensing scheme contributing to meeting the objectives of the regulatory system?	Scale: 1 = not very well to 5 = very well	The regulatory system (licensing scheme) does not have prescribed objectives.
Is the scheme administered in a cost-effective way?	What is the annual cost to the agency per licence of administering the licensing scheme?	\$ per licence	The ERA's total cost in 2017/18 to administer electricity generation licences was \$212,168, which equates to \$6,844 per licence.
	What proportion of licence applications was processed within target timeframes in the last 12 months?	%	100% of generation licence applications were processed within the target timeframe of 90 days in the last 12 months.
	Which of the following services are available online? <ul style="list-style-type: none"> • Information about the scheme • Application • Renewal • Payment of fees and charges 	Check box (available / not available / not applicable) for each service	<ul style="list-style-type: none"> • Information about the scheme – available • Application – available • Renewal – available • Payment of fees and charges – not available
Is the scheme being complied with?	How many compliance inspections did the agency complete in the last 12 months?	Count	<p>In 2017/18, the ERA completed nine licence performance audits and asset management system reviews of generation licences and integrated regional licences that authorise the licensee to construct and operate generating works.</p> <p>In 2015/16 and 2016/17, the ERA completed three and nine licence performance audits and asset management system reviews respectively. Due to their good compliance history, most generation licensees have a licence performance audit and asset management system review every four or five years.</p> <p>The ERA also monitors licensee compliance through an annual compliance reporting framework, which requires every licensee to report on the licence obligations that it has contravened during the reporting year.</p>
	How many instances of non-compliance did the agency uncover in the last 12 months?	Count	Of the nine licence performance audits and asset management system reviews completed in 2017/18, six licensees were found to be non-compliant with their licence (a total of 28 non-compliances with individual licence obligations).
	How many enforcement actions were taken in the last 12 months?	Count	Because the non-compliances were minor in nature, no enforcement action was taken against the licensees.

Category	Measure	Metric	Comment (optional)
Is the scheme being reviewed and improved?	How many years has it been since the last major review of the scheme?	Number	<p>The most recent electricity licence review was undertaken in 2018. This included generation licences.</p> <p>In 2015/16, the Public Utilities Office reviewed the Act's requirement to hold a generation licence. The outcome of the review was that the then State Government endorsed a proposal to amend the Act to repeal the requirement for generation licences, but was unable to progress it through Parliament before the end of the term of government.</p>
	To what extent have the recommendations from the last major review of the scheme been implemented?	Fully implemented / partially implemented / not implemented / not applicable (i.e. no major review)	<p>All the recommendations from the ERA's 2018 electricity licence review have been implemented.</p> <p>The repeal of generation licensing from the Act has not occurred. This is a matter for the State Government.</p>