

AER Ring-fencing Guideline

Compliance Audit

ActewAGL Distribution
(trading as Evoenergy)

Final Report

31 October 2018

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1. Executive summary

1.1 Introduction

ActewAGL Distribution (AAD) is a partnership, the shares in which are owned equally by subsidiaries of Icon Water Limited and Jemena Limited. AAD currently owns and operates the non-contestable electricity distribution and transmission networks in the Australian Capital Territory (ACT) and is both a Distribution Network Service Provider (DNSP) and a Transmission Network Service Provider (TNSP).

The electricity transmission, distribution and connection services utility licence is held by Icon Distribution Investments Limited and Jemena Networks Pty Ltd, with a trading name of "Evoenergy" under the variation to the licence held by ActewAGL Distribution, which took effect from 1 January 2018.

The Australian Energy Regulator ("AER") published the Electricity Distribution Ring-Fencing Guideline on 30 November 2016 under the National Electricity Rules, to provide for functional separation of regulated and competitive business activities to promote competition in the provision of electricity services. The Guideline is effective from 1 December 2016 and Distribution Network Service Providers ("DNSP") are required to comply no later than 1 January 2018. As required by the Guideline, ActewAGL Distribution will issue its first Annual Compliance Report by 31 October 2018.

1.2 Background

Ernst and Young ("We or we") has been engaged under an arrangement with ActewAGL Distribution to perform an independent audit of AAD's compliance with the requirements under the AER's Electricity Distribution Ring-fencing Guideline for the period 1 January 2018 to 30 June 2018. The audit includes an assessment as to whether the contents of the compliance report accurately reflects the activities taken throughout the transitional period by AAD.

This reasonable assurance engagement was undertaken following the request of the Australian Energy Regulator ("AER") pursuant to Section 6.2 Compliance Reporting of the Guideline.

1.3 Scope

In accordance with the reporting requirements of Section 6.2.1 of the Guideline, the scope of this audit was to provide an assessment of compliance with the Guideline.

EY conducted this audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to assess whether the written report of AAD's compliance with the requirements under the Guideline is materially misstated.

1.4 Methodology

Interviews were held with the key ActewAGL Distribution team members responsible for compliance with each of the obligation clauses. An understanding of the processes, procedures and controls in place was obtained from these interviews. Evidence obtained was gathered through enquiry and observations, tests of details and controls, and representations received from management.

Compliance has been assessed to a level of reasonable assurance in accordance with Standard on Assurance Engagement ASAE3100 Compliance Engagements, based on sample sizes determined using professional judgement.

1.5 Limitations

The work undertaken by us to form an opinion is permeated by judgement, in particular regarding the nature, timing and extent of the audit procedures for gathering of audit evidence and the drawing of conclusions based on the audit evidence gathered. In addition, there are inherent limitations in any audit, and these include the use of testing, the inherent limitations of any internal control structure, the possibility of collusion to commit fraud, and the fact that most audit evidence is persuasive rather than conclusive. As a result, our audit can only provide reasonable – not absolute – assurance that the compliance report is free of material misstatement.

In accordance with normal practice, our audit will be planned primarily to enable us to express our professional opinion. It should not be relied on to disclose defalcations or other irregularities, but their disclosure, if they exist, may possibly result from the audit tests we undertake.

We have not identified, addressed or corrected any errors or defects in ActewAGL Distribution's computer systems, other devices or components thereof ("Systems"), whether or not due to imprecise or ambiguous entry, storage, interpretation, processing, or reporting of data. We are not responsible for any defect or problem arising out of or related to data processing in any Systems.

None of the services or any reports constitute any legal opinion or advice. We have not conducted a review to detect fraud or illegal acts.

We are providing our report only for this engagement and for no other purpose and we disclaim any responsibility for the use of our report for a different purpose or in a different context.

In certain circumstances representations from management constitute the only form of audit evidence. In such cases, we have relied upon representations made.

1.6 Executive comment

Evoenergy Management accepts the findings in this review subject to the minor clarifications noted in our detailed commentary. Evoenergy will be implementing the nominated action plans to ensure compliance within the stipulated timeframes.

As General Manager, Evoenergy I have reviewed the Report and support the nominated management actions.

Steve Devlin – General Manager, Evoenergy

1.7 Conclusion

Based on the completion of the procedures described in this report, drawing attention to our audit findings, in our opinion ActewAGL Distribution has not complied, in all material respects with all areas of the audit scope.

Refer to Section 4 of the report for the full Auditor's Statement.

2. Summary of audit findings

2.1 Overall assessment

The table below summarises our overall assessment and key observations against each applicable Section of the Guideline.

Section	Compliance Area	Overall Grading	Key Observations
3.1	Legal separation	Moderate	Evoenergy does not have a process in place to identify services provided.
3.2	Establish and maintain accounts	Strong	
4.1	Obligation to not discriminate	Moderate	Evoenergy does not have formal processes in place around its obligations to not discriminate, nor fully identified or considered potential 'hot spot' activities likely to give rise to discrimination. Furthermore, Evoenergy has not considered a competitive procurement process when engaging with Contestable Business Unit (CBU) for services, and the Evoenergy contact centre does not have processes in place specific to CBU or its competitors.
4.2.1	Physical separation/co-location	Weak	All CBU employees have physical access to Evoenergy, have accessed the Evoenergy building multiple times within the audit period.
4.2.2	Staff sharing	Weak	CBU staff provide both direct control services and contestable electricity services, as they perform roles for CBU and Evoenergy concurrently. The CBU staff identified on the staff register are incorrectly classified as 'officers' under the Guideline, and as such are not exempt from the staff sharing clause (4.2.2).
4.2.3	Branding and cross-promotion	Strong	
4.2.4	Office and staff registers	Moderate	The office and staff registers were not publicly available on Evoenergy's website as at 30 June 2018. The CBU staff identified on the staff register are incorrectly classified as 'officers' under the Guideline, and as such are not exempt from the staff sharing clause (4.2.2).
4.3.2	Protection of confidential information	Weak	Evoenergy does not have formal policies and procedures in place to identify and protect confidential information. As a result, Evoenergy has not classified or segregated confidential information within its key information systems. CBU employees have access to several systems which may contain confidential information.
4.3.3	Disclosure of information	Moderate	As above, Evoenergy does not have formal policies and procedures in place to identify and protect confidential information. Discussions with management indicate that there may have been information requests from ActewAGL Retail and CBU (or their competitors) which happen informally on an ad hoc basis.
4.3.4	Sharing of information	Weak	Evoenergy has not established an information sharing protocol and made that protocol publicly available on its website. Discussions with management indicate that there may have been information requests from ActewAGL Retail and CBU (or their competitors) which happen informally on an ad hoc basis.

Section	Compliance Area	Overall Grading	Key Observations
4.3.5	Information register	Moderate	The information request register was not publicly available on Evoenergy's website as at 30 June 2018. Per the observation for clause 4.3.4, Evoenergy does not have a formal process in place to record entities who request information, and as a result there may be information requests which have not been captured on the register.
4.4	Service providers	Strong	
5	Waivers	Strong	
6.1	Maintaining compliance	Moderate	Apart from the implementation plan prior to full compliance being required, Evoenergy does not have any formal policy or procedures to ensure it complies with its obligations under the Guideline.
6.2	Compliance reporting	Weak	Evoenergy does not have in place adequate internal compliance monitoring and reporting processes to facilitate compliance assurance.
6.3	Compliance breaches	Moderate	Evoenergy has not formally defined what constitutes a 'material breach', and does not have a formal breach identification, escalation and notification procedure.

Legend: Overall rating definition

Green	Strong	Risk of future breaches is low. Most requirements of the Guideline have been met with some minor failures or breaches. Findings noted are considered minor and require routine efforts to correct in the normal course of business.
Amber	Moderate	Risk of future breaches is moderate. Key requirements of the Guideline have been met but only minor achievements in compliance have been demonstrated. Findings noted are considered significant and require substantial effort to correct.
Red	Weak	Risk of future breaches is high. The requirements of the Guideline have not been met, or adequate, relevant and suitable information to form an objective determination on compliance was not available to demonstrate compliance. Findings noted are considered material in nature and require urgent remedial action.

2.2 Summary of findings

The table below summarises all high and moderate rated observations against each obligation, our recommendations, and management's response; including action, implementation date, and responsible manager.

Clause	Obligations	Risk rating	Observation and recommendation	Management response
3.1(b)	A DNSP may provide distribution services and transmission services, but must not provide other services.	Moderate	Evoenergy does not have a process in place to identify services provided. Evoenergy should perform a comprehensive review of all services provided by Evoenergy and Contestable Business Unit (CBU) to ensure they are not providing other services.	Action: Conduct a review of services. Implementation Date: 30 March 2019 Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation
4.1	(b) A DNSP must not discriminate (either directly or indirectly) between a related electricity service provider and a competitor (or potential competitor) of a related electricity service provider in connection with the provision of: i. direct control services by the DNSP (whether to itself or to any other legal entity); and / or ii. contestable electricity services by any other legal entity. (c) Without limiting its scope, clause 4.1(b) requires a DNSP to: i. in dealing or offering to deal with a related electricity service provider, treat the related electricity service provider as if it were not a related electricity service provider (that is, as if it had no connection or affiliation with the DNSP); ii. in like circumstances, deal or offer to deal with a related electricity service provider and a competitor (or potential competitor) of the related electricity	Moderate	Evoenergy does not have a tender process when engaging with CBU for services (ie agreeing and signing CWRs). Although the MoU between Evoenergy and the CBU, states that the services provided by the CBU to Evoenergy can be assigned to another related party in the future, the procurement of services from CBU did not go through a competitive procurement process. Evoenergy should consider competitive procurement processes for all services from affiliated entities, in order to be able to demonstrate discrimination has not occurred. We recommend management establish a tender process for services engaged with all related parties (including CBU) to demonstrate that the extent and nature of transactions between Evoenergy and its affiliated entities are on an arms-length basis.	Action: Contracts & Procurement to analyse whether CWR's can be amended to address this requirement where the financial threshold is not exceeded. For competitive tendering requirements, C&P should review the existing tender process to identify whether this requirement is addressed. Implementation Date: 30 March 2019 Responsible Manager: Lucia Schiavo, Manager Procurement and Strategic Sourcing
		Moderate	Discussions with management identified no formal processes in place around its obligations to not discriminate. Discrimination 'hot spots', ie those activities likely to give rise to discrimination, have not been fully identified and controlled, eg field staff or contact centre staff discussing ActewAGL Retail or CBU service offerings with Evoenergy customers. Evoenergy should introduce a policy to document its obligations to not discriminate, and should conduct training to all employees to enhance their understanding of this obligation. This should be particularly targeted at staff in roles dealing with customers, competitors and procurement processes.	Action: Develop and introduce (or amend existing) policy. Implementation Date: 30 June 2019 Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation

Clause	Obligations	Risk rating	Observation and recommendation	Management response
	<p>service provider on substantially the same terms and conditions;</p> <p>iii. in like circumstances, provide substantially the same quality, reliability and timeliness of service to a related electricity service provider and a competitor (or potential competitor) of the related electricity service provider;</p> <p>iv. subject to clause 4.3.3(b), not disclose to a related electricity service provider information the DNSP has obtained through its dealings with a competitor (or potential competitor) of the related electricity service provider where the disclosure would, or would be likely to, provide an advantage to the related electricity service provider.</p>	Moderate	<p>Consideration has primarily been given to discrimination as it relates to ActewAGL Retail, but less so to CBU, for example, the contact centre does not have scripting in place specific to CBU or its competitors.</p> <p>Evoenergy should provide scripting to the contact centre, specifically related to the CBU (in addition to ActewAGL Retail).</p>	<p>Action: Implement scripts when approved.</p> <p>Implementation Date: 30 December 2018</p> <p>Responsible Manager: Alison Davis, Energy Markets and Contact Centre Manager</p>
4.2.1(a)	<p>Subject to this clause 4.2.1, in providing direct control services, a DNSP must use offices that are separate from any offices from which a related electricity service provider provides contestable electricity services.</p>	High	<p>All nine employees of CBU have physical access to Evoenergy, and all nine CBU employees have accessed the Evoenergy building multiple times (between 68 days and 115 days) within the audit period (180 days). Discussions with management identified that CBU staff perform services using Evoenergy workstations.</p> <p>Evoenergy should review physical access of the CBU employees identified, in line with the Guideline, and revoke access if applicable. Evoenergy should ensure that CBU staff who access Evoenergy are escorted within the premises.</p>	<p>Action: Identify all CBU employees and determine level of access. Inform CBU about their access rights.</p> <p>Implementation Date: 31 December 2018</p> <p>Responsible Manager: Marcus Clough, Manager Security, Risk & Business Resilience</p>

Clause	Obligations	Risk rating	Observation and recommendation	Management response
4.2.2(a)	Subject to this clause 4.2.2, a DNSP must ensure that its staff involved in the provision or marketing of direct control services are not also involved in the provision or marketing of contestable electricity services by a related electricity service provider.	High	<p>Based on discussion with the CBU Branch Manager and CWRs obtained, CBU staff provide both direct control services and contestable electricity services. Per our observation around clause 4.3.2, we identified that several CBU employees have access to electricity information from Evoenergy, and given their role at CBU, may have opportunity to use that information to engage in conduct contrary to the Guideline. From discussions with Evoenergy management, there appears to be limited separation or distinction between CBU staff (ie when CBU staff perform services for Evoenergy).</p> <p>Staff contracted to Evoenergy should be contracted on a medium term basis, and not be able to provide work for CBU during that period, such that the individual is not performing both roles concurrently. Staff returning to CBU from Evoenergy should be require to undertake training, or provide assurance that information obtained through work for Evoenergy will not be used for CBU work.</p> <p>Management should maintain a register of any CBU employees contracted by Evoenergy and assess if the staff will have electricity information contrary to the Guideline.</p>	<p>Action: Obtain legal advice about this recommendation. Dependent upon legal advice, establish a register. Implementation Date: 30 November 2018 Responsible Manager: Ian Male, Deputy General Counsel</p>
4.2.4	<p>A DNSP must establish, maintain and keep a register that identifies:</p> <p>(a) the classes of offices to which it has not applied clause 4.2.1(a) by reason of clauses 4.2.1(b)i. or 4.2.1(b)iii.; and</p> <p>(b) the nature of the positions (including a description of the roles, functions and duties) of its members of staff to which it has not applied clause 4.2.2(a) by reason of clauses 4.2.2(b)i.a., 4.2.2(b)i.b., 4.2.2(b)iii. or 4.2.2(d);</p> <p>and must make the register publicly available on its website.</p>	Moderate	<p>The office and staff registers were not publicly available on Evoenergy's website as at 30 June 2018.</p> <p>The CBU staff identified on the staff register do not fall under the definition of an "officer" per the Guideline. An officer means a director or company secretary of the legal entity, a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the legal entity; or a person who has the capacity to affect significantly the legal entity's financial standing. Clause 4.2.2(d) states that clause 4.2.2(a) does not apply in respect of a member of the staff of a DNSP where the member of staff is an officer both of the DNSP and of a related electricity service provider. As such, Evoenergy has incorrectly used clause 4.2.2(d), as the reason for why these positions are exempt from clause 4.2.2(a) and allow the CBU staff to be shared. Furthermore the roles, functions, and duties of each role from the CBU is not stated on the register.</p> <p>ActewAGL Distribution should minimise staff sharing, then seek a waiver for any residual shared staff positions.</p> <p>The office register should elaborate on the description of the office that is included in the register, including the reason as to why Evoenergy uses the same offices as the CBU (ie Evoenergy control room located in Fyshwick), and controls in place to ensure compliance with the Guideline (eg physical access controls to the control room).</p>	<p>Action: Legal advice should be obtained. Implementation Date: 31 December 2018 Responsible Manager: Ian Male, Deputy General Counsel</p> <p>Action: Amend the office register to address this detail. Implementation Date: 31 December 2018 Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation</p>

Clause	Obligations	Risk rating	Observation and recommendation	Management response
4.3.2	Subject to this clause 4.3, a DNSP must: (a) keep confidential information confidential; and (b) only use confidential information for the purpose for which it was acquired or generated.	High	Evoenergy has not classified or segregated confidential information within the seven key systems identified (as a result, we treated all information on these systems as potentially confidential). Evoenergy does not have formal policies and procedures in place for the identification and handling of confidential information. Evoenergy should develop formal policies and procedures in place for the identification and handling of confidential information, use this to classify confidential information, including the systems which store confidential information, and then strengthen system access controls to ensure confidential information cannot be accessed by staff providing contestable services.	Action: Develop policy (staff guidelines) based on legal advice, including flowcharts. Implementation Date: 31 March 2019 Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation
		High	Two CBU employees have administrator access to ADMS, four CBU employees have access to ArcFM, five CBU employees have access to Evoenergy SharePoint, and one CBU employee has access to Guardian. Evoenergy should review access of the CBU employees identified in line with the Guideline, and revoke access if applicable.	Action: Identify all CBU employees and determine level of access to confidential information. Implementation Date: 31 December 2018 Responsible Manager: Chris Dare, Manager Environment, Quality and Systems
4.3.3	A DNSP must not disclose confidential information to any person, including a related electricity service provider, unless an exemption applies.	Moderate	Evoenergy does not have a formal process in place to identify and protect confidential information. Notwithstanding that Officers are exempt from the staff sharing requirement of the Guideline per clause 4.2.2(d), Evoenergy should establish a protocol to ensure potential conflicts of interest are appropriately identified and managed, and confidential information is kept confidential.	Action: A decision should be made at executive level whether a protocol is required. Implementation Date: 30 June 2019 Responsible Manager: Steve Devlin, GM Evoenergy
		Moderate	We have not identified instances where confidential information has been disclosed. However, discussions with management indicate that there may have been information requests from ActewAGL Retail and CBU which happen informally on an ad hoc basis (eg via telephone or email). Since these have not been recorded, we are unable to determine: <ul style="list-style-type: none"> ▶ the nature of the information requested ▶ whether the information was confidential or not ▶ whether the information was shared ▶ whether this information was made available to other legal entities on an equal basis Evoenergy should develop formal policies and procedures to identify and assess information which is considered confidential, and identify circumstances under which an exemption may be required to disclose confidential information.	Action: A decision should be made at executive level whether a protocol is required. Implementation Date: 30 June 2019 Responsible Manager: Steve Devlin, GM Evoenergy

Clause	Obligations	Risk rating	Observation and recommendation	Management response
4.3.4	<p>(a) Subject to clause 4.1(c)iv. and to this clause 4.3.4, where a DNSP shares confidential information with a related electricity service provider, or where confidential information that a DNSP has disclosed under clause 4.3.3(f) is then disclosed by any person to a related electricity service provider of the DNSP, the DNSP must provide access to that confidential information (including the derived information) to other legal entities on an equal basis.</p> <p>(d) Without limiting clause 4.3.4(a), a DNSP must establish an information sharing protocol that sets how and when it will make the information referred to in clause 4.3.4(a) available to legal entities, and must make that protocol publicly available on its website.</p> <p>(e) Where a DNSP discloses information referred to in clause 4.3.4(a) to any other legal entity under this clause 4.3.4, it must do so on terms and conditions that require the other legal entity to comply with clause 4.3.2 and 4.3.3(a) to (d) in relation to that information as if the other legal entity was a DNSP.</p>	High	<p>Evoenergy has not established an information sharing protocol and made that protocol publicly available on its website.</p> <p>Evoenergy should finalise the information sharing protocol and make that protocol publicly available on its website.</p>	<p>Action: Finalise the information sharing protocol. Implementation Date: 31 March 2019 Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation</p>
		Moderate	<p>We have not identified instances where confidential information has been requested or shared through formal channels (ie information request form). However discussions with management indicate that there may have been information requests from ActewAGL Retail and CBU which happen informally on an ad hoc basis (eg via telephone or email). Since these have not been recorded, we are unable to determine:</p> <ul style="list-style-type: none"> ▶ the nature of the information requested ▶ whether the information was confidential or not ▶ whether the information was shared ▶ whether this information was made available to other legal entities on an equal basis <p>Evoenergy should develop a mechanism for capturing all requests for information from RESPs (including informally), and ensure these follow the formal information disclosure process.</p>	<p>Action: A SharePoint site for Ring-fencing has been established. Also, a ring-fencing email inbox has been established and is monitored by all personnel in the Regulatory Compliance team. Informal requests such as phone calls to persons in Evoenergy will be addressed through staff education. Implementation Date: 31 December 2018 Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation</p>

Clause	Obligations	Risk rating	Observation and recommendation	Management response
4.3.5	<p>(a) A DNSP must establish, maintain and keep a register of all:</p> <ul style="list-style-type: none"> i. related electricity service providers; ii. other legal entities who provide contestable electricity services but who are not affiliates of the DNSP; <p>who request access to information identified in clause 4.3.4(a), and must make the register publicly available on its website.</p> <p>(b) For each legal entity that has requested that a DNSP provide access to information identified in clause 4.3.4(a), the DNSP's information register must:</p> <ul style="list-style-type: none"> i. identify the kind of information requested by the legal entity; and ii. describe the kind of information requested by the legal entity in sufficient detail to enable other legal entities to make an informed decision about whether to request that kind of information from the DNSP. <p>(c) A legal entity may request that the DNSP include it on the information register in relation to some or all of the kinds of information that the DNSP is required to provide under clause 4.3.4(a), and the DNSP must comply with that request.</p>	Moderate	<p>The information request register was not publicly available on Evoenergy's website as at 30 June 2018.</p> <p>Per the observation for clause 4.3.4, Evoenergy does not have a formal process in place to record entities who request access for information. As a result there may be information requests which have not been captured on the register.</p> <p>Evoenergy should formalise the process to maintain and keep the information request register in line with its obligations.</p>	<p>Action: Check the register.</p> <p>Implementation Date: 31 December 2018</p> <p>Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation</p>
6.1	<p>A DNSP must establish and maintain appropriate internal procedures to ensure it complies with its obligations under this Guideline. The AER may require the DNSP to demonstrate the adequacy of these procedures upon reasonable notice. However, any statement made or assurance given by the AER concerning the adequacy of the DNSP's compliance procedures does not affect the DNSP's obligations under this Guideline.</p>	High	<p>Apart from the implementation plan prior to full compliance being required, Evoenergy does not have any formal policy or procedures to ensure it complies with its obligations under the Guideline.</p> <p>Evoenergy should put in place a policy, and formal procedure which includes processes and controls implemented to ensure compliance with the Guideline. We note that management has commenced preparing a Ring Fencing Breach Reporting policy, however this should be expanded to include all obligations under the Guideline.</p>	<p>Action: Check CMO to ensure whether it addresses this requirement. Check CMO procedure for registering obligations and controls.</p> <p>Implementation Date: 31 March 2019</p> <p>Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation</p>

Clause	Obligations	Risk rating	Observation and recommendation	Management response
6.2.1	<p>(a) A DNSP must prepare an annual ring-fencing compliance report each regulatory year in accordance with this clause 6.2.1, and submit it to the AER in accordance with clause 6.2.2.</p> <p>(c) The annual compliance report must be accompanied by an assessment of compliance by a suitably qualified independent authority.</p>	High	<p>Evoenergy does not have in place adequate internal compliance monitoring and reporting processes to facilitate compliance assurance.</p> <p>As noted in our independent assessment, we have identified numerous instances of potential non-compliance with the Guideline.</p> <p>Evoenergy should put in place compliance monitoring and reporting processes to facilitate compliance assurance. This may include periodic assessment of the obligations, control self-assessments, sample testing, and reporting to management and the board.</p>	<p>Action: Develop and provide a monthly report to the GM regarding compliance with ring-fencing.</p> <p>Implementation Date: 31 December 2018</p> <p>Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation</p>
6.3	<p>A DNSP must notify the AER in writing within five business days of becoming aware of a material breach of its obligations under this Guideline. The AER may seek enforcement of this Guideline by a court in the event of any breach of this Guideline by a DNSP, in accordance with the NEL.</p>	High	<p>Evoenergy has not formally defined what constitutes a 'material breach', and does not have a formal breach identification and escalation procedure. Discussions with the Regulatory Compliance team noted difficulty in identifying breaches, as it is difficult for employees to know if a breach has occurred if they are not aware of it.</p> <p>Evoenergy should put in place a policy, and formal procedure which includes processes and controls implemented to identify and report breaches, including; a definition of 'material breach', and specifying timeliness of notification to the AER. This may be included within policies and procedures to ensure wider compliance with the Guideline. We note that management has commenced preparing a Ring Fencing Breach Reporting policy. We recommend Evoenergy document how breaches will be reported internally through management and the board before being communicated to the AER. Evoenergy should refer to the AER Electricity Distribution Ring-Fencing Guideline - Compliance reporting best practice manual, for guidance around defining 'material' breaches, and breach reporting templates.</p>	<p>Action: Develop and implement a procedure.</p> <p>Implementation Date: 30 March 2019</p> <p>Responsible Manager: Peter Cunningham, Manager Regulatory Compliance and Innovation</p>

Legend: Risk ranking of issues reported

		Potential Occurrence				
		Isolated Instances	Few Instances	Some	Often	Many
Potential Impact	Insignificant	Low	Low	Low	Low	Moderate
	Minor	Low	Low	Low	Moderate	Moderate
	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate
	Major	Moderate	Moderate	Moderate	High	High
	Catastrophic	High	High	High	High	High

3. Detailed audit findings

Instrument Clause Event: Ring-fencing Guideline Electricity Distribution

Obligation: Prevention of cross subsidies – Section 3

Guidance Assessment Criteria and Assessment Controls

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
3.1(a)	A DNSP must be a legal entity.	Evoenergy is a separate legal entity which provides regulated electricity distribution and transmission services.	<p>Test performed:</p> <p>We performed an Australian Business Number (ABN) search on the Australian Business Register (ABR) site using their ABN lookup tool. To undertake the search, we have used Evoenergy's ABN as noted on the Draft Compliance Report for 2017-18.</p> <p>We confirmed the status and currency of the distribution licence for Evoenergy on the Independent Competition and Regulatory Commission (ICRC) site.</p> <p>Observation:</p> <p>Based upon the evidence obtained above, no exceptions had been noted on Evoenergy's compliance against the obligation with key point below:</p> <ul style="list-style-type: none"> ▶ Evoenergy is a legal entity <p>Recommendation:</p> <p>None noted.</p>	Strong
3.1(b)	A DNSP may provide distribution services and transmission services, but must not provide other services.	<p>As part of implementing the Guideline, ActewAGL Distribution separated the parts of the business which provide contestable electricity services, and named this new business unit "Contestable Business Unit" (CBU), while the part of the distribution business providing direct control services was rebranded to Evoenergy.</p> <p>According to the AER's classification of services for the current regulatory control period, Evoenergy may perform the following distribution services:</p> <ul style="list-style-type: none"> ▶ Network services; designing, constructing, maintaining, and operating the network for DNSP purposes, emergency response planning, administrative support 	<p>Discussion held with:</p> <p>Manager, Regulatory Compliance and Innovation</p> <p>We held a discussion to understand the services provided by Evoenergy.</p> <p>Observation:</p> <p>Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ According to the Evoenergy website, Evoenergy is undertaking the following research and development activities which may constitute 'other services': 	Moderate

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
		<ul style="list-style-type: none"> ▶ Connection services; premises connections, extensions, augmentations ▶ Ancillary network services; re-energise or de-energise a site, temporary connection, remove, reposition or disconnect service ▶ Upgrade services ▶ Rescheduled visits (applied under certain conditions) ▶ Issue copies of electrical drawings ▶ Covering low voltage mains/Tiger matting ▶ Specification and design enquiry charges ▶ De-energising wires ▶ Large scale embedded generator connection services ▶ Network studies <p>ActewAGL Distribution also provides the following non electricity services (corporate services permissible under clause 3.1(d)ii) to Evoenergy, CBU, ActewAGL Retail, and Icon Water Ltd (all affiliated through the joint venture):</p> <ul style="list-style-type: none"> ▶ Office of the Chief Executive ▶ Human Resources (HR) ▶ Facilities, Logistics and Property ▶ Regulatory Affairs and Pricing ▶ Legal and Secretariat ▶ Internal Audit and Risk Management ▶ Corporate Affairs and Communications ▶ Corporate Finance ▶ Contracts and Procurement ▶ Work health and safety ▶ Environment and Quality ▶ Accounts Payable ▶ Records and Information Management ▶ Information and Communications Technology 	<ul style="list-style-type: none"> ○ Research with the Australian National University around producing, storing, and using hydrogen as an energy source that can be used directly or injected into the ACT gas distribution network ○ Working on a business case for a pilot scheme to convert organic waste to biogas in an anaerobic digester, to inject the renewable gas into the ACT's gas distribution network <p>▶ Evoenergy does not have a process in place to identify services provided</p> <p>Recommendation:</p> <p>[Moderate] Evoenergy should perform a comprehensive review of all services provided by Evoenergy and CBU to ensure they are not providing other services.</p> <p>[Low] ActewAGL Distribution should identify whether the research and development activities are permissible under the Guideline, and decide the future of these services accordingly.</p>	

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
3.2.1	(a) A DNSP must establish and maintain appropriate internal accounting procedures to ensure that it can demonstrate the extent and nature of transactions between the DNSP and its affiliated entities.	<p>Evoenergy has not documented an Accounting Policy Manual specific for transactions with affiliated entities. However, there is a process in place for related party and affiliated entities, which details how profit and loss and balance sheet transactions are identified and reported separately. The process does not outline that intercompany transactions with related parties must be offered on the same terms that it would offer to an unrelated party, while it depends on the details of the service agreement signed with counterparties to determine whether or not there is a margin charged on the service.</p> <p>Evoenergy must ensure that transactions with affiliated entities occur on an arms-length basis. For example, all intercompany transactions can be clearly identified by intercompany general ledger (GL) or by the presence of a "trading partner" field within Oracle.</p> <p>Evoenergy applies a cost allocation methodology and generates intercompany receivables and payables that are recorded in the general ledger and financial statements.</p> <p>Evoenergy has a monthly review meeting with stakeholders to make sure the appropriateness of accounting treatment between Evoenergy and its affiliated entities.</p> <p>Evoenergy maintains records of transactions with related parties and is required to disclose these transactions in its financial statements.</p> <p>Related party transactions are identified in Oracle via a customer or vendor code. All revenues have a customer code and all operating expenses have a vendor code. Related party customers and vendors are set up in Oracle with an 'RPT-xxx' as an identifier.</p>	<p>Discussion held with: Evoenergy Financial Controller Corporate Service Financial Controller</p> <p>We held discussions to understand Evoenergy's internal accounting procedures and processes, and noted that it addresses transactions between Evoenergy and its affiliated entities.</p> <p>Test performed: We obtained and reviewed the transaction report between Evoenergy and affiliated entities in which the accounting treatment is in line with the internal accounting process.</p> <p>We reviewed the process to identify affiliated entities by sighting related party identifier codes on SAP system, in the specific format of RPT-XXX.</p> <p>Observation: Based upon the discussions above, no exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> Evoenergy has a process in place to establish and maintain appropriate internal accounting procedures to ensure that it can demonstrate the extent and nature of transactions between Evoenergy and its affiliated entities <p>Recommendation: [Low] Evoenergy may consider documenting an internal accounting policy per this obligation, ie that the DNSP must maintain appropriate internal accounting procedures.</p>	Strong

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
3.2.2	<p>(a) A DNSP must allocate or attribute costs to distribution services in a manner that is consistent with the Cost Allocation Principles and its approved CAM, as if the Cost Allocation Principles and CAM otherwise applied to the allocation and attribution of costs between distribution services and non-distribution services.</p> <p>(b) A DNSP must only allocate or attribute costs to distribution services in accordance with clause 3.2.2(a), and must not allocate or attribute other costs to the distribution services it provides.</p> <p>(c) A DNSP must establish, maintain and keep records that demonstrate how it meets the obligations in clauses 3.2.2(a) and 3.2.2(b).</p>	<p>Evoenergy has in place an Electricity Distribution Cost Allocation Method (CAM) Accounting Policy Manual, which is reviewed and updated every five years. The existing CAM came into effect on 7 June 2013. The Finance team has reviewed the CAM and noted that it is consistent with the Cost Allocation Principles per the Guideline, including the extended cost allocation requirements.</p> <p>Specifically, Evoenergy's CAM not only requires cost allocation between direct control services and other distribution services, it also demonstrates cost allocation for the allocation and attribution of costs between distribution services and other services.</p> <p>There are three types of operating costs for Evoenergy services:</p> <ol style="list-style-type: none"> 1. Direct Project cost – Materials, contracted services and other costs that can be directly attributed to projects. All directly attributed via Oracle Project Accounting (OPA) and Works Management System (WASP). 2. Labour cost – salaries and wages and other payroll related costs based on time booked against projects. 3. Leasing cost – Motor vehicles, plant and computers that are attributed directly to projects, based on hour booked against projects. <p>The CAM was approved by AER on June 2013 and is publicly available on the AER website.</p> <p>As the existing CAM was effective from June 2013, the finance team has completed its 5 year CAM update, which has been submitted for approval in July 2018. The new CAM has improved accuracy by enhancing allocation of the fixed price service to better reflect services provided by minimising cost allocated using the generic drivers. The improved CAM has reviewed the existing drivers and attempted to shift more costs allocated using the generic driver to direct and indirect drivers. The improved drivers result in a material decrease in the proportion of costs allocated to customers using the generic driver, from 49% to 6%.</p> <p>Evoenergy uses company codes in Oracle to allow accurate allocations of Direct costs and Indirect costs.</p>	<p>Discussion held with: Corporate Service Financial Controller</p> <p>We have obtained and reviewed the CAM, noting that it addresses allocation and attribution of costs between distribution services and non-distribution services.</p> <p>We have verified that Evoenergy's existing CAM is approved by the AER.</p> <p>We reviewed the process undertaken by the finance team to allocate and attribute costs to distribution services, and note that it is aligned with the existing CAM.</p> <p>We have obtained and reviewed the cost allocation that used to allocate the indirect costs pool which were incurred in the process of developing the capital asset.</p> <p>Observation:</p> <p>Based upon the discussions above, no exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> • Evoenergy has a process in place to allocate costs to distribution services and is consistent with the Cost Allocation Principles and AER approved CAM • Evoenergy uses FTEs & Opex method which is based on the average number of employees across the full year • Evoenergy maintains records in relation to cost allocation <p>Recommendation:</p> <p>[Low] Management may consider using timesheets to track the actual time spent by corporate services employees for each business unit when performing indirect cost allocation to align with AER guideline 3.2.2(b) accurately. While we understand that the percentage of using generic drivers (indirect allocation) has been largely minimised in the new CAM.</p>	Strong

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
		<ul style="list-style-type: none"> • Cost Allocation Process – Direct Project Cost: Material, contracted services and other costs that can be directly attributed via Oracle Project Accounting and Works Management System. Any invoices, activities or projects that is specific to a relevant customer or related is directly allocated per discussion with the cost centre manager. • Cost Allocation Process – Overheads/Indirect costs Corporate operating and capital costs cannot be directly attributed to a particular division or project. They are shared across the organisation using the indirect driver which is based on the share of operating expenditure and employee numbers (FTEs) in each division. This is based on operating expenditure and full time equivalent employee numbers for each division. Of the cost, 50% is allocated on the basis of operating expenditure, and 50% of the cost is allocated on the basis of employee numbers (ie the share of each division's FTEs as a proportion of total FTEs). Costs such as finance costs, corporate tax and other costs below the EBIT line are considered at a corporate level (ie not allocated to Evoenergy). 		

Obligation: Functional separation – Section 4

Guidance Assessment Criteria and Assessment Controls

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
4.1	<p>(b) A DNSP must not discriminate (either directly or indirectly) between a related electricity service provider and a competitor (or potential competitor) of a related electricity service provider in connection with the provision of:</p> <ul style="list-style-type: none"> i. direct control services by the DNSP (whether to itself or to any other legal entity); and / or ii. contestable electricity services by any other legal entity. <p>(c) Without limiting its scope, clause 4.1(b) requires a DNSP to:</p> <ul style="list-style-type: none"> i. in dealing or offering to deal with a related electricity service provider, treat the related electricity service provider as if it were not a related electricity service provider (that is, as if it had no connection or affiliation with the DNSP); ii. in like circumstances, deal or offer to deal with a related electricity service provider and a competitor (or potential competitor) of the related electricity service provider on substantially the same terms and conditions; iii. in like circumstances, provide substantially the same quality, reliability and timeliness of service to a related electricity service provider and a competitor (or potential competitor) of the related electricity service provider; iv. subject to clause 4.3.3(b), not disclose to a related electricity 	<p>Discussions with management identified a general awareness of ring fencing non-discrimination obligations, and that there have been no notable changes to approach/processes since the implementation of the Guideline.</p> <p>Evoenergy operates its own contact centre. Communications were sent out to the team in February 2018, highlighting the expectation that a retailer agnostic approach is taken at all times by the team, for example specific scripting provided relating to retailers when communicating Power of Choice changes to callers. This approach was designed to make it simple for the team to understand and apply ring fencing consistently.</p> <p>A ring-fencing fact sheet is provided to new employees and employees who change roles within Evoenergy, which outlines the requirement to not discriminate between RESPs and competitors. Management also advised that there have been informal training sessions provided to staff.</p> <p>Evoenergy holds monthly meetings with ActewAGL Retail and Origin Energy (the two largest retailers in the ACT by market share) to discuss matters of note. Management advised that coverage during these meetings is the same, and retailer agnostic.</p> <p>All purchases/procurements above \$30,000 require a contract, and there are standard clauses in place which outline ring-fencing obligations.</p> <p>Procurements over \$250,000 are managed by the corporate Contracts and Procurement (C&P) team, who declared that all potential service providers are treated equally and at arms-length. CBU provides services to Evoenergy through signed Chargeable Work Requests (CWRs) – see clause 4.2.2.</p> <p>Although it is management’s view that ring fencing is not applicable at the board level, information flows regarding information requiring ring fencing are managed. This includes officers and employees only being present at board meetings on a “need to know” basis, and board papers which contain confidential information marked as ring-fenced.</p>	<p>Discussion held with:</p> <ul style="list-style-type: none"> Branch Manager, Customer Connections Manager, Contracts and Partnerships General Counsel and General Manager Corporate Affairs <p>We held discussions to understand the overarching approach to treatment of ActewAGL Retail and CBU and third parties, potential issues identified and how these have been dealt with.</p> <p>We held discussions to understand the Evoenergy Procurement process for both affiliated entities and external parties.</p> <p>We held discussions to identify policies and procedures and training, targeting discrimination, and potential discrimination in future as identified in Implementation Plan, and the process to implement and monitor the policies and procedures to detect and prevent discrimination.</p> <p>We held discussions to review the appropriateness of governance arrangements and Executive or Board oversight, and changes to governance arrangements made to support compliance with discrimination obligations.</p> <p>We held discussions to understand whether management has identified information it would obtain through dealings with a competitor, and how it has assessed the ability to provide advantage to a RESP, and processes in place to ensure the identified information is not disclosed to a RESP.</p> <p>Observation:</p> <p>Based upon the evidence obtained above, the following exceptions were noted on Evoenergy’s compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ Evoenergy does not have a tender process when engaging with CBU for services (ie agreeing and signing CWRs). Although the MoU between Evoenergy and the Contestable Business Unit (CBU), 	Moderate

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
	<p>service provider information the DNSP has obtained through its dealings with a competitor (or potential competitor) of the related electricity service provider where the disclosure would, or would be likely to, provide an advantage to the related electricity service provider.</p>	<p>Management advised that information from competitors which may provide an advantage to ActewAGL Retail or CBU is handled on an ad-hoc basis, with consideration of general privacy and confidentiality requirements, and the concept that if they wouldn't provide it to all competitors, they wouldn't provide it to one.</p>	<p>states that the services provided by the CBU to Evoenergy can be assigned to another related party in the future, the procurement of services from CBU did not go through a competitive procurement process</p> <ul style="list-style-type: none"> ▶ Discussions with management identified no formal processes in place around its obligations to not discriminate ▶ Discrimination 'hot spots", ie those activities likely to give rise to discrimination, have not been fully identified and controlled, eg field staff or contact centre staff discussing ActewAGL Retail or CBU service offerings with Evoenergy customers ▶ Consideration has primarily been given to discrimination as it relates to ActewAGL Retail, but less so to CBU, for example, the contact centre does not have scripting in place specific to CBU or its competitors <p>Recommendation:</p> <p>[Moderate] Evoenergy should consider competitive procurement processes for all services from affiliated entities, in order to be able to demonstrate discrimination has not occurred. We recommend management establish a tender process for services engaged with all related parties (including CBU) to demonstrate that the extent and nature of transactions between Evoenergy and its affiliated entities are on an arms-length basis.</p> <p>[Moderate] Evoenergy should introduce a policy to document its obligations to not discriminate, and should conduct training to all employees to enhance their understanding of this obligation. This should be particularly targeted at staff in roles dealing with customers, competitors and procurement processes.</p> <p>[Moderate] Evoenergy should provide scripting to the contact centre, specifically related to the CBU (in addition to ActewAGL Retail).</p>	

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
4.2.1	(a) Subject to this clause 4.2.1, in providing direct control services, a DNSP must use offices that are separate from any offices from which a related electricity service provider provides contestable electricity services.	<p>ActewAGL Distribution has three main office locations in the ACT:</p> <ul style="list-style-type: none"> ▶ Greenway: Location for Evoenergy ▶ Fyshwick: Location for CBU, Evoenergy Control Room, and Business Services Division ▶ Canberra City: Location for Corporate Services (and ActewAGL Retail) <p>Upon implementation of the Guideline, staff from CBU who were previously located at Greenway, were moved to Fyshwick to provide physical separation from Evoenergy.</p> <p>Physical access controls in place include individual swipe cards for access and access logs.</p>	<p>Discussion held with: Security and Business Interruption Coordinator</p> <p>We held a discussion to understand the physical access controls in place across the three locations.</p> <p>Test performed: We reviewed access permissions, and access logs between 1 January 2018 and 30 June 2018, to the DNSP building (ie Greenway) provided to staff from:</p> <ul style="list-style-type: none"> ▶ Contestable Business Unit (CBU) ▶ ActewAGL Retail <p>Observation: Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ All nine employees of CBU have physical access to Evoenergy, and all nine CBU employees have accessed the Evoenergy building multiple times (between 68 days and 115 days) within the audit period (180 days). Discussions with management identified that CBU staff perform services using Evoenergy workstations <p>Recommendation: [High] Evoenergy should review physical access of the CBU employees identified, in line with the Guideline, and revoke access if applicable. Evoenergy should ensure that CBU staff who access Evoenergy are escorted within the premises.</p>	Weak
4.2.2	(a) Subject to this clause 4.2.2, a DNSP must ensure that its staff involved in the provision or marketing of direct control services are not also involved in the provision or marketing of contestable electricity services by a related electricity service provider.	<p>As part of implementing the Guideline, ActewAGL Distribution separated the parts of the business which provide contestable electricity services, and named this new business unit "Contestable Business Unit" (CBU), while the part of the DNSP involved in direct control services was rebranded to Evoenergy. CBU performs the following contestable services:</p> <ul style="list-style-type: none"> ▶ Type 1-4 metering services ▶ Electric Vehicle (EV) charging stations ▶ Hydrogen gas network services <p>Since the CBU staff were once part of Energy Networks and hold valuable corporate knowledge, there is a MoU in place between</p>	<p>Discussion held with: Contestable Business Unit Branch Manager</p> <p>We held a discussion to understand the nature and extent of any staff sharing agreements in place between Evoenergy and ActewAGL Retail or CBU.</p> <p>We obtained and reviewed the MoU, and CWRs in place between CBU and Evoenergy, to understand the type of services provided.</p> <p>Observation: Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p>	Weak

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
		<p>Evoenergy and CBU for CBU to provide the following direct control services to Evoenergy:</p> <ul style="list-style-type: none"> ▶ Consultancy Services; engineering and technical advisory, project management, and operational technology systems support ▶ Off-market metering services; management of the CBU-hosted Internet of Things (IoT) hub, debugging communications between IoT Hub and SCADA headend, and design of device rollout, communications methodologies and development of new devices <p>During the audit period, there are signed Chargeable Work Requests (CWRs) for the following specific services provided by CBU to Evoenergy:</p> <ul style="list-style-type: none"> ▶ ADMS on call support ▶ Assistance in the study of the impact of 100% solar penetration in the Ginninderry estate ▶ Testing of CMMINT for GIS Upgrade project ▶ Large Customers Splitting ▶ ADMS Benefits Realisation Plan ▶ Distribution Substation Monitoring - IoT Monitors <p>Note that the CBU staff are not officers of both Evoenergy and CBU, and are not exempt from this obligation under clause 4.2.2(d).</p>	<ul style="list-style-type: none"> ▶ Based on discussion with the CBU Branch Manager and CWRs obtained, CBU staff provide both direct control services and contestable electricity services. Per our observation around clause 4.3.2, we identified that several CBU employees have access to electricity information from Evoenergy, and given their role at CBU, may have opportunity to use that information to engage in conduct contrary to the Guideline. From discussions with Evoenergy management, there appears to be limited separation or distinction between CBU staff (ie when CBU staff perform services for Evoenergy) ▶ The CBU staff identified on the staff register do not fall under the definition of an "officer" per the Guideline. An officer means a director or company secretary of the legal entity, a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the legal entity; or a person who has the capacity to affect significantly the legal entity's financial standing. Clause 4.2.2(d) states that clause 4.2.2(a) does not apply in respect of a member of the staff of a DNSP where the member of staff is an officer both of the DNSP and of a related electricity service provider. As such, Evoenergy has incorrectly used clause 4.2.2(d), as the reason for why these positions are exempt from clause 4.2.2(a) and allow the CBU staff to be shared <p>Recommendation:</p> <p>[High] Staff contracted to Evoenergy should be contracted on a medium term basis, and not be able to provide work for CBU during that period, such that the individual is not performing both roles concurrently. Staff returning to CBU from Evoenergy should be require to undertake training, or provide assurance that information obtained through work for Evoenergy will not be used for CBU work.</p> <p>[Moderate] ActewAGL Distribution should minimise staff sharing, then seek a waiver for any residual shared staff.</p> <p>[Moderate] Management should maintain a register of any CBU employees contracted by Evoenergy and assess if the staff will have electricity information contrary to the Guideline.</p>	

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
4.2.2	(c) The remuneration, incentives and other benefits (financial or otherwise) a DNSP provides to a member of its staff must not give the member of staff an incentive to act in manner that is contrary to the DNSP's obligations under this Guideline.	<p>The majority of staff across ActewAGL Distribution are employed in accordance with the Enterprise Agreement. The Agreement outlines the remuneration arrangements including references to various corporate policies and procedures. Key policies include the Single Salary Spine Policy, Personal Performance Development Plan Policy, and the Job Evaluation and Classification Procedure. The current Agreement covers staff earning a base salary of up to and including \$188,700. Those earning beyond this remuneration structure are typically employed on management service agreements (MSA), operating as common law contracts - the few exceptions to this are legacy.</p> <p>Discretionary bonus arrangements sit outside of the Agreement and are contained in individual employment contracts.</p> <p>The Personal Performance and Development Plan (PPDP) is a tool to facilitate the performance and development planning and evaluation process undertaken by employees each financial year, including KPIs and targets for performance which incentives are tied to.</p>	<p>Discussion held with: Head Organisational Capability & Talent Sourcing</p> <p>We held a discussion with management to understand the structure of remuneration, incentives and benefits provided to staff. We obtained and reviewed the key policies related to remuneration arrangements.</p> <p>Test performed: We obtained and reviewed the Short and Long Term Incentive Scheme for all seven members of the ActewAGL Executive Team (including the Chief Executive Officer, Chief Financial Officer and General Manager - Evoenergy) to verify that there are no KPIs or incentives in place which may drive behaviour contrary to Evoenergy's obligations under the Guideline.</p> <p>We obtained and reviewed the PPDPs for the five Evoenergy branch managers: Asset Strategy, Asset and Networks, Customer Connections, Gas Networks, and Works Delivery.</p> <p>Observation: Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ The PPDP of the Branch Manager Asset and Networks includes incentives to engage in innovative pilot activities such as obtaining facilities agreements with telecommunications companies, and use of the fibre network by third parties as a revenue stream. The PPDP of the Branch Manager Asset Strategy includes incentives to continue to engage with non-network solution providers and trial innovative technologies. These may be classified as 'other services' and as a result be incentivising breach of clause 3.1(b), as a waiver has not been obtained for these other services <p>Recommendation: [Low] The PPDP of Evoenergy Branch Managers (including Asset and Networks, and Asset Strategy) should be revised to exclude any incentives to pursue 'other services' - incentives regarding distribution asset rental could be included in a PPDP for CBU management.</p>	Moderate

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
4.2.3	<p>(a) A DNSP:</p> <p>i. must use branding for its direct control services that is independent and separate from the branding used by a related electricity service provider for contestable electricity services, such that a reasonable person would not infer from the respective branding that the DNSP and the related electricity service provider are related;</p> <p>ii. must not advertise or promote its direct control services and its contestable electricity services that are not direct control services together (including by way of cross-advertisement or cross-promotion);</p> <p>iii. must not advertise or promote contestable electricity services provided by a related electricity service provider other than the DNSP itself.</p>	<p>When the Guideline was issued, ActewAGL Distribution began rebranding the DNSP, previously known as ActewAGL Energy Networks. This was to help reduce confusion between the DNSP and ActewAGL Retail which provides contestable electricity services.</p> <p>The rebranding process was executed in three phases both internally and externally:</p> <p>1. Announcement Phase: September 2017</p> <ul style="list-style-type: none"> ▶ Internal: an announcement presentation roadshow; project updates via email; CEO messages; Brand Book and other updates circulated to the business ▶ External: letters sent to ACT residents, NSW ActewAGL customers, retailers in the ACT and NSW, industry, suppliers, media, ECRC members, the ICRC and ACT and some NSW Government representatives <p>2. Coming Soon Phase: December 2017</p> <ul style="list-style-type: none"> ▶ Internal: changes to Evoenergy business cards, email addresses, ID passes, uniforms and PPE; updated ABN; an internal video on the new brand; new templates; presentations delivered to the DLG and ECRC; project updates; and coordination of promotional items like pens and water bottles ▶ External: development, filming and release of a TV ad, radio commercials, press ads, media releases, an updated IVR for the contact centre; and the introduction of the new general enquiries number <p>3. Go Live Phase: January 2018 - On 1 January 2018, the DNSP changed its name to Evoenergy</p> <ul style="list-style-type: none"> ▶ Internal: staff emails, updates, the coordination of the ABN update and sticker replacement on electrical and gas assets; and a staff thank you event in February 2018 ▶ External: updates to the ECRC and letters to industry; continued radio, television and press promotion; Evoenergy website go live; social media platform launches; and magnets produced for giveaways <p>The overall rebrand was delivered in 79 working days and was under the overall budget of \$1.8 million.</p>	<p>Discussion held with: Manager, Brand and Communications</p> <p>We held a discussion to understand the rebranding process, and inquire with management whether Evoenergy has considered opportunities to promote contestable electricity services provided by its RESP.</p> <p>We reviewed rebranding materials including the Brand Book, and internal and external communications.</p> <p>We reviewed channels for promotion (websites and social media) for any instances of cross-advertisement or cross-promotion.</p> <p>Observation: Based upon the evidence obtained above, no exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ ActewAGL Distribution has in place branding, advertisement and promotion for its direct control services that is independent and separate from the branding used by a related electricity service provider for contestable electricity services <p>Recommendation: None noted.</p>	Strong

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
4.2.4	<p>A DNSP must establish, maintain and keep a register that identifies:</p> <p>(a) the classes of offices to which it has not applied clause 4.2.1(a) by reason of clauses 4.2.1(b)i. or 4.2.1(b)iii.; and</p> <p>(b) the nature of the positions (including a description of the roles, functions and duties) of its members of staff to which it has not applied clause 4.2.2(a) by reason of clauses 4.2.2(b)i.a., 4.2.2(b)i.b., 4.2.2(b)iii. or 4.2.2(d);</p> <p>and must make the register publicly available on its website.</p>	<p>The Evoenergy Regulatory Compliance team is responsible for establishing, maintaining and keeping the office and staff registers, which are publicly available on the Evoenergy website.</p> <p>As at the report date, the office register includes the following office, and was published on the Evoenergy website on 13 September 2018:</p> <ul style="list-style-type: none"> ▶ ActewAGL CBU Office – 16 Lithgow St, Fyshwick, ACT <p>The Evoenergy control room is located in the Fyshwick complex, in a separate building from the CBU office.</p> <p>As at the report date, the staff register includes the following staff, and was published on the Evoenergy website on 13 September 2018</p> <ul style="list-style-type: none"> ▶ General Manager of Energy Networks at ActewAGL ▶ Chief Executive Officer of ActewAGL ▶ Chief Financial Officer of ActewAGL ▶ Branch Manager CBU ▶ Innovation Development Manager CBU ▶ Senior Innovation Engineer CBU ▶ Field Project Engineer CBU <p>The staff register refers to clause 4.2.2.(d) as the "Applicable Clause/Reasons" for the shared staff.</p>	<p>Discussion held with:</p> <p>Manager, Regulatory Compliance and Innovation</p> <p>We held a discussion to understand the process and procedures for establishing, maintaining and keeping the office register and staff register.</p> <p>We obtained and reviewed the registers to assess the details included are as required by the Guideline.</p> <p>We also visited the website to verify the validity of the registers obtained.</p> <p>For the staff register, we reviewed the role descriptions for each position and assessed these against the definition of "officer" under the Guideline.</p> <p>Observation:</p> <p>Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ The office and staff registers were not publicly available on Evoenergy's website as at 30 June 2018 ▶ The CBU staff identified on the staff register do not fall under the definition of an "officer" per the Guideline. An officer means a director or company secretary of the legal entity, a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the legal entity; or a person who has the capacity to affect significantly the legal entity's financial standing. Clause 4.2.2(d) states that clause 4.2.2(a) does not apply in respect of a member of the staff of a DNSP where the member of staff is an officer both of the DNSP and of a related electricity service provider. As such, Evoenergy has incorrectly used clause 4.2.2(d), as the reason for why these positions are exempt from clause 4.2.2(a) and allow the CBU staff to be shared. Furthermore the roles, functions, and duties of each role from the CBU is not stated on the register. 	Moderate

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
			<p>Recommendation:</p> <p>[Moderate] The office register should elaborate on the description of the office that is included in the register, including the reason as to why Evoenergy uses the same offices as the CBU (ie Evoenergy control room located in Fyshwick), and controls in place to ensure compliance with the Guideline (eg physical access controls to the control room).</p>	
4.3.2	<p>Subject to this clause 4.3, a DNSP must:</p> <p>(a) keep confidential information confidential; and</p> <p>(b) only use confidential information for the purpose for which it was acquired or generated.</p>	<p>‘Confidential information’ means electricity information, acquired or generated by Evoenergy in connection with its provision of direct control services, that is not already publicly available, and includes electricity information; that Evoenergy derives from that information; or provided to Evoenergy by or in relation to a customer or prospective customer of direct control services.</p> <p>The Legal team has provided the Evoenergy Regulatory Compliance team with draft flowcharts to identify confidential information, however were not formalised or shared across the business.</p> <p>Through discussions with management, we identified the following seven systems which may contain confidential information:</p> <ul style="list-style-type: none"> ▶ ADMS; contains ACT’s electrical network model, SCADA database, and customer information ▶ Velocity; billing and customer relationship management (CRM) system, which supports customer profile level meter and meter data management ▶ ArcFM; Geographic Information System (GIS) which captures, manages and analyses spatial data of the electricity network ▶ Oracle; financial management system which stores financial transaction information ▶ Integrated Management System (IMS); contains business documents (policies, plans, procedures, etc.) required to manage ActewAGL’s activities ▶ Guardian; records and escalates near misses and incidents providing management oversight, improvement opportunities and compliance with legal obligations ▶ SharePoint; general file-sharing system 	<p>Discussion held with:</p> <p>Multiple system owners and administrators</p> <p>We held discussions to understand systems which may hold confidential information and relevant system access controls.</p> <p>Test performed:</p> <p>We performed system access control testing across the seven systems identified, with the aim of ensuring that employees of CBU and ActewAGL Retail do not have access to Evoenergy systems which may contain confidential information. Testing included system architecture, user access permissions/restrictions, and system access logs (where available).</p> <p>Observation:</p> <p>Based upon the evidence obtained above, the following exceptions were noted on Evoenergy’s compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ Evoenergy has not classified or segregated confidential information within the seven key systems identified (as a result, we treated all information on these systems as potentially confidential) ▶ Evoenergy does not have formal policies and procedures in place for the identification and handling of confidential information ▶ Two CBU employees have administrator access to ADMS, four CBU employees have access to ArcFM, five CBU employees have access to Evoenergy SharePoint, and one CBU employee has access to Guardian 	Weak

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
			<p>Recommendation:</p> <p>[High] Evoenergy should develop formal policies and procedures in place for the identification and handling of confidential information, use this to classify confidential information, including the systems which store confidential information, and then strengthen system access controls to ensure confidential information cannot be accessed by staff providing contestable services.</p> <p>[High] Evoenergy should review access of the CBU employees identified in line with the Guideline, and revoke access if applicable.</p>	
4.3.3	A DNSP must not disclose confidential information to any person, including a related electricity service provider, unless an exemption applies.	<p>The exemptions listed in the Guideline are:</p> <p>(a) the DNSP has first obtained the explicit informed consent of the relevant customer, or prospective customer, to whom the confidential information relates;</p> <p>(b) the disclosure is required by, or for the purpose of complying with any law;</p> <p>(c) the disclosure is necessary to enable the DNSP to provide its distribution services, its transmission services or its other services (including by acquiring services from other legal entities);</p> <p>(d) the information has been requested by or on behalf of a customer, or potential customer, of another legal entity, and the disclosure is necessary to enable the legal entity to provide its transmission services, contestable electricity services or other services to the customer or potential customer;</p> <p>(e) the disclosure is solely for the purpose of providing assistance to another Network Service Provider to the extent necessary to respond to an event (such as an emergency) that is beyond the other Network Service Provider's reasonable control;</p> <p>(f) the disclosure is solely for the purposes of research by a legal entity other than a related electricity service provider of the DNSP;</p> <p>(g) where another DNSP is an affiliated entity of the DNSP, the disclosure is to the part of that other DNSP that provides that other DNSP's direct control services; or</p>	<p>Discussion held with:</p> <p>Manager, Regulatory Compliance and Innovation Branch Manager, Customer Connections</p> <p>We held a discussion to understand processes in place to prevent confidential information being disclosed.</p> <p>Observation:</p> <p>Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ Evoenergy does not have a formal process in place to identify and protect confidential information ▶ We have not identified instances where confidential information has been disclosed. However, discussions with management indicate that there may have been information requests from ActewAGL Retail and CBU which happen informally on an ad hoc basis (eg via telephone or email). Since these have not been recorded, we are unable to determine: <ul style="list-style-type: none"> ○ the nature of the information requested ○ whether the information was confidential or not ○ whether the information was shared ○ whether this information was made available to other legal entities on an equal basis 	Moderate

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
		(h) a related electricity service provider of the DNSP has requested the disclosure and the DNSP complies with clause 4.3.4 in relation to that confidential information.	<p>Recommendation:</p> <p>[Moderate] Notwithstanding that Officers are exempt from the staff sharing requirement of the Guideline per clause 4.2.2(d), Evoenergy should establish a protocol to ensure potential conflicts of interest are appropriately identified and managed, and confidential information is kept confidential.</p> <p>[Moderate] Evoenergy should develop formal policies and procedures to identify and assess information which is considered confidential, and identify circumstances under which an exemption may be required to disclose confidential information.</p>	
4.3.4	<p>(a) Subject to clause 4.1(c)iv. and to this clause 4.3.4, where a DNSP shares confidential information with a related electricity service provider, or where confidential information that a DNSP has disclosed under clause 4.3.3(f) is then disclosed by any person to a related electricity service provider of the DNSP, the DNSP must provide access to that confidential information (including the derived information) to other legal entities on an equal basis.</p> <p>(d) Without limiting clause 4.3.4(a), a DNSP must establish an information sharing protocol that sets how and when it will make the information referred to in clause 4.3.4(a) available to legal entities, and must make that protocol publicly available on its website.</p> <p>(e) Where a DNSP discloses information referred to in clause 4.3.4(a) to any other legal entity under this clause 4.3.4, it must do so on terms and conditions that require the other legal entity to comply with clause 4.3.2 and 4.3.3(a) to (d) in relation to that information as if the other legal entity was a DNSP.</p>	<p>An internal guide to the ring-fencing process mentions the information sharing protocol was to be developed and made available to the public. A draft Information Sharing Protocol was created in October 2017, however was not formalised or progressed to a final version.</p> <p>A legal entity can fill out the information request form available on the Evoenergy website and send it to Evoenergy via post or email (RegulatoryCompliance@evoenergy.com.au). The Evoenergy Regulatory Compliance team is responsible for assessing the request and they will provide a response within 20 business days. Their response will detail:</p> <ul style="list-style-type: none"> ▶ Confirmation of whether the information request is complete and valid under the AER Ring-fencing Guidelines ▶ The timeframe and communication mechanism for the provision of information 	<p>Discussion held with: Manager, Regulatory Compliance and Innovation Branch Manager, Customer Connections</p> <p>We held a discussion to understand the process for disclosing confidential information.</p> <p>We discussed whether Evoenergy has identified confidential information it may intend to make available to its RESP and competitors of its RESP and the process and controls surrounding this.</p> <p>We obtained and reviewed any other internal policies or procedures which may relate to the release of confidential information.</p> <p>Observation:</p> <p>Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ Evoenergy has not established an information sharing protocol and made that protocol publicly available on its website ▶ We have not identified instances where confidential information has been requested or shared through formal channels (ie information request form). However discussions with management indicate that there may have been information requests from ActewAGL Retail and CBU which happen informally on an ad hoc basis (eg via telephone or email). Since these have not been recorded, we are unable to determine: 	Weak

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
			<ul style="list-style-type: none"> o the nature of the information requested o whether the information was confidential or not o whether the information was shared o whether this information was made available to other legal entities on an equal basis <p>Recommendation:</p> <p>[High] Evoenergy should finalise the information sharing protocol and make that protocol publicly available on its website.</p> <p>[Moderate] Evoenergy should develop a mechanism for capturing all requests for information from RESPs (including informally), and ensure these follow the formal information disclosure process.</p>	
4.3.5	<p>(a) A DNSP must establish, maintain and keep a register of all:</p> <ul style="list-style-type: none"> i. related electricity service providers; ii. other legal entities who provide contestable electricity services but who are not affiliates of the DNSP; who request access to information identified in clause 4.3.4(a), and must make the register publicly available on its website. <p>(b) For each legal entity that has requested that a DNSP provide access to information identified in clause 4.3.4(a), the DNSP's information register must:</p> <ul style="list-style-type: none"> i. identify the kind of information requested by the legal entity; and ii. describe the kind of information requested by the legal entity in sufficient detail to enable other legal entities to make an informed decision about whether to request that kind of information from the DNSP. 	<p>The Evoenergy Regulatory Compliance team is responsible for establishing, maintaining and keeping the information request register, which is publicly available on the Evoenergy website.</p> <p>The Legal team have provided the Evoenergy Regulatory Compliance team with draft flowcharts to assist in the above process, including; determining if the request is valid, providing a response, recording information on the register, providing the information, and updating the register.</p> <p>As at the report date, the information request register does not include any related electricity service providers or other legal entities who have requested that they be included on the register. The information request register was published on the Evoenergy website on 18 July 2018.</p>	<p>Discussion held with:</p> <p>Manager, Regulatory Compliance and Innovation Branch Manager, Customer Connections</p> <p>We held a discussion to understand the process and procedures for establishing, maintaining and keeping the information request register.</p> <p>We obtained and reviewed the register to assess the details included are as required by the Guideline.</p> <p>We also visited the website to verify the validity of the register obtained.</p> <p>Observation:</p> <p>Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ The information request register was not publicly available on Evoenergy's website as at 30 June 2018 ▶ Per the observation for clause 4.3.4, Evoenergy does not have a formal process in place to record entities who request access for information. As a result there may be information requests which have not been captured on the register <p>Recommendation:</p> <p>[Moderate] Evoenergy should formalise the process to maintain and keep the information request register in line with its obligations.</p>	Moderate

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
	<p>(c) A legal entity may request that the DNSP include it on the information register in relation to some or all of the kinds of information that the DNSP is required to provide under clause 4.3.4(a), and the DNSP must comply with that request.</p>			
4.4.1	<p>A DNSP:</p> <p>(a) must ensure that any new or varied agreement between the DNSP and a service provider, for the provision of services to the DNSP that enable or assist the DNSP to supply direct control services, requires the service provider to comply, in providing those services, with:</p> <p>i. clauses 4.1, 4.2.1, 4.2.2 and 4.3.2 of this Guideline; and</p> <p>ii. clause 4.2.3 of this Guideline in relation to the brands of the DNSP; as if the service provider was the DNSP.</p> <p>(b) must not, directly or indirectly, encourage or incentivise a service provider to engage in conduct which, if the DNSP engaged in the conduct itself, would be contrary to the DNSP's obligations under clause 4 of this Guideline.</p>	<p>All purchases/procurements above \$30,000 require a contract, and the Contracts and Procurement (C&P) team manages the procurement process of all new and amended contracts over \$250,000.</p> <p>Evoenergy has standard contract clauses, and terms and conditions in place for provision of goods and services, and advice is sought from the Legal team around variations to standard clauses/terms and conditions in the contract.</p> <p>There is a standard clause in the contract template which the contractor acknowledges that Evoenergy must comply with the Guideline, and take steps to ensure compliance (including notification of breaches).</p> <p>Legal advice was sought by the C&P team in November 2017 around ring fencing obligations in contracts. This advice involved including a standard ring-fencing clause for all Evoenergy contracts including services, and goods and services (but excluding only goods).</p> <p>Section 2.6.3 of the Ring-fencing implementation plan provided to the AER in October 2017, indicates that it was Evoenergy's intention that a briefing note would be provided to consultants and services providers to be educated about AAD's ring-fencing obligations.</p> <p>The ActewAGL website also contains a section on "Supplying goods and/or services to ActewAGL" which outlines ring-fencing obligations to potential suppliers.</p>	<p>Discussion held with: Manager, Contracts and Partnerships</p> <p>We held a discussion to understand the contract variation process and procedures for ensuring that any new or varied contracts are amended to ensure compliance of energy service providers with Guideline requirements.</p> <p>Test performed:</p> <p>We obtained and reviewed agreement templates and standard T&Cs/clauses to ensure adequate provisions are in place.</p> <p>We obtained all new or varied agreements between Evoenergy and service providers (managed by the Contracts and Procurement team), between 1 January 2018 and 30 June 2018, and tested all agreements to</p> <ul style="list-style-type: none"> ▶ Ensure adequate provisions are in place, ie inclusion of the ring-fencing clause ▶ Identify whether there are any inappropriate incentives (ie through payments, scope of work, and key performance indicators) <p>Observation:</p> <p>Based upon the evidence obtained above, no exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ Evoenergy has in place a process to ensure arrangements with service providers are in accordance with the Guideline ▶ Evoenergy has not yet actioned its plan to develop and issue briefing notes to consultants and service providers 	Strong

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
			<p>Recommendation:</p> <p>[Low] Evoenergy should ensure that all consultants and services providers are provided with a briefing note which summarises Evoenergy's obligations under the Guideline, and the obligations of the service provider under the amended contract.</p>	

Obligation: Waivers – Section 5

Guidance Assessment Criteria and Assessment Controls

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
5.7	<p>(a) A DNSP must establish, maintain and keep a register of all waivers (including any variation of a waiver) granted to the DNSP by the AER under clause 5 of this Guideline, and must make the register publicly available on its website.</p> <p>(b) The register established under clause 5.7(a) must include:</p> <ol style="list-style-type: none"> the description of the conduct to which the waiver or interim waiver applies; and the terms and conditions of the waiver or interim waiver; as set out in the AER's written decision, provided by the AER to the DNSP, to grant (or vary) the waiver or interim waiver. 	<p>The Evoenergy Regulatory Compliance team is responsible for establishing, maintaining and keeping the waiver register.</p> <p>As at the report date, the AER has approved the following waivers:</p> <ul style="list-style-type: none"> ▶ Natural gas distribution pipelines located in the ACT and the Queanbeyan-Palerang council area east of Canberra (ACT Gas Network) from 18 December 2017 until 30 June 2024 ▶ Natural gas distribution pipelines located in the Nowra network in the Shoalhaven local government area on the NSW south coast (Nowra Gas Network) from 18 December 2017 until 30 June 2024 ▶ Ownership and operation of the CNG refuelling facility in the Canberra suburb of Fyshwick from 18 December 2018 until 31 December 2019 	<p>Discussion held with: Manager, Regulatory Compliance and Innovation</p> <p>We held a discussion to understand the process and procedures for establishing, maintaining and keeping a register of all waivers.</p> <p>We obtained and reviewed the waiver register to assess the details included are as required by the Guideline.</p> <p>We also visited the website to verify the consistency of the waivers obtained.</p> <p>We reviewed the Final decision document from the AER and note that these waivers are included in the document.</p> <p>We reviewed the services provided by ActewAGL Distribution to validate that they were permissible under the waiver.</p> <p>Observation: Based upon the evidence obtained above, no exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ ActewAGL Distribution has processes in place to establish, maintain and keep the waiver register <p>Recommendation: None noted.</p>	Strong

Obligation: Compliance and enforcement – Section 6

Guidance Assessment Criteria and Assessment Controls

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
6.1	<p>A DNSP must establish and maintain appropriate internal procedures to ensure it complies with its obligations under this Guideline. The AER may require the DNSP to demonstrate the adequacy of these procedures upon reasonable notice. However, any statement made or assurance given by the AER concerning the adequacy of the DNSP's compliance procedures does not affect the DNSP's obligations under this Guideline.</p>	<p>ActewAGL Distribution provided a ring fencing implementation plan to the AER in October 2017 which addresses a plan to ensure compliance with each element of the Guideline.</p> <p>The Legal team have provided the Evoenergy Regulatory Compliance team with draft flowcharts to assist compliance with some parts of the Guideline, however these have not been formalised or shared across the business.</p>	<p>Discussion held with: Manager, Regulatory Compliance and Innovation</p> <p>We inquired with management the policies and procedures in place to ensure compliance with the Guideline.</p> <p>Observation: Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ Apart from the implementation plan prior to full compliance being required, Evoenergy does not have any formal policy or procedures to ensure it complies with its obligations under the Guideline <p>Recommendation: [High] Evoenergy should put in place a policy, and formal procedure which includes processes and controls implemented to ensure compliance with the Guideline. We note that management has commenced preparing a Ring Fencing Breach Reporting policy, however this should be expanded to include all obligations under the Guideline.</p>	Moderate
6.2.1	<p>(a) A DNSP must prepare an annual ring-fencing compliance report each regulatory year in accordance with this clause 6.2.1, and submit it to the AER in accordance with clause 6.2.2.</p> <p>(c) The annual compliance report must be accompanied by an assessment of compliance by a suitably qualified independent authority.</p>	<p>The Evoenergy Regulatory Compliance team is responsible for collecting input and preparing the annual ring fencing compliance report.</p> <p>ActewAGL Distribution has engaged Ernst and Young as the independent authority to assess its annual compliance report.</p>	<p>Discussion held with: Manager, Regulatory Compliance and Innovation</p> <p>We have obtained and reviewed the ring fencing implementation plan.</p> <p>We have been engaged by ActewAGL Distribution to perform as the independent authority to assess compliance in relation to ring fencing.</p> <p>We have obtained and reviewed management's draft annual compliance report.</p> <p>Observation: Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ Evoenergy does not have in place adequate internal compliance monitoring and reporting processes to facilitate compliance assurance ▶ As noted in our independent assessment, we have identified numerous instances of potential non-compliance with the Guideline 	Weak

Ref	Compliance Obligation	Process Description	Testing	Grading/Impact
			<p>Recommendation:</p> <p>[High] Evoenergy should put in place compliance monitoring and reporting processes to facilitate compliance assurance. This may include periodic assessment of the obligations, control self-assessments, sample testing, and reporting to management and the board.</p>	
6.3	<p>A DNSP must notify the AER in writing within five business days of becoming aware of a material breach of its obligations under this Guideline. The AER may seek enforcement of this Guideline by a court in the event of any breach of this Guideline by a DNSP, in accordance with the NEL.</p>	<p>ActewAGL Distribution provided a ring fencing implementation plan to the AER in October 2017, which states:</p> <ul style="list-style-type: none"> ▶ AAD has an electronic obligation management system that includes a module to report breaches. Ring fencing will be included within that system. Also, AAD has established a process for staff to alert managers if a breach occurs. This process facilitates timely reporting to the AER within 5 business days of a breach becoming known. A remediation action plan will be developed when breaches are found or the independent assessment identifies a discrepancy. ▶ AAD will provide a written response to any complaint or concern the AER raises with the DNSP about its compliance with the Guideline, assuming that AAD has been provided with sufficient information for it to make internal inquiries about the circumstances and the complainant and conduct an internal inquiry. ▶ AAD will investigate the complaint and if required develop a remediation action plan in response. AAD will also formally respond to the AER concerning the compliance issue and comply with any requests for information resulting from a complaint. Where the complaint or concern originates with an AAD customer, AAD will attempt a resolution directly with the customer in the first instance. <p>The Legal team have provided the Evoenergy Regulatory Compliance team with draft flowcharts to identify some instances of breaches, however these have not been formalised or shared across the business.</p>	<p>Discussion held with: Manager, Regulatory Compliance and Innovation</p> <p>We inquired with management the processes in place to identify, escalate and notify the AER of breaches of its obligation under the Guideline.</p> <p>Observation: Based upon the evidence obtained above, the following exceptions were noted on Evoenergy's compliance against the obligation with key point(s) below:</p> <ul style="list-style-type: none"> ▶ Evoenergy has not formally defined what constitutes a 'material breach', and does not have a formal breach identification and escalation procedure. Discussions with the Regulatory Compliance team noted difficulty in identifying breaches, as it is difficult for employees to know if a breach has occurred if they are not aware of it <p>Recommendation: [High] Evoenergy should put in place a policy, and formal procedure which includes processes and controls implemented to identify and report breaches, including; a definition of 'material breach', and specifying timeliness of notification to the AER. This may be included within policies and procedures to ensure wider compliance with the Guideline. We note that management has commenced preparing a Ring Fencing Breach Reporting policy. We recommend Evoenergy document how breaches will be reported internally through management and the board before being communicated to the AER. Evoenergy should refer to the AER Electricity Distribution Ring-Fencing Guideline - Compliance reporting best practice manual, for guidance around defining 'material' breaches, and breach reporting templates.</p>	Moderate

4. Auditor statement

Independent assurance report to the members of ActewAGL Distribution

We have performed reasonable assurance procedures over ActewAGL Distribution's compliance with the AER's Electricity Distribution Ring-Fencing Guideline for the period 1 January 2018 to 30 June 2018.

Assurance Practitioner's responsibility

ActewAGL Distribution is responsible for compliance with the specific regulatory obligations as defined in the scope.

Our responsibility is to express a reasonable assurance conclusion on compliance with the specific regulatory obligations as defined in the scope. Our limited assurance engagement has been conducted in accordance with applicable Standards on Assurance Engagements (ASAE 3100 Compliance Engagements). Our procedures included undertaking a walkthrough of the systems/process by which compliance data is captured and reported. Due to the nature of the systems/processes used, we have undertaken a substantive approach to our procedures. These procedures also included agreeing the data required to address the testing required for the audit scope to the data extracted by Company personnel from relevant Company operating systems. Where applicable we have reviewed relevant Acts, Regulations and Codes, Company policies and made inquiries of management. These procedures have been undertaken to form a conclusion whether ActewAGL Distribution complied in all material respects, with the specific regulatory obligations as defined in the scope for the period ended 30 June 2018.

Inherent limitations

Because of the inherent limitations of any assurance engagement, it is possible that fraud, error or non-compliance may occur and not be detected. An audit is not designed to detect all instances of non-compliance with the relevant Acts, Regulations and Codes as an audit is not performed continuously throughout the period and the audit procedures performed in respect of compliance with relevant Acts, Regulations and Codes are undertaken on a test basis. There are a number of inherent limitations associated with the data provided to us and used in assessing the accuracy of it:

- ▶ We have not assessed the operation of any IT general controls or application specific controls; and
- ▶ Due to the nature of the compliance with relevant Acts, Regulations and Codes we are unable to conclude on the completeness of breaches other than with respect to those identified through our procedures described above as relevant to the audit scope.

Our conclusion has been formed taking these inherent limitations into account.

Independence

In conducting our procedures we have complied with the independent requirements of the Australian professional accounting bodies.

Conclusion

Based on the completion of the procedures described in this report, drawing attention to our audit findings, in our opinion ActewAGL Distribution has not complied, in all material respects with all areas of the audit scope, as set out in Section 1.3.

Restriction on distribution

Without modifying our conclusion, we draw attention to the fact the audit report is prepared to assist ActewAGL Distribution to meet the requirements of AER Ring-fencing Guideline Electricity Distribution in periodically undertaking an independent review of their compliance with regulatory obligations. As a result the auditor statement may not be suitable for another purpose. Our statement is intended solely for ActewAGL Distribution and the Australian Energy Regulator. However, we agree that the audit report may be published at the Commissioner’s discretion on the Commissioner’s website.



Ernst & Young



Kester Brown
Partner
31 October 2018

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